

Cayman Islands funds

By Chris Humphries

The Cayman Islands is the principle offshore jurisdiction for hedge funds and mutual funds and seeks to retain its status by implementing an innovative legislative and regulatory regime and by continuing to have an absence of taxation. Hedgeweek Global Awards 2015 declared The Cayman Islands the best hedge fund services jurisdiction. Given the historic success of the Cayman Islands as a fund domicile, it also boasts the presence of sophisticated and professional service providers who are knowledgeable in the nuances of the fund industry.

Some of the core changes to the funds industry in the Cayman Islands in 2015 are:

AIFMD passport regime update

The Cayman Islands is awaiting assessment by the European Securities and Markets Authority to be granted the EU's Alternative Investment Fund Managers Directive ("AIFMD") passport, which should lead to its approval for the pan-European marketing passport.

The Mutual Funds Law (2015 Revision), and the Securities Investment Business Law (2015 Revision) were amended this year to establish an opt-in regime for regulating Cayman Islands-domiciled investment funds and managers with connections to the European Union ("EU"), in order to facilitate extending the EU's AIFMD passport to the Cayman Islands.

Until such time that decisions are made regarding extending the AIFMD passport to the Cayman Islands, Cayman investment funds may continue to be marketed in the EU under national private placement regimes that require, among other things, that Cayman's regulator, the Cayman Islands Monetary Authority ("CIMA"), has signed memoranda of understanding ("MOUs") with individual EU member states. These arrangements can continue until at least 2018. CIMA has signed MOUs with 27 EU member states.

CRS

On 16 October 2015, the Cayman Islands issued regulations relating to the Common



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Stuarts Walker Hersant Humphries, Attorneys-at-Law has an Investment Funds Team that is a market leader in advising managers on the set-up and establishment of a broad range of investment funds in the Cayman Islands, including hedge funds, real estate funds and private equity funds.

Reporting Standard, the OECD initiative for the global automatic exchange of information for tax purposes ("CRS"), The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015 (the "CRS Regulations").

As with FATCA, the CRS Regulations require Cayman Islands Reporting Financial Institutions to:

- Establish policies and maintain procedures designed to identify Reportable Accounts from 1 January 2016 (which include the identification of each jurisdiction in which an account holder or controlling person is resident for tax purposes, application of certain due diligence and retention of information obtained or a record of the steps taken to comply with the CRS Regulations for six years);
- Notify the Cayman Islands Tax Information Authority that it has reporting obligations by 30 April 2017; and
- Make a return setting out certain required information on reportable accounts, the first report being required to be made on or before 31 May 2017 in respect of reportable accounts held during 2016.

Mutual funds filings

CIMA has implemented a new regulatory procedure (the "New Procedure") in connection with the cancellation of a licence or certificate of registration of a Cayman Islands regulated mutual fund.

The New Procedure creates a fixed deadline for submitting an application to CIMA for the deregistration of a fund in cases where the fund intends to or has ceased carrying on business pursuant to the Mutual Funds Law (2015 Revision) (the "Mutual Funds Law").

The New Procedure requires an application to be made on the earlier of (i) 21 days from the date the fund ceases to carry on business; or (ii) before 31 December of the year the fund ceases to carry on business. ■