

OECD releases new CRS FAQs

The road continues

Global Financial Services Industry



The Organization for Economic Cooperation and Development (“OECD”) releases new Common Reporting Standard (“CRS”) Frequently Asked Questions (“FAQs”)

On November 13, 2015, the OECD released an updated version of their **CRS-related FAQs** which includes a number of new FAQs. Several of these FAQs require reference to the **Commentaries on CRS**. The following new topics are addressed:

- Reporting of sales proceeds credited or paid with respect to the Custodial Account
 - Addressing whether reporting of gross proceeds paid or credited to a Custodial Account is required.
- Residence Address Test – Penalty of perjury
 - Addressing the meaning of “penalty of perjury” in the context of the Residence Address Test.
- Requirement to obtain a TIN in the framework of the curing procedure
 - Addressing whether a TIN must be present on a self-certification obtained as part of the curing procedure and indicates that the Account Holder is a Reportable Person.
- New Entity Accounts – Reliance on publicly available information
 - Addressing whether a Financial Institution (“FI”) must obtain a self-certification from a New Entity Account Holder where publicly available information indicates that it is not a Reportable Person.
- Determination of the threshold for due diligence with respect to Controlling Persons
 - Addressing the point in time at which the USD 1 million threshold is applied to determine the due diligence procedures applicable to Controlling Persons of Passive NFEs.
- Timing of self-certifications
 - Addressing whether it is expected that Reporting FIs will refuse to open New Individual and Entity Accounts until a valid self-certification is received.

- OTC Derivatives
 - Addressing whether the definition of Financial Asset includes over-the-counter derivatives.
- Excluded Accounts – substitute requirements – penalty regime
 - Addressing the proper interpretation of the low-risk FI example provided in paragraph 103 of the Commentary to Section VIII regarding an Account Holder of an Annuity Contract.
- Excluded Accounts – substitute requirements – reporting to tax authorities
 - Addressing whether information reported to regulatory and/or social security authorities is considered substantially similar such that Account Holders will qualify as Excluded Accounts.
- Related Entity definition in case of indirect ownership
 - Addressing whether the indirect ownership of vote and value is measured proportionally when determining whether an Entity is related to another Entity.

These new topics, in addition to the topics previously addressed, provide guidance on areas referenced by the Standard, Commentaries, and other OECD CRS publications. For further guidance, visit the [OECD Automatic Exchange Portal](#), the central webpage for CRS information and publications, now including jurisdictional regulations and guidance.

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