

US FATCA and CRS Update 美国 FATCA 和 CRS 更新

The Department of International Tax Cooperation (“DITC”) has issued an [industry advisory](#) confirming that the Automatic Exchange of Information Portal (“AEOI Portal”) has reopened with revised documentation.

AEOI Portal Open with New User Guide

The Cayman Islands AEOI Portal is now open for FATCA and CRS notifications and reporting. The regulatory deadlines are:

- **30 April 2018** for notifications (i.e. enrollment); and
- **31 May 2018** for reporting for the 2017 calendar year.

The AEOI Portal has new functionality allowing users to make PPoC change requests, Authorising Person change requests and Financial Institution deactivations and there is a revised [AEOI Portal User Guide](#).

Entity Self-Certification – Change to the CRS Definition of a Controlling Person

The DITC has issued a new [entity self-certification form](#) which should be used by Cayman Financial Institutions. The revision is necessary to clarify that for the purposes of CRS only, the threshold for a “Controlling Person” in respect of a legal person is direct or indirect ownership or control of 10 per cent or more of the shares or voting rights in the legal person, being the threshold specified by the *Anti-Money Laundering Regulations (2018 Revision)* which implement the FATF Recommendations in the Cayman Islands. Please note that the corresponding threshold for FATCA remains “more than 25 per cent”.

All Cayman Financial Institutions must remediate any affected accounts by 31 December 2018 so that they are in a position to report on Controlling Persons who are Reportable Persons under the CRS in 2019 based on the 10 per cent threshold.

国际税收合作部（下称“DITC”）已发布[行业咨询文件](#)，确认已重新开放自动资讯交换网站（下称“AEOI 网站”），并对相关文件进行了修订。

AEOI 网站已开放并提供全新用户指南

开曼群岛 AEOI 网站现已开放，可进行 FATCA 和 CRS 通知与申报。监管截止日期如下：

- 通知（即登记）截止日期为 **2018 年 4 月 30 日**；以及
- 2017 日历年度的申报截止日期为 **2018 年 5 月 31 日**。

AEOI 网站的新增功能允许用户提交 PPoC 变更申请、授权人员变更申请和金融机构注销，并提供修订版 [AEOI 网站用户指南](#)。

实体自我认证 – CRS 控制人的定义变更

DITC 已发布供开曼金融机构使用的全新[实体自我认证表格](#)。相关修订旨在澄清以下内容：仅就 CRS 而言，成为一位法人的“控制人”必须直接或间接拥有或控制该法人 10% 或以上的股份或投票权，这也是在开曼群岛落实 FATF 建议的《反洗钱条例（2018 年修订版）》所规定的标准。请注意，FATCA 的相应标准仍为“超过 25%”。

所有开曼金融机构必须在 2018 年 12 月 31 日之前对所有受影响账户进行修正，以便能够对基于 10% 标准属于 2019 年 CRS 应申报人士的控制人进行申报。

Revised CRS Guidance Notes

The [CRS Guidance Notes](#) have been revised. Particular updates include:

- A new email address for compliance issues regarding AEOI at DITCcompliance@gov.ky;
- A revised list of [CRS Participating Jurisdictions and CRS Reportable Jurisdictions](#) (updated 5 January 2018);
- Guidance on the 10 per cent threshold for a Controlling Person of an Account Holder;
- A requirement for self-certifications to be obtained and validated as part of a Financial Institution's Account opening procedures on 'day one' of the Account opening process and, in any event, within 90 days after the Account has opened. In the event that the self-certification is not obtained within 90 days then the Account should be closed;
- Obligations on liquidators (or equivalent) to maintain records and to respond to the DITC's information requirements under regulation 12 of the CRS Regulations for six years after filing the CRS return;
- Cayman Islands Financial Institutions migrating to another jurisdiction are required to terminate their registration on the AEOI Portal by following the procedure on the AEOI Portal Guide; and
- Guidance on reporting requirements for indirect distributions made by trusts.

For additional information, please contact your usual Conyers Dill & Pearman representative.

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.

修订版 CRS 指引说明

CRS指引说明已进行修订。特别更新包括：

- 针对AEOI合规问题新设的电子邮件地址：DITCcompliance@gov.ky；
- 经修订的[CRS参与司法管辖区和CRS应申报司法管辖区](#)清单（于2018年1月5日更新）；
- 关于账户持有者之控制人须达到10%标准的指引；
- 作为开户程序的一部分，开曼群岛金融机构必须在开户流程的“首日”及无论如何于开户后90天内获得自我认证并通过验证。若未能在90天内获得自我认证，账户将被关闭；
- 清算人（或同等人士）有义务根据CRS准则第12条在提交CRS申报后六年内保存记录并回应DITC索取资料的要求；
- 开曼群岛金融机构如迁至另一司法管辖区，则必须按照AEOI网站指南中的程序注销其在AEOI网站上的登记信息；以及
- 信托机构进行间接分配的申报要求指引。

有关其他资料，请联络阁下于康德明律师事务所的日常联络人。

本文并非法律意见，其内容亦非详尽无遗，只可作为概览及一般参考资料。感谢您的垂阅！

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