

A. General

1. What is the CRS and how is it applied in the UAE?

The CRS is the agreed global standard for the automatic exchange of financial account information (“AEOI”). It was developed by the Organisation for Economic Co-operation and Development (“OECD”) in February 2014. The main aim of the CRS is to facilitate tax transparency by allowing CRS participating jurisdictions to automatically exchange information obtained from local FIs on an annual basis with exchange partners where reportable persons are resident for tax purposes. Financial Account information can then be used by the receiving tax authorities to help ensure compliance by their taxpayers.

The UAE signed the Convention on Mutual Administrative Assistance in Tax Matters (“MAC”), the Declaration of Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (“MCAA”) and the Unilateral Declaration in April 2017. Both the MAC and MCAA form the legal basis for the implementation of The Standard for Automatic Exchange of Financial Account Information (“AEOI”) in Tax Matters, Second Edition (“OECD Standard”) in the UAE. The MAC was ratified according to Federal Law No. 54 of 2018 and the MCAA according to Federal Law No. 48 of 2018. The UAE is one of over 100 countries that have signed up to the CRS.

UAE RFIs are subject to the requirements of the CRS and are required to report Reportable Persons (as defined under the respective UAE CRS Regulations) on an annual basis, or file nil returns where they do not have reporting to do.

2. Who is impacted by CRS?

Under the CRS, UAE RFIs are required to identify Financial Accounts that are held by an Account Holder that is a Reportable Person or by a Passive NFE with one or more Controlling Persons who are Reportable Persons, and report certain financial account information on an annual basis to the Regulator or UAE MoF (for unregulated entities). See Q3 below.

3. Who are the UAE Regulatory Authorities under the CRS?

The following authorities are appointed as the Regulatory Authorities for the purposes of implementing the provisions of the Multilateral Administrative Agreement for Automatic Exchange of Information, and the CRS:

- a. Central Bank in respect of an FI subject to its supervision under applicable laws and regulations
- b. Securities & Commodities Authority in respect of an FI subject to its supervision under applicable laws and regulations of the Securities & Commodities Authority

- c. Financial Free Zone Authority designated by the relevant Financial Free Zone as a Regulatory Authority in respect of an FI registered in such Financial Free Zone:
- i. Abu Dhabi Global Market (“ADGM”): Financial Services Regulatory Authority (“FSRA”).
- ii. Dubai International Financial Centre (“DIFC”): Registrar of Companies (“RoC”).
- d. Ministry of Finance in respect of any FI not otherwise regulated by any of the aforementioned Regulatory Authorities

4. What types of entities are Financial Institutions under CRS?

FIs for the purposes of CRS are broadly defined as:

- a. Custodial Institutions.
- b. Depository Institutions.
- c. Investment Entities.
- d. Specified Insurance Companies

These include banks, custodians, investment traders, asset/wealth managers, funds and life insurance companies but are not limited to these types of entities.

Please refer to the relevant UAE CRS Regulations for detailed explanation of each of the aforementioned FIs

5. What is a UAE Reporting Financial Institution (“UAE RFI”)?

An UAE RFI means any FI that is not a Non-Reporting FI

6. What is a Non-Reporting Financial Institution?

Non-Reporting FIs for the purposes of CRS are broadly defined as:

- a. a Governmental Entity, International Organization 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;
- b. a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organization or Central Bank; or a Qualified Credit Card Issuer;
- c. any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in a) and (b) above;
- d. an Exempt Collective Investment Vehicle

- e. a trust to the extent that the trustee of the trust is a Reporting FI and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.
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The above is subject to change. Please refer to the relevant UAE CRS Regulations for a full definition of Non-Reporting FIs

7. What is a Non-Financial Entity (“NFE”)?

An NFE is any Entity which is not an FI. An NFE can be classified as either an Active or Passive NFE. Any NFE that does not meet the criteria to be an Active NFE will be a Passive NFE.

8. Who is a Controlling Person?

The definition of a Controlling Person for CRS purposes is driven by the Financial Action Tax Force (“FATF”) Recommendations. The general rule is that the natural person(s) controlling more than 25% (directly or indirectly) of the entity will be the Controlling Person(s). Where there are no such persons, the Controlling Person(s) will be the natural person(s) who exercise control of the Entity through other means. This could be the board of directors of the company or one or more individuals who have a substantial influence over the company’s affairs. If persons exercising control by other means cannot be identified, then the Controlling Person(s) will be the natural person(s) who holds the position of a senior managing official.

In the case of a trust, the Controlling Person(s) means the settlor(s), the trustee(s), the protector(s), the beneficiary(ies) or class(es) of beneficiaries and any other natural person(s) exercising ultimate effective control over the trust.

In the case of a legal arrangement other than a trust, the term Controlling Persons means persons in equivalent or similar positions as those that are Controlling Persons of a trust.

9. What are participating jurisdictions?

The list of Participating Jurisdictions, which may be revised from time to time, is published on the UAE MoF CRS website.

The list of participating jurisdictions is important for UAE RFIs when conducting due diligence in respect of accounts held by Passive NFEs. New and pre-existing accounts held by professionally managed investment entities that are tax resident in non participating jurisdictions are to be treated as a Passive NFE.

UAE RFIs must "look-through" the entity to identify its controlling persons and report each reportable controlling person.

10. What are reportable jurisdictions?

A reportable jurisdiction means:

- a. For the purposes of applying due diligence procedures on all accounts held by an account holder (or a controlling person in case of a Passive NFE), a jurisdiction other than the US
- b. For the purposes of reporting information on all accounts held by an account holder (or a controlling person in case of a Passive NFE), a jurisdiction other than the US or the UAE.

11. What are the obligations of a Reporting UAE RFI under CRS?

UAE RFIs are required to comply with the UAE CRS Regulations. Broadly, UAE RFIs must:

- a. Register with their Regulator or UAE MoF (in the case of unregulated entities) for CRS purposes
- b. Perform due diligence on all financial accounts that it maintains
- c. Annually report all reportable accounts that it maintains or file a nil return if it does not maintain any reportable accounts to the Regulator or UAE MoF (in the case of an unregulated entity);
- d. Continuously monitor for changes in circumstances that results in the change of an Account Holder's CRS status (see question 13)
- e. Annually report information to the Regulator or MoF (in the case of unregulated entities) about certain individual accounts that are "undocumented account" (see question 21).

Please note this is not an exhaustive list and the UAE CRS Regulations must be consulted.

B. Due Diligence

12. How is an individual or entity's jurisdiction of tax residence determined?

Tax residence is determined under the domestic tax laws of each jurisdiction. There might be situations where a person or entity qualifies as a tax resident under the tax residence rules of more than one jurisdiction, and therefore is a tax resident in more than one jurisdiction.

For more information about tax residency rules applicable to CRS committed jurisdictions go to the OECD

Automatic Exchange Portal

13. What does the 'reasonableness test' mean in relation to CRS?

The reasonableness test is part of the due diligence process where UAE RFIs are required to assess the reasonableness of a self-certification received from Account Holders, which establishes his/her tax residence, in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

Example: A UAE FI receives a self-certification form regarding the individual account holder's tax residence status. The UAE FI is required to confirm the reasonableness of the self-certification against other information in the account opening documentation and any other information it has on the individual. The individual self certifies as a UAE tax resident, but the UAE FI's AML/KYC procedures capture a residence address in the UK. Due to the inconsistent information (UAE tax residency, UK residence address), the self-certification fails to meet the reasonableness test. In this case, it is expected that the UAE FI would obtain either: i) A valid self-certification; or ii) A reasonable explanation and documentation (as appropriate) supporting the reasonableness of the self-certification.

14. What is a CRS self-certification form and how is it completed?

A CRS self-certification form establishes where an Account Holder or Controlling Person is resident for tax purposes. The self-certification can be provided in any form but in order for it to be valid, the OECD Standard sets out that it must be signed (or otherwise positively affirmed, i.e. involving some level of active input or confirmation) by the Account Holder, be dated, and must include the Account Holder's: name; residence address; jurisdiction(s) of residence for tax purposes; TIN(s) and date of birth.

Please refer to the OECD

Automatic Exchange Portal

for sample self-certification forms which provide instructions on how to complete a self-certification form for individuals, entities and controlling persons.

15. What is the process for obtaining a valid self-certification and/or validating such self-certification for new account holders?

With respect to New Individual and Entity Accounts, the OECD Standard provides that UAE RFIs must obtain and validate self-certifications upon account opening.

In accordance with the OECD CRS FAQs, where a self-certification is obtained at account opening but validation of the self-certification cannot be completed because it is a 'day two' process undertaken by a back-office function, the self-certification should be validated within a period of 90 days (this only applies where UAE RFIs have implemented a day two process). There are a limited number of instances, where due to the specificities of a business sector it is not possible to obtain a self-certification on 'day one' of the account opening process, for example where an insurance contract has been assigned from one person to another or in the case where an investor acquires shares in an investment trust on the secondary market. In such circumstances, the self-certification should be both obtained and validated as quickly as feasible, and in any case within a period of 90 days.

16. What penalties are imposed on Financial Institutions for failure to obtain a valid self-certification and/or validate such self-certification?

A fine in the amount of Dirhams (1,000) one thousand shall be imposed on any FI who opens a New Account without obtaining a valid self-certification and/or failing to validate such self-certification.

17. What penalties are imposed on Account Holders for the provision of a false self-certification?

A fine in the amount of Dirhams (20,000) twenty thousand shall be imposed on any Account Holder or Controlling Person, as the case may be, if the self-certification that is required to be submitted by such Account Holder or Controlling Person to the FI contains any inaccurate or incorrect information and the Account Holder or Controlling Persons knows or should have known that the information provided is inaccurate or incorrect.

18. What would constitute a change in circumstances?

A change in circumstances includes any change that results in the addition of information relevant to a person's status or otherwise conflicts with such person's status. In addition, a change in circumstances includes any change or addition of information to the Account Holder's account (including the addition, substitution, or other change of an Account Holder) or any change or addition of information to any account associated with such account, if such change or addition of information affects the status of the Account Holder.

Example: I, a bank that is a UAE RFI, has relied on the residence address test to treat an individual Account Holder, P, as a resident of Reportable Jurisdiction X. Five years later, P communicates to I that he/she has moved to jurisdiction Y, which is also a Reportable Jurisdiction, and provides his new address. I obtains from P a self-certification and new Documentary Evidence confirming that he/she

is resident for tax purposes in jurisdiction Y. I must treat P as a resident of Reportable Jurisdiction Y.

C. Reporting

19. Is the date of birth required to be reported by a Reporting Financial Institution?

The date of birth must be collected by the completion of a self-certification form and be reported for all new accounts. For pre-existing accounts, the date of birth is only reportable if such date of birth is in the records of the UAE RFI. Where the date of birth is not held in respect of pre-existing accounts, the UAE RFI must use reasonable efforts to obtain it by the end of the second calendar year following the year in which the accounts are identified as reportable accounts.

20. Is the place of birth required to be reported by a Reporting Financial Institution?

The place of birth is not required to be reported for all new and pre-existing accounts unless the UAE RFI is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the UAE RFI.

21. Can a Reporting Financial Institution report accounts without a TIN?

The TIN, or TIN equivalent, must be reported for all new accounts unless it has not been issued by the jurisdiction of tax residence of the Account Holder.

For pre-existing accounts, the TIN is reportable if such TIN is in the records maintained by the UAE RFI. Where the TIN is not held in respect of pre-existing accounts, the UAE RFI must use reasonable efforts to obtain it by the end of the second calendar year following the year in which the accounts are identified as reportable accounts. Not all jurisdictions issue a TIN, or functional equivalent, to all individuals or entities. Where a TIN has not been issued to an individual or entity there is an exception from the requirement to report a TIN. See the OECD website for details of TIN formats.

22. Are UAE RFIs required to submit nil returns?

If a Reporting UAE FI has carried out due diligence on Account Holders and identified that it does not maintain any reportable accounts, the UAE RFI is required to submit a nil return(s) via its Regulator or the UAE MoF for unregulated entities. This must be completed through the portal you are registered with for CRS reporting by the deadline.

23. How do UAE RFIs obtain access to the reporting portal?

UAE RFIs may contact their relevant Regulatory Authority to obtain a username and password to access the reporting portal that will be used to submit returns during the reporting period.

24. How are joint accounts treated for CRS reporting purposes?

With respect to a jointly held account, each joint holder is treated as an Account Holder for purposes of determining whether the account is a Reportable Account.

Thus, an account is a Reportable Account if any of the Account Holders is a Reportable Person or a Passive NFE with one or more Controlling Persons who are Reportable Persons.

When more than one Reportable Person is a joint holder, each Reportable Person is treated as an Account Holder and is attributed the entire balance of the jointly held account, including for purposes of applying the aggregation rules.

Example:

Customer A is tax resident in Jurisdiction A (a reportable jurisdiction) and shares a joint deposit account with Customer B who is tax resident in Jurisdiction B (a non-reportable jurisdiction). Each customer has a separate deposit account maintained by the same UAE RFI and have the following balances:

Customer A: \$30,000

Customer B: \$40,000

Joint account between Customer A and Customer B: \$25,000

The UAE RFIs computerized system links the Financial Accounts and allows account balances or values to be aggregated. The balance of the joint account is attributable in full to each of the account holders. The aggregate balance for Customer A is \$55,000 and for Customer B is \$65,000.

The joint account is a Reportable Account and Customer B's aggregate balance shall be reportable (\$65,000).

25. How is information exchanged under CRS?

UAE RFIs must report the details of Reportable Accounts by the stipulated deadline each year (30 June, unless the reporting deadline has been extended).

Information will be transmitted to the UAE MoF which will in turn exchange the information with foreign Exchange Partner Jurisdictions.

26. When is the reporting due date for the CRS in the UAE

The CRS reporting deadline for UAE RFIs to report is 30 June of the year following each reporting period unless the reporting deadline has been extended by the relevant regulator. Your Regulator will provide you with further information in case there is a change to yearly reporting deadlines.

27. Can a third-party service provider fulfil the CRS due diligence and reporting obligations on behalf of Reporting Financial Institutions?

The UAE has allowed for UAE RFIs to use third party service providers to fulfil the reporting and due diligence obligations imposed on such UAE RFI (e.g. fund managers on behalf of funds and trustees on behalf of trusts), but these obligations shall remain the responsibility of the UAE RFI. Any failure by a third-party service provider would be regarded as a failure by the UAE RFI.

It is not required that the service provider be within the same jurisdiction as the UAE RFI or obtain approval from their relevant Regulatory Authority to act as a service provider.

28. What jurisdictions are UAE RFIs required to report information for on a yearly basis?

Under the CRS, the UAE has opted for the “*widest approach*” whereby UAE Reporting FIs are required to report information on all accounts held by an account holder (or a controlling person in case of a Passive NFE) which is a Reportable Person, who is a resident for tax purposes in a jurisdiction other than the US or the UAE.

Under the CRS, a Reportable Person means any Reportable Jurisdiction Person, other than:

- I. corporation the stock of which is regularly traded on one or more established securities markets;
- II. any corporation that is a Related Entity of a corporation described in (i);
- III. a Governmental Entity;
- IV. an International Organisation;
- V. a Central Bank; or
- VI. a Financial Institution.

The term “*Reportable Jurisdiction Person*” means an individual or Entity that is resident in a Reportable Jurisdiction 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, which has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.

The term “*Reportable Jurisdiction*” from a UAE perspective means:

- A. for the purposes of applying the due diligence procedures described in Section II to VII of the Guidance Notes for the CRS UAE, a jurisdiction other than the United States of America, and
- B. for the purposes of applying Section I of the Guidance Notes for the CRS UAE, a jurisdiction other than the United States of America or the United Arab Emirates.

29. If an entity that is a Reporting UAE FI is liquidated on 31 March 2020, is the Reporting UAE FI still required to file a FATCA return for calendar year 2020 by 30 June 2021?

A Reporting UAE FI would be required to fulfill its reporting obligations until the date it ceases to be a Reporting UAE FI (e.g. due to liquidation or closure). Therefore, if the entity is a Reporting UAE FI in calendar year 2020 (i.e. between 1 January 2020 - 31 December 2020), it would be required to submit a CRS return for calendar year 2020 by 30 June 2021 (or a nil return, if applicable).

Hence, if the entity was considered a Reporting UAE FI up to the point of liquidation on 31 March 2021 (and therefore a Reporting UAE FI at a point during calendar year 2020), the entity would be required to submit a CRS return for calendar year 2020 by 30 June 2021 (or a nil return, if applicable).

30. If an entity that is a Reporting UAE FI is liquidated, what are the responsibilities of the Reporting UAE FI to ensure the CRS account is closed?

It is the Reporting UAE FI's responsibility to notify the relevant regulatory authority that it has been liquidated and ensure that CRS Financial Accounts are closed and subsequently that the Reporting UAE FI is deregistered from the regulatory authority's CRS reporting portal.

Unregulated Entities which are Reporting UAE FIs must notify the UAE Ministry of Finance (in its capacity as a regulatory authority for Unregulated Entities) that it has been liquidated and ensure that the CRS Financial Accounts are closed.

A Financial Account is treated as a Reportable Account as of the date it is identified as such pursuant to the due diligence procedures under the CRS legislation. A Reportable Account remains reportable until the date it ceases to be a Reportable Account (e.g. due to the closure of the account). If a Reportable Account is closed due to the liquidation or winding up of the Reporting UAE FI,

information with respect to such account remains annually reportable until the date of closure of the Financial Account by the Reporting UAE FI in the framework of the liquidation or the winding-up.

31. Do Active Non-Financial Entities (“NFEs”) or Passive NFEs have reporting obligations under CRS?

Under CRS, a UAE FI includes any entity that:

- i. accepts deposits in the ordinary course of a banking or similar business (a Depository Institution);
- ii. holds financial assets for the account of others as a substantial portion of its business (a Custodial Institution);
- iii. is engaged primarily in the business of investing, reinvesting, trading securities, partnership interests, commodities or similar financial instruments (an Investment Entity); or
- iv. issues or makes payments in respect of insurance or annuity contracts (a Specified Insurance Company).

Entities which are not UAE FIs are considered NFEs for the purposes of CRS. This could be an Active NFE or Passive NFE as defined under the CRS regulations.

Active or Passive NFEs do not have reporting (or nil return) filing obligations under the CRS regulations.

32. What is the process for submitting a nil return for CRS purposes?

If you are a Reporting UAE FI, you must file annual returns (or a nil return, if applicable), to the applicable regulatory authority in the UAE (or the UAE Ministry of Finance if you are an Unregulated Entity) by the stipulated deadline.

The nil reporting requirement is a 'tick the box' exercise in the CRS portal and no documentation is required to be submitted at the present time (although this may be subject to change in the future).

CRS Glossary of Key Terms

Term	Refers to
AML	Anti-Money Laundering
CRS	Common Reporting Standard
FATF Recommendations	2012 Financial Action Task Force Recommendations
KYC	Know Your Customer
NFE	Non-Financial Entity
New Account	Any Financial Account opened at a UAE FI on or after 1 January 2017

OECD	Organization for Economic Co-operation and Development
Pre-existing Account	Any Financial Account maintained at a UAE FI as at 31 December 2016
TIN	Tax Identification Number
UAE MoF	UAE Ministry of Finance
UAE Regulatory Authorities	<ul style="list-style-type: none"> - Central Bank; - Securities & Commodities Authority; - Abu Dhabi Global Market (ADGM); - Financial Services Regulatory Authority (FSRA) - Dubai International Financial Centre (DIFC); - Registrar of Companies (RoC); - - Ministry of Finance in respect of any FI not otherwise regulated by a financial regulator mentioned above

CRS Regulatory Authority Contact Information

No	Regulatory Authority	Contact Number	Email Address
1	UAE Ministry of Finance (UAE MoF)	+971 4 393 9000	info@mof.gov.ae
2	UAE Central Bank (UAE CB)	+971 2 691 5555	crs@cbuae.gov.ae
3	Abu Dhabi Global Markets (ADGM)	+ 971 2 333 8532	fatca.crs@adgm.com
4	Dubai International Financial Center (DIFC)	+971 4 362 2222	info@difc.ae
5	Securities and Commodities (SCA)	N/A	sca_fatcarp@sca.ae