

# Frequently Asked Question - UAE CRS

## **Disclaimer:**

This document is intended as general summary and is for information purposes only. It should not be construed as tax or legal advice.

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## **What is the CRS?**

CRS (Common Reporting Standard) is a global standard under OECD (Organization for Economic Co-operation and Development) for automatic exchange of financial account information for tax purposes. It is sometimes called 'Global FATCA'. CRS is an information-gathering and reporting requirement for financial institutions in participating countries to help fight against tax evasion and protect the integrity of tax systems. Based on the CRS, financial institutions in participating countries collect and then report certain information about their account holder's tax residency status and account details to the local tax authorities. The disclosed information may then be exchanged with other participating countries' tax authorities.

## **When did the CRS take effect in the UAE?**

The CRS took effect in the UAE on January 2017, with the first reporting taking place in 2018.

## **Why do I have to provide my tax residency status?**

Under the CRS, financial institutions in the UAE have to obtain and report certain information relating to their account holder's tax statuses to the local tax administration. Therefore, Al Hilal will ask you to declare your tax residency status at the time of account opening, if you have not provided earlier.

## **Why do I need to complete the CRS Self-Certification form?**

Al Hilal is required to collect and report information about your tax residency in order to promote transparency and fight offshore tax evasion. We will collect the necessary tax related information from you on the CRS Self-Certification form, and if you are a tax resident outside UAE, we may disclose this along with information relating to your account to the tax administration in the UAE. The disclosed information may then be shared with the participating countries' tax authorities according to your disclosed tax residence/ies.

## **What is the difference between country of residence and tax residence?**

Usually, your country of residence is where you are domiciled, i.e. where you live with the intent to make it a fixed and permanent home. While an individual usually will be a resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), she/he pays or should be paying tax therein by reason of her/his domicile, residence or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual resident individuals may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes. If you are in any doubt, you should seek advice from a suitably qualified professional.

## **What does the self-certification process mean?**

The process of collecting the required tax related information from you is called self-certification.

## **In which case will my data be reported to the tax administration in the UAE?**

If you are a tax resident outside of the UAE in any of the participating countries, information regarding your financial account(s) maintained by Al Hilal may be reported to the tax administration in the UAE. This will exclude any information regarding your accounts maintained by Al Hilal in other countries or subsidiaries.

## **What information will be reported to the tax administration in the UAE if I am a personal account holder?**

The following data may be reported to the tax authorities in the UAE:

1. Name.
2. Residential address.
3. Date of birth.
4. Place of birth.
5. Taxpayer identification number(s), the TIN.

6. Account number.
7. Account balance or value (as at a defined date).
8. Income (profit, dividends, other income) earned on the account.
9. Gross proceeds from any sale or redemption of an asset.

### **What information will be reported to the tax administration in the UAE for entity clients and for Controlling Persons?**

For entity clients the following might be reported to tax authorities in the UAE:

1. Name.
2. Address.
3. Taxpayer identification number(s), the TIN.
4. Account number.
5. Account balance or value (as at a defined date).
6. Income (profit, dividends, other income) earned on the account.
7. Gross proceeds from any sale or redemption of an asset.

For Controlling Persons:

1. Name of the Controlling Person.
2. Address of the Controlling Person.
3. Date of birth.
4. Place of birth.
5. Taxpayer Identification Number(s), the TIN.
6. Type of the Controlling Person.

### **How often is Al Hilal required to report to the tax authorities in the UAE?**

The reporting to the tax authorities in the UAE occurs on an annual basis.

### **What happens if I am a resident in more than one country?**

You should list all jurisdictions in which you are treated as a tax resident and provide the tax identification number for each one.

### **What if I do not want to provide the information related to my tax status?**

Under legislations in the UAE to implement the CRS, it is mandatory for Al Hilal to identify your tax residency status and collect the relevant information. Therefore, you must provide Al Hilal with the necessary information as part of your obligations with Al Hilal. If you fail to comply, Al Hilal will refuse to open an account for you or may report you to the local tax administration based on the information it has on record for you.

### **What should I do if I cannot determine my tax residency?**

Contact your tax advisor or the local tax authority. Al Hilal does not provide tax advice.

### **Do I need to provide any supporting documents?**

Usually no supporting document is necessary, but there might be certain instances when evidence with regards to your tax status may be required.

### **Does the CRS substitute any USA tax related certifications?**

No, the CRS does not substitute the completion of any US IRS W-8, W-9 or FATCA self-certification that may otherwise be required for US tax purposes

### **What is my obligation if my information changes?**

You must notify Al Hilal within a reasonable time if there is any change in circumstances regarding your tax status by providing an updated self-certification declaration.

### **Where can I find further information in relation to CRS?**

You can find more details about automatic exchange information under CRS, including a list of jurisdictions that have signed up to CRS, along with details about the reporting, on the OECD automatic exchange of information portal ([www.oecd.org/tax/automatic-exchange](http://www.oecd.org/tax/automatic-exchange)).

## What are the penalties for incorrect/inaccurate information?

Information provided and disclosed on this form must be true, accurate and correct. If it is found that the duly completed form was not correct, then the account holder will be liable for a fine and/or further action by the Regulatory Authority. Details can be found on the UAE Ministry of Finance webpage: <https://mof.gov.ae/fatca-and-crs/>

## Glossary of terms of the CRS

The below definitions and terms might assist you to better understand the requirements of the CRS. The definitions are from the OECD documents that can be found on the following link:

<http://www.oecd.org/tax/transparencyautomaticexchangeofinformation.htm>

**“Active NFE”** is an Active Non-Financial Entity if it meets any of the criteria listed below:

1. active NFEs by reason of income and assets;
2. publicly traded NFEs;
3. Governmental Entities, International Organizations, Central Banks, or their wholly owned Entities;
4. holding NFEs that are members of a nonfinancial group;
5. start-up NFEs;
6. NFEs that are liquidating or emerging from bankruptcy;
7. treasury centers that are members of a nonfinancial group; or
8. non-profit NFEs.

An entity will be classified as Active NFE if it meets any of the following criteria:

- (a) less than 50% of the NFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- (b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity after the stock of which is regularly traded on an established securities market;

- (c) the NFE is a Governmental Entity, an International Organization, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- (d) substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold profits in those companies as capital assets for investment purposes;
- (e) the NFE is not yet operating a business and has no prior operating history, ("start-up NFE") but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFE;
- (f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- (g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- (h) the NFE meets all of the following requirements ("non-profit NFE"):
  - (i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization,

business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;

- (ii) it is exempt from income tax in its jurisdiction of residence;
- (iii) it has no shareholders or members who have a proprietary or beneficial profit in its income or assets;
- (iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
- (v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organization, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision.

**Note: Certain entities (such as U.S. Territory NFFEs) may qualify for Active NFFE status under FATCA but not Active NFE status under the CRS.**

**“Controlling Person(s)”** are the natural person(s) who exercise control over an entity. Where that entity is treated as a Passive Non-Financial Entity (“Passive NFE”) then a Financial Institution is required to determine whether or not these Controlling Persons are Reportable Persons. This definition corresponds to the term “beneficial owner” described in Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012).

In the case of a trust, the Controlling Person(s) are the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of



beneficiaries, or any other natural person(s) exercising ultimate effective control over the trust (including through a chain of control or ownership). Under the CRS the settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, are always treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the activities of the trust. Where the settlor(s) of a trust is an Entity then the CRS requires Financial Institutions to also identify the Controlling Persons of the settlor(s) and when required report them as Controlling Persons of the trust. In the case of a legal arrangement other than a trust, "Controlling Person(s)" means persons in equivalent or similar positions.

**"Custodial Institution"** means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. This is where the Entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity's gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.

**"Depository Institution"** means any Entity that accepts deposits in the ordinary course of a banking or similar business.

**"Entity"** means a legal person or a legal arrangement, such as a corporation, organization, partnership, trust or foundation.

**"Financial Institution"** means a "Custodial Institution", a "Depository Institution", an "Investment Entity", or a "Specified Insurance Company".

**"Investment Entity"** includes two types of Entities:

(i) an Entity that primarily conducts as a business of one or more of the following activities or operations for or on behalf of a customer:

1. Trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, profit rate and index instruments; transferable securities; or commodity futures trading;

2. Individual and collective portfolio management; or
3. Otherwise investing, administering, or managing Financial Assets or money on behalf of other persons. Such activities or operations do not include rendering non-binding investment advice to a customer.

(ii) The second type of “Investment Entity” (“Investment Entity managed by another Financial Institution”) is any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets where the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity.

**“Investment Entity managed by another Financial Institution”** means an Entity is “managed by” another Entity if the managing Entity performs, either directly or through another service provider on behalf of the managed Entity, any of the activities or operations described in clause:

(i) above in the definition of ‘Investment Entity’. An Entity only manages another Entity if it has discretionary authority to manage the other Entity’s assets (either in whole or part). Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity, if any of the managing Entities is another such Entity.

**“Participating Jurisdiction”** means a jurisdiction with which an agreement is in place pursuant to which it will provide the information set out in the CRS (and which is identified in a published list).

**“Non-participating jurisdiction”** means a country that is not regarded as participating in the CRS.

**“Participating Jurisdiction Financial Institution”** means:

(i) any Financial Institution that is tax resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside of that jurisdiction, and

(ii) any branch of a Financial Institution that is not tax resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.

**“Passive NFE”** or a **“Passive Non-Financial Entity”** means any:

- (i) NFE that is not an Active NFE; and
- (ii) Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution.

**“Related Entity”** An Entity is a **“Related Entity”** of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose, control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.

**“Reportable Account”** means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person.

**“Reportable Person”** defined as a **“Reportable Jurisdiction Person”**, other than: a corporation the stock of which is regularly traded on one or more established securities markets; any corporation that is a Related Entity of a corporation described in clause:

- (i) a Governmental Entity; an International Organisation; a Central Bank; or a Financial Institution (except for an Investment Entity described in Sub Paragraph A(6) b) of the CRS that are not Participating Jurisdiction Financial Institutions. Instead, such Investment Entities are treated as Passive NFE’s.)

**“Specified Insurance Company”** means 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.

**“TIN”** means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for the purposes of administering

the tax laws of such jurisdiction. Further details of acceptable TINs can be found at the following link: <http://www.oecd.org/tax/transparency/automaticexchangeofinformation.htm>. Some jurisdictions do not issue a TIN. However, these jurisdictions often utilize some other high integrity number with an equivalent level of identification (a “functional equivalent”). Examples of that type of number include, social security/ insurance number, citizen/personal identification number, resident registration number; for Entities business/company registration code/ number.

## **I have been charged incorrectly, what are the steps to be taken to waive the penalty?**

There is a grievance process which needs to be initiated with Central Bank directly. Below process to be followed:

The grievance must be:

1. submitted within 20 working days from the date in the enforcement letter which was sent by Al Hilal
2. in writing and addressed to the Central Bank of the UAE, for the attention of the Enforcement Department ([enforcement@cbuae.gov.ae](mailto:enforcement@cbuae.gov.ae));
3. signed by you or by an authorised representative; and
4. based on one of the grounds (a-c) set out below. Please state the ground on which your appeal is based. The grounds are that:
  - A. you did not commit the violation as set out above;
  - B. the fine is not proportionate to the violation, or
  - C. the fine exceeds the limit set by the Cabinet Resolution.

## **I do not have sufficient balance for the penalty, will my account be blocked or will the available balance be debited? (If the balance is below AED 20,000, will Al Hilal place a hold on the account?)**

You are required to deposit the penalty amount in the account number provided in the enforcement letter.

## **What are the consequences if I do not agree to pay the penalty?**

If the Penalty is not paid within the stipulated timeframe, this is escalated to the Central Bank for enforcement of the fine.

### **How do I update my CRS details?**

Download Al Hilal KYC App or visit the nearest branch.

### **What if I choose not to fill the CRS form, will I still be liable for the fine?**

It is mandatory to provide your CRS information as it is a Central Bank requirement. The fine will be levied in the event that information provided was incorrect or inaccurate as per Al Hilal records.

### **There is No TAX on individuals in the UAE and also I do not pay taxes in my home country as I am a resident of the UAE. Therefore, why should I sign the CRS form?**

The CRS form is a regulatory requirement to be completed by all customers. The Central Bank of the UAE also mandates that this is completed and submitted accordingly.

### **What if I am not comfortable sharing my tax information of my home country - I need this account for personal savings only?**

Information submitted via the CRS Self Certification form is securely held and will be shared with the relevant authorities as legally required.

### **I am only opening an account for saving - why do I need to sign the CRS as my visa already states my residency status on my profile?**

Regardless of the visa or occupation, the CRS form is a requirement to be completed by all customers. The Central Bank of the UAE mandates that this is completed and submitted accordingly.

### **I am opening my account solely as a means of receiving my salary - why do I need to sign the CRS as my KYC information provides a fully detailed profile.?**

Regardless of the visa or occupation, the CRS form is a requirement to be completed by all customers. The Central Bank of the UAE mandates that this is completed and submitted accordingly.

## **Why do I need to submit proof of residency if I'm not paying taxes in my home country?**

Supporting documentation is required to ensure that the selection of the CRS tax jurisdiction is correct.

## **How do I, as a customer, make sure that the TIN number is correctly filled?**

You may review the TIN number with your relevant country tax authority to confirm your TIN. Alternatively, you may visit the OECD TIN support website which provides guidance to different country TIN details <https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>

## **I have submitted my CRS form to Al Hilal earlier. Do I need to re-submit the new form, just in case?**

If the information of your CRS status and details are still the same, no update on the form is required. However, if there has been a change to your information held by the bank, then an updated form should be submitted.

## **In which scenario do I need to submit a revised CRS form?**

If your details have changed from the information submitted on your previous CRS Self Certification form, then a new CRS Self Certification form must be provided.