

Tax Information Authority



CAYMAN ISLANDS

ENFORCEMENT GUIDELINES: COMMON REPORTING STANDARD (CRS)

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Tax Information Authority



CAYMAN ISLANDS

TABLE OF CONTENTS

PART 1 – OVERVIEW.....	1
1.1 Introduction	1
1.2 Functions of the Authority	1
1.3 Power to Penalise	1
1.4 Scope of Application	2
1.5 Effective Implementation of the CRS.....	2
1.6 Compliance Objectives.....	2
1.7 Enforcement Principles	2
1.8 Definitions.....	3
PART 2 – CRS ADMINISTRATIVE PENALTIES	5
2.1 Criteria & Matters to Consider.....	5
2.2 Amount of Penalty	5
2.3 Summary of Offences & Penalties	6
2.4 Multiple Offences.....	8
2.5 Imputed Liability of Directors, etc. of Cayman Financial Institutions.....	8
2.6 Defences.....	9
2.7 Protection against Double Jeopardy.....	9
2.8 Limitation Period.....	9
2.9 Procedure for Imposing an Administrative Penalty.....	9
2.10 Service of Notices.....	10
PART 3 – INVESTIGATORY FUNCTIONS OF THE AUTHORITY	10
3.1 Risk-based Approach.....	10
3.2 Compliance Investigations	10
3.3 Failure to Respond to a notice	11
PART 4 – BREACH NOTICE.....	11
4.1 Breach Notice.....	11
4.2 Requirement to Remedy the Breach	12
PART 5 – CONTESTING A PROPOSED PENALTY OR ITS AMOUNT	12
5.1 How to Submit a Representation.....	12
5.2 Reconsideration of the Proposed Penalty	12

Tax Information Authority



CAYMAN ISLANDS

PART 6 – PENALTY NOTICE	13
6.1 Primary Penalty.....	13
6.2 Continuing Penalty.....	13
PART 7 – APPEALS PROCESS	13
7.1 Right of Appeal.....	13
7.2 Automatic Stay on Appeal.....	13
7.3 Appeal Hearing and Outcome.....	14
PART 8 – PAYMENT OF PENALTY & INTEREST	14
8.1 Payment Information.....	14
8.2 Payment Account Details.....	15
8.3 Receipt of Payment.....	15
8.4 Interest.....	15
8.5 Debt to the Crown.....	15
PART 9 – NOTICE TEMPLATES	16
9.1 Breach Notice Template.....	16
9.2 Penalty Notice Template.....	18
9.3 Continuing Penalty Notice Template	22

Tax Information Authority



CAYMAN ISLANDS

PART 1 – OVERVIEW

1.1 Introduction

The Tax Information Authority (TIA or Authority) is responsible for monitoring compliance, carrying out compliance activities, and taking enforcement action in respect of the Common Reporting Standard (CRS), under the following Act and Regulations:

- a. [Tax Information Authority Act \(2021 Revision\)](#) (“TIA Act”)
- b. [Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) Regulations \(2021 Revision\)](#) (“CRS Regulations”)

These CRS Enforcement Guidelines set out the Authority’s process for taking enforcement action under the administrative penalties regime of the CRS Regulations. These CRS Enforcement Guidelines are published on the DITC’s website and should be read in conjunction with the CRS Regulations and the CRS Guidelines which are also available on the [DITC website](#). The Authority may amend these Guidelines from time to time as the Authority considers reasonably necessary or convenient.

1.2 Functions of the Authority

Under section 4 of the TIA Act, the Minister charged with responsibility for Financial Services is designated as the Tax Information Authority for the purposes of the Act and any scheduled Agreement. Section 4 also provides that the Authority shall exercise its functions through a person designated by the Authority to act on its behalf, and shall be deemed to act in an administrative capacity.

The Minister for Financial Services has designated the Director and Deputy Director of the Department for International Tax Cooperation (“DITC”) to exercise the functions of the Authority through the offices of the DITC.

Section 5(1) provides that “the Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this or any other Act or any scheduled Agreement.”

Section 5(2) states, “without prejudice to subsection (1), the principal functions of the Authority include:

...

- (g) monitoring compliance with this Act or Regulations made under this Act;
- (h) enforcing this Act or Regulations made under this Act and investigating a person where the Authority reasonably believes that the person is or has been in breach of this Act or Regulations made under this Act;
- (i) examining, by way of scrutiny of returns, on-site inspections or audit reports, or in such other manner as the Authority may determine, the affairs or business of any person; ...”

1.3 Power to Penalise

Pursuant to Reg.24 of the CRS Regulations, subject to complying with Regs.28-31, the Authority may impose a Primary Penalty of up to \$50,000 for offences by a body corporate or individuals forming part of an unincorporated Cayman Financial Institution, and up to \$20,000 for offences by other offenders against Part 3 of the CRS Regulations, as well as penalties of \$100 for each day the contravention continues (each a “Continuing Penalty”).

Tax Information Authority



CAYMAN ISLANDS

1.4 Scope of Application

These CRS Enforcement Guidelines apply to all persons within the scope of the Authority's compliance monitoring and enforcement powers under the CRS Regulations.

These Guidelines only apply to administrative penalties under the CRS Regulations, and do not extend to the criminal provisions of the TIA Act. In the event of a suspected offence that carries criminal liability whereby a person is subject to potential imprisonment, the case will be referred to the Office of the Director of Public Prosecutions for consideration as to whether criminal prosecution is merited based on the available evidence.

These Guidelines are not legally binding. Their purpose is to provide guiding principles for the application of the administrative penalty regime to persons that are potentially subject to enforcement action.

1.5 Effective Implementation of the CRS

Section IX(A) of the CRS provides that a jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures of the CRS including:

- rules to prevent any Financial Institutions ("FIs"), persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures;
- rules requiring Reporting FIs to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records;
- administrative procedures to verify Reporting FIs' compliance with the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported;
- administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting FIs and Excluded Accounts continue to have a low risk of being used to evade tax; and
- effective enforcement provisions to address non-compliance.

1.6 Compliance Objectives

The core objective of the Authority's compliance monitoring and enforcement function is to ensure that FIs comply with the obligations in the CRS Regulations so that complete and accurate information is collected, reported and then exchanged with relevant authorities of Reportable Jurisdictions.

Failure by an FI to collect and report required information, and failure by the Authority to take enforcement action in respect of contraventions of the CRS Regulations, present a significant risk of jeopardising Cayman's ability to demonstrate effective implementation of the CRS.

1.7 Enforcement Principles

Enforcement actions undertaken by the Authority for a contravention of the CRS Regulations require the exercise of discretion, based on the available facts, to determine whether to impose a penalty, and its amount.

Tax Information Authority



CAYMAN ISLANDS

The Authority adheres to general principles of fairness to ensure decision-making process for enforcement actions are consistently followed, and that the imposition of a CRS administrative penalty against an FI, or any other person, produces a fair result:

- The Authority will exercise its enforcement powers in a manner that is consistent with the CRS Regulations and that is reasonable, transparent, lawful, rational, and proportionate;
- The Authority will take enforcement action that is timely and effective in dissuading persons from future contraventions of the CRS Regulations; and
- The Authority will exercise its enforcement powers in a manner that is procedurally fair.

1.8 Definitions

Appeal: an appeal under Reg.32 and any further appeals relating to the decision on such an appeal

Authority: the Tax Information Authority designated under section 4 of the Tax Information Authority Act, or a person designated by the Authority to act on behalf of the Authority

Breach Notice: the notice referred to in Reg.28(1)(a)

Cayman Financial Institution (FI):

- (a) an FI resident in the Islands other than any of the institution's branches outside the Islands; and
- (b) a branch in the Islands of an FI not resident in the Islands

Continuing Penalty: the penalty referred to in Reg.24(2)

Contravention: for a provision pertaining to an offence or a penalty, means the contravention that constituted the offence or the act or omission to which the penalty relates

Engaging: engaging in conduct includes failing to engage in conduct

Financial Institution: a Cayman Financial Institution

Give: includes to deliver, provide, send, transmit or make a notice or information

Interest: interest accrued or accruing on the penalty under Reg.35

Makes: to sign or otherwise positively affirm

Notice: written information given, or to be given, electronically or by another mode of communication

Party: the person upon whom a penalty has been imposed or is being considered to be imposed

Penalty: a penalty imposed under Reg.24

Penalty Notice: the notice referred to in Reg.28(1)(c)

Primary Penalty: the notice referred to in Reg.24(1)

Principal point of contact: for an FI, means the person most recently notified under Reg.8(4)(e)(i) as its principal point of contact ("PPoC")

Tax Information Authority



CAYMAN ISLANDS

Resident in the Islands: for an FI, means —

- (a) being incorporated or established in the Islands;
- (b) having in the Islands a place of effective management as defined under paragraph 109 of the CRS Commentary; or
- (c) being subject to financial supervision in the Islands.

Representative: any of the following of or relating to a principal —

- (a) a director, manager or other officer, whatever called, or an employee or other agent;
- (b) if the principal is an LLC, its members;
- (c) if the principal is another type of company being managed by its members, its members;
- (d) if the principal is a limited partnership or exempted limited partnership, its general partners and any of its limited partners who, when the conduct took place, were participating in its management;
- (e) if the principal is any other type of partnership, its partners;
- (f) if the principal is a trust, its trustees; or
- (g) anyone else who, when the conduct took place, was —
 - (i) purporting to act in a capacity or position mentioned in Regs.36(5)(a) to (f); or
 - (ii) otherwise a *de facto* decision maker for the principal.

Required information: for an FI, means —

- (a) the FI's name and any number given to it by the Authority as a Financial Institution;
- (b) whether the institution is a Reporting FI or a Non-Reporting FI; and
- (c) if the institution is a Reporting FI, its type or types under paragraph B of Section VIII of the CRS;
- (d) if the institution is a Non-Reporting Financial Institution, its classification under paragraph A of Section VIII of the CRS; and
- (e) the full name, address, business entity, position and contact details (including an electronic address) of —
 - (i) a person the institution has authorised to be its principal point of contact for compliance with this Part; and
 - (ii) except in circumstances specified by the Authority, another person the institution has authorised to give change notices for its principal point of contact.

Return: a return required under Reg.9(1)

Self-certification: information, whatever called, that performs or purports to perform a purpose of a self-certification under the CRS

State of mind: of a principal or a representative, includes their —

- (a) belief, intention, knowledge, opinion or purpose; and
- (b) reasons for the belief, intention, opinion or purpose

Stayed: a penalty or interest that cannot be enforced due to the operation of Reg.33(1)¹

Vicarious: conduct engaged in by a representative of a principal within the scope of the representative's actual or apparent authority from the principal.

¹ The definition of Stayed in Reg.2(1) of the CRS Regulations contains a typographical error as it refers to Reg.30(1) which is incorrect. The correct reference is to Reg.33(1).

Tax Information Authority



CAYMAN ISLANDS

PART 2 – CRS ADMINISTRATIVE PENALTIES

Administrative penalties are an enforcement mechanism utilized in response to non-compliance with the CRS Regulations, and are integral to the demonstration of effective implementation. These are monetary penalties imposed by the Authority without reference to a court.

2.1 Criteria & Matters to Consider

In accordance with Reg.25, in deciding whether to impose a penalty or its amount, the Authority shall consider the following criteria in the following order of importance —

- (a) the need to ensure strict compliance with, and to penalise and deter contravention of, the CRS Regulations;
- (b) the nature, seriousness and consequences of the contravention;
- (c) the apparent degree of the party's inadvertence, intent or negligence in committing the contravention;
- (d) the party's conduct after becoming aware of the contravention, including, for example —
 - (i) whether and how quickly the party brought the contravention to the Authority's attention; and
 - (ii) the party's efforts to remedy the contravention or prevent its recurrence; and
- (e) the party's history of compliance with the CRS, in the Islands or elsewhere, of which the Authority is aware.

The Authority may also consider other matters it reasonably considers are relevant. In the event where an FI submits representations to the Authority, it will consider these matters in addition to the above.

It should also be noted that the criteria and matters prevail over any issue concerning the party's resources or ability to pay.

2.2 Amount of Penalty

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;
- (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").

Tax Information Authority



CAYMAN ISLANDS

2.3 Summary of Offences & Penalties

The following table provides a non-exhaustive list of examples of offences under the CRS Regulations and the corresponding administrative penalties that the Authority may impose pursuant to Reg.22 of the CRS Regulations.

These penalty amounts reflect the need to ensure strict compliance with, and to penalise and deter contravention of, the relevant requirements under the CRS Regulations pursuant to Reg.25(1)(a). These amounts are a starting point in the Authority’s considerations because, as indicated under Reg.25, the Authority must also consider the other criteria under Reg.25(1) and Reg.25(2) when determining penalty amounts. The penalty ultimately issued following such considerations may be greater or lesser than the amounts stated below.

Note that breaches of Regulations 7, 8, 9, 11 and 12 are all offences under Reg.15 but are set out individually for clarity in the table below.

Reg.	Description of Offence	Administrative penalty (Indicative)	
		Reg.22(1)(a): Entities and certain individuals	Reg.22(1)(b): individuals
7(1)(a)	Failure to establish and maintain written policies and procedures to comply with Part 2 of the CRS Regulations.	\$7,500	\$3,000
7(1)(b)	Failure to implement and comply with written policies and procedures.	\$7,500	\$3,000
7(2)(a)	Failure to establish and maintain written policies and procedures to enable the identification of the jurisdiction of tax residency of Account Holders or Controlling Persons.	\$7,500	\$3,000
7(2)(b)	Failure to establish and maintain written policies and procedures that apply the due diligence procedures set out in the CRS.	\$7,500	\$3,000
7(2)(c)	Failure to retain information obtained in accordance with the Regulations or a record of the steps taken to comply with Regulations for six years from the end of the year to which the information relates or steps were taken.	\$10,000	\$4,000
7(3)	FI relies on self-certification that it knows or has reason to believe is inaccurate and makes a return based on this self-certification.	\$20,000	\$8,000
8(1)(a)(ii)	Failure to register on the DITC Portal by the notification deadline.	\$37,500	\$15,000
8(1)(b)	Failure to update the Authority of any changes to their notification on the DITC Portal.	\$10,000	\$4,000

Tax Information Authority



CAYMAN ISLANDS

Reg.	Description of Offence	Administrative penalty (Indicative)	
		Reg.22(1)(a): Entities and certain individuals	Reg.22(1)(b): individuals
8(2)	Failure to provide an update via the DITC Portal to inform the Authority of changes to reporting obligations, Entity classification, or authorised users.	\$10,000	\$4,000
8(4)	Failure to provide required information (except in the case of 8(4)(b) noted below)	\$10,000	\$4,000
8(4)(b)	Failure to correctly classify itself as Reporting	\$20,000	\$8,000
8(4)(e)(i)	Failure to provide details of the PPOC	\$10,000	\$4,000
8(4)(e)(ii)	Failure to provide details of the authorised person	\$10,000	\$4,000
9(1)	Failure to submit a CRS return (penalty per reportable account)	\$5,000	\$2,000
	Failure to submit a nil return or provide any further information (e.g CRS Filing Declaration and CRS Compliance Form)	\$10,000	\$4,000
11(2)	FI does not retain records and documentary evidence to supports the returns submitted by an agent.	\$10,000	\$4,000
12(1)	FI fails to provide required information to the Authority	\$10,000	\$4,000
12(2)	FI fails to comply with Authority's requirement to bring to the Islands information located outside the Islands	\$10,000	\$4,000
12(3)	FI fails to retain for six years a book, document or other record, including any information stored by electronic means, that relates to the information required to be reported to the Authority under Part 2	\$10,000	\$4,000
14	Person provides a self-certification to a FI that is false in a material particular to the CRS. For this purpose, it does not matter that - (a) the self-certification was made outside the Islands; (b) the person did not know, or had no reason to know, that the self-certification was false; or (c) the self-certification was given to the FI by someone else.	\$20,000	\$8,000
16	Person provides information that is materially inaccurate	\$20,000	\$8,000

Tax Information Authority



CAYMAN ISLANDS

Reg.	Description of Offence	Administrative penalty (Indicative)	
		Reg.22(1)(a): Entities and certain individuals	Reg.22(1)(b): individuals
17	Person discloses confidential information	\$25,000	\$10,000
18(a)	Person alters, destroys, mutilates, defaces, hides or removes information in a way that causes the person or anyone else to contravene Part 2 in relation to the information.	\$25,000	\$10,000
18(b)	Person authorises, advises or counsels someone else to contravene Reg.18 paragraph (a).	\$25,000	\$10,000
19	Person hinders the Authority in performing its function under the Regulations or under section 5 of the Act.	\$25,000	\$10,000

2.4 Multiple Offences

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.

2.5 Imputed Liability of Directors, etc. of Cayman Financial Institutions

Regulation 21(1) provides for imputed criminal liability of certain persons, and states that if an FI commits an offence against Part 3, all of the following of, or relating to, the FI are also guilty of that offence:

- (a) if the institution is a body corporate, its directors, managers, secretaries and other similar officers to any such office, whatever called, and —
 - (i) if the institution is an LLC, its members; and
 - (ii) if the institution is another type of company being managed by its members, its members; and
- (b) if the institution is a limited partnership or exempted limited partnership, its general partners and any of its limited partners who are participating in its management;
- (c) if the institution is any other type of partnership, its partners;
- (d) if the institution is a trust, its trustees; and
- (e) anyone else who, when the offence was committed was —
 - (i) purporting to act in a capacity or position mentioned in Regs.21(1)(a) to (d); or
 - (ii) otherwise a *de facto* decision maker for the institution.

If there is sufficient evidence to suggest that an officer of an FI intentionally committed an offence of a nature that is of sufficient seriousness and consequence, the Authority may impose an administrative penalty on a director of the FI, in addition to the FI itself.

Tax Information Authority



CAYMAN ISLANDS

2.6 Defences

With respect to a penalty applied against an FI, under Reg.20, it is a defence to a proceeding for offences (other than imputed offences) for a party to prove they had a reasonable excuse. However, neither insufficiency of funds nor reliance on an agent appointed under Reg.11 (or anyone else) constitutes a reasonable excuse.

With respect to a penalty applied against a director, etc. under Reg.21, it is a defence for a party to prove that they exercised reasonable diligence to prevent the contravention.

2.7 Protection against Double Jeopardy

A prosecution against a person for an offence (whether or not a conviction resulted) precludes the imposition of a penalty against that person for the same offence, but not *vice versa*, i.e. the imposition of an administrative penalty does not preclude a criminal prosecution for the same offence.

2.8 Limitation Period

The Authority cannot impose a Primary Penalty for an offence against Reg.15 (i.e. failing to comply with the requirements of Part II of the CRS Regulations) more than one year after becoming aware of the contravention.

The Authority cannot impose a Primary Penalty for another offence under Part 3 of the CRS Regulations after the earlier of the following —

- (a) one year after becoming aware of the contravention; or
- (b) six years after the contravention happened.

There is no limitation period for imposing a Continuing Penalty while all the conditions under Reg.24(2)(a), (b) and (c) continue to apply.

With respect to a breach of a statutory filing deadline, the Authority deems itself to become aware of the offence on the day immediately after the filing is due. Where a compliance investigation is warranted to determine whether a breach had occurred, the Authority deems itself to become aware of the offence on the date the investigation is completed, and a preliminary determination is made.

2.9 Procedure for Imposing an Administrative Penalty

The Authority must follow the processes outlined in Reg.28 to impose an administrative penalty:

- (1) The Authority can only impose a Primary Penalty by —
 - (a) giving the party a notice that complies with Reg.29 (a “Breach Notice”);
 - (b) if Reg.30 applies, complying with that Regulation; and
 - (c) giving the party a notice that complies with Reg.31 (a “Penalty Notice”).
- (2) The Authority can only impose a Continuing Penalty by giving the party a Penalty Notice.
- (3) The same Penalty Notice may be given for two or more continuing penalties for the same Primary Penalty

Tax Information Authority



CAYMAN ISLANDS

2.10 Service of Notices

Notices will ordinarily be served by email to the PPOC of an FI, using the email address registered on the DITC Portal. If the PPOC is not available, the Notice will be sent to the Authorised Person (“AP”). If neither the PPOC nor AP are available, the Notice will be sent to the Registered Office address of the FI.

In the case of Notices served on individuals under Reg. 21, they will be served directly on that person electronically, if this information is present. If the Authority does not have an electronic address for the individual, the Authority will serve the Notice in accordance with Reg. 37(3).

PART 3 – INVESTIGATORY FUNCTIONS OF THE AUTHORITY

The decision to impose certain penalties, such as those applicable to missed reporting deadlines, may not require an investigation to determine whether an FI has failed to submit reporting by the statutory deadline. In other cases, such as whether an undocumented account submitted for an individual Account Holder was submitted incorrectly, additional investigation by the Authority may be required. The nature and extent of investigations undertaken prior to the issuance of a Breach Notice will depend on the facts and circumstances of the suspected contravention.

These investigations may be in the form of a compliance questionnaire, desk audit, or information notice under Reg.8. The purpose of these investigations is to determine, on a balance of probabilities, whether a person is in breach of the CRS Regulations.

3.1 Risk-based Approach

Compliance investigations will be conducted based on the level of risk posed to the effective implementation of the CRS. The aim of this approach is to ensure the investigatory and enforcement functions of the Authority are carried out in a way that is objective and unbiased.

The following, non-exhaustive list provides some example of the types of risks the Authority may prioritise when completing compliance investigations and enforcement activities on an annual basis:

- Incorrect submission of undocumented accounts
- No AP or PPOC registered on the DITC Portal
- Incorrect Entity classification
- Failure of an FI to register on the DITC Portal and notify its classification and reporting obligations
- Failure to submit a CRS Filing Declaration
- Failure to submit a CRS Compliance Form
- Incorrectly reporting, or failing to report, a Reportable Account in a CRS XML Return
- Incorrectly reporting, or failing to report, the Taxpayer Identification Number or date of birth of Account Holders or Controlling Persons

3.2 Compliance Investigations

An investigation may be conducted, where required, to determine whether a *prima facie* breach of the CRS Regulations has occurred. For example, if there is insufficient evidence to make a determination, the

Tax Information Authority



CAYMAN ISLANDS

Authority will request additional information, pursuant to section 5 of the TIA Act or Reg. 12, by issuing a notice to the Entity through its PPOC. If the Entity is not registered on the DITC Portal, the Authority will issue the notice to the Entity at its Registered Office.

The Authority may request the FI to provide, or make available for the Authority to inspect, its books, documents, other records or electronically stored information where appropriate. For example, this may include written policies and procedures, documentary evidence, or self-certifications. Additionally, the Authority may conduct desk-based or on-site audits to confirm the veracity of the information provided by the FI.

Following the conclusion of an investigation, the Authority will consider whether an offence against the Regulations has been committed on a balance of probabilities.

3.3 Failure to Respond to a notice

A failure to respond to the Authority by the deadline indicated on a notice constitutes a breach of the CRS Regulations and is likely to result in the imposition of an administrative penalty against the FI.

PART 4 – BREACH NOTICE

In the event a Breach Notice is issued by the Authority, the affected party has until the deadline set in that Breach Notice (a minimum of 60 days from the date thereof) to submit any representations in support of its position.

If representations are received, the Authority will consider all matters raised in the representations concerning the proposed action and the proposed amount mentioned in Reg.29(1) and reconsider (on the balance of probabilities) the proposed action and, if relevant, the proposed amount (which shall not exceed the amount originally proposed by the Authority).

The Authority may, for example, revoke the penalty, impose the full amount of the penalty indicated on the Breach Notice, or reduce the amount of the penalty. The Primary Penalty will not be reconsidered if representations are not received by the Authority by email before the deadline indicated on the Breach Notice.

4.1 Breach Notice

A Breach Notice will always be issued before a primary Penalty Notice is issued. However, a Breach Notice will not be issued prior to the issuance of a continuing Penalty Notice, provided that the requirements in Reg.24(2) are met.

The requirements for a Breach Notice are outlined in Reg.29(1). The notice will be dated and state –

- (a) the party's name;
- (b) that the Authority proposes to impose a penalty on the party (the “proposed action”) for the offence it believes the party committed;
- (c) the facts and circumstances that the Authority believes constituted the offence;
- (d) the amount of the penalty the Authority proposes (the “proposed amount”); and

Tax Information Authority



CAYMAN ISLANDS

- (e) that the party may, within a period stated in the notice after receiving the notice, make written representations to the Authority about the proposed action, the proposed amount, or both.

The stated period cannot end less than sixty days after the giving of the notice.

4.2 Requirement to Remedy the Breach

The Breach Notice may also contain the steps required to remedy the breach. Where steps have been taken to remedy the breach at the time the Breach Notice is issued, this will be reflected in the Notice. The extent to which a breach is remedied is a factor the Authority will subsequently consider in deciding whether to issue a Penalty Notice and, if so, what the amount of the penalty should be. However, it should be noted that remediation does not itself preclude the issue of a Penalty Notice.

Where a Penalty Notice has been issued and the FI has not remedied the breach in the manner specified in the Breach Notice, the Authority may impose a Continuing Penalty of up to \$100 per day in accordance with Reg.24(2).

PART 5 – CONTESTING A PROPOSED PENALTY OR ITS AMOUNT

As described above, the Breach Notice will provide the facts and circumstances that led the Authority to impose a Primary Penalty. The penalty indicated on the Breach Notice is the proposed action and proposed amount, it is not a final penalty notice. Thus, a party has the ability to submit representations to the Authority in support of its case by the deadline indicated on the Breach Notice.

5.1 How to Submit a Representation

Representations to a Breach Notice will only be accepted if submitted by email to the following email address: DITC.Enforcement@gov.ky

If the party is an FI, the representation can only be submitted by the PPoC registered on the DITC Portal, and should include any reasons or evidence to support the representation.

Additionally, the Authority assigns a unique “Compliance Reference” to each Breach Notice. This Compliance Reference should be used for all communications with the Authority.

5.2 Reconsideration of the Proposed Penalty

The Authority will **only** reconsider the penalty and/or its amount if the affected party submits representations to the Authority by email before the deadline indicated on the Breach Notice. If an email is received, the Authority will reconsider on the balance of probabilities the original Reg.25 criteria used to determine the proposed penalty and proposed amount and determine whether a penalty should still be imposed and, if so, its amount. The Authority may withdraw the penalty, adjust the penalty amount downwards, or confirm the amount of the penalty at its discretion.

Tax Information Authority



CAYMAN ISLANDS

PART 6 – PENALTY NOTICE

If the Authority determines that a Penalty Notice should be imposed on a party with respect to a Primary Penalty, the Authority will issue a notice to the party under Reg.31 by email to the PPOC of the FI.

6.1 Primary Penalty

The requirements for a Penalty Notice are outlined in Reg.31(1). The notice will be dated and state –

- (a) the party's name;
- (b) that the Authority has imposed a penalty and the amount of the penalty;
- (c) the reasons for the decision to impose a primary penalty;
- (d) that the penalty will become a debt owing to the Crown after 30 days; and
- (e) that the Party may appeal to a court against the decision to impose a penalty, the proposed amount, or both within 60 days of receipt of the Penalty Notice.

The Penalty Notice will also include the same "Compliance Reference" as indicated in the Breach Notice.

6.2 Continuing Penalty

A Continuing Penalty of up to \$100 for each day the contravention continues may be applied to a party if the following criteria are met, pursuant to Reg.24(2):

- (a) A Primary Penalty has been imposed and has not been stayed;
- (b) The contravention has not been remedied; and
- (c) The party is capable of remedying the contravention

Reg.24(3) states that insufficiency of funds or reliance on an agent does not, of itself, make the party incapable of remedying the contravention.

PART 7 – APPEALS PROCESS

7.1 Right of Appeal

Pursuant to Reg.32, a party who has been given a Penalty Notice may appeal to a court against the decision to impose the penalty, its amount, or both. However, the appeal may be made only within 60 days after the party received the Penalty Notice, or any later period the court allows.

7.2 Automatic Stay on Appeal

If a penalty is appealed, the Authority cannot, without the court's leave, enforce the penalty or interest thereon until the outcome of the appeal.

Tax Information Authority



CAYMAN ISLANDS

7.3 Appeal Hearing and Outcome

An appeal is by way of a rehearing *de novo*. After hearing an appeal, the court may affirm, set aside or vary the decision appealed against, or set aside the original decision and remit the matter to the Authority for it to reconsider with directions the court considers fit.

If the court's decision is to set aside and not to remit, both the penalty and interest are deemed to have never been owing.

PART 8 – PAYMENT OF PENALTY & INTEREST

8.1 Payment Information

All correspondence must be sent by email to: DITC.Payment@gov.ky

All emails **must** include:

- Compliance Reference
- FI Name
- FI Number

The Compliance Reference **must** be included in the Beneficiary Comments section when making a payment.

Payment must be made in accordance with the instructions below, and the amount being paid must be exactly in accordance with the instructions. Failure to do so will result in the payment being rejected by the Cayman Islands Government or the bank, and the penalty being treated as unpaid.

The FI must confirm the amount paid, the date the amount was paid, and provide evidence that the payment was successful (E.g. a copy of the wire transfer confirmation) to DITC.Payment@gov.ky.

Tax Information Authority



CAYMAN ISLANDS

8.2 Payment Account Details

INTERNATIONAL WIRE TRANSFER
Intermediary Bank: J.P. Morgan Chase
Intermediary Bank Address: 1 Chase Manhattan Plaza New York, N.Y. 10081 U.S.A.
Swift Code: CHASUS33
ABA Number: 021 0000 21
Beneficiary Bank: RBC Royal Bank (Cayman) Limited
Beneficiary Bank Address: 24 Shedden Road, Royal Bank House, 245 Grand Cayman KY1-1104 CAYMAN ISLANDS
Telephone: 345-949-4600
Swift Code: ROYCKYKY
Beneficiary Account Name: Cayman Islands Government, Ministry of Financial Services & Commerce.
Beneficiary Account Number (USD) : 06975-264-241-1
Beneficiary Comments: Compliance Reference

Note: these Payment Instructions will be included in the in the relevant Penalty Notice.

8.3 Receipt of Payment

The Authority will issue a receipt of payment to the entity once payment has been verified.

8.4 Interest

Interest will be applied to a Penalty Notice that has not been paid within the payment deadline indicated on the Penalty Notice. The rate of interest will be determined in accordance with Reg.35.

If the penalty is appealed, the accruing of interest applies even if the penalty has been stayed, but is subject to Reg.34(4).

8.5 Debt to the Crown

Pursuant to Reg.24(4) a penalty becomes a debt owing to the Crown 30 days after the penalty is imposed. Any interest that accrues as the result of a failure to pay the penalty is also a debt owing to the Crown pursuant to Reg.35(5).

Debts owing to the Crown will be collected in accordance with Cayman Islands Government debt collection procedures.

Tax Information Authority



CAYMAN ISLANDS

PART 9 – NOTICE TEMPLATES

9.1 Breach Notice Template

Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations

BREACH NOTICE

Compliance Reference: **[Insert]**

This Compliance Reference must be included in all correspondence.

By email: [PPoC Name] (“PPoC”) – [\[PPoC email address\]](#)

Date: [Insert]

FI Name: [Insert]

FI Number: [Insert]

TAKE NOTICE: The Tax Information Authority (“Authority” issues this Breach Notice to [FI Name] (“FI”), in accordance with Regulations 28 & 29 of the [Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) Regulations \(2021 Revision\)](#) (“CRS Regulations”). The Authority proposes to impose an administrative penalty against the FI pursuant to Regulation 24.

OFFENCE: A compliance investigation carried out by the Authority with respect to the FI resulted in identifying a contravention/offence under Regulation ____.

The facts and circumstances the Authority believes constitute the offence are as follows:

-
-

CONSIDERATIONS: The Authority has considered each of the criteria set out in Regulation 25 in deciding the proposed action and proposed amount.

PROPOSED ACTION: The Authority proposes to issue a Primary Penalty to the FI for a contravention of Regulation ____.

PROPOSED AMOUNT: The proposed amount of the Primary Penalty is \$____(KYD).

SUBMISSION OF REPRESENTATIONS: In accordance with Regulation 29, the party may make written representations to the Authority regarding the proposed action, the proposed amount, or both. Written representation are to be submitted to the Authority by email to this address: DITC.Enforcement@gov.ky. All communications should include the above Compliance Reference in the subject line and be submitted by **DATE**.

Tax Information Authority



CAYMAN ISLANDS

[If applicable: STEPS REQUIRED TO REMEDY THE BREACH: The steps required to remedy the breach are set out in Appendix A. If the contravention is not remedied as prescribed below, a Continuing Penalty may be applied to the party pursuant to Regulations 24(2) and 24(3).

- 1)
- 2)]

Tax Information Authority

- END -

APPENDIX A: Required Remediation [if applicable]

Tax Information Authority



CAYMAN ISLANDS

9.2 Penalty Notice Template

Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations

PENALTY NOTICE

Compliance Reference: **[Insert]**

This Compliance Reference must be included in all correspondence.

By email: [PPoC Name] (“PPoC”) – [[PPoC email address](#)]

Date: [Insert]

FI Name: [Insert]

FI Number: [Insert]

TAKE NOTICE: The Tax Information Authority (“the Authority”) is imposing a Primary Penalty against [FI Name] (“FI”), pursuant to Regulation 24 of the [Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) Regulations \(2021 Revision\)](#) (“CRS Regulations”) for a contravention/offence under Regulation _____.

REASONS: The reasons the Authority has decided to impose the Primary Penalty are as follows:

- The Authority issued a Breach Notice to the FI, which detailed the facts and circumstances that the Authority believe constitute an offence against Regulation_____;
- The deadline for the FI to make written representations has passed;
- [The FI did not make any written representations] OR [The FI made representations and the Authority has considered all matters raised in the representations; and
- The Authority has reconsidered the proposed action and proposed amount in accordance with Regulation 30. Upon reconsideration, the Authority has decided to [impose, reduce, or withdraw] the Primary Penalty and/or its amount.]

PRIMARY PENALTY AMOUNT: \$ _____ USD²

APPEAL RIGHT: Pursuant to Regulation 32, the FI may appeal to a court against the decision to impose the penalty, its amount, or both within 60 days of the date of this notice, or any later period the court allows.

DEADLINE FOR PAYMENT: **DATE**.

If payment is not received by this date, the penalty amount will become a debt owing to the Crown.

² The penalty amount has been converted from KYD to USD: (1 USD = 0.82 KYD)

Tax Information Authority



CAYMAN ISLANDS

INTEREST: If the penalty is not paid by the aforementioned deadline, interest will be applied in accordance with Regulation 35 until the penalty is paid in full. Accrued interest is also a debt owing to the Crown.

PAYMENT: Payment of this penalty must be made in accordance with the payment details outlined in Appendices below and the [CRS Enforcement Guidelines](#).

Tax Information Authority

- END -

Tax Information Authority



CAYMAN ISLANDS

APPENDIX A: Payment Amount

PAYMENT INVOICE

Compliance Reference: **[Insert]**

This Compliance Reference must be included in the Beneficiary Comments³

FI Name: [Insert]

FI Number: [Insert]

Payment Due Date: [Insert]

DESCRIPTION	AMOUNT (USD)
CRS Penalty Notice (Penalty Reference)	\$ [Insert]
International Wire Transfer Fee ⁴	\$ 7.50
Amount Due	(USD) \$ [Insert]

³ Failure to include the Penalty Reference in the Beneficiary Comments when making a payment may result in the payment being returned.

⁴ If the entity wishes to pay the penalty amount using a domestic transfer from within the Cayman Islands, email DITC.Payment@gov.ky for these instructions.

Tax Information Authority



CAYMAN ISLANDS

APPENDIX B: Payment Information

All correspondence must be sent by email to: DITC.Payment@gov.ky

All emails **must** include:

- Compliance Reference
- FI Name
- FI Number

The Compliance Reference **must** be included in the Beneficiary Comments section when making a payment.

Payment must be made in accordance with the instructions below, and the amount being paid must be exactly in accordance with the instructions. Failure do so will result in the payment being rejected by the Cayman Islands Government or the bank, and the penalty being treated as unpaid.

The FI must confirm the amount paid, the date the amount was paid, and provide evidence that the payment was successful (E.g. a copy of the wire transfer confirmation) to DITC.Payment@gov.ky.

INTERNATIONAL WIRE TRANSFER

Intermediary Bank: J.P. Morgan Chase

Intermediary Bank Address: 1 Chase Manhattan Plaza New York, N.Y. 10081 U.S.A.

Swift Code: CHASUS33

ABA Number: 021 0000 21

Beneficiary Bank: RBC Royal Bank (Cayman) Limited

Beneficiary Bank Address: 24 Shedden Road, Royal Bank House, 245 Grand Cayman KY1-1104
CAYMAN ISLANDS

Telephone: 345-949-4600

Swift Code: ROYCKYKY

Beneficiary Account Name: Cayman Islands Government, Ministry of Financial Services & Commerce.

Beneficiary Account Number (USD) : 06975-264-241-1

Beneficiary Comments: Compliance Reference

Tax Information Authority



CAYMAN ISLANDS

9.3 Continuing Penalty Notice Template

Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations

CONTINUING PENALTY NOTICE

Compliance Reference: [Insert]

This Compliance Reference must be included in all correspondence.

By email: [PPoC Name] (“PPoC”) – [[PPoC email address](#)]

Date: [Insert]

FI Name: [Insert]

FI Number: [Insert]

TAKE NOTICE: The Tax Information Authority (“the Authority”) is imposing a Continuing Penalty against [FI Name] (“FI”), pursuant to Regulation 24 of the [Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) Regulations, 2021 Revision](#) (“CRS Regulations”).

CONTINUING PENALTY AMOUNT: \$ _____ **USD** for each day the contravention continues.

DATE OF PRIMARY PENALTY: [DATE]

REASONS: The reasons the Authority has decided to impose a Continuing Penalty are as follows:

- A Primary Penalty has been imposed and has not been stayed;
- The contravention has not been remedied; and
- The FI is capable of remedying the contravention

RIGHT OF APPEAL: Pursuant to Regulation 32, the FI may appeal to a court against the decision to impose the penalty, its amount, or both within 60 days of the date of the primary Penalty Notice, or any later period the court allows.

INTEREST: Interest will be applied in accordance with Regulation 35 until the penalty is paid in full. Accrued interest is a debt owing to the Crown.

PAYMENT: Payment of this penalty must be made in accordance with the payment details outlined in Appendix A and the [CRS Enforcement Guidelines](#).

Tax Information Authority

Tax Information Authority



CAYMAN ISLANDS

APPENDIX A: Payment Information

All correspondence must be sent by email to: DITC.Payment@gov.ky

All emails **must** include:

- Compliance Reference
- FI Name
- FI Number

The Compliance Reference **must** be included in the Beneficiary Comments section when making a payment.

Payment must be made in accordance with the instructions below, and the amount being paid must be exactly in accordance with the instructions. Failure to do so will result in the payment being rejected by the Cayman Islands Government or the bank, and the penalty being treated as unpaid.

The FI must confirm the amount paid, the date the amount was paid, and provide evidence that the payment was successful (E.g. a copy of the wire transfer confirmation) to DITC.Payment@gov.ky.

INTERNATIONAL WIRE TRANSFER

Intermediary Bank: J.P. Morgan Chase

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CAYMAN ISLANDS

Telephone: 345-949-4600

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Beneficiary Account Name: Cayman Islands Government, Ministry of Financial Services & Commerce.

Beneficiary Account Number (USD) : 06975-264-241-1

Beneficiary Comments: Compliance Reference