The Common Reporting Standard

STEP, City of London Branch
19 October 2015

Speakers:
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Jenny Turner, UBS, Executive Director, Group Tax
Common Reporting Standard

• What is CRS?
  • Why?
  • How?
  • Who?
  • What?
• Due Diligence
• Differences / Similarities to FATCA
• Timescales
CRS - Timeline

• 2014

• 23 Feb – ‘Common Reporting Standard for Automatic Exchange of Tax Information’
• 6 May – ‘OECD Declaration on Automatic Exchange of Information in Tax Matters’
• 29 October – 51 jurisdictions signed MCAA
• 29 October – Statement of Outcomes and Status of Commitments
CRS Timeline

• Events since then…
  • EU Directive 2014/107/EU published
    • Amended previous Directive (DAC) making CRS part of European Law
  • International Tax Compliance Regulations 2015 issued by UK
  • Updated list of commitments July 2015
  • Commentary
  • Handbook
How will CRS be implemented?

- DAC
- Multilateral Convention on Mutual Administrative Assistance in Tax Matters
- Multilateral Agreements
- Bilateral Agreements
Who will be implementing?

- **Early Adopters**
  - Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Bulgaria,* Cayman Islands, Colombia, Croatia, Curaçao, 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,
Who will be implementing?

- Fast Followers
  - 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
Who will be implementing?

• Not yet committed or indicated timescale
  • Bahrain, Cook Islands, Nauru, Panama, Vanuatu

• Other notable absentees
  • US – obviously!
  • African countries
  • Some Far East inc Thailand, Middle East and former Soviet State countries
What is to be reported?

• Broadly similar to FATCA

FINANCIAL INFORMATION reported by FINANCIAL INSTITUTIONS regarding REPORTABLE ACCOUNTS
Financial Information

• Includes all forms of investment income, including interest, dividends, income from certain insurance products and other similar types of income
• Also account balances and sale proceeds
• Similar phased approach to reporting as per FATCA
Financial Information

• Name, address, country(s) of residence, tax identification number (TIN) and date and place of birth (in the case of an individual) of each reportable person that is an account holder of the account.

• Where an entity is an account holder, and one or more controlling persons are a reportable person, the institution must report the name, address, country(s) of residence and TIN of the entity and the name, address, country(s) of residence, TIN and date and place of birth of each reportable person.

• the account number (or functional equivalent in the absence of an account number).

• the name and identifying number (if any) of the reporting financial institution.

• the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account.
Financial Information

• In the case of any custodial account:
  a) the total gross amounts of interest, dividends and other income generated by the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period
  b) the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year (or other appropriate reporting period) where the reporting financial institution acted as a custodian, broker, nominee, or agent for the account holder.

• In the case of any depository account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period

• In the case of any account not described in subparagraph 5. or 6. above, the total gross amount paid or credited to the account holder with respect to the account, during the calendar year or other appropriate reporting period, where the reporting financial institution is the obligor or debtor. This includes the aggregate amount of any redemption payments made to the account holder during the calendar year or other appropriate reporting period.

The information reported must identify the currency for each amount.
Financial Institutions

• Institutions that are required to report under CRS
• Not only include banks and custodians but also other financial institutions such as brokers, certain collective investment vehicles and certain insurance companies.
Reportable Accounts

• Reportable accounts include accounts held by individuals and entities (which includes trusts and foundations), and the standard includes a requirement to look through passive entities to report on the individuals that ultimately control these entities.
Due Diligence

• INDIVIDUALS
  • Pre-existing accounts
    • No de minimis threshold
    • LVA – can rely on permanent residence address
    • HVA – review for electronic indicia and paper
      • Review LVA by 31/12/17
      • Review HVA by 31/12/16
  • New accounts
    • Self certification process
      • Include TIN and DOB
      • Confirm reasonableness with other info
Due Diligence

- ENTITIES

  - Pre-existing accounts
    - Review not required for entities under $250k as at 31/12/15 til value exceeds that as at 31/12
    - Accounts held by Reportable Persons and Passive NFEs with CPs who are Reportable Persons
      - Review to be completed by 31/12/17
  
  - New accounts
    - No de minimis
Due Diligence

- Entity Classification
  - Financial Institution
    - Custodial Institution
    - Depository Institution
    - Investment Entity
    - Specified Insurance Company
  - Definitions are broadly the same as FATCA
  - No managed by test unless also meeting Financial Asset test
Due Diligence

• Entity Classification
  • Passive NFE
    • NFE that is not an Active NFE; or
    • an Investment Entity (that meets managed by and assets test) that is not a Participating Jurisdiction Financial Institution
  • Active NFE
    • Less than 50% gross income is passive income and less than 50% are assets that produce or are held for the production of passive income
    • Substantially all activity is holding/financing subsidiaries
    • Start up or dissolution
Entity classification

- Bahamas entity
  - Banks in the IOM
  - Controlling Person resident in Greece
    - IOM Bank will report from 2017 earliest to Greece if Passive NFE

- IOM entity
  - Banks in Switzerland
  - Controlling Person resident in Spain
    - Swiss bank will report from 2018 as fast follower if Passive NFE
Entity Classification - Trust

- Jersey Trust
  - IOM Trustee and underlying Cayman company
  - Switzerland resident settlor
  - Discretionary beneficiaries resident in US
    - Certify to Bank that it is an NRI (TDT)
    - Trustees will report Settlor – fully equity interest
    - Trustees will report payments made to beneficiaries
    - Classification of company will depend on activity
CRS - Differences

• CRS is not just FATCA for more countries
  • Tax residence as opposed to citizenship
  • No thresholds or de minimis (only $250k limit for pre-existing entity accounts)
  • Passive NFE definition is extended to IEs in non-participating jurisdictions
  • No ‘managed by’ Investment Entity definition
  • Some exemptions not included
  • No withholding and simplified indicia
What should you be doing?

• Greater impact than FATCA, Clients don’t need all details yet – just awareness of AEOI
• You need to know what, when and why
• Think about new on-boarding processes
  • Update self certs
• Consider big bang approach
• Classifications are different – software may need updated
Questions and Contact Details

QUESTIONS?

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Thank you
FATCA / AEI & Trusts… Special Measures

Industry Discussion and Consensus-building Toward Best Practices

October 2015

John Shoemaker
Executive Director, Global Head of Product Management
UBS Trusts & Foundations
Section 1

Introduction
I have found that conference attendees tend to break down into three main archetypes;

- Those who say "FACTA & AEIOU",
- Those who are struggling to understand and catch-up, and
- Those who are feeling good about their FATCA & AEI Compliance Plans.
Luigi Facta

From Wikipedia, the free encyclopedia

Luigi Facta (November 16, 1861, Pinerolo, Province of Turin – November 5, 1930) was an Italian politician, journalist and last Prime Minister of Italy before the leadership of Benito Mussolini.

Facta was born in Pinerolo, Piedmont, Italy. He studied law and later became a journalist. He entered politics in 1892 when he was elected to the chamber of deputies for Pinerolo, a seat which he held for 30 years. Facta, a member of the Liberal Party, served as undersecretary of the justice and interior departments in the coalition cabinets for much of his time in Parliament. He was also finance minister from 1910 until 1914 and 1920 until 1921. At the outbreak of World War I, Facta supported neutrality for Italy, but then supported the war when Italy entered it. His son was killed in the war, and he said that he was proud to give a son to his country.

Facta was appointed Prime Minister in February 1922. At the time, Italy was in political turmoil, and was dealing with Mussolini’s fascist insurgency. When Mussolini decided to march on Rome, Facta reacted and wanted to declare the martial law and send the army to stop Mussolini. Such declaration needed to bear the monarch’s signature before it could take effect. Facta always refused to explain the secret reasons that brought the King Victor Emmanuel III not to sign the declaration of emergency. The following day Facta and his government resigned to demonstrate they did not approve the King’s decision. The King then asked Mussolini to form a new government.

In 1924, King Victor Emmanuel III named Facta senator.

Facta died in Pinerolo, Italy, in 1930 with the general population believing him to have been too feeble and faithful to the King to take a more active role in stopping Mussolini and the rise of Fascism.[9]

References [edit]

Struggling…

There is no "opt-out" button…
FATCA & AEI Focus – The ABC's

A • Always

B • Be

C • Contemplative
Section 2

Current Situation
At the October Global Forum Meeting, 58 jurisdictions committed to a first exchange of information in 2017 and 36 jurisdictions in 2018 (of which 61 signed), subject to the completion of necessary legislative procedures\(^1\)

### AEI jurisdictions (as of 4 June 2015)

#### Americas
- Anguilla*
- Argentina*
- Barbados
- Bermuda*
- BVI*
- Cayman Islands*
- Colombia*
- Curacao*
- Dominica
- Mexico*
- Montserrat*
- Trinidad and Tobago
- Turks and Caicos*
- Antigua and Barbuda
- Aruba*
- Bahamas
- Belize
- Brazil
- Canada
- Chile
- Costa Rica
- Grenada
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Sint Maarten
- Uruguay

#### Asia-Pacific
- India
- Niue
- South Korea
- Australia
- Brunei Darussalam
- China
- Hong Kong
- Indonesia
- Japan
- Macau
- Malaysia
- Marshall Islands
- New Zealand
- Samoa
- Singapore

#### EMEA
- Austria*\(^2\)
- Belgium*
- Bulgaria
- Croatia*
- Cyprus*
- Czech Republic*
- Denmark*
- Estonia*
- Faroe Islands*
- Finland*
- France*
- Germany*
- Gibraltar*
- Greece*
- Greenland
- Guernsey*
- Hungary*
- Iceland*
- Ireland*
- Isle of Man*
- Italy*
- Jersey*
- Latvia*
- Liechtenstein*
- Lithuania*
- Luxembourg*
- Malta*
- Mauritius*
- Netherlands*
- Norway*
- Poland*
- Portugal*
- Romania*
- San Marino*
- Seychelles
- Slovakia*

#### Other
- Albania*
- Andorra
- Ghana
- Israel
- Monaco
- Qatar
- Russian Federation
- Saudi Arabia
- Switzerland*
- Turkey
- United Arab Emirates

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* Signatories of multilateral competent authority agreement signed in Berlin
\(^1\) No exchange of information in case there is no agreement between the jurisdictions
\(^2\) Note that even though Austria begins information exchange in 2017, the on-boarding and remediation timelines are different from those of other early adopters
Regulatory timeline

In September 2014, the Global Forum delivered a roadmap to the G20 regarding developing country participation. It is expected to be a tight timeline for implementation.

- **6 May 2014**
  - OECD\(^1\) members – Declaration committing to AEI\(^2\) (incl. 13 non-members)

- **9 April 2013**
  - G5 announces pilot project for worldwide FATCA

- **13 February 2014**
  - Release of Model CAA\(^3\) and CRS\(^4\)

- **19 March 2014**
  - Early Adopters - Joint statement announcing early implementation

- **14 January 2015**
  - Switzerland domestic draft CRS legislation published

- **19 April 2013**
  - G20 mandates OECD to develop a worldwide standard for automatic exchange of information

- **21 July 2014**
  - Release of Commentary and reporting schema

- **September 2014**
  - The new standard and a roadmap was formally presented to the G20

- **7 August 2015**
  - Release of Handbook with guidance and templates for jurisdictions implementing AEI

- **14 January 2015**
  - Switzerland domestic draft CRS legislation published

- **1 July 2014**
  - FATCA ‘Go Live’

- **1 January 2016**
  - AEI ‘Go Live’ - Enhanced on-boarding required from this date

- **21 July 2014**
  - Release of Commentary and reporting schema

- **September 2017**
  - Reporting - First exchange of information under AEI

- **31 December 2015**
  - Remediation – Complete due diligence for certain "high value" individual pre-existing accounts (>USD 1m)

- **31 December 2016**
  - Remediation – Complete due diligence for certain "high value" individual pre-existing accounts

- **2014**
  - G20 mandates OECD to develop a worldwide standard for automatic exchange of information

- **2015**
  - Multilateral Agreement (MCAA) signed by 51 jurisdictions at the Global Forum Meeting in Berlin

- **2016**
  - Snapshot - AEI “pre-existing accounts” are those in existence at this date

- **2017**
  - Remediation - Complete due diligence for pre-existing accounts

- **2018**

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\(^1\) OECD: Organization for Economic Co-operation and Development

\(^2\) AEI: Automatic exchange of information

\(^3\) CAA: Competent Authority Agreement

\(^4\) CRS: Common Reporting Standard
Section 3

Requirements
# Key elements of FATCA & AEI

Information Reporting remains complex, but focuses on a few key elements...

<table>
<thead>
<tr>
<th>Identify</th>
<th>Document</th>
<th>Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The proper Entity Classification</td>
<td>• W-8BEN-E or equivalent Form / Self-certification</td>
<td>• Name</td>
</tr>
<tr>
<td>• The appropriate Compliance Path</td>
<td>• W-8BEN or equivalent Form / Self-certification</td>
<td>• Address</td>
</tr>
<tr>
<td>• Accountholders (Equity and Debt Interest Holders)</td>
<td>• W-9 or equivalent Form / Self-certification</td>
<td>• TIN</td>
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<tr>
<td>• Substantial U.S. Owners / Controlling Persons</td>
<td>• Passport or National ID</td>
<td>• Account Number</td>
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</table>

| | | | • Account Balance |
| | | | • Entity Identifying Info???
| | | | • NIL Report???

**Key differences from FATCA**

- Nationality is irrelevant
- No global registration required and no linking of entities in a single compliant group
- No need to validate FI identifying numbers (such as GIINs)
- No predetermined forms (e.g. W-8)
- No recalcitrant clients (as documentation and exchange of information is legally enforced by each participating jurisdiction)
- No withholding consequences and no NPFFIs
- Fewer de-minimis exemptions available
- Treatment of FI-Managed Fiduciary Entities (e.g. trusts) in non-participating jurisdictions
- Not all FATCA compliance paths have an equivalent under AEI (e.g. sponsoring concepts, local FFIs, owner-documented FFI)
Upstream vs. Downstream FATCA & AEI responsibilities

The introduction of FATCA's new set of upstream and downstream responsibilities affected not only Foreign Financial Institutions, but Non-Financial Foreign Entities as well; however, obligations for the two differ

**Background**

- When speaking about accounts it is important to understand the difference between traditional "upstream" accounts and the newly-created "downstream" accounts created by FATCA
- Upstream accounts are what we typically referred to as accounts before FATCA, i.e. bank, investment or securities accounts
- Downstream accounts depend on the type of an entity, e.g. these would be equity or debt interest holders in a company; partners in a partnership or people lending money to it; settlors, beneficiaries, protectors, certain power holders in a trust or people lending money to it

**Responsibilities**

<table>
<thead>
<tr>
<th>Foreign Financial Institution (FFI)</th>
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<tbody>
<tr>
<td><strong>Upstream responsibilities</strong></td>
</tr>
<tr>
<td>Bank</td>
</tr>
<tr>
<td>- The FFI has to provide a <strong>W-8BEN-E</strong> form documenting its FATCA status to the financial institutions at which it has accounts</td>
</tr>
<tr>
<td><strong>Downstream responsibilities</strong></td>
</tr>
<tr>
<td>Foreign Financial Institution</td>
</tr>
<tr>
<td>- With respect to downstream FATCA responsibilities, the FFI has to:</td>
</tr>
<tr>
<td>1) Identify its account holders</td>
</tr>
<tr>
<td>2) Document them with respective W-8 / W-9 or self-certification forms</td>
</tr>
<tr>
<td>3) Report US persons identified</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Non-Financial Foreign Entity (NFFE)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Upstream responsibilities</strong></td>
</tr>
<tr>
<td>Bank</td>
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<tr>
<td>- The NFFE also has to provide a <strong>W-8BEN-E</strong> form documenting its FATCA status to the financial institutions at which it has accounts</td>
</tr>
<tr>
<td><strong>Downstream responsibilities</strong></td>
</tr>
<tr>
<td>Non-Financial Foreign Entity</td>
</tr>
<tr>
<td>- In addition, Passive NFFEs also have to disclose substantial US owners / controlling persons</td>
</tr>
<tr>
<td>- Non-Financial Foreign Entities have no downstream FATCA responsibilities</td>
</tr>
</tbody>
</table>

\(^1\) Description not exhaustive
The AEI "Triangulation" problem for fiduciary structures: Overview

Due to non-existence of bilateral agreements, certain jurisdictions can become non-transparent for reporting purposes and may become a potential reputational risk

<table>
<thead>
<tr>
<th>Topic</th>
<th>Description</th>
</tr>
</thead>
</table>
| Background  | • Where there is a bilateral agreement, most FIs will respect the information exchange autonomy or opaqueness of other FIs  
• Trustee-documented-trusts (TDT) are treated as Professionally Managed Investment Entities and classified as non-reporting FIs under AEI. Their obligations are handled by the trustees²   |
| Flaw        | • This, however, presupposes that the trust jurisdiction has a bilateral agreement with the jurisdictions of all its downstream account holders  
• For TDTs, it is possible that:  
  − There are respective bilateral agreements between the jurisdiction of the booking centre and those of the different beneficiaries of the fiduciary structure, and  
  − There are respective bilateral agreements between the jurisdiction of the booking centre and that of the fiduciary structure itself³; however,  
  − The absence of bilateral agreements between the jurisdiction of the trust and those of the account holders, prevents information exchange on the financial accounts of the account holders  
• The following slides examine this and other possible scenarios   |

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1. In case there is no bilateral agreement between the jurisdiction of the booking center and that of the trust, the trust would be treated as a Passive NFE
2. Trustees of TDTs are Reporting FIs under AEI
3. This prevents the fiduciary structures that are Professionally Managed Investment Entities from being treated as Passive NFEs by the booking center
4. There can be multiple different jurisdictions of the account holders
### Bio

**John Shoemaker**

#### Prior Experience:
- With over 25 years’ experience that includes U.S. tax & regulatory law and multi-jurisdictional compliance issues globally, John has been at the forefront of the evolution of the Foreign Account Tax Compliance Act, especially as it applies to trusts, foundations and other fiduciary structures. This extensive understanding of FATCA, combined with a background in regulatory issues of compliance management, gives him unique insights into managing and controlling risk and structuring fiduciary products in a highly efficient and compliant manner.

#### Education:
- Bachelor of Arts (Political Science), USA
- Juris Doctor (Regulatory Compliance & Estate Planning emphasis), USA
- Master of Laws (LL.M.) in Taxation

#### Personal:
- He is a fan of local theatre, running & golf, and as a talented amateur actor has undertaken lead roles for the Zurich English-speaking Community Theatre.

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*Caveat: All views expressed in this presentation are presenter’s alone, and do not necessarily reflect the views of UBS AG*
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FATCA / AEI & Trusts

*Documenting trust clients from the Banks' perspective*

October 2015

Jenny Turner
Executive Director, Group Tax
UBS AG
Disclaimer

The following slides are intended to illustrate the documentation challenges under FATCA, UK CD/OT and AEI for Financial Institutions who have trust and foundation clients. The information is of a general nature and cannot be relied on as advice in any particular case.

UBS cannot give legal or tax advice.
# Client documentation requirements for FATCA & AEI

FATCA and AEI have overlapping but different client documentation requirements and different time lines. The challenge for the Banks is to fulfil their legal obligations under these information reporting regimes whilst keeping the burden on their clients to a minimum.

### When do clients need to be documented?
- On-boarding
- Remediation
- Change in circumstances

### Which documents are required
- Self-certification – separate FATCA and AEI forms or combined?
- Supporting Documents
- When are IRS Forms (W-9 W-8 or equivalent) needed?
- Are IRS forms sufficient?

### What information is required from a Trust/Foundation client?
- Name of organisation
- Jurisdiction of incorporation or organisation
- Registered/Permanent Resident Address
- Mailing Address (if different)
- Tax Residence(s)
- TIN
- FATCA and AEI classification
- GIIN (if relevant)
- US Controlling Persons of Passive NFFE (FATCA);
- Controlling Persons of a) Passive NFE and b) PMIE in non participating jurisdiction (AEI)
- Certification

### What information is required from Controlling Persons of a Trust/Foundation?
- Name of individual Controlling Person/US Controlling Person
- Permanent Resident Address
- Tax Residence(s)/US Person confirmation
- TIN
- Date of Birth
- Place of Birth

### Form validation
- Reason to know
- Overlap with account opening and KYC documentation
- Documentary evidence
- Reasonable explanation
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2014</td>
<td>FATCA ‘Go Live’ in Early Adopter Countries - onboarding for individual and entities starts</td>
</tr>
<tr>
<td>1 January 2015</td>
<td>FATCA onboarding for entities starts (outside UK)</td>
</tr>
<tr>
<td>30 June 2016</td>
<td>FATCA and UK CD/OT Remediation for pre-existing individual high-value accounts complete</td>
</tr>
<tr>
<td>30 September 2015</td>
<td>FATCA first exchange of information with US for 2014</td>
</tr>
<tr>
<td>1 January 2016</td>
<td>AEI ‘Go Live’ in Early Adopter Countries - onboarding for individual and entities starts</td>
</tr>
<tr>
<td>1 January 2016</td>
<td>AEI ‘Go Live’ in 2nd Wave Countries - onboarding for individual and entities starts</td>
</tr>
<tr>
<td>1 January 2017</td>
<td>AEI Remediation for pre-existing individual high value accounts in 2nd Wave Countries</td>
</tr>
<tr>
<td>1 January 2018</td>
<td>AEI Remediation for pre-existing individual low value accounts and entity accounts complete</td>
</tr>
<tr>
<td>30 September 2017</td>
<td>AEI multilateral exchange of 2016 information by Early Adopter Countries begins</td>
</tr>
<tr>
<td>30 September 2017</td>
<td>AEI multilateral exchange of 2017 information by Early Adopter Countries and 2nd Wave Countries</td>
</tr>
<tr>
<td>30 September 2018</td>
<td>AEI multilateral exchange of 2018 information by Early Adopter Countries and 2nd Wave Countries</td>
</tr>
<tr>
<td>30 September 2019</td>
<td>AEI multilateral exchange of 2019 information by Early Adopter Countries and 2nd Wave Countries</td>
</tr>
</tbody>
</table>
### Client documentation – specific issues for trusts 1/2

For the purposes of FATCA, UK CD/OT and AEI trusts and foundations are treated as entities in their own right. This causes some confusion as this deviates from conventional legal analysis. The OECD has recognised this and has devoted a special chapter to trusts in their Implementation Handbook.

<table>
<thead>
<tr>
<th>Who is the Account Holder?</th>
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</thead>
<tbody>
<tr>
<td>• &quot;Entity&quot; means legal person or legal arrangement such as a corporation, partnership, trust or foundation</td>
</tr>
<tr>
<td>• &quot;Account Holder&quot; means the person (individual or entity) listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account.</td>
</tr>
<tr>
<td>• <strong>EXCEPTION</strong> A person other than a Financial Institution holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor or intermediary is not treated as the Account Holder.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What is the FATCA and AEI classification of the Trust client?</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Financial Institution</td>
</tr>
<tr>
<td>• Trustee Documented Trust (FATCA and AEI)</td>
</tr>
<tr>
<td>• Sponsored Investment Entity (FATCA only)</td>
</tr>
<tr>
<td>• Professionally Managed Entity in non Participating Jurisdiction (AEI only)</td>
</tr>
<tr>
<td>• Passive NFFE (FATCA) Passive NFE (AEI)</td>
</tr>
<tr>
<td>• Active NFFE (FATCA) Active NFE (AEI)</td>
</tr>
<tr>
<td>• NPFFI (FATCA only)</td>
</tr>
<tr>
<td>• Non Reporting FFI (FATCA) Non Reporting FI (AEI)</td>
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</tbody>
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<table>
<thead>
<tr>
<th>What is the tax residence of the Trust Client?</th>
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</thead>
<tbody>
<tr>
<td>• Tax residency under AEI usually determined under local laws applicable to the entity (e.g. a trust which not tax transparent will be resident where it is subject to tax by reason of domicile, residence, place of management or incorporation or any other criteria of a similar nature)</td>
</tr>
<tr>
<td>• A trust without a tax residence will be considered to be resident where the trustee(s) is/are resident. If a trust has trustees that are resident in more than one jurisdiction the trust will be resident in each jurisdiction</td>
</tr>
<tr>
<td>• <strong>EXCEPTION</strong> A trust which has no residence for tax purposes but which is a Passive NFE will not be considered to be a Reportable person. The account will be reported in relation to tax residence of its Controlling Persons.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who is a Reportable person?</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Specified US person means a US person other than…v) any organisation exempt from tax under section 501(a) or an individual retirement plan as defined in section 7701(a)(37) IRC…ix) any common trust fund as defined in section 584(a) IRC…(x) any trust exempt from tax under section 664c) or as described in section 4947(a)(1) IRC</td>
</tr>
<tr>
<td>• Reportable person [under AEI] means a resident in a Reportable jurisdiction other than….f) a Financial Institution</td>
</tr>
<tr>
<td>• But Passive NFFE trust without a tax residence not reportable according to CRS handbook</td>
</tr>
</tbody>
</table>
### Client documentation – specific issues for trusts 2/2

| PMIE | Cumulative test  
|      | • Financial Assets (gross income primarily attributable to investing, reinvesting or trading in Financial Assets)  
|      | • Professional Management (the entity is managed by another entity that is a Depository Institution, a Custodial Institution, a Specified Insurance company or a Investment Manager)  
|      | Is the entity itself professionally managed or are some or all of the entity's assets professionally managed? |
| Who are the Controlling Persons of a Trust Client? | • Settlor(s)  
|      | • Trustee(s)  
|      | • Protector(s) (if any)  
|      | • Beneficiary(ies) or any class of beneficiaries  
|      | • Any other natural person(s) exercising ultimate effective control over the trust |
| ODFFI | • FATCA concept only.  
|      | • Applies to each financial account separately  
|      | • Documentation all US owners down to 0% but no requirement to look through FIs  
|      | • Delegation of AEI responsibilities as an alternative to ODFFI? |
| Foundations | • Considered to be a subset of trusts (i.e. similar legal arrangement).  
|      | • However may have a specific structure or features under local law  
|      | • Can a foundation be professionally managed? |
| Deceased Account Holders | • A financial account held by an estate is not reportable provided the documentation for the account includes a copy of the deceased's will or death certificate ("Excluded Account" under AEI and FATCA).  
|      | • Executors can realise assets in the account and distribute proceeds to beneficiaries (without the need to document executors and beneficiaries unless assets are alienated from the estate i.e. transferred to a trust or other financial account). |
Jenny Turner

Jenny Turner is an Executive Director in Group Tax at UBS AG providing tax technical support to UBS's group wide FATCA and Automatic Exchange of Information programmes. She has seventeen years of experience in the financial services industry (previously heading up the UK tax advisory team at UBS). Jenny serves on the tax committees of a number of industry bodies (including ISDA, AFME and BBA) where she has been involved in consultations with tax authorities on legislative initiatives impacting the financial services sector particularly in the field of Automatic Exchange of Information. Jenny received a law degree from the University of Oxford and a Masters in Tax Law from the University of London. She qualified as a solicitor of the Supreme Court in England and Wales.

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