



FUND GOVERNANCE • REGULATORY COMPLIANCE

The Principal Point of Contact: a quiet but critical role

By Victor Murray | Director, MG Management Ltd.

Victor Murray of MG Management explains why the PPoC function has become one of the most important administrative appointments a Cayman Islands fund will make, and what directors and managers should look for when making it.

The Principal Point of Contact (PPoC) is, on the face of it, a simple administrative appointment. The role exists so that the Cayman Islands Tax Information Authority (TIA) has a single, named individual through whom it can correspond with a Reporting Financial Institution in respect of its obligations under the Common Reporting Standard (CRS) and the United States Foreign Account Tax Compliance Act (FATCA). In practice, however, the PPoC has become considerably more than a mailbox.

Since CRS and FATCA were first implemented in the Cayman Islands the regulatory expectations placed on the PPoC have evolved significantly. The Department for International Tax Cooperation (DITC) Portal is now the single channel through which a Cayman fund manages its FATCA Returns, CRS Returns, Compliance Forms, Filing Declarations and PPoC change notifications. The PPoC is the person whose access governs each of those submissions, and the person to whom the TIA will direct any query, deficiency notice or enforcement correspondence. A poorly managed PPoC function is therefore not a back-office inconvenience: it is an open exposure to the fund and its directors.

Why the PPoC matters

The PPoC sits at the intersection of three obligations that are easy to confuse but should be kept distinct. First, the fund's CRS and FATCA classification and reporting obligations under the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations and the equivalent FATCA Regulations. Second, the operational obligation to file accurate returns on the DITC Portal within the prescribed deadlines. Third, the governance

obligation on the directors to ensure that the fund is, and remains, compliant. The PPOC is the operational link between the second and third of these obligations and, in many cases, is also the practical custodian of the first.

For most hedge funds the day-to-day reporting work is performed by the administrator. That arrangement remains entirely appropriate and is one I would generally encourage. However, the appointment of the PPOC is a separate matter. The PPOC is named on the DITC Portal, receives all official communications from the TIA and is the only person who can authorise certain Portal-level actions, including the addition or removal of secondary users, changes to the Authorising Person and the submission of certain declarations. Where the administrator is not the PPOC, a clear delineation of responsibilities is essential, and the PPOC must remain sufficiently engaged to discharge his or her statutory function.

Who should hold the role

There is no single correct answer to the question of who should act as PPOC, but there are some clear indicators of suitability. The PPOC should be someone who has a working understanding of the fund's CRS and FATCA classification, who is familiar with the operation of the DITC Portal, and who has the time and standing to respond to TIA correspondence on a timely basis. The role calls for continuity. A PPOC who changes frequently, or who cannot be contacted when correspondence arrives, creates real regulatory risk for the fund.

It is permissible for a director to act as PPOC. As I have written elsewhere in relation to FATCA and CRS more generally, there is nothing to prevent a director from doing so, and in some structures it makes good sense. However, depending on the complexity of the reporting and the size of the investor base, it can be preferable for the administrator or manager, or a service provider with dedicated regulatory capacity, to discharge the function so that submissions on the Portal can be made without delay. What matters is that the appointment is deliberate, that the appointee has capacity to perform the role, and that the directors are kept informed.

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The MG Management PPOC service

At MG Management Ltd. we have provided CRS and FATCA reporting services since the inception of those regimes in the Cayman Islands and have followed each iteration of the rules as they have developed. That continuity, in our view, is the single most valuable thing a service provider can offer in this area. The CRS and FATCA frameworks are not static; the schemas, the validation rules, the Compliance Form requirements and the TIA's expectations have all changed materially since 2014, and they will continue to do so.

We provide the services of an experienced employee as the named PPOC for our clients. The appointment covers the full operational scope contemplated by the CRS Regulations and the FATCA Regulations, including:

- acting as the primary contact for FATCA and CRS compliance on the DITC Portal;
- receiving all regulatory communications from the Tax Information Authority and routing them appropriately within the fund's service provider network;
- managing user access on the Portal, including the addition and removal of secondary users and the maintenance of the Authorising Person details;
- facilitating the submission of FATCA Returns, CRS Returns, Compliance Forms and Filing Declarations within the prescribed deadlines;
- processing and notifying any change of PPOC details required under the Regulations; and
- providing general support for CRS and FATCA compliance in accordance with the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, as amended.

In each engagement we work alongside the fund's administrator, manager and other service providers. The PPOC role is not a substitute for the administrator's reporting work; rather, it is the regulatory interface that ensures that work is properly received, acknowledged and, where necessary, defended before the TIA.

Practical considerations for directors

Directors should treat the PPOC appointment as a substantive board decision, not as an administrative box-tick. In my experience the questions worth asking at the point of appointment are the same questions that should be asked periodically thereafter. Is the PPOC sufficiently familiar with our fund's classification and reporting profile? Has the PPOC raised any portal communications or deficiencies that the board should be aware of? Are submissions being made within the prescribed deadlines? Has the PPOC's contact information on the Portal been kept current?

Directors should also be alive to the consequences of getting the appointment wrong. Failures in CRS and FATCA reporting can attract administrative penalties under the relevant Regulations and, in more serious cases, can expose the fund and its officers to enforcement action. The TIA has been increasingly active in pursuing late or deficient filings, and Compliance Form review has become a recognised supervisory tool rather than a procedural formality. A board that has appointed a PPOC and then left the role unmonitored is in a weaker position than one that has appointed a competent service provider and receives regular reporting on the Portal status of the fund.

A maturing regime

When CRS and FATCA were first introduced there was a degree of latitude granted to funds that were finding their way through unfamiliar reporting obligations. That latitude has narrowed. The DITC has, in recent years, refined its guidance, tightened its validation checks and made clear that the Compliance Form is to be treated as a substantive self-assessment rather than a formality. The role of the PPOC has matured in step with that development. What was once a notification function has become, in effect, a continuous compliance interface.

For Cayman funds and their boards, the PPOC is therefore worth more deliberate attention than it has historically been given. The right appointment will not, on its own, make a fund compliant: that remains a matter for the directors, the manager and the administrator working together. But the right appointment will give the board confidence that nothing is falling between the cracks, that correspondence from the TIA is being received and acted upon, and that filings are being made on time and in the proper form. In a regulatory environment that continues to demand more, not less, of fund directors, that confidence is not a small thing.

ABOUT THE AUTHOR

Victor Murray is a Director of MG Management Ltd. and President of the Cayman Islands Directors Association (CIDA). He has been resident in the Cayman Islands since 2002 and is admitted as a lawyer in New York and as a solicitor in Scotland. He has extensive offshore fund experience, formerly as in-house counsel at Citco and thereafter as an independent director of numerous hedge funds and investment vehicles. He can be contacted at victor.murray@mgcayman.com.