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Common Reporting Standard
(The Automatic Exchange of Information Model for Tax Purposes)

What to expect from Financial Institutions in Indonesia of the upcoming obligation to exchange financial information

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Is it the end of Tax evasion?

Are financial institutions part of a global program combatting tax Evasion?

Are you ready to face the era of financial information exchange between jurisdictions?

In brief

Countries around the world have been engaging in automatic exchange of information to tackle tax evasion. The same goal became the basis of the enactment of the Foreign Account Tax Compliance Act (FATCA) by the United States Congress in 2010. In order to establish a common approach to counter tax evasion among different countries, the Organisation of Economic Cooperation and Development (OECD) released the Standard for Automatic Exchange of Financial Account Information in Tax Matters which consists of the Competent Authority Agreement (CAA) and the Common Reporting Standard (CRS).

The CAA serves as a template for intergovernmental agreements while the Common Reporting Standard (CRS) contains due diligence and reporting requirements for the automatic exchange of information. OECD has modelled a large proportion of CRS by mirroring the FATCA Intergovernmental Agreement. The Standard will then be incorporated into domestic law to ensure that the due diligence and reporting is performed correctly according to each jurisdiction.

Indonesia's commitment to support the movement toward information transparency became one of the main reasons for the Indonesian government to enact the tax amnesty program in mid-2016. The tax amnesty program along with CRS show that the time of tax evasion is over and everyone should prepare for a new era of transparency in tax matters.

In detail

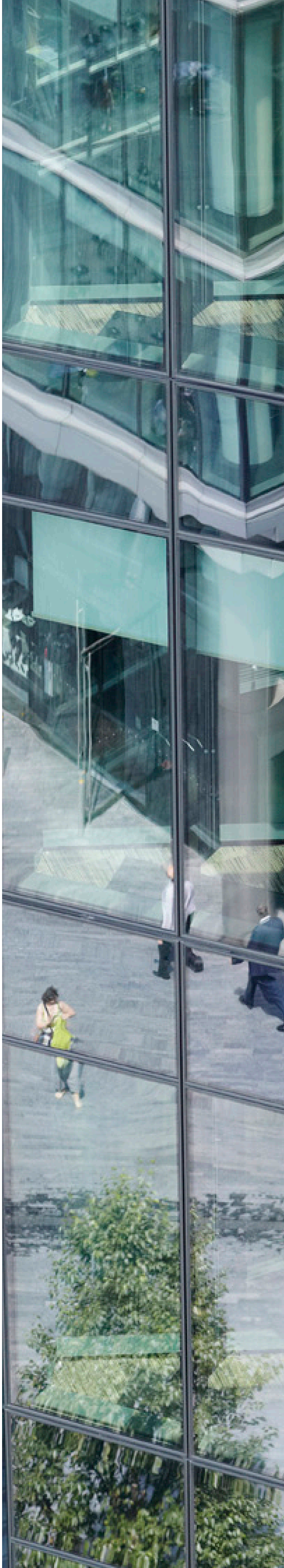
International Legal Instrument of CRS Implementation

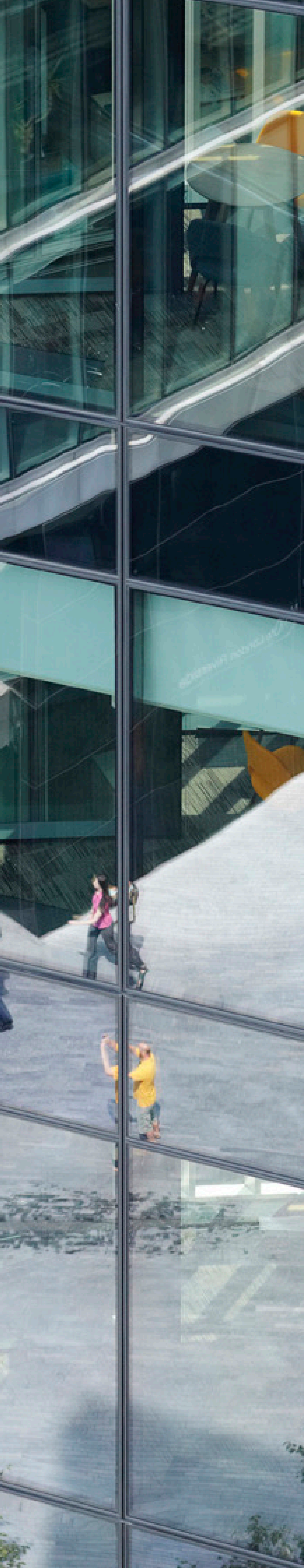
The legal instrument that became the international framework for exchanging information between countries is the Model Competent Authority Agreement (MCAA). There are three types of MCAA which are bilateral, multilateral and non-reciprocal model agreements. As of August 2016, a total of 84 countries (link to PDF file) have already committed to adopting CRS by signing the multilateral agreement and the agreement is still open for others to sign. Indonesia has signed the multilateral MCAA with the first intended information exchange due by September 2018.

In 2015, the Indonesia Financial Service Authority (*Otoritas Jasa Keuangan*) published the domestic rule (link to PDF file) regarding automatic exchange of information with other countries. The regulation is a basis for FATCA and CRS implementation in Indonesia but the guidance stipulating the details of due diligence and operational procedure have not yet been released.

Overview of CRS

The concept of CRS is for Financial Institutions (FIs) that are covered by the scope of CRS to identify reportable accounts through applying due diligence and reporting relevant information on account holders that are tax residents of participating jurisdictions.





FIs in the scope of CRS are depository institutions, custodial institutions, investment entities and specified insurance companies, unless they are categorised as low-risk FI that will be defined by the local jurisdiction. Reporting FIs have to review their financial accounts (both entity and individual) to identify reportable accounts of account holders that are tax residents of participating jurisdictions based on countries that signed the multilateral agreement.

Financial Accounts that need to be reviewed are depository accounts, custodial accounts, equity and debt interests, and cash value insurance and annuity contracts.

Similar to FATCA, the due diligence procedures not only distinguish between entity and individual accounts, but also differentiate procedures between pre-existing and new accounts.

Reportable accounts are accounts held by individuals or entities of participating jurisdictions. In addition, it is also required to identify Passive Non-Financial Entity accounts with one or more Controlling Persons that is reportable and report the relevant information of the Controlling Persons. Information that needs to be reported includes interest, dividend, account balance, sale proceeds or redemption of financial assets and other income generated with respect to the assets held in the account.

Current Development

The movement toward global information exchange and transparency is spreading as 101 jurisdictions around the world have now committed to implement CRS. In the Asian region, India, Japan, China, Thailand, Malaysia, South Korea and Indonesia have signed the MCAA with different reporting deadlines. Major financial centres such as Hong Kong and Singapore have not signed the MCAA; however, they already signed a commitment to implement information sharing according to CRS. The implementation status for each jurisdiction varies as it depends on the intended first reporting deadline and the readiness of local guidance. In Indonesia for instance, with intended first reporting in 2018, OJK has published regulation 25/POJK.03/2015 as the basis law for FATCA and CRS. Some key updates from other Asian countries are that Japan has published legislation and India has enacted the CRS local guidance while Hong Kong has published a consultative paper in 2015 and introduced the Inland Revenue (Amendment) Bill 2016 to the Legislative Council in January 2016.

The takeaway

As the deadline is approaching for Indonesia to submit the first CRS report in 2018, FIs have to consider when to initiate the CRS program. It is worth noting that the due diligence is similar with FATCA, therefore FIs that have already implemented FATCA could take into account existing processes and systems and learn from past experience to design a more efficient approach. Despite the similarity with FATCA, there are still differences in due diligence and data requirements. FIs may want to understand the key differences and similarities and decide on a strategy that complies with both FATCA and CRS while minimising effort and cost. The summary of key differences is as follows:

The differences between FATCA and CRS

	FATCA	CRS
Agreement	Between a jurisdiction's competent authority with IRS (IGA countries) or a business with IRS (Non-IGA countries).	Could be bilateral or multilateral agreement.
Reporting Deadlines	March 2015 (Non-IGA & IGA 2 countries). September 2015 (IGA 1 countries). The deadlines for IGA 1 countries have been extended. For Indonesia the intended first reporting is in September 2016.	Based on agreed CAA. The MCAA signatories first reporting will be either 2017 or 2018. Indonesia's first intended reporting is in September 2018.
Self-certification form	There are standard self-certification forms provided, for example W-9, W-8BEN and W-8BEN-E form	Business and Industry Advisory Committee to the OECD (BIAC) has drafted an illustration of the self-certification form that can be used as a basis for FIs to design their desired form.
Reportable accounts	U.S. Persons, U.S. Entities, Passive Non-Financial Foreign Entity (NFFE) with Substantial U.S. Owner(s), and Non-Participating Foreign Financial Institution (NPFFI).	An individual or an entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdictions and Passive NFE with Controlling Person that is a Reportable Person. Therefore, an individual or an entity may be reported to several jurisdictions if he/she/it is a taxpayer in multiple reportable jurisdictions.
Data to be reported	The information to be reported includes the name, address, taxpayer identification number (TIN), account number, account balance or value, gross amounts paid to the account in the year, and total gross proceeds paid or credited to the account.	Similar to FATCA, with addition of date and place of birth (in the case of individual). For an entity account with one or more controlling persons that are a reportable person, the institution must report the name, address, country(s) of residence and TIN of the entity and the name, address, country(s) of residence, TIN and date and place of birth of each reportable person.

For FIs that have not yet implemented FATCA, it is important to start assessing the best approach to implement both FATCA and CRS considering the first FATCA reporting will be in 2016 and will be followed by CRS in 2018.

Each FI may want to develop a strategic approach to anticipate the fact that the number of multilateral agreement signatories is still growing during system and procedure development. The increases in the number of signatories means that more tax residents of participating jurisdictions need to be identified and reported along the way.

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