

# The Cayman Islands

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RISK & COMPLIANCE REPORT

DATE: March 2017

<b>Executive Summary - Cayman Islands</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	US Dept of State Money Laundering assessment Not on EU White list equivalent jurisdictions Offshore Finance Centre
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> vegetables, fruit; livestock; turtle farming</p> <p><b>Industries:</b> tourism, banking, insurance and finance, construction, construction materials, furniture</p> <p><b>Exports - commodities:</b> turtle products, manufactured consumer goods</p> <p><b>Imports - commodities:</b> foodstuffs, manufactured goods, fuels</p>	
<p><b>Investment Restrictions:</b> Information unavailable</p>	

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## Section 1 - Background

The Cayman Islands were colonized from Jamaica by the British during the 18th and 19th centuries and were administered by Jamaica after 1863. In 1959, the islands became a territory within the Federation of the West Indies. When the Federation dissolved in 1962, the Cayman Islands chose to remain a British dependency.



## Section 2 - Anti - Money Laundering / Terrorist Financing

### FATF status

The Cayman Islands is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in The Cayman Islands was undertaken by the Financial Action Task Force (FATF) in 2007. According to that Evaluation, The Cayman Islands was deemed Compliant for 14 and Largely Compliant for 24 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 1 of the 6 Core Recommendations.

### Key Findings from latest Mutual Evaluation Follow-up Report (2010):

Since the MER, the Cayman Islands has revised certain of its AML/CFT laws, regulations and guidelines incorporating most of the recommended actions from the MER. The revisions include:

- 1) The Proceeds of Crime Law (POCL) which was enacted on June 30, 2008 and came into effect on September 30, 2008. It repealed and replaced the Proceeds of Criminal Conduct Law.
- 2) The Money Laundering (Amendment) Regulations, 2008 (MLRs) revising the Money Laundering Regulations (2008 Revision) became enforceable on October 24, 2008.
- 3) The Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing (GN) was revised in December 2008 and again in March 2010.
- 4) Amendments to the Criminal Justice (International Co-operation) Act were passed in February 2010.

With regard to the GN, the MER considered them other enforceable means and therefore eligible for compliance with the criteria of the FATF Recommendations.

### US Department of State Money Laundering assessment (INCSR)

Cayman Islands is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

## **OVERVIEW**

The Cayman Islands, a UK overseas territory, is an offshore financial center that provides a wide range of services including banking, structured finance, investment funds, trusts, and company formation and management. As of June 2016, the banking sector had \$1.131 trillion in international assets. As of September 2016, there are 175 banks, 152 trust company licenses, 134 licenses for company management and corporate service providers, 864 insurance-related licenses, five MSBs, and almost 100,000 companies licensed or registered in the Cayman Islands. According to the Cayman Islands Monetary Authority, as of September 2016 there are approximately 10,830 mutual funds.

Most money laundering in the Cayman Islands is related to foreign criminal activity and involves fraud, tax evasion, and drug trafficking. The government should take steps to adopt and implement a risk-based approach in money laundering regulations and complete a platform for sharing beneficial ownership information.

## **VULNERABILITIES AND EXPECTED TYPOLOGIES**

Money laundering in the Cayman Islands is primarily related to foreign criminal activity and involves fraud, tax evasion, and drug trafficking, largely cocaine. The offshore sector is used to layer or place funds into the Cayman Islands financial system. Due to its status as a zero-direct tax regime, the Cayman Islands is considered attractive to those seeking to evade taxes in their home jurisdictions.

Gaming is illegal. The Cayman Islands does not permit registration of offshore gaming entities. Authorities do not see risks from bulk cash smuggling related to cruise ships given strong due diligence procedures in place. Cayman Enterprise City, a Special Economic Zone, was established in November 2011 for knowledge-based industries, primarily internet and technology, media and marketing, commodities and derivatives, and biotechnology.

## **KEY AML LAWS AND REGULATIONS**

Shell banks and anonymous accounts are prohibited. The Cayman Islands amended its Companies Law to prohibit the use of any bearer shares as of May 13, 2016.

CDD and STR requirements cover banks, trust companies, investment funds, fund administrators, securities and investment businesses, insurance companies and managers, money service businesses, lawyers, accountants, corporate and trust service providers, money transmitters, dealers of precious metals and stones, the real estate industry, and other relevant financial business as defined in the Proceeds of Crime Law.

In 2016 the Cayman Islands Legislative Assembly passed the following AML-related legislation: the Monetary Authority (Amendment) Law authorizes the Cayman Islands Monetary Authority to impose administrative penalties for AML and regulatory breaches; Special Economic Zone (Amendment) Law allows for stronger due diligence and authorizes the Special Economic Zone Authority to collect beneficial ownership information; the Confidential Information Disclosure Law repeals and replaces the Confidential Relationships (Preservation) Law, updates circumstances in which a person may be required or authorized to disclose confidential information, and removes the criminal sanction for

breach of confidential information; Accountants Law modernizes the system for regulation of accountants; the Non-Profit Organizations Law provides for monitoring and supervision of publicly funded NPOs; Police (Amendment) Law provides for regulations which strengthen the international cooperation framework among law enforcement agencies; and the Proliferation Financing (Prohibition) (Amendment) Law requires freezing of assets related to nuclear proliferation without delay.

The Cayman Islands applies enhanced due diligence procedures to PEPs.

The Cayman Islands is a member of the CFATF, a FATF-style regional body.

## **AML DEFICIENCIES**

Commodities and derivatives are potential areas of vulnerability. To combat this, the Cayman Islands enhanced its AML supervision for DNFBPs that trade or store precious metals and stones and financial derivatives within the Special Economic Zone.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

The UK is responsible for the Cayman Islands' international affairs and arranges for the ratification of conventions to be extended to the Cayman Islands. The 1988 UN Drug Convention was extended to the Cayman Islands in 1995. The UN Convention Against Transnational Organized Crime was extended to the Cayman Islands in 2012. The UN Convention against Corruption has not yet been extended; however, the implementation platform for the anti-corruption convention exists under current Cayman law. Between January 1 and October 31, 2016, there were two money laundering-related prosecutions and two money laundering-related convictions. The United States convicted two Cayman Islands companies in March 2016 for conspiring to hide more than \$130 million in Cayman Islands bank accounts.

The Cayman Islands continues to develop its network of tax information exchange mechanisms and has a network of 36 signed information exchange agreements, with 31 in force. It also implemented automatic exchange of information for tax purposes under the Common Reporting Standard in 2016, and exchanges will begin in 2017.

The government of the Cayman Islands reportedly plans to incorporate a risk-based approach and administrative penalties for financial and DNFBP supervisors. The Cayman Islands is developing a centralized platform to enhance the timeliness of sharing of beneficial ownership information, with a target implementation date of June 2017. Currently, all financial service providers are required to maintain beneficial ownership information on their clients.

## **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, The Cayman Islands does not conform with regard to the following government legislation: -

**Record Large Transactions** - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

**International Terrorism Financing Convention** - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**States Party to United Nations Convention Against Corruption** - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

### **EU White list of Equivalent Jurisdictions**

The Cayman Islands is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

The Cayman Islands is considered to be an Offshore Financial Centre

### **Local Anti-Money Laundering Equivalence Expectations**

The Cayman Islands considers the following countries to meet local anti-money laundering equivalence expectations: -

Argentina Australia Austria Bahamas Bahrain Barbados Belgium Bermuda Brazil B.V.I. Canada Denmark Finland France Germany Gibraltar Greece Guernsey Hong Kong SAR Iceland Ireland Isle of Man Israel Italy Japan Jersey Liechtenstein Luxembourg Malta Mexico Netherlands New Zealand Norway Panama Portugal Singapore Spain Sweden Switzerland Turkey United Arab Emirates United Kingdom United States of America



## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	82

## Section 3 - Economy

With no direct taxation, the islands are a thriving offshore financial center. More than 93,000 companies were registered in the Cayman Islands as of 2008, including almost 300 banks, 800 insurers, and 10,000 mutual funds. A stock exchange was opened in 1997. Tourism is also a mainstay, accounting for about 70% of GDP and 75% of foreign currency earnings. The tourist industry is aimed at the luxury market and caters mainly to visitors from North America. Total tourist arrivals exceeded 1.9 million in 2008, with about half from the US. Nearly 90% of the islands' food and consumer goods must be imported. The Caymanians enjoy a standard of living comparable to that of Switzerland.

### **Agriculture - products:**

vegetables, fruit; livestock; turtle farming

### **Industries:**

tourism, banking, insurance and finance, construction, construction materials, furniture

### **Exports - commodities:**

turtle products, manufactured consumer goods

### **Imports - commodities:**

foodstuffs, manufactured goods, fuels

## Banking

The Cayman Islands is the fifth largest international banking centre in the world. Over 90% of the liabilities are referable to institutional business.

All banking activity is subject to licensing by the Cayman Islands Monetary Authority (CIMA) under the Banks & Trust Companies Law. (BTCL) Licences are available in two categories: the Category 'A' licence allows holders to operate in both the international and domestic markets, and the Category 'B' licence permits international banking business and limited domestic activity.

Of the 282 bank licensees, from 54 countries, 18 are category 'A' and 264 category 'B'; 260 are branches or subsidiaries of internationally active banks, with the remaining 22 representing banks for which CIMA is the home supervisor. The Cayman Islands banking sector hosts over 40 of the world's top 50 banks as ranked by total assets.

## Stock Exchange

The Cayman Islands Stock Exchange (CSX) is based in Grand Cayman. It started operations in July 1997, and is fully owned by the Cayman Islands government. The CSX was recognized by the London Stock Exchange as an approved organization in July 1999

## Section 4 - Government

### Executive Branch

elections; the monarchy is hereditary; the governor appointed by the monarch; following legislative elections, the leader of the majority party or coalition appointed by the governor as premier

### Legal system:

English common law and local statutes

### International organization participation:

Caricom (associate), CDB, Interpol (subbureau), IOC, UNESCO (associate), UPU

## Treaty and non-treaty withholding tax rates

Cayman Islands has signed **31 agreements** (1 DTC and 30 TIEA agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Argentina	TIEA	18 Oct 2011	31 Aug 2012	Yes	Yes	
Aruba	TIEA	20 Apr 2010	1 Dec 2011	Yes	Yes	
Australia	TIEA	30 Mar 2010	14 Feb 2011	Yes	Yes	
Brazil	TIEA	19 Mar 2013	not yet in force	Yes	Yes	
Canada	TIEA	24 Jun 2010	1 Jun 2011	Yes	Yes	
China	TIEA	26 Sep 2011	15 Nov 2012	Yes	Yes	
Curaçao	TIEA	29 Oct 2009	not yet in force	Yes	Yes	
Czech Republic	TIEA	9 Nov 2012	20 Sep 2013	Yes	Yes	
Denmark	TIEA	1 Apr 2009	6 Feb 2010	Yes	Yes	
Faroe Islands	TIEA	1 Apr 2009	8 Sep 2010	Unreviewed	Yes	
Finland	TIEA	1 Apr 2009	31 Mar 2010	Yes	Yes	
France	TIEA	5 Oct 2009	13 Oct 2010	Yes	Yes	
Germany	TIEA	27 May 2010	20 Aug 2011	Yes	Yes	
Greenland	TIEA	1 Apr 2009	24 Mar 2012	Unreviewed	Yes	
Guernsey	TIEA	29 Jul 2011	5 Apr 2012	Yes	Yes	
Iceland	TIEA	1 Apr 2009	30 May 2010	Yes	Yes	
India	TIEA	21 Mar 2011	8 Nov 2011	Yes	Yes	
Ireland	TIEA	23 Jun 2009	9 Jun 2010	Yes	Yes	
Italy	TIEA	3 Dec 2012	not yet in force	Yes	Yes	
Japan	TIEA	7 Feb 2011	13 Nov 2011	Yes	Yes	
Mexico	TIEA	28 Aug 2010	9 Mar 2012	Yes	Yes	
Netherlands	TIEA	8 Jul 2009	29 Dec 2009	Yes	Yes	
New Zealand	TIEA	13 Aug 2009	30 Sep 2011	Yes	Yes	
Norway	TIEA	1 Apr 2009	4 Mar 2010	Yes	Yes	
Portugal	TIEA	13 May 2010	18 May 2011	Yes	Yes	
Qatar	TIEA	26 Oct 2012	not yet in force	Yes	Yes	
Sint Maarten	TIEA	29 Oct 2009	not yet in force	No	Yes	
South Africa	TIEA	10 May 2011	23 Feb 2012	Yes	Yes	
Sweden	TIEA	1 Apr 2009	27 Dec 2009	Yes	Yes	
United Kingdom	DTC	15 Jun 2009	20 Dec 2010	Yes	Yes	
United States	TIEA	27 Nov 2001	10 Mar 2006	Yes	Yes	

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))



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