



MINISTRY OF
FINANCIAL SERVICES,
COMMERCE & ENVIRONMENT
CAYMAN ISLANDS GOVERNMENT

INDUSTRY ADVISORY

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Guidance Notes Update

As the competent authority for international exchange of information for tax purposes, the Tax Information Authority, in accordance with powers conferred by Regulations, today is issuing version 2.1 of the [Guidance Notes on the International Tax Compliance Requirements of the Intergovernmental Agreements between the Cayman Islands and the United States of America and the United Kingdom, Version 2.1.](#)

Version 2.1 of the Guidance Notes contains minor updates to version 2.0, as a result of consultation with the Cayman Islands FATCA/CRS Working Group.

For the convenience of users, a list of the key updates in version 2.1 has been provided at the end of this advisory.

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Guidance Notes on the International Tax Compliance Requirements of the Intergovernmental Agreements between the Cayman Islands and the United States of America and the United Kingdom

Version 2.1

The following is a list of the key updates contained in version 2.1 of the Guidance Notes.

| Section | Amendment |
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| 1.3 Purpose of these Guidance Notes | Additional text: <i>In considering compliance with the Regulations, the Competent Authority shall take into account the extent to which a Financial Institution or persons have relied on these Guidance Notes.</i> |
| 2.2 Cayman Islands Financial Institution | Amendments and additional text: <i>A dual resident entity (i.e. an entity organised under the laws of the Cayman Islands and also resident for these purposes in another jurisdiction) will need to apply the Cayman Islands Regulations in respect of any Reportable Accounts maintained in the Cayman Islands unless it has actual knowledge that it is undertaking the appropriate reporting in the other jurisdiction.</i> <i>A Financial Institution will have actual knowledge where it holds written confirmation that the Reportable Accounts have been reported for FATCA purposes or under an agreement equivalent to the UK Agreement.</i> <i>There may be other situations involving related or unrelated entities where the reporting requirements are being met elsewhere and duplication of reporting can be avoided. In these circumstances responsibility rests with a Financial Institution to satisfy itself that the reporting requirements are being met.</i> |
| 2.8.1 Cayman Branches Reporting to the IRS via Form 1099 – US Agreement only | New section added: <i>Where all US reportable accounts of a Cayman branch of a US banking institution are already being reported to the IRS on Form 1099 annually, the Cayman branch is not required to file a report locally.</i> <i>A Cayman branch of a U.S. or foreign banking institution that meets this criterion is required to comply with the notification requirements in the regulations and complete the Cayman AEOI portal notification. Additionally, the Cayman branch must record and retain documentary evidence of the US reporting, and the decision not to file a return locally, to be made available to the Competent Authority when required.</i> |
| 6.7 Information to be | Amendments and additional text: <i>A loan made to a trust which is an Investment Entity is a Financial Account</i> |

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| reported – trusts as Investment Entities | <p><i>because the lender holds a Debt Interest in that Investment Entity. Provided the lender is not itself a Financial Institution the loan would be reportable whether or not it is made by a settlor or beneficiary.</i></p> <p><i>Where a loan has been made to a settlor or beneficiary, the outstanding loan is considered a debt due to the Trustees for the benefit of the Trust. The debt due is an asset of the Trust, and no distribution arises. If and when the loan is written off, then there is a distribution of that amount (written off) to the debtor, which should be reported.</i></p> |
| 6.12 Employee Benefit Trusts | <p>Additional text:</p> <p><i>A beneficiary to an employee benefit trust has an interest with a positive net asset value only to the extent that the value of the assets set aside in trust are sufficient to currently pay all employee benefit obligations in which the beneficiaries are vested; however, with respect to beneficiaries who are receiving current payments from the employee benefit trust, the amount reportable is the amount of any payments made to the beneficiary.</i></p> |
| 6.14 Private Trust Company | <p>Amended text:</p> <p><i>A Private Trust Company (PTC) which is registered, or a similar trust company which is licensed, and conducting business in or from within the Islands, may be considered a Financial Institution for these purposes.</i></p> <p><i>In the case of a trust of which a PTC is the trustee and the trust has all its income derived from financial assets, under the definitions of Investment Entity outlined in Section 2.9, the trust may be a Financial Institution. If the trust is not a Financial Institution, it will be an NFFE, and its activity will determine whether it is a Passive or Active NFFE. If a trust is a Passive NFFE, the Financial Institution where the trust holds Financial Accounts will be required to undertake the necessary due diligence procedures to determine if the account is a Reportable Account.</i></p> |
| 14.5 Identification of New Individual Accounts | Deletion of paragraph 4 |
| 17.3 Nil Returns | <p>Amended text:</p> <p><i>The filing of nil returns is non-mandatory under the Regulations, although there is the facility for financial institutions to submit nil returns via the AEOI Portal at their own option. Financial institutions with no reportable accounts will still need to complete the notification requirement via the AEOI Portal.</i></p> |
| Appendix 2 | Extension of ARR election date in 2015 to 30 September 2015 |

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| UK Agreement – Specific Elements | |
| Appendix 3 AEOI Portal User Guide | AEOI Portal User Guide link provided |