



**ADVISORY**  
Industry Information

# BEPS Country-by-Country Reporting in the Cayman Islands

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This Client Advisory is a high-level summary of practical issues arising from the Information Authority (International Tax Compliance) (Country-by-Country Reporting) Regulations, 2017 (“CbCR Regulations”).

## The CbCR Regulations

The Cayman Islands is a member of the OECD’s Inclusive Framework on Base Erosion and Profit Shifting (“BEPS”), which brings together over 100 jurisdictions to collaborate on the implementation of the OECD BEPS Package. All OECD and G20 countries have committed to implementing CbCR.

The CbCR Regulations were gazetted on 15 December 2017 to implement BEPS Action 13, namely Country by Country Reporting (“CbCR”), in the Cayman Islands. On 2 February 2018 the Cayman Islands Department of International Tax Cooperation (“DITC”) issued an [Industry Advisory](#) with further details.

## Application of the CbCR Regulations

The CbCR Regulations only apply to multinational enterprise groups with consolidated group revenue of USD 850 million or more during the previous fiscal year (“MNE Groups”). Groups with consolidated group revenue of less than USD 850 million are excluded and do not need to take any steps to comply with the CbCR Regulations.

However, Cayman Islands resident entities which are constituent entities of MNE Groups (“Constituent Entities”) will be required to take certain steps to comply.

Being “resident” in the Cayman Islands for these purposes means being incorporated, established, having a place of effective management or being subject to financial supervision in the Cayman Islands.

## Does CbCR apply to investment funds?

While there is no general exemption within BEPS for investment funds, the governing principle for investment funds and partnerships to determine an MNE Group is to follow the accounting consolidation rules. For example, if investment entities do not consolidate with investee companies (for example, because the consolidated accounts for the investment entity should instead report fair value of the investment through profit and



loss), then the investee companies should not form part of a Group or MNE Group or be considered as Constituent Entities of an MNE Group. This principle applies even where the investment entity has a controlling interest in the investee company.

### **What steps need to be taken by Constituent Entities which are Reporting Entities?**

A Cayman Islands resident Constituent Entity which is the ultimate parent entity (or, in certain circumstances, a surrogate parent entity appointed by the MNE Group as substitute) of an MNE Group (“**Reporting Entity**”) is required to notify the DITC that it is the Reporting Entity.

A Cayman Islands resident Reporting Entity must also file a Country-by-Country Report (“**CbC Report**”) containing specified data to the DITC which will, in turn, disseminate it to jurisdictions with which it has an agreement to exchange such information.

### **What steps need to be taken by Constituent Entities which are not Reporting Entities?**

A Constituent Entity which is not the Reporting Entity of an MNE Group does not need to file a report. However, it is required to notify the DITC that it is a member of an MNE Group, and of the identity and tax residence of the MNE Group’s Reporting Entity.

### **When must notification be submitted?**

Notification must be submitted no later than the last day of the reporting fiscal year of the MNE Group. However, with respect to the reporting fiscal year of an MNE Group that began during 2016 the notification must be submitted by 15 May 2018 (by a Cayman Islands resident Reporting Entity) or by 30 September 2018 (by a Cayman Islands resident Constituent Entity which is not the Reporting Entity). These dates represent a grace period beyond the 31 March 2018 deadline stated in the CbCR Regulations.

### **What is the deadline for submission of a CbC Report?**

A CbC Report must be submitted no later than the last day of the reporting fiscal year of an MNE Group. However, with respect to a reporting fiscal year of an MNE Group that began during 2016 but on or before 31 March 2016, a Cayman Islands resident Reporting Entity is required to submit its first CbC Report by 31 May 2018 (as opposed to 31 March 2018 as stated in the CbCR Regulations).

### **Effective implementation**

A Constituent Entity must retain records relating to the information required to be reported pursuant to the CbCR Regulations for six years. The CbCR Regulations provide for criminal and administrative penalties for offences including fines of up to CI\$ 10,000 and imprisonment for up to six months.

### **Next steps**

Notifications and CbC Reports must be submitted on a new DITC CbCR Portal. The DITC will publish CbCR Guidance along with prescribed templates for the CSV file to be used for the notification and an authorisation letter appointing two individuals, who need not be resident in the Cayman Islands, as primary and secondary contacts. The CbC Report shall be filed in a form identical to that set out in the Schedule to the CbCR Regulations. The DITC is expected to publish CbCR Guidance and launch the Cayman Islands CbCR Portal in early March 2018.



## Contacts

Walkers can assist with any questions you may have in relation to the above or regulatory matters more generally. For further information please speak with your usual contact at Walkers or the following members of **Walkers Regulatory & Risk Advisory Practice Group**:



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