

Cayman Islands

1. The Cayman Islands was first reviewed during the 2017/2018 peer review. This report is supplementary to the Cayman Islands' 2017/2018 peer review report (OECD, 2018^[1]). The first filing obligation for a CbC report in the Cayman Islands applies to reporting fiscal years commencing on or after 1 January 2016.

Summary of key findings

2. The Cayman Islands' implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[2]).

Part A: The domestic legal and administrative framework

3. The Cayman Islands has primary and secondary laws (hereafter the "regulations") in place for implementing the BEPS Action 13 minimum standard¹ establishing the necessary requirements, including the filing and reporting obligations. Since the 2017/2018 peer review, guidance has also been published.² The Cayman Islands has provided an update with respect to the processes it has in place to ensure effective implementation.

(a) Parent entity filing obligation

4. No changes were identified with respect to the parent entity filing obligation.

(b) Scope and timing of parent entity filing

5. No changes were identified with respect to the scope and timing of parent entity filing.

(c) Limitation on local filing obligation

6. No changes were identified with respect to the limitation on local filing obligation.

(d) Limitation on local filing in case of surrogate filing

7. No changes were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

8. The Cayman Islands' 2017/2018 peer review included a general monitoring point concerning the fact that there was no specific process that would allow it to take appropriate measures in case the Cayman Islands is notified by another jurisdiction that such other jurisdiction has reason to believe that an error may have led to incorrect or incomplete information reporting by a Reporting Entity or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC report. Since the 2017/2018 peer review, the Cayman Islands has provided updated information, explaining that, in such a situation,

the Automatic Exchange of Information team in the Department for International Tax Cooperation is responsible for sending the notification to the Reporting Entity. The Tax Information Authority (the “TIA”) can take the compliance measures specified in the regulations to obtain further information from any Reporting Entity. In addition, the regulations establish various offences, including for contravention of the TIA’s notice to provide information.³ In view of this update and specific process, the monitoring point is removed.

9. No other changes were identified with respect to the effective implementation.

Conclusion

10. There is no change to the conclusion in relation to the domestic legal and administration framework for the Cayman Islands since the previous peer review. The Cayman Islands meets all the terms of reference relating to the domestic legal and administrative framework.

Part B: The exchange of information framework

(a) Exchange of information framework

11. As of 31 May 2019, the Cayman Islands has 54 bilateral relationships in place, including those activated under the CbC MCAA and under bilateral CAAs. Within the context of its international exchange of information agreements that allow automatic exchange of information, the Cayman Islands has taken steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions.⁴ Regarding the Cayman Islands’ exchange of information framework, no inconsistencies with the terms of reference were identified.

(b) Content of information exchanged

12. The Cayman Islands has processes in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template are present in the information exchanged. It has provided details in relation to these processes.

13. Peer input was received from one jurisdiction in relation to the content of information exchanged. There are no concerns to be reported in respect of the content of information exchanged.

(c) Completeness of exchanges

14. The Cayman Islands has processes in place that are intended to ensure that CbC reports are exchanged with all tax jurisdictions listed in Table 1 of a CbC reporting template with which it should exchange information as per the relevant QCAAs. It has provided details in relation to these processes.

15. Peer input was received from one jurisdiction in relation to the completeness of exchanges. There are no concerns to be reported in respect of the completeness of exchanges.

(d) Timeliness of exchanges

16. The Cayman Islands has processes in place that are intended to ensure that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with

the timelines provided for in the relevant QCAAs and terms of reference. It has provided details in relation to these processes.

17. Peer input was received from one jurisdiction in relation to the timeliness of exchanges. There are no concerns to be reported in respect of the timeliness of exchanges:⁵

(e) Temporary suspension of exchange or termination of QCAA

18. The Cayman Islands has processes in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA be carried out only as per the conditions set out in the QCAA. It has provided details in relation to those processes.

19. Peer input was received from one jurisdiction in relation to a temporary suspension of exchange or termination of a QCAA. There are no concerns to be reported in respect of the temporary suspension of exchange or termination of QCAA.

(f) Consultation with other Competent Authority before determining systemic failure or significant non-compliance

20. The Cayman Islands has processes in place that are intended to ensure that the Competent Authority consults with the other Competent Authority prior to making a determination that there is or has been significant non-compliance with the terms of the relevant QCAA or that the other Competent Authority has caused a systemic failure. It has provided details in relation to those processes.

21. Peer input was received from one jurisdiction in relation to the requirement for a consultation before determining systemic failure or significant non-compliance. There are no concerns to be reported in respect of consultation with the other Competent Authority before determining systemic failure or significant non-compliance.

(g) Format for information exchange

22. The Cayman Islands confirms that it uses the OECD XML Schema and User Guide (OECD, 2017^[3]) for the international exchange of CbC reports.

23. Peer input was received from one jurisdiction in relation to the format for information exchange. There are no concerns to be reported in respect of the format of information exchange.

(h) Method for transmission

24. The Cayman Islands indicates that it uses the Common Transmission System to exchange CbC reports.

25. Peer input was received from one jurisdiction in relation to the method for transmission. There are no concerns to be reported in respect of the method used for transmission.

Conclusion

26. The Cayman Islands has in place the necessary processes to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework. The Cayman Islands meets all the terms of reference regarding the exchange of information.

Part C: Appropriate use

27. No changes were identified in respect of appropriate use. The Cayman Islands is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. As such, it is not necessary for this peer review evaluation to reach any conclusion with respect to the Cayman Islands' compliance with paragraph 12 of the terms of reference on appropriate use.

Conclusion

28. There is no change to the conclusion in relation to the appropriate use for the Cayman Islands since the previous peer review. The Cayman Islands is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. As such, it is not necessary for this peer review evaluation to reach any conclusion with respect to these paragraphs of the terms of reference.

Summary of recommendations on the implementation of country-by-country reporting

Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

Notes

¹ Primary law consists the Tax Information Authority Law which gives effect to the terms of scheduled Agreements, which include the Convention on Mutual Administrative Assistance in tax matters (as amended by the Protocol) and bilateral agreements for the provision of information for tax purposes including the automatic exchange of information.

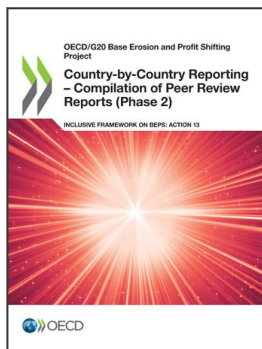
Secondary law consists of the “Tax Information Authority (International Tax Compliance) (Country-by-Country Reporting) Regulations, 2017”: <http://www.gov.ky/portal/pls/portal/docs/1/12554414.PDF>.

² See guidance entitled “Cayman Islands Country-by-Country Reporting Guidance” at http://www.tia.gov.ky/pdf/CbCR_Legislation.pdf.

³ As per the regulations, an offence is punishable with a fine of CI\$10,000 or to imprisonment for a term of six months, or both. Alternatively, the TIA may impose an administrative penalty of CI\$4,000 in relation to certain offences, including failure to comply with the TIA’s notice to provide information.

⁴ No inconsistency with the terms of reference will be identified where a QCAA is not in effect with one or more jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions, but this is due to circumstances that are not under the control of the reviewed jurisdiction. This may include, for example, where the other jurisdiction intends to exchange CbC reports using the MCAA but it does not have the Convention in effect for the relevant fiscal period, or where the other jurisdiction has declined to have a QCAA in effect with the reviewed jurisdiction

⁵ Delays due entirely to the fact that an exchange partner was not able to participate in the exchange of CbC reports are not considered to raise concerns with respect to the jurisdiction under review.



From:

Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2)

Inclusive Framework on BEPS: Action 13

Access the complete publication at:

<https://doi.org/10.1787/f9bf1157-en>

Please cite this chapter as:

OECD (2019), “Cayman Islands”, in *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2): Inclusive Framework on BEPS: Action 13*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/fea7225b-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.