

**REPORTABLE JURISDICTIONS FOR THE PURPOSES OF THE AUTOMATIC EXCHANGE OF  
FINANCIAL ACCOUNT INFORMATION**

Published by the Gibraltar Competent Authority under the provisions of section 29 (3) (a) and (b) of the International Co-operation (Improvement of International Tax Compliance) Regulations 2016: <http://www.gibraltarlaws.gov.gi/articles/2016s253.pdf>

**Common Reporting Standard**

<b>Jurisdiction</b>	<b>Date of first exchange</b>
Argentina	2017
Australia	2018
Bonaire, Sint Eustatius & Saba	2017
Brazil	2019
Canada	2018
Chile	2020
China	2019
Colombia	2017
Faroe Islands	2017
Greenland*	2018
Iceland	2017
India	2017
Indonesia	2018
Japan	2018
Korea	2017
Malaysia	2020
Mauritius	2018
Mexico	2017
New Zealand	2018
Norway	2017
Pakistan	2021
Russia	2019
Saudi Arabia	2020
Seychelles	2017
Singapore	2019
South Africa	2017
Uruguay	2019

\*Greenland announced that it was moving from first automatic exchange in 2017 to first automatic exchange in 2018 after the deadline for submission by Gibraltar Financial Institutions. Information relating to Greenland-resident persons or entities reported by Reporting Financial Institutions in 2017

was therefore withheld by the Gibraltar Competent Authority. Automatic exchange with Greenland will now commence in 2018 in respect of information relating to the year ending 31 December 2017.

**Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation ('DAC 2')**

<b>Jurisdiction</b>	<b>Date of first exchange</b>
Austria*	2017
Belgium	2017
Bulgaria	2017
Croatia	2017
Cyprus	2017
Czech Republic	2017
Denmark	2017
Estonia	2017
Finland	2017
France, including Saint Barthélemy	2017
Germany	2017
Greece	2017
Hungary	2017
Ireland	2017
Italy	2017
Latvia	2017
Lithuania	2017
Luxembourg	2017
Malta	2017
Netherlands	2017
Poland	2017
Portugal	2017
Romania	2017
Slovakia	2017
Slovenia	2017
Spain	2017
Sweden	2017
United Kingdom	2017

\*Austria commenced the automatic exchange of financial account information with EU jurisdictions, including Gibraltar, in 2017, and will commence automatic exchange with non-EU jurisdictions in 2018.

**Agreements between the EU and European third countries on the automatic exchange of financial account information to improve international tax compliance (Protocol to Council Directive 2003/48/EC with a view to implementing the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters)**

Jurisdiction	Date of first exchange
Andorra	2018
Liechtenstein*	2017
Monaco	2018
San Marino	2017
Switzerland	2018

\*Liechtenstein commenced the automatic exchange of financial account information with EU jurisdictions, including Gibraltar, in 2017, and will commence automatic exchange with non-EU jurisdictions in 2018.

**Bilateral agreements that include provisions for the automatic exchange of information**

Jurisdiction	Date of first exchange
Guernsey	2017

Note: The Multilateral Convention on Mutual Administrative Assistance in Tax Matters and, consequently, the Common Reporting Standard Multilateral Competent Authority Agreement, if signed and brought into force in their respective domestic legislation, do not currently apply bilaterally among British Crown Dependencies and British Overseas Territories. Information on bilateral agreements with British Crown Dependencies and British Overseas Territories as well as Hong Kong and Macao, to which the Convention has not to date been extended by the People's Republic of China, will be posted here following negotiation, conclusion, signing and entry into force.

**Non-reciprocal\***

Jurisdiction	Date of first exchange
Belize	2018
Costa Rica	2018
Saint Lucia	2020
Saint Vincent and the Grenadines	2019
Samoa	2019

\*Gibraltar will receive financial account information from these jurisdictions but will not be required to reciprocate until such time as the OECD's Confidentiality and Data Safeguards assessments are successfully completed and / or an action plan implemented, if required by an OECD Expert Panel.

## **Transition from Gibraltar / United Kingdom Intergovernmental Agreement (IGA) to Directive 2014/107/EU ('DAC 2')**

The Competent Authorities of Gibraltar and the United Kingdom agreed that while there was overlap in the period covered by the IGA and the DAC 2 there was no need for duplicate reporting. Thus, where due diligence had been carried out under the IGA, it was deemed to have been carried out for the purposes of the DAC 2.

The Competent Authorities therefore agreed upon the following transitional arrangements:

- Exchange in respect of 2016 included the maximum of what was required by the IGA or the DAC 2 in that year. That is, in addition to what was required under the IGA the accounts that needed to be reported in 2017 also included all pre-existing high-value accounts that had not been required to be reported under the IGA or reported under the alternative reporting regime in 2014 and 2015, and that were still open at the end of 2015; and any accounts identified in 2016 as reportable under the DAC 2 but not reportable under the IGA;
- Exchange in respect of 2017 onwards is in accordance with the DAC 2. The alternative reporting regime does not apply under the DAC 2, so any accounts for 2017 that would have been excluded under the alternative reporting regime but are included under the DAC 2 are 'more' and therefore need to be reported.

### **Reporting obligations**

The first reporting year was the calendar year 2016 in relation to an account identified as a reportable account, for the purposes of the Common Reporting Standard, Directive 2014/107/EU, EU Agreements with European third countries or bilateral agreements, that was maintained by the reporting financial institution at any time during the calendar year in question in respect of reportable jurisdictions prescribed by the Competent Authority.

A return must be submitted electronically to the Gibraltar Competent Authority via the Government's AEOI portal [www.aeoi.gov.gi](http://www.aeoi.gov.gi) on or before 31 July of the year following the calendar year to which the return relates. This applies to all reportable jurisdictions.

### **Wider approach**

Under the 'wider approach' to the automatic exchange of financial account information adopted by Gibraltar (Annex 5 of the Common Reporting Standard), Reporting Financial Institutions are required to search for indicia indicating that the account holder is resident in a Foreign Jurisdiction i.e. they are required to collect information on the jurisdiction of residence for tax purposes of all non-resident customers, not restricted to residents of jurisdictions with which Gibraltar has an activated exchange of information relationship under

the Common Reporting Standard, Council Directive 2014/107/EU, Agreements between the EU and European third countries on the automatic exchange of financial account information to improve international tax compliance, and bilateral agreements for the exchange of information in tax matters that include provisions for the automatic exchange of information.

The information collected under this wider approach is not required to be reported to the Competent Authority until such time as the OECD activates the relevant jurisdiction's automatic exchange relationship with Gibraltar and the jurisdiction is added to the Reportable Jurisdictions list published by the Competent Authority as prescribed in Regulation 29 (3) (a) and by 31 July each year commencing in the year prescribed in Regulation 29 (3) b).

<http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/#d.en.345426>

### **Debt interest**

Although the term “debt interest” is not defined in the OECD Common Reporting Standard, the Gibraltar Competent Authority considers that debt interest is an interest in an investment entity that is normally held by a person that has granted the entity a loan or is participating in an entity through debt investments.

### **Recalcitrant account holder**

A recalcitrant account holder is defined as a financial account holder who fails to comply with reasonable requests to provide the self-certification information needed for reporting. Recalcitrant account holders may be reported on an individual, as opposed to a pooled, basis.

### **Self-certification**

The CRS Commentary on Section IX concerning Effective Implementation aims to ensure that strong anti-avoidance measures are in place to ensure that valid self-certifications, which form part of the account-opening documentation, are always obtained for New Accounts, as this allows the Reporting Financial Institution to determine its client's tax residence from the outset. In this respect, and in response to question no. 22. ('Timing of self-certification') in the OECD's CRS-related FAQs document, the OECD has provided the following guidance:

“Where a self-certification is obtained at account opening but validation of the self-certification cannot be completed because it is a ‘day two’ process undertaken by a back-office function, the self-certification should be validated within a period of 90 days. There are a limited number of instances where, due to the specificities of a business sector it is not possible to obtain a self-certification on ‘day one’ of the account opening process, for example

where an insurance contract has been assigned from one person to another or in the case where an investor acquires shares in an investment trust on the secondary market. In such circumstances, the self-certification should be both obtained and validated as quickly as feasible, and in any case within a period of 90 days.

“Given that obtaining a self-certification for New Accounts is a critical aspect of ensuring that the CRS is effective, it is expected that jurisdictions have strong measures in place to ensure that valid self-certifications are always obtained for New Accounts (see examples in paragraph 18 of the Commentary on Section IX). In all cases, Reporting Financial Institutions shall ensure that they have obtained and validated the self-certification in time to be able to meet their due diligence and reporting obligations with respect to the reporting period during which the account was opened.” (CRS Sections IV(A) and V(D)(2) ).

If an Account Holder fails to respond within the period of 90 days, the Reporting Financial Institution should close or freeze the account until a valid self-certification is obtained. The Gibraltar Competent Authority considers a “valid” self-certification to be an original signed form.

Paragraph 6 of the Commentary on Section IX concerning Effective Implementation emphasises that to increase the reliability of self-certifications, jurisdictions are expected to impose penalties for signing, or otherwise positively affirming, a false self-certification.

### **Discretionary beneficiaries of a trust**

Both mandatory and discretionary beneficiaries are included within the definition of Controlling Persons. The Gibraltar Competent Authority’s stance is not to allow Reporting Financial Institutions to align the scope of the beneficiaries of a trust reported as Controlling Persons of the trust with the scope of the beneficiaries of a trust treated as Reportable Persons of a trust that is a Financial Institution. The Reporting Financial Institution should therefore report discretionary beneficiaries irrespective of whether or not they receive distributions from a trust in any given year (CRS Implementation Handbook paragraph 229, page 84).

### **Schema and User Guide**

The Schema in extensible mark-up language (XML) to be used by Gibraltar Financial Institutions when submitting the annual return of financial account information to the Gibraltar Competent Authority is available online on the OECD’s Automatic Exchange of Information in Tax Matters portal, together with a User Guide:

<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/schema-and-user-guide/>

## **CRS Commentary**

The main body of guidance on implementation of the Common Reporting Standard can be found in the OECD publication, 'Standard for Automatic Exchange of Financial Account Information in Tax Matters', the second edition of which was published on 27 March 2017:

<http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-account-information-in-tax-matters-second-edition-9789264267992-en.htm>

## **Frequently Asked Questions**

The OECD released a revised version of its 'CRS-related Frequently Asked Questions' in April 2017:

<http://www.oecd.org/tax/exchange-of-tax-information/CRS-related-FAQs.pdf>

## **CRS Implementation Handbook**

The OECD has also published a CRS Implementation Handbook, which provides a practical guide to implementing the CRS and includes a comparison between the CRS and FATCA.

<http://www.oecd.org/ctp/exchange-of-tax-information/implementation-handbook-standard-for-automatic-exchange-of-financial-account-information-in-tax-matters.htm>

**Updated: 9 February 2018**