

Frequently Asked Questions

These frequently asked questions (“FAQs”) have been prepared to assist Reporting Financial Institutions (“RFIs”) in completing their annual reporting obligations under the Common Reporting Standard (“CRS”). In preparing the FAQs, the Financial Crime and Cyber Crime Prevention Department (“FCCPD”) has considered real-life scenarios and issues previously raised and addressed concerns where additional clarification may be helpful.

These FAQs do not constitute legal advice and should not be treated as a substitute for specific advice concerning any individual situation. Any action taken upon the information provided in these FAQs is strictly at your own risk.

The Abu Dhabi Global Market (“ADGM”) Financial Services Regulatory Authority (“FSRA”) will not be liable for any losses and damages in connection with the use of, or reliance on, the information provided in these FAQs. Where there is any inconsistency between any statements made in this document and any relevant Laws, Rules or Guidance, the Laws, Rules, and Guidance will prevail. This document will be amended, as appropriate, as we become aware of any new or changing issues.

We recommend that all Entities seek appropriate tax and legal advice, including where they need assistance in understanding their obligations under CRS and the Foreign Account Tax Compliance Act (“FATCA”) respectively.

Please note that while the CRS and FATCA regimes and classifications might be similar, there are significant differences.

Please ensure that you read the entity definitions mentioned throughout this document and avoid assuming that if you have one classification under CRS, you can use the same classification under FATCA.

You may refer to the FATCA FAQ for FATCA related information.

A. LEGISLATION**1. What is CRS?**

CRS was developed in response to the G20 request and approved by the Organisation for Economic Co-operation and Development (“OECD”) 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. It sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, and standard due diligence procedures to be followed by financial institutions.

A list of the Reportable Participating Jurisdictions can be found here: [Reporting Participating Jurisdictions.pdf](#)

The United Arab Emirates (“UAE”) committed to implementing the CRS, with the first exchange taking place in September 2018.

- UAE CRS Guidance Notes can be found here [UAE CRS Guidance Notes](#)
- Additional information from OECD on CRS can be found here [Organisation for Economic Co-operation and Development CRS](#)
- ADGM CRS Regulations can be found here [ADGM CRS Regulations](#)
- Please refer to [OCED iLibrary](#) for the Second Edition of Standard for Automatic Exchange of Financial Account Information in Tax Matters.

2. Which Authority oversees the CRS Implementation in the UAE?

The Ministry of Finance is the UAE Competent Authority. The following authorities are appointed as the Regulatory Authorities for the purposes of implementing the provisions of the UAE CRS Regulations:

1. Central Bank in respect of a Financial Institutions subject to its supervision under applicable laws and regulations of the Central Bank;
2. Securities & Commodities Authority in respect of a Financial Institution subject to its supervision under applicable laws and regulations of the Securities & Commodities Authority;
3. Insurance Authority in respect of a Financial Institution subject to its supervision under applicable laws and regulations of the Insurance Authority;
4. FSRA is the designated regulatory authority within the ADGM in respect of a Financial Institutions subject to its supervision under applicable laws and regulations of the FSRA including the Common Reporting Standard Regulations 2017;
5. Registrar of Companies (“ROC”) is the designated regulatory authority in respect of CRS reporting for Financial Institutions under applicable laws and regulations in the DIFC; and
6. Ministry of Finance in respect of any Financial Institution not otherwise regulated by any of the aforementioned Regulatory Authorities.

3. Which entities are Financial Institutions under CRS?

- a. Custodial Institutions
- b. Depository Institutions
- c. Investment Entities
- d. Specified Insurance Companies

RFIs are Financial Institutions that are not a Non-Reporting Financial Institutions (see below).

4. What is a Non-Reporting Financial Institution (“NRFI”)?

NRFIs for the purposes of CRS are broadly defined as:

- a. Governmental Entity, International Organization or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
- b. Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organization or Central Bank; or a Qualified Credit Card Issuer;
- c. an Exempt Collective Investment Vehicle;
- d. Trust to the extent that the trustee of the trust is a Reporting FI and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.

For the purposes of understanding whether or not you have reporting obligations under CRS, generally you need to establish if you meet the definition of a Financial Institution (if not, you don't have reporting obligations).

5. What is a Non-Financial Entity?

Entities that do not fit the definition of a Financial Institution are considered Non-Financial Entities (“NFE”). These are also referred to as non-Financial Institutions.

6. What penalties are imposed on Financial Institutions for failure to obtain a valid self-certification and/or validate such self-certification?

A fine in the amount of Dirhams (1,000) one thousand shall be imposed on any FI who opens a New Account without obtaining a valid self-certification and/or failing to validate such self-certification.

7. What penalties are imposed on Controlling Persons or Account Holders for the provision of a false self-certification?

A fine in the amount of Dirhams (20,000) twenty thousand shall be imposed on any Account Holder or Controlling Person, as the case may be, if the self-certification that is required to be submitted by such Account Holder or Controlling Person to the FI contains any inaccurate or incorrect information and the Account Holder or Controlling Persons knows or should have known that the information provided is inaccurate or incorrect.

8. What is a CRS Reportable Account?

The Term Reportable Account¹ means a Financial Account maintained by an RFI and held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Persons.

9. Who or what is a Reportable Person?

Depending on the customer's classification and where they are resident for tax purposes, they may be a Reportable Person. That means the account details will be reportable to the relevant authority in the UAE when the account is held in the UAE.

This table sets out some of the types of Customers and whether their accounts would usually be Reportable Accounts under CRS. This is a summary overview only. It applies when the accounts are Financial Accounts, and the relevant Reportable Person in respect of that account is tax resident in a jurisdiction outside the UAE, other than the United States of America (USA).

Customer Classification	Is the Customer's Account Reportable
Financial Institution	Accounts of Financial Institutions usually aren't reportable, irrespective of where they're resident for tax purposes.
Active NFE	<p>The account of an Active NFE tax resident in a jurisdiction other than the UAE or USA will be reportable unless it is a:</p> <ul style="list-style-type: none"> • Government Entity. • Regularly traded or Related Entity of such; • Central Bank; • International Organisation <p>These terms are all defined in the CRS.</p>
Passive NFE	The account of a Passive NFE will be reportable depending on the Tax residency status of its Controlling Persons.

¹ Reportable Account is fully defined in the in the UAE Guidance Notes for the Common Reporting Standards UAE.

B. REPORTING BY RFIs**10. What is the frequency of reporting?**

CRS reporting is required annually and covers the period from 1 January to 31 December of the previous year.

11. What are the due diligence requirements under CRS?

RFIs must apply due diligence procedures and collect documentation to identify whether financial accounts they maintain are reportable pursuant to CRS. This means that all RFIs must request account holders (and, where relevant, Controlling Person(s) of a Passive NFE Account Holder) to provide a completed CRS Self Certification Form ("SCF") together with other necessary evidence to support adequate due diligence prior to account opening.

12. What format should be used for SCFs?

There is no standard format required. Each RFI is responsible for developing their own appropriate SCFs. For further information and guidance from OECD on SCFs for Individuals, please refer to [Individuals Form OECD](#)

For further information and guidance from OECD on SCFs for Entities, please refer to [Entities Form OECD](#)

13. Are UAE RFIs required to perform due diligence procedures on account holders from all jurisdictions?

Yes, UAE RFIs must do due diligence on all account holders to assess their tax residency. The UAE has opted for the "widest approach" to CRS which means that RFIs must conduct their relevant due diligence obligations for all accounts.

14. What information is requested in the current CRS Annual Report?

This information may change from time to time as prescribed by MOF and at minimum the below may be requested.

- Full names as per passport / Incorporation Certificate
- Current Residential Address / Business address
- Date of Birth and Place of Birth / Registration Number
- Tax Identification Number ("TIN")
- Account Balances at the end of the calendar year

15. Do all RFIs have to report under CRS?

Yes, all RFIs must report under CRS via the AEOI Portal.

16. If the RFI does not have any reportable accounts, should they still submit a report?

Yes, an RFI with no reportable accounts will need to file a report using the 'Nil Return' option on the AEOI Portal.

C. GENERAL QUESTIONS**17. What does this mean for a RFI?**

Under the CRS Regulations, you must establish where your customers are resident for tax purposes. RFIs that maintain financial accounts are required to collect and report information on an annual basis related to CRS reportable accounts, which is then exchanged with CRS exchange partner jurisdictions.

18. Do I have to submit an entity Self-Certification Form for my ADGM Entity?

Yes, most entities are required by MOF and the ADGM to submit an entity self-certification of its classification (as an RFI or otherwise) under CRS to the ADGM via fatca.crs@adgm.com once an entity is operational or licensed. The declaration made by the entity on the form will remain valid until any change in circumstances which requires the entity to provide an updated SCF to ADGM.

19. What is Undocumented Account?

An account is only accepted as an Undocumented Account where the account opening date is before 1 January 2017. An Undocumented Account can only belong to an individual and not to an entity.

20. How is Tax Residency Defined?

Each RFI is responsible for determining the tax residency of each of its customers based on its due-diligence procedures and from reviewing the SCF's it requires account holders to complete.

Current MOF Guidance requires that enhanced due diligence procedures be carried out in respect of valid UAE residency visa with a term of five (5) years or more. The MOF suggests that the following questions are included as part of enhanced due diligence:

- Did you obtain UAE tax residency under a residency by investment scheme?
- Are you a resident in any other jurisdiction(s)?
- In which jurisdiction(s) have you been subject to personal income tax during the previous calendar year?

21. Should RFIs require additional information from account holders that are Entities at the opening stage?

Entity account holders should be required to provide their name, address, jurisdiction(s) of tax residence and TIN(s) (where applicable), as well as information on relevant Controlling Person(s). For all Passive Entities the RFI is mandated to request a SCF from each Controlling Person.

22. How do you Identify the account holder?

The “Account Holder” is the person identified as the owner or holder of the account by the Financial Institution maintaining the account. This is regardless of whether that person is a flow-through Entity. For example, suppose a Financial Institution has listed a trust or an estate as the holder or owner of a Financial Account. In that case, the trust or estate is the Account Holder rather than the trustee or the trust’s settlors or beneficiaries. However, the settlor(s) or beneficiaries may be Controlling Person(s) for the purposes of CRS.

If a Financial Institution has listed a partnership as the holder or owner of a Financial Account, the partnership is the Account Holder rather than the people in the partnership.

However, where an entity or individual holds a Financial Account on behalf of another Person, the Financial Institution must usually treat that Person as the account holder, rather than the agent, custodian, nominee, signatory, investment advisor or intermediary.

This area can be complicated and RFIs should ensure they read, understand and take advice on the CRS.

23. How do I identify and verify the TIN Numbers submitted by my customers?

The OECD website contains information about various TIN Numbers. It further provides an overview of domestic rules governing the issuance, structure, use and validity of Tax Identification Numbers (“TIN”) or their functional equivalents. [Tax identification numbers \(TINs\) OECD](#)

24. Can a third-party service provider fulfil the CRS due diligence and reporting obligations on behalf of RFIs?

ADGM has allowed for RFIs to use third party service providers to fulfil the reporting and due diligence obligations imposed on such RFI (e.g., fund managers on behalf of funds and trustees on behalf of trusts), but these obligations remain the ultimate responsibility of the RFI. Any failure by a third-party service provider would be regarded as a failure by the RFI.

25. What are the requirements for an RFI applying for cancellation of their Financial Services Permission (“FSP”)?

To address the CRS reporting year, the RFI will need to provide a letter signed by the SEO documenting the details of the reportable accounts for that year.