



FStaxworld Your April snapshot

In this month's *FStaxworld*, we analyze the CRS treatment of Professionally Managed Investment Entities and the consequent implications for the trust industry.

Jump to:
The view from Deloitte

Switzerland and the EU
Initial a CRS Agreement

Deloitte in Switzerland
FATCA-CRS Readiness
Survey for Trust
Companies

Related Links

Authors

The view from Deloitte

Dear Reader,

The introduction of the OECD Common Reporting Standard and other elements of the incoming Automatic Exchange of Information regime (collectively hereafter, CRS) present significant operational challenges for financial institutions, even those hoping to build on a sturdy, stable basis developed for FATCA. Such challenges will vary depending on the location and scope of the commercial operations, but also depending on the type of financial industry in question. Over the next few months, the *FStaxworld* newsletter will explore the major operational challenges confronting different industries, as the



financial institutions in those industries further enhance their processes and procedures in order to prepare for the onset of CRS.

This article concentrates on the variable treatments of Professionally Managed Investment Entities (PMIEs) maintaining assets in Partner and Non-Partner jurisdictions and the implications for the trust industry as a result.

The concept of a PMIE type Financial Institution (FI) originated in the FATCA rules, where it was referred to commonly as a Type B Investment Entity due to the sub-paragraph of the definition of an Investment Entity in which it appeared. PMIEs are entities that primarily hold financial assets and are managed by other FIs. Prototypical examples include trusts, funds and closely held investment companies (i.e. PICs or domiciliary companies).

Under FATCA, such PMIEs qualified as Foreign Financial Institutions (FFIs) and the holders of their debt and equity interests qualified as financial accounts in the FFIs. As such, any of those debt and equity interest holders identified and documented as Specified U.S. Persons (or Non-Participating FFIs transitionally for tax years 2015 and 2016) must be reported pursuant to the terms of the governing rule set (i.e. the relevant IGA or the U.S. Treasury Regulations).

In many circumstances, an affiliated entity, typically the other FFI managing the PMIE, will assume the compliance activities on behalf of the PMIE in the role of sponsoring or similar entity. However, the basic precepts remained constant: The eligibility criteria determined that the PMIE was an FI and consequently the financial account holders of that entity needed to be reported. Under CRS that is not necessarily the full set of reporting obligations. Under CRS the jurisdiction in which the PMIE holds assets (e.g. custodial account at a bank) becomes relevant as well.

Where the jurisdiction of the PMIE and the jurisdiction of the FI where it holds assets are Partner Jurisdictions, (i.e. there is a bilateral or multilateral CRS agreement in place or deemed to be in place), the FI maintaining the account treats the PMIE as an FI account holder. In such a case, as under FATCA, the PMIE reports the equity and debt interest holders as its financial account holders (if resident in a Reportable Jurisdiction of the PMIE), but the FI maintaining the account incurs no reporting obligation with respect to that account.

However, where the jurisdiction of the PMIE and the jurisdiction of the FI where it holds assets are Non-Partner Jurisdictions, (i.e. there is no bilateral or multilateral CRS agreement in place or deemed to be in place), the FI maintaining the account treats the PMIE as a passive NFE account holder. In such a case, although the PMIE still reports the equity and debt interest holders as its financial account holders (if resident in a Reportable Jurisdiction of the PMIE), the FI maintaining the account also incurs reporting obligations with respect to that account. The FI maintaining the account must identify and document the Controlling Persons (CPs) of the PMIE and report on any of them resident in a Reportable Jurisdiction of the FI.

For Trust Companies, this rule multiplies the operational contingencies around CRS reporting, in the following ways:

- **Potential loss of control over client information** - For FATCA, many Trust Companies preferred to classify all the components of their wealth management structures as FFIs and sponsor the entire roster in order to retain full control over, and thus ensure, compliance with informational reporting obligations. As a result of the treatment of PMIEs in Non-Partner Jurisdictions, Trust Companies cannot presume such control without a willingness to relocate assets or structures in response to the development of the CRS treaty network.
- **Identification of where CPs must be disclosed and will therefore be reported by their banks** - As an adjunct to the loss of control, Trust Companies will need to identify where their PMIE structures will be treated as passive NFEs so as to prepare the requisite materials to disclose and document the CPs to the FIs where they hold assets.

• **Requirement for multi-tier reporting on multi-tier structures** - For multi-tier structures, FATCA allowed the Trust Company to treat all the components of the wealth management structure as FFIs (with few exceptions), thereby eliminating any account reporting for the lower-tier entities, the equity interest holders of which were all compliant FFIs and thus not treated as reportable accounts. Under CRS however, where assets are held indirectly through multi-tier structures, as currently cast, CRS obliges the Trust Company to prepare for account reporting and/or CP disclosure at each level of the structure.

As a result of the treatment of PMIEs in Non-Partner Jurisdictions, Trust Companies will need to assess the constellations of jurisdictions where their PMIEs are resident for CRS purposes and the jurisdictions in which such PMIEs hold the assets. As an initial step, by means of some basic operating assumptions about which jurisdictions are likely to become Partner Jurisdictions with one another, the Trust Companies can help determine the treatment of their PMIE structures at the FIs where they maintain accounts. Only once the landscape is mapped, will the Trust Companies fully comprehend the allocation of responsibilities regarding reporting and disclosure of their clients.

Regards,

[Paul Millen](#)

[Brandi Caruso](#)

Switzerland and the EU Initial a CRS Agreement

On 19 March 2015, Switzerland and the EU initialled an agreement concerning the introduction of the global standard for the automatic exchange of information in tax matters (i.e. OECD CRS). According to the press release from the Swiss State Secretariat for International Financial Matters, the parties intend to sign a final agreement within the coming weeks, at which time it will be submitted to the Swiss Parliament for legislative approval. In the preliminary stages of OECD CRS, Switzerland has proven uniquely active in the development of the necessary basis for the successful implementation of the regime: It was the first country to publish a draft law for the domestic implementation of OECD CRS and, in addition to last week's announcement regarding an agreement with the EU, Switzerland and Australia signed a joint declaration on 2 March stating their intention to start exchanging information from 2018. Through this active leadership, Switzerland can help shape the OECD CRS landscape in a manner suited to its interests, helping ensure that the implementation of the new tax reporting regime does not undermine its global financial competitiveness. The EU agreement will be reciprocal, should enter into force on 1 January 2017 and will replace the taxation of savings agreement with the EU for all 28 EU member states.

For more information, please contact [Markus Weber](#) or [Robin King](#).

Deloitte in Switzerland FATCA-CRS Readiness Survey for Trust Companies

In response to industry requests, Deloitte will conduct a FATCA-CRS Readiness Survey for Trust Companies, designed to explore the policies adopted and processes implemented in order to fulfil pending compliance milestones under FATCA, along with any preliminary and intended actions in advance of the onset of CRS at the beginning of next year.

If you wish to be included in the invitee list for the survey, the results of which will be fully anonymized, please send an email to [Anaïs Donnée](#).



Please note: Only participants in the survey will be able to access the results of the survey.

Related Links

[FATCA Switzerland](#)

[FStaxworld Archive](#)

[FAHTCAweekly 2014 Archive](#)

Authors



Paul Millen
Editor *FStaxworld*

[Send email](#)



Brandi Caruso
FATCA Leader Switzerland FSI Tax Leader

[Send email](#)



Markus Weber
FSI Tax Leader

[Send email](#)



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/ch/about for a detailed description of the legal structure of DTTL and its member firms.

Deloitte AG is a subsidiary of Deloitte LLP, the United Kingdom member firm of DTTL.

Deloitte AG is an audit firm recognised and supervised by the Federal Audit Oversight Authority (FAOA) and the Swiss Financial Market Supervisory Authority (FINMA).

This publication has been written in general terms and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte AG would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte AG accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

[Home](#) | [Terms of Use](#) | [Privacy](#) | [Cookies](#)

© 2015 Deloitte AG. All rights reserved.

Not interested anymore? [Unsubscribe](#) from all email communications. Please be aware that this will unsubscribe you from all Deloitte marketing and events communications.