

Entities

Automatic Exchange of Information

What is Automatic Exchange of Information?

UK banks are obliged to regularly report information on certain clients to Her Majesty's Revenue & Customs (HMRC). There are a number of Automatic Exchange of Information (AEOI) regimes under which Coutts is obliged to report client information to HMRC, who exchange information with tax authorities overseas. These regimes include FATCA and CRS.

FATCA (Foreign Account Tax Compliance Act) was introduced by the United States (US) in 2010 as part of the HIRE Act, with the purpose of reducing tax evasion by US citizens. For UK banks, FATCA came into effect on 1 July 2014 and requires Coutts to undertake additional client due diligence, and report certain information on Financial Accounts held directly or indirectly by our US clients.

CRS (Common Reporting Standard) was introduced by the Organisation for Economic Co-operation and Development (OECD) and is a significant expansion of FATCA. CRS came into effect on 1 January 2016. Under CRS, Coutts is obliged to identify and report information to HMRC on any individual, Entity, or Controlling Persons of certain Entities who are resident in a Reportable Jurisdiction. As at 1 January 2016 there were over 50 Reportable Jurisdictions (including the EU, and a number of UK overseas territories). A full list of these countries is available from the OECD's website.

How does Automatic Exchange of Information impact you?

If you are an Entity (e.g. Company, Partnership, Trust) and you either open a new account with us, or notify us of a relevant change in your circumstances on an existing account, then we are obliged to ask you to declare the following on a 'Self Certification' to us:

- Your tax residence(s) and tax number(s);
- Your US Person status;
- Your FATCA Entity Classification;
- Your CRS Entity Classification; and potentially
- Certain additional supporting information (dependent upon your Entity Classifications).

If you held an account with us at the time FATCA or CRS regulations came into effect, we are required to review your account information and, in certain instances, obtain a Self Certification to establish your FATCA and CRS Entity Classifications. The information we must review to understand your tax residence includes:

1. Residence or mailing address in the US or a CRS Reportable Jurisdiction;
2. Place of incorporation or organisation in the US or a CRS Reportable Jurisdiction;
3. In the case of a Trust, an address of one or more trustees in a CRS Reportable Jurisdiction (CRS only);
4. Current US telephone number, Power of Attorney or signatory authority granted to a person with a US address, standing instructions (such as standing order) to pay funds to an account in the US, hold mail or 'in-care-of' address held as the only address for the entity (FATCA only).

If an Entity declares itself as a US Person on its Self Certification, the Internal Revenue Service (IRS) form W-9 is also required. In certain other instances, we may also request additional supporting information.

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What is your FATCA Entity Classification*?

For FATCA, this principally depends upon your business activity and whether or not you are tax resident in the US. Your Entity Classification will determine whether we need to report your account information to HMRC. We are required to obtain your FATCA Entity Classification via a Self Certification. Broadly speaking, there are three types of FATCA Classification for Entity clients:

- US Person; or
- Financial Institution; or
- Non-Financial Entity (NFE) – A NFE is either 'Active' or 'Passive': if Passive, Coutts must obtain tax residence details of your Controlling Persons.

*Supporting information on FATCA Entity Classifications can be found in our AEOI Glossary.

What is your CRS Entity Classification*?

For CRS, your Entity Classification will be determined based on your business activity. Under CRS, we will rely on a combination of both your Entity Classification and tax residence, to determine whether Coutts is required to report your account information to HMRC. We are required to obtain your CRS Entity Classification and country or countries of tax residence via a Self Certification. This is in addition to the FATCA Entity Classification. The types of CRS classification for Entity clients are:

- Financial Institution: Investment Entity;
- Financial Institution: Other (including Depository Institutions, Custodial Institutions and Specified Insurance Companies);
- Non-Financial Entity (NFE): Active or Passive (There are a number of sub-categories of Active NFE which include Actively Trading Entities, Governmental, International, or Publicly Traded Organisations).

If certain NFEs, including Actively Trading NFEs or Passive NFEs, confirm tax residence in a CRS Reportable Jurisdiction, they will be reportable for CRS purposes. Other Entities will not be reportable, even if they are tax resident in a CRS jurisdiction.

'Active' and 'Passive' NFEs are terms defined within the UK legislation to implement FATCA and CRS. These Classifications are solely relevant for these regimes and are requested by Coutts to ensure compliance with the legislation.

*Supporting information on CRS Entity classifications can be found in our AEOI Glossary.

What Coutts has to Report

For an Entity identified as a Reportable Person, Coutts is obliged to report certain information on accounts held (directly or indirectly) to HMRC, who will exchange that data with the appropriate tax authority (e.g. the IRS for US Persons). Coutts is also obliged to report if an account holder does not provide us with enough information to verify that they are not reportable.

The details Coutts is obliged to report include:

- Account holder's name and address;
- Account holder's tax number(s) (if available) or date of birth;
- Account number(s), total balance(s) or value(s) and income received on the account during the year (such as interest);
- Name, address and tax number(s) of any Controlling Persons resident in a Reportable Jurisdiction for FATCA or CRS (where the account holder is a Passive NFE); and
- Gross proceeds from the sale of certain assets.

Frequently Asked Questions

Who is a US Person?

This is any US citizen or resident, any partnership or corporation created or organised in the US or under Federal or State US Law, any US estate or any US Trust, any non-US insurance company that has elected to be treated as a US corporation.

Who is a Reportable Person for CRS?

For CRS you are a Reportable Person if you confirm you are tax resident in a Reportable Jurisdiction (and are either "Passive NFE" or "Active NFE: Other"), or if you provide us with information indicating you may be reportable and you do not confirm otherwise.

I am a Reportable Person. What does it mean for me?

We are obliged under UK law to report certain account information of Reportable Persons to HMRC. HMRC will in turn, transmit this data onwards to the tax authority in your country or countries of tax residence (where they are Reportable Jurisdictions).

What is my Entity Classification?

Coutts do not offer tax advice, but our AEOI Glossary may assist you in understanding your FATCA and CRS Entity Classifications. If you remain uncertain about your Classification you may wish to seek independent professional tax advice.

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Are Trusts impacted by AEOI?

Yes. Trusts fall within the scope of AEOI, they are considered Entities and will need to declare their FATCA and CRS Entity Classification. If a Trust is a Passive NFE or Owner Documented Financial Institution we will also need tax residence details for any Controlling Persons.

What happens if I do not fully comply with AEOI requests?

If account holders do not comply with AEOI requests from us, we are obliged to report their account details to HMRC. For Entity account holders, in certain circumstances there is also a potential 30% withholding tax on US sourced income (such as dividends) under FATCA. Coutts is a tax compliant bank and will only deal with clients who have similarly fulfilled their tax obligations.

Why must Coutts comply with AEOI?

If Coutts does not comply it will be subject to HMRC tax penalties. Under FATCA we may also be deemed non-compliant, in which case potentially subject to a 30% withholding tax on all US sourced income due to us or our clients.

Learn more about AEOI

Her Majesty's Revenue & Customs (HMRC)
<https://www.gov.uk/guidance/automatic-exchange-of-information-introduction>

Learn more about FATCA

US Internal Revenue Service (IRS)
www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA

Learn more about CRS

The Organisation for Economic Co-operation and Development (OECD) www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm

Important information

This document is based on our understanding of the current tax law and practice and is not intended to constitute definitive tax advice.

If you would like this document in another format such as Braille, large print or audio, please let us know.