



China Tax Alert

Issue 16, May 2017



Measures on the Due Diligence of Non-resident Financial Account Information in Tax Matters (AEOI Standard / CRS in China)

Regulation under discussion:

On 19 May 2017, the SAT, MOF, PBOC, CBRC, CIRC and CSRC officially released the “*Measures on the Due Diligence of Non-resident Financial Account Information in Tax Matters*” Announcement (2017) No. 14 to the public, a long-awaited tax and regulatory circular which provides the overall framework for implementing the OECD’s AEOI Standard in China.

Announcement 14 stipulates the principles and procedures for financial institutions established in China to follow, in order to identify any non-residents of China that hold financial accounts with the institutions and to collect related tax and financial information for the Chinese authorities. Announcement 14 will be implemented on 1 July 2017 with the first online registration deadline being 31 December 2017, followed by an annual reporting deadline of 31 May.

On 19 May 2017, the State Administration of Taxation (“SAT”) of the Peoples’ Republic of China (“PRC”) along with the Ministry of Finance (“MOF”), Peoples’ Bank of China (“PBOC”), China Banking Regulatory Commission (“CBRC”), China Insurance Regulatory Commission (“CIRC”) and China Securities Regulatory Commission (“CSRC”) jointly released to the public the “*Measures on the Due Diligence of Non-resident Financial Account Information in Tax Matters*”, Announcement (2017) No. 14, dated 9 May 2017 (hereinafter referred to as the “Announcement 14”). This is a long-awaited tax and regulatory circular which provides the overall framework for implementing the Standard for Automatic Exchange of Financial Information in Tax Matters (hereinafter referred to as “the AEOI Standard”) in China that was formulated by the Organization for Economic Co-operation and Development (“OECD”).

Announcement 14 stipulates the principles and procedures for financial institutions established in China to follow, and to identify any reportable non-residents of China that hold financial accounts with the institutions and to collect the required financial account information for the Chinese authorities. Announcement 14 will be in force from 1 July 2017 with the first online registration deadline being 31 December 2017, followed by an annual reporting deadline of 31 May of the following year.

Background

As discussed in our earlier [China Tax Alert, Issue 32, November 2016 – “Public Consultation for the Draft Measures on the Due Diligence of Non-resident Financial Account Information in Tax Matters”](#), the Chinese government made a commitment in December 2015 by signing the “*Multi-lateral Competent Authority Agreement on Automatic Exchange of Financial Information in Tax Matter*” with the OECD, to mutually exchange the financial account information of foreign tax residents with other tax jurisdictions starting from September 2018.

Since the beginning of last year, the SAT has conducted several rounds of consultation on the Chinese version of the AEOI Standard with various regulators and representatives from large financial institutions in China to ensure that the unique regulatory and operating environment of the Chinese financial industry will be carefully considered when implementing the AEOI Standard.

According to the OECD, the AEOI Standard comprises of two parts: the Model Competent Authority Agreement (hereinafter referred to as “the MCAA”) and Common Reporting Standard (hereinafter referred to as “CRS”). The MCAA is the operational document on how to conduct the automatic exchange of information among tax authorities in different jurisdictions. It also provides the legal basis for those countries or jurisdictions who wish to participate from an operational perspective. The MCAA is further divided into the bi-lateral and multi-lateral versions. The CRS stipulates the identification requirements and reporting obligations of financial institutions, as well as the related requirements and procedures for collecting and reporting information of foreign tax-resident individuals and entities to domestic tax authorities.

A public consultation of the draft rules was made back in October 2016 with minor amendments subsequently made before Announcement 14 was released this month.

This China Tax Alert highlights the key content of Announcement 14, changes since the last consultation, as well as our recommendations to the relevant stakeholders in order to be ready for the 1 July 2017 implementation deadline, which is only slightly more than 1 month away.

Since the AEOI Standard is also commonly referred as the CRS globally, we will also use the terminology “CRS” when referring to the rules stipulated in Announcement 14 throughout the rest of this analysis.

Executive Summary of Announcement 14

According to Announcement 14, both financial institutions operating in China as well as enterprises and individuals having financial accounts both within and outside of China should consider the following implications:

Key questions	Implications to individuals, enterprises and financial institutions
Why implement CRS in China?	To increase tax transparency through the strengthening of global tax cooperation and combatting against tax evasion through the use of offshore accounts.
What is the number of participating countries or jurisdictions around the world?	Over 100 countries/jurisdictions have already committed to the AEOI Standard, of which 50+ “early adopter” countries/jurisdictions implemented the AEOI Standard with effect from 1 January 2016, while others, being the “late adopters” have implemented the standard since 1 January 2017 (whereas China, Canada, Australia, New Zealand and Malaysia have deferred the implementation date to 1 July 2017).
When will the first batch of information be exchanged by China?	It is expected that in September 2018, the SAT will exchange the first batch of collected information with other participating countries / jurisdictions.
How the information exchange will work?	Financial institutions operating in China will conduct certain due diligence procedures to identify any reportable non-resident account holder as well as the controlling persons of passive non-financial enterprises, then report the required financial account information to the Chinese authorities. Likewise, other countries will follow the same mechanism of collecting their reportable non-resident account holders’ information. As early as September 2018, China will conduct

	automatic information exchange with other participating countries or jurisdictions on financial account information.
Who is required to conduct the due diligence work?	Financial institutions established and operating in China. Foreign bank branches in China are equally required to adopt the Chinese CRS rules by 1 July 2017. Overseas branches or subsidiaries of Chinese financial institutions, as well as overseas investment funds raised by Chinese firms are excluded in applying the China CRS rules but are required to follow local CRS rules in their respective countries / jurisdictions where they operate. For example, Hong Kong, Singapore, most European countries, traditional tax heaven countries like the Cayman Islands and BVI have already implemented their local CRS rules since the beginning of 2016/2017 ¹ .
Who will be reported?	Broadly speaking, non-resident individuals, enterprises and other organizations other than Chinese tax residents. Passive non-financial entities and its non-resident controlling persons could also be reported. Certain international organizations, government agencies, central banks, financial institutions ² or listed companies are excluded.
What steps should financial institutions follow in order to identify these non-residents and to collect information?	Chapters 3 and 4 of Announcement 14 provide rules on how the due diligence process should be conducted. In addition, the SAT has published some sample decision trees on how financial institutions should make decisions under different circumstances. We have replicated these decision trees in the main body of this newsletter.
What financial, tax and account information should be collected and reported?	The account holder's name, address, tax resident country (region), TIN issued by the resident country (region), place of birth and date of birth (where applicable), account number, year-end balance of the account, as well as income received by the account.
What immediate action financial institutions should take?	As there is only approximately a month remaining to implement the new client account opening due diligence procedures, financial institutions operating in China should immediately identify which part of their operation will be affected the most due to the changes in client onboarding procedures. A detailed implementation time table as well as our recommendations to financial institutions are further discussed below.
Any registration requirement for CRS purposes? What about the reporting deadline?	Announcement 14 requires a financial institution to log-on to the SAT's website to complete its registration for CRS purposes by 31 December 2017 and then subsequently provide annual reporting of the required financial account information by 31 May each year.

¹ Under the relevant Cayman law, the notification and reporting deadlines for CRS and US FATCA with respect to the calendar year 2016 are 30 June 2017 and 31 July 2017, respectively. As such, if a Cayman partnership fund is considered to be a "financial institution" under the Cayman CRS rules, the partnership will be required to report any reportable accounts by 31 July 2017, even if the Cayman partnership fund was raised by a Chinese investment firm.

² Financial institutions are excluded from being a reportable person since the financial institution itself is required to conduct the due diligence process on financial accounts it maintains, report any reportable non-resident account holders as well as establish its own internal control procedures to monitor any change of circumstances according to Announcement 14. For example, an investment fund will likely be classified as a "financial institution" that is excluded from reporting, however the fund itself will need to report its reportable financial account holders and complete the CRS registration with the SAT in China.

What immediate actions should individuals take?

PRC tax residents who hold offshore financial accounts, financial assets or income derived therefrom, should act as soon as possible to re-assess or analyze their overall tax compliance status both from a China as well as a foreign tax perspective in order to minimize potential tax exposures. For non-resident individuals who wish to open an account with Chinese financial institutions, be prepared to be asked for more detailed information including their foreign tax identification number (TIN) during the accounting opening process.

On the same date that Announcement 14 was released to the public, the SAT also set up a special AEOI website³ in Chinese to provide an introduction of the Chinese CRS rules, the legal framework of the OECD's AEOI Standard, reference materials including the PRC taxation laws on China tax residence for both individuals and enterprises, the statutory format of China's Tax Identification Number (TIN) system⁴ and FAQs. There is also a link to the online registration portal, however, at the moment, it is still under development.

In terms of the timeline, Announcement 14 and the China's AEOI portal map out the following deadlines and tasks to be completed by financial institutions:

Key dates	Tasks to be completed
Up to and including 30 June 2017	Financial institutions need to identify those financial accounts (both individual and entity) that are <u>pre-existing</u> as of this date and to adopt a different level of due diligence and remediation procedures based on the account balance thresholds as stipulated in Announcement 14.
Starting from 1 July 2017	Financial institutions are required to conduct due diligence and adopt new account opening procedures for <u>newly opened</u> individual and entity accounts starting from this date, including the completion of a mandatory self-certification form as part of the account opening procedures.
By 31 December 2017	Financial institutions need to complete due diligence and remediation procedures on any <u>pre-existing individual high-net worth</u> financial accounts (with an aggregate balance exceeding US\$ 1 million as of 30 June 2017).
By 31 May 2018 (and every year thereafter)	Financial institutions to submit required financial account information to the Chinese authorities.
In September 2018	The SAT will exchange the first batch of reportable account information with other nations (or jurisdictions) that are participating in the AEOI Standard and have agreed to information exchange.
By 31 December 2018	Financial institutions need to complete due diligence and remediation procedures on the remaining <u>pre-existing individual low-net worth</u> financial accounts (with an aggregate balance of no more than US\$ 1 million as of 30 June 2017) as well as all other <u>pre-existing entity</u> financial accounts (with an aggregate balance exceeding US\$ 250,000 as of 30 June 2017).

³ http://www.chinatax.gov.cn/aeoi_index.html

⁴ The TIN format PDF document with both Chinese and English languages can be found under the PRC SAT's website at (<http://www.chinatax.gov.cn/download/ssxxjhzt/1.pdf>). All subsequent updates will also be posted to the OECD's website at (<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>)

In September 2019 (and every year thereafter)	The SAT will exchange the second batch of reportable account information with other nations (or jurisdictions) that are participating in the AEOI Standard and have agreed to information exchange.
By 31 December of each year	Financial institutions should implement a continuous monitoring mechanism / process to identify any change of circumstances that may require renewed due diligence work and reporting of information to the Chinese authorities

Key Elements of Announcement 14

Announcement 14 has seven Chapters and forty-four Articles that provide an overall framework for the due diligence requirements for both newly opened accounts as well as pre-existing accounts, compliance, reporting, and supervision requirements.

The 7 Chapters of Announcement 14 are:

- 1) General Provisions
- 2) Basic Definitions
- 3) Individual Account Due Diligence
- 4) Entity Account Due Diligence
- 5) Other Compliance Requirements
- 6) Supervision and Management
- 7) Supplementary Provisions

Chapter 1 – General Provisions

Chapter 1 lays out the intended purpose of Announcement 14 as well as some of the basic rules for financial institutions and account holders to follow. Key requirements include:

- Financial institutions established in accordance with the laws of the PRC shall carry-out the non-resident financial account due diligence work (Article 2)⁵;
- Financial institutions shall not expressly imply or assist the account holder to conceal their identity and shall not assist the account holder in concealing the disclosure of their financial assets (Article 4);

Chapter 2 – Basic Definitions

Chapter 2 provides a number of important definitions that are used throughout Announcement 14. Some key definitions are:

“Financial institutions” include deposit-taking institutions, custodial institutions, investment institutions and specified insurance institutions, and their PRC branches. The scope of the above “financial institutions” includes commercial banks, rural credit cooperatives and policy banks, securities companies, futures companies, securities investment fund management companies, private equity fund management companies, partnerships engaging in private equity management, insurance companies conducting cash-value insurance or annuity businesses, insurance asset management companies, trust companies, etc. (Articles 6 and 7). Meanwhile Article 8 of Announcement 14 excludes a number of institutions from the “financial institutions” definition.

“Financial assets” include securities, interests in partnerships, commodities, swaps, insurance contracts, annuity contracts, or interests in the above assets such as futures, forwards or options. However, financial assets will not include physical commodities or non-debt direct interests in real estate⁶.

⁵ According to the SAT’s commentary published on its website, overseas branches of Chinese financial institutions are not in-scope of Announcement 14. This is because under the OECD’s AEOI Standard, these overseas branches will need to follow the local CRS rules on due diligence, remediation, reporting and monitoring processes in the country or jurisdiction where they are established and operating.

⁶ According to the SAT’s FAQ on Announcement 14, an equity interest in a SPV that holds real estate properties will be considered as a financial asset.

“Financial accounts” broadly include a deposit account, custodial account, investment account, partnership interest, beneficial right of a trust as well as an insurance contract or annuity contract with cash value. (Article 9)

“Non-resident” is defined as individuals, entities and other organizations other than PRC tax residents, excluding government authorities, international organizations, the central bank, financial institutions, or listed companies and their affiliates. PRC tax residents are resident entities or individuals pursuant to the PRC tax regulations.⁷ (Article 10)

“Account holder” refers to an individual or institution registered or confirmed by the financial institution as the owner of the account, but excluding those identified as agent, nominee, or just having an authorized signatory right. At the same time, the “account holder” of a cash-value insurance contract or an annuity contract can be any person or institution entitled to the cash value OR to change the beneficiary of the contract, or simply the one that has the right to the payment under the terms of the contract. (Article 11)

“Passive non-financial entity” (Passive NFE) including a (1) non-financial enterprise that mainly earns passive investment income (where it does not belong to active business activities in the calendar year); (2) non-financial enterprise that mainly retains financial assets that are able to generate passive investment income; (3) investment institutions that are tax resident of countries (jurisdictions) that do not implement the AEOI Standard. (Article 12)

Similar to other tax jurisdictions, a number of NFEs are not considered to be Passive NFEs, for example, (1) listed companies and their affiliated enterprises; (2) government agencies or institutions that perform public service functions; (3) prescribed holding companies; (4) enterprises that have been established for less than twenty-four months AND have not yet started business; (5) enterprises that are in the process of liquidation or reorganization; (6) treasury centers within a group; and (7) non-profit organizations.

“Controlling person” of an enterprise is defined to include:

- (1) Individuals who have, directly or indirectly, more than 25 percent of the company's shares or voting rights;
- (2) Individuals who control the company through personnel, finance and other means;
- (3) Senior management of the company.

Meanwhile, the “controlling person” of a partnership or fund is an individual who has more than 25 percent of the partnership interest or fund. The “controlling person” of a trust is the settlor, trustee, beneficiary, and other individuals who ultimately and effectively control the trust. (Article 13)

Due to the delay in releasing the CRS rules in China, the date of which to identify an account being a pre-existing account versus a newly opened account is also deferred by six months to allow financial institutions to implement the CRS rules without being considered as having failed to conduct the new account opening procedures (if the rules were retroactively applied back to 1 January 2017). With respect to the key date of implementation:

- Pre-existing accounts include low net worth accounts and high net worth accounts. Low net worth accounts are accounts that do not exceed US\$ 1 million as of 30 June 2017. A high net worth account is an account with an aggregate balance of more than US\$ 1 million as of 30 June 2017;
- A newly opened account is a financial account opened by a financial institution on or after 1 July 2017. (Article 15)

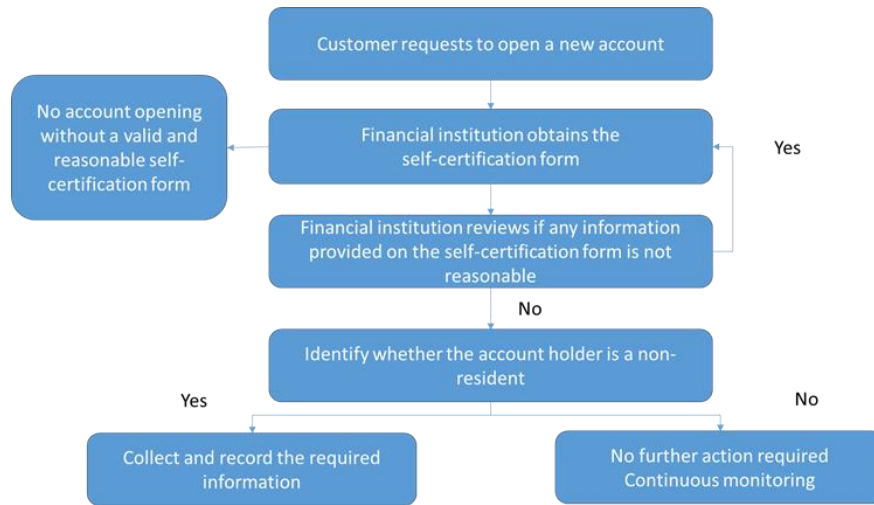
Chapters 3 and 4 – Account Due Diligence

Chapters 3 and 4 lay out the specific due diligence requirements for financial institutions to follow. The SAT has published a number of sample decision trees on due diligence requirements for general reference. These

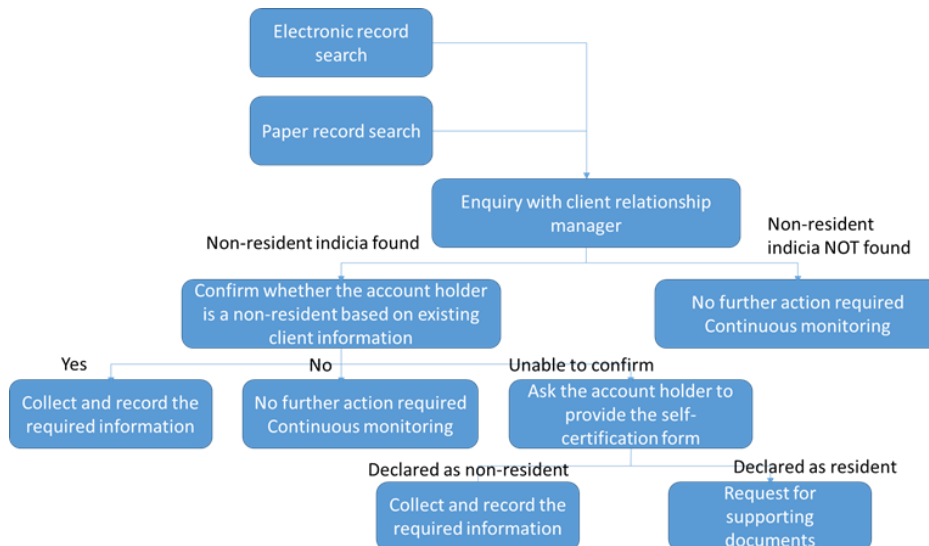
⁷ It is worth noting that if the account holder is both tax resident in the PRC and other jurisdictions, the financial institution shall collect and submit the information of the financial account in accordance with the Announcement 14 requirements. In the previous consultation draft, such account holder was automatically regarded as non-resident.

decision trees are replicated immediately below:

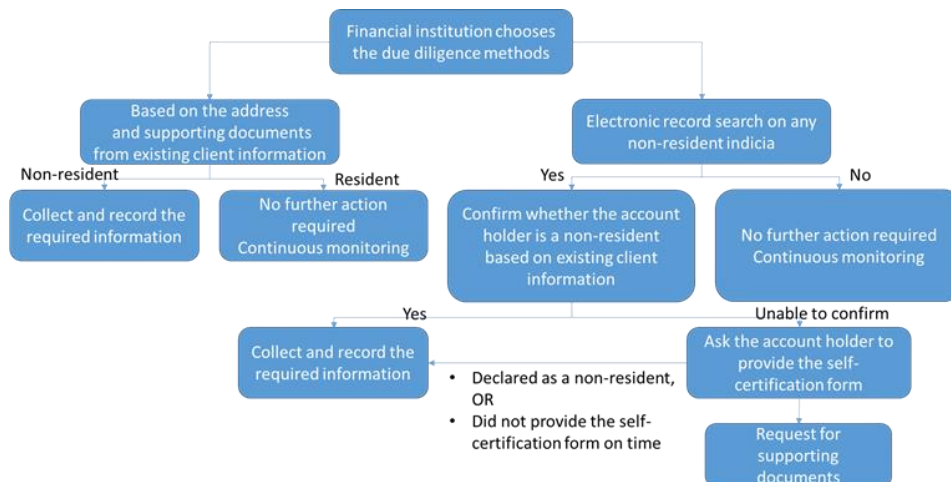
(1) Newly opened individual account due diligence procedures:



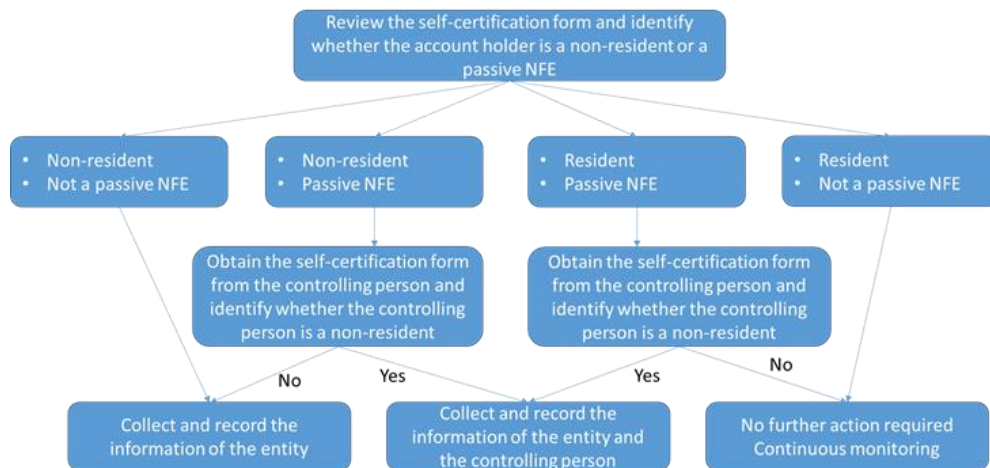
(2) Pre-existing high-net worth individual account due diligence procedures:



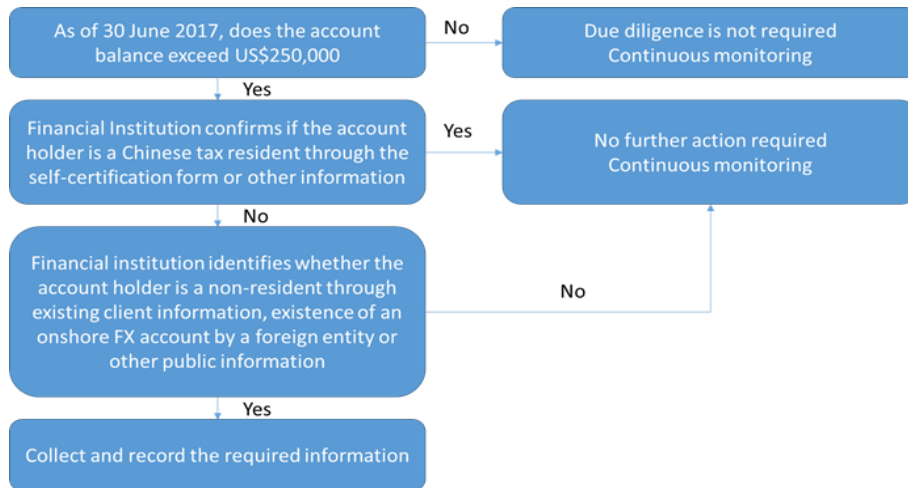
(3) Pre-existing low-net worth individual account due diligence procedures:



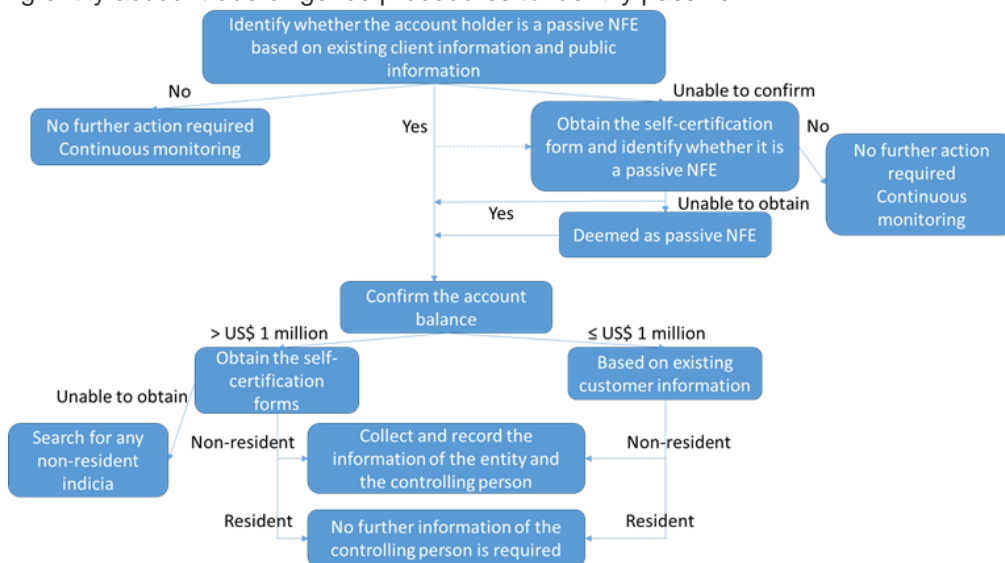
(4) Newly opened entity account due diligence procedures:



(5) Pre-existing entity account due diligence procedures to identify non-residents:



(6) Pre-existing entity account due diligence procedures to identify passive NFE⁸:



⁸ During the due diligence conducted by the financial institutions on entity accounts, in addition to the identification of non-residents, they should also identify whether it is a “passive non-financial entity” (Passive NFE). For Passive NFEs, no matter whether the entity is a non-resident or not, financial institutions should further identify whether the controlling person(s) of the Passive NFE is a non-resident. The purpose of introducing the concept of Passive NFE is to prevent non-residents from evading CRS by establishing investment entities, trusts, funds, or similar arrangements without any business substance or for primarily conducting investment activities.

Please be advised that the above sample decision trees are replicated from SAT's website for conceptual understanding only. Certain important steps or requirements are excluded in these diagrams. Detailed due diligence rules as stipulated in Announcement 14 as well as the existing KYC/AML policies of the financial institution should always be considered.

Chapter 5 – Other Compliance Requirements

Chapter 5 of Announcement 14 lays out other compliance requirements for financial institutions. The salient points are as follow:

- If financial institutions entrust other institutions (e.g. distributors) to sell financial products to end-customers, the distributors should cooperate with the entrusting institutions to conduct due diligence according to Announcement 14, and provide the information required to the entrusting institutions. (Article 30)
- Financial institutions can entrust third parties to conduct due diligence, but will still assume ultimate responsibility themselves. As to funds and trusts that are investment entities, the related due diligence work can be conducted by the fund managers or trust companies as third parties. (Article 31)
- Financial institutions should establish a monitoring mechanism to identify any change of circumstances on account holder information. Such mechanism should include requiring the account holder to inform the financial institution within 30 days from the date of the change of circumstance. Financial institutions should re-identify whether the account holder (or the controlling person) are non-residents based on the due diligence procedures within 90 days or by 31 December of the year after they know or should have known of the change of circumstance. (Article 32)

Chapters 6 and 7 – Supervision and Management

Financial institutions shall establish and implement a monitoring mechanism to assess the implementation of the CRS rules on an annual basis, timely identify problems and carry out any rectification. They should also status report to the relevant industry regulatory authorities and the SAT in writing before June 30 of the following year.

The penalty clauses in Announcement 14 mainly involve the re-evaluation of the violator's taxation credit-rating level, which is within the administrative scope of the tax authorities. However, for more severe violations, Announcement 14 also stipulates that the industry regulatory authorities could take the following action:

- Order the financial institution to suspend business pending rectification or revoke its license;
- Disqualify the qualifications of the directors and senior management with direct responsibility plus other personnel with similar direct responsibilities, and prohibit them from engaging in related jobs in the financial industry;
- Order the financial institution to take disciplinary measures against the directors and senior management with direct responsibility plus other personnel with similar direct responsibilities.

KPMG Observations

Suggestions to financial institutions

Since the implementation date is set for 1 July 2017, financial institutions only have around a month to be ready. Announcement 14 will have a broad impact on the entire financial services industry and affect almost every business unit of a financial institution operating in China. Based on what we have observed in practice as well as the way the CRS rules are written, we suggest financial institutions analyze how CRS could have an impact on the business units, operations, compliance function, IT systems and internal controls. Below are some of the important points to consider in preparing for CRS implementation in China:

- Identify which part of the business units will be affected by the CRS:
 - While deposit-taking institutions (like banks), custodial institutions (like trusts), investment institutions (like funds, partnerships and assets managers) and specified insurance institutions are required to follow the CRS due diligence and reporting requirements, but there are also a list of entities that are specifically

- excluded according to Announcement 14.
 - As such large financial groups with various different subsidiaries, business units and branches will need to carefully consider whether all of its business units will be in-scope for CRS.
 - While certain processes may be centralized by the head-office like data processing and reporting, certain due diligence requirements like obtaining self-certification forms from account holders and direct communications with customers will still need to be handled by front line relationship managers.
- Identify which part of the operational processes will be affected by the CRS:
 - New customer onboarding processes will need to be updated to take into account the CRS due diligence requirements and to obtain customers' self-certification;
 - Pre-existing customer due diligence is now required to be undertaken to identify potential reportable non-residents, passive NFEs and their controlling persons;
 - Evaluate how the new CRS due diligence process can be integrated into existing Know-your Customer ("KYC") / Anti-Money Laundering ("AML") procedures and leverage any existing data obtained / process already in place in order to maximize the operational efficiency and minimizing costs of compliance;
 - An internal continuous compliance and monitoring process will need to be in place for CRS especially to monitor or detect any changes of circumstances on financial accounts and reportable account holders;
 - Financial systems and customer databases will also require modifications to be able to extract CRS required data and the submission of annual reporting;
 - Staff and senior personnel who have direct responsibility for CRS, including front line relationship managers will all be required to attend comprehensive training to enable them with the necessary CRS knowledge;
- Understand the impact to any existing arrangements with external vendors, agents or partners:
 - Where a financial institution entrusts other institutions (e.g. distributors) to sell financial products to end-customers, the distributors should cooperate with the entrusting institution to conduct due diligence according to Announcement 14, and provide the information required to the entrusting institutions.
 - For example, if banks (acting as agents) are selling asset management products that are raised and managed by another financial institution (i.e. the asset manager), then the banks may be asked to share the due diligence information with the asset manager.
 - Likewise, asset management companies with existing distribution arrangements with agents should consider how to define the CRS compliance requirements of the distribution or sales agents through cooperation contracts to clearly define the roles and responsibilities for CRS compliance.
 - Evaluate the existing IT systems to identify whether they can share customer information seamlessly.
- Although it is unknown when the Chinese regulations regarding US FATCA will be announced by SAT, financial institutions should still consider whether to combine the FATCA and CRS work together. If combined, the gap between the FATCA and CRS requirements should be identified. If financial institutions have already prepared for US FATCA implementation, the incremental work resulting from CRS should also be identified.
- Since Announcement will take effect on 1 July 2017, financial institutions should come up with a CRS compliance implementation plan immediately, including an impact assessment and gap analysis, identify the changes to existing new customer onboarding procedures and forms, design the specific due diligence, compliance and reporting procedures as well as system modification, etc. Since CRS will impact multiple departments within financial institutions, formation of a dedicated CRS/FATCA compliance team will also become necessary in order to facilitate internal collaboration between different departments.
- From a customer service perspective, given additional and in some instances, sensitive personal information will now be required under CRS, financial institutions should provide guidance to customers (including the printing of any leaflet to introduce the CRS concepts and responsibility of the financial institutions as well as customers). Financial institutions should also arrange training for front line staff and relationship managers, in order to better enable them to address customer questions and concerns.

Given the complexities of the CRS compliance requirements and uncertainties in the actual implementation,

financial institutions should continue to pay close attention to CRS developments in China as well as the subsequent releases of detailed reporting requirements for financial institutions which are not yet covered in Announcement 14.

[Suggestions to financial accounts holders and individuals](#)

From the perspective of individual and entity financial account holders, Announcement 14 requires financial institutions to identify whether the holders of the financial accounts (new or pre-existing) are non-resident or not, and require the holders to complete a self-certification of their tax residency status. It is noteworthy that if PRC tax residents have financial assets outside of the PRC, they should also pay close attention to the development of the implementation of the AEOI Standard in the overseas jurisdictions as there are over 100 countries / jurisdictions which have agreed or implemented their local CRS rules and as early as 2018, these countries / jurisdictions can conduct the automatic exchange of financial account information with China.

SAT has reiterated as part of its commentary that the AEOI Standard is not a new tax, but a measure to strengthen the management of cross-border tax revenue sources among different jurisdictions, and it is meant to combat tax evasion by individuals and entities using offshore accounts. It further states that for those individuals and entities complying with the prevailing tax regulations, the AEOI Standard will not increase their tax burden.

Based on these observations, we recommend PRC tax residents who hold offshore financial accounts, financial assets or income derived therefrom, should act immediately to re-assess or analyze their overall tax compliance status both from a China as well as a foreign tax perspective in order to minimize potential tax exposures.

[What's next?](#)

The rules stipulated in Announcement 14 mainly relate to the specific due diligence steps, continuous monitoring, compliance and reporting duties that financial institutions operating in China should follow. However, given the complexity of the rules, additional implementation guidance will need to be released by the Chinese tax authorities in order to clarify any uncertainties or unclear interpretations.

Under the CRS rules, financial institutions are also obligated to submit the required information of reportable financial accounts to the government authorities by 31 May of the following year on an annual basis. To facilitate financial institutions to fulfil their obligations to submit data, many tax authorities of other countries will usually develop a data schema in Extensible Markup Language (XML), which is based on the CRS XML Schema issued by the OECD, specifying the data structure and format for reporting the required financial account information to the authorities. At the time Announcement 14 was released, such detailed reporting requirements were not yet available which mean financial institutions may not yet be able to make the necessary changes to its systems for the automatic reporting. Further, Announcement 14 is silent on whether the required financial account information will be reported to the SAT or to the financial industry regulatory authorities as part of the normal regulatory reporting requirements.

The rules also require financial institutions to establish a mechanism to assess and monitor the implementation of the CRS rules on an annual basis, and carry out rectification where required. Then provide CRS compliance status report to the relevant industry regulatory authorities and the SAT in writing before June 30 of the following year. However, the rules are silent on what is considered to be sufficient in assessing and monitoring the implementation of the CRS rules. Instead, the rules spell out the potential penalties that can be imposed on financial institutions if they failed to implement the CRS or failed to establish a monitoring mechanism. As such, whether designating a compliance officer / department to be held responsible for the CRS will be sufficient, or hiring an external advisor to review and issue a report certifying the CRS related processes and controls is more preferable, is unknown at this point. As many questions are yet to be answered which will likely cause some heated discussions within financial institutions especially on who or which department should take ownership of this initiative.

KPMG will continue to pay close attention to the development of the CRS regulations, leverage off industry experience and share our observations and recommendations on CRS compliance requirements with you.

