



FOUR STEPS TO IMPLEMENT THE STANDARD

This document contains initial high level guidance on the implementation of the automatic exchange standard. More detailed guidance on practical implementation will be developed and made available shortly. For any questions on the standard please contact gftaxcooperation@oecd.org

A. Background

For many years, countries around the world have been engaging in automatic exchange of information. The OECD has been active in facilitating automatic exchange by creating the legal framework, developing technical standards, providing guidance and training and seeking to improve automatic exchange at a practical level. As shown by the 2012 OECD report to the G20 in Los Cabos, automatic exchange of information is widely practiced and a very effective tool to counter offshore tax evasion.

In 2010, the US enacted the FATCA rules, requiring non-US financial institutions to report information about their US accountholders to the US tax authorities. Many countries have opted to implement FATCA on an intergovernmental basis and to collect and exchange the information required under FATCA on the basis of an Intergovernmental Agreement (IGA). Many of these countries have also shown interest in leveraging the investments made for implementing the IGA and using them to establish automatic exchange relationships with other jurisdictions which themselves are introducing similar rules.

With the strong support of the G20 and G8, the OECD together with G20 countries and in close cooperation with the Global Forum, the EU and other stakeholders, has developed the Standard for Automatic Exchange of Financial Account Information (hereafter “the Standard”), a standardised automatic exchange model, which builds on the Model 1 IGA to maximise efficiency

and reduce costs for both governments and financial institutions.

B. Implementing the Standard

The fact that the Standard draws extensively on FATCA and on existing FATF standards should significantly reduce the costs of implementation. Furthermore the main burden relating to due diligence and reporting obligations falls on financial institutions rather than governments with many financial institutions already familiar with these obligations both through FATCA and their exposure to the Standard in other implementing jurisdictions where they have operations.

This section gives a high level summary of the steps necessary to implement the Standard and of the way countries can use or adapt what is being developed for FATCA.

Implementing the Standard involves the following **four** steps, which can be done in any order including being pursued in parallel:

1. Translating the reporting and due diligence requirements into domestic law

Where they do not already exist, jurisdictions will need to put rules in place that require financial institutions to report information and follow due diligence procedures consistent with the Standard.

Most jurisdictions are adopting legislation to implement the reporting and due diligence requirements under the Model 1 IGA. This presents an opportunity to create in one step a broader framework legislation facilitating the subsequent expansion of a country’s network of partner jurisdictions. The framework legislation could allow the executive to expand reporting to accountholders that are residents of other jurisdictions by way of regulation and/or administrative guidance, provided relevant conditions are met.



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The reporting and due diligence requirements under the Standard are described in detail in the Standard, and can easily be used as a template for such regulation / guidance. The reporting requirements and due diligence procedures under the CRS are very similar to those under FATCA in terms of the financial institutions covered by the requirements, the information they are required to report and the due diligence procedures they are expected to follow. Obviously some modifications were made to remove U.S. specificities, take into account the multilateral context and allow financial institutions to rely on procedures already in place.

2. Select a legal basis for the exchange of information

Most countries already have legal instruments in place that permit automatic exchange under the standard, including bilateral treaties, certain tax information exchange agreements, and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Convention).

At the administrative level, automatic exchanges typically require separate agreements between competent authorities of participating countries to activate and “operationalise” the automatic exchange. These agreements specify the information to be exchanged and deal with practical issues such as the time and format of the exchange. The Standard already contains standardised Model Competent Authority Agreements (both bilateral and multilateral) that can be used for exchanges under the Standard, and a Multilateral Competent Authority Agreement has already been signed by 52 jurisdictions. Hence where the legal instrument exists, model competent authority agreements are already in place and could be signed easily. Where a legal basis is lacking the Convention which is open to all countries may be the easiest way to quickly establish a wide exchange network.

3. Put in place the administrative and IT infrastructure to collect and exchange information under the Standard

The Standard includes a transmission format (the “CRS Schema”) to be used for exchanging the information. The CRS schema is virtually identical to the FATCA schema in terms of structure and content. Both schemas make use of XML (“extensible mark-up language”). For countries and financial institutions that will be reporting and exchanging information under FATCA, the use of the CRS schema will therefore not require any significant additional investments. As both schemas have been developed in close co-operation with financial institutions the financial services industry is familiar with their content and operation.

Countries will also need to agree on effective transmission methods and encryption standards for the secure exchange of information. The Standard provides minimum standards for the secure transmission of information under the Standard, but does not mandate a single solution. Already a number of jurisdictions have experience in exchanging tax information through electronic means and using agreed encryption standards. Where this is not yet the case, competent authorities still have time to agree on one or more methods: even for countries that are part of the early adopters no actual exchange of information under the Standard is to take place before September 2017. Also there is ongoing work at OECD designed to ensure secure transmission will not delay the commencement of actual exchanges.

4. Protect confidentiality and data safeguards

The Standard contains detailed rules on confidentiality and data safeguards which need to be in place both on a legal and operational level. These are essentially the same as those applicable for a reciprocal Model I IGA.