



Cayman Islands approves second tranche of CRS Regulations

The road continues

The Ministry of Financial Services, Commerce and Environment publishes an Industry Advisory announcing the approval of Amending CRS Regulations

On December 22, 2016 the Government of the Cayman Islands announced the approval of [The Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) \(Amendment\) Regulations, 2016](#) ("Second Tranche"). A revised version of the CRS Guidance Notes will be published in the first quarter of 2017.

Below is a summary of key highlights from the Second Tranche of CRS Regulations and associated Industry Advisory:

1. Due diligence

Cayman Reporting Financial Institutions **must establish and maintain written policies and procedures** in order to comply with their CRS obligations. Reliance on a self-certification or documentary evidence that the Reporting Financial Institution knows or has a reason to believe is inaccurate will result in a contravention of this requirement.

2. Notification obligation

All Cayman Islands Financial Institutions – whether Reporting or Non-Reporting – must submit an online notification form to the Tax Information Authority ("TIA") by April 30, 2017.

The notification must contain the information detailed in Regulation 8(4) of the Second Tranche. Cayman Financial Institutions that have already notified the TIA of their status for FATCA/UK-CDOT purposes must update the same to confirm whether they are Reporting or Non-Reporting Financial Institutions.

3. Reporting obligation

a. Nil returns

One of the key changes introduced by the Second Tranche is the requirement that all **Reporting Financial Institutions submit a nil return** in respect of those Reportable Jurisdictions for which it has no reportable accounts.

b. Reporting process

Reporting Financial Institutions must follow the CRS XML Schema when building their reports, and will have to **submit a separate return with respect to each Reportable Jurisdiction for which they have Reportable Accounts.**

Note: The DITC is reviewing whether it is feasible to permit submittal of a single XML file for all Reportable Accounts in all Reportable Jurisdictions.

c. UK-CDOT Transition

From 2017 onwards, Cayman Reporting Financial Institutions will report on UK Reportable Accounts under the CRS requirements.

4. Offences and penalties

Part 3 of the Second Tranche includes a **detailed list of offences for contravention of the CRS Regulations.** These include signing or positively affirming a false self-certification. Criminal liability is imposed on directors or similar officers of corporations and on members of LLCs and similar businesses for offences committed by a Financial Institution unless they can show that they exercised reasonable diligence to prevent the offence.

Penalties may amount **up to \$50,000 per offence by a corporate body or incorporated Financial Institution** with an additional penalty of \$100 per day that the offence has not been remediated after a primary penalty has been imposed. The penalty may be up to \$20,000 for an offence committed by any other person.

For more information please [click here](#) or contact:

[Denise Hintzke](#)

Managing Director, Global
FATCA Tax Leader
Deloitte Tax LLP
+1 212 436 4792

[Anne Mericle](#)

Senior Manager,
Global FATCA PMO
Deloitte Tax LLP
+1 212 436 3908

[Susan Schultz](#)

Managing Director, FATCA
Global Delivery Center (GDC)
Operations Leader
+1 612 397 4604

[Susan Segar](#)

Managing Director, Global
Information Reporting
Deloitte Tax LLP
+1 703 885 6328

Americas

[Matthew Cahill](#)

Partner, Global Information Reporting
Deloitte Tax LLP
+1 212 436 3420

[Steve Chapman](#)

Partner, Global Information Reporting
Deloitte Tax LLP
+1 212 436 2339

[David Charlton](#)

Principal, Global Information Reporting
Deloitte Tax LLP
+1 617 437 2118

[James Dockeray](#)

FATCA Leader, Caribbean/Bermuda
Deloitte & Touche Ltd.
+1 441 299 1399

[Patty Florness](#)

Partner, Global Information Reporting
Deloitte Tax LLP
+1 212 436 7413

[Andrea Garcia Castelao](#)

Senior Manager, Global Information
Reporting-CRS
Deloitte Tax LLP
+1 212 436 3785

[Anthony Martirano](#)

Managing Director, Global Information
Reporting
Deloitte Tax LLP
+1 973 602 6986

[Dennis Metzler](#)

FATCA Leader, Canada
Deloitte & Touche LLP
+ 1 416 601 6144

[Richard Marcovitz](#)

FATCA/CRS Leader, Canada
Deloitte LLP
+1 416 775 4760

[Michael Shepard](#)

Principal, Deloitte Transactions and
Business Analytics LLP
+1 215 299 5260

[Kristen Starling](#)

Managing Director, Global Information
Reporting
Deloitte Tax LLP
+1 212 436 4281

[Greg Thomas](#)

Principal, Global Information Reporting
Deloitte Tax LLP
+1 415 783 5211

Asia-Pacific

[Troy Andrews](#)

FATCA/CRS Partner, New Zealand
Deloitte, New Zealand
+64 93030729

[Anna Bleazard](#)

FATCA FAS Leader, Asia-Pacific
Deloitte & Touche Financial Advisory
Services Pte Ltd.
+65 6216 3277

[Alison Noble](#)

FATCA Leader, Australia
Deloitte Tax Services Pty Ltd
+61 3 9671 6716

[Michael Velten](#)

FATCA Leader, Asia-Pacific
Deloitte & Touche LLP
+65 6531 5039

Europe, Middle East & Africa

[Brandi Caruso](#)

Tax Transparency Leader, Switzerland
Deloitte AG
+41 58 279 6397

[Eric Centi](#)

FATCA/CRS Tax Partner, Luxembourg
Deloitte LLP
+352 45145 2162

[Claire Dawson](#)

FATCA Tax Leader, Middle East
Deloitte LLP
+971 4 5064900

[Owen Gibbs](#)

FATCA/CRS Tax Director, EMEA
Deloitte LLP
+44 20 7007 4819

[Humphry Hatton](#)

FATCA Co-Leader, Middle East
Deloitte LLP
+971 4 5064730

[Umair Hameed](#)

FATCA FAS Leader, Middle East
Deloitte Corporate Finance Ltd
+971 4 5064878

[Chris Tragheim](#)

FATCA Tax Leader, EMEA
Deloitte LLP
+ 44 20 7303 2848

[Markus Weber](#)

Financial Services Industry Tax Leader,
Switzerland
Deloitte AG
+41 58 279 7527

[David C. Wright](#)

FATCA/CRS Tax Partner, EMEA
Deloitte LLP
+44 20 7303 4641

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