

# From FATCA to CRS: impact on family offices

## CRS impact

The impact of a new framework to automatically exchange information for tax purposes – the CRS as issued by the Organization for Economic Co-operation and Development on 21 July 2014 – is broader in scope as compared with FATCA. Instead of solely identifying US citizens or residents, a financial institution will be required to identify the residency of all their reportable customers. More than 101 countries have already committed to adhering to the CRS. Of these, more than 50 are committed to the first exchange in 2017.

For US family offices, with foreign accounts or direct investments into foreign entities, a CRS self-certification may be required, even though the US has not adopted CRS. Family offices may be concerned with what information is being collected and where it will be disclosed.

## Recent trends: global tax transparency and its effect on private structures

In recent years, the global tax transparency landscape has changed significantly. The US Foreign Account Tax Compliance Act (FATCA), which came into force 1 July 2014, was a real game changer and paved the path for subsequent and more global regimes, notably the Common Reporting Standard (CRS).

In practice, these new trends mean that people and entities all over the world are impacted by FATCA and CRS and should be classified accordingly. However, a FATCA and CRS classification are not always identical.

Structures used by individuals (such as asset-holding vehicles, foundations and trusts) could fall within the definition of foreign financial institution (for FATCA purposes) and financial institution (for CRS purposes) with significant administrative burden. Alternatively, structures could be classified as nonfinancial entities (NFE), which may require disclosure of information on controlling persons, which can include a wide range of individuals, and of values of accounts and assets.

## How can EY help?

Determine FATCA/CRS status

Determine scope of FATCA/CRS obligations/assistance with compliance

Certification of FATCA/CRS status (assistance with self-certification or IRS forms)

Identify payments subject to withholding for FATCA/CRS

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## What is the CRS?

**CRS is a global standard for automatic and multilateral exchange of financial information between tax authorities.**

- ▶ CRS will require financial institutions in 101 countries to disclose to local tax authorities information (e.g., name and account value) about account holders and their controlling persons (e.g., a family trust and its beneficiaries).
- ▶ This private information about controlling family members will be disclosed to the local government of the financial institution (FI) and the family member's country of residence.
- ▶ Accounts and direct investments in CRS countries through entities not classified as FI will be required to complete self-certification. Self-certification requires the disclosure of information on controlling persons.




## Who is in scope?

- ▶ Family offices
- ▶ Family trusts and trust companies
- ▶ Controlling persons of passive nonfinancial entities
- ▶ Investment entities
- ▶ Foundations
- ▶ Custodial institutions
- ▶ Depository institutions
- ▶ Certain insurance companies

## Key dates

Early adopters 1 Jan 2016	New account opening procedures must be in place; preexisting account review begins.
Late adopters 1 Jan 2017	
Early adopters 31 Dec 2016	Due diligence for identifying high-value preexisting individual accounts must be completed.
Late adopters 31 Dec 2017	
Early adopters March 2017	First CRS reporting by financial institutions will be made.
Late adopters TBD (likely March 2018)	
Early adopters Sept 2017	Exchange of information between competent authorities begins.
Late adopters Sept 2018	
Early adopters 31 Dec 2017	Due diligence for identifying lower-value preexisting individual accounts and entity accounts must be completed.
Late adopters 31 Dec 2018	

## Impact on family office

<b>Privacy: personal information about family members will be disclosed.</b> 	<b>Burden of compliance: certain entities may have significant compliance requirements.</b> 	<b>Impact of noncompliance: the cost of noncompliance will be steep.</b> 
<ul style="list-style-type: none"> <li>▶ Any controlling person (typically having direct or indirect ownership of more than 25%) with an account or investment in a CRS-participating country is required to be disclosed by the FI.</li> <li>▶ The FI will report the information about the controlling person to its tax authority if a controlling person is a resident of a CRS-participating country.</li> <li>▶ Such tax authority will further share this information with the controlling person's home country.</li> <li>▶ Information that will be reported includes:               <ul style="list-style-type: none"> <li>▶ Name, address and tax residence of account holders and controlling persons</li> <li>▶ Account balance (e.g., net asset value of a trust)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Certain entities in a family structure may be classified an investment entity or other type of FI.</li> <li>▶ FIs are required to register, perform due diligence on account holders and report information.</li> <li>▶ FIs common to a family structure include entities with trading activities (purchase and sale of financial instruments for own account or for account of the family members), portfolio management, investment advice, etc.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Sanctions are developing under local law.</li> <li>▶ Noncompliant entities and individuals will not be able to open or maintain accounts and other financial relationships.</li> </ul>

## Some questions to gauge your CRS readiness

Steps toward effective succession	Considerations	Readiness level		
		Low	Medium	High
Focus on CRS compliance	<b>Jurisdictions:</b> Do you know in which countries family members have investments?			
	<b>Information disclosure:</b> Are you aware of what information about family members and entities will be reported and to whom?			
	<b>Entity information:</b> Do you have an organizational chart and current information about entities and their activities, investments, ownership and residence of owners?			
	<b>Self-certifications:</b> Do you have a method for completing, collecting and validating documentation?			
	<b>Classification:</b> Are you aware of the CRS classification of each entity within your family structure (i.e., FI, passive NFE and active NFE) and the resulting requirements?			
Explore exposure	<b>Privacy:</b> Is the family prepared for disclosure of its accounts values and controlling persons to various governments?			
Implement CRS strategy	<b>Clear approach:</b> Have you determined your strategy to manage global transparency?			
	<b>Stakeholders:</b> Have you discussed the strategy with stakeholders and/or family?			
	<b>Tax amnesty/remediation:</b> Have you identified any noncompliant persons or entities and a strategy for remediation?			

## Next steps a family office should take

CRS classification and requirements for entities	Identify impact of disclosure	Entity documentation
<ol style="list-style-type: none"> <li>Classify entities <ul style="list-style-type: none"> <li>▶ Financial institution</li> <li>▶ Passive non-FI</li> </ul>                     Or <ul style="list-style-type: none"> <li>▶ Active non-FI</li> </ul> </li> <li>Implement requirements or identified reporting FIs: <ul style="list-style-type: none"> <li>▶ Documentation</li> <li>▶ Registration</li> <li>▶ Due diligence</li> <li>▶ Reporting</li> </ul> </li> </ol>	<ol style="list-style-type: none"> <li>Identify potential family members to disclose</li> <li>Manage information that must be reported</li> <li>Prepare for and manage tax controversy and amnesty</li> </ol>	<ol style="list-style-type: none"> <li>Prepare documentation for entities based on their CRS classifications and required additional information <ul style="list-style-type: none"> <li>▶ Self-certification</li> </ul> </li> <li>Maintain compliance of entity documentation</li> </ol>

## Contact us to explore the next steps to enable change:

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