

Registration of Foreign Limited Partnerships in the Cayman Islands

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Preface

This publication has been prepared for the assistance of those who are considering registration of a foreign limited partnership in the Cayman Islands. It deals in broad terms with the requirements of Cayman Islands law. It is not intended to be exhaustive but merely to provide general information to our clients and their professional advisers.

Before proceeding with the registration of a foreign limited partnership in the Cayman Islands, persons are advised to consult their tax, legal and other professional advisers in their respective jurisdictions.

We recommend that our clients seek legal advice in Cayman on their specific proposals before taking steps to implement them.

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1. INTRODUCTION

A limited partnership or limited liability partnership established in a recognised jurisdiction¹ outside of the Cayman Islands (a “**Foreign Limited Partnership**”) may apply to the Registrar of Exempted Limited Partnerships (the “**Registrar**”) to be registered under section 42 of the Exempted Limited Partnership Act of the Cayman Islands (the “**Act**”) in order to act as a general partner of a Cayman Islands registered exempted limited partnership.

2. REGISTRATION

2.1. The Registration Process

A foreign limited partnership may be registered by the Registrar upon payment to the Registrar of the prescribed registration fee and by filing certified copies of:

- (a) its certificate of formation in its jurisdiction of establishment, or the equivalent document issued by the authority responsible for forming or establishing the foreign limited partnership (the “**relevant authority**”), as evidence of its formation; and
- (b) a certificate of good standing issued by the relevant authority.

If the certificate of good standing is unavailable from the relevant authority, then the foreign limited partnership is required to file with the Registrar, a declaration signed by a person authorised to act on behalf of the foreign limited partnership, stating that the foreign limited partnership is in good standing with the relevant authority.

The certificate of good standing or declaration must be dated within one month of the application.

The foreign limited partnership will also be required to file a statement (the “**Statement**”) signed by or on behalf of the foreign limited partnership which specifies:

- (a) the name, dual foreign name and the translated name, if applicable, of the foreign limited partnership;
- (b) the jurisdiction in which it is established;
- (c) whether the foreign limited partnership is deemed to be a separate legal person under the laws of the jurisdiction in which it is established and, if so, the full name and address of any managing member or other person, if not identified in paragraph (f), who immediately controls or directs the affairs of the foreign limited partnership;
- (d) the address of its registered office in its jurisdiction of formation or establishment;
- (e) the name and address of a person resident in the Cayman Islands authorised to accept on its behalf service of process and any notices required to be served on it; and

¹ A list of recognised jurisdictions is provided in Schedule 2 of the Exempted Limited Partnership Regulations and is set out in Appendix A to this Publication.

- (f) the full name and address of any general partner(s) of the foreign limited partnership, if applicable.

2.2. Local licensing not required

A general partner of a foreign limited partnership shall not be deemed to have established a place of business in the Cayman Islands or commenced carrying on business in the Islands pursuant to Part 9 of the Companies Act by virtue solely of so acting. Nor is a person who acts as general partner of an exempted limited partnership, by virtue solely of so acting, required to be licensed under the Local Companies (Control) Act and shall not require a trust company licence under the Banks and Trust Companies Act, a mutual fund administrator's licence under the Mutual Funds Act, a licence under the Companies Management Act or a licence under the Trade and Business Licensing Act.

3. ONGOING REQUIREMENTS

3.1. Alterations to information

If any change is made to any details contained in the Statement, a statement signed by or on behalf of the foreign limited partner specifying the nature of the change shall, within sixty days of the change, be filed with the Registrar. If the foreign limited partnership is in default, the foreign limited partnership shall incur a penalty for each day that the default continues which amount shall constitute a debt due to the Registrar. The foreign limited partnership will also be required to indemnify any person who suffers any loss as a result of such default.

3.2. Service on the foreign company

Any process or notice required to be served on a foreign limited partnership is sufficiently served if addressed to any person whose name has been delivered to the Registrar as being authorised to accept service on its behalf and left at or sent by post to the address specified.

A document may be served on the foreign limited partnership by leaving it at or sending it by post to any place of business established by the foreign limited partnership in the Cayman Islands.

3.3. Fees

An annual fee payable to the Registrar is due in January of each year. Details of the prescribed fees are available on request.

4. ECONOMIC SUBSTANCE

The International Tax Co-operation (Economic Substance) Act (the "**ES Act**") was amended with effect from 30 June 2021 to expand its application to general partnerships, limited partnerships, exempted limited partnerships and foreign limited partnerships registered in the Cayman Islands. The ES Act is supplemented by the Guidance on Economic Substance for Geographically Mobile Activities.

The ES Act requires that all Cayman Islands entities, including foreign limited partnerships, notify the Tax Information Authority (the "**TIA**") of, amongst other things, whether or not they are carrying on certain prescribed "relevant activities" and if so, whether or not they are a "relevant entity". The notification to the

TIA by companies, exempted limited partnerships and foreign limited partnerships is by way of an annual Economic Substance Notification (“**ESN**”) which must be filed prior to an entity filing an annual return with the General Registry’s Corporate Administration Portal (“**CAP**”). As general partnerships are not registered through CAP, the Department of International Tax Compliance (the “**DITC**”) has advised that general partnerships must file an ESN in the form of a spreadsheet to registered office providers for submission to the DITC’s Economic Substance Team at DITC.EScompliance@gov.ky.²

Relevant entities (discussed further below) are required to maintain economic substance in the Cayman Islands unless they are (i) tax resident outside the Cayman Islands (ii) an investment fund (including entities through which any such fund invests or operates); or (iii) a not-for-profit.

Pursuant to the International Tax Co-operation (Economic Substance) (Prescribed Dates) (Amendment) Regulations, 2021, the economic substance test (the “**ES Test**”) (if applicable) must be satisfied from the date the foreign limited partnership commences a relevant activity where that entity did not exist as at 30 June 2021. Entities in existence prior to 30 June 2021 were required to satisfy the ES Test by 1 January 2022. Each relevant entity that is carrying on a relevant activity and is required to satisfy the ES Test will be required to file an annual return with the TIA in respect of their status under the ES Act.

4.1. Relevant Activities

Relevant entities will be required to meet the ES Test in respect of their relevant activities in the Cayman Islands. The categories of relevant activities include the following which are further defined in the ES Act:

- (a) Banking business;
- (b) Distribution and service centre business;
- (c) Financing and leasing business;
- (d) Fund management business;
- (e) Headquarters business;
- (f) Holding company business;
- (g) Insurance business;
- (h) Intellectual property business; and
- (i) Shipping business.

4.2. Economic Substance Requirements

For relevant entities carrying on relevant activities, the ES Act requires that they:

² This manual process for general partnerships has been adopted on the basis of advice from DITC on 29 March 2023.

- (a) conduct core income generating activities (“**CIGAs**”) (see further below) in relation to the relevant activity;
- (b) be directed and managed appropriately in the Cayman Islands related to the relevant activity; and
- (c) with regard to the level of relevant income from the relevant activity carried out in the Cayman Islands, have an adequate –
 - (i) amount of operating expenditure incurred in the Cayman Islands;
 - (ii) physical presence (including maintaining a place of business or plant, property and equipment) in the Cayman Islands; and
 - (iii) number of full-time employees or other personnel with appropriate qualifications in the Cayman Islands.

Foreign limited partnership relevant entities that only hold equity participations in other entities and only earn dividends and capital gains will have reduced requirements such that they will need to comply with all filing requirements under the Act and have adequate human resources and premises in the Cayman Islands for holding and managing equity participations in other entities.

4.3. Core Income Generating Activities

CIGAs are defined in the ES Act to mean activities that are of central importance to a relevant entity in terms of generating income and that are being carried out in the Cayman Islands. CIGAs may be outsourced provided that the relevant entity is able to monitor and control the carrying out of the CIGA. The TIA will only accept the relevant entity’s claim to have satisfied the ES Test by means of domestic outsourcing if the information is verified by the service provider. Such verification must be made within thirty days of the relevant entity providing the same information to the TIA.

Service providers undertaking outsourcing functions are required to register with the DITC so that the DITC can independently verify the engagement and nature of the services provided.

5. CESSATION

In the event that the foreign limited partnership ceases to be a general partner of the exempted limited partnership, it is required to give notice to the Registrar. Upon the date of such filing, the obligation of the foreign limited partnership to deliver documentation to the Registrar ceases.

Notwithstanding the same, if the Registrar is satisfied by any other means that a foreign limited partnership has ceased to be a general partner of an exempted limited partnership, the Registrar may close the file of the foreign limited partnership and thereupon the obligations of the foreign limited partnership to deliver any document to the Registrar ceases.

6. TAXATION

The Cayman Islands has no corporation tax, income tax, capital gains tax, inheritance tax, gift tax, wealth tax or any other tax applicable to a foreign limited partnership. Certain documents, however, are subject to stamp duty which is generally nominal.

APPENDIX A - COUNTRIES AND TERRITORIES PRESCRIBED AS RECOGNISED JURISDICTIONS UNDER SECTION 42(1)

Argentina	Israel
Australia	Italy
Austria	Japan
Bahamas	Jersey
Bahrain	Liechtenstein
Barbados	Luxembourg
Belgium	Malta
Bermuda	Mexico
Brazil	Netherlands
British Virgin Islands	New Zealand
Canada	Norway
Denmark	Panama
Finland	People's Republic of China
France	Portugal
Germany	Singapore
Gibraltar	Spain
Greece	Sweden
Guernsey	Switzerland
Hong Kong	Turkey
Iceland	United Arab Emirates
India	United Kingdom
Ireland	United States of America
Isle of Man	

This publication should not be construed as legal advice and is not intended to be relied upon in relation to any specific matter. It deals in broad terms only and is intended merely to provide a brief overview and give general information.

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