



## **Government of Bermuda, Ministry of Finance**

### **ANNUAL CRS COMPLIANCE CERTIFICATION FORM GUIDELINES**

**Version 2.0**

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# Table of Contents

<b><i>Glossary</i></b> .....	<b>3</b>
<b>1 Introduction</b> .....	<b>4</b>
1.1 Background .....	4
1.2 Annual CRS Compliance Certification Overview .....	4
1.3 Purpose .....	5
1.4 Timing <b>[UPDATED]</b> .....	5
<b>2 CRS Compliance Form Required Information</b> .....	<b>6</b>
2.1 Section 1 – General FI Details .....	6
2.2 Section 2 – Excluded and Non-Reportable Accounts .....	7
2.3 Section 3 – Policies & Procedures .....	7
2.4 Section 4 – Due Diligence .....	8
2.5 Section 5 - Outsourcing .....	9
<b>3 Section-Specific Guidance</b> .....	<b>10</b>
3.1 Section 1 - General FI Details .....	10
3.2 Section 2 - Excluded and Non-Reportable Accounts <b>[UPDATED]</b> .....	10
3.3 Section 3 - Policies & Procedures .....	11
3.4 Section 4 - Due Diligence .....	11
3.5 Section 5 – Outsourcing .....	11
<b>4 Other Guidance <b>[NEW]</b></b> .....	<b>12</b>
4.1 Deregistered Entities .....	12
4.2 Investment Managers and Advisors .....	12

# Glossary

Term	Description
AML	Anti-Money Laundering
Bermuda CRS Competent Authority	Bermuda Minister of Finance
BMA	Bermuda Monetary Authority
CRS	The OECD's Common Reporting Standard, as implemented in Bermuda by the CRS Regulations
CRS Compliance Form	Annual CRS Compliance Certification Form, as outlined in this document
CRS Guidance	Bermuda's <i>Common Reporting Standard for Automatic Exchange of Financial Account Information in Tax Matters Guidance</i>
CRS Regulations	Bermuda's <i>International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Regulations 2017</i> and <i>International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Amendment Regulations 2018</i>
FI	Financial Institution
Ministry	Bermuda Ministry of Finance, Treaty Unit
OECD	Organisation for Economic Cooperation and Development
Primary User	The portal user that has been designated as the Principal Point of Contact for compliance with the CRS Regulations
Portal	Bermuda Tax Information Reporting Portal
RFI	Reporting Financial Institution
The Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
The Standard	The OECD's Common Reporting Standard, as implemented in Bermuda by the CRS Regulations
TIN	Taxpayer Identification Number
TDT	Trustee-Documented Trust

# 1 Introduction

## 1.1 Background

The Common Reporting Standard (“CRS” or the “Standard”), developed in response to the G20 request and approved by the Organisation for Economic Co-operation and Development (“OECD”) Council on 15 July 2014, calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. It sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by all financial institutions.

The Standard consists of the following four key parts:

- i. A model Competent Authority Agreement (CAA), providing the international legal framework for the automatic exchange of CRS information;
- ii. The Common Reporting Standard (CRS);
- iii. The Commentaries on the CAA and the CRS; and
- iv. The CRS XML Schema User Guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (“The Global Forum”) is leading the global implementation of the Standard, through monitoring, assessing, and assisting in its implementation.

The Global Forum put in place a “Staged Approach” to monitor, assess and assist the implementation of the Standard during the implementation process. This started with assessments of the confidentiality and data safeguard standards in place in each jurisdiction, followed by the assessment of the domestic legal frameworks being put in place to ensure financial institutions collect and report the information to be exchanged, and a mechanism to facilitate exchange agreements being put in place between all interested appropriate partners. The Global Forum is now focusing on assessing the effectiveness of the implementation of the Standard in practice.

Bermuda signed a Multilateral Competent Authority Agreement as an Early Adopter jurisdiction in 2014, to start exchanging information using the CRS framework from 2017. Bermuda also enacted domestic legislation and regulations, bringing the CRS framework into force. This legislation requires Bermuda Reporting Financial Institutions (“RFIs”) to apply the due diligence rules as set out in the Standard, and to collect, maintain and report information for exchange with CRS partner jurisdictions.

As a CRS participating jurisdiction, the Bermuda Competent Authority (via the Ministry of Finance, Treaty Unit, or the “Ministry”) has an obligation to ensure the CRS requirements have been implemented effectively, and to monitor and ensure the ongoing compliance of Bermuda RFIs with both the Standard and the CRS Regulations.

## 1.2 Annual CRS Compliance Certification Overview

The Ministry will be adding an Annual CRS Compliance Certification Form (the “CRS Compliance Form”) to the Bermuda Tax Information Reporting Portal (the “portal”), to help ensure the effective implementation of, and compliance with, the reporting and due diligence procedures in accordance with the CRS. The responses submitted by entities in the CRS Compliance Form will be used by the Ministry to inform additional compliance review requirements as expected by the OECD.

The CRS Compliance Form will be completed using an online form (bulk uploads are not available) and must be completed annually by all Bermuda RFIs and Trustee-Documented Trusts (“TDTs”) starting with the 2020 reporting period. The CRS Compliance Form may be submitted by either the Primary User or a Secondary User registered within the portal.

An overview of the fields that will be included on the CRS Compliance Form is provided in Section 2, and a template form is also available in the Resources section on the Ministry’s [CRS website](#). **This form is only for illustrative purposes and is not intended to be submitted to the Ministry. All CRS Compliance Forms must be submitted via the portal once available.**

### **1.3 Purpose**

The purpose of this document is to provide an overview of the CRS Compliance Form, including relevant guidance for each section within the form, so entities may begin to prepare for their upcoming filings. The Ministry will consider migrating these guidelines into the CRS Guidance Notes once the form is fully operational, and these guidelines may be updated from time to time to provide additional clarity.

The Bermuda Tax Information Reporting Portal User Guide will also be updated to provide technical instructions and screenshots of the form in due course.

These guidelines are not intended to alter or override existing legislative requirements, and should be read in conjunction with the CRS Regulations, OECD Standard and Commentaries, and other CRS-related guidance and FAQs issued by the Ministry and the OECD.

Any term which is not defined in this document has the meaning prescribed within the CRS Regulations or the Standard and should be interpreted accordingly.

### **1.4 Timing *[UPDATED]***

The CRS Compliance Form is anticipated to be available within the portal by November 5, 2021, and the form for the period ending December 31, 2020 must be submitted no later than **January 15, 2022**.

In future periods, the CRS Compliance Form must be submitted no later than September 30 following the end of the reporting period.

## 2 CRS Compliance Form Required Information

The sections below provide an illustrative view of the information that will be requested on the CRS Compliance Form. Mandatory fields are indicated with a red asterisk (\*), and many fields are conditionally required as noted throughout the form.

### 2.1 Section 1 – General FI Details

Section 1 General FI Details	
1.1. Reporting Entity Name: *	<input type="text"/>
1.2. Reporting Entity Reference: *	<input type="text"/>
1.3. Is the FI Licensed or Registered with the Bermuda Monetary Authority (BMA)? *	<input type="radio"/> Yes <input type="radio"/> No
1.4. Please confirm the nature of the FI's business (if not regulated by the BMA): <small>Only enabled and mandatory if answer to 1.3 is 'No'</small>	<input type="radio"/> Trust <input type="radio"/> Special purpose vehicle <input type="radio"/> Unregulated fund <input type="radio"/> Other
1.5. Please provide explanation if 'Other' is selected:	<input type="text"/>

## 2.2 Section 2 – Excluded and Non-Reportable Accounts

**Section 2 Excluded and Non Reportable Accounts**

2.1. Did the FI identify any Excluded Accounts for the reporting period? \*

Yes
  No
  Unknown

2.2. Please confirm that the only accounts that were excluded from due diligence are those that meet the definitions and/or requirements of Excluded Accounts as set out in the CRS Regulations. Only enabled and mandatory if 'Yes' is selected in 2.1

Yes
  No
  Unknown

2.3. Please provide further explanation if the existence of Excluded Accounts is unknown: Only enabled or mandatory if 'Unknown' is selected in 2.1 or 2.2

2.4. Total number of Excluded Accounts: Only enabled and mandatory if 'Yes' is selected in 2.1

2.5. Did the FI have any non-reportable accounts for the reporting period? \*

Yes
  No
  Unknown

2.6. Please provide further explanation if the existence of non-reportable accounts is unknown: Only enabled and mandatory if 'Unknown' is selected in 2.5

2.7. Please confirm the reason the account(s) are considered to be non-reportable: Only enabled and mandatory if 'Yes' is selected in 2.5

Financial account(s) where the account holder is not a Reportable Person but is a Reportable Jurisdiction Person (e.g. FI resident in the United Kingdom)

Financial account(s) where the account holder and all controlling persons are not Reportable Jurisdiction persons (e.g. all resident in Bermuda)

Both

2.8. Total number of non-reportable accounts for the reporting period: Only enabled and mandatory if 'Yes' is selected in 2.5

## 2.3 Section 3 – Policies & Procedures

**Section 3 Policies & Procedures**

3.1. Has the FI established and implemented written CRS written policies and procedures to identify Reportable Accounts and reportable information in relation to such accounts as prescribed in the Regulations? \*

Yes
  No

3.2. Please upload a copy of the FI's written CRS policies and procedures. Only mandatory if 'Yes' is selected in 3.1

## 2.4 Section 4 – Due Diligence

### Section 4 Due Diligence

4.1. Does the FI apply the ownership threshold as set under current Bermuda AML legislation when determining Controlling Persons? \*

Yes

No

4.2. Please provide further explanation if 'No' is selected: *Only enabled and mandatory if 'No' is selected in 4.1*

4.3. Was a self-certification obtained and validated no later than 90 days after opening every new account during the period?

Yes

No

N/A - no new accounts opened

4.4. Please provide further explanation if 'No' is selected. *Only enabled and mandatory if 'No' is selected in 4.3*

4.5. Have the TIN(s) been collected for all Preexisting account holders reported for the reporting period, except where one or more of the following conditions applies:

(i) a TIN is not issued by the relevant jurisdiction(s) of residence or

(ii) the domestic law of the relevant jurisdiction(s) of residence does not require the collection of the TIN issued by such jurisdiction.

Yes

No

4.6. Where TIN(s) have not been collected for all preexisting accounts, has the FI used reasonable efforts to collect the TIN(s) during the reporting period? *Only enabled and mandatory if 'No' is selected in 4.5*

Yes

No

4.7. Please provide further explanation if 'No' is selected: *Only enabled and mandatory if 'No' is selected in 4.6*

4.8. Has the date of birth been collected for all preexisting individual account holders reported for the reporting period? \*

Yes

No

4.9. Where the date of birth has not been collected for all preexisting accounts, has the FI used reasonable efforts to collect the date of birth during the reporting period? *Only enabled and mandatory if 'No' is selected in 4.8*

Yes

No

4.10. Please provide further explanation if 'No' is selected: *Only enabled and mandatory if 'No' is selected in 4.9*



## 2.5 Section 5 - Outsourcing

### Section 5 Outsourcing

5.1. Does the FI rely on third party service providers to fulfill due diligence and/or reporting obligations under the CRS Regulations? \*

Yes

No

5.2. Please briefly describe the functions that are outsourced: Only enabled and mandatory if 'Yes' is selected in 5.1

5.3. Please briefly describe the procedures to ensure the external service provider is performing its role in the capacity agreed upon: Only enabled and mandatory if 'Yes' is selected in 5.1

## 3 Section-Specific Guidance

The below sections include additional guidance on how the various questions within each section of the CRS Compliance Form should be interpreted. Bermuda RFIs and TDTs should apply the same rules as outlined in the CRS, the CRS Regulations and the CRS Guidance to all sections of the CRS Compliance Form.

### 3.1 Section 1 - General FI Details

- 1.1 – The Reporting Entity Name will be pre-populated (but editable) from the Reporting Entity’s Profile in the portal. Where the CRS Compliance Form is being submitted for a TDT that is not separately registered on the portal, the pre-populated Reporting Entity Name **must** be replaced with the name of the TDT.
- 1.2 – The Reporting Entity Reference will be pre-populated from the Reporting Entity’s Profile on the portal. Where the CRS Compliance Form is being submitted for a TDT that is not separately registered on the portal, the trustee's Reporting Entity Reference should be used.
- 1.3 – If the FI is Licensed or Registered with the Bermuda Monetary Authority, it will not be required to complete questions 1.4 and 1.5 of this form.
- 1.4 – If the FI is not licensed or registered with the Bermuda Monetary Authority, the FI is required to select one of the options provided.
- 1.5 – If the response to 1.4 is ‘Other’, a further explanation regarding the nature of the FI’s business is required.

### 3.2 Section 2 - Excluded and Non-Reportable Accounts **[UPDATED]**

- 2.1 – ‘Excluded Accounts’ should be interpreted to mean any account excluded from the FI’s due diligence procedures.
- 2.2 – For the purposes of this form, accounts that meet the definition of an ‘Excluded Account’ include:
  - Pre-existing entity accounts that were excluded from being reviewed, identified, or reported due to the application of the optional account value threshold and pursuant to Regulation 4(8);
  - Dormant accounts meeting the formal CRS definition of ‘Excluded Account’ as outlined in Regulation 4(13); and,
  - Any other account meeting the formal definition of ‘Excluded Account’ as outlined in Section VIII subparagraph C(17)(a) – (f) of the Common Reporting Standard.
- 2.3 – If the FI is unable to confirm whether they had any Excluded Accounts for the reporting period or confirm that the only accounts that were excluded from due diligence are those that meet the definitions and/or requirements of Excluded Accounts as set out in the CRS Regulations, an explanation is required. Further, the FI may be subject to follow up from the Ministry.
- 2.5-2.8 - A joint account should be treated as one Financial Account for the purposes of questions 2.5-2.8. Only where the joint account is a Non-Reportable account in relation to all joint Account Holders, it should be treated as a Non-Reportable Account. If all joint Account Holders are Non-Reportable, and the joint account is a Non-Reportable account for more than one reason, it should be reported once for each reason in the CRS Compliance Form.

### 3.3 Section 3 - Policies & Procedures

- 3.1 – Where the response to this question is “No”, the Ministry may follow up to ascertain why the entity has not established and implemented the required written CRS policies and procedures.
- 3.2 – A copy of the FI’s written CRS policies and procedures, designed to identify Reportable Accounts and such other information in relation to such accounts as prescribed in the Regulations, must be attached.

### 3.4 Section 4 - Due Diligence

- 4.1 – This question only applies to non-trust account holders, given different rules for identification of controlling persons of a trust apply under the CRS Regulations and Standard.
- 4.3/4.4 - Self-certifications should be a mandatory requirement in the FI’s account opening procedures. If a self-certification was not obtained for any new accounts within 90 days and the account was not closed, an explanation is required.
- 4.5 – The OECD provides [guidance](#) on domestic rules governing the issuance, structure, use and validity of TINs or functional equivalents in different jurisdictions.
- 4.8 – This question only applies to preexisting individual accounts.
- 4.6/4.9 – Where “Yes” is selected, FIs should be prepared to evidence that reasonable efforts were used to collect any missing TIN(s) or dates of birth for preexisting accounts.

### 3.5 Section 5 – Outsourcing

- 5.1 – This question should be answered as “Yes” where any portion of the FI’s due diligence and/or reporting procedures are outsourced to a third-party service provider. This does not apply where all aspects of the procedures are undertaken by another group entity or by the trustee in the case of a TDT.
- 5.3 – As noted in Regulation 7, where a Bermuda FI uses service providers to fulfil its reporting and/or due diligence obligations, the obligations continue to be the responsibility of the FI itself. In these cases, the FI would be expected to maintain adequate oversight over the outsourced functions to ensure the service provider is undertaking the activities in the capacity agreed upon and in line with the CRS requirements.

## 4 Other Guidance *[NEW]*

### 4.1 Deregistered Entities

Reporting entities that have already been deactivated within the portal will not be required to complete the CRS Compliance Form for 2020. For future years, completion of the compliance form will be a pre-requisite for deactivation, as with other applicable reporting requirements.

### 4.2 Investment Managers and Advisors

Investment Entities which provide investment advisory or management services that meet the “solely because” test in the definition of Financial Account in Section VIII paragraph C(1) of the CRS will be regarded as not having any financial accounts, and therefore will not have any reporting obligations.

Such entities are exempt from submitting the CRS Compliance Form; however, these entities may be required to confirm to the Ministry that they do in fact meet this classification as part of the Ministry’s compliance tracking follow-ups.