THE "BASICS" OF COMMON REPORTING STANDARDS

Cross-border tax evasion is one of the vexed issues faced by the national governments worldwide.

As globalisation of business transactions continues to advance, in order to address tax evasion and avoidance through offshore financial structures, the Organisation for Economic Cooperation and Development ("OECD") developed the "Common Reporting Standards" ("CRS") in July 2014, a global reporting standard for automatic exchange of financial account information.

Commonly referred as Global FATCA, the CRS is based on the US Foreign Account Tax Compliance Act ("FATCA"), however, the scope for CRS is much greater than for FATCA to accommodate the requirement for various countries.

What is AEOI/CRS?

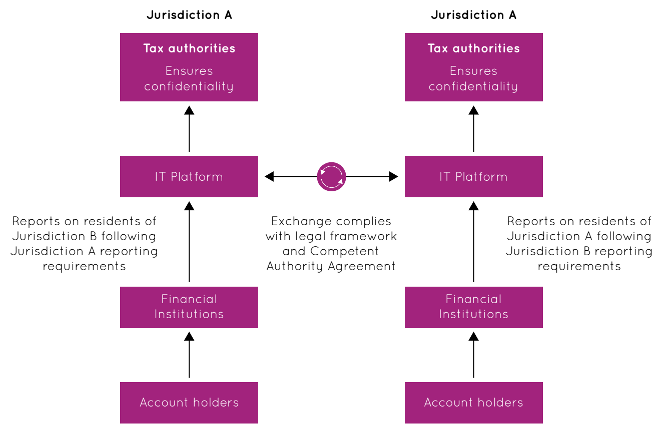
AEOI stands for automatic exchange of financial account information, and CRS stands for Common Reporting Standards.

The flowchart explains AEOI framework.

AEOI/CRS is an international standard which calls on jurisdictions to obtain information from their financial institutions and automatically exchanges that information with other CRS participating jurisdictions on an annual basis. The Standard sets out following:

- Financial account information to be exchanged;
- Financial institutions required to report;
- Different types of accounts and taxpayers covered;
- Common due diligence procedures to be followed by financial institutions.

As a global tax information sharing initiative, CRS aims to report the assets and incomes of accounts held overseas introducing a global standard for the way we exchange financial information. Financial institutions must report on all account holders who reside (and pay tax) in any of the countries in scope for CRS other than its home country.



What does CRS mean to the UAE?

In December 2016, the UAE's Ministry of Finance issued Guidance Notes for the Common Reporting Standards in order to provide information in relation to the implementation of AEOI for tax purposes. More than 100 countries including UAE have committed to implement CRS with the first exchange of information by UAE to take place by September 2018.

The Ministry of Finance, being the Competent Authority, is regulating the CRS implementation along with the following financial institution's regulators assisting in the process:

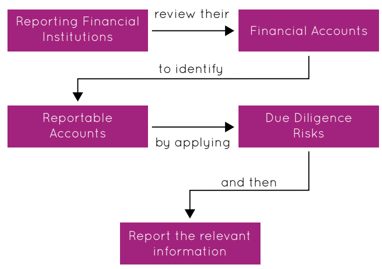
- UAE Central Bank
- Securities and Commodities Authority
- Insurance Authority
- Dubai International Financial Centre ("DIFC")
- Abu Dhabi Global Market ("ADGM")

The Regulators have also provided a framework on their website for CRS implementation and reporting by the Financial Institutions.

By virtue of the above, the Reporting Financial Institutions as defined under the CRS are required to comply with the CRS guidelines along with first reporting of the CRS information to its regulatory authority by 30 June 2018. However, the Financial Institutions were required to have the preparedness for CRS implementation as early as 1 January 2017.

How does CRS work?

The figure below explains how CRS works.



For implementing CRS, the following questions need to be addressed:

- <u>Who</u> has reporting obligations?
- <u>What</u> types of accounts are subject to control?
- <u>What</u> accounts are reportable?
- <u>Which</u> review procedures (due diligence rules) are applicable?
- <u>What</u> information need to be reported?

For the purpose of understanding and implementation of the CRS, OECD has published following documents:

1. Model Competent Authority Agreement (CAA) - the international legal framework for the automatic exchange of CRS information
2. The Common Reporting Standard (CRS) – reporting and due diligence rules
3. The Commentaries to the CAA and the CRS – explanatory material assisting in the interpretation
4. The CRS XML Schema User Guide – the technical solutions to report information in an IT-based and standardized manner

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Whom does the CRS affect and how?

CRS implementation has a profound impact on the financial services sector, mainly banking and other financial institutions and their customers. Whereas the level of impact varies depending on the size, customer base, operating divisions, global base, the compliance concerns remain similar for all financial institutions.

WHO is impacted?

- *Reporting Financial Institutions*

There are four broad categories of financial institutions covered by CRS regulations – a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company. Unless the financial institutions are exempted from CRS, they would be regarded as Reporting Financial Institutions.

Given the categories and its meaning under the CRS regulations, it would impact banks, custodians, non-bank deposit entities, insurance companies, collective investment vehicles, mutual fund, private equity funds, hedge funds, discretionary investment managers, brokers, trusts, etc.

CRS impacts Reporting Financial Institution which is either:

a. a resident of the UAE and excludes its foreign branches; or
b. the non-resident entity that has set-up a branch in the UAE.

- *Customers*

The customers of the Reporting Financial Institutions are impacted and include both individual and entity accountholders, including trust. However, the following account holders are excluded:

- Tax residents of the USA, as the reporting will be undertaken under FATCA regulations
- Tax residents of the UAE

HOW are they impacted?

- *Reporting Financial Institutions*

The Reporting Financial Institutions are required to collect information from account holders as early as 1 January 2017 and may contact them to request certain information including the tax residence status.

The Financial Institutions are required to perform due diligence procedures prescribed under the CRS regulations and report information on financial accounts held by account holders who are tax residents of another jurisdiction.

- *Customer*

Where customers are holding accounts with financial institutions as non-residents of that jurisdiction, the details of their accounts will be reported to the tax authorities of their tax residence jurisdiction. The customers should ensure that the details available with the financial institutions are correct and up to date to avoid any unnecessary information disclosure to irrelevant jurisdiction.

How should I determine my residential status?

For general information regarding tax residency, please refer to the information link provided by the OECD: View here

In case of any specific questions regarding your tax residence, please contact us for further analysis.

Who is regarded as a UAE resident?

Under the UAE laws, a 'Resident Person' in the UAE means:

- an individual - who is a UAE national or an individual who is a resident in the UAE with a valid Emirates ID and a valid Residency Visa;
- an entity which is incorporated, registered, managed and controlled within the UAE.

What information is required to be reported under CRS?

The following information is required to be collected and reported by the Financial Institution:

- Name, Address, Jurisdiction of tax residence, Tax Identification Numbers (TINs), Date and place of birth of each reportable person
- Account number
- Name and identifying number of reporting financial institution
- Account balance or value as of the end of the relevant calendar or, if the account was closed during such year or period, closure of the account
- Details of certain payments made into the account

What are the timelines for implementation of CRS in the UAE?

The Reporting Financial Institutions are required to complete the first reporting for CRS data by 30 June 2018 for the reporting period ending 31 December 2017. Thereafter, the reporting is required to be undertaken annually by 30 June of each subsequent year being the next reporting due date.

The other important timelines have been provided below:

- Pre-existing accounts as at 31 December 2016 should have been subjected to due diligence procedures
- New accounts opened on or after 1 January 2017 are subject to due diligence procedures
- The first CRS reporting period ends on 31 December 2017
- Review of Pre-existing High-Value Individual Accounts (as at 31 December 2016) to be completed by 31 December 2017
- First exchanges of information by the UAE competent authority to the reportable jurisdictions will occur on or after 30 September 2018.
- Review of Pre-existing Lower Value Individual Accounts (as at 31 December 2016) to be completed by 31 December 2018
- Review of Pre-existing Entity Accounts of Higher Value (as at 31 December 2016) to be completed by 31 December 2018

How is CRS different from FATCA?

Although CRS guidelines draw broad principles from FATCA regulations, following are some of the key differences between the two which requires attention from the perspective of onboarding procedure, identification of reportable accounts, reporting, and other processes.

- The scope of CRS is broader than FATCA as it intends to identify tax residents in more than 100 participating jurisdictions in CRS, unlike FATCA which requires to identify US reportable accounts.
- Most thresholds applicable under FATCA regulations are not applicable for CRS and the categories of entities that have to provide information on controlling persons are broader under CRS. Accordingly, financial institutions could report significantly higher volumes of information under CRS.

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- FATCA forms (e.g., Forms W-8 and W-9) are generally not acceptable for CRS. The financial institutions will be required to collect specific self-certifications covering the CRS requirements.
- The legal entity classification can differ between FATCA and CRS guidelines which may require significant administrative efforts for the financial institution and the customers themselves.
- CRS does not impose a withholding requirement, unlike FATCA. Where the CRS requirement is not complied with, it will be addressed by way of penal implications under the regulations of that jurisdiction.

Where can I read more about CRS?

For more information, you can refer to:

- OECD – View here
- Ministry of Finance – View here
- Central Bank of the UAE – View here
- Securities and Commodities Authority – View here
- Insurance Authority – View here
- DIFC – View here
- ADGM – View here

How can Re/think help?

The global network of tax information exchange is developing rapidly, strand by strand, country by country.

We actively advise and shape the implementation of FATCA and CRS. We participate in various working groups, meaning we are at the cutting edge of tax and regulatory developments and can offer you real time updates.

Our Team is comprised of FATCA & CRS "Essentialists" with focus on compliance advisory specific to:

- Reporting support
  - Advise on your reporting obligations and/or reporting obligations in various jurisdictions;
- Technical review
  - Advise on due diligence requirements including preparing the necessary self-certification forms (e.g. W8 BEN forms);
  - Reviewing or Draft necessary policies and procedures to include onboarding procedures;
- Remediation and Regulatory change management
  - Assessments and gap analysis (particularly where classification changes are required)
  - Implementation of new procedures
- Awareness workshops
  - Interactive workshops to enhance awareness within your organisation;
  - Correctly classify your entity;
  - Register your entity with the US Internal Revenue Service (IRS) to obtain a Global Intermediary Identification Number (GIIN)

Who we are

RAA Auditing is a DED-registered audit and accounting practice in Dubai, with presence in mainland areas and most of the free zones.

We are focused on providing entrepreneurial businesses of varying sizes with timely, proactive, and customized business solutions from start-up and early development to the latest stages of a business's lifecycle. Our audits aim to help clients mitigate risk, improve operational efficiencies, and safeguard their business by providing clarity on issues that matter.

Our audit assignments are led by independent auditors with a commitment to the highest standards. Throughout the entire audit process, we work alongside clients to understand the underlying business, address critical issues, and recommend improvements to increase control, reduce the potential for fraud, and assure stakeholders as to the accuracy of the accounts.

Who will assist you

David Linklater, Director of Accounting & CFO Services | 3rd party Partner

A seasoned chartered accountant with over 20 years' experience in managing private, public and PE/CV backed organisations. Valued for combining strategic planning with tactical delivery through change management, systems integration and performance measurement in a variety of industries including FMCG, Manufacturing, construction, e-commerce and hospitality. Extensive exposure to cross-cultural practices and international business protocols, particularly in North America, UAE and South East Asia. Experienced in cost control, forecasting, business improvement and efficiencies designed to secure and improve profitability in rapidly changing Global settings.

Asif Mahmood, Manager – Audit

12 years+ of experience in audit, information risk management and financial advisory in world's leading accountancy firms including KPMG, MAZARS, Re Think and RAA Auditing in Middle East, Pakistan and United Kingdom. He has sound understanding of working practices across multiple jurisdictions in UAE including DED, JAFZA, DWC, DIFC, DMCC and SAIF Zone. He has graduated his ACCA from KAPLAN Financial and London College of Accountancy. He is also member of UAE CA and affiliate of ICAP Pakistan.

Shahzad Nazir, Manager – Audit

14 years+ of experience in audit, assurance and financial management in in top 10 ranked audit practices and consultancy firms including Horwath MAK International and Nexia International. He has a strong technical knowledge of IFRS and IAS as well as the regulations and reporting requirements of different jurisdictions across UAE. He is a fellow member of CPA UK and Pakistan Institute of Public Finance Accountants.