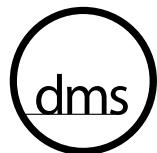


Webinar: Common Reporting Standard

Game Plan for Compliance

December 10, 2015



Offshore Investment Services Ltd.

Schulte Roth&Zabel



**KLEINBERG
KAPLAN**



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Current Status

Cayman Islands

	U.S. FATCA	U.K. FATCA /CDOT	CRS
Exchange Scope/ Reporting	Identify and report “Specified US Persons”	Identify and report “Specified UK persons”	Identify and report certain tax residents in CRS participating jurisdictions
Reporting	<ul style="list-style-type: none"> • Deadline - May 31, 2016, reporting for 2015 • Gross amount paid/credited incl. aggregate amount of any redemption payments for 2015 in 2016 	<ul style="list-style-type: none"> • Deadline - May 31, 2016, reporting for 2014 and 2015 • Account balances for 2014 • Gross amount paid/credited incl. aggregate amount of any redemption payments for 2015 in 2016 	<ul style="list-style-type: none"> • Deadline - May 31, 2017 reporting for 2016 • Gross amount paid/credited incl. aggregate amount of any redemption payments for 2016 in 2017
Withholding	Model 1 IGA – no withholding required; only reporting, penalties under domestic law	No withholding required/ penalties under domestic law	No withholding required/ penalties under domestic law
Registration	Register on IRS website and obtain Global Intermediary Identification Number – (GIIN)	No additional UK registration; however local ID if no GIIN obtained	No additional registration - GIIN or local Tax Identification Number – (TIN)
Tax documentation	Form W-8/W-9s and/or Self-Certification	Self-Certification	Self-Certification

Current Status

U.S. FATCA

- Funds obtained new U.S. W-9 and W-8 forms from investors.
- Information was reported to the IRS or to the local Model 1 countries and then to the IRS.
- Any actual withholding done?
- Fund documents were updated – offshore PPMs with risk factor and disclosure; subscription agreements with representation regarding FATCA and ability to disclose.

Current Status

U.K. FATCA

- U.K. FATCA certifications were added to offshore subscription agreements.
- Offshore PPMs included broader risk factor and disclosure.
- Reporting to be done in 2016 with respect to 2014 and 2015.
- What about 2016? Will U.K. FATCA still exist?

Scope of CRS

Common Reporting Standard (CRS) aka Global FATCA

- OECD developed Standard for automated exchange of financial information on a global level to increase tax transparency, prevent offshore tax evasion and maintain the integrity of tax systems.
- Global FATCA: CRS builds on the concepts of FATCA by imposing obligations on Financial Institutions to undertake due diligence and report account holders.
- The scope of CRS is much more far reaching than FATCA.
- Financial institutions may be exempt from complying with FATCA but may not be excluded under CRS.
- Standard needs to be implemented in local law.

Scope of CRS

Fundamentals

- Explicit Objective was to base the Standard on a Model 1 IGA to maximize consistency.
- While large portions of the Standard precisely mirror the IGA, there are areas of differences either due to removal of US specifications or certain approaches not suitable in multilateral context.
- Model Competent Authority Agreement (CAA) – connects the CRS to the legal basis for exchange, specifying the financial information to be exchanged.
- Common Reporting Standard (CRS) – contains the due diligence rules to collect and then report the information.
- The Commentaries – interpretation of both CAA and CRS.
- XML Schema – technical solutions for exchanging the information.
- Local Regulations and guidance.

Who is impacted?

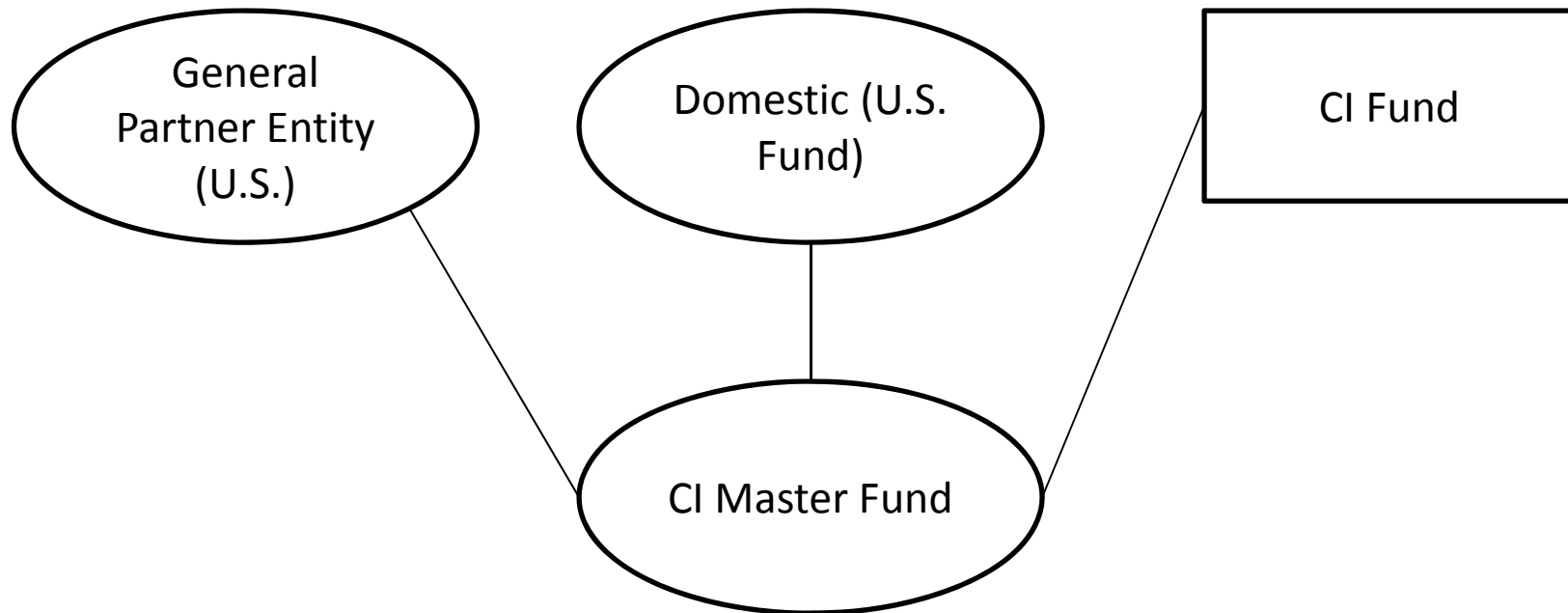
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2017 FOR 2016

Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Curacao, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom



Albania, Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Costa Rica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Marshall Islands, Macao (China), Malaysia, Monaco, New Zealand, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Turkey, United Arab Emirates, Uruguay

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 FOR 2017

Impact on offshore and U.S. funds and their investors



Legend for U.S. federal income tax purposes:

-  - Partnership
-  - Corporation

Impact on offshore and U.S. funds and their investors

Key Differences between CRS and U.S./U.K. FATCA:

- Tax residency
 - CRS is based on tax residence, while US FATCA is based on the broad concept of 'Specified US Persons' (certain persons could be reportable for both FATCA and CRS purposes – i.e., U.S. citizens that are tax residents abroad).
- Non-Reporting FIs
 - Certain categories of Non-Reporting FIs have been removed from CRS (i.e., Sponsoring Entity) meaning a greater number of entities will have CRS registration and reporting requirements.
- Financial Account includes interests in entity that is regularly traded on an established securities market.
- Peer review process
 - Global Forum will monitor that its members fully implement the standard of transparency and exchange of information they have committed to implement.

Impact on offshore and U.S. funds and their investors

Key Differences between CRS and U.S./U.K. FATCA:

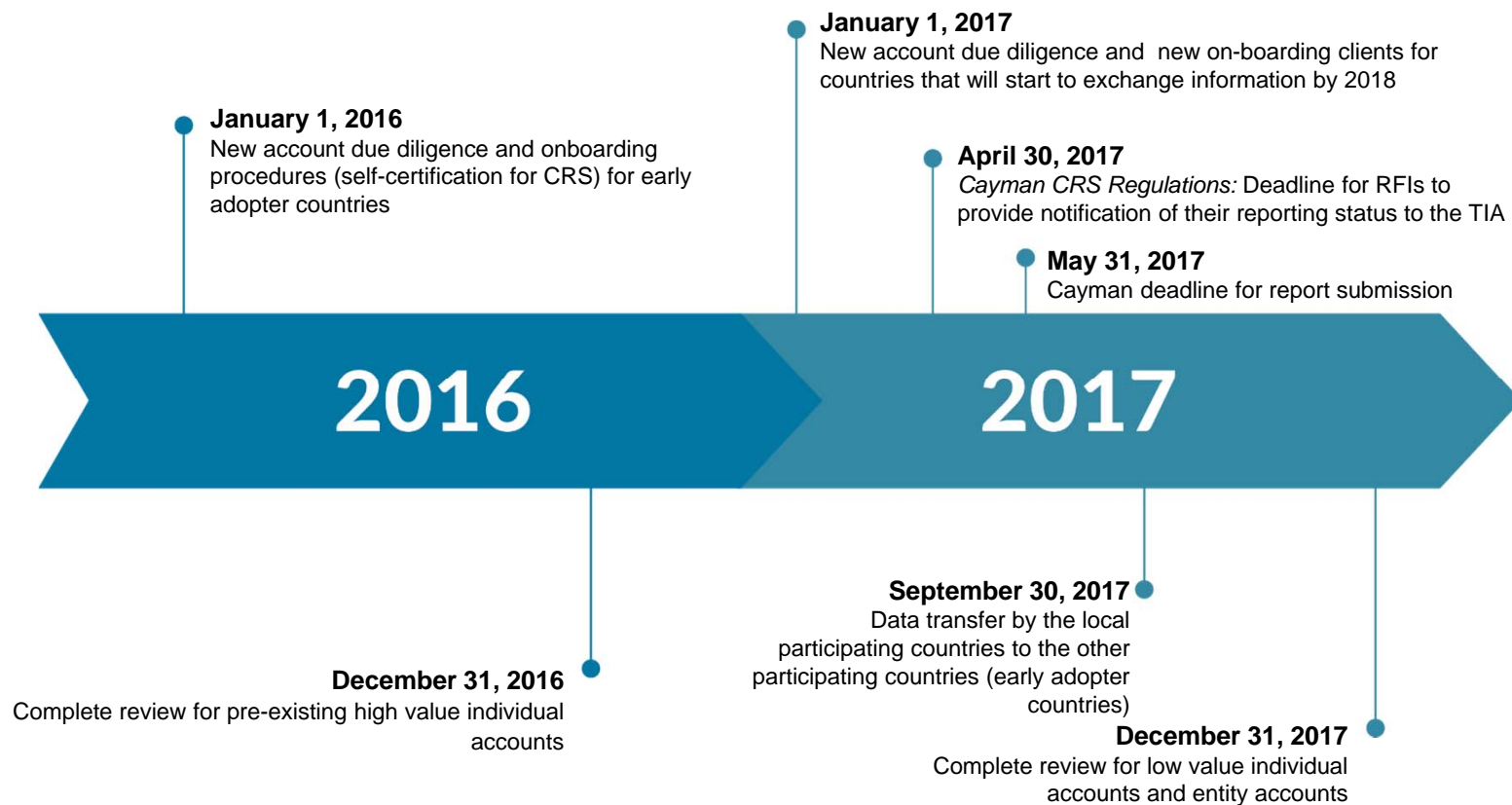
- U.S. Investors – Brave new world (some similarities to U.K. FATCA/CDOT)
 - U.S. Investment Entities are treated as Passive NFEs
 - Need to disclose Controlling Persons as part of the due diligence process
 - Example: U.S. hedge funds and private equity funds, mutual funds, REITs
 - Non-governmental Pension Funds?
 - Active NFEs
 - Charities/Private Foundations (must satisfy certain qualifications)
 - Governmental Entities (including non-CRS State Pension Funds?)
 - IRA Accounts
 - Custodian as Account Holder?
 - Nominee/Custodial Investments
 - U.S. Nominee/Custodian?
 - Non-Financial Institutions

Impact on offshore and U.S. funds and their investors

Key Differences between CRS and U.S./U.K. FATCA:

- Non-U.S. Investors – Broad similarity with U.S. FATCA
 - Note differences in definitions of FI/FFI and NFE/NFFE
 - Expanded scope of Passive NFEs: Non-CRS Investment Entities
- Due Diligence Complexity and Self-Certifications

Next Steps - Timeline




Next Steps

What Cayman Islands Funds need to do now

- Familiarize yourself with CRS, its commentaries and local jurisdiction requirements and ensure your responsible service provider is also taking care also of CRS obligations.
- Update subscription agreement when the Cayman Islands issues a CRS Self-Certificate.
- Update Offering Memorandum.
- Obtain CRS Self-Certificate from existing investors if necessary.
- Respond to requests from counterparties or provide proactively.
- Review contracts with administrators or other applicable service providers to make sure CRS is covered.



Questions?



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