



August 2009 Updater

Current developments in Cayman's legal and regulatory environment

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Feedback welcome.

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Cayman moves to the "White List"

Cayman's commitment to international tax transparency standards has been recognised by the Organisation for Economic Co-Operation and Development ("OECD") which has moved the jurisdiction onto the OECD's "White List" of jurisdictions that are compliant with international tax transparency standards.

Cayman signed its twelfth bilateral Tax Information Exchange Agreement ("TIEA") with New Zealand on 13 August 2009 and so now meets the OECD's minimum requirement set in April this year for a jurisdiction to prove that it is committed to and compliant with international tax transparency standards. It is expected that Cayman will soon have many more TIEAs in place as it has unilateral mechanism agreements with Japan, Germany, South Africa, Austria, Belgium, Czech Republic, Switzerland, Luxembourg and the Slovak Republic. The unilateral agreements have been hailed by the OECD as being both "imaginative and innovative", but a decision on the formal acceptability to the OECD of this mechanism is not expected prior to the OECD's Global Tax Forum meeting in Mexico on 1st and 2nd September 2009.

The unilateral mechanism agreements were introduced by Cayman in late 2008 in an effort to overcome delays in putting bilateral agreements in place. The basis of the unilateral agreement is Cayman's commitment to disclose information to any listed country on the terms of the model TIEA used for the bilateral agreements. Should the unilateral mechanisms be acceptable to the OECD, this would bring Cayman's TIEA count to 21. In addition, negotiations for further bilateral agreements are in advanced stages with Italy, Mexico, Germany, France, Australia, Portugal and Canada.

The Cayman Government is confident that the jurisdiction is well placed to ensure the smooth operation of the TIEAs due to the fact that Cayman already has a fully-staffed and fully-operational Tax Information Authority that was established shortly after Cayman entered into its first TIEA with the US in 2001 (which was the first TIEA entered into by any offshore jurisdiction) and has an excellent track record of co-operation with the US and also

with the 27 EU States pursuant to its tax reporting obligations under the European Union Savings Directive.

Jeffrey Owens, Director of the OECD's Centre for Tax Policy and Administration has had welcoming words for Cayman in the recent past: "we are hearing from certain jurisdictions (for example the Caymans) that they want to build a network of tax transparency agreements, and this is the type of commitment we wish to see". The admission of Cayman to the White List is a welcome recognition that it meets the highest international standards on tax transparency.

Cayman gains IOSCO membership

The Cayman Islands Monetary Authority (CIMA) became an ordinary (full) member of the International Organisation of Securities Commissions (IOSCO) at the 34th annual conference held in Tel Aviv, Israel on 10 June 2009. The granting of membership came on the heels of the signing of a Multilateral Memorandum of Understanding (MMOU) that commits CIMA to co-operation and exchange of information with international regulators. IOSCO is the organisation that has largely set the international standards and practices for securities regulation and has as a key objective "to reduce global systemic risk, protect investors and ensure fair and efficient securities markets".

CIMA's acceptance into this group has been long-awaited. As a regulator of the highest international standards, it has, for a number of years, been pursuing this recognition by IOSCO based on a "level playing field" and has been actively represented on the IOSCO committee looking at this issue.

This membership is important to Cayman's financial services industry as it opens doors to some international markets that were previously closed to direct investment by Cayman funds. For example, it is expected that Cayman funds which invest in India should now have the option of being registered as a foreign institutional investor ("FII") with the Securities and Exchange Board of India ("SEBI") rather than investing through intermediary funds based in another jurisdiction or through participatory notes issued by other FIIs.

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