

CRS FAQ

1. What is CRS?

CRS ("Common Reporting Standard") is a global standard for the automatic exchange of information on financial accounts. The standard requires financial institutions to identify financial accounts held by customers with a tax residence in another state or jurisdiction other than its own. The objective of CRS is to fight international tax evasion.

CRS entered into force on the 1st of January 2016. All financial institutions must by then:

- identify new individual and entity customers' tax residencies (including customers that only have a domestic tax residency);
- review existing individual and entity customers in order to identify customers with a tax residency outside the bank country (end date 31 Dec 2018);
- identify certain corporate/entity customers, and their beneficial owners/controlling persons who have a tax residency other the bank country, and;
- report the customers with other tax residency/-ies than the bank country to the local Tax Authority.

The CRS regulation is based on the FATCA regulations, but CRS also differs in significant aspects in comparison with FATCA. The main difference is that CRS encompasses numerous countries and customers compared to FATCA which only covered the United States and account holders who have a tax residency in the United States.

All EU Member States are participating in CRS and have signed an agreement on automatic exchange of financial information (the DAC II directive).

2. Who is affected by the national CRS legislation?

CRS affects individuals and corporates/entities that are tax resident in any country other than the bank country, and who holds a product in scope for the CRS.

3. What does the term 'Tax Residence' mean?

The term 'tax residence' means that a person is resident in a country (tax residence) for tax purposes in accordance with internal law.

3.1 Entity

Generally, an entity will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction, it pays or should be paying tax therein by reason of its domicile, residence, place of management or incorporation, or other criterion of a similar nature.

Subsidiaries of entities:

The tax residence of the branch of an entity is normally only in the country of tax residence of the entity to which the branch belongs. Example: a Swedish subsidiary/branch of a Danish company normally only have tax residence in Denmark.

When is an entity tax resident in another country?

The domestic laws of the other countries lay down the conditions under which an entity is to be treated as tax resident. They cover various forms of attachment to a country which, in the domestic tax laws, form the basis of a comprehensive taxation (full tax liability). An entity will be tax resident in Estonia for income tax purposes if it is regarded as a Estonian legal entity. This includes entities registered in Estonia and entities that are not required to register, but have their management in Estonia, Entities formed/registered/incorporated outside of Estonia (foreign legal entities) are not considered tax resident in Estonia not even if their place of effective management is situated in Estonia.

3.2 Individuals

In general, tax residence is the country in which you live. Special circumstances (such as studying abroad, working overseas, or extended travel) may cause you to be resident elsewhere or resident in more than one country at the same time.

When is an individual tax resident in another country?

In general, the tax residence is the same as the permanent residence or whereabouts. However, each country has its own set of rules for determining tax residence.

For more information about tax residency rules in a certain jurisdiction, please visit the OECD Automatic Exchange Portal at: <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/#d.en.347760>.

If the customer has questions about how to determine their tax residency, the customer should consult a tax advisor or contact their local tax authority.

4. How will the CRS impact the Financial Services industry?

Banks and other financial institutions such as securities institutions, fund management companies, investment companies and life insurance companies are obliged to identify all of their customers according to the CRS regulation. Further these institutions must report customers and their customers' financial assets to the tax authorities.

The tax authorities will in turn send the data to the tax authorities in other CRS-countries.

5. How is Luminor working with CRS?

The CRS as well as FATCA is part of the common customer due diligence procedures. Luminor will ask new questions to customers when they, for example, open a new account, when investing in financial assets or when amounts are paid or credited from life insurance benefits/contracts.

With the help of the answers, Luminor can identify the customers that Luminor should report to the tax authority.

6. What actions are required from a customer who is tax resident in a country other than the bank country?

The customer needs to answer the questions asked by the bank/other financial institutions. If the customer is liable to tax in one or more countries other than the bank country, we might ask the customer to fill out a self-certification. In this self-certification the customer should provide their tax residencies and TIN(s) ("Taxpayer Identification Number").

7. What happens if the customer refuses to answer questions asked by the bank/financial institution related to their tax residency/TIN and/or they do not reply to the bank with the requested documentation such as a self-certification?

If the customer does not answer the questions and/or don't fill in a self-certification when asked, the bank may be obliged to report the customers to the tax authorities as tax resident in another country than the bank country.

8. What happens if the customer provides incorrect/false information?

If the customer by will (intentionally) provides false or leaves out data in its self-certification, the customer can in some countries be fined or imprisoned.

9. What is a TIN?

The term Taxpayer Identification Number (TIN), or similar, is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an entity for tax administration purposes.

10. What if a customer states that he/she does not have a TIN, what should the customer do then?

Some jurisdictions do not issue a TIN. If so, the customer must state so. However, most countries issue TIN and if that is the case, the customer must provide its TIN.

Please note that the customer in certain situations may not have a TIN and must in such cases apply for a TIN according to local regulations.

Further details on jurisdiction specific TIN formats can be found at: <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/#d.en.347759>.

11. When will Luminor start to collect this information?

Luminor will start collecting information relating to CRS in the beginning of 2016. The first time Luminor will report under CRS is in 2017.

12. What is the difference between the Dodd-Frank, FATCA and CRS regulation?

Dodd-Frank ("US restrictions")

Under Dodd-Frank, it is the residence/domicile in the USA that is decisive. I.e the requirements differ from FATCA (where also US citizenship is important).

FATCA

In case the customer is tax resident in the U.S, i.e. holds a U.S. Citizenship or e.g. "green card", FATCA (the national laws implementing FATCA) will apply. Under these laws the customer have to provide a self-certification including TIN, etc. You can find more detailed information about FATCA on luminor.com. FATCA is applicable to both natural and legal persons.

CRS

The CRS regulation affects customers with a tax residency other than the bank country. The CRS is applicable to both natural and legal persons.

13. What customer information will Luminor report under the CRS?

With respect to the year 2016 and onwards on an annual basis, the Luminor will report the following information starting in 2017:

- balance/value on depository accounts, custodial accounts, insurances and fund accounts
- information about interest, dividends and other returns
- gross proceeds and gross amounts (for example from sale of securities and equity and/or funds), and redemption payments.

For "Passive Non-Financial Entities", we will also report the beneficial owners/controlling persons that have a tax residency other than the bank country.

14. Are there any accounts/products that are excluded with respect to reporting under CRS?

The following accounts are considered to be Excluded accounts (no reporting):

- pension related insurances and pension savings accounts which meet certain criteria
- accounts held by estate,
- escrow accounts and,
- accounts held by publicly traded corporations or a related entity of such publicly traded corporation

14. What can the customer do if the customer has not declared his/her taxes where the customer has a tax residency?

A customer who is liable to submit a tax return where he/she has a tax residency but has not submitted a tax return, should submit a tax return afterwards.

If a person voluntarily submits a tax return via a posteriori (self-correcting), any penalties are normally lighter compared to if a tax authority discovers any failure to submit a tax return and pay taxes.

Credit of tax, to avoid double taxation, may in some cases be allowed for income taxed in another country. This depends on whether there is a double taxation treaty between the countries in question.

We should recommend the customer to contact a tax advisor in case the customer needs assistance with correcting a tax return or has questions how this procedure works. Generally, we may recommend any of the major accounting firms (PwC, EY, Deloitte, KPMG) as they usually have local contacts in all countries and can handle any issues that may come up because of the tax liability in another country.

16. What is an “Active Non-Financial Entity”?

A company (other than a financial institution) is considered active if the company's:

- 1) income to more than 50% comes from sales of goods and services *and*
- 2) whose assets more than 50% is attributable to business activities relating to the sale of goods and services

Active companies includes, for example:

- A company whose revenue to more than 50% derives from manufacturing and/or sale of goods and/or services.
- A listed company or a related company (subsidiary/affiliate) of a listed company
- Governmental entities/units and international organizations and companies owned exclusively by such entities

17. What is a “Passive Non-Financial Entity”?

A company (which is not a financial company) is considered passive if:

- 1) more than 50% of its income is passive

or

- 2) more than 50% of its assets are those that generate passive income.

Passive income can be, for example, dividends and interest. It can also be rent and royalties if the company does not have employees. Further, it may be annuities (often related to life insurances), capital gains/profits on the sale of assets/property that can produce passive income, certain insurance return or payment/redemption.

18. What is a “Financial Institution”?

A financial institution is a company which is a depository institution (typically companies that manage depository accounts), custodial institutions (companies offering custodial accounts or similar to customers), investment entities (typically investment funds) or an insurance company which offers savings products such as an endowment insurance.

19. What is a “Beneficial Owner/Controlling Person” ?

The term beneficial owner/controlling person mean the natural persons who exercise control over an entity. For this purpose control includes direct or indirect ownership of more than 25 per cent of the entity's financial assets.

20. What actions are required from a Passive NFE?

A passive NFE must state whether it has any beneficial owner(s) who are resident in a country other than the bank country.

In case there is a beneficial owner with a tax residence in another country than the bank country, Luminor is obliged to report the legal entity and the beneficial owner to the tax authorities.