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Our 'trusted' approach means that we take care of the detail so that our clients can enjoy what matters to them.

FATCA/Common Reporting Standard (CRS) Guidance Notes & Frequently Asked Questions

Fiduchi is required to hold appropriate and up to date Customer Due Diligence ("CDD") documentation throughout the duration of your business relationship with you. Part of this CDD requirement means that we require information regarding your tax circumstances and if you are a controlling person.

This guide provides supportive guidance notes which are to be used by clients when completing Fiduchi's CDD application forms. Please note that there are two types of guidance notes below which are to be used in conjunction with the following forms:

Fiduchi CDD form A1 - Individual CDD (Full) - please refer below to Guidance note A - Individual

Fiduchi CDD forms A3, A5 & A7 - Entity CDD - please refer below to Guidance note B - Entity

This document also contains a Frequently Asked Questions section at the end.

Guidance note A - Individual

Important Information:

Each jurisdiction has its own rules for defining tax residence, and jurisdictions have provided information on how to determine if you are resident in the jurisdiction. In general, you will find that tax residence is the country in which you live. Special circumstances may cause you to be resident elsewhere or resident in more than one country at the same time (dual residency). If you are a U.S. citizen or tax resident under U.S. law, you should indicate that you are a U.S. tax resident on this form and you may also need to fill in an IRS W-9 form.

If your tax residence (or the Controlling Person, if you are completing the form on their behalf) is located outside the country where the Financial Institution is maintaining the account is located, we may be legally obliged to pass on the information in this form and other financial information with respect to your financial accounts to the tax authorities in the country where the Financial Institution is located and they may exchange this information with tax authorities of another jurisdiction or jurisdictions pursuant to intergovernmental agreements to exchange financial account information.

The questions in Section F - FATCA & Self Certification on form A1 - Individual Client Due Diligence are intended to request information consistent with local law requirements. Please fill in this section of the form if the account holder is a Passive NFE, or an Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution.

Where you need to self-certify on behalf of an entity account holder, do not use this form. Instead, you will need to request from your account director the form D2 - Entity Tax Residency Self Certification Form.

As a financial institution, we are not allowed to give tax advice. If you have any questions then please contact your tax adviser or domestic tax authority.

FATCA & CRS Terminology:

"Account Holder" means the person listed or identified as the holder of a Financial Account. A person, other than a Financial Institution, holding a Financial Account for the benefit of another person as an agent, a custodian, a nominee, a signatory, an investment advisor, an intermediary, or as a legal guardian, is not treated as the Account

Holder. In these circumstances that other person is the Account Holder. For example in the case of a parent/child relationship where the parent is acting as a legal guardian, the child is regarded as the Account Holder. With respect to a jointly held account, each joint holder is treated as an Account Holder.

"Active NFE" is an Active NFE if it meets any of the criteria listed below. In summary, those criteria refer to:

- active NFEs by reason of income and assets;
- publicly traded NFEs;
- Governmental Entities, International Organisations, Central Banks, or their wholly owned Entities;
- holding NFEs that are members of a non-financial group;
- start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;
- treasury centres that are members of a non-financial group; or
- non-profit NFEs.

An entity will be classified as Active NFE if it meets any of the following criteria:

1. less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
2. the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
3. the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
4. substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund,

or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

5. the NFE is not yet operating a business and has no prior operating history, (a "start-up NFE") but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
6. the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
7. the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
8. the NFE meets all of the following requirements (a "non-profit NFE") :
 - it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - it is exempt from income tax in its jurisdiction of residence;
 - it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision.

"Control" over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest (typically on the basis of a certain percentage (e.g. 25%)) in the Entity. Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means. Where no natural person or persons are identified as exercising control of the Entity through ownership interests, the Controlling Person of the Entity is deemed to be the natural person who holds the position of senior managing official.

"Controlling Person(s)" This is a natural person who exercises control over an entity. Where that entity is treated as a Passive Non-Financial Entity ("NFE") then a Financial Institution must determine whether such Controlling Persons are Reportable Persons. This definition corresponds to the term "beneficial owner" as described in Recommendation 10 and the Interpretative Note on Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012).

Controlling Persons of a trust, means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust (including through a chain of control or ownership). The settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, must always be treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the activities of the trust.

Where the settlor(s) of a trust is an Entity then the CRS requires Financial Institutions to also identify the Controlling Persons of the settlor(s) and when required report them as Controlling Persons of the trust.

In the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions.

"Entity" means a legal person or a legal arrangement, such as a corporation, organisation, partnership, trust or foundation.

"Financial Account" A Financial Account is an account maintained by a Financial Institution and includes: Depository Accounts; Custodial Accounts; Equity and debt interest in certain Investment Entities; Cash Value Insurance Contracts; and Annuity Contracts.

"Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution" is any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets if the Entity is (i) managed by a Financial Institution and (ii) not resident in, or a branch located in, a Participating Jurisdiction.

"Investment Entity managed by another Financial Institution" An Entity is "managed by" another Entity if the managing Entity performs, either directly or through another service provider on behalf of the managed Entity, any of the activities or operations described in clause (i) above in the definition of 'Investment Entity'.

An Entity only manages another Entity if it has discretionary authority to manage the other Entity's assets (either in whole or part). Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity, if any of the managing Entities is such another Entity.

"NFE" is any Entity that is not a Financial Institution.

"Participating Jurisdiction" A Participating Jurisdiction is a jurisdiction with which an agreement is in place pursuant to which it will provide the information set out in the Common Reporting Standard and that is identified in a published list.

"Passive NFE" Under the CRS a "Passive NFE" means any NFE that is not an Active NFE. An Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution is also treated as a Passive NFE for purposes of the CRS.

"Reportable Account" means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person.

"Reportable Jurisdiction" is a jurisdiction with which an obligation to provide financial account information is in place and that is identified in a published list.

"Reportable Person" is an individual (or entity) that is tax resident in a Reportable Jurisdiction under the laws of that jurisdiction. The Account Holder will normally be the "Reportable Person"; however, in the case of an Account Holder that is a Passive NFE, a Reportable Person also includes any Controlling Persons who are tax resident in a Reportable Jurisdiction. Dual resident individuals may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for purposes of determining their residence for tax purposes.

"TIN" (including "functional equivalent") The term "TIN" means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for the purposes of administering the tax laws of such jurisdiction. Further details of acceptable TINs can be found on www.oecd.org.

Some jurisdictions do not issue a TIN. However, these jurisdictions often utilise some other high integrity number with an equivalent level of identification (a "functional equivalent"). Examples of that type of number include, for individuals, a social security/insurance number, citizen/personal identification/service code/number, and resident registration number.

Guidance note B - Entity

Important Information:

If you are an individual account holder or sole trader or sole proprietor please refer to Guidance note A - Individual. For joint or multiple account holders please complete a separate form D1 - Individual Tax Residency Self Certification Form for each account holder.

If the Account Holder is a U.S. tax resident under U.S. law, you should indicate that you are a U.S. tax resident on this form and you may also need to fill in an IRS W-9 form. For more information on tax residence, please consult your tax adviser or local tax authority.

Where the Account Holder is a Passive NFE, or an Investment Entity located in a Non-Participating Jurisdiction managed by another Financial Institution.

Please provide information on the natural person(s) who exercise control over the Account Holder (individuals referred to as "Controlling Person(s)") by completing a separate form D1 - Individual Tax Residency Self Certification Form for each Controlling Person.

This information should be provided by all Investment Entities located in a Non-Participating Jurisdiction and managed by another Financial Institution.

If you are completing the form on the Account Holder's behalf, then you should indicate the capacity in which you have signed the form in the Declaration section of each form. For example you may be the custodian or nominee of an account on behalf of the account holder, or you may be completing the form under a signatory authority or power of attorney.

You can also find out more, including a list of jurisdictions that have signed agreements to automatically exchange information, along with details about the information being requested, on the OECD automatic exchange of information portal at www.oecd.org.

As a financial institution, we are not allowed to give tax advice. If you have any questions then please contact your tax adviser or domestic tax authority.

FATCA & CRS Terminology:

"Account Holder" is the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. This is regardless of whether such person is a flow-through Entity. Thus, for example, if a trust or an estate is listed as the holder or owner of a Financial Account, the trust or estate is the Account Holder, rather than the trustee or the trust's owners or beneficiaries. Similarly, if a partnership is listed as the holder or owner of a Financial Account, the partnership is the Account Holder, rather than the partners in the partnership. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account, and such other person is treated as holding the account.

"Active NFE" is an Active NFE if it meets any of the criteria listed below. In summary, those criteria refer to:

- active NFEs by reason of income and assets;
- publicly traded NFEs;
- Governmental Entities, International Organisations, Central Banks, or their wholly owned Entities;
- holding NFEs that are members of a non-financial group;
- start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;
- treasury centres that are members of a non-financial group; or
- non-profit NFEs.

An entity will be classified as Active NFE if it meets any of the following criteria:

1. less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
2. the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
3. the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
4. substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
5. the NFE is not yet operating a business and has no prior

operating history, (a "start-up NFE") but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;

6. the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
7. the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
8. the NFE meets all of the following requirements (a "non-profit NFE") :
 - it is exempt from income tax in its jurisdiction of residence;
 - it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision.
9. it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

Note: Certain entities (such as U.S. Territory NFEs) may qualify for Active NFE status under FATCA but not Active NFE status under the CRS.

"Control" means control over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest (typically on the basis of a certain percentage (e.g. 25%)) in the Entity. Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means. Where no natural person(s) is/are identified as exercising control of the Entity through ownership interests, then under the CRS the Reportable Person is deemed to be the natural person who hold the position of senior managing official.

"Controlling Person(s)" are the natural person(s) who exercise control over an entity. Where that entity is treated as a Passive Non-Financial Entity ("Passive NFE") then a Financial Institution is required to determine whether or not these Controlling Persons are Reportable Persons. This definition corresponds to the term "beneficial owner" described in Recommendation 10 and the Interpretative Note on Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012).

In the case of a trust, the Controlling Person(s) are the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, or any other natural person(s) exercising ultimate effective control over the trust (including through a chain of control or ownership). Under the CRS the settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, are always treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the activities of the trust.

Where the settlor(s) of a trust is an Entity then the CRS requires Financial Institutions to also identify the Controlling Persons of the settlor(s) and when required report them as Controlling Persons of the trust.

In the case of a legal arrangement other than a trust, “Controlling Person(s) means persons in equivalent or similar positions.

“**Custodial Institution**” means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. This is where the Entity’s gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity’s gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.

“**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.

“**FATCA**” stands for the U.S. provisions commonly known as the Foreign Account Tax Compliance Act, which were enacted into U.S. law as part of the Hiring Incentives to Restore Employment (HIRE) Act on March 18, 2010. FATCA creates a new information reporting and withholding regime for payments made to certain non-U.S. financial institutions and other non-U.S. entities.

“**Entity**” means a legal person or a legal arrangement, such as a corporation, organisation, partnership, trust or foundation. This term covers any person other than an individual (i.e. a natural person).

“**Financial Institution**” means a “Custodial Institution”, a “Depository Institution”, an “Investment Entity”, or a “Specified Insurance Company”. Please see the relevant domestic guidance and the CRS for further classification definitions that apply to Financial Institutions.

“**Investment Entity**” includes two types of Entities:

- an Entity that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 1. Trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 2. Individual and collective portfolio management; or
 3. Otherwise investing, administering, or managing Financial Assets or money on behalf of other persons.
 4. Such activities or operations do not include rendering non-binding investment advice to a customer.
- “The second type of “Investment Entity” (“**Investment Entity managed by another Financial Institution**”) is any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets where the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity.

“**Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution**” means any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets if the Entity is (i) managed by a Financial Institution and (ii) not a Participating Jurisdiction Financial Institution.

“**Investment Entity managed by another Financial Institution**” An Entity is “managed by” another Entity if the managing Entity performs, either directly or through another service provider on behalf of the managed Entity, any of the activities or operations described in clause (i) above in the definition of ‘Investment Entity’.

An Entity only manages another Entity if it has discretionary authority to manage the other Entity’s assets (either in whole or part). Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity, if any of the managing Entities is such another Entity.

“**NFE**” is any Entity that is not a Financial Institution.

“**Non-Reporting Financial Institution**” means any Financial Institution that is:

- a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
- a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity,

International Organisation or Central Bank; or a Qualified Credit Card Issuer;

- an Exempt Collective Investment Vehicle; or
- a Trustee-Documented Trust: a trust where the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported with respect to all Reportable Accounts of the trust;
- any other defined in a countries domestic law as a Non-Reporting Financial Institution.

“**Participating Jurisdiction**” means a jurisdiction with which an agreement is in place pursuant to which it will provide the information set out in the CRS and that is identified in a published list.

“**Participating Jurisdiction Financial Institution**” means (i) any Financial Institution that is tax resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside of that jurisdiction, and (ii) any branch of a Financial Institution that is not tax resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.

“**Passive NFE**” Under the CRS a “Passive NFE” means any: (i) NFE that is not an Active NFE; and (ii) Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution.

“**Related Entity**” An Entity is a “Related Entity” of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.

“**Reportable Account**” means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person.

“**Reportable Jurisdiction**” is a jurisdiction with which an obligation to provide financial account information is in place and that is identified in a published list.

“**Reportable Jurisdiction Person**” is an Entity that is tax resident in a Reportable Jurisdiction(s) under the tax laws of such jurisdiction(s) - by reference to local laws in the country where the Entity is established, incorporated or managed. An Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated. As such if an Entity certifies that it has no residence for tax purposes it should complete the form stating the address of its principal office.

Dual resident Entities may rely on the tiebreaker rules contained in tax conventions (if applicable) to determine their residence for tax purposes.

“**Reportable Person**” is defined as a “Reportable Jurisdiction Person”, other than:

- a corporation the stock of which is regularly traded on one or more established securities markets;
- any corporation that is a Related Entity of a corporation described in clause (i);
- a Governmental Entity;
- an International Organisation;
- a Central Bank; or
- a Financial Institution (except for an Investment Entity described in Sub Paragraph A(6) b) of the CRS that are not Participating Jurisdiction Financial Institutions. Instead, such Investment Entities are treated as Passive NFE’s.)

“**Resident for tax purposes**” Each jurisdiction has its own rules for defining tax residence, and jurisdictions have provided information on how to determine whether an entity is tax resident in the jurisdiction on the following website: www.oecd.org. Generally, an Entity will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), it pays or should be paying tax therein by reason of his domicile, residence, place of management or incorporation, or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual resident Entities may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes. An Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated. For additional information on tax residence, please talk to your tax adviser or see the following website: www.oecd.org.

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

“TIN” (including “functional equivalent”) means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for the purposes of administering the tax laws of such jurisdiction. Further details of acceptable TINs can be found at the following website: www.oecd.org.

Some jurisdictions do not issue a TIN. However, these jurisdictions often utilise some other high integrity number with an equivalent level of identification (a “functional equivalent”). Examples of that type of number include, for Entities, a Business/company registration code/number.

Frequently Asked Questions

The continued drive for international tax transparency and increased cooperation between tax administrations has led to numerous ideas and initiatives over the last several years. One initiative that has finally got off the ground is the OECD’s “Standard for Automatic Exchange of Financial Account Information” - more commonly referred to as the “Common Reporting Standard”, or “CRS”.

It is clear that CRS is a game-changer in the fight against illegal tax evasion, but it is also clear that individuals that have set up well-planned and properly managed wealth preservation vehicles have nothing to fear.

To deal with some of the questions that our clients might have, Fiduchi has prepared this guide and FAQ summary. CRS is a complex matter and it has far-reaching implications. If you have any concerns or are unclear whether CRS affects you, then you should speak with a qualified tax advisor. Fiduchi can help with this, but this guide should be considered as an outline only - it does not represent tax or legal advice.

What is the Common Reporting Standard (“CRS”)?

CRS is a global standard for the automatic exchange of financial information between financial institutions and tax authorities.

CRS was developed by the Organisation for Economic Co-operation and Development (“OECD”) and provides an international legal framework for the prevention of illegal tax evasion. More information can be obtained from the OECD’s website www.oecd.org

What is the purpose of CRS?

The OECD developed CRS in response to calls from the G20 to create a global system allowing participating jurisdictions to obtain information from their financial institutions and automatically exchange that information with other participating jurisdictions on an annual basis.

The aim of CRS is to reduce the ability of taxpayers of one jurisdiction to conceal their assets and income in another jurisdiction. CRS should not unduly affect the management and effectiveness of properly advised structures.

Which jurisdictions have committed to CRS?

Over 90 jurisdictions have committed to CRS. A full list of participating jurisdictions can be found on the OECD website www.oecd.org. Significant jurisdictions are the UK, all other EU states, China, India, Japan, Russia, Switzerland, Jersey and the other Crown Dependencies, Cayman and BVI.

The reality is that CRS will probably affect every jurisdiction in the World, although a notable exception to the list of signatories is the USA, which has decided that it can rely upon the existing framework created by FATCA.

Putting aside the difficulties caused by the USA’s non-commitment, it is likely that financial institutions in those jurisdictions that do not sign up to CRS will increasingly find themselves restricted in the transactions they can undertake. Withholding taxes have been mooted, but blacklists are more likely in the short term.

What’s the difference between CRS and FATCA?

FATCA is a framework developed by the USA (and then adopted by the UK) designed to combat tax evasion by US taxpayers by imposing reporting obligations in financial institutions together with withholding taxes for ‘non-compliance’. Over 100 jurisdictions have signed up to FATCA, but it is arguably of limited impact on non-US taxpayers.

CRS on the other hand is a global initiative designed to combat tax evasion by any tax payer of any of the jurisdictions that have signed up

(over 90 and counting). The UK has dropped its version of FATCA in favour of signing up to CRS, but the USA has so far not joined CRS.

One notable difference between FATCA and CRS is that under FATCA there was a de minimus rule whereby accounts under \$50,000 in value were not reportable; under CRS there is no de minimus exception.

When does CRS begin?

CRS has already begun! Full information can be found on the OECD’s website www.oecd.org, but CRS is being brought into practice in three stages:

- **Stage 1** – 56 countries, the so-called ‘Early Adopters’, including Jersey and the EU, the UK and India began CRS on 1 January 2016, with the first reporting by May 2017.
- **Stage 2** – A further 40 countries, including China, Israel, Japan, Russia, Switzerland and Singapore began on 1 January 2017, with the first reporting by May 2018.
- **Stage 3** – Dates are still to be set.

What will financial institutions such as Fiduchi be reporting?

All institutions within CRS-participating jurisdictions must obtain and report the same information, including:

- name and residential address of Reportable Account holder;
- date of birth of Reportable Account holder;
- jurisdiction of tax residency of Reportable Account Holder together with relevant tax reference number;
- Reportable Account name and identifying number where applicable (i.e. in respect of a trust, the trust’s name; in respect of a company, the company’s name);
- Reportable Account balance at year end or closure;
- amount paid to Account Holder during the year.

Where the Reportable Account is held by a Passive Non-Financial Entity, the Financial Institution will be required to provide certain information on ‘Controlling Persons’ of that Reportable Account.

Financial Institutions will report to the relevant authority in their own jurisdictions, who will in turn share that information with the authority of the taxpayer.

How are trust accounts affected by CRS?

Trusts are complex structures and, unfortunately, the wording of CRS is not helpful when considering how trusts should be treated within the framework. However, trusts are explicitly covered by the CRS rules and it is made clear that Reportable Accounts include accounts held by trusts and that Financial Institutions (which may include the trust itself) are required to look through passive entities to report on those natural individuals that ultimately control or benefit from trusts.

In most cases involving family or private wealth planning, a trust is likely to be classified under CRS as either a Reporting Financial Institution (FI) or a Passive Non-Financial Entity (Passive NFE).

Where a Jersey trust is an FI, the trust itself is obliged to report to the Jersey tax authority in respect of the trust’s Reportable Accounts. In practice, this will mean disclosing details of the trust and, in respect of when these individuals reside in a participating jurisdiction: the settlor, the beneficiaries, the protector and any person with a loan account. However, it is worth noting that for discretionary beneficiaries there is no reporting obligation until that beneficiary has actually received a benefit.

Where the trust is a Passive NFE, the trustee may be required to disclose information on the same persons to any FI with which the trust deals (e.g. a bank or investment manager). This is in order that the FI can then file its own report.

What is a Reportable Account?

Financial institutions of participating jurisdictions have an obligation to review their Financial Accounts in order to identify Reportable Persons by applying due diligence rules. A Financial Account is a Reportable Account when it is held by a Reportable Person or by a passive NFE with one or more Controlling Persons that is a Reportable Person.

What is a Reportable Person?

Under CRS, this term essentially means an individual or entity or estate that is resident in a participating jurisdiction. For entities that do not have formal tax residency, residency is determined by the place of effective management and control.

What is a Financial Account?

A Financial Account is an account maintained by a Financial Institution. Relevant examples would be a bank account and equity interests in a trust, company or partnership.

What is a Financial Institution?

Under CRS, this term means a custodial or depository institution, a specified insurance company or an Investment Entity. Essentially, a Financial Institution is any Entity that 'holds, as a substantial portion of its business, Financial Assets for the account of others.'

What is an Investment Entity?

Under CRS, this term means:

1. any entity that primarily conducts as a business investing, administering, or managing Financial Assets or money on behalf of other persons;
2. any entity whose gross income is primarily attributable to investing, reinvesting or trading financial assets and the entity is itself managed by an FI.

What is a Controlling Person?

The natural persons holding control over an entity. In the case of a trust, the term means the settlor, the trustee, the protector and the beneficiaries, as well as any other person exercising ultimate effective control over the trust.

What are an NFE, a Passive NFE and an Active NFE?

An NFE is any entity that is not a Financial Institution. A Passive NFE is an NFE that is not 'Active', in general terms an Active NFE is an NFE that meets any of the following criteria:




- less than 50 per cent of gross income in the preceding calendar year or other appropriate reporting period is passive income and less than 50 per cent of the assets held by the NFE during the period are passive income-generating assets;





- publically traded;
- government entity, international organisation, central banks;
- holding NFEs whose subsidiaries are themselves NFEs (but not investment funds, private equity funds, venture capital funds or similar investment vehicles);
- the NFE is less than two years old, not yet operating a business but is investing capital into assets with the intent to operate a business other than that of an FI;
- NFEs in process of liquidation;
- Treasury centres for non-financial groups;
- Not for profits.

What are some useful links to assist with further understanding?

- The OECD's CRS page: <https://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>
- The Jersey government's guidelines: <https://www.gov.je/TaxesMoney/InternationalTaxAgreements/IGAs/Pages/CommonReportingStandard.aspx>

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 **LONDON**
 Tallis House, 2 Tallis Street
 Blackfriars
 London EC4Y 0AB
 london@fiduchi.com
 +44 207 975 1475

 **JERSEY**
 Kensington Chambers
 46/50 Kensington Place
 St Helier, Jersey JE4 0ZE
 jersey@fiduchi.com
 +44 1534 755 155

 **DUBAI**
 Jumeirah Bay, Tower X2
 Dubai 124600
 United Arab Emirates
 dubai@fiduchi.com
 +971 52 957 8301

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