Automatic Exchange of Information – Are you ready?

"As the world becomes increasingly globalised it is easier for all taxpayers to make, hold and manage investments through financial institutions outside of their country of residence. Vast amounts of money are kept offshore and go untaxed to the extent that taxpayers fail o comply with tax obligations in their home jurisdiction.

Offshore tax evasion is a serious problem for jurisdictions all over the world. Co-operation between tax administrations is critical in their fight against tax evasion and in protecting the integrity of tax systems. A key aspect of that co-operation is EXCHANGE of INFORMATION."

On the 15th of July, 2014 the Council of the OECD* approved Model Competent Authority Agreement (MCAA) and the Common Reporting Standard (CRS).

"The Model Competent Authority Agreement links the Common Reporting Standard and the legal basis for the exchange (such as the convention or a bilateral tax treaty) allowing the financial exchange of information to be exchanged."

"The CRS contains the reporting and due diligence standard that underpins the automatic exchange of financial account information. A jurisdiction implementing CRS must have rules in place that require Financial Institutions to report information."

Accounts that are affected:

- Depository account
- Custodial account
- Investment account
- Certain debt and equity interest
- Cash value insurance contracts
- Annuity Contracts

CRS defines the term "Reportable Account" as an account held by one or more Reportable Persons or by a Passive NFE (Entity that is not Financial Institution) with one or more controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures.

"Financial Institution":

- Custodial Institution
- Depository Institution
- Investment Entity
- Specified Insurance Company

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*OECD – The organization for Economic Co-operation and Development. Established in 1961. Members - 35 countries - Australia Austria Belgium Canada Chile Czech Republic Denmark Estonia Finland France Germany Greece Hungary Iceland Ireland Israël Italy Japan Korea Latvia Luxembourg Mexico Netherlands New Zealand Norway Poland Portugal Slovak Republic Slovenia Spain Sweden Switzerland Turkey United Kingdom United States

Custodial Institution is an Entity that holds, as a substantial portion of its business, Financial Assets for the Account of the others.
Depository Institution is an Entity that accepts deposits in the ordinary course of a banking or similar business.
Investment Entity includes two types of Entities: Entities that primarily conduct as a business investment activities or operations on behalf of other persons, and Entities that are managed by those Entities or other Financial Institutions. An Entity would generally be considered as an Investment Entity if it functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

Specified Insurance Company – an Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obliged to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract .

The term **"Financial Asset"** as defined by CRS does not refer to assets of every kind, but includes a security, partnership interest, commodity, swap, Insurance Contract or Annuity Contract, or any interest in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity

Financial Institutions have to identify Entity Accounts with respect to which reporting is required:

1. Whether a Preexisting Entity Account is held by one or more Entities that are Reportable Persons (if any of the Entities is a reportable person, then the account must be treated as a Reportable Account).
2. Whether a Preexisting Entity Account is held by one or more Entities that are Passive NFEs (Non-Financial Entity) with one or more of the Controlling Persons who are Reportable Persons.

Unless the Reporting Financial Institution elects otherwise, a Preexisting Entity Account with an aggregate account balance or value that does not exceed USD 250,000 as of December,31 [XXXX], is not required to be reviewed, identified, or Reported as a Reportable Account until the aggregate account balance or value exceeds USD 250,000 as of the last day of any subsequent calendar year.

WHAT type of information will be exchanged?

In the case of an Individual – Account Holder: the name; address, TIN(s) and date and place of birth;
In the case of any Entity – Account Holder, that is identified, after due diligence procedures, as having one or more Controlling Person that is a reportable Person: the name, address and TIN of the Entity and the name, address, TIN and date and place of birth of each Reportable Person:

- The account number
- The name of the Financial institution
- The account balance or value

In the case of any Custodial Account:

1. The total gross amount of interest, the total gross amount of dividends, the total gross amount of other income generated with respect to the assets held in the account, paid or credited to the account during the calendar year.
2. The total gross proceeds from the sale of redemption of Financial Assets paid or credited to the account

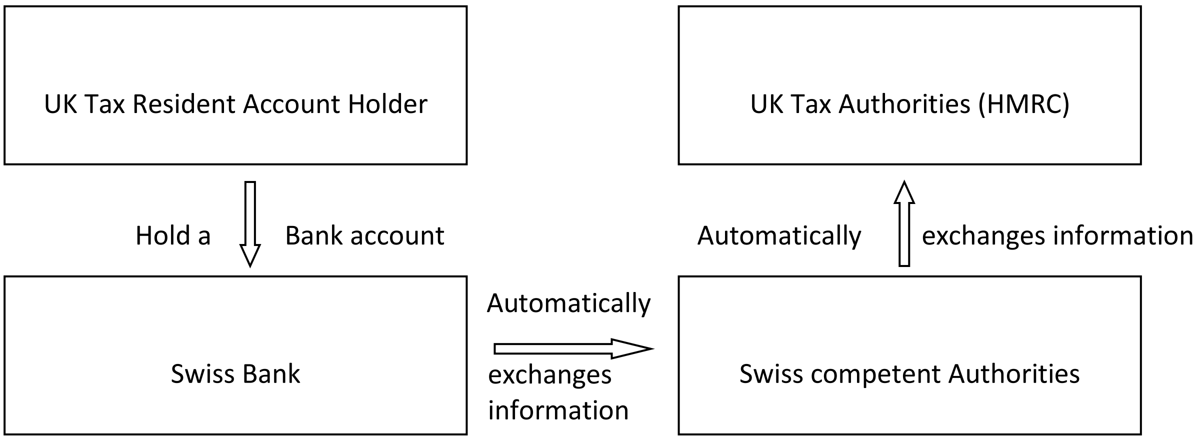
In the case of Depository Account:

1. The total gross amount of interest paid or credit to the account during the calendar year.

In the case of Other Account:

1. The total gross amount paid or credited to the account.

<u>HOW will it work?</u>



<u>SOME EXAMPLES:</u>

Once an Account is a Reportable Account, it maintains such status until the date it ceases to be a Reportable Account.

EXAMPLE 1 (Account that becomes a Reportable Account): An account is opened on the 28 May 00 and is identified as a Reportable Account on 3 December 01. Because the account was identified as a Reportable Account in calendar year 01, information with respect to that Reportable Account must be reported in calendar year 02 with respect to the full calendar year 01 and on an annual basis thereafter.

EXAMPLE 2 (Account that ceases to be a Reportable Account): the facts are the same as in Example 1. However, on 24 March 02, the Account Holder ceases to be a Reportable Person and, as a consequences, the account ceases to be a Reportable Account. Because the account ceases to be a Reportable Account on 24 March 02, information with respect to this account is not required to be reported in calendar year 03 nor afterward, unless the account once again becomes a Reportable Account.

EXAMPLE 3 (Account that is closed): An account is opened on 9 September 04 and becomes a Reportable Account on 8 February 05. However, on 27 September 05, the Account Holder closes the account. Because the account was a Reportable Account between 8 February and 27 September 05 and was closed in calendar year 05, information with respect to this account (including the closure of this account) must be reported in calendar year 06 with respect to the part of calendar year 05 between 0 January and 27 September.

EXAMPLE 4 (Account ceases to be a Reportable Account and is closed): The facts are the same as in Example 2, except that on 4 July 02 the Account Holder closes the account. Because the account ceases to be a Reportable Account on 24 March 02, information with respect to that account is not required to be reported in calendar year 03.

By July 2016 101 jurisdictions had committed to implement the Common Reporting Standard, including translating it into domestic law (list is attached under "NEWS – AEOI: status of commitments (101 jurisdictions have committed).