



THE COMMON REPORTING STANDARD: DISCUSSION WITH FINANCIAL INDUSTRY

Saint Lucia
22 April 2016

Consultation with the financial industry

AGENDA

1. Introduction
2. The CRS in Greater Detail – Requirements of Domestic Legislation
3. Implementing the CRS - Policy Decisions

1. INTRODUCTION

The Global Forum

- Mission – to ensure a rapid and effective global implementation of the international standards of transparency and exchange of information for tax purposes
 - Conducted through in depth monitoring and peer review reports
 - Jurisdictions expected to act on any recommendations in the review and to report back to the Global Forum on actions taken

How did we get to the CRS?

AEOI
experience
including
EU Savings
Directive

G5 work
with US
to develop
IGA
approach
to FATCA

Early
Adopters
Group
commit
to 2017
timeline

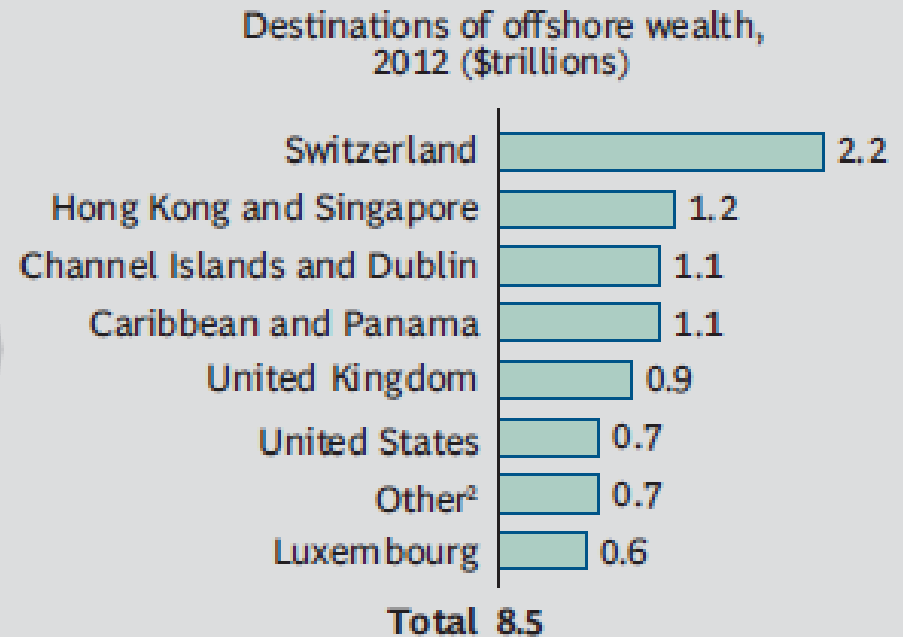
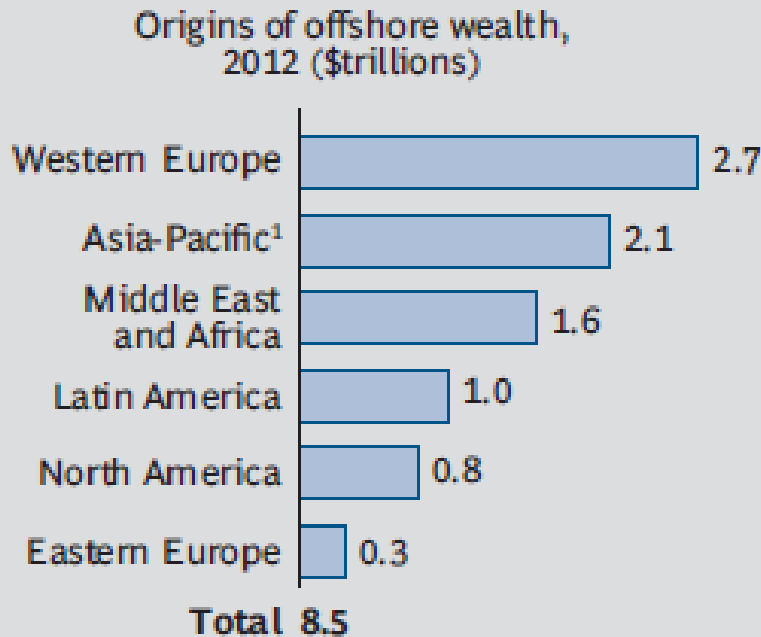
98 Global
Forum
Members
commit to
2017 /
2018

US
FATCA
2010

Widespread
calls for
global
standard
based on
FATCA IGAs

G20
endorses
the final
Standard
and
commits
to 2017 /
2018
timelines

The Algebra of Offshore Assets



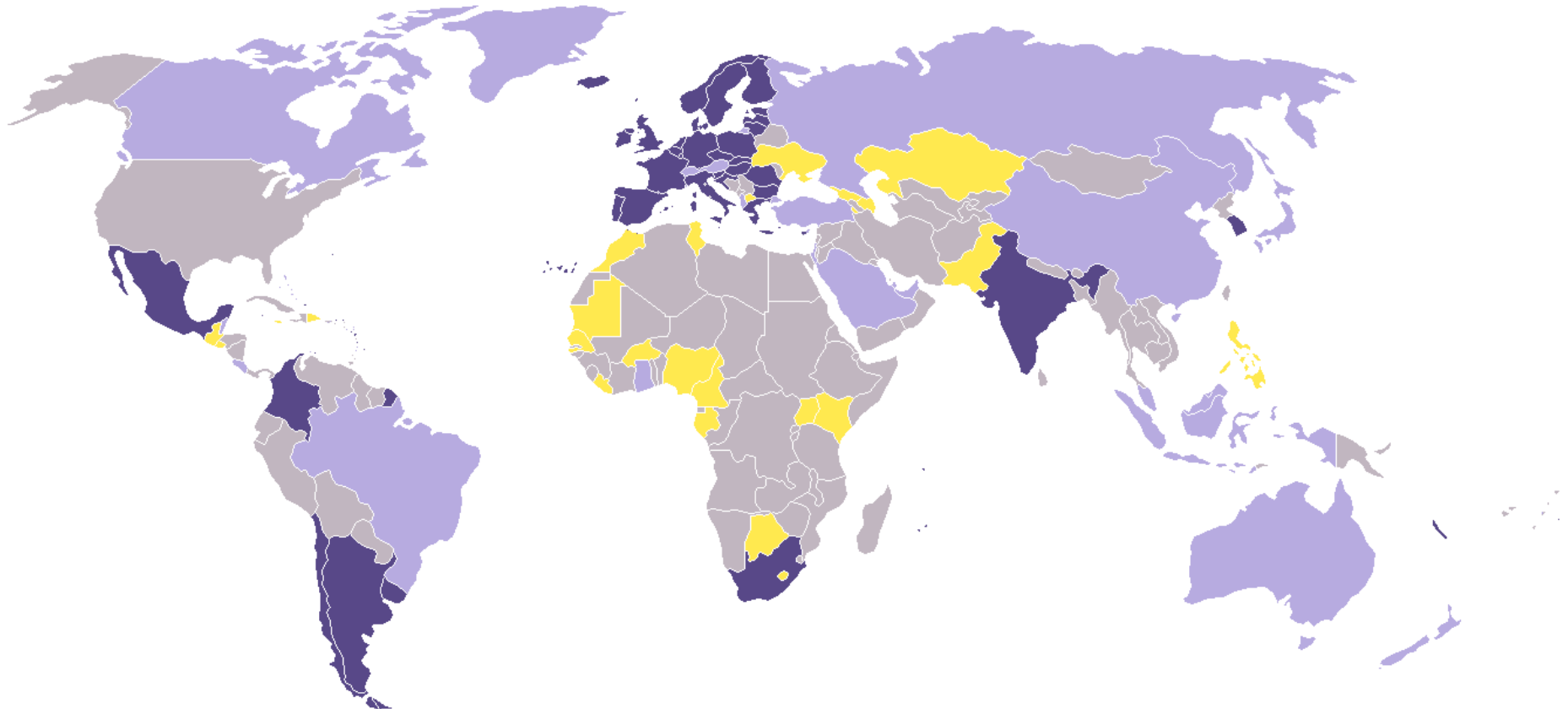
Source: BCG Global Wealth Market-Sizing Database, 2013.

Note: Discrepancies in totals reflect rounding. Offshore wealth is defined as assets booked in a country where the investor has no legal residence or tax domicile.

¹Including Japan.

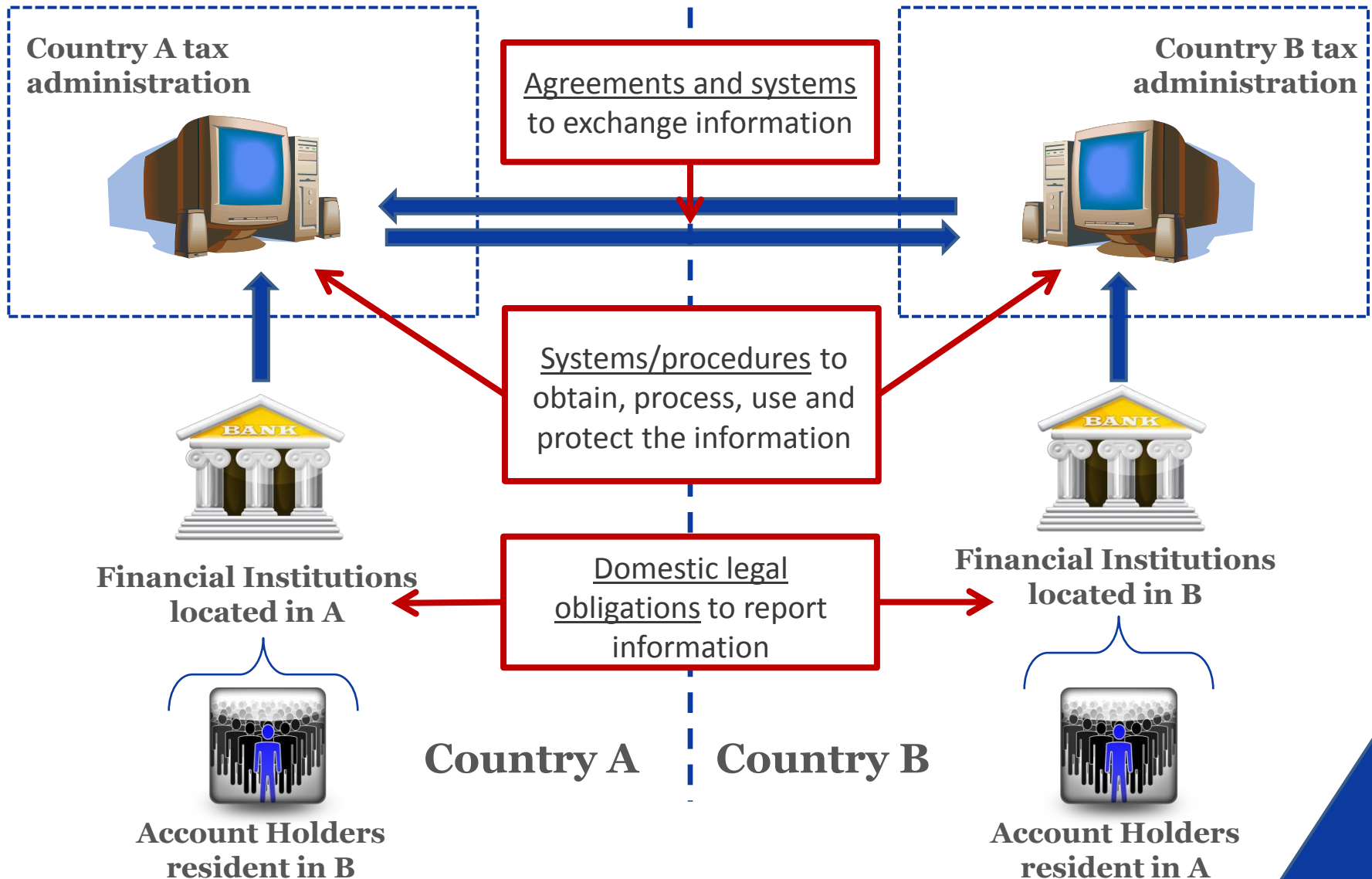
²Includes Dubai and Monaco.

Commitments to implement



-  2017
-  2018
-  Technical assistance offered

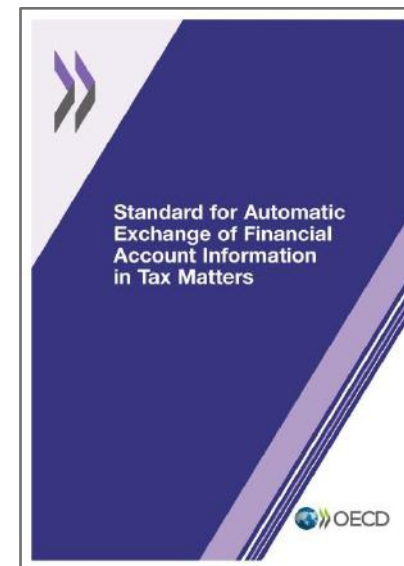
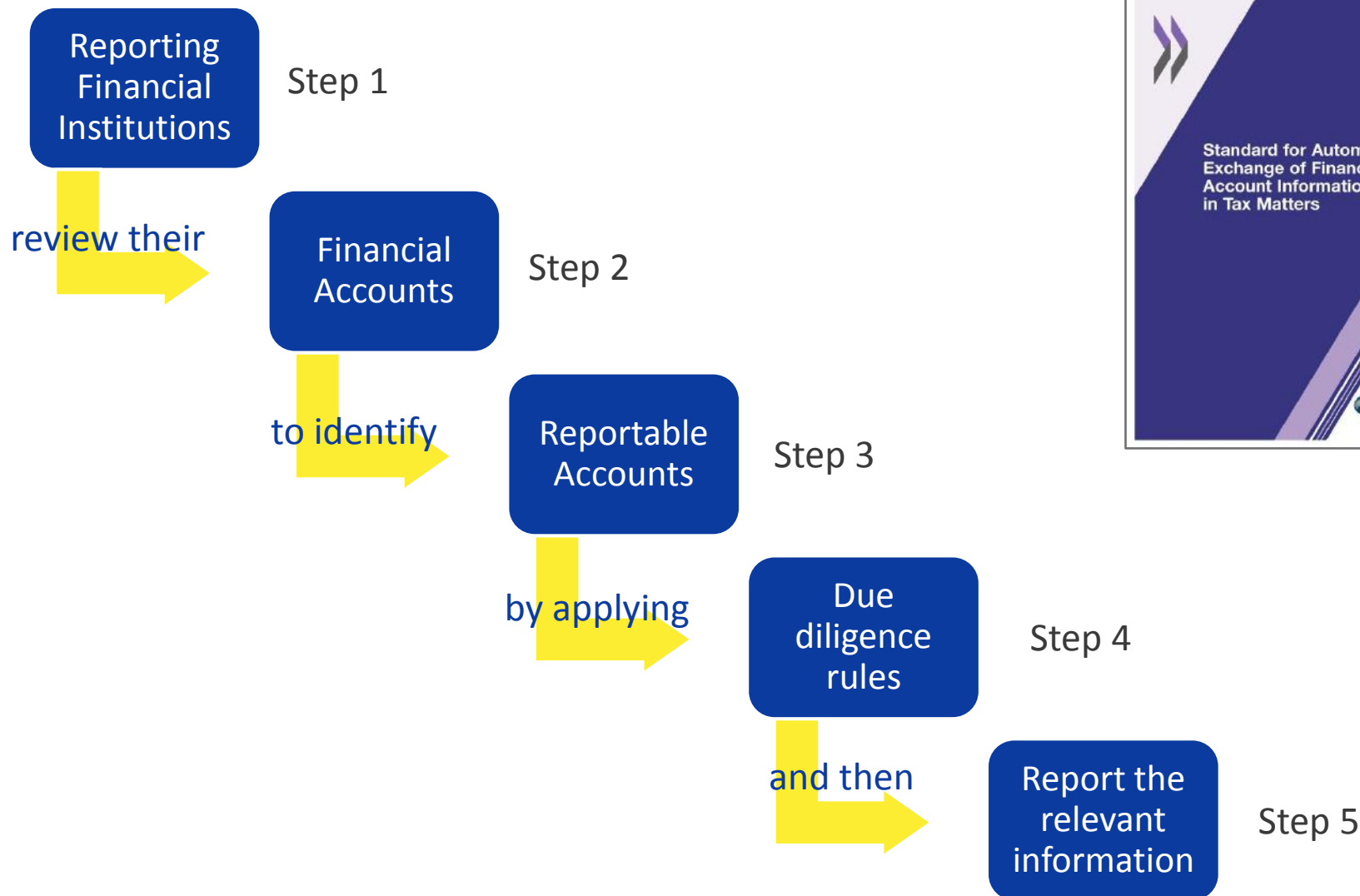
CRS: the basic framework





2. THE CRS IN GREATER DETAIL: REQUIREMENTS OF DOMESTIC LEGISLATION

An overview of the CRS : 5 steps



Rationale

Reporting Financial Institutions

- Wide in scope
- Closest to the taxpayer

Financial Accounts

- Wide in scope

Reportable Accounts

- Targeted to risk

Due diligence rules

- Standardised, building on existing procedures including FATCA
- Recognises difference between preexisting and new accounts and individuals and entities

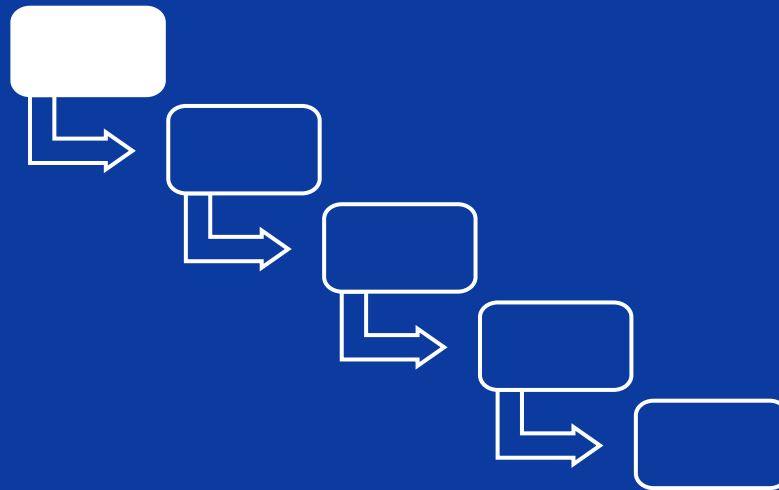
Report the relevant information

- Information to identify the Account Holder and assess tax risk

Who must the domestic reporting obligations be imposed upon?

REPORTING FINANCIAL INSTITUTIONS

(STEP 1)



Conditions

An Entity ...

in a Participating Jurisdiction ...

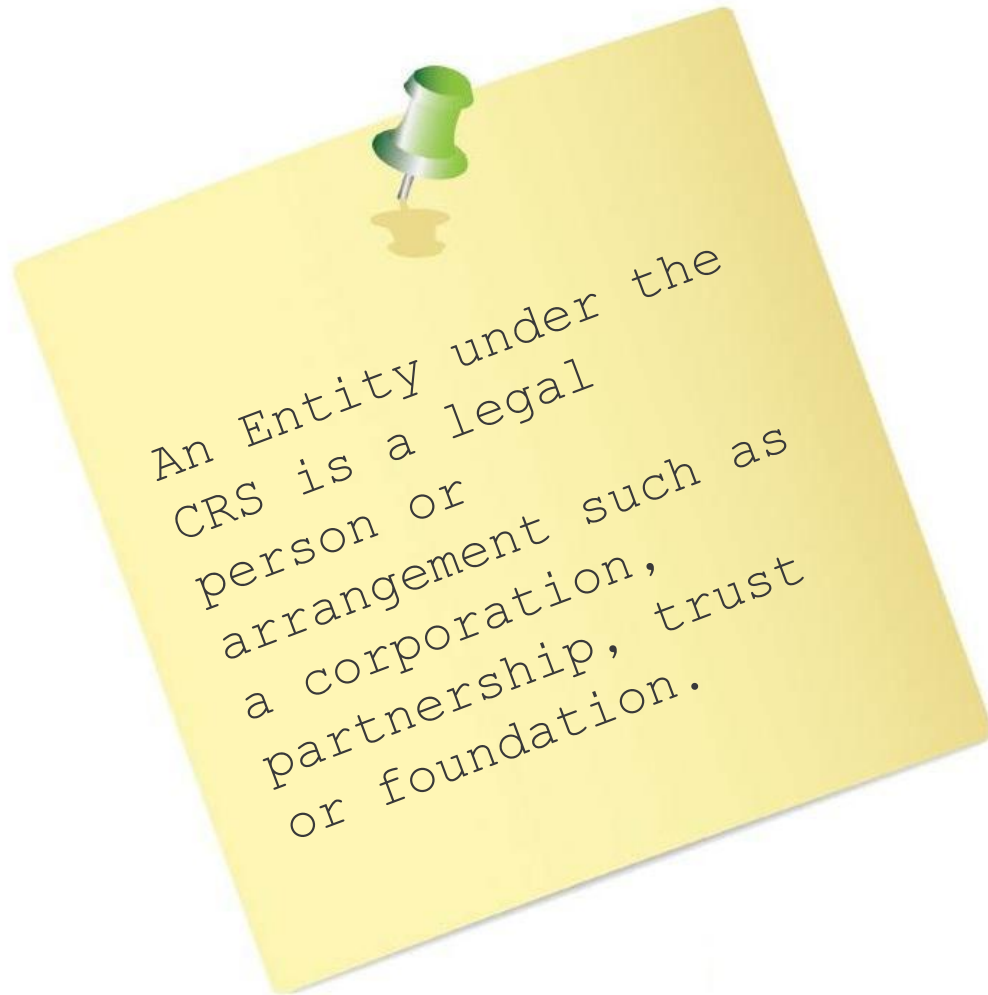
that is a Financial Institution ...

and is not a Non-Reporting Financial Institution ...

is a Reporting Financial Institution.

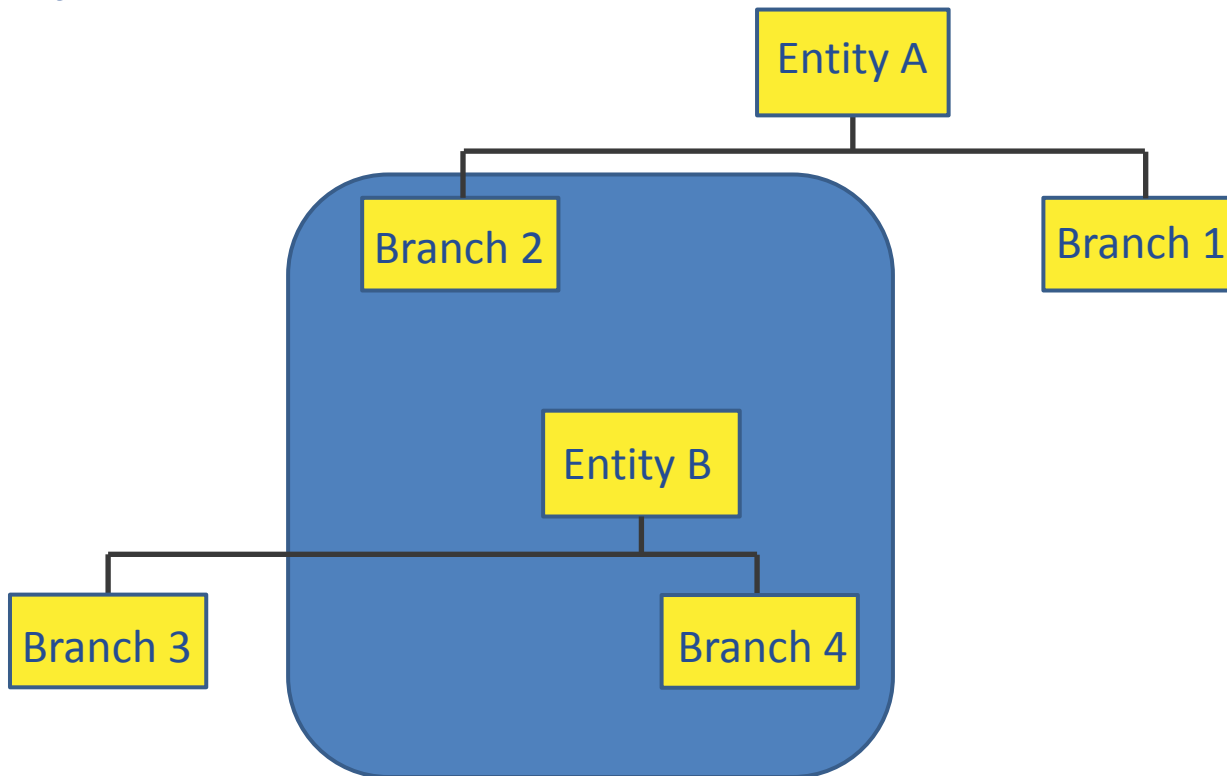
An Entity ...

A broad
definition
of Entity ...



in a Participating Jurisdiction ...

General rule: (i) Entities resident in a Participating Jurisdiction, excluding their branches located outside the jurisdiction and (ii) branches located in the Participating Jurisdiction of Entities resident outside the jurisdiction.



in a Participating Jurisdiction cont. ...

Unpacking residence for the CRS:

Entity	Residence under the Standard
Tax resident Entities	Residence for tax purposes
Non-tax resident Entities, except trusts	Place of incorporation, management or financial supervision
Multiple resident Entities, except trusts	Where accounts are maintained
Trusts	Where one or more trustees are resident (unless information reported elsewhere due to tax residence)

Financial Institutions, further defined

Depository Institutions

- Accepts deposits in the course of a banking or similar business.

Custodial Institutions

- $\geq 20\%$ of gross income from holding Financial Assets for others.

Investment Entities

- (i) Gross income primarily ($\geq 50\%$) from business investment activities (trading/investing in Financial Assets, portfolio management etc.) on behalf of customers; **or**
- (ii) Gross income primarily ($\geq 50\%$) from investment in Financial Assets and managed by a Financial Institution.

Specified Insurance Companies

- Insurance company making payments on a Cash Value Insurance/Annuity Contracts.

Non-Reporting Financial Institutions

- Specified low risk institutions and jurisdiction-specific lists.

Non-Reporting Financial Institutions

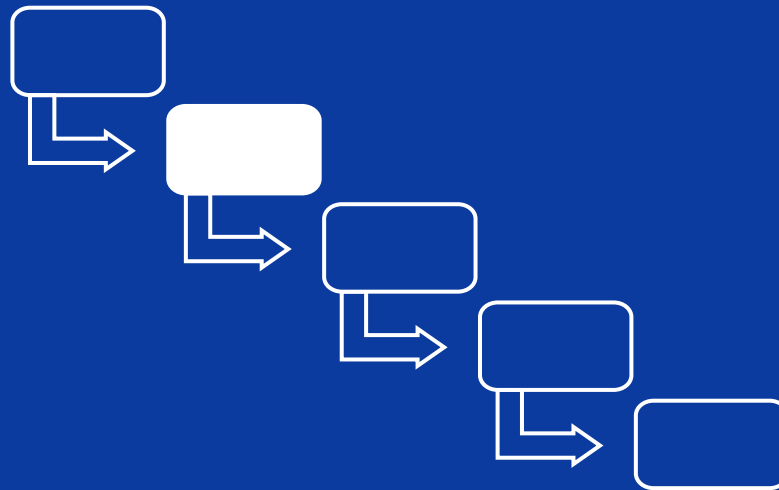
Specific categories:

- Government Entity, International Organisation, Central Bank (other than payments on obligations held in commercial activity)
- Broad participation retirement fund
- Narrow participation retirement fund
- Pension fund of a government entity, international organisation or central bank
- Qualified credit card issuer
- Exempt collective investment vehicle
- Trustee documented trust
- Any other Entity with low risk of tax evasion, similar characteristics to the above categories, defined in domestic law, does not frustrate purposes of the Standard

Who must the domestic reporting obligations require reporting financial institutions to do?

REVIEW THEIR FINANCIAL ACCOUNTS

(STEP 2)



Financial Account

General rule: an account maintained by a Financial Institution

Specifically including:

Account	The Financial Institution generally considered to maintain it
Depository Accounts	The Financial Institution obliged to make payments with respect to the account
Custodial Accounts	The Financial Institution that holds custody over the assets in the account
Equity and debt interests	The interests in an Investment Entity (or other Financial Institution – anti-avoidance) are “maintained” by that Investment Entity (or other Financial Institution)
Cash Value Insurance/ Annuity Contracts	The Financial Institution obliged to make payments with respect to the contract



Excluded Accounts (low risk)

- Retirement and pension accounts
- Other tax-favoured accounts
- Term Life Insurance Contracts
- Estate Accounts
- Escrow Accounts
- Depository Accounts due to not-returned overpayments
- Other Low-risk excluded accounts

Comparing the CRS to FATCA

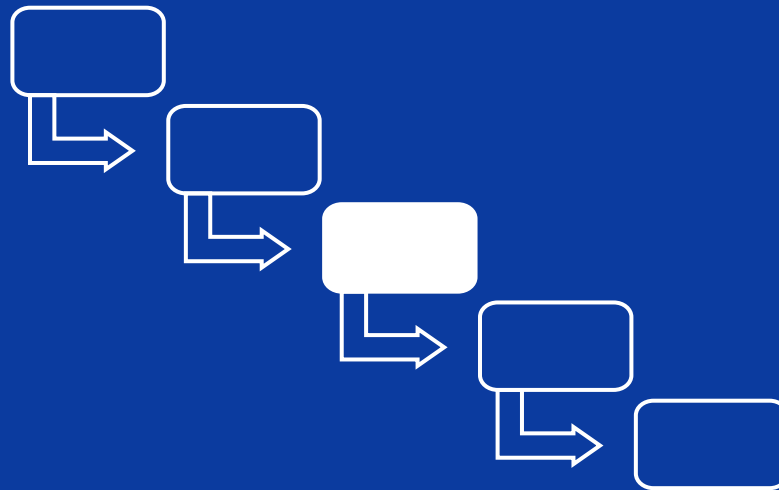
Step 2: Financial Accounts

Issue	Common Reporting Standard compared to the Model 1 FATCA IGA	Consistent approach possible?
Cash Value Insurance	The IGA excludes contracts worth \$50,000 and below.	No \$50,000 threshold in the CRS

What must the domestic reporting obligations require reporting financial institutions to identify?

REPORTABLE ACCOUNTS

(STEP 3)



Reportable Accounts

An account held by ...

One or more
Reportable Persons

A Passive Non-
Financial Entity
with one or more
Controlling Persons
that is a Reportable
Person

Reportable Accounts

A Financial Account held by a person ...

who is a Reportable Jurisdiction Person

...

and is not excluded from being a
Reportable Person ...

is a Reportable Account.

Reportable Jurisdiction Person

Reportable Jurisdiction Person

- An Individual or Entity resident for tax purposes in a Reportable Jurisdiction (or effective management if no tax residence).
- Detailed due diligence rules for Financial Institutions to follow.

Reportable Jurisdiction

- As defined in domestic law where Financial Institution reports, in a published list.
- Will include all jurisdictions with which the Financial Institution's jurisdiction has an agreement to automatically exchange information under the Standard ([link to the wider approach](#)).

Exclusions

- Exclusions include: corporations whose stock is regularly traded on an established securities market (and their related entities); government entities; and Financial Institutions.

Controlling Persons that are reportable

A Financial Account held by ...

a Passive Non-Financial Entity ...

with a Controlling Person(s) that is a
Reportable Person(s) ...

is a Reportable Account.

Passive Non-Financial Entities

Entities

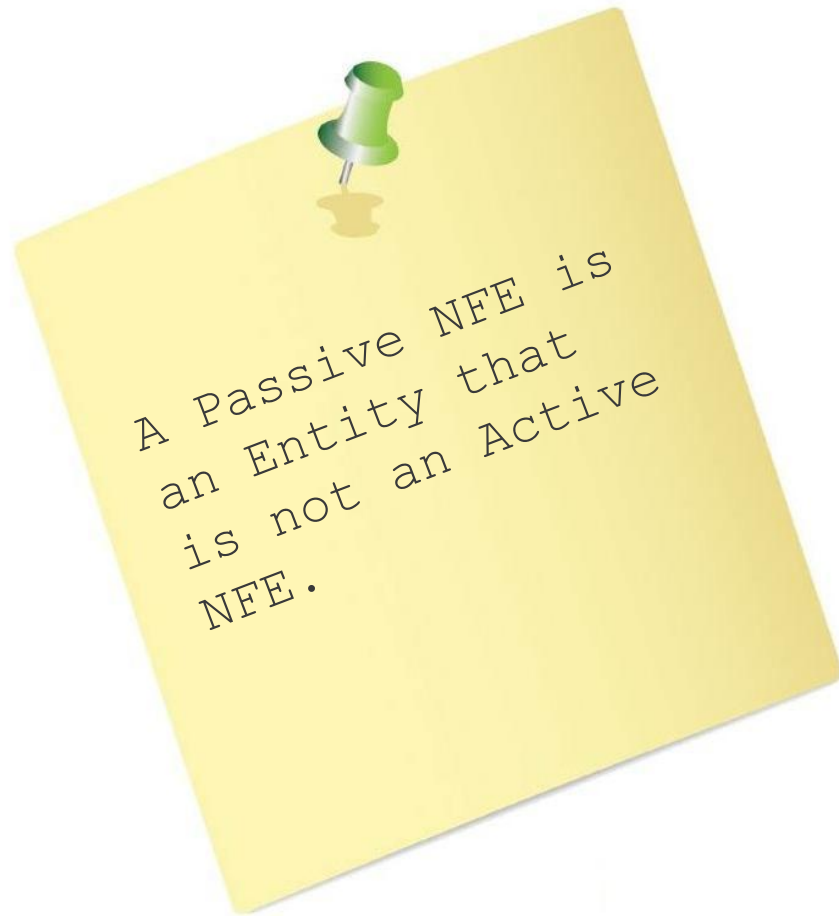
Financial
Institutions

Non-Financial Entities
(NFEs)

Active NFEs

Passive
NFEs

Passive Non-Financial Entities



Consequently a **Passive NFE**:

- Includes: Entities with $\geq 50\%$ of income which is passive income or $\geq 50\%$ of assets produce passive income (dividends, interest, rents etc.)
- Includes: Certain Investment Entities located in non-Participating Jurisdictions.
- Excludes: Publically traded Entities (and Entities related to them), Government Entities, holding NFEs of non-financial groups.

“Look-through” to Controlling Persons



- Corresponds to “beneficial owner” in the Financial Action Task Force Recommendations
- “Look through” the Entity to identify the natural person(s) who exercises control over the Entity (generally controlling ownership interest in the entity - often interpreted $\geq 25\%$ ownership).
- For trusts (and equivalents), the settlor(s), trustee(s), protector(s), beneficiary(ies), and any other natural person(s) exercising effective control over the trust.

Comparing the CRS to FATCA

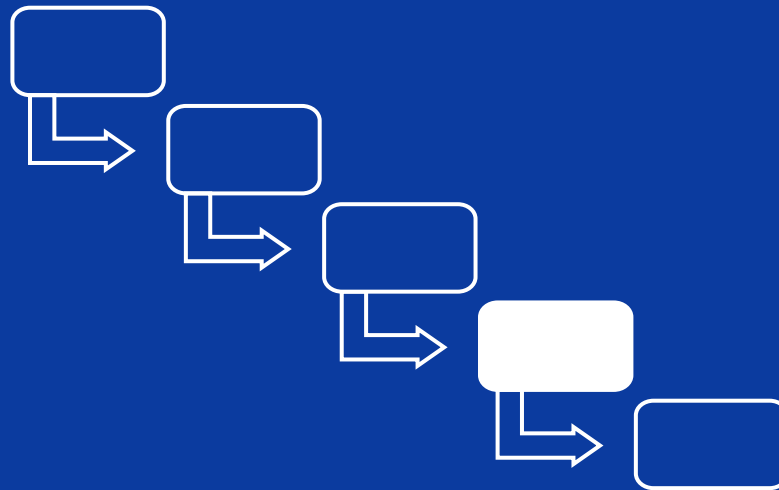
Step 3: Reportable Accounts

Issue	Common Reporting Standard compared to the Model 1 FATCA IGA	Consistent approach possible?
Reportable Persons	The IGA includes US citizenship in the definition of tax residency (as an indicia)	Reflect US tax law
Passive NFEs	Unlike the IGA, Passive NFEs are reportable under CRS where same residency as Controlling Persons	Only in the CRS
Definition of Passive NFE	Unlike the IGA, the CRS defines Investment Entities in non Participating Jurisdictions as Passive NFEs	Only in the CRS

Ensuring quality and consistency in the information reported through the domestic reporting requirements

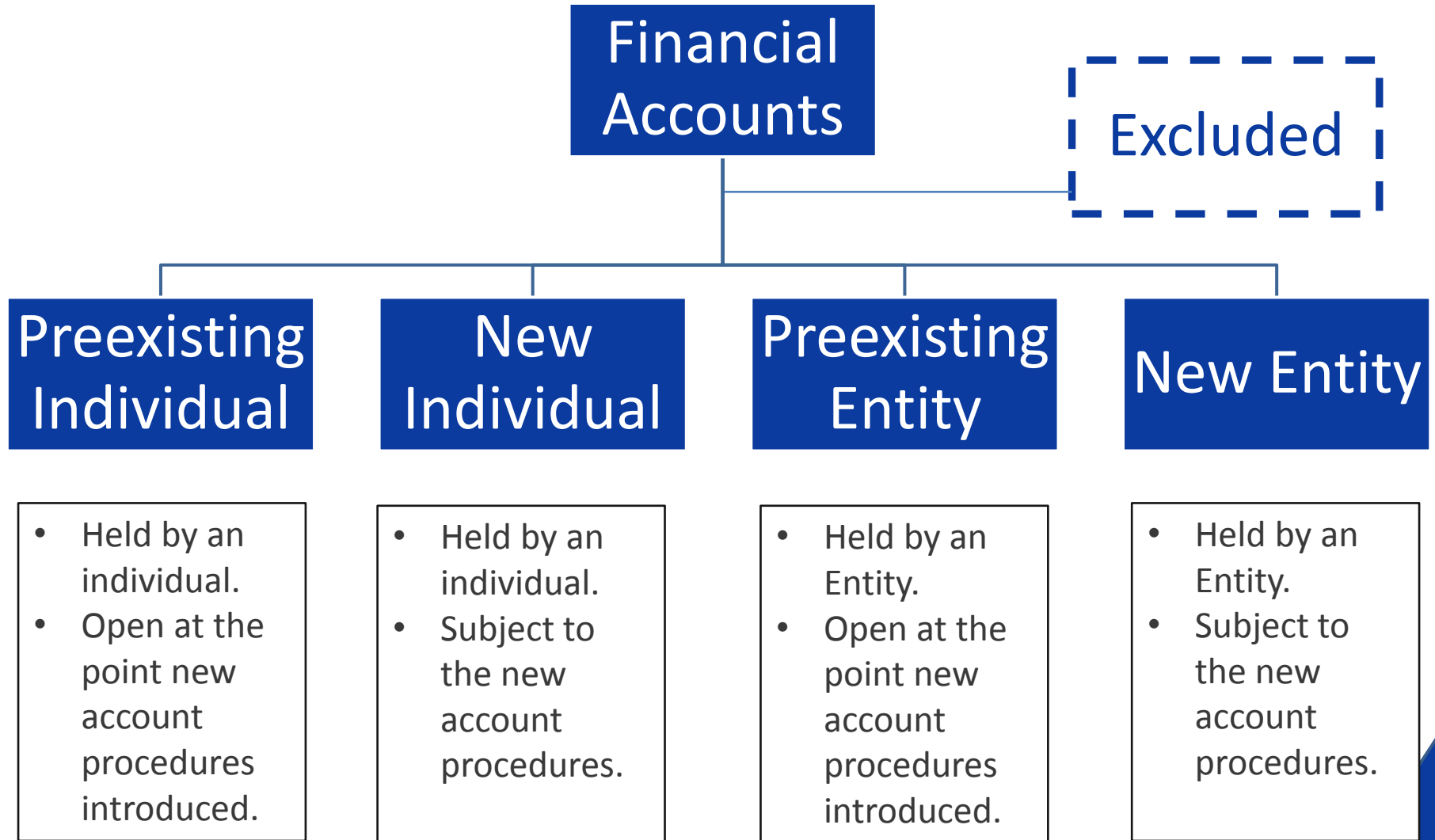
THE DUE DILIGENCE RULES

(STEP 4)





Categories of Accounts



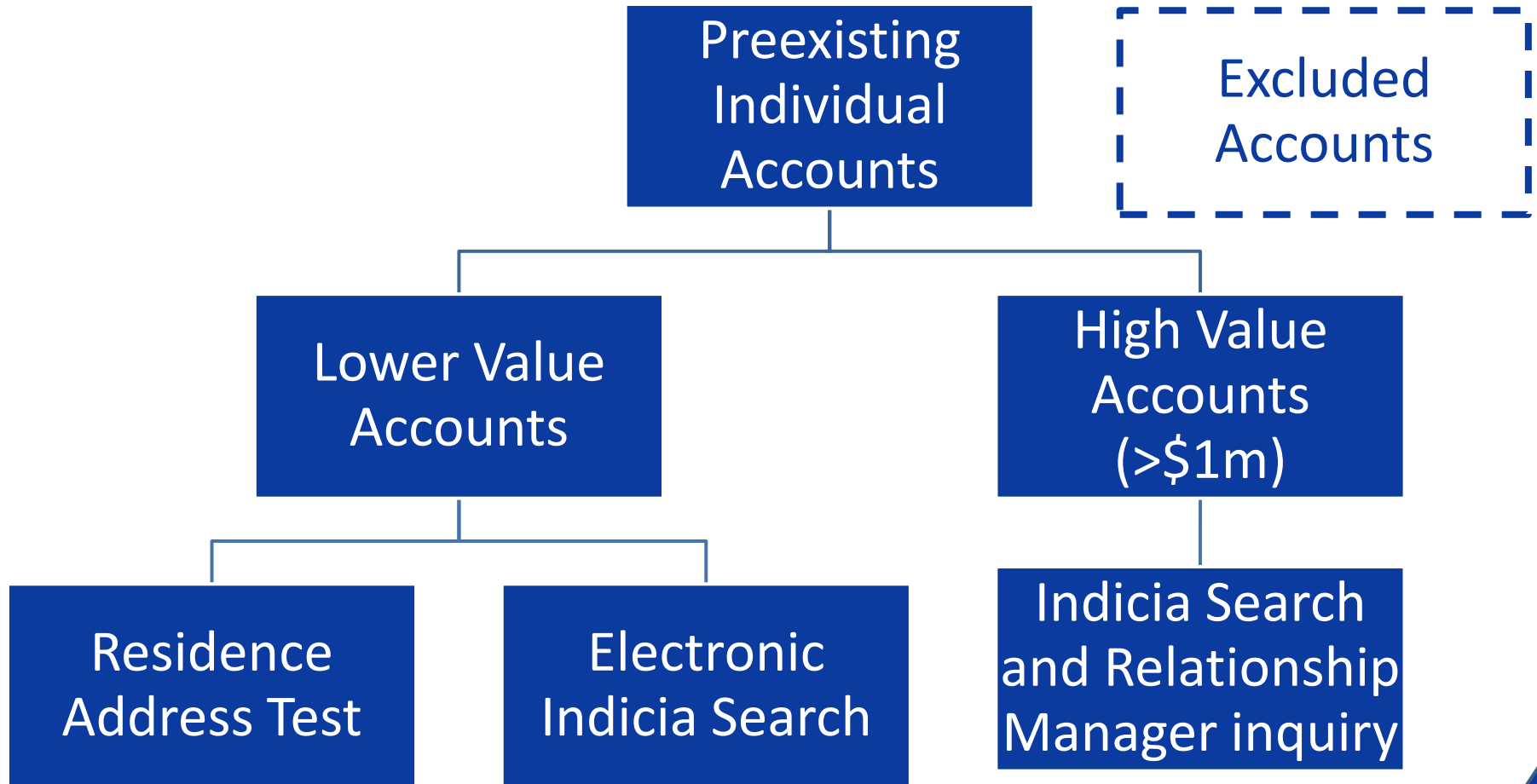
Timing for due diligence

Timing for 2018 first exchange

- Cut-off date: preexisting accounts 31 December 2016; new accounts 1 January 2017
- Due diligence on preexisting high value individual complete by 31 December 2017
- First exchanges September 2018 (all reportable new accounts and all reportable preexisting high value individual)
- Due diligence on preexisting entity and preexisting low value individual complete by 31 December 2018
- Second exchanges September 2019 (all reportable new accounts and all reportable preexisting accounts)

THE DUE DILIGENCE PROCEDURES FOR EACH CATEGORY

Preexisting Individual Accounts



Preexisting Individual Accounts

Indicia (of tax residency):

- identification of the Account Holder as a resident of a Reportable Jurisdiction;
 - current mailing address in a Reportable Jurisdiction;
 - one or more telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;
 - standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
 - currently effective power of attorney or signatory authority granted to a person with a address in a Reportable Jurisdiction; or
 - a “hold mail” instruction or “in-care-of” address in a Reportable Jurisdiction if the Financial Institution has no other address on file.
- Indicia can be “**cured**” - obtain a self-certification establishing tax residence and/or Documentary Evidence, depending on indicia.

New Individual Accounts

Self-certifications

- A valid self-certification must be obtained, establishing tax residency. The process is flexible but the content is not.
- Must be signed/positively affirmed, dated, and include Account Holder's:
 - Name
 - Residence address
 - Jurisdiction(s) of residence for tax purposes
 - TIN(s)
 - Date of birth

Reasonableness

- The self-certification must be compared to the other information obtained in connection with the account opening (including for AML/KYC). Not reasonable if reason to know it is unreliable.
- If unreliable, need either a new self-certification or a reasonable explanation and documentation.

Preexisting Entity Account

Potentially reportable on two grounds.

First
process:

Preexisting Entity
Accounts

Excluded Accounts

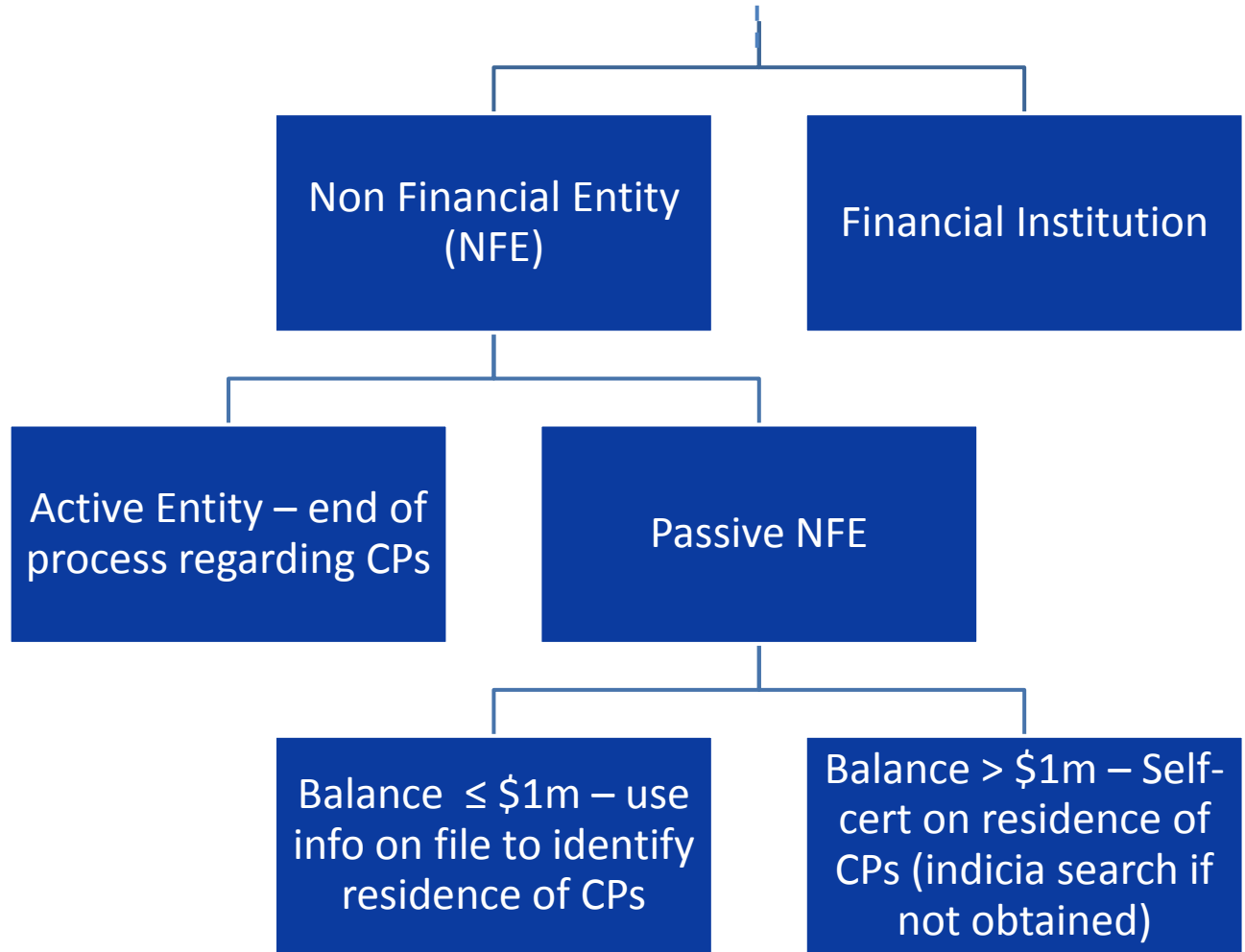
Exempt if \leq \$250k

Examine information
on file/obtain a self-
certification

Possibly reportable due to
the Entity Account Holder

Preexisting Entity Accounts continued

Second process:



Possibly reportable due to the Controlling Persons



Preexisting Entity Accounts continued

Process 1: Determining Account Holder's status

- May follow procedures to identify if the Entity is reportable in any order (i.e. first excluded or not in a Reportable Jurisdiction).
- Determinations can be effectively “cured” through obtaining a self-certification or using information that is publically available.

Entity	Indication of residence
Most taxable Entities	Place of incorporation or organisation
Tax transparent Entities, except trusts	Address
Trusts	The address of one or more trustees

Process 2: Establishing if an Entity is a Passive NFE

- The Financial Institution may use: Information in its possession; information that is publically available; or a self-certification

New Entity Accounts (process 1)

Self-certifications

- Unless, based on information that is publically available/in the Financial Institutions possession it is established the Entity is not a Reportable Person, a valid self-certification needs to be obtained establishing the Entity's residence for tax purposes.
- It must be signed/positively affirmed, dated and include the Account Holder's:
 - Name; Residence address; Jurisdiction(s) of residence for tax purposes; TIN(s)
- It may include if the Account Holder is a Passive NFE (process 2).

Reasonableness

- The self-certification must be compared to the other account opening information (e.g. AML/KYC).
- If found not to be reasonable a new self-certification is needed.

New Entity Accounts (process 2)

Establishing Entity status

- To establish whether the Account Holder is a Passive NFE the Financial Institution may use:
 - Information in its possession
 - Information that is publically available
 - A self-certification

Establishing the Controlling Person's status

- May only use a self-certification by the Controlling Person or the Entity Account Holder.

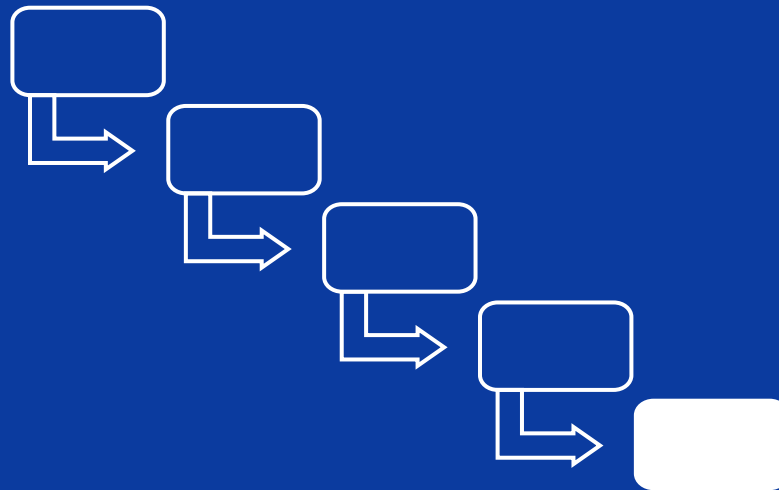
Comparing the CRS to FATCA

Step 4: Due diligence rules




Issue	Common Reporting Standard compared to the Model 1 FATCA IGA	Consistent approach possible?
Thresholds	Unlike IGA, no \$50,000 de minimus for Preexisting Individual Accounts	Threshold optional under the IGA
Indicia	Differences between the CRS and IGA (e.g. US citizenship, place of birth, phone number etc.)	Indicia for different tax residency rules
Self-certification	Unlike the IGA, date of birth required under the CRS	To enhance matching in multilateral context
Incorrect self-certs	Unlike the CRS, under the IGA the default option is to report the information to the US	Changed for a multilateral context
Preexisting Accounts	Under the CRS a Preexisting Entity Account reported above \$250,000, under IGA it is \$1m	Threshold optional under the IGA
Multiple residency	Unlike the IGA, can have multiple reporting under the CRS	The CRS provides for a multilateral context
Curing self-cert. errors	For CRS must have residency in a self-certification to use it, whereas report to US under IGA as default	CRS approach for a multilateral context

THE INFORMATION TO BE REPORTED

(STEP 5)



The information to be reported

Information type	Information
<p>To identify the Account Holder</p> 	<ul style="list-style-type: none"> Name Address Jurisdiction(s) of residence Where available and required: <ul style="list-style-type: none"> TIN(s), Date of birth, Place of birth
<p>To identify the accounts and Financial Institution</p> 	<ul style="list-style-type: none"> Account number Name and identifying number of the Financial Institution
<p>In relation to financial activity in the account</p> 	<ul style="list-style-type: none"> Account balance or value (or the fact the account was closed in-year) For <u>depository accounts</u>: interest paid For <u>custodial accounts</u>: interest, dividends, other income and gross proceeds paid For <u>other accounts</u>: gross amount paid



Comparing the CRS to FATCA

Step 5: Information to be reported

Issue	Common Reporting Standard compared to the Model 1 FATCA IGA	Consistent approach possible?
Date/place of birth	Both required under the CRS, whereas the IGA only requires date of birth if no TIN and no place of birth	To enhance matching in multilateral context
Account Closure	Under the IGA must report balance prior to closure, whereas under the CRS only the fact it was closed	Balance is IGA only



3. IMPLEMENTING THE CRS: POLICY DECISIONS

Optional provisions in the Standard

OPTION

Allowing third party service providers to fulfil the obligations on behalf of the financial institutions

Allowing the due diligence procedures for New Accounts to be used for Preexisting Accounts

Allowing the due diligence procedures for High Value Accounts to be used for Lower Value Accounts

Residence address test for Lower Value Accounts

Exclusion from Due Diligence for Preexisting Entity Accounts of less than \$250,000

Alternative documentation procedure for certain employer-sponsored group insurance contracts or annuity contracts

Allowing financial institutions to make greater use of existing standardised industry coding systems for the due diligence process

Optional provisions in the Standard

OPTION

Currency translation

Allow a Financial Institution to treat certain new accounts held by preexisting customers as a Preexisting Account for due diligence purposes

Expanded definition of Related Entity for Investment Entities

Grandfathering rule for bearer shares issued by Exempt Collective Investment Vehicle

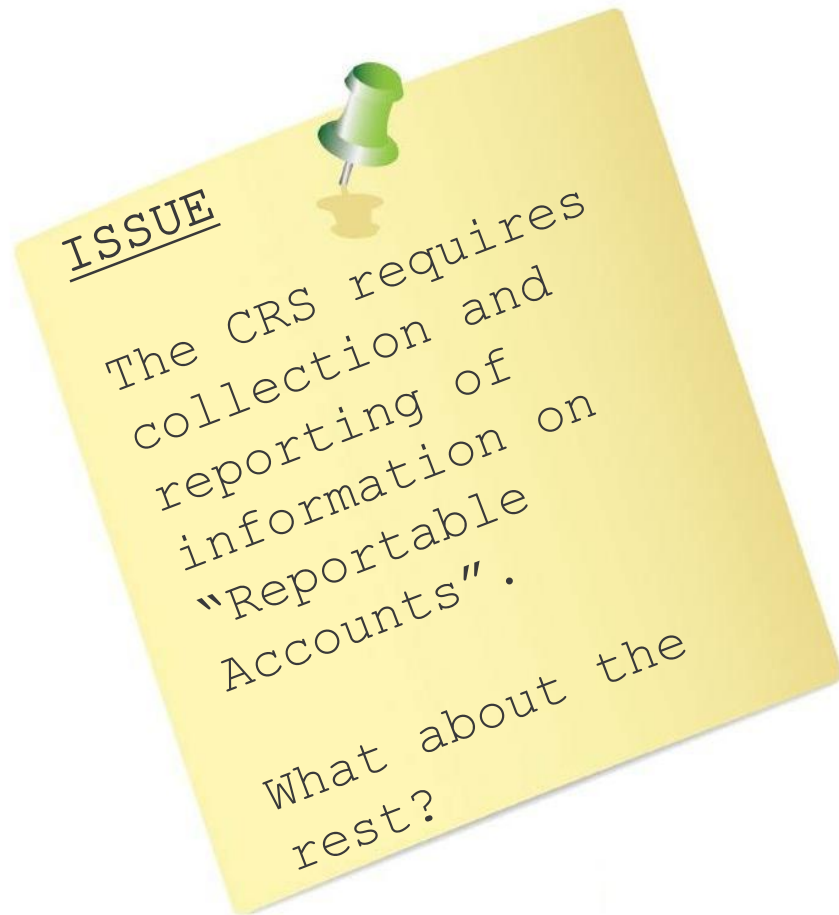
Alternative approach to calculating account balances

Use of other reporting period

Phasing in the requirement to report gross proceeds

Filing nil returns

Policy decisions: the wider approach



Minimising costs:

- Inefficient for Financial Institutions to re-run procedures every time a new automatic exchange relationship entered into.

Enhancing effectiveness:

- The non-reportable information can assist in ensuring the accuracy of the reportable information (such as collecting all TINs for example).

Policy decisions: jurisdiction-specific lists

Two jurisdiction-specific lists of low risk items

Non-Reporting Financial Institutions

Excluded Accounts (non-reportable accounts)

Consult on potential inclusions

Assess against requirements in the Standard

Jurisdiction-specific lists

QUESTIONS



gftaxcooperation@oecd.org