

QUESTIONS AND ANSWERS ON INTERNATIONAL EXCHANGE RELATIONSHIPS FOR CRS INFORMATION

What the is legal basis for the exchange relationships that exist today

The exchange relationships established so far are based on the following legal instruments:

- the CRS Multilateral Competent Authority Agreement (MCAA), which is based on Article 6 of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters;
- Council Directive 2014/107/EU of 9 December 2014 (for exchanges between EU Member States) as well as bilateral agreements between the EU and Andorra, Liechtenstein, Monaco, San Marino and Switzerland;
- bilateral agreements between the UK and its Crown Dependencies and Overseas Territories.

How are bilateral exchange relationships between jurisdictions established under the CRS MCAA?

The establishment of a bilateral CRS exchange relationship between is a three step process whereby both jurisdictions must:

- join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters;
- sign the CRS MCAA; and
- file the subsequent notifications under Section 7 of the CRS MCAA.

The notifications to be filed by each jurisdiction include:

- a confirmation that domestic CRS legislation is in place and whether the jurisdiction will exchange on a reciprocal or non-reciprocal basis,
- a specification of the transmission and encryption methods,
- a specification of the data protection requirements to be met in relation to information exchanged by the jurisdiction,
- a confirmation that the jurisdiction has appropriate confidentiality and data safeguards in place; and
- a list of its intended exchange partner jurisdictions under the CRS MCAA.

A particular bilateral relationship under the CRS MCAA becomes effective only if both jurisdictions have the Convention in effect, have filed all of the above notifications and have listed each other.

Which jurisdictions now have automatic exchange relationships in place?

With the conclusion of the second round of activations 48 of these 54 jurisdictions committed to first exchanging in September 2017 now have bilateral exchange relationships for CRS information in place. In addition, five 2018 jurisdictions already have activated exchange relationships.

Why have the 6 remaining 2017 jurisdictions not yet activated any bilateral exchange relationships?

These jurisdictions have not yet submitted a full set of notifications, either because they are either still in the process of adopting domestic legislation and/or because they are still putting in place the operational and IT framework in particular to implement the required standards on confidentiality, data safeguards and proper use of the information.

Why do some jurisdictions have more exchange relationships than the others?

There are several reasons why some jurisdictions currently have more exchange relationships than others. The EU Member States already have an exchange relationship in place with all other EU Member States by virtue of the EU Directive implementing the CRS. The UK Crown Dependencies and Overseas Territories have bilateral exchange relationships in place with the UK. Some jurisdictions may also have provided a wider list of intended exchange partners because they have cross border investment flows with more other jurisdictions. Finally some jurisdictions may still have less exchange relationships than others because of ongoing legislative processes to approve intended exchange partners.

When will the remaining 2017 and 2018 jurisdictions put their exchange relationships in place?

It is intended that the next wave of bilateral exchange relationships under the CRS MCAA will take place in March 2017. This round will in particular allow the remaining jurisdictions to establish their exchange relationships. A further round is scheduled to take place in June 2017.

Are committed jurisdictions expected to exchange CRS information with all the other committed jurisdictions?

As part of the Global Forum commitment process, jurisdictions committed to automatically exchange information in accordance with the Standard, with all “interested appropriate partners”. This includes all jurisdictions which are interested in entering into an automatic exchange of information arrangement and which meet standards on confidentiality, data safeguards and proper use of the information which are necessary to engage in automatic exchange and reflect the corresponding requirements in the Convention and the CRS MCAA on which the exchanges are based.

The Global Forum is working to ensure that exchange relationships are being put in place and activated with all interested appropriate partners (on the basis of the CRS MCAA or other relevant international exchange instruments).