360 Degree Perspective: US Withholding and Global Information Reporting

**Moderator:** Josiah Child (Caplin & Drysdale, NY)

**Panelists:** Jeremiah Coder, Dianne Mehany (Caplin & Drysdale, DC),
Heather R. Sidwell (Ernst & Young, DC)

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Agenda

• Introductions

• Agenda
  • Evolution of the Rules
    • Foreign Account Tax Compliance Act (FATCA)
    • Intergovernmental Agreements under FATCA
    • Common Reporting Standard (CRS)
  • US Withholding Tax Regime
  • Substantive AEOI Requirements
    • Entity Classifications
    • Financial Account Classifications
    • Diligence and Reporting Rules
  • Concluding Observations
The Problem of Foreign Bank Accounts

• The concern motivating the new automatic exchange of information (AEOI) regimes was that:
  • U.S. taxpayers are hiding money in offshore bank accounts or similar foreign financial assets.
  • The IRS has no access to information about those accounts so as to enforce U.S. tax laws.
• U.S. income tax rules have always required U.S. taxpayers to report earnings derived through offshore accounts and have punished tax evasion.
• The premise of the new rules is that many U.S. taxpayers were not voluntarily complying, despite the risk of criminal and civil tax penalties.
• Foreign financial institutions also may be marketing hidden accounts to U.S. taxpayers in reliance on foreign bank secrecy laws.
• If U.S. government had direct regulatory jurisdiction over foreign banks, it could require the foreign banks to report accounts held by U.S. taxpayers and fine or prosecute banks that did not comply.
• But U.S. authorities do not generally have such jurisdiction, and foreign governments do not have a natural interest in deterring U.S. tax evasion.
Exchange of Information Historically

• Some international measures existed to identify U.S. tax evaders before FATCA.

• Prior to the new rules, U.S. tax authorities relied on cooperation from non-U.S. tax authorities under exchange of information articles in double tax avoidance treaties (DTAAs) and tax information exchange agreements (TIEAs).
  • These methods required bilateral agreements between the US and the partner jurisdiction.
  • The agreements typically made information available only on request, rather than automatically.
  • The agreements usually did not require a foreign jurisdiction to take extraordinary measures to gather information (e.g., enacting new laws).

• U.S. persons were required to report their foreign bank accounts (on an FBAR, now FinCEN Form 114).

• Some multilateral processes for the exchange of information existed, but they were also partial solutions.

• Scandals arose under these procedures, notably including U.S. taxpayers with undisclosed Swiss bank accounts.
Foreign Account Tax Compliance Act (FATCA)

• Congress enacted FATCA in the HIRE Act of 2010 (sections 1471-1474 of the Code).

• FATCA empowers the IRS to obtain automatic information reporting directly from foreign financial intermediaries, without relying on cooperation from foreign governments or direct enforcement jurisdiction over foreign banks.
  • By default, FATCA imposes a 30% withholding tax on most US-connected financial payments to non-U.S. financial intermediaries, if the intermediary is of a type that could potentially offer undisclosed accounts – “foreign financial institutions” (FFIs) and passive “non-financial foreign entities” (NFFEs).
  • Non-US intermediaries are permitted to opt out of the withholding tax by becoming “participating FFIs” (PFFIs) if they enter into an “FFI agreement” with the IRS requiring them to:
    • Diligence their financial accounts,
    • Report any U.S. account holders to the IRS,
    • Comply with IRS information requests, and
    • Withhold on “passthru payments” to “recalcitrant account holders” and “nonparticipating FFIs” (NPFFIs).

• FATCA also requires U.S. taxpayers to make more extensive reporting of their foreign financial assets to the IRS (section 6038D; Form 8938).
Distinctive Aspects of FATCA

• Why is the FATCA withholding penalty 30% of gross US-connected payments?
  • The penalty is effectively a variable-rate fine for failure to comply with diligence and reporting obligations, which are in the nature of anti-fraud/AML/KYC rules.
  • The amount of the tax has no intrinsic relationship to income of the recipient or to actual or potential misconduct by the intermediary – it is a “penalty default rule.”
  • The penalty is not a tax measured by income. Unlike regular tax, FFIs are not supposed to pay the tax but to comply with the diligence and reporting requirements.

• FATCA has been controversial because:
  • It imposed a large compliance burden on FFIs, with a presumption of guilt.
  • It could require FFIs to violate foreign bank secrecy laws or pre-existing contracts.
  • It asserted extraterritorial authority, in a break from prior international norms.
  • It reflected an attitude of U.S. exceptionalism rather than multilateralism.
  • It raised the possibility that FFIs would prefer disinvestment from the United States.
Intergovernmental Agreements (IGAs)

- FATCA provided Treasury/the IRS broad authority to exempt classes of FFIs.
- Treasury/the IRS used this authority to encourage foreign governments to implement FATCA through changes in their home-country legislation pursuant to intergovernmental agreements (IGAs).
  - “Model 1” IGAs require partner countries to implement rules to require local FFIs to report to the partner country tax authorities, which then automatically exchange information with the IRS. In these jurisdictions, FFIs can avoid the withholding penalty without entering into an FFI agreement. Such FFIs are regulated primarily by their home country authorities rather than by agreement with the IRS.
  - “Model 2” IGAs require partner countries to direct their FFIs to enter into FFI agreements and comply with FATCA. These types of IGAs ensure that the FFI can comply with the U.S. rules without violating local bank secrecy or similar laws.
  - IGAs also narrow the scope of affected FFIs and provide for less onerous due diligence requirements.
- A significant effect of FATCA was to induce foreign countries to enter into “Model 1” IGAs and take their own measures to require the reporting of U.S.-held foreign bank accounts.
  - At this time, 87 jurisdictions have an IGA in force or in effect and 26 jurisdictions have an IGA signed or agreed in substance, covering most major U.S. trading partners.
  - These are mostly Model 1 IGAs, which provide a standard of cooperation closer to prior international norms and can be seen as more robust versions of DTAAs and TIEAs.
Common Reporting Standard (CRS) – An Evolution of AEOI

A Brief History: How It All Began

- EU Savings Directive
- US FATCA

**Calls for a single standard**
- G8/G20
- EAG 2017

- FATCA IGAs
- CRS G20 adopts 2017/18
CRS’s Relationship with FATCA

1. The CRS builds very closely on FATCA, minimizing costs for financial institutions

2. BUT there are differences

3. AND CRS is Government (CA) to Government (CA) only.
1. Model 1 IGA reporting
2. Model 1 IGA exchanges
3. Leveraging on Model 1 IGA implementation to develop standardized automatic exchange in a multilateral context
CRS Approach to AEOI

Reporting of information based on Common Reporting and Due Diligence Standard (CRS) implemented via domestic law

Automatic exchange of information based on MTC Article 26 or MAC, & Model CAA

Reporting of information based on Common Reporting and Due Diligence Standard (CRS) implemented via domestic law
AEOI - Building Blocks

- Domestic legislation
- International agreements
- Administrative and IT capacity
- Confidentiality and data safeguards

The CRS Standard
CRS: What Will It Achieve?

- Wide scope of Reporting Financial Institutions and Reportable Accounts
- Robust CDD and better quality data: tax residence self-certification/reasonableness check
- Foreign income & wealth (capital) information available to residence country tax authority
- Legal/beneficial ownership of passive offshore financial income/assets is available
- Offshore financial investment income is taxed in the jurisdiction of residence
  - Tax bases protected
  - Domestic revenue mobilization
Financial Institutions located in A

Country A tax administration

Account Holders resident in B

Agreements and systems to exchange information

Country B tax administration

Financial Institutions located in B

Systems/procedures to obtain, process, use and protect the information

Country A

Domestic legal obligations to conduct CDD & report information on foreign tax residents

Account Holders resident in A

Country B
An Overview of the CRS: 5 Steps

1. **Step 1**
   - Reporting Financial Institutions
   - Review their financial accounts

2. **Step 2**
   - Financial Accounts
   - To identify reportable accounts

3. **Step 3**
   - Reportable Accounts
   - By applying due diligence rules

4. **Step 4**
   - Due diligence rules
   - And then report the relevant information

5. **Step 5**
## CRS: Information Automatically Reported

<table>
<thead>
<tr>
<th>Information type</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>To identify the Account Holder &amp; Controlling Persons</td>
<td>• Name&lt;br&gt;• Address&lt;br&gt;• Jurisdiction(s) of residence&lt;br&gt;Where available and required:</td>
</tr>
<tr>
<td></td>
<td>• TIN(s), Date of birth, Place of birth</td>
</tr>
<tr>
<td>To identify the accounts and Financial Institution</td>
<td>• Account number&lt;br&gt;• Name and identifying number of the Financial Institution</td>
</tr>
<tr>
<td>In relation to financial activity in the account</td>
<td>• Account balance or value (or account closure in-year)&lt;br&gt;For depository accounts: interest paid&lt;br&gt;For custodial accounts: interest, dividends, other income and gross proceeds paid&lt;br&gt;For other accounts: gross amounts paid&lt;br&gt;Controlling Persons – their share of the income &amp; asset/balance value</td>
</tr>
</tbody>
</table>
The International Legal Basis

Legal basis
- Permits automatic exchange.
- Legal protections (use of data)

Exchange details
- What is to be exchanged
- Timing of exchange

- Multilateral Convention
- Art. 26 DTC
- TIEA including AEOI

- Multilateral Competent Authority Agreement
- Bilateral Competent Authority Agreements
CRS Disclosure Facility

• The facility is part of a wider three step process the OECD has put in place to deal with schemes that purport to avoid reporting under the CRS.

• All actual or perceived loopholes that are identified are systematically analyzed in order to decide on appropriate courses of action.

• Wide scope in terms of the Financial Institutions required to report, the financial information to be reported and the scope of Account Holders subject to reporting. It also requires that jurisdictions, as part of their effective implementation of the Standard, put in place anti-abuse rules to prevent any practices intended to circumvent the reporting and due diligence procedures.

• Example: Feb 2018 consultation document on RBI/CBI
US Withholding Tax and Payments System

• Withholding Regimes
  • Chapter 3 imposes a 30% withholding on gross payments of certain US-source income that is fixed or determinable annual or periodic (“FDAP”) income to foreign persons (i.e., individuals and entities).
  • Chapter 4 imposes a 30% withholding on the gross amount of US-sourced “withholdable payments” made to non-participating foreign financial institutions (“NPFFI”) or noncompliant passive non-financial foreign entities (“NFFEs”).
  • An entity can either elect to be a NPFFI or can default into being characterized as a NPFFI by not following the requirements or not providing a classification.

• Responsibility for Withholding
  • A “withholding agent” is generally any person, US or foreign, that has control, receipt, custody, disposal, or payment of an amount on which withholding is required.
  • Generally, only the last US withholding agent prior to an outbound payment is responsible for withholding; however, if a non-US person has an agreement with the IRS to assume primary withholding responsibility, such person may be responsible for withholding.
“Chapter 3” vs. “Chapter 4” Withholding

• Chapter 3
  • Applies to US-source FDAP income, provided it is not effectively connected with a US trade or business
    • E.g., interest, dividends, rents, royalties, services
  • Although these payment amounts are subject to US tax, beneficial owners are not within the US tax system; withholding imposed in lieu of income tax on the net income represented by the payment.

• Chapter 4 (FATCA)
  • Applies to “withholdable payments” made to certain foreign financial institutions (“FFIs”) and non-financial foreign entities (“NFFEs”)
    • E.g., US-source FDAP income, (excluding certain non-financial payments), provided it is not effectively connected with a US trade or business
    • Note Section 1473 includes in the term “withholdable payments” the gross proceeds of from the sale of property of a type that can produce US-source interest and dividends (e.g., US stock and securities). This provision would be eliminated by 2018 proposed regulations.
  • Withholding is the “stick” that encourages compliance with FATCA’s diligence and reporting regime.
Determining Withholding Obligations

• What type of income is paid?
  • Withholding may be required on income that is FDAP.

• Who is being paid?
  • A US payee should provide a valid Form W-9 documenting their status; a non-US payee should provide a valid Form W-9.

• What is the source of the income?
  • Withholding may be required if income is US-source.

• Is the payment a withholdable payment for FATCA purposes?
  • If a withholdable payment and FFI is a participating foreign financial institution ("PFFI") or NFFE, apply Chapter 3 withholding.
    • Note, a withholdable payment to a PFFI may require withholding if the PFFI receives such payment as an agent for a financial account holder that does not comply with FATCA.
  • If a withholdable payment and FFI is a non-participating foreign financial institution ("NPFFI") or cannot document PFFI status, apply Chapter 4 (FATCA) withholding.
Compliance Considerations

• A withholding agent may be liable for under-withholding or failure to withhold.

• To document compliance with the withholding regimes in Chapter 3 and Chapter 4, withholding agent payors should follow these best practices:
  • Solicit and maintain a valid Form W-9 (demonstrating US person status) or Form W-8 (demonstrating tax residence and FATCA status) from each recipient.
  • Report the income and tax withheld on Form 1042-S.

• Withholding agents that do not timely deposit withheld amounts with the IRS may also be liable for penalties.
Implementation Difficulties

- IRS has received numerous comments about the difficulties in complying with the requirement of withholding on gross proceeds, as well as the limited incremental benefits of such withholding.
  - 2018 proposed regulations would eliminate withholding on gross proceeds.
- A PFFI may be required to withhold on foreign passthru payments (i.e., payments “attributable to” a withholdable payment) made to certain account holders and to NPFFIs.
  - In 2011, IRS and Treasury published a framework for determining when a payment is attributable to a withholdable payment.
  - In light of comments that then need for passthru withholding may be obviated by the number of intergovernmental agreements (“IGAs”) currently existing, and in consideration of the burdens of implementing the proposed framework, 2018 proposed regulations would extend the time for implementation of withholding on foreign passthru payments.
Classification Rules

• FATCA’s substantive requirements are generally mechanical in application, but rely on a complex set of definitions and exceptions.
  • Status classifications. Status definitions are meant to identify entities that a US taxpayer could potentially use to conceal assets from the IRS. Principally, these rules determine which entities must diligence account holders and report US owners to the IRS, or face the 30% withholding penalty.
  • Account classifications. These definitions distinguish which “financial accounts” at an FFI or NFFE must be scrutinized and reported (including debt and equity interests), and when a financial account will be viewed as indicating potential ownership by a US person.

• Different classification rules apply depending on the regime – the FATCA statute and regulations, a Model 1 or 2 IGA, or CRS – which creates complexity for FFIs and U.S. withholding agents.

• Classification issues often arise in practice, and require U.S. tax advice, when:
  • A FFI or NFFE must provide a Form W-8 to a U.S. withholding agent in order to receive a withholdable payment.
  • A person opens a financial account and must provide a Form W-8 during the KYC process.
Basic Entity Classifications – FFIs

• A foreign financial institution is a financial institution that is a non-U.S. person. 1471(d)(5), 1473(5).

• A “financial institution” generally includes:
  • **Depository Institution.** An entity that accepts deposits in the ordinary course of a banking or similar business, or that provides trust or fiduciary services.
  • **Custodian Institution.** An entity that holds financial assets for the account of others as a substantial portion of its business.
  • **Investment Entity.** An entity that either (i) invests, trades, manages or administers financial assets for customers, such as an investment advisor; or (ii) funds that are professionally managed or are advertised as such to investors.
  • **Specified Insurance Company.** An entity that issues cash value insurance or annuity contracts (i.e., contracts that the holder can monetize in different ways).
  • **Holding Companies/Treasury Centers.** A holding company or treasury center in an expanded affiliated group (EAG) that includes another financial institution, or that is formed or availed of by an investment entity, but generally not if it is a member of a “nonfinancial group.”

• Exceptions apply to some entities, *e.g.*, nonprofits and 501(c)s, startup or bankrupt companies.

• IGAs define “financial institution” more narrowly, in particular by excluding some types of investment entities, holding companies, and treasury centers.
Diligence and Reporting By FFIs

• Entities classified as FFIs generally must:
  • Diligence their financial accounts and report U.S. accounts to their local tax authority for automatic exchange of information with the IRS, if they are in a Model 1 IGA jurisdiction.
  • Diligence their financial accounts and report U.S. accounts to the IRS, if they are required to enter into an FFI agreement (under the statutory FATCA regime or a Model 2 IGA).

• “Financial accounts” generally include depository accounts, custodial accounts, and numerous types of equity or debt interests.

• “United States” accounts are generally financial accounts held by a specified U.S. person (such as an individual) or a 10% or more U.S.-owned foreign entity.

• Due diligence requirements for FFIs are complex and can be onerous.
  • Different due diligence requirements apply to pre-existing accounts and newly opened accounts, and to individual accounts or entity accounts.
  • Enhanced procedures apply if the FFI uncovers evidence that a direct or indirect owner is a U.S. person, such as a U.S. birthplace or mailing address.
  • Less burdensome diligence procedures apply in IGA jurisdictions.
Diligence and Reporting Exceptions for Low-Risk FFIs

• Foreign entities may be excused from diligence and reporting under an FFI agreement because they are not FFIs, or because they are FFIs but are judged to pose a low risk of facilitating U.S. tax evasion.
  • “Exempt beneficial owners” include FFIs that are various types of foreign government entities, international organizations, and retirement funds.
  • “Deemed-compliant FFIs” include many types of FFIs that have a purely local focus or low-value customer base, that prohibit U.S. investment, or that qualify for and satisfy alternative diligence and reporting procedures designed to ensure they have no U.S. accounts.

• These categories may be expanded under an IGA, including under specially negotiated definitions in an annex.
Basic Entity Classifications - NFFEs

• A non-financial foreign entity is a foreign entity other than a financial institution. 1472(d).

• NFFEs are not required to enter into an FFI agreement, but are generally required to report their substantial U.S. owners where there is a perceived risk that they could be shell companies used to hide assets for a U.S. taxpayer.
  • Excepted NFFE. An entity of various low-risk categories, such as a publicly traded company or its affiliates, a company that runs an active business (rather than primarily holding financial assets), or an entity addressed in a specific exclusion from the definition of a financial institution.
  • Passive NFFE. Any entity in a residual category, which may include (for example) a non-professionally managed offshore vehicle holding securities.

• To comply with FATCA, passive NFFEs must either:
  • Report any substantial U.S. owners to a U.S. withholding agent in order to avoid the FATCA withholding penalty, or else
  • Enter into a direct reporting arrangement with the IRS (by themselves or through a sponsor) in which case they will be deemed to be excepted NFFEs.

• Passive NFFEs in IGA jurisdictions generally must report U.S. accounts if they are held by “controlling persons.”
# Advanced Entity Classifications

## Part I: Identification of Beneficial Owner

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<thead>
<tr>
<th></th>
<th>Identification of Beneficial Owner</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Name of organization that is the beneficial owner</td>
</tr>
<tr>
<td>3</td>
<td>Name of disregarded entity receiving the payment (if applicable, see instructions)</td>
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<td>4</td>
<td>Chapter 3 Status (entity type) (Must check one box only):</td>
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<tr>
<td></td>
<td>Simple trust</td>
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<td></td>
<td>Central Bank of Issue</td>
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<td></td>
<td>If you entered disregarded entity, partnership, simple trust, or grantor trust above, is the entity a hybrid making a treaty claim?</td>
</tr>
<tr>
<td>5</td>
<td>Chapter 4 Status (FATCA status) (See instructions for details and complete the certification below for the entity’s applicable status.)</td>
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<tr>
<td></td>
<td>Participating FFI</td>
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<td>Reporting Model 2 FFI</td>
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<td></td>
<td>Registered deemed-compliant FFI (other than a reporting Model 1 FFI, sponsored FFI, or nonreporting IGA FFI covered in Part X)</td>
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<tr>
<td></td>
<td>See instructions.</td>
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<td></td>
<td>Sponsored FFI, Complete Part X</td>
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<tr>
<td></td>
<td>Certified deemed-compliant nonoperating local bank</td>
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<td></td>
<td>Complete Part IV</td>
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<td></td>
<td>Certified deemed-compliant FFI with only low-value accounts, Complete Part VI</td>
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<td>Certified deemed-compliant sponsored, closely held investment vehicle, Complete Part VII</td>
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<td>Certified deemed-compliant limited life debt investment entity, Complete Part VIII</td>
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<td>Certain investment entities that do not maintain financial accounts, Complete Part IX</td>
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<td></td>
<td>Owner-documented FFI, Complete Part X</td>
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<td></td>
<td>Restricted distributor, Complete Part XI</td>
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<td>Nonreporting IGA FFI, Complete Part XII</td>
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<td>Foreign government, government of a U.S. possession, or foreign central bank of issue. Complete Part XIII</td>
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<td></td>
<td>International organization. Complete Part XIV</td>
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<td></td>
<td>Exempt retail plans. Complete Part XV</td>
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<tr>
<td></td>
<td>Entity wholly owned by exempt beneficial owners. Complete Part XVI</td>
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<tr>
<td></td>
<td>Territory financial institution. Complete Part XVII</td>
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<tr>
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<td>Excepted nonfinancial group entity. Complete Part XVIII</td>
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<td>Excepted nonfinancial start-up company. Complete Part XIX</td>
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<tr>
<td></td>
<td>Excepted nonfinancial entity in liquidation or bankruptcy. Complete Part XX</td>
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<td></td>
<td>S01(c) organization. Complete Part XXI</td>
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<td>Nonprofit organization. Complete Part XXII</td>
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<td>Publicly traded NFFE or NFFE affiliate of a publicly traded corporation. Complete Part XXIII</td>
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<td>Excepted territory NFFE. Complete Part XXIV</td>
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<tr>
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<td>Active NFFE. Complete Part XXV</td>
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<tr>
<td></td>
<td>Passive NFFE. Complete Part XXVI</td>
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<td></td>
<td>Excepted inter-affiliate FFI. Complete Part XXVII</td>
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<td>Direct reporting NFFE</td>
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<td>Sponsored direct reporting NFFE. Complete Part XXVIII</td>
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<td>Account that is not a financial account</td>
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## Noteworthy Differences Under CRS

<table>
<thead>
<tr>
<th>Issue</th>
<th>Common Reporting Standard compared to the Model 1 FATCA IGA</th>
<th>Consistent approach possible?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thresholds</td>
<td>Unlike IGA, no $50,000 de minimus for Preexisting Individual Accounts</td>
<td>Threshold optional under the IGA – no threshold in the CRS</td>
</tr>
<tr>
<td>Reportable Persons</td>
<td>The IGA includes US citizenship in the definition of tax residency (as an indicia)</td>
<td>Reflect US tax law</td>
</tr>
<tr>
<td>Passive NFEs</td>
<td>Unlike the IGA, Passive NFEs are reportable under CRS where same residency as Controlling Persons</td>
<td>Only in the CRS</td>
</tr>
<tr>
<td>Definition of Passive NFE</td>
<td>Unlike the IGA, the CRS defines Investment Entities in non Participating Jurisdictions as Passive NFEs</td>
<td>Only in the CRS</td>
</tr>
<tr>
<td>Incorrect self-certs</td>
<td>Unlike the CRS, under the IGA the default option is to report the information to the US</td>
<td>Changed for a multilateral context</td>
</tr>
<tr>
<td>Date/place of birth</td>
<td>Both may be required under CRS, but IGA only requires DOB if no TIN</td>
<td>To enhance matching in multilateral context</td>
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</tbody>
</table>
## Noteworthy Differences Under CRS (cont.)

<table>
<thead>
<tr>
<th>Issue</th>
<th>Common Reporting Standard compared to the Model 1 FATCA IGA</th>
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</thead>
<tbody>
<tr>
<td>Preexisting Accounts</td>
<td>Under the CRS a Preexisting Entity Account reported above $250,000, under IGA same threshold but if under threshold only reportable when exceeds $1,000,000 in subsequent year</td>
</tr>
<tr>
<td>Individuals</td>
<td>• Uses residence (not citizenship);</td>
</tr>
<tr>
<td></td>
<td>• No thresholds</td>
</tr>
<tr>
<td></td>
<td>• Residence address test for pre-existing accounts building on EU Savings Directive</td>
</tr>
<tr>
<td></td>
<td>• Simplified indicia search</td>
</tr>
<tr>
<td>Low risk FIs and products</td>
<td>General exclusion for country specific low-risk reporting financial institutions and accounts (rather than specific lists in IGA Annex)</td>
</tr>
</tbody>
</table>
Continued Growth in AEOI

• **BEPS**
  • Action 13: Country-by-country reporting
  • Action 5: Spontaneous exchange of rulings

• OECD Model Mandatory Disclosure Rules

• **EU**
  • DAC 2: Adoption of CRS
  • DAC 3: Automatic exchange of tax rulings/APAs
  • DAC 4: Automatic exchange of CbC reports
  • DAC 6: Automatic exchange of mandatory disclosure reporting
Concluding Observations

• Digitalization of taxpayer information has enabled the global AEOI revolution. The ability to deploy IT systems has been a key criterion in whether the rules are administrable.

• Would-be U.S. tax evaders should fear more than just AEOI, such as whistleblowers and hackers/leakers (Panama Papers, Paradise Papers, LuxLeaks, etc.).

• The IRS has run an Offshore Voluntary Disclosure Program (OVDP) and other initiatives to encourage U.S. taxpayers with offshore financial assets to come forward.

• FATCA has affected some “accidental Americans” who happened to be born here but have always lived abroad.