



Guidance Notes for the Common Reporting Standard (CRS) United Arab Emirates

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DISCLAIMER:

These notes are designed to provide information in relation to the implementation of the Automatic Exchange of Information for tax purposes – the Common Reporting Standard – CRS in the UAE. It should be noted that the Guidance Notes do not have the force of law. If you are in any doubt as to your obligations under the law you should seek independent professional advice. Responsibility cannot be accepted for any liability incurred or loss suffered as a consequence of relying on any matter published herein.

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1 GENERAL INTRODUCTION

“The Common Reporting Standard (CRS), developed in response to the G20 request and approved by the OECD Council on 15 July 2014, calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. It sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions.

The Standard consists of the following four key parts:

- A model Competent Authority Agreement (CAA), providing the international legal framework for the automatic exchange of CRS information;
- The Common Reporting Standard;
- The Commentaries on the CAA and the CRS; and
- The CRS XML Schema User Guide.”¹

For the purposes of the UAE CRS Regulations, the Common Reporting Standard Commentary, which is any explanatory material made and published by the Organization for Economic Co-Operation and Development for the purpose of assisting with the interpretation of the Common Reporting Standard, is an integral part of the Common Reporting Standard and accordingly applies for the purposes of the automatic exchange of financial account information.

The UAE Financial Institutions should consult issued by the OECD documentation for the clarification and CRS commentary:

- Standard for Automatic Exchange of Financial Account Information in Tax Matters
- Standard for Automatic Exchange of Financial Account Information in Tax Matters – Implementation Handbook
- CRS FAQs.

The above documents are published on the OECD Website:

<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

¹ OECD Website: <http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

2 LEGAL BASIS

In accordance with the Cabinet Resolution Number 9 of year 2016, the UAE Government has committed to sign an international convention Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) and Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (MCAA). The MCAA contains the rules on the exchange of information between the UAE Competent Authority and partner jurisdiction Competent Authorities. The confidentiality, safeguards and the existence of the necessary infrastructure for an effective exchange are all covered by the MCAA.

The both agreements are legal instruments for the implementation of the international OECD standard of Automatic Exchange of Information (AEOI) – CRS for tax purposes.

The Ministry of Finance – the UAE Competent Authority, as per the Cabinet Resolution is in charge of the AEOI – CRS implementation.

The UAE CRS Regulations will be published by the UAE Financial Institution's Regulators:

- UAE Central Bank
- Securities and Commodities Authority
- Insurance Authority
- DIFC
- ADGM.

3 KEY TIMELINES

The first reporting due date for the CRS in the UAE is **30 June 2018** and consequently by 30 June of the year following each reporting period. Reporting is an annual event.

The following are the effective dates for the implementation of the CRS in the UAE:

- **Pre-existing Accounts** to be subjected to due diligence procedures are those in existence as at **31 December 2016**.
- **New Accounts** to be subjected to due diligence procedures are those opened on or after **1 January 2017**.
- The first CRS reporting period ends on **31 December 2017**.
- The **review of Pre-existing High Value Individual Accounts** at 31 December 2016 must be **completed by 31 December 2017**.
- The Reportable Pre-existing High Value Accounts need to be reported by 30 June 2018.
- The **review of Pre-existing Lower Value Individual Accounts** at 31 December 2016 must be **completed by 31 December 2018**.
- First exchanges of information by the UAE Competent Authority to the Reportable jurisdictions will occur on or after **30 September 2018**.

4 CONFIDENTIALITY

The UAE Competent Authority shall not exchange information under the CRS until it is satisfied that a Reportable partner jurisdiction has in place adequate measures to ensure the required confidentiality and data security. These confidentiality obligations are evaluated by the Global Forum on Transparency and Exchange of Information for Tax Purposes through its implementation monitoring programme.

5 CRS OPTIONS

The CRS provides jurisdictions with a number of implementation options. The UAE will be implementing the options listed below.

5.1 CRS Approach

Under the CRS, the UAE has opted for the “widest approach”:

- Reporting Financial Institutions are required to perform due diligence procedures and report information on **all accounts held by an account holder who is resident for tax purposes in a jurisdiction other than the USA or the UAE jurisdiction**. The USA is excluded because jurisdictions will be reporting to the USA under FATCA.

5.2 CRS Options

| No. | OPTIONS | COMMENTS |
|-----|---|-----------------------|
| 1. | Alternative approach to calculating account balances | NO |
| 2. | Use of other reporting period | NO |
| 3. | Filing deadlines | 30 th June |
| 4. | Filing Nil returns | YES |
| 5. | Allowing third party service providers to fulfil the obligations on behalf of the financial institutions | YES |
| 6. | Allowing the due diligence procedures for New Accounts to be used for Preexisting Accounts | YES |
| 7. | Allowing the due diligence procedures for High Value Accounts to be used for Lower Value Accounts | YES |
| 8. | Residence address test for Lower Value Accounts | YES |
| 9. | Exclusion from Due Diligence for Preexisting Entity Accounts of less than \$250,000 | YES |
| 10. | Alternative documentation procedure for certain employer-sponsored group insurance contracts or annuity contracts | YES |
| 11. | Allowing financial institutions to make greater use of existing standardized industry coding systems for the due diligence process | YES |
| 12. | Currency translation | USE USD\$ |
| 13. | Allow a Financial Institution to treat certain new accounts held by preexisting customers as a Preexisting Account for due diligence purposes | YES |
| 14. | Expanded definition of Related Entity for Investment Entities | YES |
| 15. | Grandfathering rule for bearer shares issued by Exempt Collective Investment Vehicle | Removed |
| 16. | Phasing in the requirements to report gross proceeds | NO |

6 UAE TAX RESIDENCY DEFINITIONS

"Resident Person" in the UAE means:

A. An Individual:

- a) Any UAE National
- b) An individual who is a resident in UAE with:
 - i. a valid Emirates ID and
 - ii. a valid Residency Visa.

B. An Entity:

- a) An entity which is incorporated, registered, managed and controlled within the territory of the UAE.