

Cayman Islands FATCA/CRS Compliance Deadlines (2016)

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Cayman Islands investment entities are currently subject to three separate regimes relating to financial account information reporting: U.S. FATCA, U.K. FATCA and the OECD Common Reporting Standard (CRS). Although these regimes are similar, each has its own unique set of rules. Accordingly, investment advisers that manage Cayman Islands investment entities should be aware of the separate compliance obligations under U.S. FATCA, U.K. FATCA and CRS. The following summary outlines the 2016 requirements.

Summary of 2016 FATCA/CRS Compliance Deadlines

Deadline	Compliance Requirement	Regime(s)
June 10, 2016*	Notification	U.S./U.K. FATCA
June 30, 2016	Due Diligence	U.S./U.K. FATCA
July 8, 2016**	Reporting	U.S./U.K. FATCA
December 31, 2016	Registration	U.S. FATCA
December 31, 2016	Due Diligence	CRS

* This deadline was extended from April 30, 2016.

** This deadline was extended from May 31, 2016.

1. Notification (FATCA)

DEADLINE: June 10, 2016 (formerly April 30, 2016)

In general, every Cayman Islands investment entity that is a “Reporting Financial Institution” under U.S. FATCA and/or U.K. FATCA (or its “sponsoring entity,” if applicable) is required to notify the Cayman Islands Tax Information Authority (TIA) of its **first** annual report under U.S. FATCA and U.K. FATCA. Through this process, each Cayman Islands investment entity will also provide the TIA with contact information for the natural person responsible for corresponding with the TIA about the investment entity’s FATCA compliance.

Cayman Islands investment entities that filed a 2014 U.S. FATCA Report (in 2015) were required to submit a notification to the TIA in 2015. If such entities are filing a 2015 U.S. FATCA Report, but are not filing a 2014-15 U.K. FATCA Report, no further notification must be submitted in 2016; the notification submitted in 2015 will satisfy the requirement.

If, however, a Cayman Islands investment entity that submitted a notification in 2015 intends to file a 2014-15 U.K. FATCA Report, such entity must submit a separate notification in 2016 to satisfy its obligation under U.K. FATCA.

Cayman Islands investment entities that will file their first FATCA reports in 2016 must notify the TIA and indicate whether the report will be under U.S. FATCA, U.K. FATCA, or both.

A “sponsored entity” is not required to submit a notification in its own right; rather, its “sponsoring entity” submits the notification on behalf of the “sponsored entity.” For U.S. FATCA purposes, the “sponsoring entity” may be any entity, so long as it has registered with the IRS as a “sponsoring entity.” **For U.K. FATCA purposes, however, the “sponsoring entity” must be a Cayman Islands Financial Institution.** Investment advisers that have utilized a non-Cayman entity to act as a “sponsoring entity” for U.S. FATCA purposes may need to plan accordingly to identify a Cayman entity to act in that capacity for U.K. FATCA purposes (to the extent a “sponsored entity” intends to file a 2014-15 U.K. FATCA Report).

Finally, if a Cayman Islands investment entity has no “Reportable Accounts,”¹ it may, but is not required to, file a so-called “nil report.” If such an entity opts to file a “nil report,” it will need to submit a notification to the TIA by the deadline if the “nil report” would be the entity’s first report under U.S. or U.K. FATCA. In contrast, if the entity does not opt to file a “nil report,” no notification is necessary.

To access the Cayman Islands Notification Portal, [click here](#).

2. Due Diligence (FATCA)

DEADLINE: June 30, 2016

In general, all financial accounts (including interests in investment entities) that were maintained by Cayman Islands investment entities as of June 30, 2014 have been classified as “pre-existing accounts” for U.S. and U.K. FATCA purposes. The due diligence requirements with respect to these pre-existing accounts has been phased-in since 2014. To the extent a Cayman Islands investment entity has not completed its due diligence with respect to a pre-existing account, it generally must do so by June 30, 2016.

The only remaining exceptions to the due diligence requirement include:

- Pre-existing **individual** accounts whose value on June 30, 2014 was ≤ \$50,000 and did not exceed \$1 million on December 31, 2015; and
- Pre-existing **entity** accounts whose value on June 30, 2014 was ≤ \$250,000 and did not exceed \$1 million on December 31, 2015.

In each of these cases, a pre-existing account will not become subject to FATCA until its value exceeds \$1 million on a subsequent December 31st. At that time, a Cayman Islands investment entity will be required to complete due diligence with respect to such account by June 30th of the following year.

Due diligence is the method by which a Cayman Islands investment entity determines whether an account is a “Reportable Account” for U.S. or U.K. FATCA purposes. Typically, due diligence is undertaken by obtaining IRS Forms W-8 or W-9 from account holders (for U.S. FATCA purposes) and self-certifications of tax residency (for U.K. FATCA purposes), and then comparing such forms and self-certifications with other information obtained from account holders during the on-boarding process.

For financial accounts opened after June 30, 2014, due diligence generally must be completed within 90 days after on-boarding.

3. Reporting (FATCA)

DEADLINE: July 8, 2016 (formerly May 31, 2016)

Cayman Islands investment entities that had “Reportable Accounts” under U.S. FATCA (in 2015) and/or U.K. FATCA (in 2014 and/or 2015) must file reports with the TIA by July 8, 2016.

As noted above, if reporting is required, or if an entity chooses to file a “nil report,” a notification must be submitted by June 10, 2016 if the entity will be filing its first report under U.S. or U.K. FATCA.

The Cayman government has published detailed guidance ([click here](#)) to assist with the reporting process. To access the Reporting Portal, [click here](#).

4. Due Diligence (CRS)

DEADLINE: December 31, 2016

In general, all financial accounts that were maintained by Cayman Islands investment entities as of December 31, 2015 are “pre-existing accounts” for CRS purposes. Due diligence under CRS (which includes obtaining self-certifications of tax residency from account holders) is being phased-in during 2016 and 2017. Due diligence for the following types of pre-existing accounts must be completed by December 31, 2016:

- Pre-existing **individual** accounts whose value exceeded \$1 million on December 31, 2015; and
- Pre-existing **entity** accounts whose value exceeded \$250,000 on December 31, 2015.

Due diligence on lower-value pre-existing accounts will be required by later deadlines.

For financial accounts opened after December 31, 2015, due diligence generally must be completed within 90 days after on-boarding.

5. Sponsored Entity Registration (U.S. FATCA)

Reporting Cayman Islands Financial Institutions that have been classified as “sponsored entities” have been permitted to use the Global Intermediary Identification Number (GIIN) of their respective “sponsoring entities” as evidence of their compliance with U.S. FATCA.

All “sponsored entities” must register with the IRS and obtain separate GIINs by the later of (i) December 31, 2016, or (ii) 90 days after the date on which a U.S. “Reportable Account” is first identified. “Sponsoring entities” may continue to administer the compliance requirements of their respective “sponsored entities,” but each entity must have its own GIIN as of January 1, 2017 (or such later date, as applicable).

In addition, once a “sponsored entity” has obtained its own GIIN, it will need to update its IRS Form W-8 to disclose its GIIN and updated FATCA classification (e.g., “Reporting Model 1 FFI”).

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Looking ahead to 2017, U.K. FATCA will be phased-out in favor of the CRS. As a result, notifications of CRS filings will be due by April 30, 2017 and 2016 CRS Reports (together with 2016 U.S. FATCA Reports) will be due by May 31, 2017. Separate reporting under U.K. FATCA will only be required in 2016 (with respect to 2014-15). However, because the United States has not adopted the CRS, U.S. FATCA will continue to apply as a separate regime.

In addition, CRS due diligence for all lower-value pre-existing accounts generally must be completed by December 31, 2017.

1. A “Reportable Account” generally means:

- **U.S. FATCA:** An account held by (i) a “Specified U.S. Person” under U.S. FATCA, or (ii) a non-U.S. entity with one or more “Controlling Persons” that is a “Specified U.S. Person.”
- **U.K. FATCA:** An account held by (i) a “Specified U.K. Person” under U.K. FATCA, or (ii) a non-U.K. entity with one or more “Controlling Persons” that is a “Specified U.K. Person.”
- **CRS:** An account held by (i) a “Reportable Person” (e.g., a person who is a resident of a CRS jurisdiction), or (ii) a “Passive Non-Financial Entity” (which includes financial institutions located in non-CRS jurisdictions, such as the United States) with one or more “Controlling Persons” that is a “Reportable Person.”

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