Dear Simon,

Discussion Paper: Common Reporting Standard (CRS) for the automatic exchange of tax information

AMP welcomes the opportunity to respond to the above mentioned discussion paper on CRS and thanks Treasury for its open and consultative approach and clear commitment to explore options to minimise the cost burden.

As you will already be aware from our previous discussions, AMP is deeply concerned about the costs that the CRS will impose on it and many other financial institutions in Australia, with no benefit to consumers (indeed actually to their detriment as costs will have to passed on) and which regime, we believe, brings extremely limited benefit to Treasury.

We believe that there is a way for Australia to properly honour its obligations to the OECD to develop a global method to implement the automatic exchange of financial account information in support of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters but without disadvantaging the ordinary tax paying consumer in Australia who will ultimately shoulder the burden of the compliance costs associated with CRS.
We have read and support the submission filed by the Financial Services Council. As a consequence we do not intend to comment on all the issues raised in the Discussion Paper but instead wish to highlight an alternative method of compliance that we believe should be considered and that could reduce implementation costs and customer impact.

One of the key requirements of CRS that leads to greatest cost impost is the requirement to ascertain whether each and every customer is a tax resident of another country.

First, we believe the ATO already holds a great deal of information about all individuals and entities that hold accounts in Australia, either by way of TFNs, tax returns, information received from Border Control or the AIIR report. We believe this information can and should be leveraged first, with Financial Institutions only being called upon to close any material gaps in information held. We understand that, for example, Treasury is already developing a Gap analysis of CRS/AIIR. We believe it is likely to be far more cost effective for the ATO to collect more or more detailed information through existing systems, rather than ask Financial Institutions to ask questions of customers, to which they may not be able to provide an informed response.

As an alternative (or even complementary) method, we believe significant savings can be achieved from a cost, timing and implementation perspective if the determination of tax residency can be performed in a manner that does not require the collection of a self-certification from each customer, or ask any additional questions beyond those already imposed by existing AML/KYC rules. To do so would impact all customers and require training of our entire branch and call centre staff and third party service providers as well as changes to every impacted system (at least 15).

More specifically, the use of physical address (in the case of individuals) or principal place of business or place of establishment/incorporation (in the case of an entity) to determine the tax residency of a customer (pre-existing and new to bank) and ultimate beneficial owners should be seriously considered for the following reasons:

- There is existing precedent for this option in both domestic tax law (the fund payment withholding tax rules in Div.840-M of the *Income Tax Assessment Act 1997* and the interest withholding tax rules) and in the proposed CRS rules (address is used as indicia to determine the tax residency of pre-existing customers).

- Even if a self-certification is obtained from each new customer it has to be verified through a process that exclusively relies on searching electronically searchable AML/KYC information or by leveraging actual knowledge that a relationship manager has in respect of a customer. Therefore, if the quality and extent of AML/KYC information is considered acceptable to perform these tests, there should be no conceptual or philosophical reason why AML/KYC information (and address or principal place of business or place of establishment/incorporation in particular) cannot be used from the start to determine a customer's tax residency status.

- In identifying the beneficial owners of passive non-financial entities, the new AML rules which apply from 1 June 2014 also require tracing through a chain of entities and the collection of a physical address which can be used to identify the individual(s) that is/are the ultimate beneficial owners.

- It is arguable that relying on address as a proxy will allow financial institutions to more accurately report on a customer's tax residency in that AML/KYC requires a customer to initially verify information through the submission of appropriate documents at account opening, for example, through the submission of a utility account or driver's licence. Conversely, no such verification is required *at the time* a customer attests to his/her tax residency status on a self-certification form. As mentioned, this verification happens after the fact with reference to AML/KYC information. Given the aforementioned, we do not believe that using address opens the door for a customer to manipulate its tax residency (by, for example, providing a false address) any more than what a customer can provide a false self-certification.

- The current AIIR relies exclusively on the use of address for the identification of tax residency and Australia has for a long time been automatically exchanging information with the tax authorities of certain countries on this basis. From what we understand the quality of information supplied has never been questioned and has arguably been of a higher standard than that received by the ATO from other tax authorities.

- Our experience with FATCA shows that there is likely to be little divergence between the number of non-residents identified (through the use of their address or principal place of business or place of establishment/incorporation) and reported through the AIIR and those identified through the use of a self-certification process.

The cost and time that will have to be spent on the proposed CRS solution (i.e. where a self-certification is required from each customer and address or principal place of business or place of establishment/incorporation is not used for determining tax residency of all customers) far outweighs any purported benefits and is completely disproportionate to the number of non-resident customers that are already reported through the AIIR.

As far as the costs associated with implementing the proposed CRS solution is concerned, the statement is often made that such costs should be insignificant as the CRS leverages FATCA. This is not entirely accurate, as due to the small number of US customers expected under FATCA and to reduce the impact on customers an automated solution was not built by AMP, minimal front line changes were made, with much of the identification work being undertaken by a "back office" team. With CRS, however, this would not be possible, and all the front end systems would have to "opened" and changes made. Data feeds into the reporting modules would have to be developed. .

The Discussion Paper alludes to the possibility of using the AIIR report as a possible mechanism for reporting non-resident financial information.

We support that as an option.

The Discussion Paper also puts forward a timeframe for implementation which, subject to settlement of the compliance requirements in the short term, we support.

Conclusion

We are of the view that in Australia, the objectives of the CRS can be achieved by fully leveraging the information that is currently collected by the ATO and, where necessary, by Financial Institutions (and AUSTRAC) for AML/KYC purposes.

We would welcome the opportunity to continue the dialogue with Treasury and the ATO to develop a compliant solution, that minimises cost to industry and the Australian consumer.

If you have any queries or would like to discuss any aspect of this submission, please contact on [redacted].

Regards

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