Deloitte.

OECD Common Reporting Standard
Seminar

Deloitte: Chris Tragheim, Tom Shave, Martin Killer & Owen Gibbs

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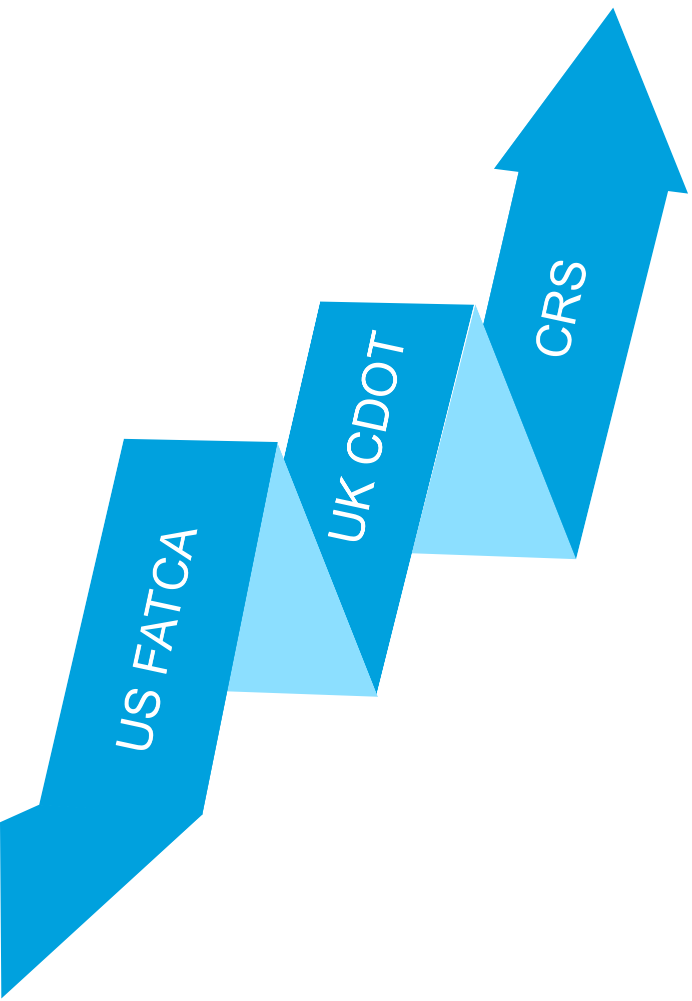
Introduction

Where are we now?

The regulatory landscape

CRS is the culmination of recent growth in tax information exchange regulations globally



"The world is becoming a much smaller place for those who want to hide themselves and their assets behind anonymous corporate structures"

Richard Summersgill, HMRC's director of criminal investigation

"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"

The OECD

The regulatory landscape

Over 90 jurisdictions have committed to CRS

AMERICAS

Anguilla*
Antigua and Barbuda
Argentina*
Aruba
Bahamas
Barbados
Belize
Bermuda*
Brazil
British Virgin Islands*
Canada
Cayman Islands*
Chile
Colombia*
Costa Rica
Curaçao*
Dominica
Grenada
Mexico*
Montserrat*
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Saint Martin
Trinidad and Tobago
Turks and Caicos Islands*
Uruguay

EUROPE, MIDDLE EAST AND AFRICA

Albania
Andorra
Austria
Belgium*
Bulgaria
Croatia*
Cyprus*
Czech Republic*
Denmark*
Estonia*
Faroe Islands*
Finland*
France*
Germany*
Ghana
Gibraltar*
Greece*
Greenland
Guernsey*
Hungary*
Iceland*
Ireland*
Isle of Man*
Israel
Italy*
Jersey*
Latvia*
Liechtenstein*
Lithuania*
Luxembourg*
Malta*
Mauritius*
Monaco
Netherlands*
Norway*
Poland*
Portugal*
Qatar
Romania*
Russia
San Marino*
Saudi Arabia
Seychelles
Slovak Republic*
Slovenia*
South Africa*
Spain *
Sweden*
Switzerland
Turkey
United Kingdom*
United Arab Emirates

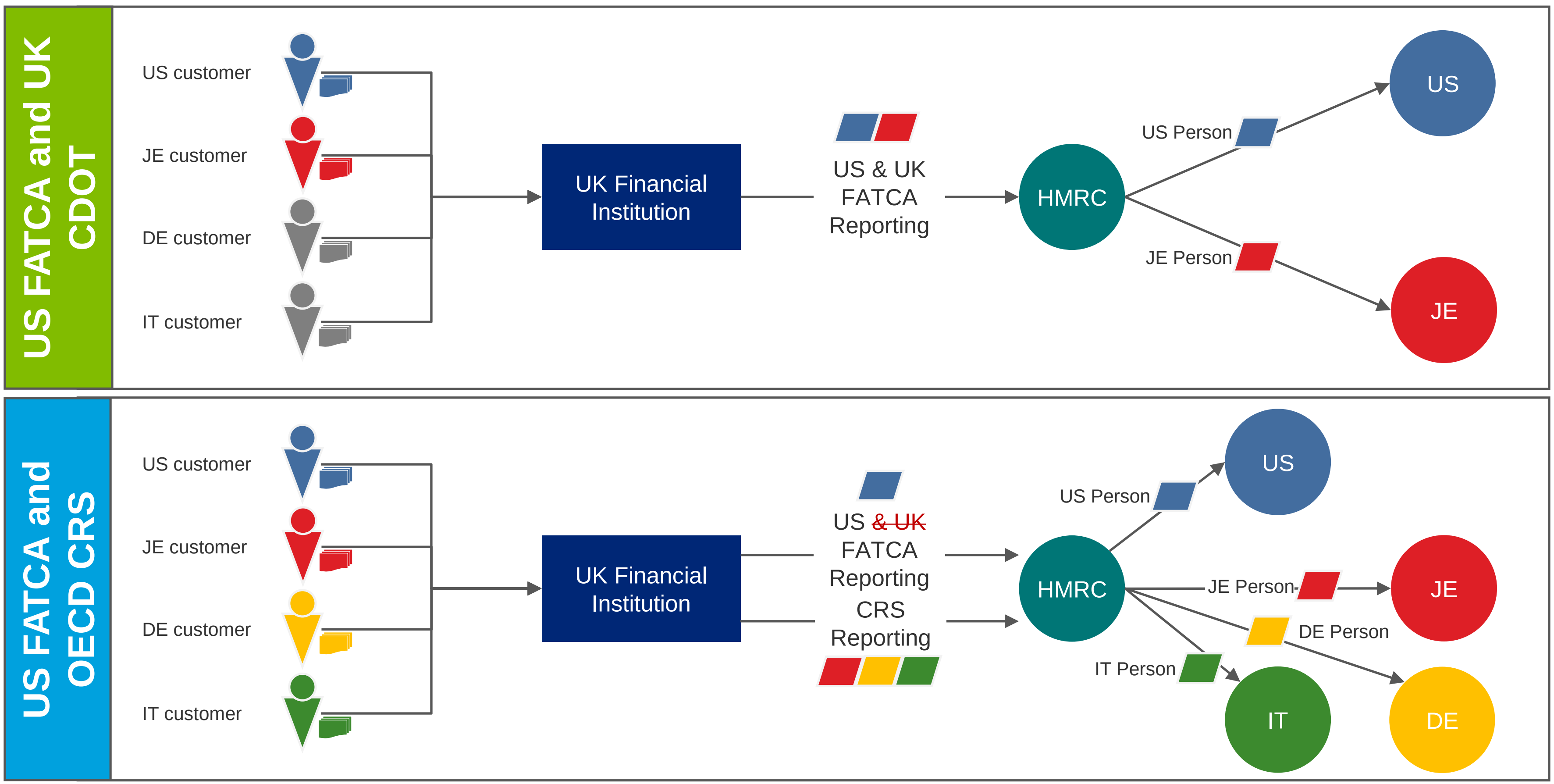
ASIA PACIFIC

Australia
Brunei Darussalam
China
Hong Kong
India
Indonesia
Japan
South Korea*
Macau
Malaysia
Marshall Islands
New Zealand
Niue
Samoa
Singapore

*Signatories of multilateral CAA signed in Berlin; source: http://www.oecd.org/tax/exchange-of-tax-information/MCAA-Signatories.pdf

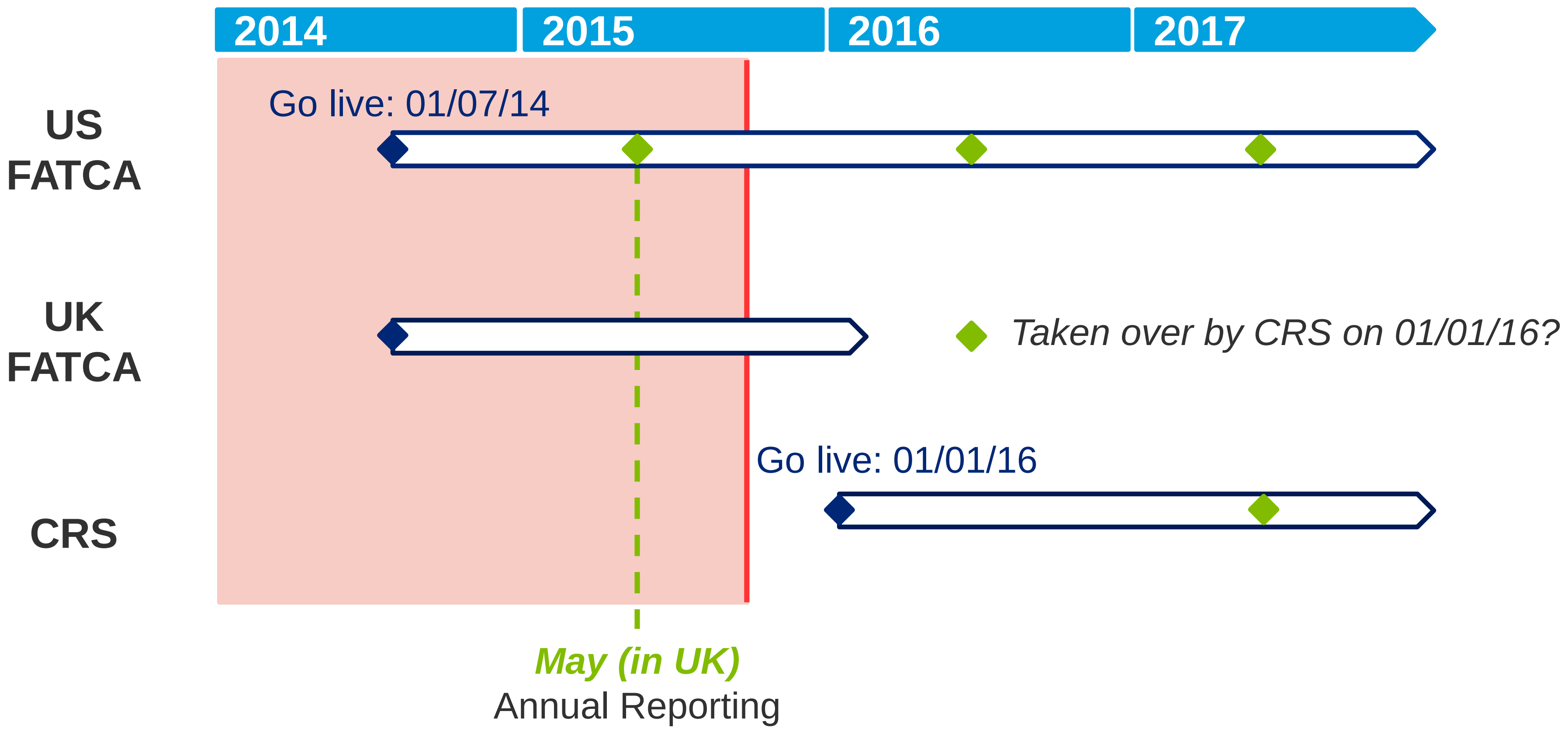
The regulatory landscape

CRS will require increased reporting on a greater number of customers compared to FATCA



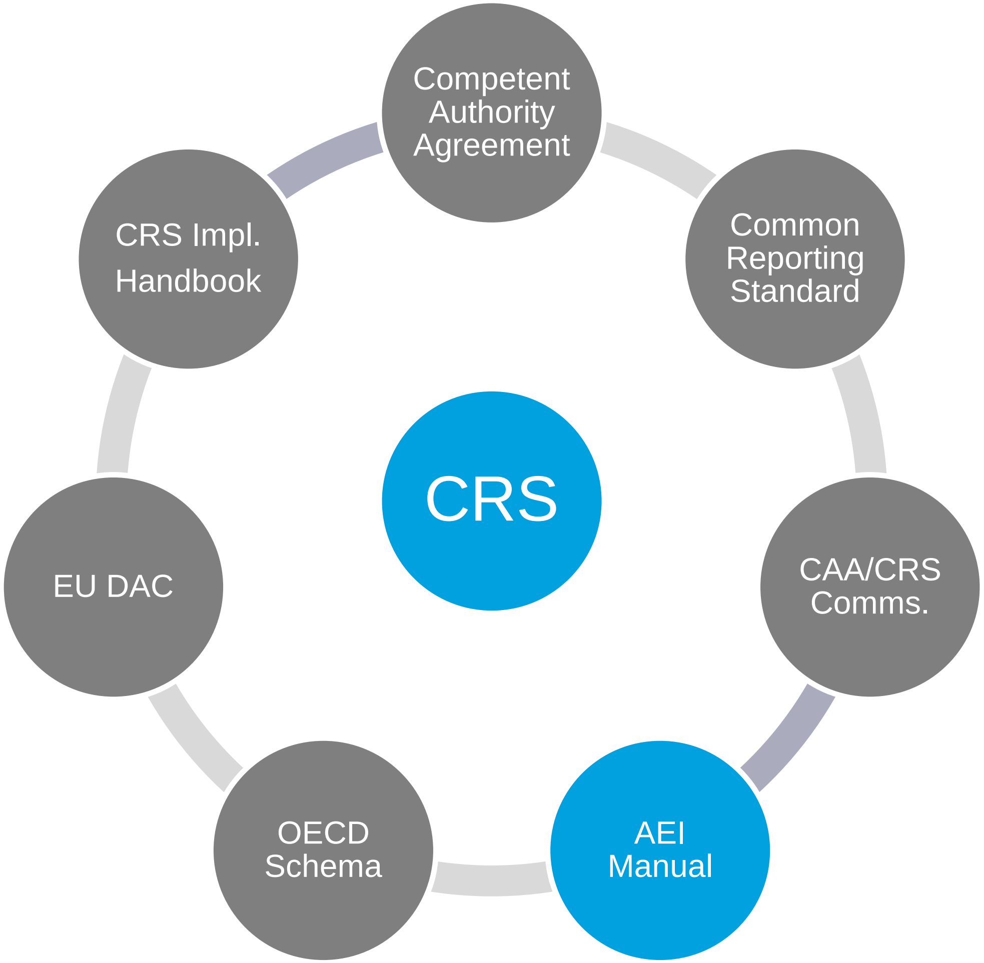
The regulatory timeline

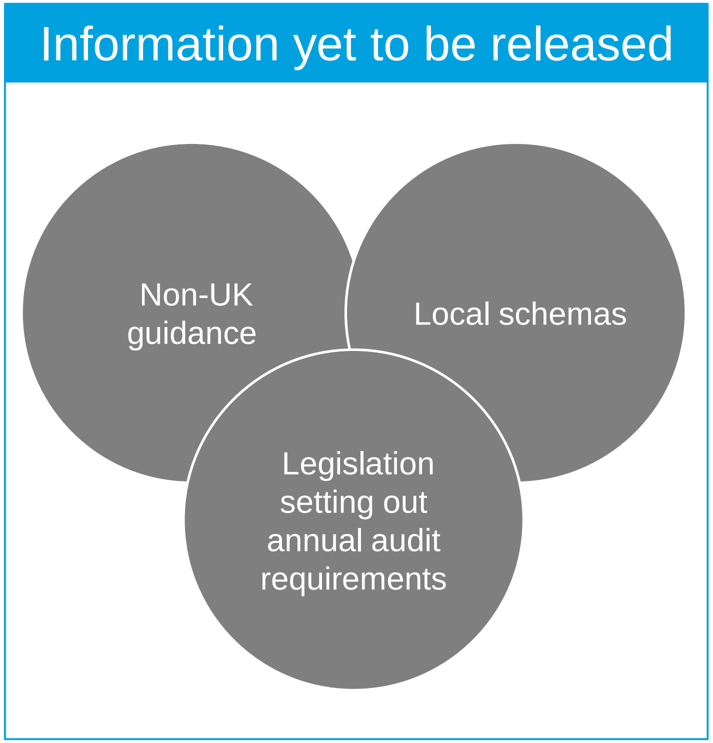
CRS is being implemented on a very short timeframe and is expected to replace UK FATCA



The regulatory mechanisms

CRS encompasses several key elements which form the legal basis for exchange and outline the requirements for FIs





The HMRC AEI Manual

The HMRC Automatic Exchange of Information (“AEI”) Manual was released on 17 September 2015

HMRC AEI MANUAL

US FATCA

- Annual reporting on US Persons

UK CDOT

- Annual reporting by UK FIs on CD and Gib Persons
- Annual reporting by CDOT FIs on UK Persons

CRS

- OECD global standard for exchange of information
- Annual reporting by FIs on Persons resident in 90+ counterparty jurisdictions

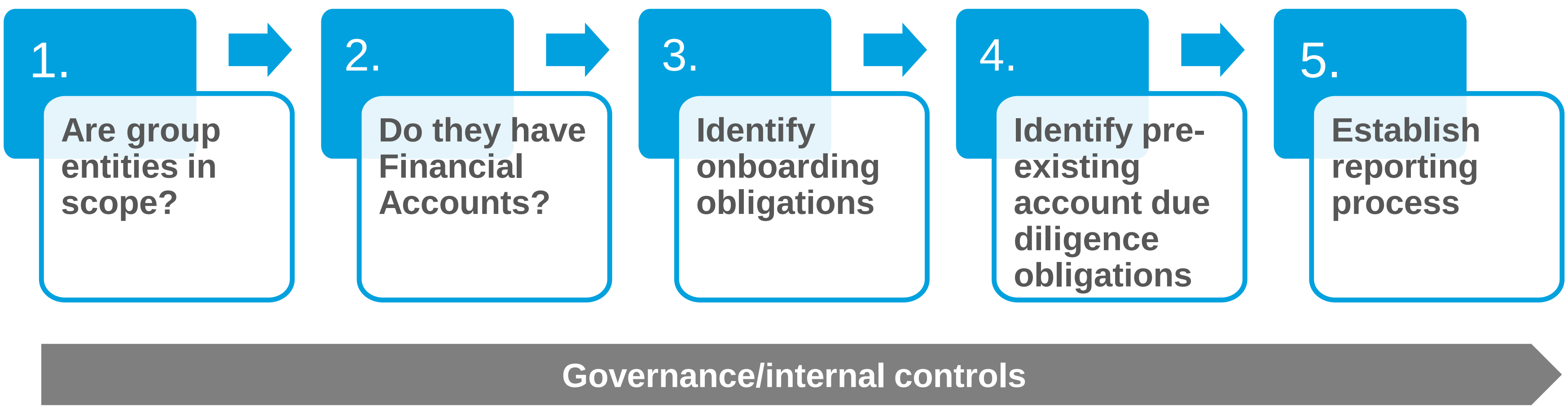
DAC

- EU Directive that provides a legal basis for EU Member States to exchange information under the CRS

All regimes have significant common requirements so the HMRC Manual concentrates on the requirements of DAC and CRS and highlights differences that apply under the other two regimes

Achieving compliance

Reporting FIs must review Financial Accounts to identify Reportable Accounts by applying due diligence rules and then report relevant information



Key Development and Challenges

1. Financial Institutions

The guidance remains largely unchanged and the impact is expected to be low for most groups

Key observations

- FI definitions broadly the same under CRS
- Still no equivalent to the GIIN registration under US FATCA
- Professionally Managed Investment Entities resident in non-participating jurisdictions treated as Passive NFE
- Fewer 'Deemed Compliant'/'Non-Reporting Financial Institution categories

Practical considerations

- FIs will need to identify whether their overseas subsidiaries/branches 'introduce' business to them that results in them maintaining financial accounts
- Ambiguity remains around some specific categories which will need case-by-case consideration e.g. holding companies in PE structures
- Possibility for different classification between the CRS and FATCA Regulations

1. Financial Institutions

Reporting Financial Institution ("FI")	• Depository Institutions • Custodial Institutions • Investment Entities • Specified Insurance Companies.
Non Reporting FIs	• Government entities, international organisations and central banks; • Broad and narrow participation retirement funds • Qualified credit card issuers; • Entities that prevent a low risk of tax evasion, (defined in domestic law); • Exempt Collective Investment Vehicles; • Trustee Documented Trusts.
Non-Financial Entity ("NFE")	• Any entity that is not an FI, NFEs are classified as either: – **Active NFE**: NFEs that meet certain criteria specified under CRS, including less than 50% of gross income/assets for preceding calendar year attributable to passive income, or – **Passive NFE**: NFEs that are not 'Active', or an Professionally Managed Investment Entity that is not a Participating Jurisdiction FI • Passive NFEs will need to provide information on "Controlling Persons"

1. Financial Institutions

The table below gives some practical examples of differences between FATCA and CRS

	FATCA Classifications	CRS Classifications
Non-CRS Jurisdiction	FI – Investment Entity	PMIE (treated as Passive NFE)
CRS Jurisdiction	FI – Investment Entity	Professionally Managed IE
	Reporting FI	Reporting FI
	Certified Deemed Compliant	Reporting FI/NFE
	EBO – Govt, Pensions	Non-Reporting FI
	Other EBOs	Non-Reporting FI / Reporting FI
	Active/Passive NFFE	Active/Passive NFE

2. Financial Accounts

There are some significant changes to the products and services that are potentially in scope for CRS

Key observations

- The exemption for Listed Regularly traded Financial Accounts has not been included under the CRS.
- Change to the definition of Custodial Account from ‘person that holds one or more financial assets’ to ‘any financial instrument or contract held for investment’.
- New exemptions for approved holdings in venture capital trusts
- Narrower definition of exempt products
- De-minimis for dormant account under USD 1,000

Practical considerations

- Further reviews required to ensure FIs have made use of all relevant exemptions
- Implement processes required for capturing and remediating listed debt and equity
- Consider whether any group entities, previously with limited obligations due to exemptions, now fall substantively within scope of the regulations

2. Financial Accounts

The absence of a regularly traded exemption will result in dramatically increased compliance due diligence burdens

Large institutional investors

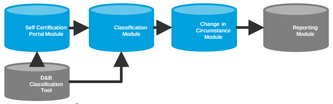
- Low-volume trading
- Unlikely that large investors will sell entire holding
- **Lower due diligence impact**

Small investors

- High-volume trading
- Potential for multiple opened and closed accounts per investor each year
- Requirement to report each account
- Requirement to perform periodic review of secondary trading
- **High due diligence and assurance burden**

Reporting FI – Investment Entity

3. Customer due diligence – New



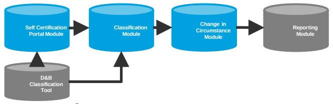
The treatment of new accounts has a number of areas which pose operational challenges

Key observations

- No de-minimis limits
- Wider approach allows FIs to obtain tax residency from all account holders
- TIN and other reporting information is only to be captured for Reporting Jurisdiction Account Holders – no domestic requirement
- Limitations on exemption for a new accounts opened by a pre-existing account holder
- Place of birth not required to be collected under CRS (but reportable where held)
- Wording on changes in circumstance can be read very broadly
- Treatment of PMIEs in non-participating will be challenging

Practical considerations

- Update self-certifications and ‘reasonableness tests’ to reflect wider reportable population
- Take business decision on the extent of future proofing
- The use of publicly available information to reduce need for self certifications



3. Customer due diligence – New

What information should a jurisdiction neutral form look to capture?

All account holders

- Name, address etc.
- Tax residency/ residencies
- Tax Identification Number

Individuals

- Date of birth

Individuals (UK FATCA)

- National Insurance Number Or Social Security Number (where available)

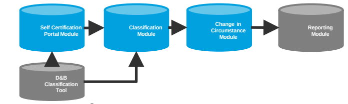
Entities

- Classification under CRS and UK FATCA
- Reportable Person or Specified Person status

Key points to consider are:

- US forms are not sufficient as do not:
  - Capture multiple residencies
  - Identify Specified Person/ Reportable Person status
- Existing forms may not capture place of birth
- CRS classification ≠ US/UK FATCA classification
- “Reportable Person” for CRS broader than “Specified Person” for FATCA

3. Customer due diligence – Preexisting



There are less exemptions from undertaking CDD in respect of preexisting accounts

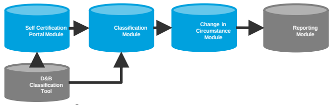
Key observations

- Only entity de-minimis remains – dramatically increased due diligence burden
- No ‘back book exemption’ means that Specified Insurance Entities must perform full back book remediation
- Limited ‘residency test’ may reduce due diligence burden somewhat
- Requirement to perform periodic checks for new shareholders on existing Passive NFEs

Practical considerations

- Design classification and indicia search process if required
- Check if residence address already held for individual accounts
- Develop strategy for undertaking remediation including scope of jurisdictions
- Document and monitor for change in circumstance

3. Customer due diligence – Preexisting



Pre-existing Financial Accounts for "early adopters" are those in existence as at 31 December 2015

Pre-existing accounts will have different due diligence procedures depending on whether they are individual or entity accounts:

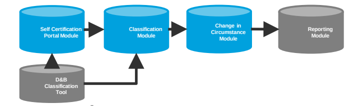
Individual accounts

Perform residence test to identify Reportable Persons; or	Perform electronic searches on existing client data to identify accounts held by **Reportable Persons** and accounts with **reportable indicia**

If any Reportable Persons or indicia are identified then the Reporting FI **must obtain reportable information and** treat the account as a reportable unless reliable information is obtained to the contrary

Enhanced due diligence procedures including a paper record search and a relationship manager enquiry are required for 'High Value' Pre-Existing Individual Accounts over $1m

3. Customer due diligence – Preexisting



Pre-existing Financial Accounts for “early adopters” are those in existence as at 31 December 2015

Reporting FIs may determine that a Preexisting Entity Account is not a Reportable Person based on information in its possession or which is publicly available

Entity accounts

Perform searches on existing client data and make an initial classification of each existing entity account as a **Reportable Person** or **Passive Non-Financial Entity (“NFE”)**

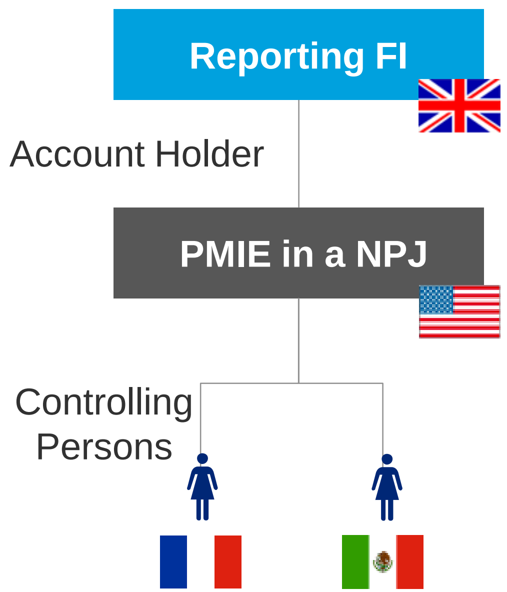
Based on this initial classification the FI may be required to obtain self certification or further documentation to determine the correct treatment including where reportable indicia identified

A de minimis threshold of $250,000 applies to the classification of Pre-existing Entity Accounts, however there is no such threshold for Pre-existing Individual Accounts.

3. Customer due diligence

Professionally-Managed Investment Entities in Non-Participating jurisdictions treated as Passive NFFEs

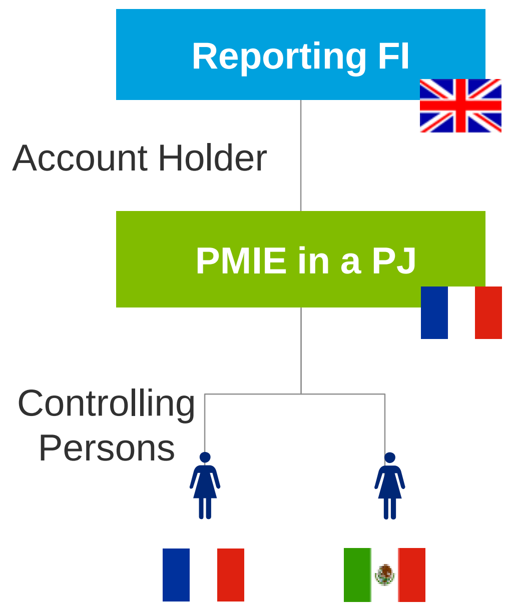
PMIE in Non-Participating Jurisdictions



- Account holder is a PMIE in a NPJ as no UK-US CRS agreement
- PMIE treated as a Passive NFE
- Controlling Persons in Reportable Jurisdictions are reported

AEI agreement agreed with UK		
✗	✓	✓

PMIE in Participating Jurisdictions



- Account holder is a PMIE in a Participating Jurisdiction
- PMIE treated as a FI
- Controlling Persons not reportable as no requirement for the UK FI to look through

AEI agreement agreed with UK		
✗	✓	✓

The path ahead

There are a number of key activities for all FIs in the next 3 months…

- Establish CRS governance and **develop strategic plan**
- **Identify in scope entities and Financial Accounts**
- Confirm compliant **customer due diligence approach** before 2016
- Identify **strategic reporting solution** and prepare for 2016 reporting
- Document compliance and **obtain assurance pre-go-live**

Contacts

Chris Tragheim
EMEA FATCA Lead Partner
Tel: + 44 (0)207 303 2848
Email: ctragheim@deloitte.co.uk
Location: London

Tom Shave
Director, Financial Services
Tel: + 44 (0) 207 303 4758
Email: tshave@deloitte.co.uk
Location: London

Martin Killer
Director, Financial Services
Tel: +44 20 7007 0328
Email: mkiller@deloitte.co.uk
Location: London

Owen Gibbs
Director, Financial Services
Tel: + 44 (0)207 007 4819
Email: ogibbs@deloitte.co.uk
Location: London

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