

Department for International Tax Cooperation



CAYMAN ISLANDS

Guidance Note:

Institutional Users for FATCA & CRS

Date of Issue: *28 February 2020*

Website: www.ditc.gov.ky

Contact: CaymanAEOIPortal@gov.ky

A. Introduction

On February 18th 2020, Cabinet amended the CRS¹ & FATCA² Regulations:

1. [Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) \(Amendment\) Regulations, 2020](#)
2. [Tax Information Authority \(International Tax Compliance\) \(United States of America\) \(Amendment\) Regulations, 2020](#)

These amendments reduce the administrative burden on Cayman Financial Institutions (“FIs”) and ensure the effective implementation of the Common Reporting Standard (“CRS”) obligations. The above regulations take immediate effect.

B. Introduction of the “Institutional User”

The 2020 amendment to the CRS & FATCA Regulations removes the requirement for the Authorising Person (“AP”) and Principal Point of Contact (“PPoC”) to be individuals or natural persons and permits an entity to act in either capacity. For the purpose of these Regulations the definition of a “person” is a natural or legal person or a legal arrangement, such as a trust, partnership or foundation.

The Regulations also require the AP and PPoC to be two different persons, except in circumstances specified by the Authority. The Authority will permit the AP and PPoC to be the same person where the FI elects to appoint an entity that is licensed under regulatory laws of the Cayman Islands Monetary Authority (“CIMA”) as the AP and PPoC.³ For example, a corporate service provider licenced by CIMA will be permitted to act as both the AP and PPoC. However, where the AP or PPoC is an individual or an entity that is not licensed under CIMA’s regulatory laws, the roles must be appointed to different persons. For example, if the PPoC is an entity not licenced by CIMA, the AP must be a different entity or an individual. Likewise, if the AP is an individual they must appoint another person or entity to act as the PPoC.

¹[http://www.tia.gov.ky/pdf/Tax_Information_Authority_\(International_Tax_Compliance\)_Common_Reporting_Standard_Regulations_\(2018_Revision\).pdf](http://www.tia.gov.ky/pdf/Tax_Information_Authority_(International_Tax_Compliance)_Common_Reporting_Standard_Regulations_(2018_Revision).pdf)

²[http://www.tia.gov.ky/pdf/Tax_Information_Authority_\(International_Tax_Compliance\)_United_States_of_America_Regulations_\(2018_Revision\).pdf](http://www.tia.gov.ky/pdf/Tax_Information_Authority_(International_Tax_Compliance)_United_States_of_America_Regulations_(2018_Revision).pdf)

³<https://www.cima.ky/regulatedsectors>

C. Letter of Authorisation Exemption

Previous to the 2020 Regulation amendments, the DITC required each Cayman FI to submit a Letter of Authorisation upon registration, or to complete a user change on the Portal. This letter, signed by a director, trustee or general partner of the FI, was required to identify the individuals authorised to act as the PPoC and AP. The DITC no longer requires the letter to be submitted where an FI elects to have an entity licensed under the regulatory laws of CIMA act in the capacity of either the AP or PPoC.

The Letter of Authorisation is still required where the FI elects to have individuals or non-licensed entities act as AP and PPoC. In these circumstances, the FI is still required to upload a letter to the Portal to confirm the persons listed are authorised to act on behalf of the entity. This letter must include the information identified in Annex 1 and be signed by a Director, Trustee, or General Partner of the FI. Please note, it is an offence for an FI to give the Authority an authorisation letter that is materially inaccurate.

D. Examples of AP/PPoC Structures

User Role on DITC Portal	Letter of Authorisation	Same person as AP & PPoC
Both the AP and PPoC is an entity licensed by CIMA ⁴	Not required	Yes
Neither the AP or PPoC is an entity licensed by CIMA	Required	No
AP is an individual and PPoC is an entity licensed by CIMA	Not required	No
Individuals acting as both the AP and PPoC	Required	No

⁴ <https://www.cima.ky/regulatedsectors>

E. User Changes on the DITC Portal

The new DITC Portal will also include a bulk user change function to streamline the process of making changes to the AP or PPOC. Due to these changes and the addition of institutional users, AP and PPOC changes are not being accepted until the Portal is operational, which is expected to be June 2020. Once the Portal is launched, the current AP and PPOC of each Cayman FI will receive an automated emailed with Portal login instructions. Once access is granted, authorised users will be able to appoint or adjust the AP and PPOC in line with the amended Regulations.

F. Conclusion

The aforementioned amendments to the CRS & FATCA Regulations allow greater flexibility for Cayman FIs to meet their reporting obligations under the law. The addition of the institutional user, in combination with the bulk user change functionality on the Portal, is aimed to reduce the administrative burden on Portal users by streamlining the overall process and providing a system that operates efficiently. Please email any questions to: caymanaeoportal@gov.ky

G. Annex 1 – Letter of Authorisation Requirements

The Authorisation Letter must be from the FI and in a customary business format such as a letterhead and must include the following information:

- Date (*within the last 3 months*)
 - FI name
 - FI number (*except upon registration*)
 - IRS issues GIIN (*if applicable*)
- 1) The contact details of the elected Principal Point of Contact (the person authorised to be the PPOC):
 - Individual or Entity Name
 - Position (*if applicable*)
 - Email address
 - Business entity name (*if applicable*)
 - Physical address
 - 2) The contact details of the Authorising Person (the person authorised to submit a change request regarding the PPOC):
 - Individual or Entity Name
 - Position (*if applicable*)
 - Email address
 - Business entity name (*if applicable*)
 - Physical address
 - 3) The Authorisation Letter **MUST** be signed by a director of the FI or of its trustee or general partner as applicable, and the signatory's position and name must be stated.
 - The TIA may, depending on the circumstances, require an FI to produce additional documents (e.g. the register of directors and a board of directors resolution or a court order appointing official liquidators and a liquidators resolution) as evidence in support of the appointment of the AP and the PPOC but it is not mandatory to attach such supporting documents to the Authorisation Letter when it is first uploaded to the DITC Portal.
 - 4) The letter, including any additional documentation, must be uploaded to the Portal as a single PDF document.
 - Multiple FIs may use the same Authorisation Letter which lists all such FIs if they each have the same PPOC, AP and signatory of the Authorisation Letter. In this case, the PPOC must upload the same Authorisation Letter for each separate FI registration or User Change on the DITC Portal.

H. Annex 2 – Letter of Authorisation Template

FI Name
Address
Contact number
Website if available
Email of signatory

Date

Cayman Islands Tax Information Authority
Government Administration Building
133 Elgin Avenue, George Town
Box 135, Grand Cayman KY1-9000
Cayman Islands

Dear Sir/Madam,

Re: **Financial Institution Name**
FI number *(except in cases of new enrolment)*
IRS issued GIIN *(if applicable)*

We have authorised the following persons as our Principal Point of Contact and Authorising Person, respectively, in relation to the International Tax Compliance Regulations under the Tax Information Authority Law.

Contact details of Authorising Person (cannot be same as below)

Individual or Entity Name	
Position	
Email address	
Business entity	
Physical address	

Contact details of Principal Point of Contact (cannot be same as above)

Individual or Entity Name	
Position	
Email address	
Business entity	
Physical address	

We will promptly provide you with an updated version of this authorisation letter in the event there is any change in the above information regarding the Principal Point of Contact or the Authorising Person.

We have authorised the Principal Point of Contact to represent us in that capacity for the purpose of compliance with the said Regulations and also to give you any change notice in respect of any subsequent change in the required information under the Regulations, except in respect of the identity of the Principal Point of Contact himself/herself.

We have authorised the Authorising Person to give you any change notice which may subsequently be required in respect of the identity of the Principal Point of Contact for the purpose of the said Regulations.

Yours sincerely,

Signature

Name

Position [Director of the FI / General Partner / Trustee]