

31 July 2015

International Engagement and Transparency Practice
Public Groups and Internationals
Australian Taxation Office
By Email: crs@ato.gov.au

Copy (for information): The Treasury

CRS Reporting Standard: Domestic reporting system

Dear Sir/Madam

1. Thank you for the opportunity to submit to the ATO targeted consultation on *Common Reporting Standard: Domestic reporting system*, released 17 July 2015.
2. In relation to the implementation of CRS we also refer to our submission to Treasury dated 18 July 2014 in relation to *Common Reporting Standard for the automatic exchange of tax information*. We provide that submission for convenience and reiterate the over-arching principles which should apply to CRS.
3. Before responding to the 17 July 2015 ATO consultation *Common Reporting Standard: Domestic reporting system* specifically (and acknowledging there may have been some developments since our 18 July 2014 submission to Treasury), we think it is important to reiterate our Executive Summary of the overarching principles which we think should apply to CRS and guide its implementation, as contained in our 18 July 2014 submission to Treasury.

A. General Principles which should apply to CRS

4. **Table of Principles which should apply to CRS** (an extract of FSC's submission to Treasury dated 18 July 2014):

Principle No.	Over-arching principles relevant to a consideration of CRS [As contained in FSC Submission 18 July 2014]
1.	We urge the Government to leverage the existing information it receives via the ATO, for example in tax returns and the AIIR and to look to build on, and leverage, that information to satisfy CRS.
2.	Flexibility: Alternative methods of meeting CRS need to be available. The methods available should be flexible to allow each institution to implement the most appropriate and cost effective manner of implementation of CRS given their circumstances (such as systems and procedures). Some institutions will wish to consider leveraging AIIR. Others may prefer to use other methods, including leveraging processes and mechanisms implemented for FATCA. CRS should be applied flexibly to accommodate the circumstances of each institution.

Principle No.	Over-arching principles relevant to a consideration of CRS [As contained in FSC Submission 18 July 2014]
3.	FATCA exclusions (in Annex II of the IGA) need to be carried across as CRS exclusions.
4.	Consistency between FATCA, CRS and AML (anti-money laundering requirements) is required. In relation to consistency between FATCA and CRS, in particular consistency is required in relation to in-scope financial institutions and financial accounts.
5.	Curing indicia of residency – there will be difficulties (and waste) in approaching existing clients on tax residency.
6.	Listed Investment Entities/ETFs – our [18 July 2014] submission sets out some particular issues for CRS and Listed Investment Entities/ETFs.
7.	The CRS requirements should be principles based generally, not prescriptive as to the manner of meeting CRS.
8.	Further consultation on the CRS Timetable may be required. As to whether a timeframe is achievable depends on the final detail of the CRS requirements and the extent to which any FATCA IGA (Annex II) exclusions are or are not replicated in CRS (see Principle 3 above). If some institutions can comply earlier than other institutions, the timetable should be reasonable and allow institutions (but not mandate) to opt in to CRS early. FSC can not be definitive as to whether a 2017 start date for CRS is achievable. Broadly it might be achievable for some institutions if CRS replicates FATCA including all FATCA exemptions and FATCA thresholds being carried across to CRS. However, there are likely to be some institutions for which 2017 is not achievable. (By way of example, because CRS applies to some financial institutions that were not in scope for FATCA, such organisations will need more time to implement CRS.)
9.	Government should consider impacts on a range of stakeholders such as financial planners (on collection requirements).
10.	CRS should provide a mechanism to exclude accounts/products in future (as new product types are launched, for example in response to legislative change).
11.	It is critical that entities are able to rely on self-certification of tax residency , provided they do not have reasonable grounds to suspect the self-certification is not reliable. That is, the onus should be on account holders to provide their tax residence to financial institutions rather than for financial institutions to undertake onerous procedures to determine tax residence of financial account holders. Each country's tax residency rules could be different. Anything other than self-certification is likely to be unachievable, costly, and not necessarily more determinative in relation to tax residency.
12.	AML simplified verification procedures should be carried across to a CRS environment.

B. Specific comments on 17 July 2015 ATO consultation on the CRS Reporting Standard: Domestic reporting system

5. Our comments below are based on the feedback FSC received from FSC members in a constrained consultation timeframe. FSC's membership is diverse and therefore different FSC members may have variances or nuances in preferred approaches to the CRS Domestic reporting system. This reality (that different institutions may have different preferences on the detail of CRS implementation) is reflected in the ATO consultation paper (issued 17 July 2015) which notes that the investment by smaller institutions for XML reporting may be disproportionate to the size of the financial institution and the number of records being reported.
6. Our members have indicated a strong preference for use of the OECD CRS schema (CRS XML files) for data lodgement. This is for a range of reasons, including the following key reasons:
 - (a) It enables industry to leverage the synergies and corporate knowledge from the implementation of FATCA.
 - (b) A number of UK, European and Asian nations have adopted the OECD CRS schema. Developing one solution centrally with deployment across the globe will align approaches.
 - (c) XML has a much higher degree of legibility.
 - (d) XML is a widely used international data exchange and can be used for multiple languages.
 - (e) Changes to XML can be more easily incorporated without breaking existing structures, and changes can be made without affecting any previously defined content.
7. FSC broadly supports leveraging the existing FATCA approach (using XML files) and the CRS XML schema as far as possible in order to limit the need for system changes and to allow processes to be aligned between CRS and FATCA to ensure a consistent, efficient and cost effective approach for financial institutions.
8. **(Option for smaller client base institutions):** As acknowledged by the ATO, the investment by smaller institutions for XML reporting may be disproportionate to the size of the financial institution and the number of records being reported. For **these smaller institutions (or institutions with fewer clients), the need to manually convert data to XML files can present a disproportionate cost burden on those financial institutions with an inherently lower incidence of report triggers** (for example, those financial institutions having a relatively low number of clients, or having a client base with inherently fewer FATCA or CRS relevant clients, such as the traditional client base of Public Trustees). To minimize this burden, the FSC requests the ATO to allow such financial institutions the option of reporting to the ATO (for both FATCA and CRS) by a **direct file transfer of an Excel document. We request ATO consult on an appropriate *de minimis* number of clients below which direct file transfer (to ATO) of**

an excel document is permitted as an option. For example, one of FSC's members has identified only 8 clients out of approximately 10,000 clients, that may need to be reported for FATCA. Requiring XML reporting to ATO in this situation is unduly burdensome and excessive. The conversion of a database, for such a small number of clients, to XML was complex, and had to be outsourced, at not-inconsiderable expense.

Group Reporting

9. Financial Institutions (**FIs**) should be permitted to report to the ATO at a group level rather than provide individual reports for each reporting FI consistent with the CRS Annex. This will significantly reduce the costs involved with generating, reviewing and lodging multiple reports (For example, one of our FSC Members currently has more than 85 Australian Reporting FIs under FATCA.)

Customer Reporting

10. A consolidated report should be able to be provided to the ATO for all reportable customers regardless of country of residence, rather than a separate report for each reportable country or the need to segregate customers by country within the consolidated report. The report could provide a country code/s for each customer to allow the ATO to separate customer records by country to report to their respective overseas tax agencies. This will reduce the need to generate a separate report for each country and the costs involved in doing so.

Local Currency

11. If the reporting FI elects to do so, all reporting should be able to be provided in Australian Dollars (AUD) without the need to convert to the currency of the recipient country consistent with the CRS Annex. This will prevent inconsistency in the currency conversion rates applied by different FIs and will allow the ATO to apply a single currency conversion rate to their country specific reports.
12. Additionally, it is preferable for customer balances to be reported as reflected in the FI's records without rounding to the nearest A\$.

Reporting Format

13. It is preferable for the industry generally if the *FATCA* reporting, data formats and schema are used as far as possible for *CRS* reporting. (We note that some smaller institutions may want an alternative process, as ATO notes in its 17 July 2015 consultation that the investment by smaller institutions for XML reporting may be disproportionate to the size of the financial institution and the number of records being reported.)

AUSkey

14. Those FSC members responding have indicated support for the proposed use of AUSkey authentication as this aligns with FATCA.

Rectification

15. It is preferred that where a file is transmitted to the ATO and a number of customer records fail to meet the ATO's edit checks the remainder be allowed to proceed for processing by the ATO. The reporting FI should then be notified by the ATO of the records that fail and the reporting FI should then be required to resolve and re-submit to the ATO only those records with issues/failures rather than the complete file.

Income Reporting - FATCA

16. We request that the ATO or Treasury advocate to the OECD to simplify the account balance and income data reporting required by FATCA to include only account balance, total income and sales proceeds rather than breaking down the income into its dividends, interest and other income components. The further breakdown of income unnecessarily adds to the complexity of reporting without providing further indicators of possible tax evasion.

Process Flows

17. Additionally, it would be helpful to the industry if the ATO could provide high level process flows of how the reporting / validation and rectification processes are expected to operate. This would assist FIs to develop their own processes to align with the ATO's reporting processes.
18. Overall, it is preferable that the CRS approach aligns with FATCA to allow FIs to leverage the infrastructure previously developed for FATCA. This will minimise the level of complexity and cost required to comply with both sets of obligations.

Yours sincerely



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