



COMMON REPORTING STANDARD IN THE CAYMAN ISLANDS

The Cayman Islands Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015 (the "CRS Regulations") were enacted into Cayman Islands law on October 16, 2015 and came into force on January 1, 2016.

What is CRS?

The Common Reporting Standard ("CRS") is the Organisation for Economic Co-operation and Development's (OECD) new global standard for Automatic Exchange of Financial Information in Tax Matters, which is based on the US Foreign Account Tax Compliance Act (FATCA) concepts and is intended to try and encourage greater cross border tax compliance. However, a key difference is that reporting under the CRS relates to tax residency, not citizenship. CRS provides for systematic and periodic automatic exchange between governments of financial information relating to tax residents of a specified country, who are holding assets or accounts with overseas financial institutions. In summary, for holders of interests in certain Cayman Islands entities or with Cayman Islands accounts, information on their shareholding or account balance will be transmitted to their home tax jurisdiction through the reporting required (provided that home tax jurisdiction is a Participating Jurisdiction under CRS). Basically, CRS has established a common framework, closely following the Cayman Islands FATCA Model 1 IGA, under which signatory countries will require local financial institutions to report tax information on their "account holders". This information will then be passed on by tax authorities in signatory countries to the tax authorities in the signatory countries in which those account holders are tax resident.

An overview of basic financial account reporting mechanism -



Participating Jurisdictions

The Cayman Islands is one of over 90 countries that have agreed to implement CRS with more than half of those, referred to as the 'early adopters', beginning their reporting in 2017 and the others in 2018. Cayman Islands entities will comply with CRS by reporting their information to the Cayman Islands Tax Information Authority ("TIA").

Kensington Trust Group and its clients may engage the services of JTC in several jurisdictions. Below are list of JTC Jurisdictions (early adopters) making their first exchanges by 2017:

- Argentina
- British Virgin Islands
- Cayman Islands
- Guernsey
- Jersey
- Luxembourg
- Malta
- Mauritius
- South Africa
- United Kingdom

JTC Jurisdictions (non-early adopters) making their first exchanges by 2018:

- Brazil
- Hong Kong
- Malaysia
- New Zealand
- Singapore
- Switzerland

The OECD's Status of Commitments to the automatic information exchanges as of 2 March 2016 is enclosed at the end of this document. You may refer to this link for further updates on Commitments: <http://www.oecd.org/tax/automatic-exchange/commitment-and-monitoring-process/>

What does the adoption of CRS mean?

Under CRS, a broad range of financial information about residents of a large number of other countries will now be shared automatically on an annual basis between all those countries that have signed up to CRS. Broadly, the information being reported will include –

- name, address, country of residence.
- place and date of birth (in the case of an individual) of each reportable person that is an account holder of the account. Where an entity is an account holder, and one or more controlling persons are a reportable person, the institution must report the name, address, country(s) of residence and TIN of the entity and the name, address, country(s) of residence, TIN and date and place of birth of each reportable person.
- tax residence and tax identification number (TIN) of the account holder.
- the account number (or functional equivalent in the absence of an account number).
- types of investment income eg. interest, dividend etc., account balances at the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account.
- gross proceeds from the disposal or redemption of property or financial assets.

This information will then be passed between the respective tax authorities where the account is held and where the account holder is tax resident.

Reportable income includes all types of investment income (including interest, dividends, income from certain insurance products, annuities and similar), as well as account balances and sales proceeds from financial assets that give rise to such income.

Who is affected -

- **depository institutions:** entities that accept deposits in their ordinary course of banking or similar business.
- **custodial institutions:** entities that hold, as a substantial portion of their business, financial assets for the account of others.
- **specified insurance companies:** insurance companies that issue or are obligated to make payments for cash value insurance contracts or annuity contracts.
- **investment entities:** entities whose: (i) primary business involves certain asset management or financial services for or on behalf of clients; or (ii) whose gross income is primarily attributable to investing, reinvesting or trading in financial assets, if the entity is managed by another financial institution.

To be able to determine how CRS will affect you, it is important to verify how and whether you or your entities fall under CRS definitions, and the accounts that those entities might have with other financial intermediaries. The CRS reporting obligations apply to any entity classified as a Financial Institution and are very similar to those of a 'Foreign Financial Institution' under FATCA, but a classification under CRS will not always be the same as that which is applied under FATCA for any given entity. Under CRS, many of the exemptions that were previously available under FATCA are removed, meaning far more entities, and the account holders of those entities, are reportable. As a result, there are a number of issues that trust, corporate and fund professionals and their clients will need to think about and perhaps the biggest issue is the financial data capture and handling for reporting purposes, with data due to start being collected in January 2016.

Compliance

CRS imposes annual reporting obligations on certain financial institutions, including not only banks and investment houses, but also many private or closely held corporate and fund structures and trusts. Cayman Islands reporting financial institutions (including most investment funds) should be actively taking steps to establish policies and procedures to identify reportable accounts, apply due diligence on pre-existing and new accounts to determine their reporting requirements in respect of each Participating Jurisdiction and maintain information for the appropriate time to ensure compliance with CRS.

The US has not agreed to adopt CRS and is therefore a Non-Participating Jurisdiction. One result of this is that managed US investment entities will be treated as Passive NFEs for the purposes of CRS and will need to be looked through to determine if they are controlled by natural persons resident in a Participating Jurisdiction (which would make them a Reportable Account).

There is no sponsoring entity regime under the CRS and as a result, entities which are classified as Sponsored Investment Entities for the purposes of FATCA will likely be classified as Reporting FIs for the CRS. Exemptions which are available are as follows:

- (a) a governmental entity, international organisation or central bank, other than in certain limited circumstances connected to their commercial financial activities;
- (b) certain retirement funds, pension funds of an entity listed in (a) and qualified credit card issuers;
- (c) entities that present a low risk of being used to evade tax, which have substantially similar characteristics to entities listed in (a) and (b) above and are specifically identified under Cayman Islands law as 'Non-Reporting Financial Institutions'. Currently this includes limited life debt investment entities in existence on or before 17 January 2013 (however, this exemption will expire on 31 December 2018);
- (d) an exempt collective investment vehicle; or
- (e) a trust where the trustee is a Reporting FI and will report in respect of the trust.

The first priority is to ensure account opening procedures or incorporations of affected Cayman Islands vehicles on or after 1 January 2016 identify the relevant applicant and capture the necessary information.

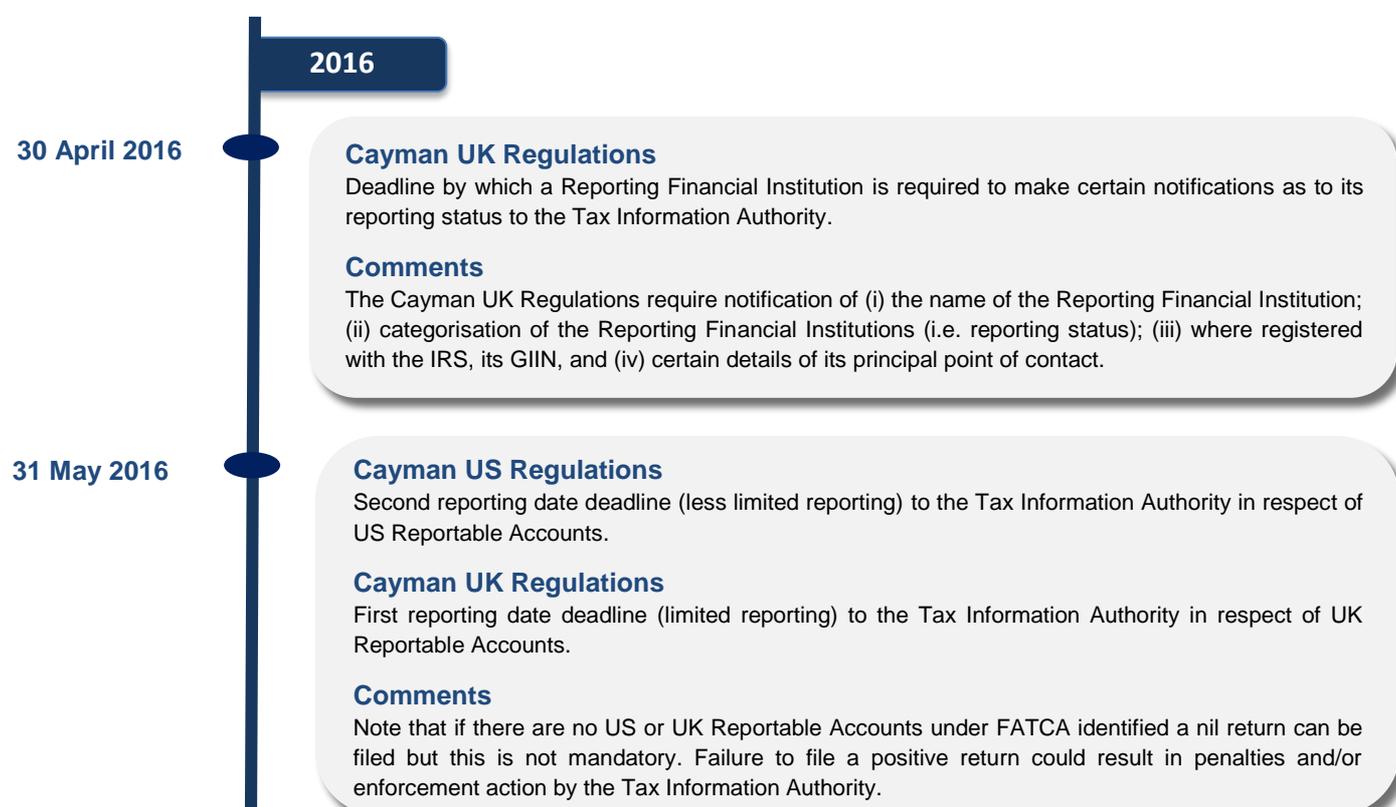
Self-Certification Forms

The TIA has published new entity and individual self-certification forms which address the account holder disclosure requirements. The TIA forms were designed to collect such information, though use of the particular forms is not obligatory and they may be used as is, or modified. Accordingly, reporting financial institutions which are collecting customer information at the point of subscription or account opening may choose to use extracts or modified versions of the TIA forms. These forms may be used for compliance with the CRS as well as FATCA.

Timeline for Implementation in the Cayman Islands

The first deadline as to notification to the TIA under CRS is expected to be at the end of April 2017 with the first reporting date being the end of May 2017. The Department of International Tax Cooperation (DITC)'s Automatic Exchange of Information (AEOI) Portal is being updated to facilitate reporting by Reporting FIs for CRS purposes. Once operational, reports should be filed via the AEOI Portal and will be exchanged between the DITC and partnering tax authorities in Participating Jurisdictions.

Key Dates and Deadlines in the Cayman Islands



30 June 2016

Cayman US Regulations

All other pre-existing investor due diligence to be completed – so called “remediation”.

Cayman UK Regulations

All other pre-existing investor due diligence to be completed – so called “remediation”.

31 December
2016

CRS

Due Diligence on pre-existing “high value” individual account holders to be completed.

2017

30 April 2017

CRS

Deadline by which a Reporting Financial Institution is required to make certain notifications as to its CRS reporting status to the Tax Information Authority.

Comments

The CRS requires notification of (i) the name of the Reporting Financial Institution; (ii) categorisation of the Reporting Financial Institutions (i.e. reporting status); and (iii) certain details of its principal point of contact.

31 May 2017

Cayman US Regulations

Third reporting date deadline (full reporting) to the Tax Information Authority in respect of US Reportable Accounts.

Cayman UK Regulations

Second reporting date deadline (full reporting) to the Tax Information Authority in respect of UK Reportable Accounts.

CRS

First reporting date deadline to the Tax Information Authority in respect of relevant Reportable Accounts under CRS.

Comments

Note that if there are i) no US or UK Reportable Accounts under FATCA and/or ii) no Reportable Accounts under CRS identified, a nil return can be filed but this is not mandatory. Failure to file a positive return could result in penalties and/or enforcement action by Tax Information Authority.

As the UK is also a Reportable Jurisdiction under CRS, there is currently a requirement to report under both the Cayman UK Regulations and CRS.

31 December
2017

CRS

Due Diligence on pre-existing “high value” individual account holders to be completed.

Further Updates

It is anticipated that the Cayman Islands government will issue further legislation in Q1 2016 that will contain the enforcement powers of the TIA and related penalty provisions for failure to comply with CRS. It is also anticipated that guidance notes will be issued in Q1 2016 which will be limited to practical aspects relating to implementation of the CRS that are specific to the Cayman Islands.

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AEOI: STATUS OF COMMITMENTS (96 jurisdictions have committed)

The table below summarises the intended implementation timelines of the new standard.¹

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2017 (55)
Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Curaçao, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 (41)
Albania, Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Marshall Islands, Macao (China), Malaysia, Mauritius, Monaco, New Zealand, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Turkey, United Arab Emirates, Uruguay
JURISDICTIONS THAT HAVE NOT INDICATED A TIMELINE OR THAT HAVE NOT YET COMMITTED (4)
Bahrain, Nauru, Panama, Vanuatu

¹

The United States has indicated that it is undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.