

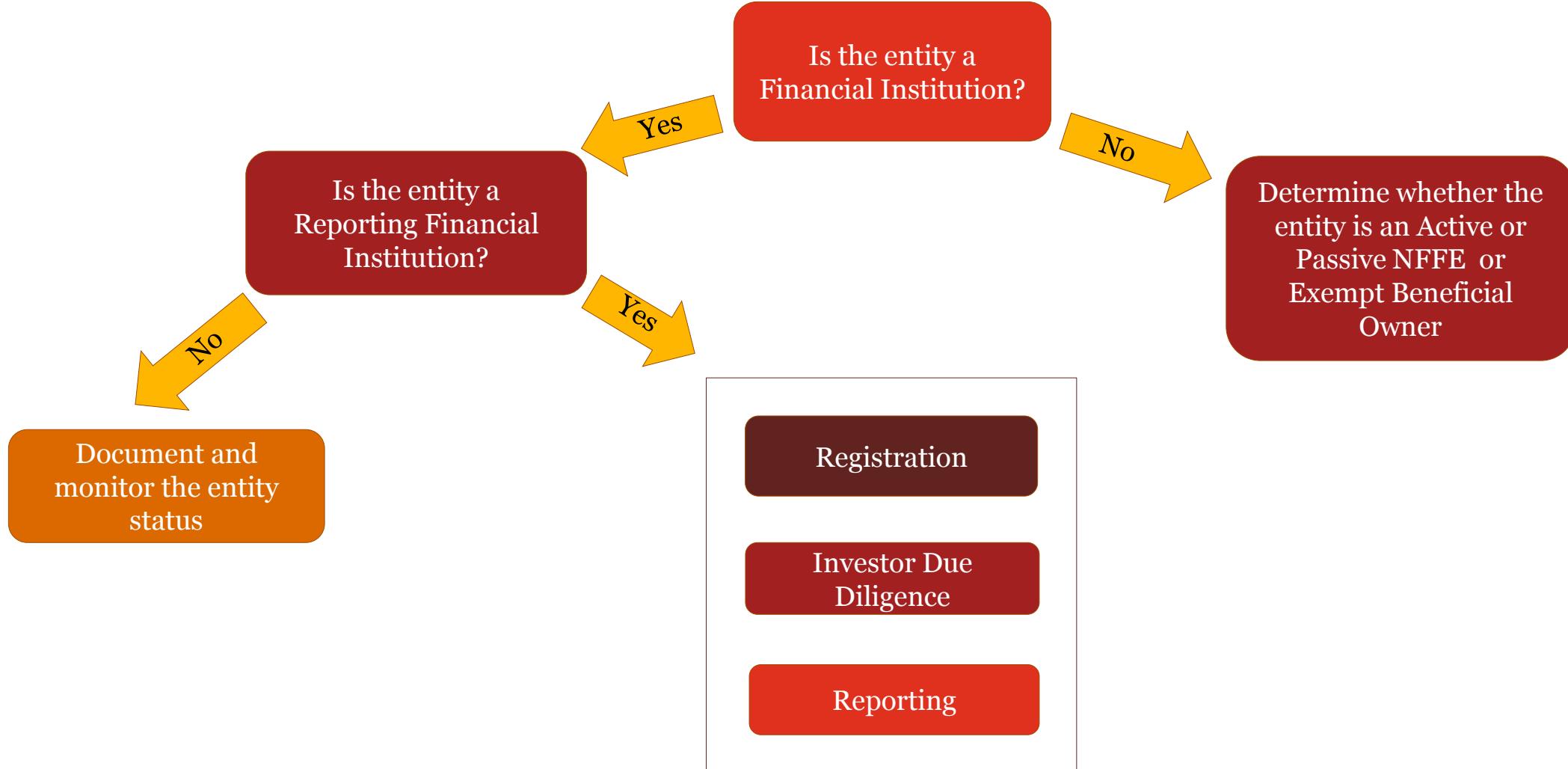
# ***FATCA, UK CDOT and CRS***

## Overview of Due Diligence and Reporting

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# ***Status and Obligations - A Quick Summary***



# ***FATCA - Overview***

- The Foreign Account Tax Compliance Act (FATCA) was passed by the US Congress in 2010 in an effort to combat tax evasion by U.S. taxpayers holding financial assets abroad
- Foreign Financial Institutions (FFIs) are the primary target of FATCA as they are required to identify and report accounts held by U.S. Persons
- Non-compliance results in withholding of 30% of U.S. sourced withholdable income
- Additional penalties and sanctions are imposed by the relevant jurisdiction.



# FATCA - Forms

## Non U.S. Individuals:

### W8BEN

Form **W-8BEN**

(Rev. January 2017)

Department of the Treasury  
Internal Revenue Service

### **Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)**

- For use by individuals. Entities must use Form W-8BEN-E.
- Information about Form W-8BEN and its separate instructions is at [www.irs.gov/formw8ben](http://www.irs.gov/formw8ben).
- Give this form to the withholding agent or payer. Do not send to the IRS.

## Non-U.S. Entities:

### W8BEN-E

Form **W-8BEN-E**

(Rev. April 2016)

Department of the Treasury  
Internal Revenue Service

### **Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)**

- For use by entities. Individuals must use Form W-8BEN. ► Section references are to the Internal Revenue Code.
- Information about Form W-8BEN-E and its separate instructions is at [www.irs.gov/formw8bene](http://www.irs.gov/formw8bene).
- Give this form to the withholding agent or payer. Do not send to the IRS.

### W8IMY

Form **W-8IMY**

(Rev. September 2016)

Department of the Treasury  
Internal Revenue Service

### **Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting**

- Section references are to the Internal Revenue Code.
- Information about Form W-8IMY and its separate instructions is at [www.irs.gov/formw8imy](http://www.irs.gov/formw8imy).
- Give this form to the withholding agent or payer. Do not send to the IRS.

## U.S. Individuals and Entities:

### W9

**W-9**

Form  
(Rev. December 2014)  
Department of the Treasury  
Internal Revenue Service

### **Request for Taxpayer Identification Number and Certification**

# ***FATCA – Reportable Information and Reporting Process***

## ***Reportable Information***

- Name
- Address
- TIN
- For Controlling Owners of Passive NFFEs – name, address and U.S. TIN of the entity and of the Controlling Owner
- Account balance or value as of 31.12 or immediately before closure
- From 2015 onwards - total gross amount paid or credited to the account during the year

## ***Reporting Process***

### ***Caymans, BVI***

- Portal Registration
- Build and Upload XML File/ Fill Out Manual Form
- Follow Notifications

### ***Israel***

- Open Tax File
- Obtain Smart Card
- Portal Registration
- Build, Zip and Upload XML File
- Nil Reports Required
- Access Electronic Vault for Notifications

## ***FATCA – Penalties by Jurisdiction***

### ***Cayman Islands, BVI***

- Fine of \$5,000 and/or
- In certain cases, imprisonment for a term of 2 years

### ***Israel***

- Not performing due diligence on existing account – NIS 5,000
- Not performing due diligence on new account – NIS 50,000
- Non-reporting or reporting incomplete information – NIS 25,000
- Details of the offense, the offender (if not an individual) and penalty published on the ITA website
- Criminal proceedings

## **UK CDOT (UK FATCA)**

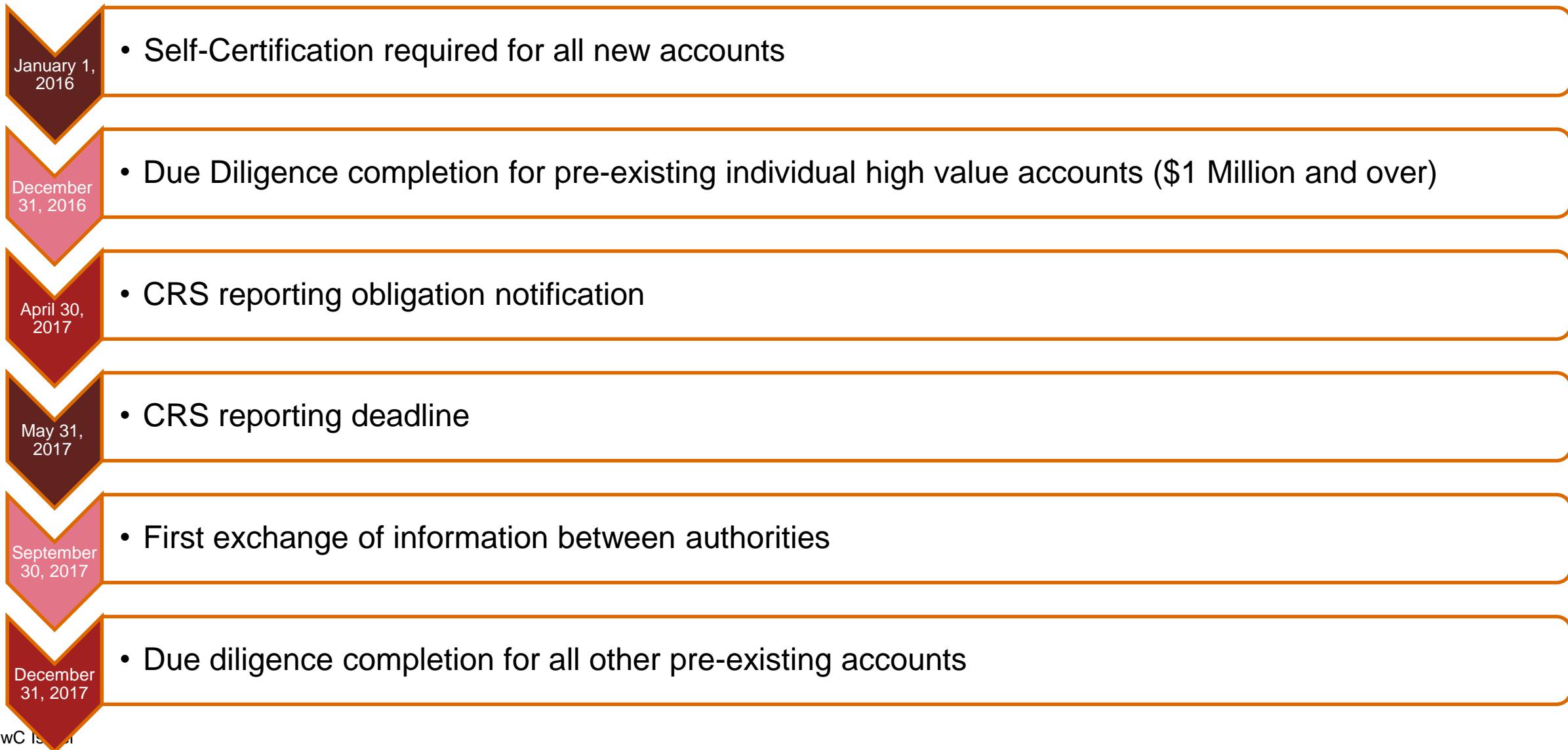
- In 2013, the United Kingdom entered into automatic tax information exchange agreements with its Crown Dependencies and Overseas Territories - Isle of Man, Guernsey, Jersey, Gibraltar, the Cayman Islands, the British Virgin Islands, Bermuda, Montserrat, the Turks and Caicos Islands and Anguilla
- The regime is built upon FATCA agreements between the UK and CDOT countries and the United States, but is based on tax residency, not citizenship
- No withholding under UK FATCA. Sanctions for non-compliance are fines and other penalties imposed by the relevant jurisdiction
- UK CDOT reporting took place in 2016 for years 2014 and 2015. From 2017 UK CDOT will be phased out by the CRS

# CRS - Overview

- The Common Reporting Standard (“CRS”) is the standard for automatic exchange of financial account information (“AEOI”) developed by the OECD and undertaken by over 100 jurisdictions
- CRS is largely based on the approach of FATCA but there are significant differences between the two regimes, most notably due to CRS being based on jurisdiction of tax residence.
- Local tax authorities receive information from their country's financial institutions and provide to the account holder's country of tax residence
- No withholding under CRS, penalties and sanctions are imposed by the relevant jurisdiction



## ***CRS – Timeline (Cayman Islands, BVI)***



# CRS - Forms

## Individuals

### Individual Self-Certification

#### **Instructions for completion**

We are obliged under the Tax information Authority Law, the Regulations, and Guidance Notes made pursuant to that Law, and treaties and intergovernmental agreements entered into by the Cayman Islands in relation to the automatic exchange of information for tax matters (collectively "AEOI"), to collect certain information about each account holder's tax status. Please complete the sections below as directed and provide any additional information that is requested. Please note that we may be obliged to share this information with relevant tax authorities. Terms referenced in this Form shall have the same meaning as applicable under the relevant Cayman Islands Regulations, Guidance Notes or international agreements.

If any of the information below regarding your tax residence or AEOI classification changes in the future, please ensure you advise us of these changes promptly. If you have any questions about how to complete this form, please refer to accompanying guidelines for completion or contact your tax advisor.

Please note that where there are joint account holders each investor is required to complete a separate Self-Certification form.

#### **Section 1: Account Holder Identification**

Account Holder Name	Date of Birth (dd/mm/yyyy)	Place and Country of Birth
<b>Permanent Residence Address:</b>		
Number & Street	City/Town	
State/Province/County	Post Code	Country
<b>Mailing address (if different from above):</b>		
Number & Street	City/Town	
State/Province/County	Post Code	Country

## Entities

### Entity Self-Certification

#### **Instructions for completion**

We are obliged under the Tax information Authority Law, the Regulations, and Guidance Notes made pursuant to that Law, and treaties and intergovernmental agreements entered into by the Cayman Islands in relation to the automatic exchange of information for tax matters (collectively "AEOI"), to collect certain information about each account holder's tax status. Please complete the sections below as directed and provide any additional information that is requested. Please note that we may be obliged to share this information with relevant tax authorities. Terms referenced in this Form shall have the same meaning as applicable under the relevant Cayman Islands Regulations, Guidance Notes or international agreements.

If any of the information below regarding your tax residence or AEOI classification changes in the future, please ensure you advise us of these changes promptly. If you have any questions about how to complete this form, please refer to accompanying guidelines for completion or contact your tax advisor.

#### **PART I: General**

##### **Section 1: Account Holder Identification**

Legal Name of Entity/Branch	Country of incorporation/organisation	
<b>Current Residence or Registered Address:</b>		
Number & Street	City/Town	
State/Province/County	Post Code	Country
<b>Mailing address (if different from above):</b>		
Number & Street	City/Town	
State/Province/County	Post Code	Country

# ***CRS – Reportable Information and Reporting Process***

## **Reportable Information**

- Name
- Address
- Date of birth
- Place of birth
- Jurisdictions of residence and TINs
- For Controlling Owners of Passive NFFEs – name, address, jurisdiction(s) of residence, TIN(s) of the entity, name, address, jurisdiction(s) of residence, TIN(s) date and place of birth of the Controlling Owner
- Account balance as of 31-12
- Total gross amount paid or credited to the account during the year
- Account closure

## **Reporting Process**

### **Cayman Islands, BVI**

- Register with the relevant Tax Authority or
- Submit notification
- Build and upload XML file or
- Fill out manual form, if available
- Nil return required (Caymans)
- Follow notifications

## ***CRS – Penalties (Cayman Islands)***

- Providing false self-certification: \$50,000 - entities, \$20,000 – individuals
- Financial Institution non-compliance: \$50,000
- Criminal proceedings

# Thank you!

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