

Japan tax alert

Ernst & Young Tax Co.

Latest CRS and FATCA updates

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As more countries begin adoption of OECD's Common Reporting Standard ("CRS"), compliance requirements continue to evolve and change. EY has developed an online tool which captures, summarizes, and provides links to updated source information for clients who wish to keep up to date on latest developments for CRS as well as FATCA.

Key benefits of this tool include:

- Daily newsfeed updates of CRS and FATCA developments and changes to regulations globally, and
- Analysis of CRS and FATCA regulations and guidance, in an easy-to read format.

Recent CRS and FATCA developments for select countries are summarized as follows:

Europe

UK

► **Notifications requirement updated**

By 15 November 2016, HMRC issued updates to client notification requirements including obligations of financial institutions, penalties for failure to notify, and scope and contents of client notifications.

► **Update on reportable jurisdictions for FATCA, CDOT and CRS**

On 10 November 2016, HMRC published an updated list of reportable jurisdictions for the 2017 reporting year under FATCA, CDOT and CRS.

► **Update on due diligence for entity accounts**

On 27 October 2016, HMRC issued updates on due diligence for entity accounts in which it describes the meaning of “regularly traded”.

► **Update on due diligence for pre-existing individual accounts of lower value**

On 8 September 2016, HMRC issued details on due diligence for pre-existing individual lower value accounts.

► **Final client notification regulations released**

On 8 September, HMRC published final client notification regulations effective 30 September 2016 requiring UK financial institutions to inform their clients on ensuring full and appropriate declaration of offshore income and gains.

► **Information on TINs published on the OECD webpage**

On 19 August 2016, UK TIN information was published on the OECD CRS webpage.

► **Updated AEOI submission schema released**

On 15 August 2016, HMRC released AEOI submission schema set 2.0 and AEOI submission valid samples 2.0 for software developers working on the FATCA service. This schema is valid for all submission to be made after 1 January 2017.

Russia

► **FAQs on Russian CRS**

On 19 September 2016, the Russian authorities published FAQs introducing reporting obligations for non-Russian financial institutions to report on Russian citizens directly to the Russian authorities.

► **Draft legislation for CRS released for consultation**

On 6 September 2016, the Russian authorities released draft legislation on exchanging information for financial accounts under CRS with final legislation expected to come into force on 1 January 2017.

Americas

US

► **FATCA-related guidance released**

On 30 December 2016, the US IRS released the finalized FATCA regulations as well as issued further temporary and proposed regulations under Chapter 3 and FATCA. The final regulations generally adopt the proposed and temporary regulations issued by the IRS in 2014 with some modifications made in response to comments received by the IRS over the last two years.

► **Final QI Agreement released**

On 30 December 2016, the US IRS issued the final QI Agreement (Revenue Procedure 2017-15) to replace the existing 2014 QI Agreement expiring on 31 December 2016.

► **New Form W-8BEN and Form 8966 released**

On 13 December 2016, the US IRS released the new revised Form W-8BEN and the 2016 version of Form 8966.

► **FATCA Online Registration User Guide published**

On 12 December 2016, the US IRS published the latest version of the FATCA Online Registration User Guide.

► **Reminder to update contact information on FATCA online registration system**

On 15 November 2016, the US IRS reminded financial institutions to update their contact information for the Responsible Officers and Points of Contact on the FATCA online registration system.

► **Form W-8BEN-E effective date delays**

On 21 October 2016, the US IRS indicated that a withholding agent may request and accept the February 2014 revision of Form W-8BEN-E until 1 January 2017, and may rely on this form until its validity expires or there is a change in circumstances. From 1 January 2017, only the April 2016 version of Form W-8BEN-E may be accepted.

► **FATCA YouTube videos updated**

On 20 October 2016, the US IRS updated the YouTube videos explaining various aspects of FATCA registration.

- ▶ **Draft 2016 Form 8966 instructions released**
On 12 October 2016, the US IRS released draft 2016 Form 8966 instructions.
- ▶ **Form W-8IMY and instructions released**
On 27 September 2016, the US IRS published a revised form W-8IMY and its instructions.
- ▶ **General FATCA FAQs updated**
On 12 September 2016, the US IRS updated the General FAQs regarding the registration procedure for financial institutions that are not currently a QI and Withholding Foreign Partnership or Withholding Foreign Trust.
- ▶ **FATCA IDES data preparation examples updated**
On 12 September 2016, the US IRS updated the IDES data preparation tools on GitHub for .Net and Java formats, describing how to create an IDES data packet and decrypt a notification.
- ▶ **User Guide on IDES for FATCA published**
On 6 September 2016, the US IRS published a user guide on IDES for FATCA.
- ▶ **Draft FATCA XML Schema v2.0 user guide published**
On 1 September 2016, the US IRS published a draft version of the FATCA XML Schema v2.0 User Guide. This schema will come into force on 1 January 2017 and will replace the older schema (v1.1).
- ▶ **FATCA IDES Technical FAQs updated**
On 10 August 2016, the US IRS updated the FATCA IDES Technical FAQs focusing on system availability and design, data encryption and security.
- ▶ **Form W-8EXP released**
On 9 August 2016, the US IRS released the updated version of Form W-8EXP.
- ▶ **New rules for jurisdictions to be treated as FATCA IGA in effect**
On 29 July 2016, US IRS published Announcement 2016-27, that lists Jurisdictions Treated as If They Have an IGA in Effect. The immediate impact of this is that jurisdictions that don't have their IGA in force will no longer be considered as if they have an IGA in effect unless they are able to demonstrate to the US IRS firm resolve to bring the IGA into effect.

- ▶ **General Compliance FATCA FAQs updated**
On 1 July 2016, the US IRS updated the General Compliance FAQs relating to submission of Form 8809-I when an additional 90 day extension to file Form 8966 has been requested.
- ▶ **Updated proposed QI agreement released**
On 1 July 2016, US IRS released an updated version of the proposed QI Agreement effective from 1 January 2017.

Canada

- ▶ **Updated guidance on the electronic filing of reporting**
On 27 October 2016, the Canadian authorities updated the guidance on the electronic submission of financial account information returns.
- ▶ **New data elements in XML schema**
On 27 October 2016, the Canadian authorities advised on two new data elements to be added to the XML schema/specifications from January 2017.
- ▶ **CRS legislation introduced and changes to FATCA**
On 21 October 2016, the Canadian authorities published CRS legislation and changes to FATCA legislation.

Cayman Islands

- ▶ **Information on submitted returns**
In September 2016, the Cayman authorities have been contacting financial institutions regarding certain submitted FATCA returns, requesting that financial institutions which submitted a report will need to go back into the portal and confirm the status of their reporting.
- ▶ **UK CDOT and US FATCA notification and reporting deadline extended**
On 5 August 2016, the Cayman authorities announced that the soft enforcement due dates for notification and reporting under UK CDOT and US FATCA have been extended to 2 September 2016 (from 10 August 2016) due to portal access issues. There will be no compliance consequences or enforcement measures for the notifications and returns submitted on or before 2 September 2016.

- ▶ **Updated version of the AEOI Portal User Guide (v.2.0) published**
On 07 July 2016, the Cayman authorities issued an updated version of the AEOI Portal User Guide - version 2.0 providing guidance for FATCA and CDOT reporting procedures.

Mexico

- ▶ **Updated list of CRS Participating Jurisdictions published**
On 7 November 2016, the Mexican authorities updated the list of 77 countries that will be considered as participating jurisdictions for CRS purposes.
- ▶ **FATCA and CRS XML Schema Version 1.0 user guide published**
On 20 October 2016, the Mexican authorities published a user guide on FATCA and CRS XML Schema Version 1.0.

Panama

- ▶ **FATCA agreement with US entered into force**
On 7 November 2016, the US Treasury announced that the Model 1 IGA between Panama and the United States to implement FATCA came into force retroactively as of 25 October 2016.
- ▶ **FATCA agreement ratified**
On 24 October 2016, the Panamanian authorities ratified the FATCA agreement into law.
- ▶ **Compliance with FATCA and CRS approved**
On 7 September 2016, the Panamanian authorities signaled approval for Panamanian financial institutions to conduct due diligence and reporting in compliance with FATCA and CRS.
- ▶ **First FATCA reporting anticipated for September 2017**
On 29 August 2016, the Panamanian authorities announced the first FATCA reporting is anticipated for September 2017.

Brazil

- ▶ **Technical solution for data encryption made available for FATCA submissions**
On 14 November 2016, the Brazilian authorities published technical solutions for data encryption used for FATCA reporting.

- ▶ **CRS regulations enacted**
On 30 August 2016, the Brazilian authorities enacted CRS into local law effective 1 January 2017.

Asia-Pacific

China

- ▶ **Current FATCA status**
As of November 2016, the Chinese authorities are in continuing discussions with the US Treasury on signing the FATCA IGA, with no firm date on when the IGA is expected to formally come into effect.
- ▶ **Consultation paper on the due diligence for non-resident financial accounts released**
On 28 October 2016, the Chinese authorities released the consultation paper on the due diligence information management approach for tax related non-resident financial accounts.

Hong Kong

- ▶ **Circular on new statutory requirements concerning CRS issued**
On 14 November 2016, the Hong Kong authorities issued a circular on the new CRS requirements with the expectation that financial institutions will need to collect information from 2017 onwards.
- ▶ **Report on CRS deliberations**
On 7 November 2016, the Hong Kong authorities published the legislative framework for CRS implementation in Hong Kong, including scope, financial institution obligations, enforcement, sanctions, and information privacy.
- ▶ **CRS FAQs updated**
On 7 November 2016, the Hong Kong authorities published updated CRS FAQs.
- ▶ **Circular issued on the implications of CRS on collective investment schemes**
On 20 October 2016, the Hong Kong authorities issued a circular to remind the collective investment schemes to assess the potential implications of CRS.

▶ **CRS notice published**

On 11 October 2016, the Hong Kong authorities published a notice on CRS containing guidelines for assisting financial institutions with meeting their due diligence and reporting obligations.

▶ **Financial account information return XML schema v0.1 updated**

On 12 September 2016, the Hong Kong authorities updated information on reporting using XML schema v0.1 on its website.

▶ **Classification rules for corporate treasury centres under CRS published**

On 9 September 2016, the Hong Kong authorities issued guidelines for a corporate treasury centre to be treated as a reporting financial institution under CRS.

▶ **CRS legislation entered into force**

On 9 September 2016, the Hong Kong authorities announced that CRS legislation has entered into force with CRS guidance and sample self-certification forms for individuals, entities, and controlling persons uploaded on the website.

▶ **FATCA agreement with US officially enters into force**

On 3 August 2016, the US Treasury updated its website to announce that the Model 2 IGA between Hong Kong and the United States, to implement exchange of information under FATCA, came into force on 6 July 2016.

Macau

▶ **Macau TIN information published on the OECD page**

On 9 August 2016, Macau TIN information was uploaded onto the OECD webpage.

Korea

▶ **FATCA reporting deadline extended**

On 27 September 2016, the Korean authorities extended the reporting deadline for years ending 2014 and 2015 to 30 November 2016. The portal for making these submissions is expected to be open in early November 2016.

▶ **FATCA agreement with US enters into force**

On 8 September 2016, the US Treasury announced that the IGA came into force.

India

▶ **Reporting requirements under FATCA and CRS published**

On 29 September 2016, the Indian authorities published reporting requirements under FATCA and CRS.

▶ **Closure of financial accounts under the alternative procedure of FATCA**

On 31 August 2016, the Indian authorities issued information on the closure of financial accounts under the alternative procedure of FATCA. By 31 August 2016, financial institutions must obtain self-certifications and documentation otherwise they are required to close accounts and report them accordingly.

▶ **New integrated platform to support implementation of FATCA and CRS**

On 19 July 2016, the Indian authorities announced they have initiated an integrated platform for tracking tax evaders which will be leveraged for implementation of FATCA and CRS, expected to begin in May 2017.

Australia

▶ **Document on foreign tax resident reporting obligation under CRS published**

On 16 November 2016, the Australian authorities published reporting obligations under CRS and FATCA.

▶ **CRS guidance material updated**

On 20 September 2016, the Australian authorities updated the CRS guidance.

▶ **FATCA guidance material updated**

On 29 August 2016, the Australian authorities updated the FATCA guidance.

▶ **Information on non-reporting financial institutions and excluded accounts published on the OECD webpage**

On 7 July 2016, a list of non-reporting Australian financial institutions and a list of excluded accounts for CRS were published on the OECD webpage

New Zealand

▶ **Excluded entities and accounts submissions**

On 21 November 2016, the New Zealand authorities announced plans to issue New Zealand's lists of "other low risk" excluded entities (non-reporting financial institutions) and excluded accounts.

► **Early information on CRS released**

On 28 July 2016, the New Zealand authorities published early information on CRS, with draft legislation released in August 2016 and expected to be finalized by early 2017. The first reporting period is from 1 July 2017 to 31 March 2018.

Singapore

► **FATCA webpage updated**

On 11 October 2016, the Singapore authorities updated its FATCA webpage to indicate that it has adopted the FATCA XML Schema v2.0 for reporting financial institutions with the date of transition expected to be in January 2017. After the transition, all FATCA returns (including reports of the years 2014 and 2015) must be in the FATCA XML Schema v2.0 format.

► **Latest CRS updates published**

On 6 September 2016, the Singapore authorities published the latest CRS updates.

► **Reminder on FATCA reporting deadline**

On 15 July 2016, the Singapore authorities issued a reminder to financial institutions that the FATCA reporting deadline for the year 2015 has expired on 31 May 2016. Those reporting financial institutions which have defaulted should submit their FATCA return immediately.

► **CRS public consultations**

On 11 July 2016, the Singapore authorities proposed regulations to allow Singapore to implement CRS effective 1 January 2017 with public consultations to follow in July 2016.

Malaysia

► **New client onboarding date for CRS deferred by six months**

On 25 October 2016, the Malaysian authorities indicated that the date from which the onboarding of new CRS clients will be required from 1 July 2017 rather than 1 January 2017. The cut-off date for performing due diligence on pre-existing clients will be 30 June 2017 and the deadline for due diligence completion will be 30 June 2019.

Indonesia

► **CRS status**

As of December 2016, local bank and capital markets secrecy law presents an obstacle for CRS implementation by prohibiting banks from disclosing information of its customers. Indonesian authorities however continue to support CRS implementation through regulations providing a legal basis for banks to collect customer information for CRS purposes. No specific update was provided on timeline of implementing CRS regulations.

► **FATCA status**

As of December 2016, US IRS has finished reviewing the draft IGA and has provided input which is currently being reviewed by Indonesian authorities, after which the government is expected to sign the IGA and issue implementing FATCA regulation.

► **FATCA Reporting Date extended**

On 13 October 2016, the Indonesian authorities indicated that the draft IGA is still under review by the US IRS, and no FATCA legislation is expected to be issued until the IGA has been signed. Further, Indonesian financial institutions are not expected to file FATCA reporting until the implementing regulation is issued and in force.

► **Indonesia to commit to CRS implementation**

On 26 July 2016, the Indonesian authorities announced that it intends to focus on CRS implementation with the first reporting to occur in 2018, and that Indonesian financial institutions should prepare accordingly.

Thailand

► **Updated Guidelines for filing FATCA reports published**

On 11 October 2016, the Thai authorities published updated guidelines for filing FATCA reports.

► **Updates on FATCA reporting**

In September 2016, the Thai authorities indicated that the deadline for FATCA reporting will be announced in early 2017, and the reporting format to be used is XML Schema v2.0 for the year 2017 through IDES.

Vietnam

- ▶ **FATCA agreement with US enters into force**
On 20 July 2016, the Vietnamese authorities announced the IGA came into force on 7 July 2016.

- ▶ **Published updated list of jurisdictions implementing first exchange by 2017 and 2018**

On 26 July 2016, OECD has published an updated list of jurisdictions which are implementing first exchange of tax information by 2017 and 2018.

OECD

- ▶ **Global Forum on Transparency and Exchange of Information held**
On 4 November 2016, the OECD announced that tremendous progress was made in the implementation of CRS, with 97% of the jurisdictions committed to exchanging information in 2017 ready for these exchanges. Progress and challenges were also noted in regard to jurisdictions committed to launching exchanges in 2018.

For additional information with respect to this alert, please contact the following:

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