



16 July 2014

The Manager
International Engagement Unit
Corporate & International Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

Common Reporting Standard for the automatic exchange of tax information - Australian Government Discussion Paper June 2014 (“June 2014 CRS Discussion Paper”)

Thank you for the opportunity to make a submission on the June 2014 CRS Discussion Paper.

We acknowledge the endorsement of a Common Reporting Standard (CRS) for the automatic exchange of tax information by G20 Finance Ministers and Central Bank Governors at their meeting on 22 and 23 February 2014. In this context we make the following submission points in relation to the implementation and ongoing operation of a CRS in Australia:

- Where possible Australia should adopt a multilateral approach to implementation of the CRS to mitigate costs and to ensure that consistency in both the scope and timing of obligations is achieved. Where a multilateral approach is not possible, initial domestic implementing legislation for the CRS should allow Australian Reporting Financial Institutions to adopt a “big bang” approach to implementation as suggested in the June 2014 CRS Discussion Paper.
- The domestic implementation of the CRS should as much as possible be “harmonised” with other obligations that apply to Australian Reporting Financial Institutions (including FATCA, Australian Anti-Money Laundering (AML) and Know-Your-Customer (KYC) rules).
- Domestic implementation of the CRS should provide Australian Reporting Financial Institutions with flexibility regarding the format and manner by which CRS reporting is provided to the Australian Taxation Office (ATO). Providing flexibility is key to mitigating the otherwise significant implementation and ongoing operational costs of complying with CRS, whilst still achieving the required policy intent and the ATO’s specific data and information reporting requirements.

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These points are explained further in Appendix A to this submission.

We welcome the opportunity to discuss any aspect of our submission further with you.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Gavin Marjoram', written over a light blue horizontal line.

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Appendix A

Multilateral approach

Where possible Australia should adopt a multilateral approach to implementation of the CRS to mitigate costs and to ensure that consistency in both the scope and timing of obligations is achieved.

The experience with FATCA has seen standards and Model Agreements evolve over the implementation period, which has resulted in various changes to scope and while these may be minor changes they have resulted in increased implementation costs. By taking a multilateral approach to implementation, there is less risk of changes or reservations to various obligations in the CRS being adopted in signed instruments which will help ensure a consistent set of obligations across all agreements.

In the alternative, a bilateral approach to implementation will likely increase the time frame for agreements to be concluded; thereby increasing the risk that changes will be adopted in the signed agreements.

Where a multilateral approach to signing of agreements is not possible, initial domestic implementing legislation for the CRS should allow Australian Reporting Financial Institutions to adopt a “big bang” approach to implementation as suggested in the June 2014 CRS Discussion Paper. This will help to minimise ongoing implementation costs.

Harmonisation with regulations

As identified in the CRS Discussion Paper, the AML/CTF information collection requirements that came into effect on 1 June 2014 will assist entities in meeting the CRS requirements. However, current customer due diligence (CDD) procedures performed for AML/CTF purposes will not satisfy CRS requirements. Therefore, those entities that are Reporting Financial Institutions in Australia will need to perform a detailed analysis to identify the gaps between information collected for purposes of AML/CTF and CRS, and develop and implement additional programs and procedures to ensure compliance with CRS requirements.

Data collected for AML/CTF purposes will assist with the reporting required for CRS. However, as there are different standards required for each regulation, they cannot be relied upon exclusively and additional CRS-specific data collection will be required. It will be important for Reporting Financial Institutions to assess their existing AML/CTF data collection processes, particularly those related to customer on-boarding and ongoing customer due diligence, so they can determine how this data can be transferred/extracted to CRS reporting systems.



We have identified three areas where the CRS requirements overlap with AML/CTF requirements.

1. Those entities that are Reporting Financial Institutions in Australia under CRS would also be Reporting Entities for AML/CTF purposes. However, not all Reporting Entities for AML/CTF purposes would be Reporting Financial Institutions due to the exclusion from CRS of entities and account types deemed to be lower risk for evading tax, e.g. retail and industry super funds.
2. CRS requires the identification of Controlling Persons for certain entities. This concept is consistent with FATCA obligations including the definitional link to “beneficial owners” for AML/CTF purposes. As the AML/CTF requirements apply to a broader range of entities, this will assist in obtaining relevant information for CRS purposes. A detailed analysis will be required having regard to the application of AML/CTF, FATCA and CRS obligations to identify gaps in current customer on-boarding and ongoing due diligence processes.
3. The customer identification information requirements for CRS include information that is required to be collected for AML/CTF purposes. However, as noted in the CRS Discussion Paper, CRS requirements differ to AML/CTF requirements in that they also require collection of information regarding the customer’s tax residence, tax identification number (TIN) and place of birth. A number of these information requirements are consistent with FATCA obligations, a key difference for CRS being the requirement for “tax residency” rather than “citizenship”. Therefore there is expected to be some degree of correlation as between the solution that has been (or is being) implemented for FATCA and what will be required to meet CRS obligations. A detailed analysis will be required having regard to the application of AML/CTF, FATCA and CRS obligations to identify gaps in current customer on-boarding and ongoing due diligence processes.

In this context, we submit that relevant regulations should be “harmonised” wherever possible in order to minimise implementation and ongoing compliance costs for reporting entities (for AML/CTF purposes) and/or Reporting Financial Institutions (for FATCA and/or CRS purposes).

We believe there may be opportunities for the ATO to work with other regulators and government agencies (including AUSTRAC, ASIC and APRA) to take a holistic approach to the collection and reporting of customer data to meet different regulatory needs. Such an approach would seek to minimise disruption to Australian businesses by providing greater opportunities for regulatory change projects to be implemented in a strategic and cost effective manner. Such an approach would also be consistent with the Australian Government’s stated objective in committing to reducing regulatory burdens as a critical step in improving Australia’s productivity.



Reporting format

The CRS Discussion Paper recognises the possibility of Reporting Financial Institutions using existing Annual Investment Income Report (AIIR) mechanisms and methodologies for the purposes of CRS reporting.

The ability and suitability of an organisation to leverage off the AIIR concept – or FATCA reporting capabilities - for CRS purposes will be dependent on a number of factors including (but not limited to) whether:

- They are an “investment body” for AIIR purposes and a Reporting Financial Institution for CRS purposes or whether there is a higher correlation between Reporting Financial Institution for FATCA and CRS purposes in which case the FATCA reporting solution developed may be the more appropriate reporting mechanism for the CRS;
- There is a high degree of correlation of account holder and account level data required as between AIIR and CRS purposes or whether there is a higher correlation between reportable accounts for FATCA and CRS purposes in which case the FATCA reporting solution developed may be the more appropriate reporting mechanism for the CRS;
- Current AIIR obligations are met through internal capabilities, or are out-sourced to a third party provider or dependent on external technology vendors;
- Current AIIR lodgement is electronic or via the provision of an excel file;
- Current AIIR obligations will continue to be required to be met [in both delivery mechanism and timeframe in respect of a 30 June financial year] but enhanced for additional data capture required for CRS or whether there will be a requirement to lodge an AIIR to meet domestic information reporting i.e. based on a 30 June year end [by 31 Oct] and an AIIR to meet global information reporting i.e. based on calendar year [in addition to existing FATCA reporting obligations, also based on a calendar year] or whether a bi-annual [i.e. for 6 month period to 30 June and 6 month period to 31 December] reporting mechanism process is supported by industry and the ATO [in addition to FATCA reporting obligations];
- Substantial people, process and technology investment, development and implementation has already been required to be completed [or still in progress] in order to meet various FATCA obligations including FATCA reporting obligations [which commence 31 July 2015 in respect of 31 December 2014 calendar year] including, in some cases, with regard to AML/CTF and banking reforms [e.g. APS910].

Given the breadth and depth of the various industries and the vastly varying scope and scale [and therefore impact] of the individual organisations within the industries expected to be



affected by a CRS we do not believe a ‘one size fits all’ response to CRS reporting is appropriate.

In this regard, provided the relevant account holder and account data is reported to the ATO, we believe that the Australian Government should allow different reporting methodologies to be adopted. This could potentially be limited to a number of different prescribed reporting methodologies in order to allow cost-efficiency and simplicity for both Government and industry.
