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# Alternative B: Common Reporting Standard Asian Update

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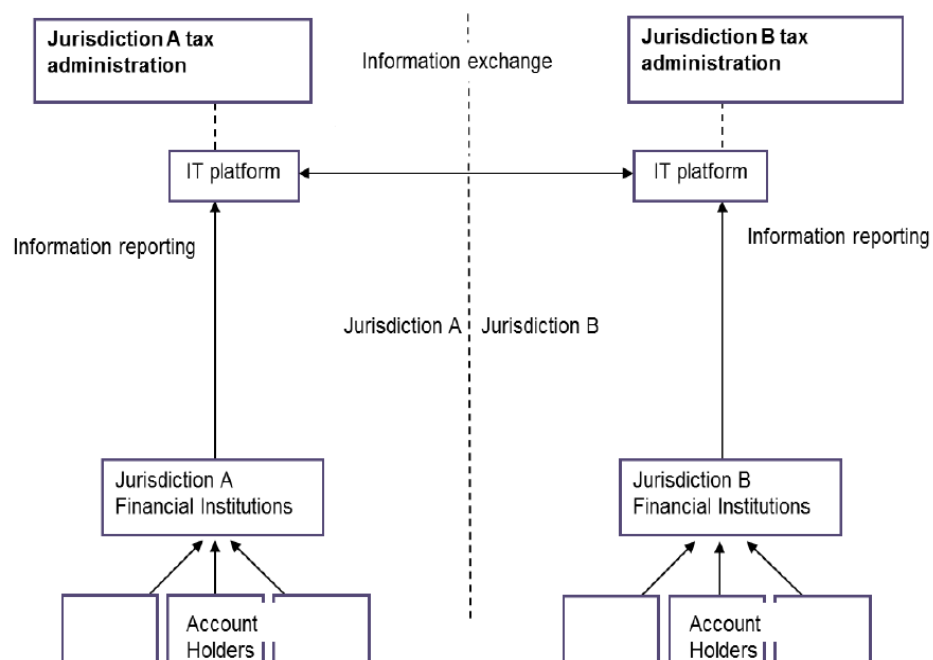
# Global Move to Transparency

- The G20 and OECD: “*The era of bank secrecy is over*” (2009)
- **Factors supporting global move to tax transparency:** financial crisis and shrinking tax revenues; media coverage; political pressure.
- **USA’s investigations of Swiss banks:** US investigations of Swiss banks began in 2008; more than 100 Swiss banks agreed to provide information about their US clients in exchange for non-prosecution.

# AEOI in a Nutshell

Financial institutions (“FIs”) will identify foreign tax residents and report their information to the local government, which will pass on the information to the countries of tax residence.

This will happen if both countries agree to exchange information with each other.



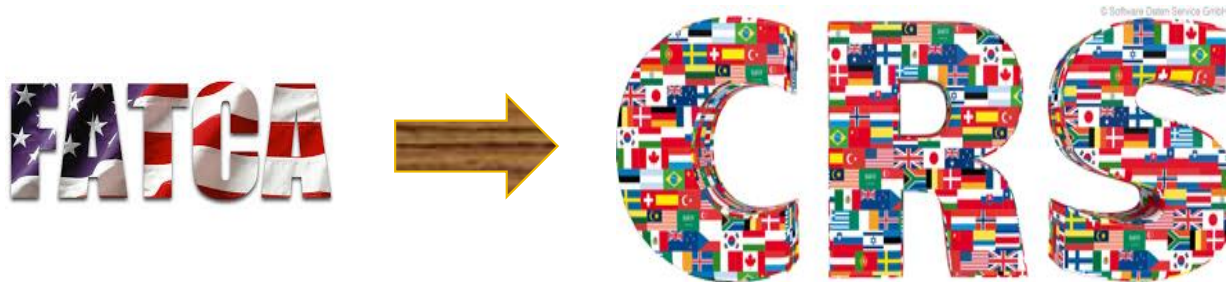
# AEOI in a Nutshell

## Who

More than 100 jurisdictions, including all major economies, have already committed to adopt AEOI.

## When

At least 54 jurisdictions will start in 2017 (early adopters) and more than 47 will start in 2018.



# Status of Commitments

## Intended first exchange late 2017

- |                          |                 |                          |
|--------------------------|-----------------|--------------------------|
| - Anguilla               | - Guernsey      | - Romania                |
| - Argentina              | - Hungary       | - San Marino             |
| - Barbados               | - Iceland       | - Seychelles             |
| - Belgium                | - India         | - Slovak Republic        |
| - Bermuda                | - Ireland       | - Slovenia               |
| - British Virgin Islands | - Isle of Man   | - South Africa           |
| - Bulgaria               | - Italy         | - Spain                  |
| - Cayman Islands         | - Jersey        | - Sweden                 |
| - Colombia               | - Korea         | - Turks & Caicos Islands |
| - Croatia                | - Latvia        | - Trinidad and Tobago    |
| - Curacao                | - Liechtenstein | - United Kingdom         |
| - Cyprus                 | - Lithuania     |                          |
| - Czech Republic         | - Luxembourg    |                          |
| - Denmark                | - Malta         |                          |
| - Estonia                | - Mexico        |                          |
| - Faroe Islands          | - Montserrat    |                          |
| - Finland                | - Netherlands   |                          |
| - France                 | - Niue          |                          |
| - Germany                | - Norway        |                          |
| - Gibraltar              | - Poland        |                          |
| - Greece                 | - Portugal      |                          |
| - Greenland              |                 |                          |

## Intended first exchange late 2018

- |                     |                         |                                    |
|---------------------|-------------------------|------------------------------------|
| - Albania           | - Grenada               | - Samoa                            |
| - Andorra           | - Hong Kong             | - Saint Lucia                      |
| - Antigua & Barbuda | - Indonesia*            | - Saint Vincent and the Grenadines |
| - Aruba             | - Israel                | - Saudi Arabia                     |
| - Australia         | - Japan                 | - Singapore                        |
| - Austria           | - Kuwait                | - Sint Maarten                     |
| - The Bahamas       | - Lebanon               | - Switzerland                      |
| - Bahrain           | - Marshall Islands      | - Turkey                           |
| - Belize            | - Macau                 | - United Arab Emirates             |
| - Brazil            | - Malaysia              | - Uruguay                          |
| - Brunei Darussalam | - Mauritius             | - Vanuatu                          |
| - Canada            | - Monaco                |                                    |
| - Chile             | - Nauru                 |                                    |
| - China             | - New Zealand           |                                    |
| - Cook Islands      | - Panama                |                                    |
| - Costa Rica        | - Qatar                 |                                    |
| - Dominica          | - Russia                |                                    |
| - Ghana             | - Saint Kitts and Nevis |                                    |

\* Status as at 21 October 2016 (based on the “CRS by Jurisdiction” list on the OECD website).

\* US has indicated that it will exchange information under its FATCA IGA obligations

\*Indonesia might start implementation before September 2018.

# Three Dimensions of CRS

## What information is reported?

- Investment income
- Account balances
- Sales proceeds from financial assets

## Whose information is reported?

- Individuals
- Entities
- Trusts & Foundations
- Look-through rules apply to passive entities

## Who reports?

- Banks
- Custodians
- Certain collective investment vehicles
- Certain insurance companies

# Status in Australia

- Domestic legislation enacted to bring the CRS into effect in Australia from 1 July 2017, with the first information exchange to occur in 2018.
- Australia is a signatory to various tax information sharing agreements (E.g. *Multilateral Convention on Mutual Administrative Assistance in Tax Matters* and Competent Authority Agreement with Singapore).
- Australia implemented the CRS rules with some minor modifications:
  - Specific anti-avoidance provision to allow Commissioner to deem an entity to be a reporting financial institution or an account to be a reportable account for CRS purposes.
  - Incorporation of some FATCA exclusions.
  - Choice to apply CRS monetary thresholds in AUD, rather than USD.
- ATO guidelines on the application of CRS from 1 July 2017.
- Monetary penalties will apply for non-compliance.

# Status in Malaysia

- Status of international commitments:
  - Malaysia has signed the Multilateral Competent Authority Agreement on 27 January 2016.
  - Malaysia has signed the Convention on Mutual Administrative Assistance in Tax Matters on 25 August 2016 – but have not ratified this yet.
- Existing legislation in Malaysia:
  - Section 132B of the Malaysian Income Tax Act allows the Minister to issue a statutory order to give effect to any mutual administrative assistance arrangement on tax matters (which includes simultaneous tax examinations, automatic exchange of information or tax administrations abroad) that Malaysia has signed with other jurisdictions.
  - No statutory order has been issued to date as of yet.

# Status in Malaysia

- Status of implementation of local legislation:
  - Local legislation will be passed to implement CRS in Malaysia, which will be in a form of a Rule.
  - The Malaysian Inland Revenue Board ("IRB") will publish guidance notes on the implementation on CRS in due course.
- Other updates:
  - Malaysia has undergone the confidentiality and safeguards assessment in April 2016.
  - The first information exchange for Malaysia remains September 2018.
  - The IRB is likely publish a list of Malaysia's AEOI country partners in due course.
  - The IRB will subscribe to the common transmission system developed by the OECD for the AEOI.
  - The IRB indicated that the wider approach will be adopted in implementing the CRS in Malaysia.

# Status in Singapore

- A set of draft regulations for the implementation of CRS in Singapore was made available for public consultation by the Ministry of Finance (“MOF”) earlier this year. The public consultation period lasted from 11 to 29 July 2016.
- The draft regulations propose the implementation of CRS in Singapore with effect from 1 January 2017.
- The MOF’s response to the public consultation was slated to be published by the end of September, but has not yet been published as of current date.
- Singapore has concluded several bilateral competent authority agreements with the following countries: Australia, United Kingdom, Japan, Korea, South Africa, and Norway.

# Status in Hong Kong

- Hong Kong's CRS legislation came into effect on June 2016, and implementation will start on 1 January 2017.
- The HK Inland Revenue Department published a detailed Guidance on AEOI for Financial Institutions, sample forms, pamphlets, and other materials.
- Hong Kong has concluded bilateral competent authority agreements with the United Kingdom and Japan.

# Status in China

- China signed the MCAA but has not yet published a list of jurisdictions with which it intends to exchange information under the MCAA.
- On 14 October 2016, the State Administration of Taxation (SAT) published draft CRS legislation for public comments until 28 October 2016.
- The draft is expected to be finalized and take effect on 1 January 2017.
- The draft's due diligence and reporting obligations appear consistent with the CRS requirements.
- The potential impacts:
  - Not many non-PRC residents hold accounts in PRC FIs.
  - Potential impact on PRC residents who hold offshore assets.



# Questions for discussion

- 1) What should financial institutions in Asia be doing?
- 2) What should account holders be doing?

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