



Common Reporting Standard (CRS) Foreign Account Tax Compliance Act (“FATCA”) Satisfactory Practices and Unsatisfactory Practices

Federal Authority | هيئة اتحادية

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Automatic Exchange of Information (AEOI) in the UAE

- **Definition:**

Automatic data exchange between authorities of different countries for global tax transparency.

- **Commitment:**

UAE adheres to FATCA & CRS as forms of AEOI.

- **Requirements:**

UAE RFI must report account data annually to UAE MoF.

- **Exchange Process:**

Data sent to IRS (FATCA) & peer jurisdictions (CRS).

- **Special Notes:**

Occasional ad-hoc requests under FATCA & CRS by UAE MoF.



*AUTOMATIC
EXCHANGE OF
INFORMATION (AEOI)*



Introduction to CRS

- **Background:**

CRS was established by the OECD in October 2014 to improve tax transparency globally.

- **UAE Commitment:**

Signed MAC, MCAA, and Unilateral Declaration in April 2017.

Federal Laws No. 54 & 48 of 2018 ratified MAC and MCAA, respectively.

- **Legal Framework:**

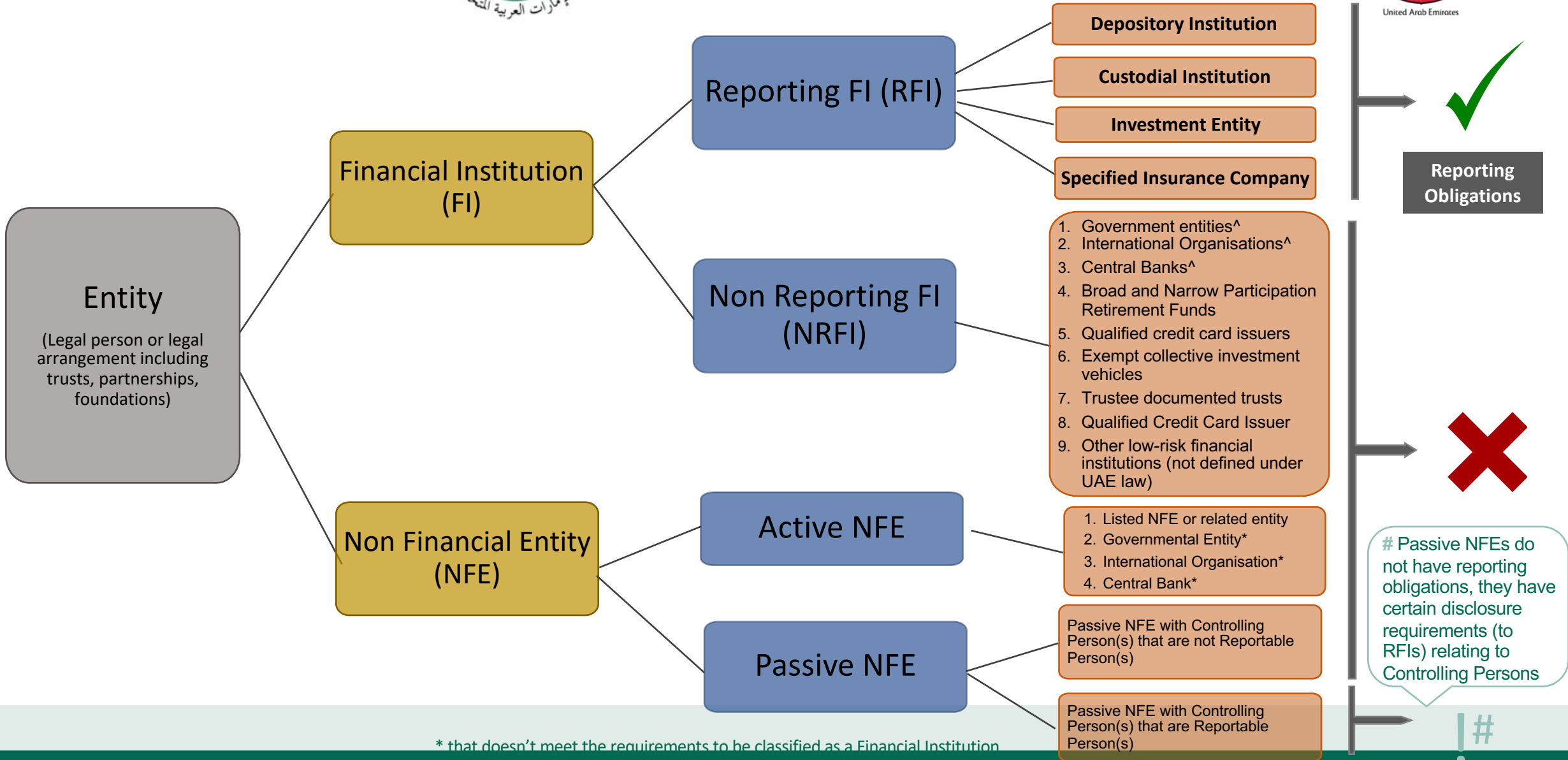
MAC & MCAA serve as UAE's legal basis for implementing the OECD Standard for AEOI.

- **Scope & Requirements:**

Specifies what info to exchange, who reports, account types, and due diligence for UAE RFI.

- **Go-Live Date:**

Effective in the UAE as of January 1, 2017.



* that doesn't meet the requirements to be classified as a Financial Institution

Passive NFEs do not have reporting obligations, they have certain disclosure requirements (to RFIs) relating to Controlling Persons

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Financial Institution

- A Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

Reporting Financial Institution

- A Financial Institution that is not a Non-Reporting Financial Institution (see previous slide for list)

Depository Institution

- Any Entity **that accepts deposits** in the ordinary course of a banking or similar business

Custodial Institution

- Any Entity that holds **Financial Assets for the account of others**, as a substantial portion of its business.

Investment Entity

- **Type A:** Any entity that **primarily conducts** as a business one or more of the following activities on behalf of a customer:
 - trading** in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - individual and collective **portfolio management**; or
 - otherwise **investing**, administering, or managing Financial Assets or money on behalf of other persons.
- **Type B:** Any entity **managed by an RFI** and whose gross **income** of which is **primarily** attributable to **investing, reinvesting, or trading in Financial Assets**.

Specified Insurance Company

- Any Entity that is an **insurance company** (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a **Cash Value Insurance Contract or an Annuity Contract**.

Account Holder

- The person listed or identified as the **holder of a Financial Account*** by the Financial Institution that maintains the Financial Account.

* Financial Account means an account maintained by a Financial Institution (and includes a depository account or a custodial account).

- Tax residency is determined under domestic tax laws.
- An individual or an entity may be a tax resident in more than one jurisdiction.

What determines tax residency?



* This is illustrative only – each Jurisdiction has its own rules on determining tax residency for individual and entities. Please refer to [Cabinet Decision No. 85 of 2022 in relation to Determination of Tax Residency in the UAE](#).

RFI Obligations

- 01 • **Register** for CRS reporting purposes on the UAE AEOI Portal
- 02 • **Identify** accounts which are **financial accounts** and therefore need to be reviewed
- 03 • **Collect** valid **CRS self-certification forms** from new account holders and determine reasonableness
- 04 • RFI's that maintain pre-existing accounts must **conduct pre-existing due diligence procedures** within deadlines
- 05 • Continuously **monitor** for **changes in circumstances**
- 06 • **Report Reportable Accounts or file NIL Returns** on an annual basis, by the reporting deadline
- 07 • Complete and **submit Risk Based Assessment (RBA)** on an annual basis

RFI Requirements

Under the CRS, Reporting Financial Institutions (RFIs) are required to:

- Apply due diligence procedures and collect documentation to identify whether a financial account maintained by the RFI is a CRS Reportable Account.
- Request individual and entity Account Holders to provide completed CRS self-certification forms and/or documentary evidence, upon account opening:
 - Individual Account Holders to declare their name, residence address, jurisdiction(s) of tax residence and TIN(s) (where applicable) on self-certifications
 - Entity Account Holders to disclose their name, address, jurisdiction(s) of tax residence, TIN(s) (where applicable) as well and Controlling Person(s) information (for certain types of entities) on self-certifications.
- Ensure effective implementation of the CRS.
- Have effective systems in place to accurately identify CRS Reportable Accounts and to ensure that the information reported for CRS purposes meets the data quality requirements.



CRS and FATCA framework in the UAE.

- SCA plays a crucial role in overseeing the implementation of the CRS and FATCA in UAE's securities sector. As part of our regulatory mandate, we have conducted a series of onsite and offsite engagements with reporting financial institutions (RFIs) across the securities sector during 2022 and the first quarter of 2023. These engagements aimed at assessing their adherence to the CRS and FATCA, identifying areas of potential improvement, and strengthening the effectiveness of the CRS and FATCA framework in the UAE.

CRS and FATCA Report: Objectives & Goals

1. Provide an overview of the current state of CRS compliance among RFIs.
2. Identify challenges and detail proactive measures taken by SCA to support compliance.
3. Best Practices: Understand and disseminate best practices in CRS compliance.
4. Strategies: Share effective methods for overcoming compliance issues.
5. Dialogue: Strengthen SCA-RFI cooperation for better adherence.
6. Emerging Trends: Assess future directions and promote a culture of continuous improvement.
7. Transparency & Trust: Show the UAE financial sector's commitment to global tax norms.
8. Policy Guidance: Inform future SCA actions for effective CRS implementation.
9. Global Impact: Elevate CRS reporting quality, contribute to anti-tax evasion efforts, and uphold UAE financial integrity.



Expectations:

- The SCA expects all RFIs to use this report as a guide to enhance their understanding of the CRS and FATCA, address any identified gaps in their compliance procedures, and reinforce their commitment to meeting the CRS obligations. Furthermore, it is our expectation that this report will help the RFIs to understand the broader context and implications of the CRS, appreciate its importance in promoting a fair and efficient global tax system, and thus actively contribute to its successful implementation in the UAE.

CRS and FATCA Compliance: Observations & Recommendations

Positive Findings:

- Many RFIs have robust systems meeting CRS requirements per UAE legislation and MOF guidelines.
- These best practices serve as valuable benchmarks for other RFIs.

Areas for Improvement:

- Shortcomings observed in new account onboarding, due diligence on pre-existing accounts, and reporting mechanisms.

Immediate Action Needed:

- RFIs should address these compliance gaps urgently.

Compliance and Governance – Satisfactory\ Unsatisfactory Practices

Internal Audits:

- Conducted regularly, findings documented and communicated.
- Follow-up actions are taken to resolve all issues.

Policy Governance:

- Well-documented decisions communicated to all relevant staff.
- Regular reviews for ongoing relevance and effectiveness.

Self-Certification Tests:

- Regular, systematic tests on the validity of self-certification forms.
- Clear documentation of the testing process and findings.

Procedure Gaps:

- Lack of clear procedures, ineffective communication, or irregular updates to staff.

Self-Certification Issues:

- Inconsistent collection, poor record-keeping, or lack of follow-up on missing forms.

Training Deficiencies:

- Infrequent training, lack of documentation, or not covering all relevant staff.

New Account Onboarding- Satisfactory\ Unsatisfactory Practices

New Account Onboarding:

- Timely, systematic collection and validation of CRS self-certifications.
- Clear documentation of process and results.

TIN Validation:

- Consistent validation of TINs against OECD guidance.
- Clear documentation of process and results.

Reportable Account Management:

- Consistent identification and correct treatment of CRS Reportable Accounts.
- Based on self-certification forms.

Reasons for TIN Absence:

- Inconsistent capture of reasons for missing TINs.

TIN Validation Issues:

- Inconsistent validation procedures or lack of clear documentation.

Pre-Existing Account Due Diligence - Satisfactory\ Unsatisfactory Practices

Pre-Existing Due Diligence:

- Timely, systematic completion on Individual Lower Value accounts within the specified timeframe.

Account Aggregation:

- Consistent application of aggregation rules to accurately determine individual account balances.

Due Diligence Procedures:

- Lack of clear, structured procedures leading to delayed or incomplete due diligence.

Aggregation Rules:

- Absence of well-defined procedures for applying account aggregation rules.

Reporting - Satisfactory\ Unsatisfactory Practices

Timely Reporting:

- Consistent adherence to deadlines, and systematic filing of all returns, including nil returns.

Governance & Control:

- Robust procedures, including marker/checker review and sign-off process, prior to submission.

Missed Deadlines:

- Failure to meet deadlines due to disorganized or untimely reporting processes.

Control & Governance Issues:

- Inadequate controls lead to errors or omissions in CRS and FATCA reports.



Thank you

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