

LT in Focus


Russian Government releases draft resolution on CRS (Common Reporting Standard)


[The Draft](#) Resolution of the Russian Government On the Implementation of International Automatic Exchange of Financial Account Information for Tax Purposes (the "Draft Resolution"), aimed at complying with Russia's international obligations regarding CRS requirements implementation and designed in compliance with the [Draft Federal Law](#) On amending the Russian Tax Code as Part of Implementation of the International Automatic Exchange of Financial Accounts and MNE Information (the "Draft Law") was published on the Federal Draft Legislation Portal on 10 October 2017. Public discussion of the Draft Resolution will continue until 7 November 2017.

Key provisions of the Draft Resolution regarding International Automatic Exchange of Financial Account Information

The Draft Resolution will apply to financial institutions (the "FI") and their clients under financial services contracts, their beneficiaries, and controlling persons of clients. Definitions of the terms and concepts are given in the text of the Draft Law.

Draft Resolution's structure:

 Guidelines**, regulating communications of the FIs with clients and competent authorities regarding the disclosure of client (beneficiary and controlling persons) information

 List of FIs and types of contracts that are out of scope of the laws on exchange of financial accounts information with foreign jurisdictions



Timeline

If adopted, the Draft Resolution will enter into force on 1 January 2018. According to the document, a FI must report the required information to a competent authority by 31 May of the year that follows the reporting year.

The procedures that the FI must perform with regard to pre-existing accounts are subject to the following deadlines (calculated as of the date when the Draft Resolution enters into force):

- Two years for pre-existing contracts with individuals, if account balance/value does not exceed USD 1 million (hereinafter, equivalent amounts in other currencies are included)
- One year for the pre-existing contracts with individuals, if account balance/value does not exceed USD 1 million
- For pre-existing contracts with entities:
 - One year, if account balance/value exceeds USD 250,000
 - Two years, if account balance/value does not exceed USD 250,000 (unless a FI uses its right to exclude such clients from analysis).

* *Reminder: the Draft Law passed the Russian State Duma's first reading on 20 September 2017 (for more details, please refer to [LT in Focus of 25 July 2017](#) and [7 September 2016](#)) and is being re-worked for the second reading.*

 [LT in Focus of 25 July 2017](#)

 [LT in Focus of 7 September 2016](#)

** *Guidelines for requesting information from financial institutions' clients, their beneficiaries or (in)direct controlling persons, processing and analysing such information, taking justified and available measures to identify tax residency of such clients, their beneficiaries or (in)direct controlling persons, including the verification of accuracy and completeness of provided information, its content, terms, procedure and timeline of reporting thereof to a competent authority (as part of the implementation of international automatic exchange of financial account information for tax purposes).*

There is a number of CRS provisions that are left at the discretion of the local governments, the Draft Resolution outlines approach on some of the provisions.

Additional requirements and options that can be envisaged by local legislation	Covered by Draft Resolution
Filing "null" returns	✔
Outsourcing requesting/analysis/review of client information to third parties	✔
Treating new accounts of existing clients as "pre-existing"	✔
USD 250,000 threshold for pre-existing entity accounts	✔
Applying the residence address test to pre-existing individual accounts with a balance/value not exceeding USD 1 million	✔

Foreign Indicia

The Draft Resolution provides for a number of indicia to determine the tax residency of clients, beneficiaries, and controlling persons:

- Tax residency in a foreign jurisdiction
- Current mailing or residence address in a foreign jurisdiction
- Foreign phone number (if no Russian number is registered)
- Standing instructions to transfer funds to an account (address) maintained in a foreign jurisdiction

- Effective power of attorney or signatory authority granted to a person with an address in a foreign jurisdiction
- Current "hold mail" instruction or "in-care-of" address in a foreign jurisdiction (if the reporting FI does not have any other address of the client (beneficiary, controlling persons) on file).

The Draft Resolution also provides criteria for active non-financial entities, sets forth a list of passive income types, and defines passive non-financial entities.

CRS responsibilities of Financial Institutions

The Draft Resolution contains a detailed description of account identification, status assignment, and reporting procedures. A FI must repeatedly request information if it has any reasons to believe that, due to the changes in the circumstances, the information or documents provided by a client are no longer valid.

Information to be reported on individuals and beneficial owners of passive non-financial institutions:

- Full name
- Date and place of birth
- Current residence address

Information to be reported on legal entities and legal arrangements:

- Name
- Address in the country of registration

Information to be reported both on individuals and legal entities:

- Tax residency
- TIN (or equivalent)

- Account number (or equivalent), contract number and date, or other identifying information
- Account balance or value (depending on account type).

Furthermore, the Draft Resolution contains a number of special provisions:

- A client is reported even if client's contract terminated in the reporting period
- Individual clients having no tax residency in any jurisdiction are reported to the Russian tax authorities
- If the client is a tax resident of several foreign jurisdictions, the client is reported to each reportable jurisdiction separately
- If a contract is made with several persons, each is reported separately.

A FI is entitled to refuse from signing a new contract (or suspend transactions /terminate the existing contract), if a client fails to disclose its tax residency (or provides incomplete information or misrepresents it).

If the required account information cannot be obtained, the account should be reported as undocumented.

We hope that you will find this newsletter interesting and informative. Please feel welcome to contact us for more information on the topics covered.

Best regards,

Deloitte CIS Partners

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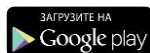


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TaxSmart App



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