

OECD Releases Model of Competent Authority Agreement and Common Reporting Standard Model

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Global Financial Services Industry



OECD releases Model of Competent Authority Agreement (CAA) and Common Reporting Standard and Due Diligence for Financial Account Information (CRS)

On February 13, 2014, the Organisation for Economic Co-operation and Development (OECD) released the text of the "Model Competent Authority Agreement (CAA) and Common Reporting Standard and Due diligence for Financial Account Information (CRS)". The Model CAA contains the detailed rules on the exchange of information between jurisdictions (previously obtained from their financial institutions) on an annual basis and the Model of CRS contains the reporting and due diligence rules that the financial institutions will be required to implement under CRS.

According to the overview provided in the document released by the OECD, the CRS draws extensively on the intergovernmental approach to implementing FATCA with a view to maximizing efficiency and reducing cost for financial institutions. However, there are several differences with the FATCA approach as the CRS is driven by the multilateral nature and does not contemplate U.S. specific aspects such as the taxation on the basis of citizenship instead of tax residency.

The preface of the document also announces that a detailed commentary is expected to be completed by mid-2014, to help ensure the consistent application of the standard as well as the information and guidance on the necessary technical solutions. The main aspects to be considered within the CRS are:

- Reportable accounts are defined based on accounts held by residents in the Reportable Jurisdiction or by Passive Non-Financial Entities with controlling reportable persons (looking through passive entities to report on the individuals that ultimately control these entities is required).
- The financial information to be reported with respect to Reportable Accounts includes all types of investment income as well as account balances and sales proceeds from financial assets.
- Due diligence processes differentiate New Accounts from Preexisting Accounts as well as Accounts held by individuals from Accounts held by entities. However, the Due diligence processes are not equivalent to the ones described for FATCA (Due diligence procedures are based on identifying tax residency of the client and for example, an indicia approach is not foreseen for new individual accounts). However, the Due diligence procedures are also based on the Self-certification mechanism established in FATCA Model 1 IGA.
- CRS does not establish withholding requirements for the financial institutions. The CRS is focused on establishing reporting obligations for the financial institutions.

Both the CRS and FATCA intergovernmental approaches are compatible and consistent according to the OECD document, which also points out that the intergovernmental approach to FATCA is a pre-existing system with close similarities to the CRS.

Despite the document's references to 2014 as the year in which the rules will be completed, it does not make any reference to the actual date in which the rules will enter into force.

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