OECD international automatic exchange of tax information

Tomorrow is already here

Global Financial Services Industry
2016
OECD standard on automatic exchange of information on financial accounts

The OECD's standard on automatic exchange of information on financial accounts (the Standard) is an international initiative directed at increasing tax transparency that it is supported by more than 90 jurisdictions. The Standard consists of the following key elements:

- **Model Competent Authority Agreement**: The administrative framework for participant jurisdictions to exchange information.
- **Common Reporting Standard (CRS)**: Sets out the scope of information that should be included in a report, as well as requirements for due diligence on clients.
- **CRS Commentary**: Contains detailed instructions for applying the Competent Authority Agreement and Common Reporting Standard, including relevant examples.
- **CRS Schema and User Guide**: Contains the general requirements and instructions for electronic transmission of information to the tax authorities by financial institutions.

What is CRS?
Legal and administrative aspects of implementing the Standard in Russia

Legal basis:
The OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Convention) establishes the legal framework for exchange of information.

Article 6 of the Convention: in accordance with the procedures, which are determined by mutual agreement, two or more parties may automatically exchange information among themselves.

The Convention was ratified by Russia on 4 November 2014 with certain conditions; it entered into force in the Russian Federation on 1 July 2015.

Administrative basis:
The Competent Authority Agreement (CAA) sets out the scope, timing and process for information exchange.

Model Competent Authority Agreement – three types:
• Reciprocal bilateral: used in conjunction with Article 26 of the OECD Model Double Tax Agreement.
• Multilateral (MCAA): reduces the administrative burden of entering into separate bilateral agreements. This type is used by many members of the Convention. Information is exchanged between two countries (MCAA signed by Russia on 12 May 2016).
• Non-reciprocal bilateral: for example, with jurisdictions that do not have an income tax.

Local legislation:
The MCAA is a framework agreement that comes into effect only after the corresponding local legislation accounting for protection of personal data and information confidentiality enters into force.

Russia is among the so-called “non-early adopters” for which the first reports under the CRS are planned to be provided for 2018. Part of the due diligence procedures should already be in place by this time taking into consideration specific provisions to be stipulated by local legislation.

<table>
<thead>
<tr>
<th>Identification of new clients (individuals and legal entities)</th>
<th>Identification of existing individual clients with account balances of over USD 1 million</th>
<th>Identification of existing individual and legal entity clients</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>2017</td>
<td>2018</td>
</tr>
<tr>
<td>1 January</td>
<td>31 December</td>
<td>30 September - 31 December</td>
</tr>
<tr>
<td>2019</td>
<td></td>
<td>Information exchange between jurisdictions</td>
</tr>
</tbody>
</table>
What steps must be taken?

Steps the competent authorities need to take to launch the Standard in Russia

Changes to Russian legislation
Legal requirements shall be established in respect of:
• Identification procedures (including forms of self-certification)
• Submission of reports to the Russian Federal Tax Service (FTS)
• Liabilities for violating the requirements of the Standard
• Financial institutions possessing documents intended for compliance with the Standard

Provision of the required IT and administrative infrastructure
The format and standards for encryption and transmission of CRS reports to the FTS are to be established.

Protection of personal data and information confidentiality
Potential changes to Russian law permitting the cross-border exchange of personal data while providing for the protection of the transmitted information.

MCAA
The MCAA was signed on 12 May 2016.

What steps must be taken?

Actions by financial institutions
Financial institutions must:

• Analyze the Standard’s effect on the business
• Implement the Standard in business processes and revise internal documentation according to FATCA
• Develop a compliance policy for adhering to the Standard
• Monitor the legal requirements regarding the Standard’s application in Russia

...in order to:
• Create an understanding of the level of impact of the Standard and the areas it affects, as well as assess the resources needed to comply with the Standard;
• Develop a comprehensive plan for integration and compliance with the Standard;
• Assess the readiness to identify and submit reports on a wider circle of clients;
• Ensure the compliance of financial institutions with the Standard.

CRS operating principles

Account holders – individuals

Identification and documentation

Local tax authority

Reporting

Foreign tax authorities in the jurisdictions of the account holders and controlling persons

Exchange of information

Account holders – legal entities

Reporting financial institution

Controlling persons

Account holders – legal entities
### Requirements for financial institutions

<table>
<thead>
<tr>
<th>Burden</th>
<th>Requirements</th>
<th>Recommended actions</th>
</tr>
</thead>
</table>
|        | Classification of financial institutions | • Assess the impact of the CRS on the organization’s activities; compare the FATCA classification with the CRS requirements  
• Prepare a new classification if the rationale used for FATCA cannot be used in this case  
• Justify and document the classification |
|        | Identification | • Analyze the existing documents and processes used to collect client data for compliance with the CRS requirements  
• Develop/implement forms of self-certification in line with the requirements of local legislation  
• Update systems and add new fields required by the CRS, for example, tax identification number (or equivalent) and place of birth  
• Adapt processes to cover a wider (in comparison with FATCA) base of clients subject to CRS reporting  
• Monitor changes of information in client's data under CRS requirements |
|        | New accounts | • Analyze requirements of the local legislation regarding the format and mechanism for submitting reports  
• Develop report submission systems that will fulfill various requirements (FATCA, CRS)  
• Identify all sources of information necessary to prepare reports  
• Track changes in the requirements of the local legislation  
• Implement a process that ensures timely submission of reports |
|        | Reporting | • Analyze requirements of the local legislation regarding the format and mechanism for submitting reports  
• Develop report submission systems that will fulfill various requirements (FATCA, CRS)  
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• Track changes in the requirements of the local legislation  
• Implement a process that ensures timely submission of reports |

* The lowest level of implementation burden

### Implementation burden compared to FATCA

<table>
<thead>
<tr>
<th>Section of report</th>
<th>Information required to identify the account holder (identification information)</th>
<th>Persons / Legal entities subject to reporting</th>
</tr>
</thead>
</table>
| CRS               | • Name of taxpayer  
• Jurisdiction of residence  
• Taxpayer identification number  
• Date and place of birth (for individuals) | • Account holders – individuals and legal entities on which information must be reported  
• Controlling persons of legal entities (if applicable) |
| CRS               | • Account number  
• The name and identification number (if applicable) of the financial institution submitting the report  
• For all types of accounts: account balance  
• For depositary accounts: total interest income for the reporting period  
• For custodial accounts: interest, dividends and gross proceeds from sale (redemption) of financial assets  
• For all other types of accounts: gross proceeds paid by the financial institution as the debtor | • Financial institution submitting the report  
• Financial accounts of clients |

### CRS report contents
Timeframe for the FTS to receive the first information under CRS

In 2017, the so-called "early adopters" (e.g. United Kingdom, Bermuda, British Virgin Islands, Cayman Islands, Cyprus, Guernsey, Jersey, etc.) will begin exchanging information regarding 2016. In 2018, jurisdictions in the "non-early adopters" group (e.g. Russia, Switzerland) will begin exchanging information regarding 2017.

In order for the Russian tax authorities to receive information from other jurisdictions for a particular year, both countries must develop the required legislation and processes and submit a declaration of readiness to exchange information regarding the particular year.

If the legislation of another country requires submission of reports for 2016, but the Russian legislation does not, the FTS will begin receiving information from foreign jurisdictions presumably beginning 2018 regarding 2017.

Contacts

Alexander Sinitsyn
Director, Tax & Legal
Tel.: +7 (495) 787 06 00 Ext. 2099
asinitsyn@deloitte.ru

Rustam Mukhametshin
Director, Financial Advisory
Tel.: +7 (495) 787 06 00 Ext. 4700
rmukhametshin@deloitte.ru
Contacts

Financial Advisory Department

Alexander Sokolov
Partner
International Tax
alsokolov@deloitte.ru

Tax & Legal Department

Grigory Pavlotsky
Managing partner
Corporate Tax
gpavlotsky@deloitte.ru

Gennady Kamyschnikov
Partner
Government Relations
gkamyschnikov@deloitte.ru

Elena Solovyova
Partner
International Tax
esolovyova@deloitte.ru

Raisa Alexakhina
Partner
Legal Services
ralexakhina@deloitte.ru

Svetlana Meyer
Partner
Private Client Services
smeyer@deloitte.ru

Yulia Krylova
Director
Real Estate
ykrylova@deloitte.ru

deloitte.ru

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