



US FATCA and CRS Update

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The Department of International Tax Cooperation (“DITC”) has issued an [industry advisory](#) confirming that the Automatic Exchange of Information Portal (“AEOI Portal”) has reopened with revised documentation.

AEOI Portal Open with New User Guide

The Cayman Islands AEOI Portal is now open for FATCA and CRS notifications and reporting. The regulatory deadlines are:

- **30 April 2018** for notifications (i.e. enrollment); and
- **31 May 2018** for reporting for the 2017 calendar year.

The AEOI Portal has new functionality allowing users to make PPOC change requests, Authorising Person change requests and Financial Institution deactivations and there is a revised [AEOI Portal User Guide](#).

Entity Self-Certification – Change to the CRS Definition of a Controlling Person

The DITC has issued a new [entity self-certification form](#) which should be used by Cayman Financial Institutions. The revision is necessary to clarify that for the purposes of CRS only, the threshold for a “Controlling Person” in respect of a legal person is direct or indirect ownership or control of 10 per cent or more of the shares or voting rights in the legal person, being the threshold specified by the *Anti-Money Laundering Regulations (2018 Revision)* which implement the FATF Recommendations in the Cayman Islands. Please note that the corresponding threshold for FATCA remains “more than 25 per cent”.

All Cayman Financial Institutions must remediate any affected accounts by 31 December 2018 so that they are in a position to report on Controlling Persons who are Reportable Persons under the CRS in 2019 based on the 10 per cent threshold.

Revised CRS Guidance Notes

The [CRS Guidance Notes](#) have been revised. Particular updates include:

- A new email address for compliance issues regarding AEOI at DITCcompliance@gov.ky;
- A revised list of [CRS Participating Jurisdictions and CRS Reportable Jurisdictions](#) (updated 5 January 2018);
- Guidance on the 10 per cent threshold for a Controlling Person of an Account Holder;
- A requirement for self-certifications to be obtained and validated as part of a Financial Institution’s Account opening procedures on ‘day one’ of the Account opening process and, in any event, within 90 days after the Account has opened. In the event that the self-certification is not obtained within 90 days then the Account should be closed;

- Obligations on liquidators (or equivalent) to maintain records and to respond to the DITC's information requirements under regulation 12 of the CRS Regulations for six years after filing the CRS return;
- Cayman Islands Financial Institutions migrating to another jurisdiction are required to terminate their registration on the AEOI Portal by following the procedure on the AEOI Portal Guide; and
- Guidance on reporting requirements for indirect distributions made by trusts.

For additional information, please contact Craig Fulton or Ruth Hatt, or your usual Conyers Dill & Pearman contact.

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