Common Reporting Standard (CRS) Framework & Reporting

November 2016
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Introduction to CRS
Introduction to CRS

- The Standard for Automatic Exchange of Financial Account Information (Common Reporting Standard) was issued by the OECD (Organisation for Economic Co-operation and Development) and looks towards a globally coordinated approach for disclosure of income earned by individuals and organizations.

- As a measure to counter tax evasion, it builds upon other information sharing legislation, such as FATCA (the US Foreign Account Tax Compliance Act) and the European Union (EU) Directive on Administrative Cooperation.

- On 22 February 2014, all G20 (Group of Twenty Leaders and Finance Ministers and Central Bank Governors) and OECD countries endorsed the CRS. To date, more than 100 jurisdictions have committed to implement the Standard, agreeing to launch the first automatic information exchanges in 2017 or 2018.

- The CRS contains the due diligence rules for FIs (Financial Institutions) to follow for collection and reporting. Failure to comply involves financial penalties under local legislation.

- CRS Impacts a large number of account holders.
The table below summarises the intended implementation timelines of the new standard*

<table>
<thead>
<tr>
<th>JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2017 (54)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Curaçao, Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 (47)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania, Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Bahrain, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Dominica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Lebanon, Marshall Islands, Macao (China), Malaysia, Mauritius, Monaco, Nauru, New Zealand, Panama, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Saint Maarten, Switzerland, Turkey, United Arab Emirates, Uruguay, Vanuatu</td>
</tr>
</tbody>
</table>

* The United States has indicated that it is undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.
Common Reporting Standard (CRS) timeline for early adopters

- **13 February 2014**: OECD release the CRS
- **22 February 2014**: G20 endorsed global standard for AEoi (including the CRS)
- **6 May 2014**: The new standard declaration was signed by more than 40 countries
- **Spring/Summer 2014**: Various jurisdictions signed the Joint Statement by Early Adopter Group committing to the implementation strategy allowing for the first automatic exchange of information in 2017; these jurisdictions will be referred to as ‘early adopters’
- **1 January 2016**: CRS go-live date
  - Accounts opened on or after this date will be referred to as ‘new accounts’
  - New account opening procedures must be in place to record tax residence
- **31 December 2015**: Accounts opened on or before this date will be referred to as ‘pre-existing accounts’
- **31 December 2016**: Due diligence procedures completed for high-value pre-existing individual accounts
- **30 September 2017**: First exchange of information for new accounts and pre-existing individual high-value accounts
- **30 September 2018**: All information on reportable accounts will be available for exchange, including the low-value individual pre-existing accounts and entity accounts
- **31 December 2017**: Due diligence procedures completed for low-value pre-existing individual accounts

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## FATCA vs CRS

<table>
<thead>
<tr>
<th></th>
<th>FATCA</th>
<th>CRS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Thresholds</strong></td>
<td>US$ 50,000 for individual accounts</td>
<td>No minimum threshold applies to individual accounts</td>
</tr>
<tr>
<td><strong>Reportable persons</strong></td>
<td>US citizenship and residency criteria</td>
<td>Tax residency criteria only</td>
</tr>
<tr>
<td><strong>Due-diligence</strong></td>
<td>Separate due-diligence procedure for (i) pre-existing individual and entity accounts and (ii) new individual and entity accounts</td>
<td>Similar procedures as in FATCA</td>
</tr>
</tbody>
</table>
| **Reporting and Scope** | • Reporting only to the US  
• US individual and entity accounts  
• Passive NFFE accounts held by US persons   | • Reporting to more than 100 jurisdictions  
• Individual and Entity reportable accounts  
• Passive NFEs with reportable Controlling persons |
| **Withholding**      | 30% Withholding for non-compliance                                    | No Withholding                                                        |
| **Definition of Passive NFE’s** | --------                                                                  | Includes Investment Entities not resident in a participating jurisdiction |
Application of CRS in Cyprus

Integration to the Cyprus Tax Laws

Impact on Cyprus companies
Integration of CRS into the Cyprus Tax Laws

- The Government of the Republic of Cyprus has signed the CRS Multi-lateral Agreement for the implementation of CRS.

- The Assessment and Collection of Taxes Laws has been amended to allow the automatic exchange of information in order to transpose the FATCA and CRS requirements to the Cyprus legislation.

- Further, a decree describing the application of CRS in Cyprus has been issued by the Tax Department.

All Cyprus companies will need to examine their CRS status and identify their due diligence and reporting obligations:

- A Reporting FI;
- A non-Reporting FI;
- An Active Non-Financial Entity (Active NFE);
- A Passive NFE.

**Is it an Entity?**

- **Yes**
  - Is the Entity in the Participating Jurisdiction?
    - **Yes**
      - Is the Entity a Financial Institution?
        - **Yes**
          - Is the Entity a Non-Reporting Financial Institution?
            - **Yes**
              - Non-Reporting
            - **No**
              - Non-Reporting (Active or Passive NFE)
        - **No**
          - Non-Reporting
    - **No**
      - Non-Reporting

- **No**
  - Non-Reporting

**Impact on Cyprus companies**

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## CRS - General Definitions

<table>
<thead>
<tr>
<th><strong>CRS</strong></th>
<th><strong>Account Holder</strong></th>
<th>Means the person listed or identified as the holder of a Financial Account. A person holding a Financial Account for the benefit of another person as agent, custodian, nominee, signatory, investment advisor, intermediary, or a legal guardian, is not treated as holding the account for purposes of the Common Reporting Standard and such other person is treated as holding the account. In these circumstances that other person is the Account Holder. With respect to a jointly held account, each joint holder is treated as an Account Holder.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CRS</strong></td>
<td><strong>Reportable Account</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>CRS</strong></td>
<td><strong>Reportable Person</strong></td>
<td>Means an individual or entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, other than:</td>
</tr>
<tr>
<td></td>
<td>• A corporation the stock of which is regularly traded on one or more established securities market</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Any corporation that is a Related Entity of a corporation described above</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• A Governmental Entity</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• An International Organisation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• A Central Bank</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• A Financial Institution</td>
<td></td>
</tr>
</tbody>
</table>
Entity classification

Financial Institution
Non reporting Financial Institution
Active Vs Passive NFES
Controlling Persons
Entity Classification

- Due diligence and reporting obligations only apply to Reporting Financial Institutions;
- Accounts held by Financial Institutions are generally not reportable.

- NFEs have no due diligence or reporting obligations;
- Accounts held by an Active NFE are reportable if the NFE is considered a reportable person;
- Accounts held by a Passive NFE are reportable if either the NFE or any of its controlling persons are considered reportable persons.
Financial Institution (FI) Definition under CRS

Four Types of Financial Institutions:

- Custodial Institution
- Depository Institution
- Investment Entity
- Specified Insurance Company
**Depository Institution** - any Entity that accepts deposits in the ordinary course of a banking or similar business.

**Commentary**
An Entity is considered to be engaged in a “banking or similar business” if, in the ordinary course of its business with customers, the Entity accepts deposits or other similar investments of funds and regularly engages in one or more of the following activities:

a) makes personal, mortgage, industrial, or other loans or provides other extensions of credit;

b) purchases, sells, discounts, or negotiates accounts receivable, installment obligations, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness;

c) issues letters of credit and negotiates drafts drawn thereunder;

d) provides trust or fiduciary services;

e) finances foreign exchange transactions; or

f) enters into, purchases, or disposes of finance leases or leased assets.

*An Entity is not considered to be engaged in a banking or similar business if the Entity solely accepts deposits from persons as a collateral or security pursuant to a sale or lease of property or pursuant to a similar financing arrangement between such Entity and the person holding the deposit with the Entity.*
Specified Insurance Company - 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.

Commentary

27. An “insurance company” is an Entity (i) that is regulated as an insurance business under the laws, regulations, or practices of any jurisdiction in which the Entity does business; (ii) the gross income of which (for example, gross premiums and gross investment income) arising from insurance, reinsurance, and Annuity Contracts for the immediately preceding calendar year exceeds 50% of total gross income for such year; or (iii) the aggregate value of the assets of which associated with insurance, reinsurance, and Annuity Contracts at any time during the immediately preceding calendar year exceeds 50% of total assets at any time during such year.

28. Most life insurance companies would generally be considered Specified Insurance Companies. Entities that do not issue Cash Value Insurance Contracts or Annuity Contracts nor are obligated to make payments with respect to them, such as most non-life insurance companies, most holding companies of insurance companies, and insurance brokers, will not be Specified Insurance Companies.
**Custodial Institution** - any Entity that holds, as a **substantial portion** of its business, Financial Assets for the account of others.

- An Entity holds Financial Assets for the account of others as a substantial portion of its business if 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.

“Income attributable to holding Financial Assets and related financial services” means custody, account maintenance, and transfer fees; commissions and fees earned from executing and pricing securities transactions with respect to Financial Assets held in custody; income earned from extending credit to customers with respect to Financial Assets held in custody (or acquired through such extension of credit); income earned on the bid-ask spread of Financial Assets held in custody; and fees for providing financial advice with respect to Financial Assets held in (or potentially to be held in) custody by the entity; and for clearance and settlement services.

Entities that safe keep Financial Assets for the account of others, such as custodian banks, brokers and central securities depositories, would generally be considered Custodial Institutions. Entities that do not hold Financial Assets for the account of others, such as insurance brokers, will not be Custodial Institutions.
Custodial Institution

Nominee Shareholder Companies

• Entities (i.e. ASPs) that provide nominee services may fall under the Custodial Institution definition if nominee fees equal or exceed 20% of their total income.

Example

• An ASP entity provides corporate and trust services to its clients such as registered office / registered agent, trust administration, nominee shareholdings etc. More than 85% of gross income arises from the registered office/registered agent business and associated company administration.

• The entity is not a Custodial Institution as less than 20% of its gross income arises from the holding of financial assets for the account of others and from related financial services.

ASPs should also examine whether they fall under the definition of an Investment Entity, if not falling under the Custodial Institution definition.
• If > 80% of gross income derives from registered office business and associated business administration then ASP does not fall within the definition of Custodial Institution.

• If ≥ 20% gross income is derived from Nominee Shareholding Services then ASP is a Custodial Institution.
Custodial Institutions

Nominee Shareholder Companies

- Entities may also provide nominee services through their subsidiaries.
  - If the subsidiary invoices for the provision of nominee services, then most likely more than 20% of its income will represent nominee fees and therefore should be classified as Custodial.
  - No clear guidance if invoicing is made by the parent company. This should be resolved through guidance to be issued by the Cyprus Tax Authorities.

Per BVI Guidance Notes

“There is no requirement to attribute income to the subsidiary and as such the subsidiary will not be treated as a custodial institution.”

Example:
An ASP provides custody services but these services are provided through its wholly owned subsidiary. However, the invoices for the custody business are put through the parent entity rather than the subsidiary. There is no requirement to attribute income to the subsidiary and as such the subsidiary will not be treated as a custodial institution.
Custodial Institutions

Per UK AEOI manual

“There may be circumstances where an entity holds financial assets for a customer where the income attributable to holding the financial assets or providing related financial services either belongs or is otherwise paid to a connected party such as another company in the same group of companies. This may be because the entity holds assets for a customer of a connected party or simply that any consideration is paid to a connected party either as an identifiable payment or as one element of a consolidated payment. In that case the attributable income should be taken into account of when applying the 20% test.”
Investment Entity

Two types of Investment Entities:

Criterion A

A. Entities that **primarily** conducts as a business one or more of the following activities or operations **for or on behalf of a customer:**

i. 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;

ii. individual and collective portfolio management; or

iii. otherwise investing, administering, or managing Financial Assets or money on behalf of other persons;

• An Entity is treated as primarily conducting as a business one or more of the activities described above, or an Entity’s gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity’s gross income attributable to the relevant activities equals or exceeds 50% of the Entity’s gross income during the shorter of:

  i. the three-year period ending on 31 December of the year preceding the year in which the determination is made; or

  ii. the period during which the Entity has been in existence.

This category will normally include collective investment vehicles (i.e. Funds), Fund Managers and Fund Administrators.
Investment Entity

Application of criterion A for ASPs

➢ If not Custodial Institution, an ASP may be an Investment Entity on the basis that the majority (≥ 50%) of the ASP’s income relates to “administering or managing Financial Assets or money on behalf of other persons”.

➢ Examples of administration services include, but are not limited to the following:

  • Provision of secretarial and/or company secretarial services.
  • Provision of registered office, registered agent services.
  • Directorship services.
  • Bookkeeping services and maintenance of books and records.
  • Bank administration.

➢ In general, the following services should be considered as being relevant to Financial Assets:

  • Secretarial Services (i.e. maintenance of share registers and transmission of shares);
  • Bank administration.
Investment Entity

Criterion B

B. Any Entity whose gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity.

Determination of managed by Test

CRS Commentary: “An Entity is “managed by” another Entity if the managing Entity performs, either directly or through another service provider, any of the activities or operations described in Criterion A on behalf of the managed Entity. However, an Entity does not manage another Entity if it does not have discretionary authority to manage the Entity’s assets (in whole or part).”

Example

• A Cyprus company trades in money market instruments through a portfolio held with another FI under a discretionary investment mandate.
• The Cyprus company will be an Investment Entity since more than 50% of its income is attributable to the trading of money market instruments and it is managed by a third party (given the existence of a discretionary mandate) with entity which conducts an IGA Definition Activities.
Investment Entity

**Determination of managed by Test- Corporate Director/Trustee**

- No guidance is provided as per the CRS Commentary;
- The BVI Guidance Notes provide the following:

“For the purposes of the “managed by” test, a distinction should be made between one entity “managing” another and one entity “administering” another. For instance the following services provided by an entity to another will not (on their own) constitute the latter entity being “managed by” the former:

- **Provision of secretarial and/or company secretarial services.**
- **Provision of registered office, registered agent services.**
- **Provision of the services of an authorised representative pursuant to section 66 of SIBA.**
- **Preparation of financial statements.**
- **Preparation of tax returns.**
- **Provision of bookkeeping services including accounting, budgeting and cash-flow forecasts and maintenance of books and records.**
- **Provision of nominee shareholder(s). Acting as an insurance manager to an entity under the Insurance Act, 2008.”**
Investment Entity

Determination of managed by Test- Corporate Director/Trustee

- A distinction must also be made in relation to the provision of directors to a company.
- BVI Guidance Notes also provide the following:
  - *The provision of individual employees of an ASP to serve as directors of an entity will not usually (on its own) cause the company to fall within the “managed by” test.*
  - The provision of a corporate director by an ASP does not usually (on its own) constitute the company being “managed by” the corporate services provider as such directors would not usually conduct as a business, the activities of an Investment Entity as in Criterion A.
  - A typical corporate director, in its capacity as director of a company, does not usually invest, administer or manage funds or money (as a business) on behalf of other persons in its capacity as corporate director; it is the company itself which is doing this, acting by its corporate director.
  - However, a company with individual or corporate directors provided by a corporate services provider may, should it wish to do so, elect to be treated as being managed by such corporate service provider and so be an Investment Entity itself.

- This issue should be resolved through the guidance notes to be issued by the Cyprus Tax Authorities.
Investment Entity

Determination of managed by Test- Corporate Director/Trustee

Example 1-Corporate Director
• A Cyprus company holds and trades through a portfolio of Financial Assets and it has an ASP as its corporate Director. No discretionary mandate exists with another third party (e.g. Investment Firm) for the management of the portfolio.
• The Cyprus company will not be an Investment Entity since the ASP should not be seen to be managing the portfolio of the company. It is the company which is doing so, by giving instructions to the ASP.

Example 2-Trust managed by an Individual Trustee
• X, an individual, establishes Trust A, an irrevocable trust for the benefit of X’s children, Y and Z. X appoints Trustee A, an individual, to act as the trustee of Trust A. Trust A’s assets consist solely of Financial Assets, and its income consists solely of income from those Financial Assets.
• Pursuant to the terms of the trust instrument, Trustee A manages and administers the assets of the trust. Trustee A does not hire any Entity as a service provider to perform the management/administration of the Financial Assets.
• Trust A is not an Investment Entity because it is managed solely by Trustee A being an individual.
Reporting FIs vs. Non-Reporting FIs

Once an entity has been classified as a Financial Institution, the next step is to determine whether the entity is a Reporting Financial Institution or Non-Reporting Financial Institution.

- **Reporting FI**: Subject to due diligence and reporting requirements
- **Non-Reporting FI**: No due diligence or reporting required
Non-Reporting FIs

Non-Reporting FIs are specifically excluded from reporting obligations because they pose a low risk of tax evasion. A Non-Reporting FI is:

A. 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;

B. 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;
   - Whether a fund qualifies may depend on factors that differ between the jurisdictions in which the fund operates, and therefore a single fund may qualify as a Non-Reporting FI in one jurisdiction but not in another.

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) or (B) above, and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;

D. an Exempt Collective Investment Vehicle (all the interests in the collective investment vehicle are held by or through individuals or entities that are not reportable persons, except a passive NFE with controlling persons who are reportable persons); or

E. a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust (see next slide).
A trust is considered as a FI if:

- the majority of its gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets; and
- it is managed by another Entity that is a FI.

In that case, the Trust will be considered as a non reporting FI to the extent that its Trustee is a FI and the Trustee undertakes to fulfill the Trust’s reporting and due diligence obligations on behalf of the Trust.

If not, the Trust will need to perform on its own its due diligence and reporting obligations.
Nonfinancial Entity (NFE) Definition under CRS

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

- NFES are split into Passive NFES or Active NFES

General Rule:

- Passive NFE is an NFE that is not an Active NFE.

- Active NFE essentially excludes Entities that primarily receive passive income or primarily hold amounts of assets that produce passive income (such as dividends, interest, rents etc.) and includes entities that are publicly traded (or related to a publicly traded Entity).

PASSIVE NFE IMPLIES REPORTING CONTROLLING PERSONS
CRS Active NFEs Criteria (1)

Active NFE criterion on the basis of income and assets:

- 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.
CRS Active NFEs Criteria (2)

The “substantially all criterion” – Holding Company

- Substantially all (≥80%) 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

Note: In case the company provides any other “active” services, such services can be taken into consideration for meeting this criterion.
The “Treasury Centre”–Financing Company

- 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; and
- The group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution.

An Entity is a “Related Entity” of another Entity if:

(a) either Entity controls the other Entity;

(b) the two Entities are under common control; or

(c) the two Entities are Investment Entities, are under common management, and such management fulfils the due diligence obligations of such Investment Entities.

For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.
### CRS Active NFEs Criteria (4)

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exected nonfinancial start-up companies or companies entering a new line of business</td>
<td>- the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, <strong>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</strong>;</td>
</tr>
<tr>
<td>Exected nonfinancial entities in liquidation or bankruptcy</td>
<td>- 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;</td>
</tr>
<tr>
<td>Publicly traded corporation</td>
<td>- 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;</td>
</tr>
<tr>
<td>Exempt Beneficial Owners</td>
<td>- the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;</td>
</tr>
</tbody>
</table>
### CRS Active NFEs Criteria (5)

- **Non-profit organizations**

<table>
<thead>
<tr>
<th>Criteria</th>
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<tbody>
<tr>
<td>• the NFE meets <strong>all</strong> of the following requirements:</td>
</tr>
<tr>
<td>• 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;</td>
</tr>
<tr>
<td>• it is exempt from income tax in its jurisdiction of residence;</td>
</tr>
<tr>
<td>• it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;</td>
</tr>
<tr>
<td>• 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 noncharitable 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</td>
</tr>
<tr>
<td>• 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 thereof.</td>
</tr>
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## Definition of “Controlling Persons”

<table>
<thead>
<tr>
<th>Controlling Persons</th>
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<tbody>
<tr>
<td><strong>Companies /Partnerships</strong></td>
</tr>
<tr>
<td>Ultimate Beneficial Owners (≥25%)</td>
</tr>
<tr>
<td><strong>Associations, Societies, Administrative Committees, Clubs, Foundations and Fund Raising Committees</strong></td>
</tr>
<tr>
<td>Members of the Board/Committee</td>
</tr>
<tr>
<td><strong>Trusts</strong></td>
</tr>
<tr>
<td>Trustee, Settlor, Beneficiary or classes of Beneficiaries, Protectors (if any) or any other natural persons exercising ultimate effective control over the trust</td>
</tr>
</tbody>
</table>
Controlling Persons - Legal Persons

CRS Commentary:

- For an Entity that is a legal person, the term “Controlling Persons” means the natural person(s) who exercises control over the Entity. “Control” over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest in the Entity.

- A “control ownership interest” depends on the ownership structure of the legal person and is usually identified on the basis of a threshold applying a risk-based approach (e.g. any person(s) owning more than a certain percentage of the legal person, such as 25%).

- 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 identified as exercising control of the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who holds the position of senior managing official.
Controlling Persons- Trusts

CRS Commentary:

• In the case of a trust, the term “Controlling Persons” means:
  
  i. the settlor(s),
  ii. the trustee(s),
  iii. the protector(s) (if any),
  iv. the beneficiary(ies) or class(es) of beneficiaries, and
  v. any other natural person(s) exercising ultimate effective control over the trust.

• 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 trust.

• The term Controlling Person applies only where the trust is considered a Passive NFE.

• If Trust is an FI, different reporting requirements are necessary.

Note: The 25% threshold does not apply to the Trusts
Financial Accounts
Financial Accounts

After establishing as to whether a company falls within the definition of a Reporting FI, accounts should be examined if fall under the definition of “Financial Accounts”:

- **Depository Accounts**
  (Checking and savings accounts)

- **Custodial Accounts**
  (An account (other than an Insurance Contract or Annuity Contract) for the benefit of another person, that holds Financial Assets, i.e. Nominee Shareholders)

- **Equity and Debt Interests**
  (Debt and Equity Interests and their equivalents, such as interests in partnerships and trusts)

- **Cash Value Insurance contracts and Annuity Contracts**
  (Generally contracts: insuring against mortality, morbidity, accident, liability, or property risk that has a cash value; and contracts where payments are made for a period of time determined in whole or in part by life expectancy)

---

**Pre-existing Entity Accounts**

- Pre-existing Entity Accounts may be exempted provided that their value or balance as at 31st December 2015, does not exceed the US$250,000 (in aggregated) threshold.

**New Accounts**

- No threshold in respect of New Accounts is available.

  - New Accounts opened after 31st December 2015 by a pre-existing client can be considered as Pre-existing Accounts.
## Due Diligence procedures

<table>
<thead>
<tr>
<th>Due Diligence procedures-Timeline</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>High Value Accounts</strong> (Individual accounts existed 31/12/2015 with a value in excess of US$1M)</td>
<td>31&lt;sup&gt;st&lt;/sup&gt; December 2016</td>
</tr>
<tr>
<td><strong>Low Value Accounts</strong> (Individual accounts existed 31/12/2015 with a value in excess of US$1M)</td>
<td>31&lt;sup&gt;st&lt;/sup&gt; December 2017</td>
</tr>
<tr>
<td><strong>Pre-existing Entity Accounts</strong> (Entity accounts existed 31/12/2015)</td>
<td>31&lt;sup&gt;st&lt;/sup&gt; December 2017</td>
</tr>
<tr>
<td><strong>New accounts</strong> (Accounts opened by an Individual or an Entity after 1/1/2016)</td>
<td>Upon opening</td>
</tr>
</tbody>
</table>
What types of Accounts get reported?

The term “Financial Account” means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:

a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term “Financial Account” does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;

b) in the case of a Financial Institution not described in subparagraph (a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting; and

c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.
Excluded Accounts

The term “Excluded Account” means any of the following accounts:

a) A retirement or pension account that satisfies certain requirements;

b) Other, generally savings, accounts that satisfy certain requirements;

c) A life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies certain requirements;

d) An account that is held solely by an estate if the documentation for such account includes a copy of the deceased’s will or death certificate

e) an account established in connection with any of the following (eg escrow accounts):

i. a court order or judgment.

ii. a sale, exchange, or lease of real or personal property, provided that the account satisfies certain requirements

iii. an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.

iv. an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

f) A Depository Account that is a credit card or revolving credit account that satisfies certain requirements;

g) Any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described above, and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.
Reportable Accounts/ Persons

The term “Reportable account” is defined as an account held by one or more Reportable Persons or by a Passive Non-Financial Entity with one or more Controlling Persons that is a Reportable Person. Establishing this requires two tests.

*The first test is in relation to the Account Holder and the second is in relation to Controlling Persons of certain Entity Account Holders.*

The term “Reportable Person” means a Reportable Jurisdiction Person other than:

(i) a 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 clause (i);
(iii) a Governmental Entity;
(iv) an International Organisation;
(v) a Central Bank; or
(vi) a Financial Institution.

“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 that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.
Two tests to determine a Reportable Account:

**Test 1**

1. **Is the Account Holder a Reportable Jurisdiction Person?**
   - No → **Not Reportable Account**
   - Yes → **Is the Account Holder a Reportable Person?**
     - Yes → **Reportable Account**
     - No → **Not Reportable Account**
Two tests to determine a Reportable Account - Test 2

1. **Passive NFE**: Any Entity not being a FI or Active NFE.

2. **Active NFE**: A company which is not a FI and falls under one of the Active NFE criteria.

3. **Controlling Persons**: As per the Decree, the term includes the following:
   (a) For companies and cooperative societies means the ultimate beneficial owner, which holds a share of more than 25% of the entity.
   (b) For Unions, Administrative Committees, Foundations, Clubs, Associations and Fund Raising Committees, means the members of the Board of Directors/Committee and administrators of accounts.

---

**Is the Account Holder a Passive NFE?**

- **No**: Not Reportable Account
- **Yes**: Does the Entity have one or more Controlling Persons which are Reportable Accounts?

  - **No**: Not Reportable Account
  - **Yes**: Reportable Account
Reporting and Timing
<table>
<thead>
<tr>
<th>JURISDICTION OF THE COMPETENT AUTHORITY</th>
<th>Intended first information exchange by:</th>
<th>JURISDICTION OF THE COMPETENT AUTHORITY</th>
<th>Intended first information exchange by:</th>
<th>JURISDICTION OF THE COMPETENT AUTHORITY</th>
<th>Intended first information exchange by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. ALBANIA</td>
<td>September 2018</td>
<td>32. GERMANY</td>
<td>September 2017</td>
<td>63. NETHERLANDS</td>
<td>September 2017</td>
</tr>
<tr>
<td>2. ANDORRA</td>
<td>September 2018</td>
<td>33. GHANA</td>
<td>September 2018</td>
<td>64. NEW ZEALAND</td>
<td>September 2018</td>
</tr>
<tr>
<td>3. ANGUILLA</td>
<td>September 2017</td>
<td>34. GIBRALTAR</td>
<td>September 2017</td>
<td>65. NIUE</td>
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</tr>
<tr>
<td>4. ANTIGUA AND BARBUDA</td>
<td>September 2018</td>
<td>35. GREECE</td>
<td>September 2017</td>
<td>66. NORWAY</td>
<td>September 2017</td>
</tr>
<tr>
<td>5. ARGENTINA</td>
<td>September 2017</td>
<td>36. GREENLAND</td>
<td>September 2017</td>
<td>67. POLAND</td>
<td>September 2017</td>
</tr>
<tr>
<td>6. ARUBA</td>
<td>September 2018</td>
<td>37. GRENADA</td>
<td>September 2018</td>
<td>68. PORTUGAL</td>
<td>September 2017</td>
</tr>
<tr>
<td>7. AUSTRALIA</td>
<td>September 2018</td>
<td>38. GUERNSEY</td>
<td>September 2017</td>
<td>69. ROMANIA</td>
<td>September 2017</td>
</tr>
<tr>
<td>8. AUSTRIA</td>
<td>September 2018</td>
<td>39. HUNGARY</td>
<td>September 2017</td>
<td>70. RUSSIAN FEDERATION</td>
<td>September 2018</td>
</tr>
<tr>
<td>9. BARBADOS</td>
<td>September 2017</td>
<td>40. ICELAND</td>
<td>September 2017</td>
<td>71. SAINT KITTS AND NEVIS</td>
<td>September 2018</td>
</tr>
<tr>
<td>10. BELGIUM</td>
<td>September 2017</td>
<td>41. INDIA</td>
<td>September 2017</td>
<td>72. SAINT LUCIA</td>
<td>September 2018</td>
</tr>
<tr>
<td>11. BELIZE</td>
<td>September 2018</td>
<td>42. INDONESIA</td>
<td>September 2017</td>
<td>73. SAINT VINCENT &amp; GRENADES</td>
<td>September 2018</td>
</tr>
<tr>
<td>12. BERMUDA</td>
<td>September 2017</td>
<td>43. IRELAND</td>
<td>September 2017</td>
<td>74. SAMOA</td>
<td>September 2018</td>
</tr>
<tr>
<td>13. BRAZIL</td>
<td>September 2018</td>
<td>44. ISRAEL</td>
<td>September 2017</td>
<td>75. SAN MARINO</td>
<td>September 2018</td>
</tr>
<tr>
<td>14. BRITISH VIRGIN ISLANDS</td>
<td>September 2017</td>
<td>45. ISLE OF MAN</td>
<td>September 2017</td>
<td>76. SEYCHELLES</td>
<td>September 2018</td>
</tr>
<tr>
<td>15. BULGARIA</td>
<td>September 2017</td>
<td>46. ITALY</td>
<td>September 2017</td>
<td>77. SINT MAARTEN</td>
<td>September 2018</td>
</tr>
<tr>
<td>16. CANADA</td>
<td>September 2018</td>
<td>47. JAPAN</td>
<td>September 2017</td>
<td>78. SLOVAK REPUBLIC</td>
<td>September 2017</td>
</tr>
<tr>
<td>17. CAYMAN ISLANDS</td>
<td>September 2017</td>
<td>48. JERSEY</td>
<td>September 2017</td>
<td>79. SLOVENIA</td>
<td>September 2017</td>
</tr>
<tr>
<td>18. CHILE</td>
<td>September 2018</td>
<td>49. KOREA</td>
<td>September 2017</td>
<td>80. SOUTH AFRICA</td>
<td>September 2017</td>
</tr>
<tr>
<td>19. CHINA (PEOPLE’S REPUBLIC OF)</td>
<td>September 2018</td>
<td>50. KUWAIT</td>
<td>September 2018</td>
<td>81. SPAIN</td>
<td>September 2017</td>
</tr>
<tr>
<td>20. COLOMBIA</td>
<td>September 2017</td>
<td>51. LATVIA</td>
<td>September 2017</td>
<td>82. SWEDEN</td>
<td>September 2017</td>
</tr>
<tr>
<td>21. COOK ISLANDS</td>
<td>September 2018</td>
<td>52. LIECHTENSTEIN</td>
<td>September 2017</td>
<td>83. SWITZERLAND</td>
<td>September 2018</td>
</tr>
<tr>
<td>22. COSTA RICA</td>
<td>September 2018</td>
<td>53. LITHUANIA</td>
<td>September 2017</td>
<td>84. TURKS &amp; CAICOS ISLANDS</td>
<td>September 2017</td>
</tr>
<tr>
<td>23. CROATIA</td>
<td>September 2017</td>
<td>54. LUXEMBOURG</td>
<td>September 2017</td>
<td>85. UNITED KINGDOM</td>
<td>September 2017</td>
</tr>
<tr>
<td>24. CURAÇAO</td>
<td>September 2017</td>
<td>55. MALAYSIA</td>
<td>September 2018</td>
<td></td>
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</tr>
<tr>
<td>25. CYPRUS</td>
<td>September 2017</td>
<td>56. MALTA</td>
<td>September 2017</td>
<td></td>
<td></td>
</tr>
<tr>
<td>26. CZECH REPUBLIC</td>
<td>September 2017</td>
<td>57. MARSHALL ISLANDS</td>
<td>September 2018</td>
<td></td>
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</tr>
<tr>
<td>27. DENMARK</td>
<td>September 2017</td>
<td>58. MAURITIUS</td>
<td>September 2018</td>
<td></td>
<td></td>
</tr>
<tr>
<td>28. ESTONIA</td>
<td>September 2017</td>
<td>59. MEXICO</td>
<td>September 2017</td>
<td></td>
<td></td>
</tr>
<tr>
<td>29. FAROE ISLANDS</td>
<td>September 2017</td>
<td>60. MONACO</td>
<td>September 2018</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30. FINLAND</td>
<td>September 2017</td>
<td>61. MONTSERRAT</td>
<td>September 2017</td>
<td></td>
<td></td>
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<tr>
<td>31. FRANCE</td>
<td>September 2017</td>
<td>62. NAURU</td>
<td>September 2018</td>
<td></td>
<td></td>
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</tbody>
</table>
The Reciprocal Automatic Exchange Framework

Jurisdiction A tax administration
Confidentiality and data safeguard requirements in place

Information exchange, in accordance with the underlying legal instrument and the Competent Authority Agreement between Jurisdictions A and B

Jurisdiction B tax administration
Confidentiality and data safeguard requirements in place

IT platform

Jurisdiction A Financial Institutions

Jurisdiction B Financial Institutions

Information reporting in relation to residents of Jurisdiction B, in accordance with Jurisdiction A’s domestic reporting requirements

Account Holders

Account Holders

Account Holders

Information reporting in relation to residents of Jurisdiction A, in accordance with Jurisdiction B’s domestic reporting requirements

Account Holders

Account Holders

Account Holders

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**Information on Reportable Accounts**

<table>
<thead>
<tr>
<th>Information in respect of Reportable Accounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Identification Information</td>
</tr>
<tr>
<td>➢ Name</td>
</tr>
<tr>
<td>➢ Address</td>
</tr>
<tr>
<td>➢ Jurisdiction(s) of residence</td>
</tr>
<tr>
<td>➢ TIN(s)</td>
</tr>
<tr>
<td>➢ Date of Birth</td>
</tr>
<tr>
<td>➢ Place of Birth</td>
</tr>
<tr>
<td>2. Account Information</td>
</tr>
<tr>
<td>➢ The Account number</td>
</tr>
<tr>
<td>➢ The name and ID number</td>
</tr>
<tr>
<td>3. Financial Information</td>
</tr>
<tr>
<td>3.1 Depository Accounts</td>
</tr>
<tr>
<td>➢ Balance or Value of the Account</td>
</tr>
<tr>
<td>➢ Interest paid or credited on the Account</td>
</tr>
<tr>
<td>3.2 Custodial Accounts</td>
</tr>
<tr>
<td>➢ Balance or Value of the Account</td>
</tr>
<tr>
<td>➢ Interest paid or credited to the Account</td>
</tr>
<tr>
<td>➢ Dividends paid or credited to the Account</td>
</tr>
<tr>
<td>➢ Gross sale/redemption proceeds of financial assets maintained in the account</td>
</tr>
<tr>
<td>➢ Other gross amount of other income paid or credited to the Account</td>
</tr>
<tr>
<td>3.3 Other Accounts</td>
</tr>
<tr>
<td>➢ Balance or Value of the Account</td>
</tr>
<tr>
<td>➢ Other gross amount of other income paid or credited to the Account</td>
</tr>
<tr>
<td>3.4. Other Information</td>
</tr>
<tr>
<td>➢ The fact of closure (no balance or other information is reported)</td>
</tr>
</tbody>
</table>
## Financial Information to be reported where a Trust is a FI

<table>
<thead>
<tr>
<th>Account Holder</th>
<th>Account Balance or Value</th>
<th>Gross Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Settlor</td>
<td>➢ Total value of all trust property</td>
<td>➢ Value of payments made to the settlor in reporting period (if any)</td>
</tr>
<tr>
<td>Beneficiary: Mandatory</td>
<td>➢ Total value of all trust property</td>
<td>➢ Value of distributions made to the beneficiary in reporting period</td>
</tr>
<tr>
<td>Beneficiary: Discretionary (in a year in which a distribution is received)</td>
<td>➢ Nil</td>
<td>➢ Value of distributions made to the beneficiary in reporting period</td>
</tr>
<tr>
<td>Any Other person exercising ultimate effective control</td>
<td>➢ Total Value of all trust property</td>
<td>➢ Value of distributions made to such person in reporting period (if any)</td>
</tr>
<tr>
<td>Debt Interest Holder</td>
<td>➢ Principal amount of the debt</td>
<td>➢ Value of payments made in reporting period</td>
</tr>
<tr>
<td>Any of the above, if account was closed</td>
<td>➢ The fact of closure</td>
<td></td>
</tr>
</tbody>
</table>
## Information on Reportable Accounts - Trust is a Passive NFE

### Financial Information to be reported where a Trust is a Passive NFE

<table>
<thead>
<tr>
<th>Account Holder</th>
<th>Account Balance or Value</th>
<th>Gross Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Settlor</td>
<td>Total account balance or value</td>
<td>Gross payments made or credited as per slide 52.</td>
</tr>
<tr>
<td>Trustee</td>
<td>Total account balance or value</td>
<td>Gross payments made or credited as per slide 52.</td>
</tr>
<tr>
<td>Beneficiary: Mandatory</td>
<td>Total account balance or value</td>
<td>Gross payments made or credited as per slide 52.</td>
</tr>
<tr>
<td>Beneficiary: Discretionary (in a year in which a distribution is received-If optional)</td>
<td>Nil</td>
<td>Gross payments made or credited as per slide 52.</td>
</tr>
<tr>
<td>Protector (if any)</td>
<td>Total account balance or value</td>
<td>Gross payments made or credited as per slide 52.</td>
</tr>
<tr>
<td>Any of the above, if account was closed</td>
<td>The fact of closure</td>
<td></td>
</tr>
</tbody>
</table>
Examples
Cyprus Holding Company – Entity Classification
Example – Bank (1)

Background Information

- The only source of income of Cy HoldCo is the receipt of dividends from HolCo 1 and the only asset on its B/S is the investment held in HoldCo1.
- The UBO’s of Cy HoldCo are as follows:
  a) Person A: 25%-Russian tax resident individual;
  b) Person B: 45%- BVI tax resident company (which is wholly owned by a Russian Tax Resident Individual);
  c) Person C: 25%-UK tax resident individual;
  d) Person D: 5%-Russian tax resident individual.
- The company maintains a bank account with a Financial Institution.
Cyprus Holding Company– Entity Classification Example -Bank

(2)

Solution
- The FI will need to determine the CRS status of Cy HoldCo.
- CyHoldCo should be classified as an **Active NFE**, if the percentage held by CyHoldCo to HoldCo1 represents at least 80% of its activities and HoldCo 1 is not a FI.
- On this basis, substantially all of the activities of CyHoldCo represents dividends received from a non-FI.

If the shareholding of CyHoldCo to HoldCo1 is 40%, then Cy HoldCo should be classified as Passive NFE since HoldCo1 will not be considered as a subsidiary of CyHoldCo.

- In this respect, Cy HoldCo will have to disclose to the bank Persons A, B and C to the Russian, BVI and UK Tax Authorities, respectively.
- The UBOs of Person B will also have to be disclosed to the Bank if Person B is considered to be a Passive NFE in order to be reported to the Russian Tax Authorities.
- Person D will not be disclosed as he holds less than 25% in Cy HoldCo.
Cyprus Holding Company - Entity Classification

Example - ASP (1)

Background Information

- The only source of income of Cy HoldCo is the receipt of dividends from OpCo and the only asset on its B/S is the investment held in HoldCo1.
- The shares of Cy HoldCo are held by an ASP which is a FI.
- The shares are held on behalf of the following persons:
  - Person A: 55%- Russian tax resident individual;
  - Person B: 45%- BVI tax resident company which 100% owned by a Russian tax resident individual
Cyprus Holding Company-- Entity Classification Example - ASP (2)

Solution

- The Financial Service Provider will disclose Person A to the Russian Tax Authorities.
- The Financial Service Provider will also need to determine the CRS status of the BVICo in order to determine whether a reporting obligation exists.
- BVICo should be classified as an Passive NFE, it cannot meet the “Substantially All” criterion, as CyHoldCo will not be its subsidiary (>50%).
- Therefore the ASP should report BVICo and its UBO to the Cyprus Tax Authorities who will then transmit this information to the relevant authorities in the BVI and Russia.

An Entity is a “Related Entity” of another Entity if (a) either Entity controls the other Entity; (b) the two Entities are under common control; or (c) the two Entities are Investment Entities, are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.
Cyprus Financing Companies

Background Information

- The principal activity of the company is the provision of financing to other Related Entities.
- None of the Related Parties is a FI. The activities of the Group are other than that of a FI.

Solution

- Cyprus FinCo should be classified as an Active NFE, since the company income is primarily derived from the provision of loans to non-FI related entities which are not part of a Financial Group.
- If Cyprus FinCo provides loans to unrelated parties, then it should be classified as an FI.
- In case the company provides any other "active" services it can be included in "primarily derived test"
**Background Information**

- Cyprus HoldCo has both preference and ordinary shares.
- Ordinary Shares carry voting rights
- Preference shares do not carry voting rights
- Cyprus HoldCo may have a discretionary mandate with another FI for the management of its portfolio.

**Solution**

- Cyprus HoldCo will be considered as an FI since more than 50% of its income is attributable to the trading of Financial Assets and it is managed by another FI.

- Both the ordinary and preference shareholders will be reportable.

*In the absence of a discretionary investment mandate Cyprus HoldCo will be a Passive NFE.*

- The ordinary shareholders will be reportable to the extent that they effectively hold more than 25% of the voting rights of Cyprus HoldCo.

- The preference shareholders will not be reportable since they do not have any voting rights (i.e. not within controlling person definition).
**Background Information**

- The Trustee is a Financial Institution.
- The Trust’s gross income is allocable to the trading, investing and reinvesting of Financial Instruments.
- The Settlor of the Trust is considered to be a Russian tax resident.
- The Beneficiaries of the Trust are UK tax residents.

**Solution**

- Since the Trust’s income is primarily derived from the trading of financial assets and is managed by another FI, it should be classified as a reporting FI.
- In such case the Trust will be required to disclose the value of the Equity interest held by the Settlor and Beneficiary to the Cyprus Tax Authorities.
- The Cyprus Tax Authorities will transmit the information to the Russian Tax Authorities and UK Tax Authorities, where applicable.
- Reporting may not be required if FI managing the trust reports.

(1) Trustee: Financial Institution
(2) Settlor: Russian residents
(3) Beneficiaries: UK residents
Cyprus Trust FI (2)

Solution (cont)

- Furthermore, the Trust will also need to report the Gross Payments made to the Settlor (if any).
- If the trust is discretionary the value of Equity Interest to the beneficiary should be reported as Nil.
- At the level of the beneficiary the Trust will need to report the Gross Value of distributions made to the beneficiary if such distributions are mandatory.
- If in case of a discretionary Trust the value of distributions made to the beneficiary will need to be reported only for the period where the distribution takes place.
Cyprus Trust NFE

Background Information
- The Trustee is another Financial Institution.
- The Trust’s gross income is allocable to the holding of real estate.
- The Settlor of the Trust is considered to be a Russian tax resident.
- The Beneficiaries of the Trust are UK tax residents.

Solution
- The Trust will be an NFE since Real Estate is not a Financial Asset.
- Rental income is considered to be passive income and as such the CY Trust will be a Passive NFE
- In such case the Controlling persons of the Trust will be reported by a Financial Institution.

(1) Trustee: Financial Institution
(2) Settlor: Russian residents
(3) Beneficiaries: UK residents
Cyprus Alternative Investment Funds (1)

**Background Information**
- The Cyprus Alternative Investment Fund has Management Shares and Investor Units.
- The AIF investments in Financial Assets and not Real Estate

**Solution**
- The AIF will by definition meet the definition of an Investment Entity and will be considered to be an FI.
- Since being an FI, both the holders of the Management shares and the investor units will be reported to Cyprus Tax Authorities.
- The Cyprus Tax Authorities will transmit the information to the Tax Authorities of the country in which the holders of the Management Shares and the units are tax residents.
Cyprus Alternative Investment Funds (2)

**Background Information**

- The Cyprus AIF invests directly or through the use of a Real Estate Co into real estate.

**Solution**

- If the AIF invests directly into RE it will not be an FI since it invests on non-debt direct interest in real estate even if it is done on behalf of other persons (i.e. investors).

- If AIF is Passive NFE, the following persons will be reported:
  - ABC Company’s UBOs; if they hold more than 25% effective interest in AIF.
  - Investors will be reported to the extend that they hold more than 25% of AIF management shares

- However, if the AIF was investing in real estate through the Real EstateCo, the AIF will be an FI since it will hold a Financial Asset (i.e. shares).

- In such a case the AIF will need to report, through the Cyprus Tax Authorities information in respect of its investors and ABC Company’s UBOs owning more than 25%.
## CRS Services provided by KPMG

<table>
<thead>
<tr>
<th>Services</th>
<th>Deliverables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entity Classification/Registration</td>
<td>The Client must certify its CRS status and register with the Cyprus Tax Department accordingly. KPMG can help in providing the correct classification for the client and aid in the registration process.</td>
</tr>
<tr>
<td>Annual assessment of investors</td>
<td>On an annual basis the entity will be required to review the status of their investors in order to identify the existence of Reportable Persons for CRS purposes.</td>
</tr>
<tr>
<td>Preparation of annual reporting</td>
<td>One of the most important requirements under CRS is the requirement to report information about specified accountholders and counterparties to the Cyprus Tax Department.</td>
</tr>
<tr>
<td>Due Diligence</td>
<td>FIs are required to review preexisting accounts above certain thresholds (within a particular time-frame) to identify preexisting accounts which are reportable under CRS. KPMG will provide the Company with a written outline of the due diligence procedures required to be completed.</td>
</tr>
<tr>
<td>Review of Self-Certification Forms</td>
<td>Review the self certification forms and the informative letter provided by the Bank to its prospective/ existing clients (individuals and legal entities) in relation to CRS and provide our feedback together with any recommendation for improvement.</td>
</tr>
<tr>
<td>Assistance on implementation and preparation of the CRS policies and procedures manual</td>
<td>A review and update, where required, of the existing CRS policies and procedures adopted by the client.</td>
</tr>
<tr>
<td>Ongoing Support</td>
<td>We will provide on-going assistance in respect of day to day matters that may arise.</td>
</tr>
<tr>
<td>Training of Staff</td>
<td>Provide high level training sessions to employees and Management of the Client according to their needs.</td>
</tr>
</tbody>
</table>
Anastasis Yiasemides

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Corporate Services

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