

Delivering the Common Reporting Standard (CRS)

Automatic exchange of information, re-using FATCA and minimising costs

August 2015

Contents

- ▶ Section 1 The Common Reporting Standard (CRS)
- ▶ Section 2 CRS gap analysis
- ▶ Section 3 Impact assessment
- ▶ Section 4 Implementation of automatic exchange of information (AEOI) (CRS) in the region

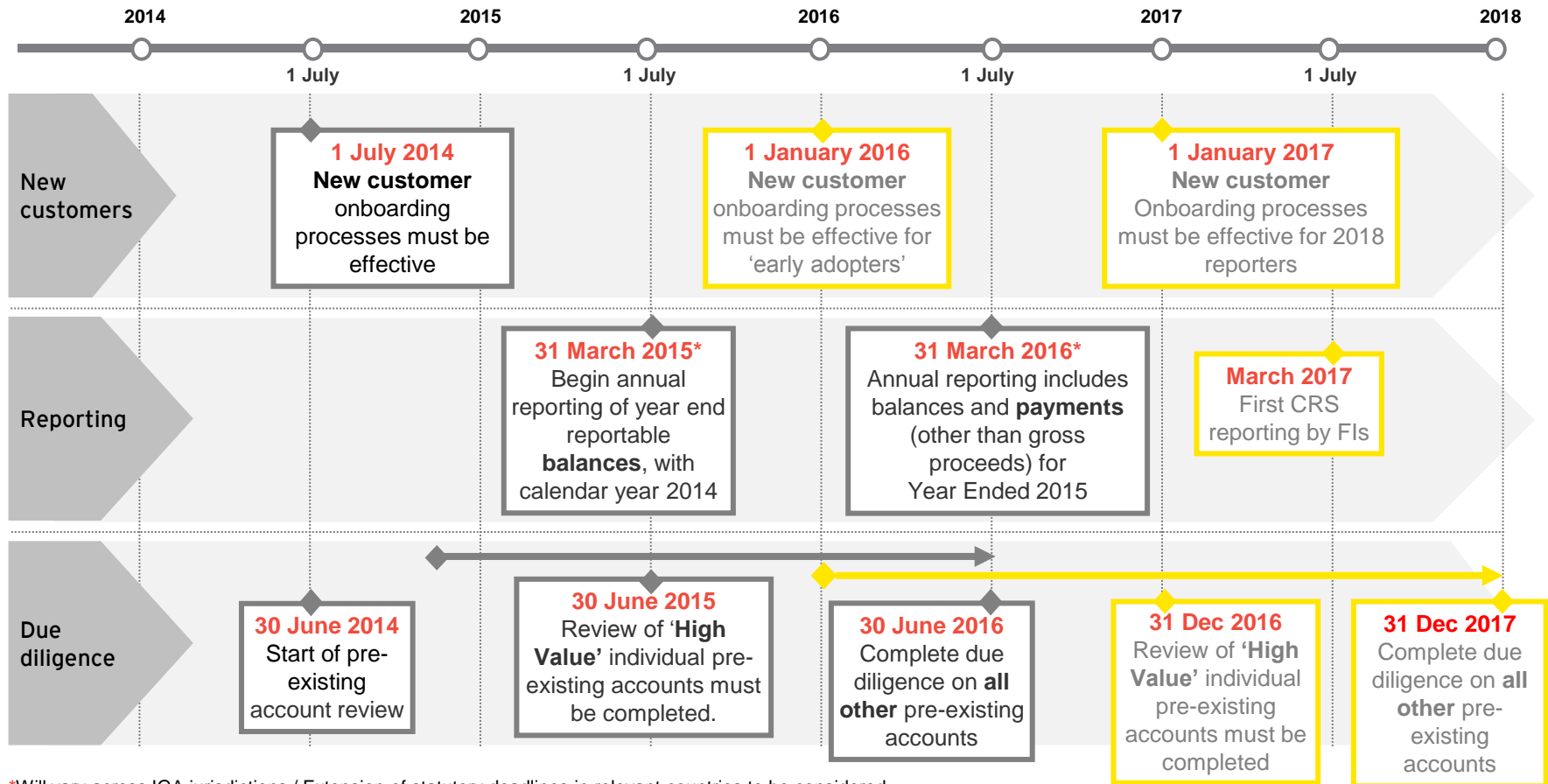
Section 1 - The Common Reporting Standard (CRS)



Background

- ▶ The Organisation for Economic Co-operation and Development (OECD) has developed a standard for global information exchange which has been widely endorsed:
 - ▶ On 21 July 2014 the OECD issued the Standard for Automatic Exchange of Financial Information in Tax Matters
 - ▶ The Standard is a global 'Foreign Account Tax Compliance Act (FATCA)-like' automatic information exchange regime aimed at preventing off-shore tax evasion and maintaining the integrity of tax systems
 - ▶ The Standard includes the Model Competent Authority Agreement (CAA), the Common Reporting Standard (CRS) and accompanying Commentaries
 - ▶ More than 90 jurisdictions have already committed to the swift implementation of CRS. Of these, over 50 are committed to first exchange in 2017
 - ▶ In early adopter jurisdictions, new account opening procedures will need to be in place from 1 January 2016

Key dates and requirements



*Will vary across IGA jurisdictions / Extension of statutory deadlines in relevant countries to be considered.

□ FATCA IGA

□ CRS

FATCA IGA Countries

Anguilla	Croatia	Gibraltar	Jersey	Norway	Spain	Argentina
Austria	Curaçao	Greece	Latvia	Poland	Sweden	Faroe Islands
Barbados	Cyprus	Greenland	Liechtenst'n	Portugal	Trin. & Tobago	Niue
Belgium	Czech Rep.	Guernsey	Lithuania	Romania	Turks & Caicos	Uruguay
Bermuda	Denmark	Hungary	Luxembourg	San Marino	UK	
BVI	Dominica	Iceland	Malta	Seychelles		
Bulgaria	Estonia	India	Mauritius	Slovak Rep.		
Cayman Isl.	Finland	Ireland	Mexico	Slovenia		
Chile	France	Isle of Man	Montserrat	South Africa		
Colombia	Germany	Italy	Netherlands	South Korea		

2017 adopters

59

countries will start CRS
compliance from
1 January 2016

Information correct as at January 2015

Antigua	Canada	Hong Kong	Malaysia	Singapore	Turkey	Albania	Cook Islands*	Russia
Australia	China	Indonesia	New Zealand	St. Kitts	UAE	Andorra	Marshall Isl.	Samoa
Bahamas	Costa Rica	Israel	Panama*	St. Lucia		Aruba	Monaco	Sint Maarten
Bahrain*	Grenada	Japan	Qatar	St. Vincent		Belize	Nauru*	Vanuatu*
Brazil	Ghana	Macao	Saudi Arabia	Switzerland		Brunei Darussalam		

2018 adopters

*Date to be confirmed

Algeria	Cambodia	Honduras	Moldova	Serbia	Ukraine	Kuwait	United States**
Angola	Dom. Repub.	Iraq	Montenegro	Taiwan	Uzbekistan	Nigeria	Venezuela
Armenia	Georgia	Jamaica	Nicaragua	Thailand		Pakistan	Vietnam
Azerbaijan	Guyana	Kazakhstan	Paraguay	Tunisia		and any other country not listed	
Belarus	Haiti	Kosovo	Peru	Turkmenistan			
Cabo Verde	Holy See	Kuwait	Philippines				

No CRS commitment

** The United States has indicated support for the CRS but remains committed to reciprocal exchange under FATCA

CRS key requirements

	In scope				Out of scope			
Reporting financial institutions	<ul style="list-style-type: none"> ▶ Depository institutions ▶ Custodial institutions ▶ Investment entities ▶ Specified insurance companies 				<ul style="list-style-type: none"> ▶ Government entities, international organisations and central banks ▶ Broad participation retirement funds, narrow participation retirement funds, qualified credit card issuers and pension fund of first bullet point ▶ Entities exhibiting low risk of tax evasion (defined by local law) ▶ Exempt collective investment vehicles ▶ Trusts if the trustee is a reporting financial institution reporting necessary information on behalf of the trust 			
	Reportable accounts	<ul style="list-style-type: none"> ▶ Depository accounts ▶ Custodial accounts ▶ Cash value insurance contracts ▶ Annuity contracts ▶ Certain equity or debt interests in a financial institution 				<ul style="list-style-type: none"> ▶ Certain retirement or pension accounts ▶ Certain tax favoured savings ▶ Certain life insurance contracts ▶ Estate accounts ▶ Other accounts presenting low risk of being used to evade tax (as defined by local law) 		
Reportable information ¹		Name	Address	Tax payer identification number	Date of birth (individuals)			
	Account number	Account balance	Gross amounts paid to account in year	Total gross proceeds paid or credited to the account				

¹ Information will be exchanged between the competent authorities within 9 months after the end of the calendar year

Section 2 - CRS Gap Analysis



CRS compared to FATCA

	FATCA	CRS
De minimis limits	US\$50,000/US\$250,000	No de minimis (with the exception of pre-existing entities with a value lower than US\$250,000)
Indicia	Focused on US citizenship	Focused on tax residency
Due diligence	Separate due diligence for pre-existing and new accounts, and for individuals and entities. Significantly different processes between FFI Agreement and Model 1 IGA	Due diligence modelled on IGA, but with a number of key differences
Who is a FI?	Most financial institutions unless specifically exempted as being lower risk	FATCA exemption removed per CRS thus include smaller local entities excluded under FATCA => Flexibility for local guidance to define specific exemption for low risk entities
Account scope	Most banking products unless considered to be low risk, some insurance, most asset management products in scope	Banking and Asset Mgmt. broadly similar, though regularly traded exemption removed. Many jurisdictions will have no back book exemption for Insurance
Reporting	Primarily to US (some US reporting obligations to non-US). Account balances from 2014, with income and sale proceeds phased in	Many-to-many, via local authority. Account balances, income and sale proceeds from day one

High-level gap analysis between FATCA IGA and OECD CRS

Area	Sub area	Key differences	Impact	
General	Timeline	Potentially staggered approach for CRS implementation as and when jurisdictions sign Competent Authority Agreements (CAA)	Complexity of implementation, i.e., local vs. hub and spoke model	
	Reportable jurisdictions	Increased scope of implementation with CRS currently supported by 90+ jurisdictions	Legislative interpretation required in numerous locations	
	Specified/ Reportable persons	Under the CRS, reportable person covers an increased scope of individuals and entities to be classified. For the CRS, investment entities in non-participating jurisdictions will be deemed passive non-financial entities (NFEs) and the controlling person(s) will be required to be identified	Larger volumes of clients to classify and report on May no longer rely on tactical approach	
	Non-compliant financial institutions (FIs)	Withholding tax deterrent not applied to FIs located in non-participating jurisdictions. See Withholding section for further information	No withholding, but local enforcement powers	
	IGA/Agreements	Potential for multi-lateral CRS Competent Authority Agreements No direct reporting from FIs to other Competent Authorities under the CRS	Legislative interpretation required in numerous locations Only one report required, but schema fields require analysis and may vary between locations	

High-level gap analysis between FATCA IGA and OECD CRS (cont'd)

Area	Sub area	Key differences	Impact
Financial institutions (FI)	Reporting financial institutions	Relevant holding companies and treasury companies are not deemed reporting FIs under the CRS	Need to revisit entity classification
	Non-reporting financial institutions	The definition of a non-reporting FI is more limited under CRS FIs with a local client base, low value accounts and non-profit organisations are not automatically exempt under the CRS Deemed Compliant FIs are not replicated in the CRS although CRS allows low risk entities to be defined as exempt under local jurisdiction	FIs will require analysis for differences in classification between FATCA and the CRS

Area	Sub area	Key differences	Impact
Accounts	Financial accounts	Product scope is broadly consistent (depository, custodial etc.)	Product analysis to be revisited, but will be largely similar
	Excluded accounts	The definition of an exempt product under CRS is narrower than under FATCA e.g., Certain low risk products are not exempt under CRS	Some products excluded under FATCA will be reportable under CRS
	Industry variation	Insurance: Back book exemption Asset Management: Regularly traded exemption	Wider scope than FATCA

High-level gap analysis between FATCA IGA and OECD CRS (cont'd)

Area	Sub area	Key differences	Impact	
Due diligence- Individuals	Individuals – Pre-existing Accounts	All pre-existing individual accounts are within scope under the CRS	Under CRS you can rely on residence address to determine tax residency, no need to undertake indicia search	Green
	Individuals – New Accounts	All New Individual Accounts are within scope under the CRS	Need to make amendments to all accounts onboarding	Yellow
	Self-certification - Individuals	Citizenship not required in CRS self-certification	Require tax residency for all new accounts	Green
	Indicia search – Individuals	CRS could dramatically reduce the number of pre-existing individuals that need to be subject to full indicia review.	<i>But note: continued need for enhanced review</i>	Yellow

Area	Sub area	Key differences	Impact	
Due diligence- Entities	Entities – Pre-existing accounts	Under the CRS accounts exceeding \$250,000 must be subjected to due diligence. There is no upper threshold in CRS	Classifications differ to FATCA. Some redesign likely to be required	Yellow
	Entities – New accounts	No difference	Cannot rely on W-series forms. Significant redesign effort may be required	Red
	Self-certification - Entities	Self-certification always required to identify tax residency for new entities for the CRS	Required to collect self certification on residency	Yellow
	Indicia search - Entities	No set indicia search published in CRS however information maintained for regulatory or customer relationship purposes may be relied upon	End result is expected to be similar to FATCA	Green

High-level gap analysis between FATCA IGA and OECD CRS (cont'd)

Area	Sub area	Key differences	Impact
Reporting and withholding	Reporting	Broadly similar, however, a comparative analysis of the Internal Revenue Service (IRS) FATCA and OECD schema illustrates deviations in data elements between the two schemas, e.g. one third only appear in one of the schemas.	<p>Volumes of reportable data and accounts will vastly increase</p> <p>Unlikely to be able to rely on tactical reporting solution</p> <p>Detailed analysis of the schemas required</p> <p>Multiple data sources required to inform reporting engine</p>
	Withholding	No withholding under CRS. Implementing jurisdictions are expected to place local effective enforcement provisions to address non-compliance	No requirement to build withholding capability

Section 3 - Impact assessments



Engaging with tax authorities

Like FATCA, much of the guidance for CRS will be determined by tax authorities in relevant jurisdictions. Tax authorities will have an opportunity to carve out of coverage low risk products while suggesting workable operational requirements. Add to this the overlay of the OECD commentaries and model agreements, and a successful program will need to manage multi jurisdictional engagement.

A successful lobbying approach has three key requirements:

- ▶ Know the rules and the risks for local variations
- ▶ Know the products
- ▶ Know right way to approach tax authorities

Possible lobbying issues:

- ▶ Ensure consistent reporting format, at the very least on a region-by-region basis;
- ▶ Engage with local tax authorities on low-risk products which might be scoped out, and ensure a consistent implementation of the rules globally;
- ▶ Ensure that the insurance back book exemption is preserved outside of the EU countries;
- ▶ Amend the treatment of the US as a non-participating country, avoiding the requirement to look through investment entities resident in the US;
- ▶ Encourage the early issuance of guidance and reporting schemas given short timeframes for delivery;
- ▶ A globally consistent approach to monitoring compliance and assurance by tax authorities;
- ▶ Engage with local competent authorities to ensure a consistent implementation of rules globally emphasising the costs associated with a uncommon implementation of the CRS. There are 56 areas where explicit discretion is given to local tax authorities in implementing the CRS.

Asset Management



Specific lobbying

1 Discussion with fund jurisdictions re approach where a fund is in an early adopted county but distributed to non-early adopter.

2 Engage on treatment of any listed vehicles where the loss of the regularly traded exemption will increase burden, and where that burden will fall.

Relevant areas	Key differences between CRS and FATCA	RAG	Impact	2015 Impacts
In scope products	CRS has no exemption in the definition of financial account for equity and debt interests that are regularly-traded.	Red	Likely to have a significant impact of a number of vehicles, including securitisations. Critical issue for registrars.	Review out of scope product analysis in the light of CRS definitions and commentaries. Identify if there are key exemptions.
Pre-existing accounts	CRS has no de minimis threshold for pre-existing account due diligence.	Yellow	Individuals on the share register, who were previously below de minimis level will have to be reviewed	Redesign identification process based on CRS requirements (tax residency based) for direct Investors.
New accounts	CRS will require self certification is required regarding general tax residence, not just for US citizens.	Yellow	Where on-boarding is done by distributors there will be a need to define the approach and relationship with them considering the need for self certification.	Need to make sure that local rules are as similar as possible to be able to define general approach in the Region.
Reporting	Wider scope of jurisdictions to report. Investment entities in non-CRS countries (including US) need to be treated as passive NFEs.	Green	There is potential for significant increases in the number of reports required. However, intermediated distribution entities should limit this.	Defining the potential magnitude of the accounts to be reported based

Section 4 - Implementation of AEOI (CRS) in the region



Potential challenges in adopting CRS

- ▶ Information collection permitted under legal framework in local jurisdiction?
- ▶ To what extent should due diligence be performed?
 - ▶ Narrow vs wider approach
 - ▶ Compliance costs
- ▶ Self-certification for individuals and entities
 - ▶ Obligations of FIs (reasonableness test)
 - ▶ Tax residency (e.g. dual tax residencies)
 - ▶ Timeline (when to start obtaining?)

Classification of entities and accounts

- ▶ Clients likely an investment entity (FI) or non-financial entity
 - ▶ Whether it is managed by individual or and FI
 - ▶ Type of investments (e.g. financial assets) and whether these investments are managed by FIs
- ▶ Reportable persons
 - ▶ FI – Reports on relevant information of account holder (including financial account - equity or debt interest).
 - ▶ NFE – Reports on “Controlling Person(s)”

What's next for Singapore and us?

- ▶ Inland Revenue Authority of Singapore (IRAS) public consultation
 - ▶ Active involvement in the process
 - ▶ Feedback / wish list

- ▶ Areas for your consideration
 - ▶ Client's activities and structuring
 - ▶ Client's awareness of their obligation to provide self certification
 - ▶ Penalties for non-compliance

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