



# The ID Register

*CRS & FATCA Guide for Users*

*June 2017*



## **I. Introduction**

The following document is a guide to the main due diligence and reporting obligations imposed by the Foreign Account Tax Compliance Act (“FATCA”) and OECD Common Reporting Standard (“CRS”) on Financial Institutions (“FI”) and how they are addressed by the ID Register (“TIDR”).

In many countries a FATCA like reporting regime has been introduced by Intergovernmental Agreements (“IGAs”) and therefore when referring to “FATCA” the guidance refers to Model 1 IGA.

## **II. Background and assumptions**

TIDR is a service which allows the collection of and access to KYC/AML, Securities law fund subscription and FATCA/CRS data of investors in funds who then share it with fund managers and other interested parties. Institutional and individual investors set up profiles, upload required details and make them available to selected parties.

FATCA and CRS distinguish between New Accounts and Pre-existing Accounts. For FATCA, a Pre-existing Account is one that existed on 30th June 2014; for CRS 2016 adopters the relevant date is 31st December 2015. In this respect, profiles set up on TIDR by existing investors should be treated as Pre-existing Accounts for FATCA and CRS purposes, while profiles subsequently set up by investors during their investment in a fund or similar FI should be treated as New Accounts.

The guidelines set out below are based on OECD Standard and guidelines for CRS and Model 1 IGA for FATCA.

## **III. Due diligence and reporting requirements for Financial Institutions**

### **1. Due Diligence**

#### **1.1. Reportable Account Holders**

By virtue of Annex I of the IGA and Section I of CRS, an FI will need to determine whether its financial accounts are held by US Specified Persons or Reportable Jurisdiction Persons.

A US Person is a citizen or resident individual, a partnership or corporation organized in the United States or under the laws of the United States or any State thereof, a trust if (i) a court within the United States would have authority under applicable law to render orders or judgments substantially concerning all issues regarding administration of the trust, and (ii) one or more US persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that was a citizen or resident of the United States. A US Specified Person is a US Person who does not qualify for any of reporting exceptions prescribed by the IGA.

CRS Reportable Jurisdiction Person means an individual or entity that is resident in a Reportable Jurisdiction (i.a. CRS country) under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, 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.

### **1.2. Highlights of the due diligence requirements**

Identification of an account holder is carried out on the basis of due diligence rules for:

- 1) Pre-existing Individual Accounts;
- 2) Pre-existing Entity Accounts;
- 3) New Individual Accounts; and
- 4) New Entity Account.

In the case of countries which adopted CRS in 2016 onwards, CRS Pre-existing Accounts are those maintained by an FI on 31 December 2015, while New Accounts refer to those from 1 January 2016 onwards. For FATCA the cut-off date is 30 June 2014.

FATCA and CRS differentiate due diligence rules for Pre-existing Lower Value and High Value accounts by requiring an electronic database search only for Lower Value accounts and an additional paper search for High Value accounts, if the electronic database does not capture all the indicia. TIDR collects the same enhanced set of data for all account holders and therefore there is no additional burden of assessing the value and differentiating the search.

The review of accounts aims to establish whether the Account Holder is a Specified US Person for FATCA purposes or a Reportable Jurisdiction Person for CRS purposes.

### **1.3. Due diligence for Individual Accounts**

The crucial information is the residence (for CRS) and citizenship (for FATCA) of the account holder. If the FI does not rely on a current residence address based on documentary evidence, it must review electronically searchable data for any of the following indicia:

- 1) Tax Residence in a Reportable Jurisdiction (or US) and for FATCA – nationality;
- 2) Place of birth;
- 3) Current mailing or residential address in a Reportable Jurisdiction (or US);
- 4) Telephone number in a Reportable Jurisdiction (or US);
- 5) Standing instructions to transfer funds to an account maintained in a Reportable Jurisdiction (or US);
- 6) Currently effective power of attorney or signatory authority granted to a person in a Reportable Jurisdiction (or US);
- 7) A “hold mail” instruction or “in-care-of” address in a Reportable Jurisdiction (or US) if the FI does not have any other address on file.

If none of the indicia is discovered in the electronic search, then no further action is required until there is a change in circumstances.

At the moment, TIDR caters for all fields, except for standing instructions and “hold mail”. In the first case, this is financial information which would not necessarily be made available to other financial institutions, and TIDR will introduce that option for the new release. The “hold mail” is only required if no other address is available and therefore can be obtained on a case-by-case basis.

As a result, TIDR collects information necessary to establish the FATCA and CRS status of the investor and produces a result:

- 1) For CRS, a Reportable Jurisdiction/s;
- 2) For FATCA, a conclusion if the account holder is a US Specified Person.

TIDR can agree or disagree with the result, as well as add a Reportable Jurisdiction to the list of results should there be more (e.g. due to dual tax residency). It also produces a conclusion whether the account holder should be registered for FATCA/CRS and reported.

For New Individual Accounts, CRS status must be certified by a self-certification form obtained as a part of the account opening process. In the case of FATCA, the status can be confirmed by either a self-certification form or a relevant W-8/ W-9 US form.

Information collected via TIDR allows the certification of the status of the Account Holder but TIDR allows the uploading of self-certification forms or a relevant W-8/ W-9 US form.

#### **1.4. Classification and due diligence for Entity Account Holders**

For Entity Accounts an FI must classify entity account holders as falling under one of the following categories:

- 1) Financial Institution (Investment Entities, Depository Institution, Custodial Institution or Specific Insurance Company);
- 2) Passive Non-Financial Entity/Foreign Non-Financial Entity (“NFE/NFFE”);
- 3) Active NFE/NFFE;
- 4) Non-reporting Financial Institution for CRS;
- 5) Exempt beneficial owners and Deemed-compliant Financial Institutions for FATCA.

TIDR implements a two-way classification approach. Firstly, the entity can rely on a classification prepared internally or by its advisers and confirm its status using drop-down lists, separate for FATCA and for CRS. Secondly, the entity may request KPMG assistance to prepare and review the classification on the basis of information delivered through TIDR. The request is automatically received by KPMG and processed directly in TIDR.

As a result, TIDR collects information necessary to establish the FATCA and CRS status of the investor and produces a conclusion whether the account holder should be registered for FATCA/CRS and reported.

In case of a Passive NFE/NFFE, an FI must identify individual/s who is/are Controlling Person/s of such entity. For both FATCA and CRS, Controlling Person/s are identified on the basis of AML/KYC information held by the FI for Lower Value Pre-existing Accounts and a self-certification form in other cases.

For entity profiles TIDR requests indicating related parties, including beneficial owners holding more than 10% of shares, and directors.

Due to the fact that TIDR caters for KYC/AML as well, it satisfies the general rule that for Pre-Existing Entity Accounts the FI can determine whether the entity is resident in a Reportable Jurisdiction/ US on the basis of information maintained for AML/KYC purposes. Moreover, that factor allows the validation of information provided for FATCA/CRS purposes and should avoid any discrepancies between it and KYC data.

For New Entity Accounts, CRS status must be certified by a self-certification form obtained as a part of the account opening process. In case of FATCA, the status can be confirmed by either a self-certification form or a relevant W-8/ W-9 US form. Apart from FATCA and CRS, W-series forms are also used for certifying a US Chapter 3 status for withholding purposes.

Information collected via TIDR allows the certification of the status of the Account Holder but TIDR allows also to upload self-certification forms or a relevant W-series forms.

## **2. Reporting**

### **2.1. Reportable information**

For CRS purposes, an FI must report the following information on each Reportable Person (individual) being an account holder: name, address, Tax Identification Number (“TIN”), date and place of birth. For FATCA purposes, the required information related to US Specified Persons (individuals) is: name, address and US TIN.

For Passive NFEs/NFFEs, an FI must collect and report the name, address and TIN of the entity; for the Controlling Person/s of Passive NFEs/NFFEs, an FI must collect and report the name, address, TIN, date and place of birth of that individual. For FATCA, the information on the Controlling Person/s is limited to name, address and US TIN.

TIDR requires that information to be submitted on the profile.

In addition, the following data for each Reportable Jurisdiction Person/ US Specified Person must be reported:

- 1) The account number (or functional equivalent);
- 2) The name and identifying number of the Reporting FI;
- 3) The account balance or value, and supplemental amounts in case of Custodial and Depository Accounts, as on the end of the relevant year or upon closure of the account.

## **2.2. Reporting**

A FI must report on its Financial Accounts. For an Investment Entity, a Financial Account is generally defined as any equity or debt interests in the FI.

For both FATCA and CRS reportable data must be submitted to tax authorities in the jurisdiction where the FI is resident. Reporting deadlines for most jurisdictions fall within first half of year following the reporting period.

The required data is reported in XML Schema format acceptable by local tax authorities.

TIDR produces and submits FATCA and CRS reporting in conjunction with the KPMG FATCA & CRS reporting technology. Together with KPMG's international network of offices, this provides managers with a single global FATCA and CRS reporting service.

## **IV. Other obligations**

Generally, CRS records of compliance should be maintained for a number of years from the end of the year in which the arrangements were applied to the financial account.

If you have any queries, please do not hesitate to contact Tony Mancini at [amancini@kpmg.com](mailto:amancini@kpmg.com).

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