



## Cayman Islands Country-by-Country Update

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Further to our [Alert issued in January 2018](#) the Tax Information Authority of the Cayman Islands (“TIA”) has now issued Guidance in respect of the Country-by-Country Reporting requirements (“CbCR”).<sup>1</sup>

CbCR requires every entity that is “resident in the Islands”<sup>2</sup> to determine whether or not it is a constituent entity (“CE”) of a multinational enterprise (“MNE”) and to notify the TIA of the name and jurisdiction of the MNE group’s (“MNE Group”) <sup>3</sup> reporting entity (“Reporting Entity”) <sup>4</sup>. The Reporting Entity is required to file a report (“CbC Report”) if the MNE Group has a consolidated group revenue of at least US\$850 million. Only one notification is required to be made by the Reporting Entity for all CEs in the same MNE Group.

The Reporting Entity is required to appoint individuals as primary and secondary contacts (the “Primary Contact” and “Secondary Contact” respectively); such individuals need not be resident in the Cayman Islands. The Primary Contact is the only one permitted to provide information for the MNE Group via the Cayman CbCR Portal. The Secondary Contact is to serve as a “back-up” contact for the TIA in the event that the Primary Contact is unresponsive or there are otherwise concerns regarding the Primary Contact’s representation of the MNE Group.

### Key Dates

<b>22 May 2018</b>	Deadline for CEs where the Reporting Entities are resident in the Cayman Islands to make the CbCR notification for MNE Groups with a fiscal year which began on or after 1 January 2016 and ended on or before 31 May 2017. Otherwise, the first notification or update to an existing notification will be before the end of the relevant fiscal year.
<b>31 May 2018</b>	Deadline for Reporting Entities resident in the Cayman Islands to make the CbC Report for MNE Groups for any fiscal year that began on or after 1 January 2016 and ended on or before 31 May 2017. Otherwise, the deadline for reporting in respect of any subsequent fiscal year is within 12 months of the end of that fiscal year.
<b>30 June 2018</b>	Deadline for participating jurisdictions to transmit messages containing CbC Reports to receiving countries via the OECD’s Common Transmission System (“CTS”).
<b>30 September 2018</b>	Deadline for CEs where Reporting Entities are not resident in the Cayman Islands to make the CbCR Notification for all CEs resident in the Cayman Islands for those MNE Groups with a fiscal year which began on or after 1 January 2016 and ended on or before 30 September 2018. Otherwise, the first notification or update to an existing notification will be before the end of the relevant fiscal year.

<sup>1</sup> The Guidance was issued on 29 March 2018 in respect of the *Tax Information Authority (International Tax Compliance) (Country-by-Country Reporting) Regulations, 2017*.

<sup>2</sup> Please see our [previous Alert](#) for a definition of resident in the Islands.

<sup>3</sup> Please see our [previous Alert](#) for a definition of MNE Group.

<sup>4</sup> Please see our [previous Alert](#) for a definition of “Reporting Entity”, “Ultimate Parent Entity” and “Surrogate Parent Entity”

## Cayman Islands CbCR Portal – Two Part Notification Process

The CbCR Portal can be accessed here: <https://caymanaeoportal.gov.ky:8443>. The Primary Contact must provide the name of the MNE Group, contact information and upload to the CbCR Portal an executed [Authorisation Letter](#) appointing the Primary and Secondary Contact. The Department for International Tax Cooperation will review this information and provide the Primary Contact with login credentials required for the second part of the notification process, which will be to upload the MNE Group's CEs file. The CEs file must be based on the [TIA's template](#) and should list all of the MNE Group's CEs resident in the Islands.

Any entity which becomes or ceases to be a CE must arrange for the Reporting Entity to notify the TIA before the end of the relevant fiscal year of the MNE Group. It is possible that a CE will have notification requirements in more than one jurisdiction.

## The CbC Report

The CbC Report must be in the form of the CbC XML Schema prescribed by the OECD. The CbCR Portal will not provide for the CbC Reports to be made by "manual entry" (i.e. by typing data into an electronic form online).

## Additional Guidance

- The deemed listing provision in the definition of the word "Group"<sup>5</sup> is only relevant where an enterprise would otherwise be the Ultimate Parent Entity, but is not required to prepare consolidated financial statements in the jurisdiction where it is a resident for tax purposes. Accordingly, it is irrelevant whether or not it is in fact able to be listed under the jurisdiction's laws and/or regulations.
- The governing principle to determine an MNE Group is to follow the accounting consolidation rules. For example, in a funds context, if the accounting rules instruct investment entities not to consolidate with investee entities then, subject to the deemed listing provision, the investee entities should not form part of a Group or MNE Group even where there is a controlling interest in the investee entity.
- The CE of an MNE Group resident in the Islands is obliged to keep records of the information related to CbCR for six years and to make the information available to the TIA for inspection; failure to comply constitutes an offence liable to a fine or imprisonment.

## Exchange of CbC Reports by the TIA

CbC Reports will be exchanged annually on an automatic basis with other jurisdictions where the Cayman Islands has a Qualifying Competent Authority Agreement in effect and where such partner jurisdictions have in place adequate measures to ensure the required confidentiality and data safeguards are met. The Cayman Islands is participating in the CbCR on a non-reciprocal basis. Other Competent Authorities may use the CbC Reports for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks in the Cayman Islands.

Should you require any additional information or assistance, please contact your usual Conyers Dill & Pearman representative.

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This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

For further information please contact: [media@conyersdill.com](mailto:media@conyersdill.com)

<sup>5</sup> "Group" means a collection of enterprises related through ownership or control such that it is either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.