



# Supplementary Peer Review Report Phase 1 Legal and Regulatory Framework

## CAYMAN ISLANDS



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## About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 100 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004. These standards have also been incorporated into the UN Model Tax Convention.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 and Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once adopted by the Global Forum.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to [www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency)



## Executive Summary

1. This is a supplementary report on the legal and regulatory framework for transparency and exchange of information in the Cayman Islands. It complements the original Phase 1 Peer Review report on the Cayman Islands (the 2010 Report) which was adopted and published by the Global Forum in September 2010.
2. This supplementary report considers the changes made by the Cayman Islands since May 2010, the date at which the legal and regulatory framework was previously assessed, to address the recommendations made in the 2010 Report. It considers the Cayman Islands' intermediary report<sup>1</sup> concerning the legislative amendments introduced to address the determination and recommendations relating to element A2 (availability of accounting information) which was found to be "not in place" in the 2010 Report. The Cayman Islands was of the view that the amendments made to its legal framework were such that this element should now be determined to be in place. Therefore, the Cayman Islands has asked for a supplementary peer review report pursuant to paragraph 58 of the Methodology.
3. The report also considers the legislative framework in the Cayman Islands which relates to nominees under element A1 (availability of ownership and identity information) and its recent progress in developing its network of exchange of information arrangements through signing new agreements (Part C).
4. In the Cayman Islands the relevant legal and regulatory framework is composed of obligations placed directly on entities and arrangements. This is complemented by requirements imposed on a person conducting certain businesses such as banking, trust services, insurance, investment and company management, as well as an anti-money laundering/counter financing of terrorism regime.
5. In respect of ownership and identity information, the 2010 Report noted that there were inconsistent obligations on nominees to maintain identity information in respect of the persons for whom the nominee acts as legal owner. Under Cayman Islands legislation, nominees who act in a

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<sup>1</sup> The intermediary report is made under paragraph 57 of the Global Forum's Revised Methodology for Peer Reviews and Non-Member Reviews, May 2011 (the Methodology).

professional capacity (that is for profit or gain) are required under the anti-money laundering (AML) regime and regulations on financial service providers, to maintain information on the identity of the person for whom that nominee acts. Since the recommendation was made, the Global Forum view on this matter has evolved and it has determined that a regulatory regime applicable to nominees which is similar to that in the Cayman Islands does not require a recommendation. Therefore consistent with other reports adopted by the Global Forum, the recommendation concerning nominees under element A1 is removed.

6. However, and as noted in the 2010 Report, recommendations remain on element A1 in respect of Private Trust Companies and individuals carrying on trust businesses, which may not consistently be required to maintain identity and ownership information in respect of all express trusts for which they act as trustees. This issue will be examined further in the Phase 2 Peer Review. Also, there remain in some cases no penalties on companies and partnerships for non-compliance with obligations to maintain ownership and identity information. In those cases, effective sanctions should be introduced. The absence of appropriate sanctions is of particular concern given the number of unregulated mutual funds operating in the Cayman Islands, which are not subject to other information retention measures.

7. In respect of the availability of accounting information, legislative amendments were passed by the Cayman Islands in 2010 in respect of companies and partnerships, and in 2011 in respect of trusts, and those amendments have already taken effect. In particular, the amended legislation now ensures that:

- Companies are required to keep accounting records including underlying documentation for a minimum 5 year period;
- Partnerships and trusts must retain relevant accounting records including underlying documentation for a minimum 5 year period; and
- Effective sanctions will apply to a company, partnership or trust that fails to keep accounting records as required.

8. The amendments address the three recommendations made in the 2010 Report concerning the availability of accounting information. These recommendations for essential element A2 are therefore removed, and the determination is revised to “the element is in place”. In respect of availability of banking information (element A3), the 2010 report noted, and

it remains the case that requirements are in place consistent with the standard to ensure this information is kept.

9. In respect of access to information and as described in Part B of the 2010 Report, the competent authority of the Cayman Islands is invested with broad powers to gather relevant information. These powers are exercised predominately by issuing notices to require the production of relevant information; and are complemented by powers that are overseen by a Court, to search premises and seize information as well as to compel oral testimony. Enforcement of these provisions is secured by the existence of significant penalties for non-compliance. Secrecy provisions in Cayman law are overridden where information is required for exchange of information (EOI) purposes, and a domestic tax interest requirement is excluded.

10. Finally, the Cayman Islands has continued to develop its network of exchange of information mechanisms. Since the 2010 Report was prepared, the Cayman Islands has signed a further five tax information exchange agreements which meet the international standard: with Canada, Mexico, Japan, India and South Africa. It now has a network of 24 information exchange agreements, with 12 of those already in force.

11. The changes rapidly introduced by the Cayman Islands since the 2010 Report demonstrate its commitment to implementing the international standards for transparency and exchange of information. The Cayman Islands is encouraged to continue to review and update its legal and regulatory framework in line with the remaining recommendations made in the 2010 Report, particularly as concerns the availability of ownership and identity information (element A1). Any further developments in the legal and regulatory framework, as well as the application of the framework to the EOI practices of the Cayman Islands' competent authority will be considered in detail in the Phase 2 Peer Review which is scheduled for the second half of 2012.





## Introduction

### **Information and methodology used for the supplementary peer review report of the Cayman Islands**

12. This supplementary peer review report was prepared pursuant to paragraph 58 of the Global Forum’s Methodology, and considers recent changes to the legal and regulatory framework of the Cayman Islands based on the international standards for transparency and exchange of information as described in the Global Forum’s Terms of Reference. The assessment was based on information available to the assessment team including the laws, regulations, and exchange of information arrangements in force or effect as at June 2011, and information supplied by the Cayman Islands. It follows the 2010 Report on the Cayman Islands which was adopted and published by the Global Forum in September 2010.<sup>2</sup>

13. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchanging information. In respect of each essential element a determination is made that (i) the element is in place, (ii) the element is in place but certain aspects of the legal implementation of the element need improvement, or (iii) the element is not in place. These determinations are accompanied by recommendations for improvement where relevant. In particular, this report considers changes in the Cayman Islands’ legal and regulatory framework which relate to the availability of accounting information and its information exchange mechanisms.

14. The supplementary review was conducted by an assessment team, which consisted of two expert assessors and one representative of the Global Forum Secretariat: Laurence Simon-Michel, Senior Tax Inspector in the French tax administration (Direction Générale des Finances Publiques); Oshna Maharaj, Manager of International Development and Treaties for the South African Revenue Service; and Caroline Malcolm from the Global Forum Secretariat.

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<sup>2</sup> The 2010 Report was based on information available up to May 2010.

15. An updated summary of determinations and factors underlying recommendations in respect of the 10 essential elements of the Terms of Reference, which takes into account the conclusions of this supplementary report, is set out on page **Error! Bookmark not defined.**

## **Compliance with the Standards**

### **A. Availability of Information**

#### **Overview**

16. Effective exchange of information requires the availability of reliable information. This report considers the legal and regulatory framework now in place in the Cayman Islands in so far as it relates to the obligations on nominees to maintain identity information (element A.1.), as well as recent amendments to the obligations on companies, partnerships and trusts to keep relevant accounting records (element A.2.). The 2010 Report notes that in respect of element A3, the element was in place and no recommendations were made.

17. The amendments introduced by the Cayman Islands in respect of accounting records address each of the concerns raised in the recommendations for element A2 in the 2010 Report, and therefore the recommendations are removed, and the determination is revised to “the element is in place”.

18. As concerns nominees and element A1, the requirements under Cayman Islands’ law ensure that nominees acting for profit or gain, even a nominal sum, are subject to obligations to keep identity information on the person for whom they act. Since the recommendation on this issue was made in the 2010 Report, the Global Forum’s view has evolved and consistent with the standard and with other reports adopted by the Global Forum, it is determined that the Cayman Islands legislation applying to

nominees is sufficient such that the recommendation should be removed. Therefore, consistent with other reports adopted by the Global Forum, the recommendation concerning nominees under element A1 is removed. However, it is noted that without the significant amendments made by the Cayman Islands in respect of element A2, the position in respect of nominees would not by itself have justified a supplementary report. Further, this report notes that whether the narrow exception to the nominee obligations will affect effective EOI will be considered in the Phase 2 review of the Cayman Islands. A.1. Ownership and identity information

Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

***Nominee identity information (ToR<sup>3</sup> A.1.1)***

19. All persons who act as a nominee for profit or gain (even for a nominal sum) are a “relevant financial business” and subject to the AML regime, principally the Money Laundering Regulations. The obligations found in the Regulations are set out with more detailed guidance in the Money Laundering Guidance Notes. The Guidance Notes must be taken into account by a Court when determining whether there has been non-compliance with the Money Laundering Regulations, under regulation 5(4).

20. Nominees subject to the AML regime must verify and maintain identity information on their clients. In particular, under regulation 7 of the Money Laundering Regulations, as soon as reasonably practicable after contact is first made by a client, the nominee must:

- require the applicant to produce satisfactory identity evidence; or
- take such measures to obtain satisfactory identity evidence.

21. Where the client is a legal person or arrangement, there is an obligation to obtain evidence of a person who is acting on behalf of the client, and of the natural person who ultimately owns or controls the client (Regulation 7(7), Money Laundering Regulations).

22. In certain specific cases the regulations allow for a simplified set of identity verification obligations to apply. Some of the key exceptions to

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<sup>3</sup> *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information*

the requirement to maintain identity information are set out in paragraph 67 of the 2010 Report. These include:

- a) For one-off transactions where the person does not know or suspect the transaction is being carried out for the purposes of money laundering or does not know or have reasonable cause to suspect that the transaction is being carried out for terrorism financing purposes (regulation 7(2) and (3)); or
- b) For one-off transactions of less than KYD 15 000 (USD 18 200), where the transaction does not appear to be linked to other transaction(s) where the total would amount to more than KYD 15 000 (regulation 7(4) and (5)).

23. However, these exceptions may not be relied upon where the nominee has “reasonable grounds to assess that the case presents a higher risk of money laundering”. Therefore, in light of the balance of the obligations, the exceptions are not considered material in respect of nominees acting for profit or gain who are therefore subject to the AML regime.

24. A nominee who contravenes the obligations imposed by the AML regime is liable on summary conviction to a fine not exceeding KYD 5 000 or, on indictable conviction, to a fine and imprisonment for a period not exceeding 2 years.

25. As only a limited number of nominees would be excluded from the scope of the AML regime (those not acting for profit or gain), Cayman Islands authorities consider that this exception is narrow and does not prevent effective EOI. The explanations given by the Cayman Islands about the practical application of the rules and its impact on EOI will be reviewed in the Phase 2 of the review process.

### *Determination and factors underlying recommendations*

| <b>Phase 1 Determination</b>                                                                             |                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The element is in place, but certain aspects of the legal implementation of the element need improvement |                                                                                                                                                               |
| <b>Factors underlying recommendations</b>                                                                | <b>Recommendations</b>                                                                                                                                        |
| In some cases, there are currently no penalties for non-compliance with obligations to maintain          | In so far as there are no penalties provided, introduce effective sanctions against companies and partnerships where they fail to comply with requirements to |

|                                                                                                                                                                                                                                       |                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>ownership and identity information in the case of companies and partnerships. This is of particular concern in respect of unregulated mutual funds which may manage a significant total asset value.</p>                           | <p>maintain ownership and identity information as required.</p>                                                                                                                             |
| <p>Identity and ownership information may not consistently be available in respect of all express trusts with respect to which Private Trust Companies and individuals carrying on trust businesses, act as trustees.<sup>4</sup></p> | <p>Private Trust Companies and individuals carrying on trust businesses should be required to maintain relevant identity and ownership information.</p>                                     |
| <p><del>There are currently inconsistent obligations on nominees to maintain ownership and identity information in respect of all persons for whom they act as the legal owner.</del></p>                                             | <p><del>An obligation should be established for nominees to maintain relevant ownership and identity information where they act as the legal owner on behalf of any other person.</del></p> |

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<sup>4</sup> See paragraph 94.

## A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

### *General requirements (ToR A.2.1.), Underlying documentation (ToR A.2.2.) and the 5-year retention standard (ToR A.2.3.)*

26. In 2010 and early 2011, amendments were introduced to the Cayman Islands law relating to accounting record requirements for companies, partnerships and trusts. These amendments concerned the types of records to be kept, the period for which they were to be kept and the sanctions applicable in cases of non-compliance. These amendments complement the ongoing requirements concerning accounting records that apply to licensed entities and Service Providers which are described in the 2010 Report.

#### *Company accounting records*

27. The 2010 report recorded that all relevant accounting records were required to be kept by all companies formed and registered under the Companies Law (s59). The Companies (Amendment) Law, 2010 (which entered into force on 28 September 2010) introduced changes which made explicit that these records were to include underlying documentation including contracts and invoices (sub-section 59(2)), and also established a clear requirement that these accounting records were to be kept for a minimum 5 year periods (sub-section 59(3)). A penalty of KYD 5 000 (USD 6 070) for wilful or knowing non-compliance by the company with these accounting record obligations was also introduced (sub-section 59(4)). This complements the existing penalty for other (*e.g.* negligent) non-compliance under s77 of the Companies Law.

#### *Partnership accounting records*

28. The 2010 Report noted that there were no consistent obligations on all types of partnerships to retain relevant accounting records, including underlying documentation for a minimum period of 5 years. Under Cayman Islands Law, three types of partnerships may be created: the general and limited partnerships (both types subject to the Partnership Law, as applicable), and also exempted limited partnerships (ELPs).



29. The Partnership (Amendment) Law, 2010 (which entered into force on 28 September 2010) introduced amendments to section 28 which creates accounting record requirements applicable to general and limited partnerships. Pursuant to those amendments, section 28 provides that a partner, other than a limited partner is required to keep:

(2)...proper books of account including, where applicable, material underlying documentation including contracts and invoices, with respect to -

(a) all sums of money received and expended by the partnership and matters in respect of which the receipt of expenditure takes place;

(b) all sales and purchases of goods by the partnership; and

(c) the assets and liabilities of the partnership.

(3) For the purposes of subsection (2), proper books of account shall not be deemed to be kept if there are not kept such books as are necessary to give a true and fair view of the business and financial condition of the partnership and to explain its transactions.

30. New sub-section (4) requires that these records must be kept for a minimum 5 year period, whilst sub-section (5) imposes a penalty of KYD 5 000 on the partner in cases of wilful or knowing non-compliance.

31. The Exempted Limited Partnership (Amendment) Law, 2010 (which entered into force on 28 September 2010) introduced changes to accounting record requirements which apply to ELPs. The amended section 12 of the Law imposes on the general partner of the ELP, the same accounting record requirements and sanctions for non-compliance, as described above in respect of general and limited partnerships.

#### *Trust accounting records*

32. Under Cayman Islands law, ordinary, exempted and STAR trusts are recognised, and are subject to the requirements described in the Trusts Law, as applicable. In March 2011, the Trusts (Amendment) Law 2011 (which entered into force on 15 March 2011) introduced a new section, 27A, which applies to all trustees, and says:

27A. (1) A trustee shall keep or cause to be kept accurate accounts and records (including underlying documentation) of the trustee's trusteeship appropriate to the trust and trust property.

33. Further, sub-sections 27A(2) and 27A(3) require that those records be kept for a minimum 5 year period, and any knowing or wilful contravention by a trustee is liable for a penalty of KYD 5 000.

34. This is in addition (s98, Trusts Law) to the specific accounting requirements, and related sanctions, applicable to trustees of STAR trusts described in paragraph 113 of the 2010 Report.

35. Moreover, trustees will be subject to the common law requirements on trustees, which include a fiduciary duty to the beneficiaries to keep proper records and accounts of their trusteeship (paragraph 114, 2010 Report).

*Determination and factors underlying recommendations*

| <b>Phase 1 Determination</b>                                                                                                                                                                                |                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The element is <u>in place</u> . <del>not in place</del>                                                                                                                                                    |                                                                                                                                                                                                                                  |
| <b>Factors underlying recommendations</b>                                                                                                                                                                   | <b>Recommendations</b>                                                                                                                                                                                                           |
| <del>There is currently no requirement for companies to retain their accounting records for a minimum 5 year period.</del>                                                                                  | <del>Introduce a 5 year minimum retention period for the relevant accounting records that companies are required to maintain.</del>                                                                                              |
| <del>There are currently no consistent obligations on all types of partnerships and trusts to retain relevant accounting records, including underlying documentation for a minimum period of 5 years.</del> | <del>Introduce a specific obligation on all types of partnerships and trusts to retain relevant accounting records, including underlying documentation for a minimum period of 5 years.</del>                                    |
| <del>In some cases there are currently no penalties for non-compliance with obligations to</del>                                                                                                            | <del>In so far as there are no penalties provided, introduce effective sanctions against entities and arrangements where they fail to comply with requirements to maintain and provide ownership and identity information.</del> |

|                                                                                                                             |  |
|-----------------------------------------------------------------------------------------------------------------------------|--|
| <del>maintain accounting records by all types of entities and arrangements in the case of companies and partnerships.</del> |  |
|-----------------------------------------------------------------------------------------------------------------------------|--|

**A.3. Banking information**

|                                                                  |
|------------------------------------------------------------------|
| Banking information should be available for all account-holders. |
|------------------------------------------------------------------|

36. The 2010 Report found that the Cayman Islands had a legal framework in place to ensure the availability of relevant banking information for all account holders.

*Determination and factors underlying recommendations*

| <b>Phase 1 Determination</b> |
|------------------------------|
| The element is in place      |

## **B. Access to Information**

### **Overview**

37. A variety of information may be needed in respect of the administration and enforcement of relevant tax laws and jurisdictions should have the authority to access all such information. The 2010 Report found that both element B1 and B2 were in place and no recommendations were made. No relevant developments have taken place since the 2010 Report. That report noted that the Cayman Islands competent authority had a broad power to obtain relevant information from any person holding such information, which included search and seizure powers under the purview of a Court. The 2010 Report also noted that the secrecy provisions did not have effect where information was sought for an EOI request, and that a limited notification right was balanced with a process to efficiently address any objections to the provision of information.

### **B.1. Competent Authority’s ability to obtain and provide information**

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

38. The 2010 Report found that the Cayman Islands’ competent authority has broad powers to obtain relevant information from any person holding such information. This includes search and seizure powers under the supervision of a Court.

*Determination and factors underlying recommendations*

| <b>Phase 1 Determination</b> |
|------------------------------|
| The element is in place      |

**B.2. Notification requirements and rights and safeguards**

|                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The rights and safeguards ( <i>e.g.</i> notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

39. The 2010 Report found that the rights and safeguards available under the Cayman Islands’ are compatible with the effective exchange of information. In particular, the notification right of the subject of the request is limited, and is balanced by an efficient process to address any objections. The discretion to exchange certain information, namely trade, business, industrial, commercial or professional secret or relating to matters of public policy, is consistent with the international standard.

*Determination and factors underlying recommendations*

| <b>Phase 1 Determination</b> |
|------------------------------|
| The element is in place      |

## C. Exchanging Information

### Overview

40. This section of the report examines whether a jurisdiction has in place a network of agreements that would allow it to achieve effective exchange of information in practice. The 2010 Report noted that each of the elements C1, C2, C3 and C4 were in place. As with other Phase 1 reports, in respect of C5 the report noted that it involved issues of practice that would be dealt with in the Cayman Islands' Phase 2 review.

41. Since the 2010 Report, the Cayman Islands has continued to develop its exchange of information (EOI) network with relevant partners, in line with the recommendation made on element C2. It has signed a further 5 EOI agreements, and one of those, with Canada, has already entered into force. Each of these 5 new agreements is in line with the standard and in the main follows the terms of the OECD Model TIEA. The confidentiality of information exchanged with the Cayman Islands remains protected by provisions in the agreements themselves as well as domestic law. The discretions to exchange certain types of information (such as business, or professional secrets, or information the subject of attorney-client privilege), which is allowed under the standard, are also incorporated in domestic law as well as in the EOI agreements.

### C.1. Exchange of information mechanisms

|                                                                                        |
|----------------------------------------------------------------------------------------|
| Exchange of information mechanisms should allow for effective exchange of information. |
|----------------------------------------------------------------------------------------|

42. The additional five exchange of information agreements signed by the Cayman Islands since the 2010 Report (the New Agreements)<sup>5</sup> are considered below. The Tax Information Authority Law (2009 Revision) (TIA Law) of the Cayman Islands is described in Parts B and C of the 2010 Report, and sets out the access powers and the domestic application of the Cayman Islands EOI mechanisms. It applies equally to the New Agreements.

***Foreseeably relevant standard (ToR C.1.1.)***

43. The international standard for exchange of information envisages information exchange to the widest possible extent. Nevertheless it does not allow “fishing expeditions”, *i.e.* speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of “foreseeable relevance” which is included in Article 1 of the OECD Model TIEA. Each of the New Agreements includes a provision equivalent to Article 1.

***In respect of all persons (ToR C.1.2.)***

44. All of the New Agreements contain a provision concerning jurisdictional scope which is equivalent to Article 2 of the OECD Model TIEA.

***Exchange information held by financial institutions, nominees, agents and ownership and identity information (ToR C.1.3.)***

45. The New Agreements do not allow the requested jurisdiction to decline to supply information solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person.

***Absence of domestic tax interest (ToR C.1.4.)***

46. All of the New Agreements concluded by the Cayman Islands allow information to be obtained and exchanged notwithstanding it is not required for any Cayman domestic tax purpose.

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<sup>5</sup> Tax Information Exchange Agreements between the Cayman Islands, and: Canada, Mexico, Japan, India and South Africa.

***Absence of dual criminality principles (ToR C.1.5.)***

47. None of the New Agreements concluded by the Cayman Islands applies the dual criminality principle to restrict the exchange of information.

***Exchange of information in both civil and criminal tax matters (ToR C.1.6.)***

48. All of the New Agreements concluded by the Cayman Islands provides for the exchange of information in both civil and criminal tax matters.

***Provide information in specific form requested (ToR C.1.7.)***

49. All of the New Agreements concluded by the Cayman Islands allow for information to be provided in the specific form requested, to the extent allowable under the requested jurisdiction's domestic laws. This is implemented in domestic law by virtue of s8(4)(b) of the TIA Law.

***In force (ToR C.1.8.)***

50. One of the New Agreements concluded by the Cayman Islands (the TIEA with Canada) has already entered into force, on 1 June 2011. Of the total 24 EOI agreements now concluded by the Cayman Islands, 12 have entered into force. In respect of each of the agreements signed by the Cayman Islands, with the exception of the three signed in 2011 (with Japan, India and South Africa), the Cayman Islands has taken all steps necessary for its part to bring those agreements into force. See Annex 3 for details of signing and entry into force dates.

***Be given effect through domestic law (ToR C.1.9.)***

51. The TIA Law gives effect to the Cayman Islands' arrangements for the exchange of information for tax purposes.

***Determination and factors underlying recommendations***

| <b>Phase 1 Determination</b> |
|------------------------------|
| The element is in place      |



## C.2. Exchange of information mechanisms with all relevant partners

The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

52. Since the 2010 Report, the Cayman Islands has signed a further five agreements for the exchange of information which meet the international standard (TIEAs with Canada, Mexico, Japan, India and South Africa). In addition, a further four of its signed agreements have now entered into force (with Australia, France, Portugal and the United Kingdom).

53. To date therefore, the Cayman Islands has signed 24 EOI agreements, of which 12 are presently in force. With the exception of the three agreements signed in 2011 (with Japan, India and South Africa), the Cayman Islands has taken all steps necessary for its part to bring each of its signed EOI agreements into force. An up-to-date list of the Cayman Islands' exchange of information mechanisms can be found in Annex 3.

54. No change to the determination or recommendation in respect of element C.2 is made.

### *Determination and factors underlying recommendations*

| Phase 1 Determination              |                                                                                           |
|------------------------------------|-------------------------------------------------------------------------------------------|
| The element is in place            |                                                                                           |
| Factors underlying recommendations | Recommendations                                                                           |
|                                    | The Cayman Islands should continue to develop its EOI network with all relevant partners. |

## C.3. Confidentiality

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

***Information received: disclosure, use and safeguards (ToR C.3.1.)  
and all other information exchanged (ToR C.3.2.)***

55. The New Agreements concluded by the Cayman Islands meet the standards for confidentiality including the limitations on disclosure of information received and use of the information exchanged, which are reflected in Article 8 of the OECD Model TIEA.

56. Further, as noted in Part C3 of the 2010 Report, the confidentiality requirement for information relating to a request is also given effect in domestic legislation by s20 of the TIA Law. A person who breaches the confidentiality requirement in respect of the fact of a request, or a matter relating to the request, if convicted shall be subject to a fine of KYD 1 000 and imprisonment for 6 months. Subject to the written consent of the Cayman Islands Tax Information Authority (CITIA), under s21(1) of the TIA Law, the Cayman Islands may approve the use of the information by the requesting jurisdiction for a further or other purpose beyond that stated in the request. Where the information has been obtained as oral testimony, or on the order of a judge, a judge must give directions to approve the use of the information for a further or other purpose pursuant to s21(2).

***Determination and factors underlying recommendations***

| <b>Phase 1 Determination</b> |
|------------------------------|
| The element is in place      |

**C.4. Rights and safeguards of taxpayers and third parties**

|                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------|
| The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. |
|-----------------------------------------------------------------------------------------------------------------|

***Exceptions to requirement to provide information (ToR C.4.1.)***

57. The New Agreements in respect of the limits on information which must be exchanged under the Islands' EOI arrangements mirror those provided for in the OECD Model TIEA. That is, information which is subject to legal privilege; would disclose any trade, business, industrial, commercial or professional secret or trade process; or pursuant to s6 of the TIA Law, would be contrary to public policy, is not required to be exchanged. This is incorporated into Cayman Islands law by the incorporation of the New Agreements into domestic law under s3(3) of the TIA Law, rather than by a separate specific provision. The definition of

“items subject to legal privilege” which is set out in section 2 of the TIA Law, and described in Part C4 of the 2010 Report, also applies.

***Determination and factors underlying recommendations***

| <b>Phase 1 Determination</b> |
|------------------------------|
| The element is in place      |

**C.5. Timeliness of responses to requests for information**

|                                                                                                 |
|-------------------------------------------------------------------------------------------------|
| The jurisdiction should provide information under its network of agreements in a timely manner. |
|-------------------------------------------------------------------------------------------------|

***Responses within 90 days (ToR C.5.1.)***

58. There are no specific legal or regulatory requirements in place which would prevent the Cayman Islands responding to a request for information by providing the information requested or providing a status update within 90 days of receipt of the request.

59. In the EOI agreement between the Cayman Islands and South Africa, the time within which a status update or response to an EOI request is to be provided is not specified. Instead, they provide words to the effect that:

The competent authority of the requested Party shall acknowledge receipt of the request to the competent authority of the requesting Party and shall use its best endeavours to forward the requested information to the requesting Party with the least possible delay.

***Organisational process and resources (ToR C.5.2.)***

60. The establishment of the Tax Information Authority in 2005, an agency dedicated to providing international assistance in tax matters, has created a stream-lined process for responding to the Cayman Islands’ EOI partners and overseeing the domestic measures required to obtain the information requested.

***Absence of restrictive conditions on exchange of information (ToR C.5.3.)***

61. The Cayman Islands domestic law has been aligned, particularly pursuant to the TIA Law, to meet the standards for information exchange

agreed to in with its EOI partners. A review of the practical application of these processes and the resources available to the CITIA will be conducted in the context of its Phase 2 review.

*Determination and factors underlying recommendations*

| <b>Phase 1 Determination</b>                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review. |



## Summary of Determinations and Factors Underlying Recommendations

| Determination                                                                                                                                                                 | Factors underlying recommendations                                                                                                                                                                                                                                                                   | Recommendations                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. <i>(ToR A.I.)</i> |                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                        |
| The element is in place, but certain aspects of the legal implementation of the element need improvement                                                                      | In some cases, there are currently no penalties for non-compliance with obligations to maintain ownership and identity information in the case of companies and partnerships. This is of particular concern in respect of unregulated mutual funds which may manage a significant total asset value. | In so far as there are no penalties provided, introduce effective sanctions against companies and partnerships where they fail to comply with requirements to maintain ownership and identity information as required. |
|                                                                                                                                                                               | Identity and ownership information may not consistently be available in respect of all express trusts with respect to which Private Trust Companies and individuals carrying on trust businesses, act as trustees.                                                                                   | Private Trust Companies and individuals carrying on trust businesses should be required to maintain relevant identity and ownership information.                                                                       |

|                                                                                                                                                                                                                                                                                                                                                                                             |  |                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------|
| Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. ( <i>ToR A.2.</i> )                                                                                                                                                                                                                                                       |  |                                                                                           |
| The element is in place                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                           |
| Banking information should be available for all account-holders. ( <i>ToR A.3.</i> )                                                                                                                                                                                                                                                                                                        |  |                                                                                           |
| The element is in place                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                           |
| Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information). ( <i>Tor B.1.</i> ) |  |                                                                                           |
| The element is in place                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                           |
| The rights and safeguards ( <i>e.g.</i> notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information. ( <i>ToR B.2.</i> )                                                                                                                                                                                   |  |                                                                                           |
| The element is in place                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                           |
| Exchange of information mechanisms should allow for effective exchange of information. ( <i>ToR C.1.</i> )                                                                                                                                                                                                                                                                                  |  |                                                                                           |
| The element is in place                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                           |
| The jurisdictions' network of information exchange mechanisms should cover all relevant partners. ( <i>ToR C.2.</i> )                                                                                                                                                                                                                                                                       |  |                                                                                           |
| The element is in place                                                                                                                                                                                                                                                                                                                                                                     |  | The Cayman Islands should continue to develop its EOI network with all relevant partners. |
| The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received. ( <i>ToR C.3.</i> )                                                                                                                                                                                                                        |  |                                                                                           |
| The element is in place                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                           |

|                                                                                                                                                                     |  |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. ( <i>ToR C.4.</i> )                                 |  |  |
| The element is in place                                                                                                                                             |  |  |
| The jurisdiction should provide information under its network of agreements in a timely manner. ( <i>ToR C.5.</i> )                                                 |  |  |
| The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review. |  |  |





## **Annex 1: The Jurisdiction’s Response to the Peer Review<sup>6</sup>**

The Cayman Islands are grateful that our Supplementary Report was one of the first to be considered by the Peer Review Group. We acknowledge the hard work of the assessors and the Global Forum Secretariat in preparing the Supplementary Report and we were pleased to confirm our agreement with its terms.

The provision of updates and ongoing monitoring of all jurisdictions is an important component of the peer review process and we welcome the revised methodology which is now being used as a tool to ensure that this process remains robust and credible.

The Cayman Islands continues to take its obligations very seriously and reaffirms its commitment to the work of the Global Forum.

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<sup>6</sup> This Annex presents the jurisdiction’s response to the review report and shall not be deemed to represent the Global Forum’s views.

## **Annex 2: Request for a Supplementary Report Received from The Cayman Islands**

Mr. François d’Aubert  
Chair, Peer Review Group

Dear François,

### **Re: Follow-up to Cayman Islands Phase 1 Peer Review Report**

The Cayman Islands submits this report in accordance with paragraphs 57 and 58 of the revised Methodology for Peer Reviews and Non-Member Reviews.

On the basis that the Cayman Islands Phase 1 Peer Review Report contained a determination that one essential element, namely A.2, was “not in place”, this is the intermediary report for the Cayman Islands under paragraph 57. Furthermore, as the Cayman Islands has implemented changes which are likely to result in an upgrade of a determination of an essential element, this report also serves as a written report under paragraph 58 seeking a revision of the determination of the essential element A.2 to “the element is in place” and the removal of all recommendations in essential element A.2.

Since the Phase 1 Report was approved by the PRG, the Cayman Islands have taken steps to address the recommendations contained in the Report. Whilst the principal focus has been on addressing the area for which a determination of “element is not in place” was given, all actions undertaken by the Cayman Islands to date in respect of all recommendations are set out in Appendix 1. In addition, an updated list of EOI Agreements is provided in Appendix 2.

With regard to the recommendation relating to nominees under essential element A.1, we confirm that the only nominees not covered by service provider regulations and AML requirements in the Cayman Islands are those persons not acting in a professional or business capacity. This category of persons is very minor and not material as it only relates persons performing their services for no consideration in the course of a purely private non-business relationship. This position is consistent with the Technical Issue

raised in paragraph 2.4 of the Note by the Secretariat on Horizontal issues requiring consistent treatment in PRG Reports. Therefore the Cayman Islands is of the view that the recommendation is unnecessary and it would be consistent with other reports for the recommendation to be removed.

On the basis that the Cayman Islands have implemented the foregoing changes, and in light the inconsistencies in the assessment of essential element A.2 between the Cayman Islands Phase1 Report and other Peer Review Reports as noted in paragraph 2.6 of the above-mentioned Note on Horizontal issues, we welcome the opportunity to have a supplementary report dealt with by the PRG at the earliest possible time.

The Cayman Islands is available to the assessment team for consultation/discussion regarding this supplementary report.

Yours sincerely,

Michelle Bahadur  
Director  
Financial Services Secretariat

Appendix 1: Cayman Islands' Follow up Report on the Recommendations of the Phase 1 Peer Review Report

| Essential Element                                                                                                                                                                           | Determination                                                                                                    | Factors underlying Determination                                                                                                                                                                                                                                                                            | Recommendations                                                                                                                                                                                                               | Action Undertaken                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>A.1</b></p> <p><b>Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.</b></p> | <p>The element is in place, but certain aspects of the legal implementation of the element need improvement.</p> | <p>In some cases, there are currently no penalties for non-compliance with obligations to maintain ownership and identity information in the case of companies and partnerships. This is of particular concern in respect of unregulated mutual funds which may manage a significant total asset value.</p> | <p>In so far as there are no penalties provided, introduce effective sanctions against companies and partnerships where they fail to comply with requirements to maintain ownership and identity information as required.</p> | <p>The Cayman Islands is currently reviewing legislation governing companies and partnerships with the intention of introducing appropriate sanctions.</p> |

|  |  |                                                                                                                                                                                                                    |                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                  |
|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | Identity and ownership information may not consistently be available in respect of all express trusts with respect to which Private Trust Companies and individuals carrying on trust businesses, act as trustees. | Private Trust Companies and individuals carrying on trust businesses should be required to maintain relevant identity and ownership information.                          | The Cayman Islands is currently reviewing the Private Trust Companies Regulations to determine how best to implement the recommendation.                                                                                                                                                         |
|  |  | There are currently inconsistent obligations on nominees to maintain ownership and identity information in respect of all persons for whom they act as the legal owner.                                            | An obligation should be established for nominees to maintain relevant ownership and identity information where they act as the legal owner on behalf of any other person. | The only nominees not covered by service provider regulations and AML requirements in the Cayman Islands are those persons not acting in a professional or business capacity. This category of persons is not material as it only includes persons who would be performing their services for no |

|  |  |  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--|--|--|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  |  |  | <p>consideration in the course of a purely private non-business relationship. This position is consistent with the Technical Issue raised in paragraph 2.4 of the Note by the Secretariat on Horizontal issues requiring consistent treatment in PRG Reports. Therefore the Cayman Islands is of the view that the recommendation is unnecessary and it would be consistent with other reports for the recommendation to be removed.</p> |
|--|--|--|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                   |                                     |                                                                                                                                                                                                         |                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>A.2</b></p> <p><b>Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.</b></p> | <p>The element is not in place.</p> | <p>There is currently no requirement for companies to retain their accounting records for a minimum 5 year period.</p>                                                                                  | <p>Introduce a 5 year minimum retention period for the relevant accounting records that companies are required to maintain.</p>                                                           | <p>The Companies Law has been amended by the Companies (Amendment) Law, 2010 to provide for the keeping of underlying documentation and for the retention of accounting records for a minimum period of 5 years. These obligations apply to all companies regardless of form.</p> |
|                                                                                                                                                   |                                     | <p>There are currently no consistent obligations on all types of partnerships and trusts to retain relevant accounting records, including underlying documentation for a minimum period of 5 years.</p> | <p>Introduce a specific obligation on all types of partnerships and trusts to retain relevant accounting records, including underlying documentation for a minimum period of 5 years.</p> | <p>The Partnership Law and the Exempted Limited Partnership Law have been amended by the Partnership (Amendment) Law, 2010 and the Exempted Limited Partnership (Amendment) Law, 2010</p>                                                                                         |



|  |  |  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--|--|--|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  |  |  | <p>which provide for the retention of accounting records including underlying documentation for a minimum period of 5 years. These obligations apply to all partnerships regardless of form.</p> <p>The Trusts Law has been amended by the Trusts (Amendment) Law, 2011 which provides for the retention of accounting records including underlying documentation for a minimum period of 5 years. These obligations apply to all trustees regardless of the type of trust.</p> |
|--|--|--|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|  |  |                                                                                                                                                                                                               |                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | <p>In some cases there are currently no penalties for non-compliance with obligations to maintain accounting records by all types of entities and arrangements in the case of companies and partnerships.</p> | <p>In so far as there are no penalties provided, introduce effective sanctions against entities and arrangements where they fail to comply with requirements to maintain and provide ownership and identity information.</p> | <p>The amending legislation referenced above prescribes the following penalties:</p> <p><b>Companies:</b><br/>A company that fails to comply with the obligations regarding accounting records is subject to a penalty of five thousand dollars.</p> <p><b>Partnerships:</b><br/>A partner who fails to comply with the obligations regarding accounting records is subject to a penalty of five thousand dollars.</p> <p><b>Trusts:</b> A trustee who fails to comply with the obligations regarding accounting records is subject to a penalty of five thousand</p> |
|--|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                            |  |  |                                                                                           |                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------|--|--|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                            |  |  |                                                                                           | dollars.<br><br>These penalties apply to all types of entities and arrangements.                                                                                                                                                                                                                      |
| <b>C.2</b><br><br><b>The jurisdictions' network of information exchange mechanisms should cover all relevant partners.</b> |  |  | The Cayman Islands should continue to develop its EOI network with all relevant partners. | The Cayman Islands has continued to develop its EOI network and as at 19 <sup>th</sup> May has signed 23 TIEAs with relevant EOI partners (see Appendix 2). In addition, agreement has been reached on texts with eight countries and negotiations are currently underway with seven other countries. |

\*pdf copies of the amended laws referred to above, were also provided by the Cayman Islands with their letter to the Chair of the PRG dated 19 May 2011.

\*\* The Cayman Islands also provide an Appendix 2 to their letter of 19 May 2011. Appendix 2 set out all the EOI agreements signed to date by the Cayman Islands, as well as names of jurisdictions with which EOI agreements had been concluded but not signed, and jurisdictions with which negotiations were ongoing. As it is largely repetitive of the information provided in Annex 2 of this report, it has not been duplicated herein.

### Annex 3: List of All Information Exchange Mechanisms in Force

|     | Jurisdiction         | Type of EoI Arrangement | Date Signed | Date Entered Into Force |  |
|-----|----------------------|-------------------------|-------------|-------------------------|--|
| 1.  | Aruba                | TIEA                    | 20.04.2010  | Not Yet In Force        |  |
| 2.  | Australia            | TIEA                    | 30.03.2010  | 14.02.2011              |  |
| 3.  | Canada               | TIEA                    | 24.06.2010  | 01.06.2011              |  |
| 4.  | Curacao <sup>7</sup> | TIEA                    | 29.10.2009  | Not Yet In Force        |  |
| 5.  | Denmark              | TIEA                    | 01.04.2009  | 06.02.2010              |  |
| 6.  | Faroe Islands        | TIEA                    | 01.04.2009  | Not Yet In Force        |  |
| 7.  | Finland              | TIEA                    | 01.04.2009  | 31.03.2010              |  |
| 8.  | France               | TIEA                    | 05.10.2009  | 13.10.2010              |  |
| 9.  | Germany              | TIEA                    | 27.05.2010  | Not Yet In Force        |  |
| 10. | Greenland            | TIEA                    | 01.04.2009  | Not Yet In Force        |  |

<sup>7</sup> Pursuant to the TIEA made between the Cayman Islands and the former Netherlands Antilles. Following the dissolution of the Netherlands Antilles on 10 October 2010, two separate jurisdictions were formed (Curacao and Sint Maarten) with the remaining three islands (Bonaire, Sint Eustatius and Saba) joining the Netherlands as special municipalities. The TIEA concluded with the Kingdom of the Netherlands, on behalf of the Netherlands Antilles, will continue to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Sint Eustatius and Saba) and will be administered by Curacao and Sint Maarten for their respective territories and by the Netherlands for Bonaire, Sint Eustatius and Saba.

|     |                           |      |            |                  |  |
|-----|---------------------------|------|------------|------------------|--|
| 11. | Iceland                   | TIEA | 01.04.2009 | Not Yet In Force |  |
| 12. | India                     | TIEA | 21.03.2011 | Not Yet In Force |  |
| 13. | Ireland                   | TIEA | 23.06.2009 | 09.06.2010       |  |
| 14. | Japan                     | TIEA | 07.02.2011 | Not Yet In Force |  |
| 15. | Mexico                    | TIEA | 28.08.2010 | Not Yet In Force |  |
| 16. | Netherlands               | TIEA | 08.07.2009 | 29.12.2009       |  |
| 17. | New Zealand               | TIEA | 13.08.2009 | Not Yet In Force |  |
| 18. | Norway                    | TIEA | 01.04.2009 | 04.03.2010       |  |
| 19. | Portugal                  | TIEA | 13.05.2010 | 18.05.2011       |  |
| 20. | Sint Maarten <sup>8</sup> | TIEA | 29.10.2009 | Not Yet In Force |  |
| 21. | South Africa              | TIEA | 10.05.2011 | Not Yet In Force |  |
| 22. | Sweden                    | TIEA | 01.04.2009 | 27.12.2009       |  |
| 23. | United Kingdom            | DTC  | 15.06.2009 | 20.10.2010       |  |
| 24. | United States             | TIEA | 27.11.2001 | 10.03.2006       |  |

8

See previous footnote.

## **Annex 4: List of all Laws, Regulations and Other Material Received**

Companies (Amendment) Law 2010

Partnerships (Amendment) Law 2010

Exempted Limited Partnerships (Amendment) Law 2010

Trusts (Amendment) Law 2011.