

Enforcement Guidelines Issued – CRS and Economic Substance

The Cayman Islands Tax Information Authority has issued Enforcement Guidelines in relation to CRS and Economic Substance Regulations.

Enforcement Guidelines Issued – Common Reporting Standards and Economic Substance

The [Ministry of Financial Services](#) division of the Cayman Islands government has on 31st March 2022 announced that the [Department for International Tax Cooperation \(DITC\)](#) issued an [Industry Advisory](#) stating that Enforcement Guidelines have been issued by the Tax Information Authority (TIA) in respect of the Common Reporting Standard (CRS) and Economic Substance (ES) frameworks.

What Impact do these Enforcements have?

These Enforcement Guidelines impact any entity which has CRS obligations such as an Investment Fund, Private Fund, General Partner and an Investment Manager.

The [CRS Enforcement Guidelines](#) and the [ES Enforcement Guidelines](#) set out the Authority's principles and processes for taking enforcement action under their respective frameworks, and apply to all persons within the scope of the Authority's compliance monitoring and enforcement powers.

Administrative penalties are an enforcement mechanism utilised in response to non-compliance with the CRS Regulations and the ES Regulations. These are monetary penalties imposed by the Authority without reference to a court.

Amount of Penalty

As per section 2.2 of the [CRS Regulations](#), pursuant to Reg.24, subject to complying with Regs. 28-31, the Authority may impose a penalty of the following amount (a "Primary Penalty") for offences against Part 3 –

- (a) for the following, \$50,000 –
 - (i) For an offence by a body corporate; or
 - (ii) For an offence by an individual who forms, or forms part of, an unincorporated FI; or
- (b) otherwise, \$20,000

Also, if –

- (a) a Primary Penalty has been imposed, which penalty has not been stayed;



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- (b) the contravention has not been remedied; and
- (c) the party is capable of remedying the contravention,

the Authority may impose further penalties on the party of \$100 for each day the contravention continues (each a “Continuing Penalty”).

It should be noted that the amount of penalty is determined per offence. If it is determined that multiple offences against the CRS Regulations have occurred, the Authority may include each Primary Penalty within the same Breach Notice.

A table providing a non-exhaustive list of examples of offences under the CRS Regulations and the corresponding administrative penalties that the Authority may impose pursuant to regulation 22 of the CRS Regulations can be viewed [here](#).

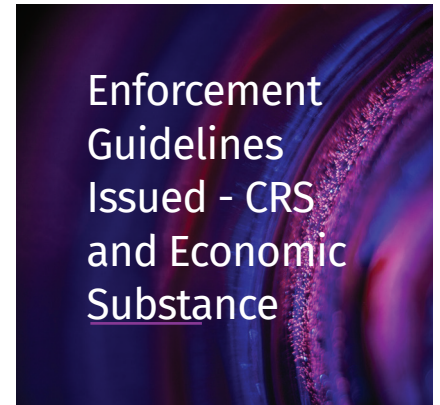
As per Part 6 of the [ES Enforcement Guidelines](#) the Authority will use its discretion to determine the level of penalty to be applied to a relevant entity that fails to submit an ES Return, or fails the ES test with respect to the relevant activity that it conducted for the reporting period, based on the facts and circumstances of each particular case.

The penalties vary in range and can be viewed in full in the [ES Enforcement Guidelines](#).

Advice and Guidance

Both the [CRS Enforcement Guidelines](#) and the [ES Enforcement Guidelines](#) should be read in conjunction with the [CRS Regulations](#) and the [ES Act](#), which are available on the [DITC website](#).

If your entity has FATCA or CRS obligations, or if you need advice on whether your entity falls under the CRS or Economic Substance regimes, contact your usual attorney at Stuarts, or reach out directly to Chris Humphries or Jonathan McLean for assistance.



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This publication is for general guidance and is not intended to be a substitute for specific legal advice. Specialist advice should be sought about specific circumstances. If you would like further information please contact Stuarts Walker Hersant Humphries.