



The Common Reporting Standard and its main differences from FATCA

Subjective and objective scope and definitions

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Introduction

The CRS has been developed with a strong involvement of the Industry under heavy time pressure*

A consultation process has been on-going since June 2013 under G20 sponsorship

- The Industry was represented by the Business Advisory Group, within the BIAC (Business and Industry Advisory Committee) with representation of Industry associations (ABI, BBA, EBF, FBF,...), banks, asset managers and consulting firms (60 participants).
- 7 sessions of the OECD working group (WP10) between June 2013 and May 2014.



The OECD consultation process led to several key achievements

- Full support of the Industry to the goals of the AEIO**.
- CRS, model CAA*** and commentaries delivered by July 2014.
- Several improvements of the project aiming at ensuring smoother implementation (data model, B1 procedure, etc.,...) .



The strong time pressure has not allowed to run an in-depth cost-benefit analysis

- Full alignment with FATCA hasn't been possible.
- Several features of the CRS will remain very costly to implement.
- Data privacy issues remain a concern of the Industry.



Additional implementation guidelines expected

- Further releases of the CRS are expected to occur on the basis of experience.
- Implementation Guidelines and local regulations need to be published in each participating country.
- Alignment of local implementation will be essential.
- Privacy laws need to be adapted in many countries.
- Implementation timelines remain aggressive.



* CRS: Common Reporting Standard

** AEIO: Automatic Exchange Of Information

*** CAA: Competent Authority Agreement



Jurisdictions in the scope of the AEOI

51 jurisdictions have already signed a CAA, more signatures are expected

▶ 48 jurisdictions have already signed a multilateral CAA for reporting in 2017

- 3 other jurisdictions have signed for reporting in 2018
- 47 more jurisdictions have committed to adopt the AEOI, mostly for a first reporting in 2018

▶ The scope of the AEOI is therefore expected to be considerably broader than the FATCA one (20 to 40 times more reportable accounts)

- Some solutions that may have been robust for FATCA may prove insufficient for the CRS

▶ Differences in AEOI timelines between jurisdictions will impose a staggered implementation of the standard

- Each additional CAA signature will enlarge the scope of the AEOI by adding accounts resident in the new jurisdiction
- Amendments of the data protection regulations may be necessary (as already done in the UK) to permit the collection of tax information for clients resident outside the signed CAA jurisdictions.

▶ Investment Entities in non-participating jurisdictions will be considered as passive NFE (Non-Financial Entity).

- Thus, the signature of new CAAs will force Financial Institutions to re-classify Investment Entities tax resident in the new joining jurisdictions from passive NFE to Investment Entities



Scope of reporting institutions

Reporting institutions are quite similar to the FATCA ones

▶ The scope of reporting institutions is very similar to FATCA

- Custodial Institutions, Depository Institutions, Investment Entities, and Specified Insurance Companies.
 - Though the AEOI and FATCA have the same primary definitions of investment entities, the notion of “professionally managed” entities is narrower under the CRS.
- For instance, the following entities are within the scope of the AEOI: banks, brokers, life insurance companies, funds...
- There is no definition of holding /treasury center in the CRS. These entities were considered as FIs under FATCA and should be considered as Non-Financial Entities (passive NFEs) under the CRS.

▶ Each participating jurisdiction will adapt the list of non-reporting Financial Institutions locally

- Each country is to define a list of low-risk non-reporting institutions which would apply to CAAs concluded by such country.
- Non-Reporting Financial Institutions are similar but not necessarily identical to FATCA.
 - The CRS usually authorizes to rely on FATCA / IGA exemptions (“defined in domestic law as a Non-Reporting FI”).
 - Some Financial Institutions that were not reporting institutions under FATCA can become reporting institutions under the AEOI: local banks with no US client, insurance companies with only de minimis contracts...

▶ Awareness needs to be raised about the very short timeframe for Institutions that were not impacted by FATCA



Scope of reportable clients

Reportable clients determined based on their tax residence, not their citizenship

▶ All clients resident for tax purposes in a “reportable jurisdiction” are potentially reportable

- Under the AEOI, reportable clients are determined solely based on their tax residence, not citizenship.
- While citizenship is a well understood criteria, tax residence is sometimes difficult to determine, hence the self-certification of clients is critical.
- However, Financial Institutions remain responsible for the “reasonableness” of the Self-Certifications.

▶ A client can be reportable in more than one jurisdiction if he is resident for tax purposes in several jurisdictions

- Under FATCA, Financial Institutions only had to consider whether a client was a US client. The CRS requires Financial Institutions to collect all the tax residences of their clients.
- Significant impact on database layout.

▶ The controlling persons of passive Non-Financial Entities (NFE) must be identified

- The CRS requires to identify controlling persons of all passive NFE, even those that are themselves resident in the reportable jurisdiction: this should include reportable controlling persons of US Non-Financial Entities.

▶ Since only accounts have to be reported and no withholding is to be implemented, no due diligence is necessary for counterparties (clients without account)



Scope of reportable accounts

AEOL scope of reportable accounts is largely similar to the FATCA one

- ▶ **The scope of reportable accounts is similar to FATCA: depository accounts, custodial accounts, equity or debt interests, cash value insurance and annuity contracts**

- ▶ **Excluded accounts are similar but not necessarily identical to FATCA**
 - Categories of excluded accounts are similar to FATCA: retirement accounts, tax-favoured accounts, term life insurance contracts, estate / escrow accounts,... with a possibility to rely on FATCA / IGA exemptions
 - However, some details may be different: maximum contribution of \$1m on retirement accounts, coverage period of life insurance contracts to end before the insured individual attains age 90, etc.

- ▶ **There is no de minimis rule for new accounts nor for pre-existing individual accounts; however, Entity accounts below 250,000 USD are not subject to review**
 - There is also no de minimis rule for cash value insurance contracts
 - In addition, the exclusion of pre-existing insurance contracts which are not distributed to non-residents is unlikely to work in Europe.

- ▶ **Financial Institutions may have to report some accounts to several jurisdictions**
 - An account will have to be reported in multiple jurisdictions if the account holder is tax resident in more than one jurisdiction.
 - If an account presents indicia related to certain jurisdictions and if these indicia haven't been cured with the appropriate documentation, the account will be reportable in all such jurisdictions.



Reporting

Scope of account information to be exchanged

▶ **AEIO reporting requirements are substantially the same as provided in FATCA**

- Information to be exchanged for reportable accounts is:
 - name, address, Taxpayer Identification Number (TIN) and, in the case of an individual, the date and place of birth,
 - account number, account balance or value as of the end of the calendar year.
- Additionally, in the case of any Custodial Account:
 - the total gross amount of **interest, dividends, other income** generated with respect to the assets held in the account,
 - the total **gross proceeds** from the sale or redemption of property paid or credited to the account.
- In the case of any Depository Account, the total gross amount of interest paid or credited to the account.
- For any other type of account (life insurance, stakes of a fund...), the total gross amount paid or credited to the Account Holder, including the aggregate amount of any redemption payment.

▶ **Many differences require careful analysis of the detailed requirements and will trigger additional implementation challenges**

- When an account is closed, the Financial Institution has to report the fact that the account has been closed, instead of the closing balance.
- The treatment of accounts whose tax residence changed during the year : when an account is identified as a Reportable Account based on its status at the end of the calendar year, information with respect to that account must be reported as if it were a Reportable Account throughout the full calendar year.
- The place of birth of individuals must be collected and reported (if required under domestic law and available in the systems), whereas it is not required under FATCA.
- The circumstances requiring to report the date of birth are different under FATCA and under the AEIOI.
- No reporting regarding Non-Participating FFIs (no notion of Non-Participating FFI in the CRS).



Main attention points

▶ The CRS extends systematic Self-Certification to all accounts, even for domestic resident customers

- Under the AEOI, the Self-Certification is mandatory for clients on-boarding. For FATCA, many IGA jurisdictions accept indicia search as an alternative for Self-Certification.
- New accounts for pre-existing clients: need to implement Due Diligence at account level (not only at client level).
- Sometimes, some client on-boarding might require the client to fill both a Self-Certification for AEOI purposes and a W8/W9 form for FATCA purposes.

▶ The quality of existing tax residence data is critical for pre-existing Lower Value Accounts due diligence

- Possibility to rely on the “B1 procedure” for LVA individual accounts stock review. This procedure consists in relying on the account holder current residence address present in the FI database to determine his tax residence. The current residence address has to be based on acceptable documentary evidence.

▶ Pre-existing High Value Accounts due diligence could be more demanding than for FATCA

- Exception for “sufficient database” (all indicia present in the database) has to be carefully justified.
- Annual Relationship Manager inquiry maintained and confirmed.

▶ A comprehensive Compliance Framework needs to be established on a basis similar to FATCA but on a larger scale

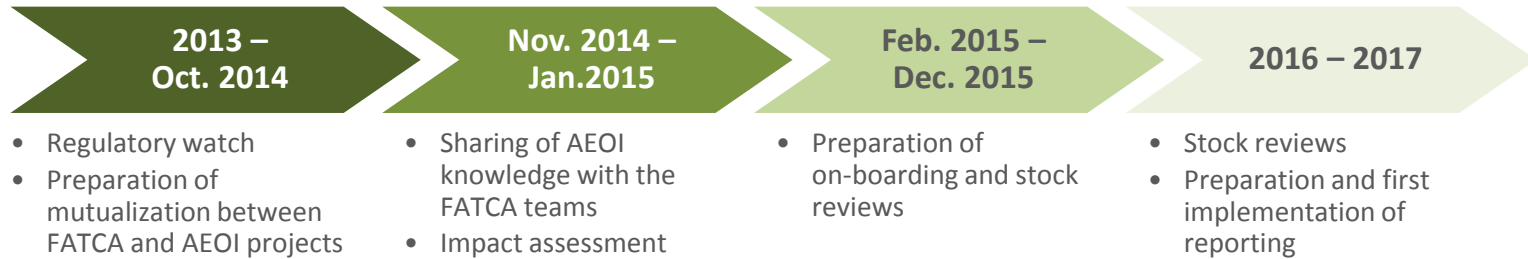
- Unlike FATCA, no specific certification is expected and no Responsible Officer needs to be appointed.
- Effective implementation of, and compliance with, the CRS is the responsibility of implementing jurisdictions (rules, administrative procedures, sanctions for non compliance...) and is similar to the IGA one.



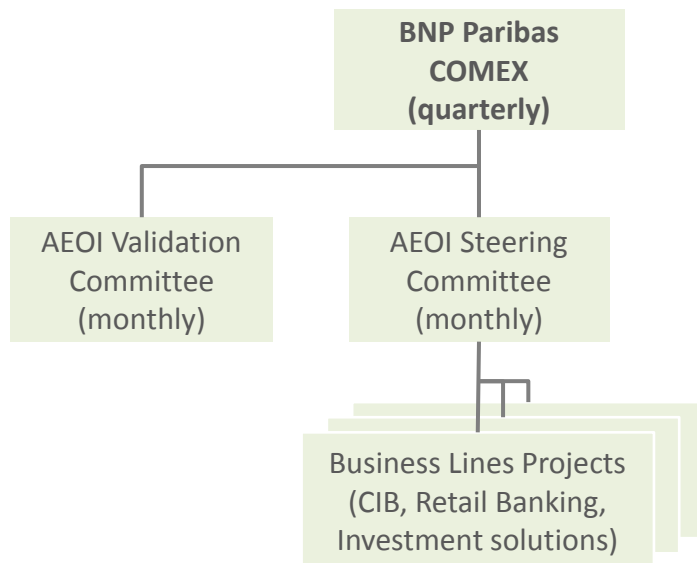
BNP Paribas AEOI Project

BNP Paribas has already started implementing the AEOI

▶ The AEOI project has just been launched to meet an aggressive timeline



▶ The AEOI governance is mutualized with the existing FATCA governance



▶ Identified opportunities of mutualization with FATCA

- Mutualization of the on-boarding process: development of a Self-Certification template common to FATCA and AEOI.
- Mutualization of stock reviews when and where the timelines and regulations allow it.
- Mutualization of FATCA and AEOI reporting.

▶ Implementation on a per jurisdiction basis

- Follow-up on CAA signatories.
- Regulatory watch and analysis of local guidelines.



Conclusion

- ▶ **The scope of the AEOI is much broader than the scope of FATCA in terms of number of reportable jurisdictions and volume of reportable accounts.**

- ▶ **Within each adopting jurisdiction, the scope of reporting institutions, reportable clients and reportable accounts is quite similar to FATCA, but still present differences that could have strong operational impact.**

- ▶ **The early publication and alignment of local guidelines and regulations are critical to a successful, efficient and timely implementation of the AEOI in participating jurisdictions.**

