



OECD update on residence and citizenship by investment schemes

The road continues

On October 16, 2018 the OECD issued a [press release](#) announcing the publication of the [results of its analysis](#) of over 100 residence and citizenship by investment (“CBI/RBI”) schemes offered by CRS jurisdictions, identifying those that potentially pose a high-risk to the integrity of the CRS.

The OECD considers as potentially high-risk CBI/RBI schemes, those that give access to a low personal income tax rate from foreign financial assets and do not require the individual to spend a significant amount of time in the jurisdiction. The analysis published by the OECD highlights that such schemes are currently operated by Antigua and Barbuda, The Bahamas, Bahrain, Barbados, Colombia, Cyprus, Dominica, Grenada, Malaysia, Malta, Mauritius, Montserrat, Panama, Qatar, Saint Kitts and Nevis, Saint Lucia, Seychelles, Turks and Caicos Islands, United Arab Emirates and Vanuatu.

Further to this release, on October 17, 2018 the OECD published a [follow-up notice](#) highlighting that the main goal of the high-risk RBI/CBI guidance is to provide Financial Institutions with the right tools to identify accountholders that may misuse these schemes to avoid CRS reporting and carry out enhanced due diligence procedures where appropriate. This follow-up notice also clarified that on the basis of additional information provided by Monaco, the OECD considers that the residence and immigration requirements in the jurisdiction do not give rise to particular risks to the integrity of the CRS.

In addition to the results of the analysis, the OECD also released [FAQs](#) to assist financial institutions in identifying and preventing cases of CRS avoidance through the use of these CBI/RBI schemes. See a summary of the key contents in these FAQs below:

What are CBI and RBI schemes?

This FAQ clarifies that these schemes allow foreign individuals to obtain citizenship or temporary or permanent residence rights on the basis of local investments or for a flat fee. In addition, the FAQ stresses that while individuals may be interested in these schemes for legitimate reasons, the information released in the market place and obtained through the OECD’s CRS public disclosure facility highlights the abuse of these schemes to avoid reporting under the CRS.

How can CBI/RBI schemes be misused to circumvent CRS reporting?

In this FAQ, the OECD states that inaccurate or incomplete reporting under the CRS may happen particularly when not all jurisdictions of tax residence are disclosed to Financial Institutions. This could happen when an individual does not actually or only reside in the CBI/RBI jurisdiction but claims to be resident for tax purposes in that jurisdiction alone

and provides supporting documentation issued by the scheme (for example, a certificate of residence, an ID card or passport).

Which CBI/RBI schemes present a potentially high risk?

According to this OECD's FAQ, schemes that give a taxpayer access to a low personal income tax rate of less than 10% on offshore financial assets and do not require significant physical presence of at least 90 days in the jurisdiction offering the CBI/RBI scheme are considered potentially high-risk of being used to circumvent the CRS by the OECD.

What should Financial Institutions do?

This FAQ highlights that when determining whether a Financial Institution has reason to know that a self-certification or Documentary Evidence is incorrect or unreliable it should take into account all information available, including the results of the OECD's CBI/RBI risk analysis. If when taking into consideration all relevant information the Financial Institution has doubts as to the tax residency(ies) of an Account Holder or Controlling Person it should take appropriate measures to ascertain such tax residency(ies).

In this FAQ the OECD further indicates that when doubts arise as a result of the Account Holder or Controlling Person claiming residence in a jurisdiction offering a potentially high-risk CBI/RBI scheme Financial Institutions may consider raising further questions to assist in determining whether the provided self-certification or Documentary Evidence is incorrect or unreliable, including whether the Account Holder or Controlling Person:

- Obtained residence rights under an CBI/RBI scheme;
- Holds residence rights in any other jurisdiction(s);
- Has spent more than 90 days in any other jurisdiction(s) during the previous year;
- Has filed personal income tax returns in other jurisdiction(s) during the previous year.

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