



Inland Revenue
Te Tari Taake

Automatic Exchange of Financial Account Information

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Introduction

“Vast amounts of money are kept offshore and go untaxed to the extent that taxpayers fail to comply with tax obligations in their home jurisdiction. Countries have a shared interest in maintaining the integrity of their tax systems. Co-operation between tax administrations is critical in the fight against tax evasion and in protecting the integrity of tax systems. A key aspect of that co-operation is exchange of information”

Standard for Automatic
Exchange of Financial Account
Information In Tax Matters
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The Standard

- Full name:

Standard for Automatic Exchange of Financial Account Information in Tax Matters

- Short name:

Automatic Exchange of Information (or AEOI)

- Comprises:

- Common Reporting Standard (or CRS)
- Commentaries
- Other elements (e.g. exchange between countries and technical issues)



AEOI Timetable

2014	2015	2016	2017	2018
FATCA switches on 1/7/14.	First exchanges with USA under FATCA in September.	CRS switches on for early adopter jurisdictions from 1/1/16. FATCA exchanges continue in September.	CRS switches on for 2 nd wave adopter jurisdictions most from 1/1/17, some later in the year (including NZ). Early adopters make first CRS exchanges in September. FATCA exchanges continue - business as usual.	2 nd wave adopters make first CRS exchanges in September. Early adopter CRS exchanges make 2 nd year exchanges in September. FATCA exchanges continue - business as usual. All AEOI business as usual going forward.

New Zealand Timeline

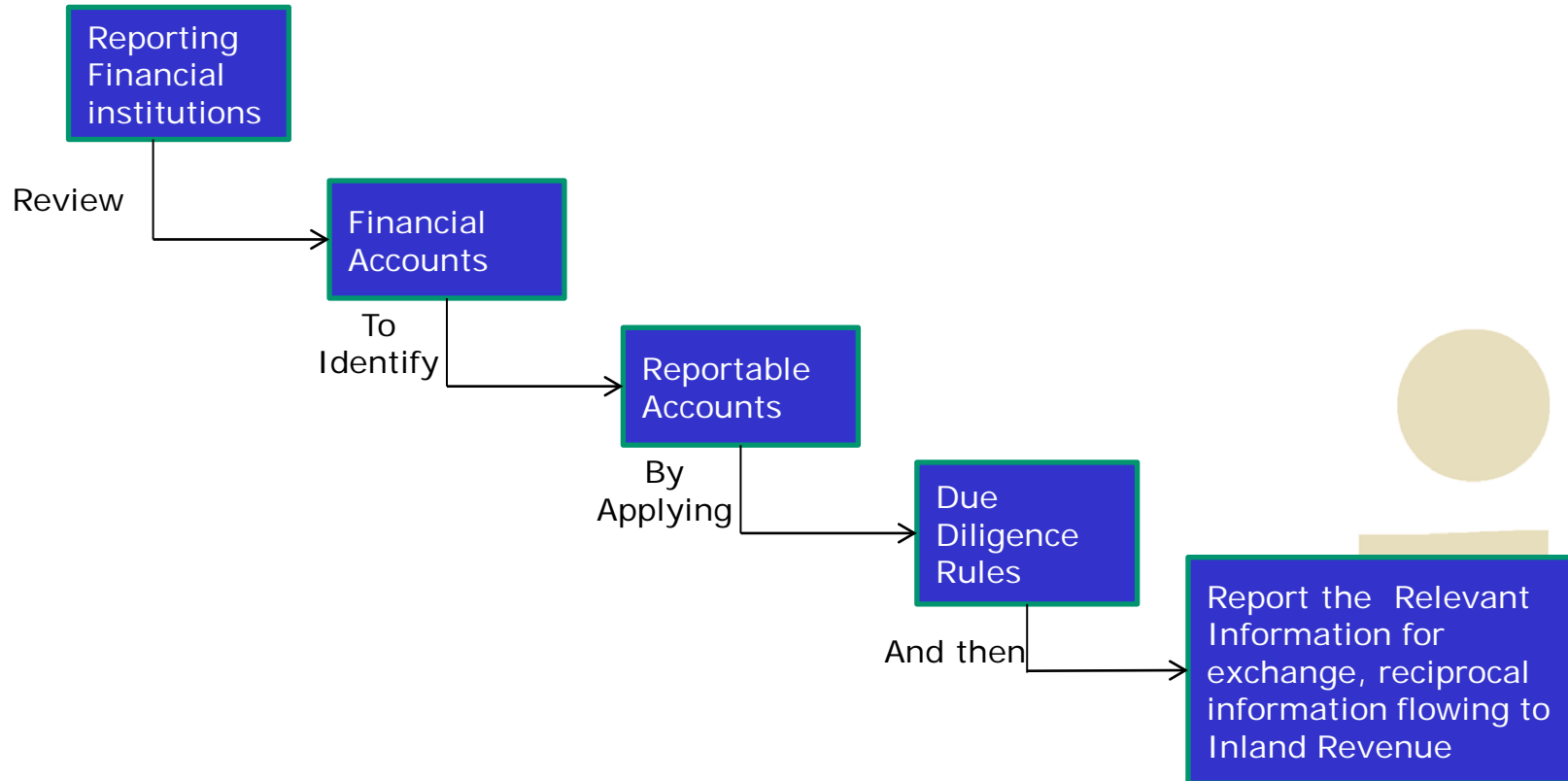
- Closing date for submissions on the issues paper is 31 March 2016
- Parliamentary timetable (subject to change):
 - Bill scheduled for introduction in early July 2016
 - Referral to Select Committee (and start of submission process) in July 2016
 - Enactment by December 2016
- Due diligence rules first apply from 1 July 2017



CRS vs. FATCA

- CRS builds on FATCA Model 1 IGA – core concepts around Reporting Financial Institutions, due diligence and reporting are closely aligned.
- Differences in approach arise from multilateral nature of CRS which has had to adapt the FATCA model to remove a number of US specificities.
- The key differences are:
 - No withholding tax under the CRS.
 - No thresholds for individual accounts under the CRS.
 - More Financial Institutions in scope under CRS because of more restrictive approach to defining Non-reporting Financial Institutions.
 - Alternative due diligence for lower-value pre-existing individual accounts based on residential address of the account holder. Most jurisdictions tax on the basis of residence unlike the USA that taxes based on residence or citizenship.

Applying the Standard



Reporting Financial Institutions (1)

- Any Financial Institution resident in New Zealand, but excluding any branch of that Financial Institution that is located outside of New Zealand.
- Any branch located in New Zealand of a Financial Institution that itself is not resident in New Zealand.

BUT

- Excluding any Financial Institution that is defined as a Non-Reporting Financial Institution under New Zealand domestic law.

Reporting Financial Institutions (2)

- In general an entity is regarded as resident in New Zealand if it is tax resident here.
- If it has no tax residence, unless it is a trust, it is resident in New Zealand where:
 - it is incorporated here;
 - it has its place of management (including effective management) here; or
 - it is subject to financial supervision here.
- A trust is resident in New Zealand if one or more of its trustees are so resident. This is irrespective of whether or not the trust is tax resident in New Zealand. However, reporting will not be required in New Zealand if the trust is tax resident in another participating jurisdiction **and** the trust reports to that jurisdiction.

Reporting Financial Institutions (3)

- Four types of Financial Institutions:
 - Depository Institution, Custodial Institution, Specified Insurance Company and Investment Entity
- Due Diligence varies depending on whether the account is a:
 - pre-existing individual account;
 - pre-existing entity account;
 - new individual account; or
 - new entity account.
- Review of pre-existing accounts largely based on existing customer information.
- Review of new accounts based on obtaining new information via self-certifications.

Non-Reporting Financial Institutions (NRFI)

- The CRS and FATCA definitions of NRFI are **NOT** the same.
- Common to both are:
 - Government Entities, International Organisations, Central Banks and Pension Funds of such entities;
 - Broad participation Retirement Funds and Narrow Participation Retirement Funds;
 - Qualified Credit Card Issuers;
 - Exempt Collective Investment Schemes; and
 - Trustee-Documented Trusts.
- The only other NRFI in the CRS are those defined in New Zealand domestic law as having a low risk of tax evasion.

Financial Institutions with a Low Risk of Tax Evasion

- To be included in the defined list of NRFI under New Zealand domestic law the entity must:
 - Present a low-risk of being used to evade tax.
 - Have substantially similar characteristics to any of the entities listed in the first three bullets under “Common to both” in the previous slide. Where not all the characteristics are present the Financial Institution can still qualify provided there is a substitute requirement that provides equivalent assurance of low-risk.
 - Not frustrate the purposes of the Common Reporting Standard.

Excluded Accounts

- There is a degree of overlap between the CRS and FATCA definitions of excluded account. The following accounts as defined in Annex 2 of the IGA are also Excluded Accounts as defined in the CRS:
 - Retirement and Pension Account;
 - Non-Retirement Savings Account;
 - Certain Term Life Insurance Contracts;
 - Account Held By an Estate; and
 - Escrow accounts.
- The CRS additionally excludes:
 - Certain overpaid balances on credit cards (where the Financial Institution is not a Qualified Credit Card Issuer);
 - Accounts that present a low risk of being used to evade tax as defined in New Zealand domestic law.



Accounts with a Low Risk of Tax Evasion

- To be included in the defined list of Excluded Accounts under New Zealand domestic law the account must:
 - Present a low risk of being used to evade tax.
 - Have substantially similar characteristics to any of the accounts listed in the previous slide. Where not all the characteristics are present, the account can still qualify provided there is a substitute requirement that provides equivalent assurance of low-risk.
 - Not frustrate the purposes of the Common Reporting Standard.

Dormant Accounts

- The Commentary to the CRS suggests that a low-value dormant account could be an Excluded Account, the value given as an example being US\$1,000.
- Would such an exclusion be helpful to Financial Institutions?
- If so, should the exclusion be mandatory or should Financial Institutions have an option to apply it if they so choose?

Cash Value Insurance (CVIC) and Annuity Contracts

- The CRS specifically excludes from being reviewed, identified or reported any CVIC or Annuity that is effectively prevented by law from being sold to residents of Reportable Jurisdictions.
- Where a similar exclusion from review, etc. is applied to pre-existing entity accounts with a value that does not exceed US\$250,000, the Financial Institution can elect not to apply the exclusion.
- Would a similar election be helpful to Financial Institutions for CVIC and Annuity Contracts?

The Wider Approach

- The wider approach is aimed at reducing the costs for Financial Institutions in carrying out due diligence.
- The wider approach allows a Financial Institution to apply due diligence to cover all non-residents, thus removing the need to perform additional due diligence each time a new jurisdiction is added to the list of reportable jurisdictions.
- Is the wider approach helpful to Financial Institutions?
- If so, should it cover all non-residents or just those where there is an exchange of information instrument in place?
- For how long should Financial Institutions be required to maintain the information?

Reporting Period

- The first exchange of information with other jurisdictions will take place no later than 30 September 2018.
- Should the first reporting period end on:
 - **31 March 2018?** This would align with the FATCA reporting date but only allows the Financial Institution three months to prepare data for reporting to IRD by 30 June.
 - **31 December 2017?** This would align with reporting by most jurisdictions under both the CRS and FATCA. It may help Financial Institutions that are part of multinational groups to align their reporting as well as giving more time to prepare data for reporting to IRD.
 - **31 March 2018** transitioning to 31 December in a later period?
 - **Some other reporting date?**

Time for Completing Due Diligence

- Assuming the first Reporting Period ends on 31 March 2018 should the due diligence procedures for pre-existing high-value individual accounts run to:
 - **31 March 2018?**
 - **30 June 2018** but report any accounts identified between 1 April and 30 June as if they had been identified by 31 March?
 - **30 June 2018** with any accounts identified after 31 March 2018 included in the 2019 report?
- When should the due diligence procedures for other pre-existing accounts run to in 2019?

Optionality in the Standard

- The commentary to the Standard outlines a number of alternative approaches to the way that the Standard applies. It is envisaged that jurisdictions will make decisions on whether or not to apply the alternatives and legislate where necessary.
- Would Financial Institutions prefer the options, once decided on, to be made mandatory through legislation?

OR

- Would Financial Institutions prefer any legislation to give them the decision on whether they wish to apply an option?

Compliance Requirements

- The Standard requires effective administration by participating jurisdictions which must have:
 - Rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures. (Anti-avoidance provisions)
 - Rules requiring record retention and evidence of performance of due diligence and reporting. (Effective legislation)
 - Administrative procedures to verify compliance by Financial Institutions. (Program of compliance activity by IRD)
 - Effective enforcement provisions to address non-compliance. (Penalties for non-compliance)

Information Sources

- The Inland Revenue FATCA page:
<http://www.ird.govt.nz/international/nzwithos/fatca/fatca-index.html>
- Inland Revenue's Tax Policy website:
<http://taxpolicy.ird.govt.nz/topical-issues/implementing-aeoi>
- The AEOI consultation paper:
<http://taxpolicy.ird.govt.nz/publications/2016-ip-implementing-aeoi/overview>
- The OECD Automatic Exchange Portal:
<http://www.oecd.org/tax/automatic-exchange/>



Email

- Email questions to:
global.aeoi@ird.govt.nz
- Submissions to:
policy.webmaster@ird.govt.nz
(with AEOI or CRS in the subject line)

