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“Paradise Papers” Will Lead to Increased Regulatory Scrutiny of Cross-Border Banking

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Background
On November 5, 2017 the International Consortium of Investigative Journalists (“ICIJ”) released the “Paradise Papers,” a collection of 13.4 million files that appear to have been hacked from offshore service providers and company registries in 19 tax haven jurisdictions. Of these 13.4 million files, approximately seven million were obtained from Appleby, a prominent offshore law firm, and include information regarding at least 31,000 U.S. citizens, residents and companies. The ICIJ is the same organization responsible for coordinating the release of the now infamous “Panama Papers.”

What to Expect
Although confidential documents leaked by the ICIJ are often assumed to reveal unlawful activities, many, if not most, of the Paradise Papers will likely reveal legitimate tax planning activities. However, like the Panama Papers, this latest leak is likely to result in increased political and regulatory scrutiny over cross-border tax planning structures. Financial institutions with offshore accounts should be prepared to receive inquiries from regulators about how many of their clients are referenced in the leaks, or were serviced by Appleby and other providers associated with the Paradise Papers. These institutions should also make sure that they have policies, procedures and training in place that are designed to avoid any knowing facilitation of illegal tax evasion by their clients.

Next Steps
In light of the Paradise Papers’ connections with the Appleby law firm, financial institutions should consider searching their client database for clients who received offshore services from Appleby in order to get ahead of regulatory and media inquiries. Consideration also should be given to having procedures to assess compliance issues associated with current clients who have been identified as potential tax evaders in the Paradise Papers, and if appropriate, to remediate those accounts. Regulators are likely to expect that most financial institutions with offshore clients already have such policies, procedures and training in place because of the Panama Papers and other similar disclosures.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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