



MALDIVES
INLAND REVENUE
AUTHORITY

MIRA M846

Frequently Asked Questions – Common Reporting Standards

Version 21.1

FREQUENTLY ASKED QUESTIONS – COMMON REPORTING STANDARDS

THE FAQs IN THIS DOCUMENT SHOULD BE READ WITH REFERENCE TO THE COMMON REPORTING STANDARD (CRS). THE STANDARD CAN BE VIEWED AT:

<https://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters-9789264216525-en.htm>

Wider Approach to CRS

1. Why is Maldives taking a wider approach to CRS?

As Maldives is taking the wider approach to CRS, it means that Reporting Financial Institutions (RFI) are required to extend their due diligence procedures to all non-residents. This is because with 144 countries currently having signed the MAC, and more to be signing in the near future, such an approach could significantly reduce costs for RFIs because they would not need to perform additional due diligence each time a new jurisdiction joins.

List of reportable jurisdictions

2. Will MIRA be publishing a list of reportable jurisdictions?

As Maldives is taking a wider approach to CRS, a list of reportable jurisdictions will not be published. Any jurisdiction besides Maldives should be considered reportable for the purpose of CRS.

New Accounts

3. What will be considered as New Accounts for CRS purposes?

A Financial Account maintained by an RFI opened on or after 1 January 2021 is a new account for CRS purposes.

Use of publicly available information in due diligence

4. The CRS standard specifies that publicly available information can be used in the due diligence undertaken for of pre-existing entity accounts. What kind of publicly available information can be used?

RFIs can use information that is published by an authorized government body (for example, a government or an agency thereof, or a municipality). Example: Registry of business published by the Ministry of Economic Development or Capital Market Development Authority.

Customer refusing to give information

5. What happens in the case of a pre-existing account holder refusing to give information for self-certification or information otherwise required in the due diligence procedure?

For pre-existing accounts, self-certification is required in the case of a 'hold-mail' instruction or 'in care of' address is discovered. In such a case, RFI must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the RFI cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account until such account ceases to be undocumented. The RFI must make all reasonable efforts to secure this certification, and document the efforts undertaken. This will be checked by MIRA during the compliance review.

Accounts that exceed the required balance after 31 December of the current year

6. In the case of a pre-existing entity account having a balance less than USD 250,000 on 31 December 2020, but exceeds the amount by 31 December 2021, what should be the due diligence and reporting treatment for this account?

Review of pre-existing Entity Accounts with an aggregate account balance that does not exceed USD 250,000 as of 31 December 2021, but exceeds that amount as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250,000. So in the case above, the account would be reviewed in 2022 and reported in 2023.

Self-certification for pre-existing entity accounts and Passive NFEs

7. For pre-existing entity accounts, do RFIs have to obtain self-certifications from the account holders? What about in the case of passive NFEs?

For pre-existing entity accounts, information maintained for regulatory or customer relationship purposes (including information collected for AML/KYC purposes) must be reviewed to determine residency. If the information indicates that the Account Holder is a Reportable Person, the RFI must treat the account as a Reportable Account unless a self-certification is obtained from the Account Holder, or the RFI reasonably determines based on information in its possession or

that is publicly available, that the Account Holder is not a Reportable Person. So, RFIs do not have to proactively obtain self-certification in this case but the entity may submit one to change the reporting status. For passive NFEs, RFIs are required to request for self-certification unless such information is in the possession of the RFI.

Accounts that exceed the required balance after 31 December of the current year

8. In the case of a pre-existing entity account having a balance less than USD 250,000 on 31 December 2020, but exceeds the amount by 31 December 2021, what should be the due diligence and reporting treatment for this account?

Review of pre-existing Entity Accounts with an aggregate account balance that does not exceed USD 250,000 as of 31 December 2021, but exceeds that amount as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250,000. So in the case above, the account would be reviewed in 2022 and reported in 2023.

Reporting balance or value

9. What balance or value of an Equity Interest should be reported where the value is not otherwise frequently determined by the Financial Institution (for example it is not routinely recalculated to report to the customer)?

The Standard defines the account balance or value in the case of an Equity interest as the value calculated by the Financial Institution for the purpose that requires the most frequent determination of value. Depending on the circumstances it could, be the value of the interest upon acquisition if the Financial Institution has not otherwise recalculated the balance or value for other reasons.

Aggregation and excluded accounts

10. Are Excluded Accounts required to be included when applying the aggregation rules?

No. The aggregation rules refer to the aggregation of Financial Accounts. As the definition of Financial Accounts specifically excludes Excluded Accounts, the aggregation rule does not apply to those accounts.

Account Holder Information

11. How does an RFI report an individual that does not have both a first and last name?

The CRS schema requires the completion of the data elements for first name and last name. If an individual's legal name is a mononym or single name, the first name data element should be completed as "NFN" (No First Name) and the last name field should be completed with the account holder's mononym.

Requirement to collect TINs

12. Paragraph 30 of the Commentary on Section I provides that a TIN is not required to be reported with respect to a Reportable Account held by a Reportable Person with respect to whom a TIN has not been issued. Should an RFI request a Reportable Person to obtain and provide a TIN, in case such Reportable Person is or may be eligible to obtain a TIN (or the functional equivalent) in their jurisdiction of residence, but is not required to obtain a TIN and has not obtained a TIN?

No, this is not required.

CRS and FATCA

13. What are the similarities between CRS and the FATCA?

The United States Foreign Account Tax Compliance Act (FATCA) requires that foreign financial Institutions and certain other non-financial foreign entities report on the foreign assets held by their U.S. account holders or be subject to withholding on withholdable payments. Some of the banks in the Maldives are participating foreign financial institutions. Both CRS and FATCA share many similarities, however there are key significant differences.

- FATCA only requires foreign institutions to report only on US citizens, CRS requires much broader scope with information on account holders from across 141 jurisdictions.
- The definition of financial institution is wider in the CRS, therefore an exemption given under FATCA may not as such under the CRS.
- CRS does not have a minimum limit under for account balances of individuals. FATCA is only applicable for individual accounts with an account balance exceeding USD 50,000 and companies having different limits.

Reliance on Model I FATCA Inter-Governmental Agreement (IGA) definition of Investment Entity for purposes of CRS

14. Can jurisdictions rely on the definition of Investment Entity used in the Model I FATCA IGA for the purposes of implementing the CRS?

No, the definition of Investment Entity in Article I(1)(j) of the Model I FATCA IGA cannot be used for CRS purposes on its own, as it is less prescriptive than the definition of Investment Entity in Section VIII(A)(6). However, the definitions of the Model I FATCA IGA and the CRS can be read consistently. For example, the CRS definition includes a gross income test to determine whether an Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), and could be used to interpret the less prescriptive aspects of the Model I FATCA IGA definition. The CRS definition is in fact based on the definition of Investment Entity in the US FATCA regulations, which may be used to interpret the Model I FATCA IGA definition.

E-money providers – qualification as a Depository Institution

15. What is the status of electronic money providers for CRS purposes?

No special rules apply to electronic money providers. Like other financial industry participants, they must determine whether they are a Financial Institution, as defined by the CRS. That determination will depend on the facts and circumstances. For instance, in order to determine whether an electronic money provider is a Depository Institution, the analysis must be done with reference to Section VIII(A)(5) and the related Commentary, in particular paragraph 13.

Excluded Account

16. The Standard provides that a life insurance contract with a coverage period that will end before the insured individual attains age 90 is an Excluded Account provided the additional requirements described in Section VIII, subparagraph C(17)(c) are satisfied. Should this exclusion be read to cover term life insurance contracts?

Yes. The Standard includes as an Excluded Account certain term life insurance contracts that meet the conditions specified in Section VIII, subparagraph C(17)(c). See Commentary to Section VIII, paragraphs 86 and 91 which use the wording "term life insurance contract".

Reporting of certain Controlling Persons

17. Does an Entity's Controlling Person(s) resident in the same jurisdiction as the RFI need to be reported?

The Standard only requires the reporting of Reportable Jurisdiction Persons. With the Maldives adopting the wider approach, Reportable Jurisdiction Persons are persons resident in any jurisdiction other than Maldives.

Definition of Active NFE – stock regularly traded on an established securities market

18. The term Active NFE includes an NFE the stock of which is regularly traded on an established securities market or an NFE that is a Related Entity of an Entity the stock of which is regularly traded on an established securities market. Can an Entity other than a corporation have “stock which is regularly traded on an established securities market”?

No. The term “stock” is limited to shares in a corporation. Accordingly, only a corporation can qualify as an Active NFE on the basis of the fact that its stock is regularly traded on an established securities market.

Reportable Jurisdictions for Pre-existing Entity Accounts

19. In the context of Pre-existing Entity Accounts, Financial Institutions are required, pursuant to Section V(D), to determine whether the Pre-existing Entity Account Holder is resident in one or more Reportable Jurisdictions. In accordance with paragraph 10 of the Commentary to Section V, a Pre-existing Account Holder is to be considered resident in a Reportable Jurisdiction if, based on the information available to the Financial Institution, it has, amongst others:

- a place of incorporation or organisation in a Reportable Jurisdiction;
- an address in a Reportable Jurisdiction (for example [...] the registered address, principal office or place of effective management);
- or
- an address to one or more of the trustees of a trust in a Reportable Jurisdiction.

For the purposes of conducting the due diligence procedures with respect to Pre-existing Entity Account Holders, do all of the above indications and

any other relevant considerations need to be taken into account in order to determine the Reportable Jurisdictions of a particular Pre-existing Entity Account Holders?

Yes. All of the above-mentioned indications and other relevant considerations should be taken into account for determining the Reportable Jurisdictions with respect to a Pre-existing Entity Account Holder and Financial Institutions must continue to review all the information available even after one indicium of residence is found. The Pre-existing Entity Account Holder is to be considered a resident in a Reportable Jurisdiction in each jurisdiction for which an indication is found, unless the curing procedures set out in Section V(D)(1)(b) can be applied. It should be noted that as Maldives is taking the wider approach to CRS, all jurisdictions except Maldives will be considered a reportable jurisdiction.

Documentary Evidence

20. Does the Standard require an RFI to retain a paper copy of the Documentary Evidence collected as part of its due diligence procedures?

No. An RFI is not required to retain a paper copy of the Documentary Evidence, but may do so. An RFI may retain an original, certified copy, or photocopy of the Documentary Evidence or, instead, a notation of the type of documentation reviewed, the date the documentation was reviewed, and the document's identification number.

Residence address test – requirement to manually review Documentary Evidence

21. Does the requirement in the Standard to confirm the residence address with the Documentary Evidence on file require accounts to be manually reviewed?

The Standard does not require a paper search to examine the Documentary Evidence. Generally, a requirement of the residence address test is that the residence address is based on Documentary Evidence. If a Financial Institution has kept a notation of the Documentary Evidence, or has policies and procedures in place to ensure that the current residence address is the same as the address on the Documentary Evidence provided, then the RFI will have satisfied the Documentary Evidence requirement of the residence address test.

Residence address test – two residence addresses

22. Is it possible that after the application of the residence address test it is determined that the Account Holder has two residence addresses?

Yes. Provided all the conditions for applying the residence address test are met, then it may be possible for the residence address test to result in two addresses being found. For example, with respect to a bank account, a bank could have two addresses meeting the requirements in a case where a resident of Country A is working and living half her time in Country A and Country B. In this case a self-certification could be sought or the account could be reported to all Reportable Jurisdictions where there is a residence address.

Reliance on AML/KYC procedures for identifying Controlling Persons

23. With respect to Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed USD 1,000,000, what is the due diligence and reporting requirement in cases where the Financial Institution holds information on the names of Controlling Persons and no other information as it was not required to collect such information pursuant to applicable AML/KYC procedures?

The Standard provides that for accounts with a balance or value below USD 1 million (after applying the aggregation rules), the Financial Institution may rely on information collected and maintained for regulatory or customer relationship purposes, including AML/KYC procedures to determine whether a Controlling Person is a Reportable Person. Since, in the example given, the Financial Institution does not have and is not required to have any such information on file that indicates the Controlling Person may be a Reportable Person, it cannot document the residence of the Controlling Persons and does not need to report that person as a Controlling Person.

Identification of Controlling Persons of Passive NFEs with Financial Institutions in the chain of legal ownership

24. For purposes of determining the Controlling Persons of a Passive NFE, does the CRS allow an RFI to not determine/report such Controlling Person on the basis that there is an RFI in the ownership chain between the Passive NFE and the Controlling Person?

No. The CRS status of intermediate Entities in the ownership chain is irrelevant for these purposes.

Obligations of a Financial Institution to establish tax residency

25. What are the obligations under the Standard of a Financial Institution to establish the tax residency of its customers in relation to the New Account procedures?

A Financial Institution is not required to provide customers with tax advice or to perform a legal analysis to determine the reasonableness of self-certification. Instead, as provided in the Standard, for New Accounts the Financial Institution may rely on a self-certification made by the customer unless it knows or has reason to know that the self-certification is incorrect or unreliable, (the “reasonableness” test), which will be based on the information obtained in connection with the opening of the account, including any documentation obtained pursuant to AML/KYC procedures.

Self-Certification – meaning of “positively affirmed”

26. A requirement for a self-certification to be valid on account opening under the Standard is that it must be signed or positively affirmed by the customer. How should “otherwise positively affirmed” be understood?

A self-certification is otherwise positively affirmed if the person making the self-certification provides the Financial Institution with an unambiguous acknowledgement that they agree with the representations made through the self-certification. In all cases, the positive affirmation is expected to be captured by the Financial Institution in a manner such that it can credibly demonstrate that the self-certification was positively affirmed (e.g., voice recording, digital footprint, etc.). The approach taken by the Financial Institution in obtaining the self-certification is expected to be in a manner consistent with the procedures followed by the Financial Institution for the opening of the account. The Financial Institution will need to maintain a record of this process for audit purposes, in addition to the self-certification itself.

Verbal self-certification

27. Does the Standard allow for the gathering of information for a self-certification verbally on account opening under the Standard?

A self-certification may be provided in any manner and in any form. Therefore, provided the self-certification contains all the required information and the self-certification is signed or positively affirmed by the customer, a Financial Institution may gather verbally the information required to populate or otherwise obtain the self-certification. The approach taken by the Financial Institution in obtaining the self-certification is expected to be in a manner consistent with the procedures followed by the Financial Institution for the opening of the account. The Financial institution will need to maintain a record of this process for audit purposes, in addition to the self-certification itself.

Self-certification with yes/no response

28. Does the Standard allow for a self-certification to solicit a yes/no response to questions about tax residence?

Yes. A self-certification can be completed based on a yes/no response to record the customer's jurisdiction(s) of tax residence, instead of requiring the completion of a blank field. The Standard does not prescribe how information on jurisdiction(s) of tax residence must be collected but provides that the information with respect to tax residence cannot be prepopulated. For example, in order to complete a self-certification the customer could be asked whether the jurisdiction in which the account is being opened is the sole tax residence of the account holder, with additional questions only being asked if the answer is no.

Self-certification provided on the basis of a Power of Attorney (PoA)

29. Does the Standard allow for a self-certification to be provided by third party on the basis of a power of attorney?

If an Account Holder has provided that another person has legal authority to represent the Account Holder and make decisions on their behalf, such as through a power of attorney, then that other person may also provide a self-certification.

New Accounts of Pre-existing Account Holders

30. With respect to the allowance to treat certain New Accounts of a pre-existing customer as a Pre-existing Account, how broad is the requirement that the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for purposes of the CRS?

RFIs can treat a New Account opened by an Account Holder that holds an account with the RFI as a Pre-existing Account provided that certain conditions are met. Such conditions include that the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for purposes of the CRS. In such a case, RFI may rely upon the self-certification furnished by a customer for another account if the RFI has no reason to believe the self-certification is invalid.

The relationship manager test

31. How might the standard of knowledge test applicable to a Relationship Manager contained in the Standard be operationalised in practice?

The standard of knowledge test applicable to a Relationship Manager could be operationalised through regular (e.g. yearly) instructions and training by a Financial Institution to all of its employees that could be considered Relationship Managers. This could include the Financial Institution maintaining a record of a response made by each Relationship Manager stating that they are aware of their obligations and the channels to communicate any reason to know that an Account Holder for which they manage the relationship is a Reportable Person. These

communications could then be centrally processed by the Financial Institution in the manner required by the Standard.

Requirement to obtain a TIN in the framework of the curing procedure

32. Does an RFI need to ensure that a Tax Identification Number (TIN) is present on the self-certification of an Account Holder, in case such self-certification is obtained as part of the curing procedure and indicates that the Account Holder is a Reportable Person?

In the context of the due diligence procedures for pre-existing accounts, the RFI is required to use reasonable efforts to obtain a TIN. In case the self-certification is received in the course of the curing procedure, this implies as a minimum that the Financial Institution requests the Account Holder to provide a self-certification which includes a TIN, if applicable. The Financial Institution can rely on such a self-certification, even if it does not contain a TIN of the Account Holder, provided it continues to use reasonable efforts to obtain the TIN.

Determination of the threshold for due diligence with respect to Controlling Persons

33. For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person with respect to a Pre-existing Entity Account, an RFI may, in accordance with subparagraph (D)(2)(c) of Section V, only rely on the information collected and maintained pursuant to AML/KYC Procedures in case the aggregate account balance of such account held by one or more NFEs does not exceed USD 1 million. At what point in time is the USD 1 million threshold for the purpose of determining the due diligence procedure applicable to Controlling Persons of Passive NFEs to be determined?

In line with the general rules applicable to thresholds applied in the framework of the due diligence procedures, the point in time at which the surpassing of the threshold should be verified is the last day of the calendar year or other appropriate reporting period. Example: In case the account balance of the relevant account is USD 900,000 on the date on which the Financial Institution carried out the due diligence, but USD 1,100,000 at year-end, the threshold of USD 1 million has been surpassed for the purpose of the due diligence obligations in that year.

Application of New Account procedures to Pre-existing Accounts – relationship manager inquiry

34. Pursuant to Section II(E) jurisdictions may allow RFIs to apply the due diligence procedures for New Accounts also to Preexisting Accounts. In such cases, is an RFI required to apply the relationship manager inquiry, where a self-certification has been obtained under the New Account due diligence procedures?



A relationship manager inquiry is not applicable, since New Account due diligence procedures are applied, but if a relationship manager is assigned to the account, the relationship manager and thus the RFI may have reason to know that a self-certification is unreliable or incorrect. An RFI may not rely on a self-certification if the RFI has reason to know that the self-certification is incorrect or unreliable. Paragraph 3 of the Commentary on Section VII explains that an RFI has reason to know that a self-certification is unreliable or incorrect if its knowledge, including the knowledge of any relevant relationship manager, of relevant facts or statements contained in the self-certification is such that a reasonable prudent person in the position of the RFI would question the claim being made.

Confirming the validity of self-certifications






35. If an Individual Account Holder indicates on a self-certification that he or she does not have a jurisdiction of residence for tax purposes, may the Financial Institution rely on other documentation at its disposal, in particular an address, to determine the residence for tax purposes?

When obtaining a self-certification from an Account Holder, the RFI is required to confirm the reasonableness of the self-certification on the basis of other documentation, including any documentation collected pursuant to AML/KYC Procedures that is at its disposal. For instance, the fact that the self-certification indicates that the Account Holder has no residence for tax purposes but the other documentation on file contains an address constitutes a reason to doubt the validity of the self-certification. In such cases, the RFI must ensure that it obtains a reasonable explanation and documentation, as appropriate, that supports the reasonableness of the self-certification. If the Financial Institution does not obtain a reasonable explanation as to the reasonableness of the self-certification, the RFI may not rely on the self-certification and must obtain a new, valid self-certification from the Account Holder. RFIs may want to inform their Account Holders that, as part of such procedures, jurisdictions may monitor and review Account Holders that have not indicated a tax residence as part of their self-certification.

FOR QUERIES

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