

COMMON REPORTING STANDARD (CRS)

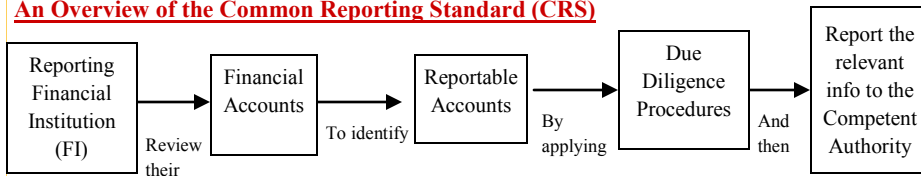
What is the Common Reporting Standard?

The Common Reporting Standard (CRS) is the single global standard for the collection, reporting and exchange of financial account information on foreign tax residents. The CRS was developed in response to the G20 request and approved by the Organization for Economic Co-operation and Development (OECD) Council on 15 July 2014. It requires local reporting financial institutions to identify reportable accounts, collect information on the account holders and report this information to their local tax authorities. The tax authorities will, in turn, automatically exchange this information with other participating jurisdictions on an annual basis. The main objective of CRS is to prevent tax evasion.

The OECD

The **Organization for Economic Co-operation and Development (OECD)** is an intergovernmental organization of 34 countries, founded in 1961 to stimulate economic progress and world trade. The Organization provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and coordinate domestic and international policies.

An Overview of the Common Reporting Standard (CRS)



Topics Discussed:

- ⇒ **What is the Common Reporting Standard?**
- ⇒ **The OECD**
- ⇒ **An overview of the Common Reporting Standard (CRS)**
- ⇒ **Jurisdictions That Will Exchange Information**
- ⇒ **Reporting Financial Institutions**
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- ⇒ **Who is a Reportable Person and What is a Reportable Account?**
- ⇒ **Due Diligence and CRS**
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- ⇒ **How Advanced are Preparations in St. Kitts-Nevis with CRS Implementation**
- ⇒ **High Value Account Vs. Low Value Account**
- ⇒ **Timing for 2018 First Exchange of Information**
- ⇒ **Building Blocks for the Effective Implementation of CRS**
- ⇒ **How can Financial Institutions Assist with the Effective Implementation of CRS**

The Process

* *Collecting and Reporting the information*

The first element of the process is the reporting that takes place by financial institutions to the Competent Authority. Important consideration must be given to the deadlines for financial institutions (FIs) to report the information. The deadline for submission should be between January 1st and September 30th of each year.

* *Receiving the information*

In advance of the Competent Authority receiving the information from the financial institutions, they will need to ensure they have the appropriate operational security to hold the data. This means having good managerial, organizational and operational procedures, as well as technical measures including hardware and software tools. Some level of validation of the data will also likely need to be undertaken to check the format of the data (i.e. that it has been entered correctly, with the mandatory information included) and that it will have relevance to the receiving jurisdiction.

* *Sending the information*

Before being sent, the data will then need to be processed for onward transmission. This will involve compiling all the reports received from the financial institutions and then sorting this information by an automatic exchange partner.



Jurisdictions That Will Exchange Information

The financial accounts information will be exchanged **only** between the countries and the territories for which the standards are in effect. To clarify how the information flows, consider the following examples:

- * Both **Jurisdiction A** and **Jurisdiction B** signed the convention. These jurisdictions will exchange information. **Jurisdiction A** will report to **Jurisdiction B** and **Jurisdiction B** will report to **Jurisdiction A**.
- * **Jurisdiction C** signed the convention, **Jurisdiction D** didn't sign the convention. There will be no information exchange between **Jurisdiction C** and **Jurisdiction D**. **Jurisdiction C** will not report to **Jurisdiction D**, and **Jurisdiction C** will not report to **Jurisdiction D**. **Jurisdictions A, B** and **C** are considered reportable jurisdictions.

As at May 2016, one hundred and one (101) jurisdictions have committed to adopting the CRS, including St. Kitts and Nevis. Eighty-three (83) countries have signed the Multilateral Competent Authority Agreement (MCAA) on Automatic Exchange of Financial Account Information which details the account information that would be exchanged and the time period in which the information should be exchanged.

Reporting Financial Institutions

The financial institutions covered by the CRS are broadly the same as Foreign Account Tax Compliance Act (FATCA) and include:

1. custodial institutions—generally includes custodian banks, trusts, brokers and central securities depositories.
2. depository institutions—commercial banks, savings and loan associations and credit unions.
3. investment entities—entities investing, reinvesting or trading in financial instruments or entities administering or managing financial assets.
4. Specified insurance companies—generally includes most life insurance companies.

Non-Reporting/Low-Risk Institutions

Non-Reporting Financial Institutions include:

1. government entities, international organizations or central banks;
2. broad participation retirement funds, narrow participation retirement funds, pension funds of a governmental entity, international organization or central bank, or a qualified credit card issuer;
3. exempt collective investment vehicles;
4. trusts, if the trustee is a reporting financial institution and reports all necessary information.
5. entities that:
 - A) present a low risk of being used to evade tax;
 - B) have substantially similar characteristics to any of the entities described in (1) and (2) above; and
 - C) are defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such an entity as a Non-Reporting Financial Institution does not frustrate the purposes of the CRS.

Who is a Reportable Person and What is a Reportable Account?

- * A **reportable person** is an individual or entity resident for tax purposes in a reportable jurisdiction.
- * A **reportable account** is an account held by one or more reportable persons.



Due Diligence and CRS

A central part to the CRS, are the detailed rules and procedures that financial institutions must follow in order to ensure that the relevant information is collected and reported. The due diligence procedures of CRS are designed for Financial Institutions to identify accounts which are held by foreign tax residents (reportable accounts). Therefore, the FIs must maintain documentary evidence of its account holders' current permanent address.

The Residence Address Test

A requirement of the residence address test is that the residence address is based on Documentary Evidence. In order to satisfy the requirement of the test, a Financial Institution must retain a certified or notarized copy of the Documentary Evidence and must have policies and procedures in place to ensure that the current residence address is the same as the address on the Documentary Evidence provided. The requirements of the Residence Address Test are similar to the Anti-Money Laundering/Know Your Customer (AML/KYC) procedures already established. The FIs have to conduct the Residence Address Test so as to identify reportable accounts. If the requirements of the residence test are not satisfied, the FI must perform an electronic record search.



Approaches to CRS

The Standard provides optional approaches for jurisdictions to adopt the one most suited to their circumstances.

1. The Narrow Approach—financial institutions identify and report information only on reportable accounts. Specifically, information is only reported for those residents of a jurisdiction that is a Reportable Jurisdiction when the due diligence procedures are performed. This approach is also referred to as the CRS approach.
2. The Wider Approach—financial institutions identify all accounts held by a foreign tax person but only report the reportable accounts.
3. The Widest Approach—financial institutions identify and report all accounts held by residents of a foreign jurisdiction.

Jurisdictions may choose the Wider Approach because such an approach could significantly increase efficiency and reduce costs for financial institutions as they would not need to perform additional due diligence each time a new jurisdiction commits to the CRS.



FATCA vs. CRS

The Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standard (CRS) have similar characteristics, but the two cannot be treated as the same.

FATCA was introduced by the US Department of Treasury and Inland Revenue Services (IRS) in 2010 to encourage better tax compliance by preventing US persons from using foreign banks and other financial institutions to avoid taxation on their income and assets. On the other hand, CRS is part of a global standard proposed by the OECD for the annual cross border exchange of information on financial accounts. Because the standard shares a lot of similarities with FATCA, it is informally referred to as GATCA (the global version of FATCA). The key differences between FATCA and CRS are as follows:

1. The aim of FATCA is to reduce tax evasion by US citizens and US tax residents while CRS aims to reduce tax evasion by the taxpayers of the 90+ countries signed up to CRS.
2. With FATCA, FIs must register on the IRS portal to obtain a Global Intermediary Identification Number (GIIN). However, there is no requirement to register and receive a unique identifier of compliance under CRS.
3. FATCA requires FIs to report on US account holders ONLY, whereas CRS requires FIs to report on almost all foreign tax residents which will result in significantly higher volumes of reporting.
4. Under CRS, the definition of a “reporting financial institution” is different. So, even if you are not required to report on financial accounts under FATCA, you may be required to under CRS.
5. There is currently no reporting threshold under CRS. FATCA, by contrast, applies to individual accounts with balances exceeding \$50,000.



How Advanced are Preparations in St. Kitts-Nevis with CRS Implementation

St. Kitts-Nevis has committed to first exchange of information in September 2018. Therefore, a number of things are being put in place to ensure the effective implementation of CRS.

- * The MCAA has been signed.
- * The Financial Secretary, Ministry of Finance has been identified as the Competent Authority for CRS.
- * A Committee has been established to assist with the implementation of CRS and provide general awareness of these Standards.
- * The legislation outlining the CRS procedures and requirements is presently being drafted.
- * The Inland Revenue Department has been authorized by the Competent Authority to facilitate the exchange of information between reporting jurisdictions. Therefore, the FIs are responsible for reporting the information to the Inland Revenue Department.

High Value Account Vs. Low Value Account

A high value account is one where the account balance exceeds US\$1 million, while an account is considered low value when the account balance is US\$1 million or less.

Timing for 2018 First Exchange of Information

Since St. Kitts-Nevis has committed to first exchange in September 2018, the following dates will apply:

- * Cut-off date: pre-existing accounts would be those opened on or before 31 December 2016 and new accounts would be those opened from 1 January 2017
- * Due diligence on pre-existing high value accounts to be completed by 31 December 2017
- * March 2018—initial reporting to local Competent Authority expected to begin.
- * First exchanges in September 2018—all reportable new accounts and all reportable pre-existing high value accounts.
- * Due diligence on pre-existing entity accounts and pre-existing low value accounts to be completed by 31 December 2018.
- * Second exchanges in September 2019—all reportable new accounts and all reportable pre-existing accounts.

Building Blocks For The Effective Implementation of CRS

1. Domestic legislation—The reporting requirements
2. Administrative and I.T capacity—to obtain, process, send and use the information.
3. International agreements—the legal basis for exchange.
4. Confidentiality and data safeguards—to protect the information.

How can the Financial Institutions Assist with the Effective Implementation of CRS?

- * Meet Reporting Deadlines—start conducting your due diligence as early as possible.
- * Follow due diligence procedures in order to identify all reportable accounts.
- * Communicate with the Competent Authority and familiarize yourself with the CRS legislation when it becomes available.

Reference:

- *Standard for Automatic Exchange of Financial Information in Tax Matters Implementation Handbook.*