

DITC Economic Substance Notification (User Guide) - CAP



CAYMAN ISLANDS

Introduction:

The purpose of this document is to guide you through the process of submitting an “Annual Economic Substance Notification” (“ESN” or “this notification”) as required by section 7(1) of the International Tax Co-Operation (Economic Substance) Law, as amended, and associated Regulations (“ES Law”). This notification is required by all entities, which, as defined in the ES Law means —

- (a) a company that is —
 - (i) incorporated under the *Companies Law (2020 Revision)*; or
 - (ii) a limited liability company registered under the *Limited Liability Companies Law (2020 Revision)*;
- (b) a limited liability partnership that is registered in accordance with the *Limited Liability Partnership Law, 2017*; or
- (c) a company that is incorporated outside of the Islands and registered under the *Companies Law (2020 Revision)*;

i.e. Partnerships (other than limited liability partnerships) and trusts are NOT required to file an ESN.

* This notification is required as a prerequisite to filing an Annual Return and will be due annually. The ESN is based on the financial year of the Entity and not the calendar year (see examples at 3 below). The deadline for submitting this notification will be the same deadline imposed by the General Registry for filing the Annual Return, which is due no later than 31 March each year.

** Foreign Companies are required to file the ESN despite not being required to file an annual return. All foreign companies should file their ESN before 31 March i.e. 2020 ESN is due 31 March 2021.

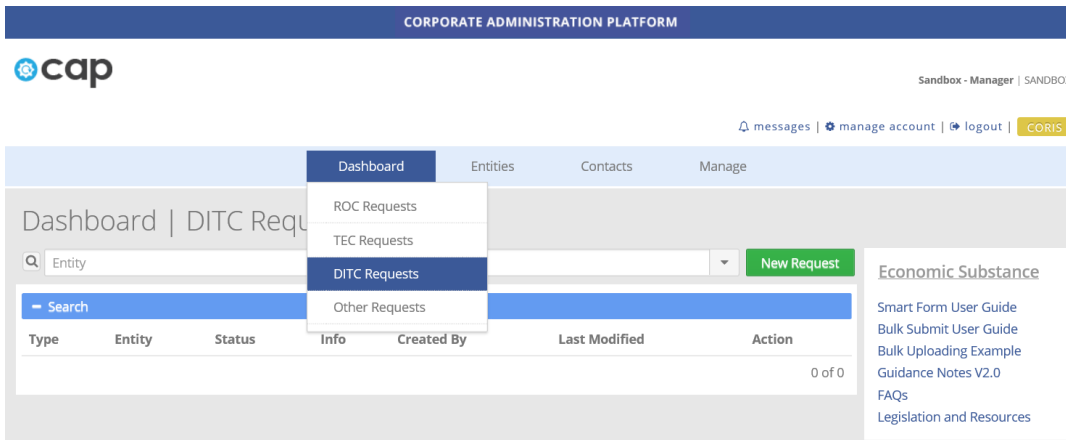
*** Please note that significant penalties may apply to a relevant entity carrying on a relevant activity which fails to file an Economic Substance Return by the due date.

The below links/email can be used for additional information/technical support:

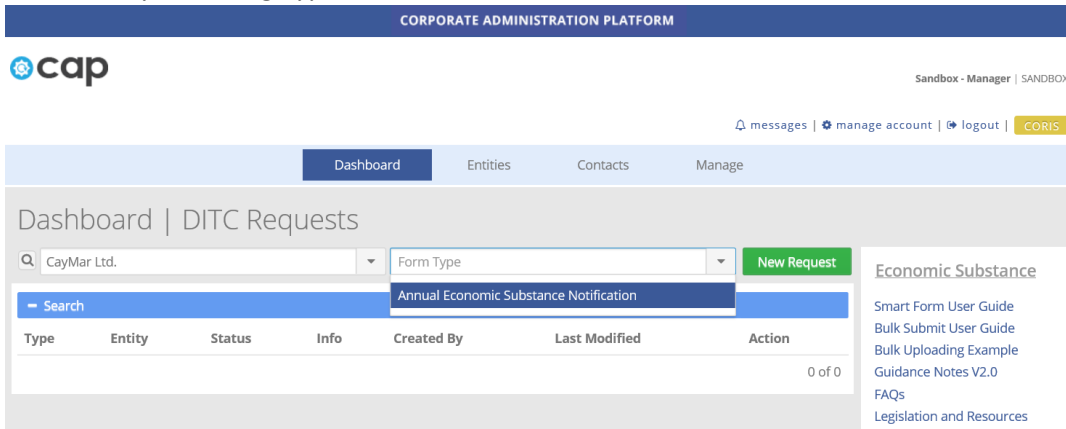
- [Link to decision tree](#)
- [Information required to complete this form](#)
- [Legislation and resources](#)
- [Guidance notes](#)
- [Practice Points](#)

For technical support with this form please email CaymanESportal at CaymanESportal@gov.ky

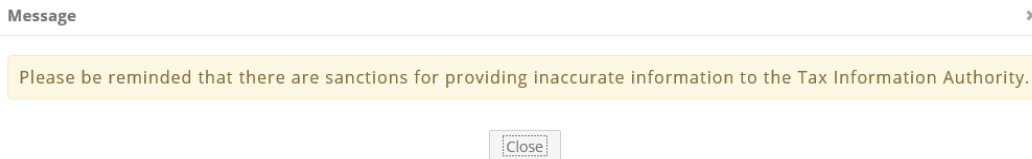
1. Log into CAP portal <https://cap.secure.ky>, click on Dashboard and select “DITC Requests”



2. Select Entity and Filing Type “Annual Economic Substance Notification” and select “New Request”



User will be prompted to read the below message before he/she can proceed



3. Complete ESN Form. Specify the “ESN Year”, the year selected here should be the year in which the financial year to be reported on by the Entity commenced. For example:

| Financial Year Start | Financial Year End | ESN Year | Period in scope for the ESN (and ES Test) |
|----------------------|--------------------|----------|----------------------------------------------------------------------------------------------------------------------|
| 1 Apr 2019 | 31 Mar 2020 | 2019 | 1 Jul 2019 -31 Mar 2020 (or Start Date from date Entity commenced relevant activity, if Entity incorporated in 2019) |
| 1 Oct 2019 | 30 Sept 2020 | 2019 | 1 Oct 2019 – 30 Sept 2020 |
| 1 Jan 2020 | 31 Dec 2020 | 2020 | 1 Jan 2020 – 31 Dec 2020 |
| 1 June 2020 | 31 May 2021 | 2020 | 1 June 2020-31 May 2021 |

Some entities will be required to provide details on the ESN in advance of their year-end. Accordingly, the ESN for a given year will remain open for amendment until the end of the following calendar year. For example, the ESN for 2020 remains open for amendment until 31 December 2021.

Annual Economic Substance Notification

Mandatory fields are marked with an *

This form refers to the Section 7(2) of the *International Tax Co-Operation (Economic Substance) Law, 2018* (the ES Law 2018).

| | |
|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| Client Ref <input style="width: 90%; border: 1px solid #ccc;" type="text" value="Cay5678"/> | Registration # <input style="width: 90%; border: 1px solid #ccc;" type="text" value="274533"/> |
| Entity <input style="width: 90%; border: 1px solid #ccc;" type="text" value="CayMar Ltd."/> | ESN Year * <input style="width: 90%; border: 1px solid #ccc;" type="text"/> |

4. Did the Entity carry on a Relevant Activity as defined in the ES Law, during the year? If an entity meets the definition of an "Investment Fund" as outlined in the ES Law, it is not required to consider whether or not it carries on a relevant activity. An "Investment Fund" should answer No to this question.

You can select more than one relevant activity however, please ensure you review the definition of each relevant activity selected in the ES Law before completing the submission. Typically, an entity would only be required to select multiple options to this question, where the relevant activities form two distinct businesses. An ES Return will be required for each relevant activity.

- a. If "Yes" and the Relevant Activity is one of the options highlighted in blue, complete the CIMA number, FI number and IRS GIIN or confirm the Entity does not have a CIMA number, FI number or IRS GIIN and move on to next step "Is this a confirmed Relevant Entity as defined in the ES Law?" **Please note, the Registered Office is expected to obtain these numbers from the Entity if it does not have them on file. The confirmation that the Entity does not have one or any of these numbers is only available to an Entity that has not registered with the appropriate authority and has not received a number. Where, in exceptional circumstances, the Registered Office cannot obtain these numbers in time to file the ESN, the DITC will allow the Entity to input 0's. Please note that the DITC may subsequently follow up with the Entity where 0's are used as the response.**
- b. If "Yes" and the Relevant Activity is one of the options highlighted in green move on to the next step "Is this a confirmed Relevant Entity as defined in the ES Law?"

Confirm the relevant activity (or activities) of the entity? *

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Banking Business <input type="checkbox"/> Fund Management Business <input type="checkbox"/> Insurance Business | <input type="checkbox"/> Distribution and Service Centre Business <input type="checkbox"/> Headquarters Business <input type="checkbox"/> Intellectual Property Business <input type="checkbox"/> Financing and Leasing Business <input type="checkbox"/> Holding Company Business <input type="checkbox"/> Shipping Business |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

CIMA Type and Number i

▼

 Confirm the entity does not have the CIMA Type and Number.


FI Number i

Confirm the entity does not have the FI Number.


IRS GIIN i

Confirm the entity does not have the IRS GIIN.

c. If “No” move on to Point 6 “Is the Entity an Investment Fund as defined in the ES Law?”

Did the entity carry on a *Relevant Activity* as defined in the ES Law 2018, during the year?  *

Yes No


Is the entity an *Investment Fund* as defined in the ES Law 2018?  *

Yes No

5. Relevant Entity as defined in the ES Law.


a. If Entity carried on a Relevant Activity defined in the ES Law during its financial year and is a confirmed Relevant Entity as defined in the ES Law complete the below fields.

- I. Financial year end – This is the Entity’s Financial year end. The Entity should refer to both the ES Law and The International Tax Co-Operation (Economic Substance)(Prescribed Dates) Regulations, 2018 for details on the reporting period. Please also see examples above at 3.
- II. Director, this person will be the first point of contact for filing the Economic Substance Return. This return is due within 12 months of the financial year end. Confirm the person selected has the authority to act for the Entity using the check box shown below.

Is this a confirmed *Relevant Entity* as defined in the ES Law 2018?  *


Yes No

Date of Financial Year End *



Person responsible for providing the required information to the DITC *

Director (or equivalent fiduciary) Registered Office

 Director Name * Email *

Confirm that the person selected has authority to act for the entity. *

- III. Registered Office, the registered office will be the first point of contact for filing the Economic Substance Return. This return is due within 12 months of the financial year end. Confirm the person selected has the authority to act for the Entity using the check box shown below. Registered Offices should ensure a current general email address (personal email addresses are not permitted) is on the General Registry system. To provide or update an email address, the details should be sent to Corishelpdesk@gov.ky.

Is this a confirmed *Relevant Entity* as defined in the ES Law 2018?  *

Yes No

Date of Financial Year End *

Person responsible for providing the required information to the DITC *


Director (or equivalent fiduciary) Registered Office

 Registered Office

General Registry Number *

Confirm that the person selected has authority to act for the entity. *

- b. If Entity carried on a Relevant Activity defined in the ES Law during the year and is "NOT" a confirmed Relevant Entity as defined in the ES Law complete the below fields.

Is this a confirmed *Relevant Entity* as defined in the ES Law 2018?  *

Yes No

What type of exemption applies? *

Domestic Company  Tax Resident outside the Islands 

- I. Domestic Company, select one of three options:

- Confirm Entity is carrying on business in the Islands and complies with under Section 3(a) of the Trade and Business Licensing Law (Revised)

What type of exemption applies? *

Domestic Company  Tax Resident outside the Islands 

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and complies with Section 3(a) of the TBL

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and licenced under Section 4(1) of the LCCL 



Confirm the entity is **not** part of an MNE Group and is a company referred to in Section 80 of the Companies Law

Type of Licence *


Licence / Reference / Registration Number *

- Confirm Entity is carrying on business in the Islands and complies with Section 4(1) of the Local Companies (Control) Law (Revised)

What type of exemption applies? *

Domestic Company  Tax Resident outside the Islands 

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and complies with Section 3(a) of the TBL

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and licenced under Section 4(1) of the LCCL 



Confirm the entity is **not** part of an MNE Group and is a company referred to in Section 80 of the Companies Law

Type of Licence *


Licence / Reference / Registration Number *

- A company referred to in Section 80 of the Companies Law (2020 Revision) and is a not for profit company

What type of exemption applies? *

Domestic Company  Tax Resident outside the Islands 

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and complies with Section 3(a) of the TBL

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and licenced under Section 4(1) of the LCCL 

Confirm the entity is **not** part of an MNE Group and is a company referred to in Section 80 of the Companies Law

Is this a not for profit company? *



Yes No

Type of Licence * Licence / Reference / Registration Number *


General Registry

- A company referred to in Section 80 of the Companies Law (2020 Revision) and “NOT” a not for profit company. Move to Step 7.

What type of exemption applies? *

Domestic Company  Tax Resident outside the Islands 

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and complies with Section 3(a) of the TBL

Confirm the entity is **not** part of an MNE Group, is only carrying on business in the Islands and licenced under Section 4(1) of the LCCL 

Confirm the entity is **not** part of an MNE Group and is a company referred to in Section 80 of the Companies Law



Is this a not for profit company? *

Yes No

II. Tax Resident outside the islands, complete the following fields:-


- Director, this person will be contacted to provide evidence of tax residency outside the Islands as outlined in the Guidance Notes along with the data points as required by the OECD's Nominal Tax Jurisdiction (NTJ) XML schema guide. The schema is publicly available at the following link.

Confirm the person selected has the authority to act for the Entity using the check box shown below.

Domestic Company  Tax Resident outside the Islands 

Person responsible for providing the required information to the DITC *

Director (or equivalent fiduciary) Registered Office

 Director Name * Email *

Confirm that the person selected has authority to act for the entity. *

- Registered Office, the registered office will be contacted to provide evidence of tax residency outside the Islands as outlined in the Guidance Notes along with the data points as required by the OECD's Nominal Tax Jurisdiction (NTJ) XML schema guide. The schema is publicly available at the following link

Confirm the person selected has the authority to act for the Entity using the check box shown below.

Domestic Company  Tax Resident outside the Islands 

Person responsible for providing the required information to the DITC *

Director (or equivalent fiduciary) Registered Office

 Registered Office

General Registry Number *

Confirm that the person selected has authority to act for the entity. *

- c. If Entity did “NOT” carry on a Relevant Activity defined in the ES Law during the year and is an Investment Fund as defined in the ES Law , complete the CIMA number, FI number and IRS GIIN details. **The Registered Office is expected to obtain these numbers from the Entity if it does not have them on file. The confirmation that the entity does not have one or any of these numbers is only available to an Entity that has not registered with the appropriate authority and has not received a number. Where, in exceptional circumstances, the Registered Office cannot obtain these numbers in time to file the ESN, the DITC will allow the Entity to input 0’s. Please note that the DITC may subsequently follow up with the Entity where 0’s are used as the response.**

Did the entity carry on a *Relevant Activity* as defined in the ES Law 2018, during the year?  *

Yes No

Is the entity an *Investment Fund* as defined in the ES Law 2018?  *

Yes No

Check this box if the CIMA, FI or GIIN numbers provided below relate to another investment fund that directly or indirectly invests or operates through the entity.

CIMA Type and Number 

Entitlement Type 

Reference #

Confirm the entity does not have the CIMA Type and Number.

FI Number 

Confirm the entity does not have the FI Number.

IRS GIIN 

Confirm the entity does not have the IRS GIIN.


Note: If the Entity does not have a CIMA/GIIN or FI number but another investment fund that directly or indirectly invests or operates through the Entity filing the notification has these numbers, the Entity should check this box and input the CIMA, FI or IRS GIIN of that investment fund (refer to definition of Investment Fund in the Schedule of the ES Law).

Please note that the DITC is aware that not all Entities claiming the investment fund exemption will have a CIMA/GIIN or FI number however, where no number is provided, it is likely that the DITC compliance team will be contacting the Entity to obtain further information..

6. If Entity did “NOT” carry on a Relevant Activity defined in the ES Law during the year and is “NOT” an Investment Fund as defined in the ES Law. Move to Step 7.

Did the entity carry on a *Relevant Activity* as defined in the ES Law 2018, during the year?  *

Yes No

Is the entity an *Investment Fund* as defined in the ES Law 2018?  *

Yes No

7. Once completed you may submit the ESN. Note that any comments added to the submission of the notification are for the Entities internal use only.

By submitting this notification to the Tax Information Authority (TIA), the entity acknowledges that there are sanctions as outlined in Section 13(2) of the ES Law 2018 for providing inaccurate information to the TIA. *

Comment - To create comments enter comments and click **Save** or **Submit**.

– Comments

8. Once the ESN Form has been submitted you may proceed with the filing of the Entity’s Annual Return & Declaration.

Correcting an Error

If an error is identified with a completed ESN submission. The filing can be returned by clicking the “Return” as seen below.

Comment - To create comments enter comments and click **Save** or **Submit**.

– Comments

Once returned, the required changes can then be made and resubmitted once completed. The changes submitted will replace the previous submission.

Comment - To create comments enter comments and click **Save** or **Submit**.

– Comments