

Cayman economic substance update: Scope extended to include partnerships from 30 June 2021

JULY 2021

We previously published an article in March 2019 on the introduction of the International Tax Co-operation (Economic Substance) Act (2021 Revision) in Cayman ('**ES Act**'). Our 2019 article can be found [here](#).

On 30 June 2021, the Cayman Islands Government enacted the International Tax Co-operation (Economic Substance) (Amendment of Schedule) Regulations, 2021 ('**ES Regulations**'). The ES Regulations expand the scope of the ES Act to cover all Cayman Island established partnerships, save for local partnerships. Non-Cayman partnerships registered in Cayman as foreign limited partnerships have also been brought within the scope of the ES Act (together, the '**Partnerships**').

The biggest impact of the ES Regulation will likely be felt by exempted limited partnerships, a hugely popular partnership vehicle in Cayman.

As a result of the ES Regulations, Partnerships are now in-scope relevant entities under the ES Act ('**Relevant Entities**'). As a Relevant Entity, if a Partnership carries on one or more of a particular activity, which are set out in the ES Act, ('**Relevant Activities**') then they will have to demonstrate that they have 'economic substance' in the Cayman Islands.

A Partnership will not be a Relevant Entity and will not be required to have economic substance if it is:

- an investment fund or an entity through which an investment fund directly or indirectly invests or operates;
- tax resident outside of the Cayman Islands; or
- a local partnership (where two persons or more carry on a business in common with a view of profit that is not part of an MNE Group (for tax purposes) and such partnership is only carrying on business in the Cayman Islands.

The ES Regulations form part of Cayman's response to the EU's tax good governance initiative, specifically its November 2020 request to extend economic substance requirements to all partnerships by 30 June 2021.

The Cayman Islands Tax Information Authority ('**Authority**') is responsible for monitoring compliance with the ES Act and the Partnerships are legally required to notify the Authority of their operations in the Cayman Islands.

Partnerships which carry out a Relevant Activity will be required to satisfy an economic substance test in relation to such Relevant Activities, as set out under the ES Act ('**Test**'). Such Partnerships will need to submit annual returns to the Authority so that the Authority may make a determination as to whether the Test has been fulfilled by such entity ('**Annual Return**').

However, the ES Regulations has introduced a transition period for compliance. Partnerships formed on or after 1 July 2021 will be required to meet the Test from the date on which they commence their Relevant Activities. Partnerships formed prior to 1 July 2021 must satisfy the Test from 1 January 2022.

Partnerships operating as investment funds and partnerships tax resident outside of Cayman will only need to submit a notification the Authority. An Annual Return will not be required as they are not considered to be conducting Relevant Activities.

This memorandum summarises the key provisions of the ES Regulations. Guidance is due to follow after the Authority has completed its private sector consultation on satisfying the economic substance test.

In relation to what constitutes a Relevant Activity, details about the Test, reporting and penalties, please see our previous update dated 15 March 2019, which can be found [here](#).

If you would like further information on your economic substance requirements in Cayman, please do contact us at cayman@collascrillcs.com.