



PORTCULLIS NEWS

MCI (P) 023/06/2019

31 October 2019

ECONOMIC SUBSTANCE DATA COLLECTION – CAYMAN ISLANDS

Thank you for your continued support of Portcullis.

You would have received previously our circulars on the introduction of Economic Substance requirements for companies conducting certain activities in the Cayman Islands. *The International Tax Co-operation (Economic Substance) Law, 2018* (“ES Law”) which came into effect 1 January 2019 requires applicable legal entities conducting certain types of relevant activity to demonstrate a degree of economic substance within the Cayman Islands. Economic substance is demonstrated by the conduct of certain Core Income Generating Activities (CIGA) that are of central importance to a relevant entity in terms of generating relevant income. The lists of CIGA for each relevant activity is included in the attached Economic Substance Notification (ESN) Data Collection form (Form) in respect of each type of relevant activity.

Your entity is required to file an ESN to the Department of International Tax Cooperation (DITC) by no later than 31 January each year. The ESN must be filed before your Entity can file its Annual Return. Please be informed that the ESN is required for ALL entities. A separate Annual Return must be filed within 12 months of your Entity’s financial year end only if it is determined that it conducts relevant activity.

The attached Form is to assist you with classification of your Entity’s activity to determine if it is within scope of the ES Law and therefore required to meet substance requirements. The information collected within the Form will also enable Portcullis to upload the required information for the ESN.

Required Steps

STEP 1:

- Use the ESN Decision Tree to help you determine if the company comes within scope of Economic Substance legislation.
https://portcullis.co/pdf/1_ESN_Decision%20Tree_Biligual.pdf
- Classify the Company’s relevant activity in the ESN Data Collection Form provided.
https://portcullis.co/pdf/2_ESN%20Data%20Collection%20Form_Cayman-Biligual.pdf
- There may be more than one relevant activity and each relevant activity must be identified

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STEP 2:

- Upon completion of all required Data fields, please submit the questionnaire to Portcullis by **no later than 31 December 2019** so that we may to prepare the required information for submission to the regulatory authorities prior to/together with your Entity's Annual Return

STEP 3:

- Prepare and sign the relevant Directors' resolution and retain it with a copy of the Form for your corporate records, a template of which is provided here

https://portcullis.co/pdf/3_DirReso_ES%20Law_CAY_English.doc

https://portcullis.co/pdf/3_DirReso_ES%20Law_CAY_Bilingual.doc

- The resolution ensures that proper authority is given to the person who supplies the required information.

You may access the full text of the Guidance – Economic Substance For Geographically Mobile Activities here (with amendments of 17 September 2019)

https://portcullis.co/pdf/4_Economic_Substance_-_Guidance_-_v2.0.pdf

https://portcullis.co/pdf/5_Economic_Substance_-_Guidance_-_v2.0_Amended%20issued%2017.09.2019.pdf

Please feel free to contact your relationship manager if you need any assistance with completion of the form or clarification of the requirements.

The Directors' resolution in Step 3 is also intended to provide documentary support that the Directors have considered the ES Law and note Company's obligations under it.



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Applicable Fees

We advise that Portcullis will be charging a fee USD300 for the initial collection, upload and submission of the information. Portcullis cannot be responsible for any determination as to whether the Company is within scope of the ES Law.

Please let us know if you require a formal assessment of your Company and we shall contact a suitable Cayman lawyer in which case separate charges will apply.

Accounts

Companies that come within scope of the ES Law will be required to submit an ES Annual Return within 12 months of its Financial year end comprising, amongst other things, information on the income and expense attributable to each relevant activity.

Financial accounts will therefore need to be maintained and may need to be provided upon formal request by the Tax Authority. We advise that proper accounting records should be maintained by the Company. If you require assistance with the preparation of accounts, please contact your relationship manager.

Data Protection Policy

Finally, we take this opportunity to advise that you may now access a copy of Portcullis's **PERSONAL DATA PROTECTION POLICY STATEMENT** on our website <https://portcullis.co/privacy/>

Thank you for your attention to this matter and we look forward to being of further assistance.

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