



The Real Truth: Debunking 5 myths about Cayman funds

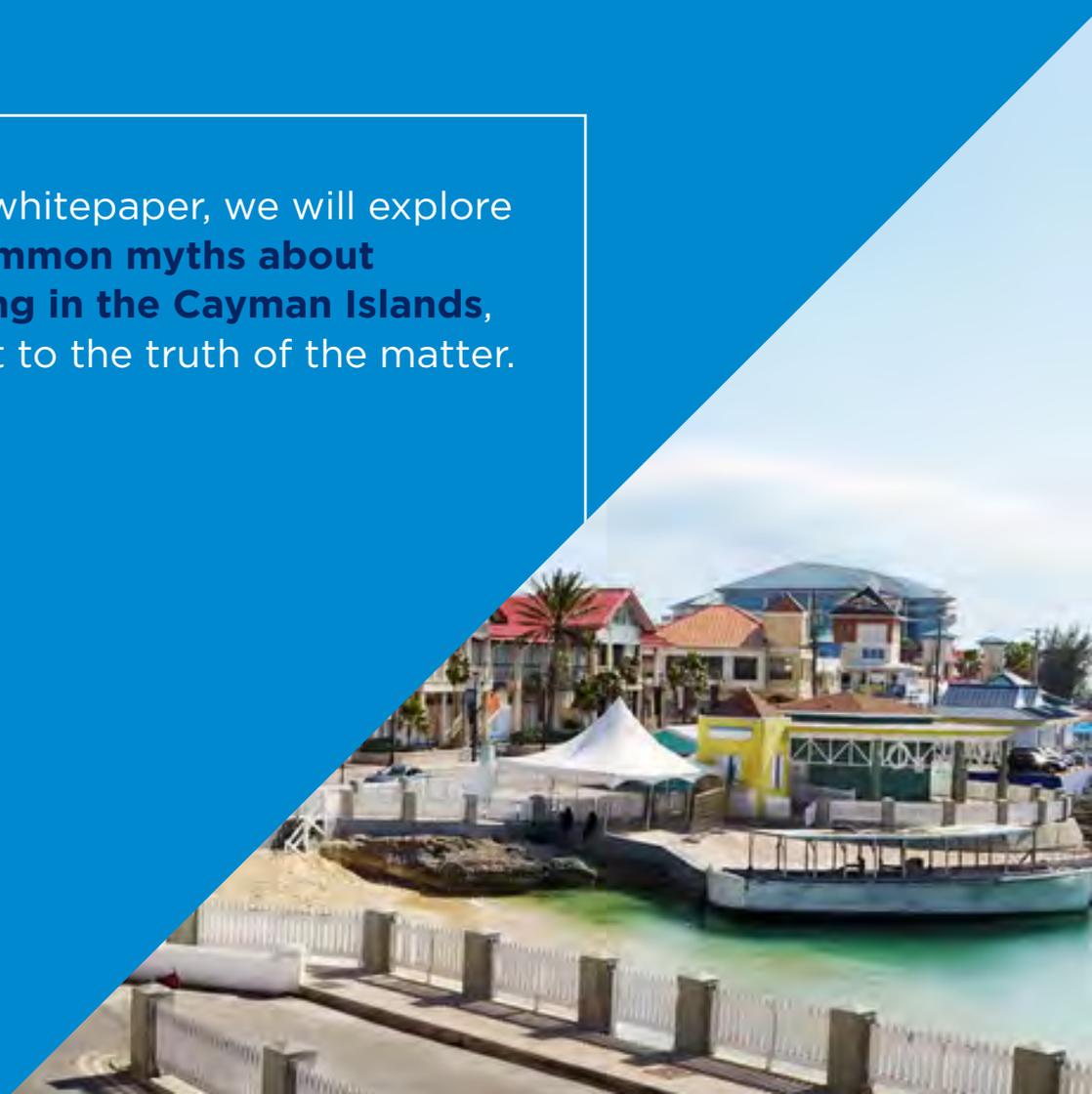


The **Cayman Islands** is among the world's most popular offshore investment locations. As of 2017, the Cayman Island Monetary Authority (CIMA) estimates there are some 10,559 active funds within their jurisdiction.

With assets in these funds totalling more than \$6.1 trillion in value, there are clear-cut benefits to domiciling a fund in the Cayman Islands. However, Cayman funds tend to draw negative press in many corners, the majority of which is simply not consistent with the facts.

When you cut through the hype, it is clear that much of this negative narrative simply isn't true.

In this whitepaper, we will explore **five common myths about investing in the Cayman Islands**, and get to the truth of the matter.



MYTH 1:

Cayman funds are not subject to regulation

There is a common misconception that Cayman funds are a way for investors to avoid stringent requirements that typically apply elsewhere in the world.

This could not be further from the truth. CIMA and administrators of Cayman funds (like Mainstream Fund Services) must comply with some of the world's strictest legislation. As a jurisdiction, the Cayman Islands is willingly subject to:

- The Foreign Account Tax Compliance Act (FATCA).
- The OECD's Common Reporting Standard (CRS).
- Securities and Exchange Commission Custody rulings.
- The Public Company Accounting Oversight Board.
- The Alternative Investment Fund Managers Directive (AIFMD).
- The EU General Data Protection regulation (GDPR).
- Limited Liability Partnership Law.
- The International Tax Co-Operation (Economic Substance) Law.

And that is just the beginning. Both the European Union and Financial Action Task Force have found the Cayman Islands to be wholly compliant with their rules and regulations. As one of the world's largest offshore investment jurisdictions, the Caymans have passed every test so far.

Further, CIMA is in the middle of broadening its existing anti-money laundering regulations in line with new best practice standards. These measures apply to both financial services providers and investors to prevent and detect money laundering or terrorism financing in the Cayman Islands.



MYTH 2:

Cayman funds have no transparency

Another important set of regulations that Cayman funds must adhere to are Ultimate Beneficial Owner (UBO) rules. Under these, fund managers or administrators must regularly communicate the identity (or identities) of fund owners and those who receive income from an investment.

At the core of UBO regulations is tax domicile disclosure and they also showcase the kind of transparency that Cayman Island funds adhere to on a daily basis. A common myth levelled at the Cayman Islands is a lack of transparency, which is an unfair assessment.

Beyond UBO transparency, the Caymans have been amongst the first to sign up for all new Exchange of Information initiatives and have stringent requirement put on all managed funds.

In fact, it can be argued that the Cayman Islands have adopted more transparency rulings, such as CRS or GDPR, than some OECD tax jurisdictions like the United States (which has not signed up to any international transparency initiatives, preferring to use their own US-centric FATCA requirements).



MYTH 3:

Regulators take a light touch in the Caymans

As a follow-on from the first myth—if critics do concede that regulation of Cayman funds occurs, the next step is often to claim that regulators turn a blind eye to illegal practices or tax evasion tactics across Cayman funds.

Once again, the truth is in the extensive number of anti-corruption initiatives that CIMA has imposed on funds operating in the Cayman. As the largest tax jurisdiction for offshore investments in the world, the Cayman Islands is naturally subject to a higher degree of scrutiny than other areas.

This is particularly evident in the 100-plus tax authorities that the Caymans have willingly disclosed information too globally. Tighter regulation is also exemplified in a recent UK Government step that requires British Overseas Territories like the Caymans to create public registers of beneficiary information.



MYTH 4:

Cayman funds let investors skip all their taxes

This is perhaps the most common misconception—that by investing in a Cayman fund, investors somehow get to evade all of their taxes.

The Cayman's early adoption of CRS is a central plank in tackling global tax evasion. More than 90 tax authorities already exchange tax information with the Cayman Islands.

Cayman fund offer documents need to comply with CRS and have suitable disclosure and risk warnings that an investor's information may be automatically exchanged with their country of tax residence.

So while there are clear tax neutral benefits to using offshore investment funds (not just in the Caymans but also in other leading international financial centres such as Ireland, Luxembourg and Hong Kong), every single investor will still

be subject to taxation, as it applies to their particular circumstances.

Think of a Cayman Island fund as a look through vehicle. When investors make a transaction through a Cayman- based entity, the fund must still pay taxes associated with the investments in accordance with the laws of the place where the investment is made.

Likewise, and unquestionably since the introduction of tax transparency, any income or capital gain that the investor receives or makes will be subject to taxation in their country of receipt.

While there is no additional taxation placed on the Cayman fund itself, the investor would take their tax liabilities to their country of tax residence. This allows investors from multiple countries to co-invest and not encounter double taxation.

MYTH 5:

You can only invest a certain way through a Cayman fund

For those who do understand the stringent regulations to which Cayman funds adhere, another myth becomes common—that investors are restricted in how they can invest.

In truth, Cayman funds afford investors and fund managers more flexibility and freedom in relation to investment strategies than most other tax jurisdictions in the world. This is because common government-mandated over-arching prescriptive investment frameworks including detailed investment restrictions (i.e. diversification requirements) do not apply to Cayman funds. Cayman Islands' law allows for superior legal structuring to encourage the capital flow to the jurisdiction in which the investors want to invest in.

In this way, the Cayman regime allows managers and investors to conduct transactions with maximum flexibility.



The truth is out there. Are you hearing it?

When it comes to the private hedge fund space, the Cayman Islands is the biggest location for managed investments in the world. As aforementioned while Delaware, Ireland, Luxembourg, Hong Kong, Dubai and the like all play host to numerous funds, the Caymans tend to be the prime recipient of activity and according to the IMF is the fifth largest financial centre in terms of foreign portfolio investment, itself worth US\$2.6 trillion.

As such, it's easy to understand where the myths come from. The ability to be tax neutral and gain unprecedented investment flexibility can, for many, seem too good to be true—or illegal. But this is an unfair assessment of a tax jurisdiction and country that must stay in line with some of the world's strictest regulations.

Every opportunity to invest must be fairly regulated, Cayman registered funds have to adhere with the highest standards of international corporate governance principles.

This ongoing compliance is supported by the appointment of independent service providers including an auditor, custodian, independent directors and a fund administrator.

To ensure your fund stays within the rules and regulations, your service providers need to understand the rules and regulations, verify transactions, independently price fund's and safeguard the fund's assets on behalf of investors.

This is the difference that Mainstream Fund Services can make. With decades of experience dealing in Cayman funds, we offer independence and expertise to cut through the red tape and keep your fund on the right side of the rules.

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