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# Automatic Exchange of Information Update: FATCA Reporting, Audit Readiness and CRS Preparation

## Foreign Account Tax Compliance Act (FATCA)

FATCA has been live for almost one year with Irish Revenue reporting due at the end of June 2015, and reporting to HMRC and Cayman TIA at the end of May 2015. Are you ready to report and be subject to audit?

### FATCA Reporting

- The ROS website has an offline validator for FATCA reports and the Irish Revenue are currently accepting reports for the year ended 31 December 2014 via ROS.
- While other Model 1 Intergovernmental Agreement (IGA) jurisdictions including the UK have recently confirmed that only limited or no nil returns will be required, Irish Revenue are requiring nil returns from all Financial Institutions (FIs) with no reportable accounts. This practice is in line with Irish Revenue's general tax compliance program and believed to be the most efficient way to track ongoing FATCA compliance.

### FATCA Guidance and Audit Readiness

- Irish Revenue has indicated that updated Guidance Notes will not be issued before the first reporting date in Ireland of 30 June, but rather will come later this year. To address various clarifications or changes in guidance, Revenue have decided on the establishment of an FAQ section of their Automatic Exchange of Information website to include responses to questions that have been submitted by industry bodies. This process will enable more regular communication on FATCA issues.
- Irish Revenue is expected to implement an operational and systems compliance audit program for FATCA to include procedures and account classification testing. Broad regulations under the Taxes Consolidation Act 97 applicable to filings with Revenue are also applicable to FATCA filings.

### Change to Financial Institution Definition

- Irish Revenue have recently indicated that the Relevant Treasury and Holding Company categories of Financial Institution will no longer be considered to be Financial Institutions, but rather, they will be considered Non-Financial Foreign Entities (NFFEs). The Regulations will be updated to reflect this detail in due course.



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## Common Reporting Standard (CRS)

The OECD (Organisation for Economic Co-operation and Development) Common Reporting Standard (CRS) is expected to take effect from 1 January 2016 in Ireland and all other early adopter countries without delay.

Enabling legislation for CRS was included under Ireland's Finance Act 2014, with signing of Regulations required to provide a legal basis. Irish Revenue has indicated CRS Regulations will be released in due course, however, as there will be limited deviations from the OECD Standard, Revenue expect industry to proceed with compliance preparation immediately and urge Financial Institutions not to wait for these regulations before beginning to consider and implement CRS requirements.

The OECD released the full Standard for Automatic Exchange of Financial Account Information in Tax Matters in July 2014. The Standard provides for annual automatic exchange between governments of financial account information, including balances, interest, dividends, and sales proceeds from financial assets, reported to governments by financial institutions and covering accounts held by individuals and entities, including trusts and foundations. It sets out the financial account information to be exchanged, the financial institutions that need to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions.

Irish Revenue has plans to require a separate registration for CRS, similar to the US Internal Revenue Service's Global Intermediary Identification Number (GIIN) registration under FATCA. This will enable Irish Revenue to track compliance.

Though similar in nature to FATCA, the rules under CRS are broader and more far reaching. Certain institutions that were previously exempt or deemed compliant under FATCA, such as Credit Unions, are now brought in scope for CRS. Therefore, institutions will need to re-evaluate their classification under CRS and may not rely on FATCA classification.

In addition, due to a different and much greater volume of data collection and reporting, operational procedures and systems capabilities must be broadened to accommodate the requirements of CRS. Thus, a gap analysis to leverage FATCA implementation should currently be underway at all Financial Institutions as defined under CRS.

### CRS Implementation for Exchange Among EU Member States

In December 2014, the Economic and Financial Affairs Council (ECOFIN), a configuration of the Council of Europe which is made up of the economics and finance ministers from all European Union (EU) Member States, adopted an EU Directive extending the scope for the mandatory automatic exchange of information between tax administrations. This proposal brings interest, dividends and other income, as well as account balances and sales proceeds from financial assets, within the scope of the automatic exchange of information. The directive adopted in December amends the existing directive 2011/16/ EU on administrative cooperation (the DAC) in the field of direct taxation.

The DAC provides a framework for mutual assistance between EU Member States and provides for the mandatory automatic exchange of information on certain categories of income and capital held by taxpayers in Member States other than their state of residence. The information released by the European Commission states that the DAC will "mirror the global standard of automatic information exchange agreed by the G20. In practice, this means that, from 2017, Member State tax authorities will automatically exchange information with each other on most categories of income and capital held by private individuals and certain entities."

The revised DAC is regarded by ECOFIN as effectively achieving the aim of the revised EU Savings Directive (EUSD) because the information and payments covered are much broader than those required under EUSD. In this regard, at the request of ECOFIN, the Commission has prepared a proposal for the abolition of EUSD. Assuming this is accepted, final EUSD reporting by Irish paying agents will be in 2016, thereby removing duplicative reporting.

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## Contact us

At EY in Dublin, we have a dedicated US and Global Tax Information Reporting team closely tied into EY's Global Centre for Excellence on FATCA and CRS. If you have any questions in relation to the above or would like to speak to us about your Tax Information Reporting requirements, please contact our team using the details in the sidebar overleaf.

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