



Guide to Income Tax (Common Reporting Standard) Regulations, 2019 for the Automatic Exchange of Financial Account Information

Frequently Asked Questions (FAQ)

KPMG in Nigeria | September 2020

Income Tax (Common Reporting Standard (CRS)) Regulations, 2019 for the Automatic Exchange of Financial Account Information (AEOI) was promulgated by the Federal Inland Revenue Service (FIRS) on 1st July 2019. The initial reporting date was 31 May 2020 which was recently extended by the FIRS to 30 September 2020 in response to business disruptions occasioned by COVID-19.

As part of our contribution to taxpayer education, we have simplified the import of the CRS-AEOI Regulations in this newsletter to enlighten taxpayers and address their concerns on how it affects them, where applicable.

What is the CRS?

CRS is a standard released by Organization of Economic Cooperation and Development (OECD) for the automatic exchange of pre-agreed information between all participating jurisdictions¹. The information is collected by Financial Institutions (FIs) in each jurisdiction and submitted to the tax authorities in their jurisdiction. The aim of the CRS is to improve international tax transparency and reduce tax evasion among taxable residents of a country with income from other jurisdictions.

In Nigeria, the Federal Inland Revenue Service (FIRS) issued the Income Tax (Common Reporting Standard) Regulations, 2019 ("The CRS Regulations") and the Income Tax (Common Reporting Standard) Implementation and Compliance Guidelines, 2019 ("The CRS Guidelines") to set rules for the implementation of CRS in Nigeria.

What is AEOI?

AEOI involves applying the CRS. It is used to describe a range of agreements that tax authorities across the world have signed to exchange data automatically. The Multilateral Competent Authority Agreement (MCAA) provides the legal basis for the AEOI between participating countries. AEOI allows for the exchange of information regarding non-resident taxpayers with the tax authorities in the taxpayers' country of residence.

Participating jurisdictions that implement AEOI send and receive pre-agreed information automatically each year. AEOI enables tax authorities to identify non-compliant taxpayers and aims to improve the deterrence and detection of cross border tax evasion. It is intended to further strengthen international efforts to increase transparency and cooperation by tax authorities.

How many jurisdictions have signed up to CRS?

The number continues to increase as more jurisdictions commit to exchanging data automatically. As at 3 September 2020, 108 countries have signed the MCAA. The list of countries participating in the CRS can be found on the [OECD CRS portal](#). Nigeria became a signatory to the Agreement on 17 August 2017. As a result, Nigeria will exchange information with 107 participating jurisdictions in 2020.

Which Financial Institutions are covered by the CRS Regulations?

The CRS covers the following Financial Institutions and the financial accounts or products they offer:

- Depository Institutions
- Custodial Institutions
- Investment Entities
- Specific Insurance Companies offering annuity and cash value insurance contracts

These institutions in Nigeria translate to commercial banks, merchant banks, mortgage banks, microfinance banks, finance companies, life insurance businesses, brokers, trustees, custodians, investment/asset managers, investment funds (excluding pension funds), and similar institutions that hold investments on behalf of individuals or entities.

Who is reportable under the CRS Regulations?

Nigerian FIs are required to identify customers (both individuals and entities) who appear, based on information available to the FIs, to be tax resident² in any of the other 107 participating jurisdictions. These customers are

¹ Jurisdictions that signed the Multilateral Competent Authority Agreement (MCAA).

² Individual or entity resident under a tax law of a jurisdiction when there is a full liability to tax.

called Reportable Persons. The FIs are required to report certain information on these customers to the FIRS. The information received from the FIs is then exchanged with the jurisdiction of tax residence of the account holder.

For example, Customer A holds a current account with Bank B, a Nigerian bank. Bank B has determined from the assessment of information in its database that Customer A is resident in Sweden. Customer A is a reportable person and Bank B is required to report information on Customer A to the FIRS. The FIRS will then exchange information on Customer A with the Swedish tax authorities.

In the same vein, FIs domiciled in any of the other 107 participating jurisdictions are required to identify Nigerian tax residents (both individuals and entities) who hold offshore accounts with them and submit information on such Nigerian residents to their respective tax authorities who will exchange such information with the FIRS.

For example, Customer B, a Nigerian resident, holds an investment account with Company C, an asset management company domiciled in the United Kingdom. Customer B is a reportable person and Company C is required to report information on Customer B to the HM Revenue and Customs (HMRC). The HMRC will then exchange information on Customer B with the FIRS.

Which information are Financial Institutions required report?

In line with the CRS requirements, reportable information under CRS are as follows:

(a) Depository Accounts

Individual accounts holders:

- Name and address of account holder
- Date and place of birth of account holder
- Tax Identification Number (TIN) of account holder (or its local equivalent in the reportable person's jurisdiction)
- Account Number and balance/value of account holder
- Name and TIN of the FI
- Gross total amount of interest paid into the account during the year or at the end of the reporting year

Controlling person(s) of an entity:

- Name and address of controlling person(s)
- Date of birth of controlling person(s)
- TIN of controlling person(s) (or its local equivalent in the reportable person's jurisdiction)
- Account number of controlling person(s) and balance/value of account holder
- Name, address and TIN of the entity
- Gross total amount of interest paid into the account during the year or at the end of the reporting year

(b) Custodial accounts:

In addition to the information above, the following are required:

- Total gross amount of interest paid
- Total gross amount of dividend paid
- Total gross amount of other income generated by the assets
- Total gross proceeds from the sale or redemption of financial assets

What procedures are FIs required to take to identify reportable account holders?

The CRS Regulations recognizes pre-existing accounts (i.e. accounts opened before 1 July 2019) and new accounts (i.e. accounts opened from 1 July 2019, when the CRS Regulation became effective).

For pre-existing accounts, every FI is required to perform the following due diligence procedures to identify reportable account holders:

- (a) electronic record search;
- (b) paper record search; and
- (c) relationship manager enquiry for high value account holders (i.e. individual account holders with an aggregated account balance of USD1million and above at the end of any reporting period).

The indicators of a reportable account holder include:

- current mailing or residence address in a Reportable Jurisdiction;
- identification of one or more current or most recent telephone numbers in a reportable jurisdiction;
- current standing instructions to repeatedly transfer funds to an account maintained in a reportable jurisdiction(s);
- a valid Power of Attorney or a written authorization issued to a person with an address in a Reportable Jurisdiction; or
- a "hold mail" instruction or "in-care-of" address in a Reportable Jurisdiction where the Reporting FI does not have any other address on file for the Account Holder.

For new accounts, every FI is required to administer self-certification forms on new customers to identify reportable account holders based on the jurisdiction of their tax residence, at the point of opening their accounts.

What is self-certification?

Self-certification involves FIs asking their customers to certify several details about themselves in order to determine the country/countries in which the customers are tax resident. FIs are required to carry out self-certification under CRS and it is the customer's duty to provide response to the FI's inquisition.

Without a self-certification, FIs may still be obliged to consider the customer as a reportable person.

Is self-certification the same as BVN?

No. The Bank Verification Number (BVN) is a unique identifier by the Central Bank of Nigeria (CBN), to give each bank customer a unique identity across the Nigerian banking industry that can be used for easy identification and verification at Point of Banking operations. However, self-certification is one of the requirements of the CRS MCAA designed to help an FI determine the country/countries in which its customers are tax resident.

Do I need to fill a self-certification form if I hold financial accounts in the same country where I live in?

According to the CRS guidelines, the self-certification form should be completed upon account opening. Therefore, if you opened any financial account from 1 July 2019, your FI is required to request you to complete a self-certification form, regardless of your jurisdiction of tax residence. If you opened your financial account before 1 July 2019, you may still be required to complete a self-certification form, if your FI determines this to be necessary based on its evaluation of your account information.

How often will I need to provide self-certification information?

Once an FI has a valid self-certification from you in their records, you will only be asked to complete another one when there is a change in your residence status.

Can a Financial Institution request for supporting documents from me?

FIs are required by the CRS Regulation to verify the details provided by customers as part of their self-certification. The FI may ask you for a copy of a valid photo identification, such as an international passport, or some other evidence of tax residency, to validate information in your self-certification form.

Is it compulsory to provide my TIN in the other country where I am tax resident to my Financial Institution, as this is personal and confidential information?

The CRS Guidelines requires FIs to use reasonable efforts to obtain the TIN of a reportable account by administering a self-certification form. The FIRS requires account holders to provide explanation in their self-certification forms where an account holder is unable to provide a TIN. An account holder's TIN is not required to be reported where a TIN is not issued by the relevant Reportable Jurisdiction.

Are Financial Institutions required to respect my data privacy?

Yes. FIs should only disclose the relevant reportable information to the FIRS only.

Are there penalties associated with refusal to complete a self-certification form?

According to the CRS Regulations, the FIRS may impose an administrative penalty of ₦10,000,000 where a person fails to comply with a duty or obligation imposed by the CRS Regulations, and ₦1,000,000 for every month such failure continues. The FIRS may also impose a penalty of ₦5,000,000 for omission of any information required to be included in a return.

Is citizenship an indicator of tax residency?

Depending on the country of origin, citizenship may or may not be an indicator of tax residency. You may need to contact a professional tax advisor or check the [OECD website](#) for more information on how to determine your tax residency.

Under the CRS Regulations, will Nigerian residents with offshore bank/investment account balances be subjected to tax in Nigeria, when the tax authorities of those jurisdictions provide their account information to FIRS?

A Nigerian tax resident is ordinarily assessable to tax on his/her global income, i.e., income from sources inside Nigeria or outside Nigeria, when it is brought into the country, subject to exemptions provided in the tax law. Thus, we expect the focus of the FIRS would be to confirm the source of the funds/income in the bank accounts and whether it has been duly subjected to tax. Where the funds/income originated from Nigeria and the account holders cannot demonstrate it is an after-tax income, the relevant Nigerian tax authority can in the exercise of its powers under the tax law subject the income to tax in Nigeria.

Will non-resident Nigerians working, living and earning income abroad, be subjected to tax in Nigeria if information on their foreign earnings are exchanged by the tax authorities of the countries of their residence with the FIRS?

Under the Nigerian tax law, where the duties of employment are performed outside of Nigeria and the income earned is taxable in that other country, and such persons are not in Nigeria for up to 183 days in any 12 calendar months, amongst other conditions, then the income would not be liable to tax in Nigeria. Therefore, the employment income earned by Nigerians who are fully working and living abroad is not liable to tax in Nigeria. Also, we do not expect the tax authorities in the jurisdiction of residence of such Nigerians to exchange information with the FIRS as persons in this category are not reportable according to OECD's CRS guidelines.

Where can I find further information?

For further information, click on [Regulations implementing CRS Regime](#) to download.

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