

March 2017

The Standard of Automatic Exchange of Information (AEOI)

Looking through the lens of Common Reporting Standard (CRS) implementation practices in Indonesia



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In brief

Indonesia has signed the Multilateral Competent Authority Agreement (MCAA), a legal commitment for Indonesian government to exchange financial information (currently) among 87 jurisdictions for tax purposes, according to the AEOI Standard. Financial institutions (FIs) in Indonesia shall start the identification of their customer in 2017, and Indonesia is expected to conduct the first reporting in 2018.

Looking at the latest news and strong message coming from Mr. President, Jokowi that his administration will take advantage of an opportunity to scrap long-standing bank secrecy policies, after adopting new global standards on the Automatic Exchange of Information. It is an inevitable process that all FIs in Indonesia have to perform the identification of taxpayers coming from countries in cooperation and to report them to those respective countries.

In detail

The Common Reporting Standard (CRS) developed in response to the G20 request and approved by the OECD (The Organisation for Economic Co-operation and Development) Council on 15 July 2014, calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis.

The progress of the CRS implementation varies depending on the industry. Some FIs in Indonesia have begun preparations in anticipation of the obligation to start CRS identification in 2017. New Accounts need to be identified once the regulator determines the effective date, while Pre-existing Accounts will generally have a two-year period to complete the review for Lower Value Accounts and a one-year period for High Value Accounts. As such, CRS implementation can focus on identification of New Accounts.

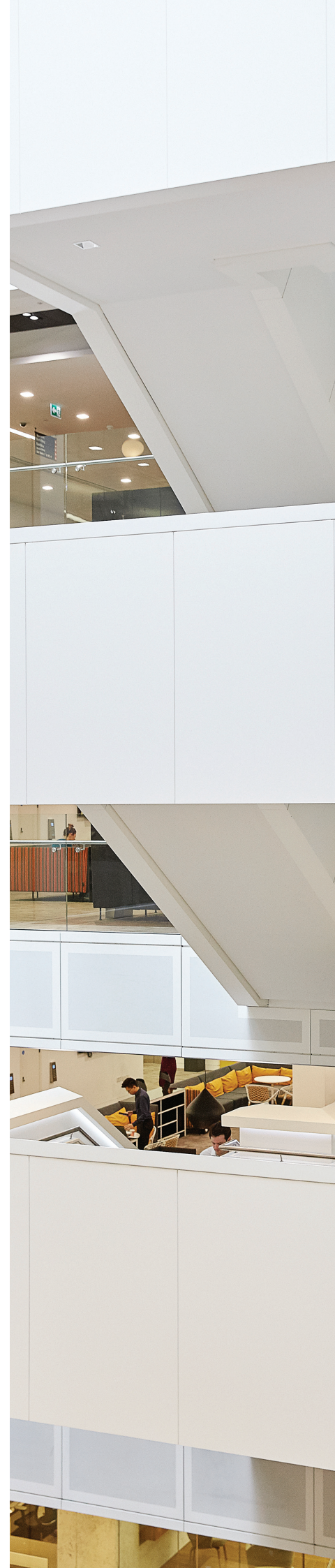
With the aim of optimising CRS implementation, FI needs to understand some common concerns that are raised in the industry, which are as follows:

The design of self-certification form

FIs are allowed to modify the proposed illustration by OECD for both individual and entity accounts, as there is no mandatory format of self-certification in CRS. However, there are still some minimum requirements that need to be covered in order for self-certification to be considered valid:

- Account holder's name;
- Address, jurisdiction(s) of residence for tax purposes;
- Taxpayer Identification Number (TIN)(s);
- Date of birth;
- Signature; and
- Signature date.

A FI that decides to modify the self-certification form needs to take into account the trade-off between compliance with CRS requirements and the consequences of having additional due diligence in business operations in determining the design and format.





Establishment of the tax residency in relation to the New Account procedures

It is the customers' own responsibility to know their own tax residence, because different jurisdictions have different criteria to determine the definition of residence(s) for tax purposes. A FI is not allowed to provide customers with tax advice to determine their respective tax residency. For New Accounts, a FI can only rely on a self-certification made by the customer, unless the FI knows or has reason to know that the self-certification is incorrect or unreliable based on the information obtained in connection with AML/KYC procedures for the opening account. In order to support the implementation of CRS, the AEOI Standard expect Participating Jurisdictions to provide information to help people discover their tax residency and OECD will then disseminate the information through the Automatic Exchange Portal. Thus, the FI may direct its customers to this information in order to help them determine their tax residency.

The collection of a Taxpayer Identification Number

A Taxpayer Identification Number (TIN) is a unique number or letters assigned to an individual or entity for the purpose of tax recognition in a jurisdiction. For reporting purposes for both New Accounts and Pre-existing Accounts, TIN is not mandatory due to several reasons. A TIN is not required to be reported if:

- A TIN is not issued by the relevant Reportable Jurisdiction; or
- The domestic regulations of the relevant Reporting Jurisdiction do not require the collection of the TIN.

In practice, many jurisdictions, including Indonesia, utilise a TIN; however, there are some jurisdictions that do not issue a TIN. In such cases, these jurisdictions usually use a functional equivalent of the TIN that can also be used for CRS reporting.

Consequences of non-compliance

The enforcement of CRS implementation lies in each jurisdiction's Competent Authority. A Competent Authority will notify the other Competent Authority if there is any incorrect information or instances of non-compliance. The notified Competent Authority will then have to take measures to address the non-compliance based on the domestic regulations.

In order to encourage effective CRS implementation, jurisdictions have to set up provisions to address non-compliance. OJK Regulation No. 25/POJK.03/2015 already stipulates the sanction for CRS non-compliance, which is an administrative sanction consisting of a warning or a written notice; however, it does not rule out the possibility that there will be additional sanctions in future regulations.

Insight

In Q2 2017, the government under Pak Jokowi's administration will stipulate a regulation in lieu of law (Perppu) to amend the 'bank secrecy' clause in several laws to support the AEOI implementation in Indonesia. The main issue in Indonesia is still the need of final guidelines from the regulator. Yet according to Indonesia tax authority supported by OJK, we understand that the final guidelines (OJK Circular Letter) preparation is in the final stage and it shall be stipulated either May or June 2017.

Many FIs in Indonesia have started the implementation of CRS while waiting for the regulator to provide the detailed guidelines. This is done based on the understanding that the local guidelines will follow the reporting and due diligence procedures set out in the CRS, as it is stated in the AEOI Standard – Commentary on Section IX concerning Effective Implementation: *"A jurisdiction must have rules and administrative procedures in place to ensure the effective implementation of, and compliance with, the reporting and due diligence procedures set out in the Common Reporting Standard. The Standard will not be considered effectively implemented unless it is adopted in good faith with consideration to its Commentary which seeks to promote its consistent application across jurisdictions."*

How can PwC help?

PwC can help financial institutions and their customers understand their obligations. We can:

- undertake business impact assessments
- review strategic and operational models
- provide AML/KYC solutions and remediation
- provide system information reporting capability
- support customer conversations and handle personal tax disclosures
- provide post implementation reviews and ongoing assurance

Let's Talk



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