

Why you need to know about CRS and FATCA

December 2017



The CRS and FATCA classification of an entity, as well as its country(ies) of tax residence, will determine whether an account is considered “Reportable”, as well as whether information relating to the entity’s controlling persons needs to be collected and disclosed to the tax authorities. It is therefore critical that the CRS and FATCA self-certification forms are completed correctly in order to avoid incorrect or unnecessary reporting for the entity and its controlling persons. Additionally, incorrect classification of an entity under CRS and/or FATCA, or no submission of a CRS and/or FATCA self-certification form, may result in the prevention of new accounts from being opened, or even closure or suspension of accounts maintained with FIs, as well as reputational risks for the entity.

In summary

The OECD Common Reporting Standard (“CRS”) requires the automatic exchange of financial account and taxpayer information between a large number of participating jurisdictions, including Cyprus.

Similar to the provisions of the U.S. Foreign Account Tax Compliance Act (“FATCA”), CRS imposes obligations on financial institutions (“FIs”) such as banks, funds, asset managers and insurance companies, to collect information for all their account holders. Such information includes the completion of “self-certification forms” to enable the FIs to identify an account holder’s country of tax residence and then in turn, to provide this information along with certain specified account information (e.g. account balance, dividend and interest income, etc.), to the tax administration of the country(ies) in which the account holder is a tax resident.

As a result, you may be requested by FIs with which you engage, to provide them with completed CRS and/or FATCA self-certification forms, which typically require that the account holder declares their country(ies) of residence for tax purposes as well as their status under FATCA and CRS, in order to enable the FIs to identify “Reportable” accounts and provide relevant information to the tax authorities. Completion of such CRS and FATCA self-certification forms requires a comprehensive analysis of an entity’s activities and circumstances against the relevant complex regulatory requirements, in order to identify the correct CRS and FATCA statuses that need to be declared on the form.

Background

The Foreign Account Tax Compliance Act is a U.S. tax legislation which was enacted in March 2010 to prevent and detect U.S. tax evasion and improve taxpayer compliance. FATCA is focused on strengthening information reporting and withholding compliance with respect to U.S. persons that invest through, or in, non-U.S. entities, such as Cyprus resident financial institutions.

Following the implementation of FATCA, further steps to improve global cross border tax compliance were taken. In February 2014, the Organization for Economic Cooperation and Development (“OECD”), at the request of the G20, released a global standard for the automatic exchange of financial account information, the OECD Common Reporting Standard, which involves the systematic and periodic transmission of ‘bulk’ taxpayer information.

Both CRS and FATCA impose obligations on financial institutions across the financial services market (such as banks, funds, asset managers and insurance companies) to review and collect information on their account holders in an effort to identify their country(ies) of tax residence and then in turn, to provide this information along with certain specified account information (e.g. account balance, dividend income, interest income etc.) to the tax administration of the country(ies) in which the account holder is a tax resident. Furthermore, the CRS and FATCA classification of an entity will determine whether information relating to the entity’s controlling person(s) needs to be collected and disclosed to the tax authorities.

Global and local implementation

A large number of jurisdictions participate in both CRS and FATCA through the implementation of multilateral and bilateral agreements, and adaptation of local legislation. Cyprus signed a FATCA Intergovernmental Agreement (“IGA”) with the U.S. Government for FATCA implementation in December 2014. As regards CRS, Cyprus is one of the signatories to the Multilateral Competent Authority Agreement concluded in October 2014 for CRS implementation, which now includes more than 90 signatories. Furthermore, the Cyprus Government has introduced local legislation and guidance for the implementation of the FATCA and CRS requirements.

The majority of FIs in a large number of countries, including Cyprus and Russia, are required to comply with the CRS and FATCA provisions and are therefore taking action in order to review, identify and report on “Reportable” accounts.

What is the impact?

Under both CRS and FATCA, FIs are generally required to enhance their due diligence procedures and collect additional documentation, including CRS and/or FATCA self-certification forms, in order to identify whether an account is “Reportable”. As a result, an entity may be receiving instructions from FIs to provide completed CRS and/or FATCA self-certification forms which typically require that the account holder declares their country(ies) of residence for tax purposes, their classification under FATCA and/or CRS, as well as information about the tax residency(ies) of an entity’s controlling person(s) for certain types of entities.

Completion of the CRS and/or FATCA self-certification forms requires a comprehensive analysis of an entity’s activities and circumstances against the relevant regulatory requirements, in order to identify the applicable CRS and/or FATCA status.

Reportable accounts include accounts held by individuals and entities, including trusts and foundations. Information to be reported with respect to accounts which are identified as “Reportable” includes interest, dividends, account balance / value, income from certain insurance products, sales proceeds from financial assets and other income generated with respect to assets held in the account or payments made to the account. In the case of certain types of entities, information relating to the controlling persons of the entities will also be reported.

Why is it important for the self-certification forms to be completed correctly and timely?

Correct and timely completion of the CRS and FATCA self-certification forms is critical for a number of reasons:

- An entity's CRS and FATCA classifications, as well as the country (ies) of tax residence declared on the CRS and FATCA self-certification forms will determine whether an account is considered "Reportable". Incorrect completion of the CRS and/or FATCA self-certification forms may therefore result in unnecessary reporting for the entity and its controlling persons.
- In relation to the CRS requirements, it is expected that jurisdictions will adopt measures imposing sanctions for account holders signing (or otherwise positively affirming) a false self-certification, or account holders failing to provide a self-certification.
- Incorrect classification of an entity under CRS and FATCA, or no submission of a CRS and/or FATCA self-certification form, may result in the prevention of new accounts from being opened, and even closure or suspension of accounts maintained with an FI.
- Incorrect completion of CRS and/or FATCA self-certification forms may result in reputational risks for an entity, for example if a perception is created that the entity does not provide accurate information in a transparent manner.
- Incorrect classification under FATCA may result in a withholding penalty to specific payments made to the account holder's account.

How PwC can help you

PwC Cyprus has a dedicated team of local experts with international experience in the implementation of CRS and FATCA, who work closely with our global network of specialists to provide you with tailored advice and support on the technical and operational consequences of CRS and FATCA. We can provide you with an efficient and effective solution in all aspects of CRS and FATCA, including:

- Assistance with an initial entity analysis in order to determine the classification of an entity and identify the relevant implications arising from such classification.
- Assistance with the completion of CRS and/or FATCA self-certification forms.
- For entities classified as FIs (such as banks, funds, asset managers and insurance companies) - provision of operational support with respect to the implementation of the various CRS and FATCA obligations, such as account due diligence and reporting, drafting of business requirements documents etc., as well as provision of training to personnel on the CRS and FATCA requirements.
- Understand the detailed regulatory requirements under CRS and FATCA and their impact in the context of your specific business needs.



Contact us

George Lambrou
Partner
Advisory
george.lambrou@cy.pwc.com
Tel: +357 22 555 728

Elina Christofides
Director
Advisory
elina.christofides@cy.pwc.com
Tel: +357 22 555 718

Elina Savvides
Manager
Advisory
elina.savvides@cy.pwc.com
Tel: +357 22 555 735

Alexandra Ioannou
Manager
Advisory
alexandra.ioannou@cy.pwc.com
Tel: +357 22 555 237

FATCA & CRS Group - PwC Cyprus Contact:
fateacrs@cy.pwc.com



PwC Cyprus

PwC Central, 43 Demostheni Severi Avenue, CY-1080 Nicosia
P O Box 21612, CY-1591 Nicosia, Cyprus
Tel: +357 22 555 000, Fax: +357 22 555 001

City House, 6 Karaiskakis Street, CY-3032 Limassol
P O Box 53034, CY-3300 Limassol, Cyprus
Tel: +357 25 555 000, Fax: +357 25 555 001



This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

© 2017 PricewaterhouseCoopers Ltd. All rights reserved. PwC refers to the Cyprus member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.