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### **PARTIAL DECLASSIFICATION**

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of document:	14626/17 RESTREINT UE/EU RESTRICTED
new status:	Public
Subject:	Responses to the letter by the Code of Conduct Group
	<ul style="list-style-type: none"><li>• Cayman Islands (part two of two)</li></ul>

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Delegations will find attached the partially declassified version of the above-mentioned document.



Brussels, 20 November 2017  
(OR. en)

14626/17

**RESTREINT UE/EU RESTRICTED**

**FISC 287**

**NOTE**

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From: General Secretariat of the Council

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To: Delegations

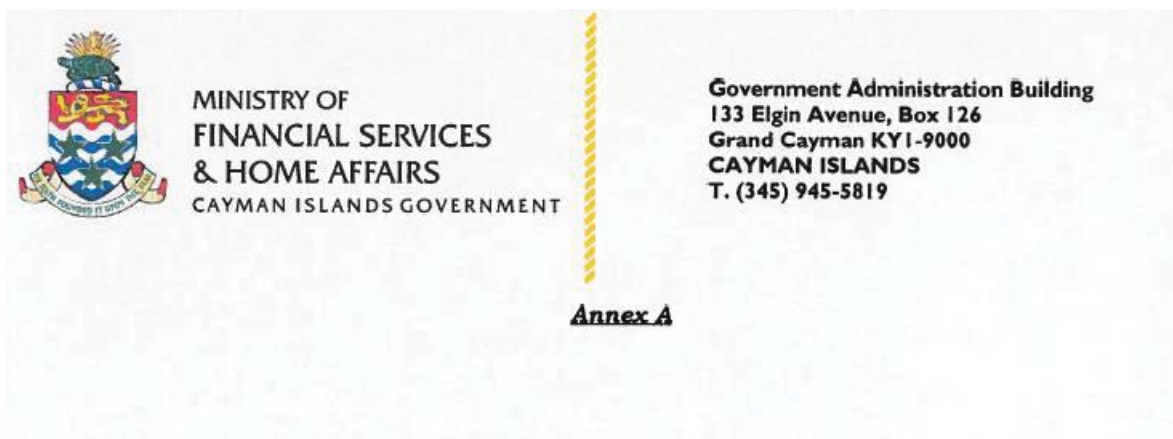
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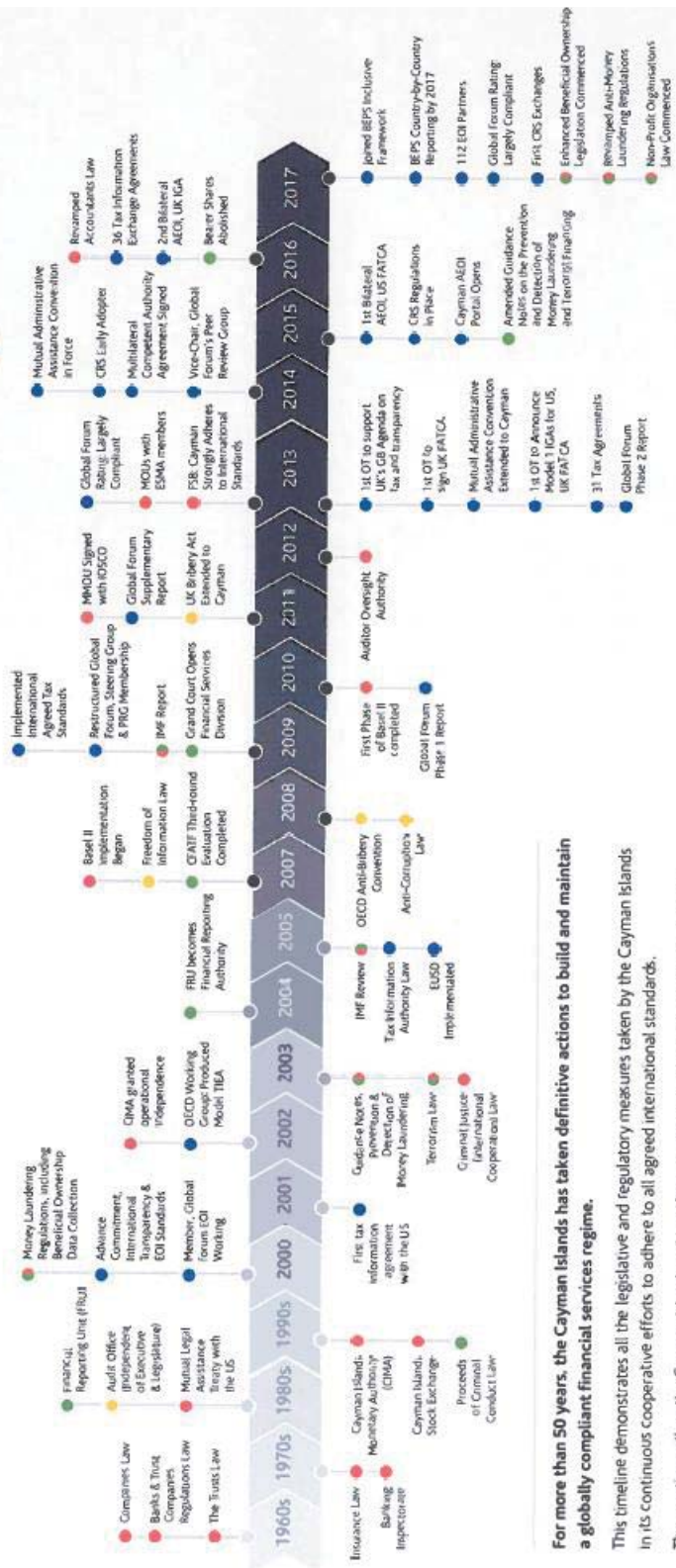
Subject: Responses to the letter by the Code of Conduct Group

- Cayman Islands (part two of two)

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Delegations will find attached the response from Cayman Islands (part two of two).





**For more than 50 years, the Cayman Islands has taken definitive actions to build and maintain a globally compliant financial services regime.**

This timeline demonstrates all the legislative and regulatory measures taken by the Cayman Islands in its continuous cooperative efforts to adhere to all agreed international standards. These actions allow the Cayman Islands to be self-supporting, and to provide economic value to other jurisdictions worldwide.

The Cayman Islands has a long-standing track record for being a co-operative jurisdiction, for seeking to adopt international standards of best practice in our financial services industry (regularly being an early-adopter) and earnestly responding to requests for constructive dialogue regarding international regulatory and transparency initiatives.

To this end, we would note that the Cayman Islands has signed 36 Tax Information Exchange Agreements (with a further 4 awaiting counter-signature by the other parties), has laws requiring automatic reporting to the European Union ("EU") tax authorities on Cayman bank accounts held by EU residents, has implemented measures regarding the U.S. Foreign Account Tax Compliance Act, has adopted the Organisation for Economic Cooperation and Development's ("OECD") Common Reporting Standard with 103 jurisdictions (112 total when Exchange of Information partners are factored in), is actively cooperating on initiatives such as the OECD Convention on Mutual Administrative Assistance in Tax Matters, has committed to the "country-by-country reporting" component of the OECD Base Erosion and Profit Shifting initiative, has a robust Anti-Money Laundering regime compliant with the Financial Action Task Force ("FATF") Recommendations (including covering designated non-financial businesses and unregulated investment entities) implemented by regulated service providers, and has implemented G8, EU and U.K. initiatives requiring the retention of beneficial ownership information so as to allow the relevant authorities to access this information promptly.

The Cayman Islands takes very seriously, and continues to enhance, its cooperation with the OECD (having been recognised for a number of years by the OECD as having appropriate transparency measures), the FATF, the International Monetary Fund ("IMF") and the governments of many jurisdictions (such as the U.S. and the U.K.). The Cayman Islands Monetary Authority ("**CIMA**") adheres to multiple international standards for banking, trust and corporate services, insurance, investments and securities and money services regulation. CIMA is also a full member of the International Organisation of Securities Commissions and the Offshore Group of Banking Supervisors and has executed numerous Memoranda of Understanding and Undertakings for cooperation and information exchange with equivalent regulatory agencies in foreign jurisdictions, including authorities such as the U.S. Treasury, the U.S. Federal Reserve, the U.S. Securities and Exchange Commission, the Commodity Futures Trading Commission and the regulatory authorities in each of the 28 EU Member States. The Cayman Islands, in consultation with CIMA and the private sector, has also introduced legislation to align with the principles underlying the EU's Alternative Investment Fund Managers Directive.

**Annex B**

## **Press release the NZ superfund:**

### **Guardians confirms past use of Appleby; confident no commercial implications from potential data breach (8Nov17)**

The Guardians of New Zealand Superannuation, the manager of the NZ Super Fund, confirmed today that it had previously used Appleby, the law firm at the centre of the 'Paradise Papers' document release.

The Guardians has used Appleby to assist it with local Bermudan law advice in respect of re-insurance contracts and establishment of separate accounts to hold re-insurance products as part of the Fund's natural catastrophe reinsurance mandates with external investment managers Elementum Advisers (2009/11) and Leadenhall (2013).

At this point Appleby is unable to confirm whether or not there has been a security breach of the Guardians' documents. However, given the nature of the work Appleby undertook, the Guardians is confident there will be no negative commercial implications for the Fund from the potential breach.

Based on information from the IRD, the Guardians also understands that a wholly owned Fund subsidiary, "NZSF Private Equity Investments (No. 1) Limited", is mentioned in the papers as a Limited Partner of Collier International Partners V (CIP V). Appleby was advising Collier in respect of this transaction, not the Guardians.

CIP V is a leading private equity fund which has commitments from almost 200 of the world's leading financial investors including U.S. state pension plans, sovereign wealth funds and insurance companies. The NZ Super Fund committed USD30 million to the USD4.8 billion Fund in February 2007 to provide access to the secondary segment of the global private equity sector. The investment has largely been realised, at an attractive return, and the NZ Super Fund's residual interest in CIP V was therefore held at zero value in its 2017 financial statements.

Appleby, as a law firm with numerous global clients, is also likely to have advised other parties with which the Guardians has dealt.

The use of collective investment funds domiciled in locations such as the Bermuda and the Cayman Islands is legal, common and widely considered best practice portfolio management. The collective investment fund provides a tax-neutral jurisdiction to ensure its collective income does not pay a second layer of foreign tax in relation to income on which all applicable taxes have already been paid at source. New Zealand income tax is also paid by the Fund on income from the collective investment vehicles. The Fund fully complies with its tax obligations both internationally and in New Zealand. For the 2017 financial year it was the largest New Zealand taxpayer, paying a record level of New Zealand income tax of \$1.2 billion.

The Guardians requires collective investment funds in which the NZ Super Fund invests to provide full tax transparency and information exchange for tax purposes, and compliance with all relevant laws. The NZ Super Fund does not invest in schemes or arrangements that use secrecy laws to conceal assets and income that are subject to tax, or which create false tax deductions.

The Guardians has a Cooperative Compliance Agreement with the IRD. Under this agreement we disclose tax positions taken on Fund activities, including the tax treatment of new investments, to the IRD, before we file our tax return. In this way we can be confident that the IRD agrees with our approach before we file our return.

Further detail on the Guardians' approach to tax is available in its 2014 Annual Report at pages 70-71.



**NOT DECLASSIFIED FROM THIS POINT UNTIL THE END OF THE DOCUMENT**

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