

# Japan tax alert

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## Cayman Islands CRS Compliance Form obligations for 2020

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The Cayman Islands Department for International Tax Cooperation (DITC) has released a new CRS Compliance Form (Compliance Form) on 15 April 2020. The Compliance Form requires Cayman Islands Financial Institutions (Cayman FIs) to provide additional information annually to the Tax Information Authority to ensure the effective implementation of, and compliance with, the reporting and due diligence procedures stipulated in accordance with the Cayman Islands CRS regulations (Cayman CRS).

The Compliance Form is a requirement distinct from the previously existing annual CRS reporting framework. It must be completed annually by all Cayman FIs and Trustee Documented Trusts (TDTs) and cover the same periods covered under their CRS reporting. The key elements of the Compliance Form are summarized below.

- The Compliance Form contains five sections and requires Cayman FIs and TDTs to declare information concerning their financial accounts, AML/KYC practices and compliance with Cayman CRS.
- Specifically, the Compliance Form asks Cayman FIs and TDTs to confirm whether they have established and maintained written policies and procedures to comply with Cayman CRS, and whether they have implemented and complied with those policies and procedures.
- The Compliance Form requires Cayman FIs and TDTs to acknowledge that there are sanctions for providing inaccurate information to the Tax Information Authority and for contravention of their compliance and due diligence obligations.
- For the 2019 reporting period, the deadline for the submission of the Compliance Form will be 31 March 2021 (extended from the original date of 31 December 2020). The deadline for submission is expected to be 15 September in subsequent years. The DITC portal for submission is open beginning early December 2020.
- The Tax Information Authority may apply penalties where this deadline is not met.

## Observations:

Cayman FIs and TDTs should review their entire population of financial accounts (both reportable and non-reportable) for the 2019 reporting period and ascertain the financial information related to such accounts. Given that Cayman FIs and TDTs are now expected to disclose non-reportable financial accounts on the CRS Compliance Form, compliance will necessitate additional effort in comparison to the annual CRS reporting, which only requires the disclosure of information related to reportable financial accounts.

Trustees should be aware of the new CRS Compliance Form requirements to avoid any late filing or last-minute remedy actions, both of which may have an impact on multiple TDTs.

The Compliance Form stresses the importance that Cayman FIs and TDTs conduct reviews of self-certification forms during customer onboarding to determine the appropriate classification of their account holders (even in cases where the account holder is not considered a reportable person for Cayman CRS purposes).

Given that the CRS Compliance Form seeks confirmation of the status of written policies and procedures, Cayman FIs and TDTs should ensure that they have Cayman Islands-specific policies and procedures in place and that those same policies and procedures are followed throughout the CRS compliance process.

Lastly, the Compliance Form requires Cayman FIs and TDTs to indicate the name of any service providers fulfilling AML/KYC

obligations on their behalf and therefore stresses the requirement for Cayman FIs and TDTs to closely monitor any service providers who provide them with assistance for Cayman CRS compliance.

## Conclusion:

The Tax Information Authority has been investing resources into demonstrating that it is in compliance with international standards as expected of a Participating Jurisdiction. Accordingly, Cayman FIs and TDTs (notably within the asset management space) should expect increased review activity from the Tax Information Authority. With this increased focus on compliance monitoring, Cayman FIs and TDTs should perform independent readiness review assessments to evaluate the current state of their Cayman CRS compliance and identify gaps, if any, and remediate them prior to a potential review by the Tax Information Authority. Typical gaps are found in areas such as self-certification forms, policies and procedures, and reporting. Also, where service providers such as fund administrators and trustees are engaged to assist with Cayman CRS compliance, Cayman FIs and TDTs should ensure adequate oversight is in place to maintain compliance with Cayman CRS regulations.

Please feel free to contact us for assistance in understanding the new Compliance Form obligations and in the timely filing of the Compliance Form.

For additional information with respect to this alert, please contact the following:

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Japan Tax SCORE 20201112

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