

INFORMATION FOR CLIENTS

COMMENCEMENT OF AUTOMATIC EXCHANGE OF INFORMATION - CRS

In July 2014 the OECD approved the new **global standard for the Automatic Exchange of Information (the “AEI” or, in OECD terminology, the “Common Reporting Standard” or “CRS”)**. At the plenary session of the OECD Global Forum in October 2014, around 50 states and jurisdictions agreed to adopt the new regulatory framework for the “standards” which would articulate such automatic exchange. Endorsing countries were divided into two groups, depending on the commencement of the automatic exchange of information, namely: (i) the “early adopters” (first automatic exchange scheduled for 2017), consisting of the member states of the European Union and the main G20 countries; and (ii) the “late adopters” (first automatic exchange scheduled for 2018).

There are currently almost 100 states and jurisdictions which have made this commitment. It should be noted that the “standards” (CRS) principally establish (i) the type of information to be exchanged, (ii) which financial institutions are required to report the information to each of its competent authorities and (iii) which due diligence procedures should be followed for the proper identification of the same.

Following the approval of the regulatory framework governing the standards for automatic exchange (CRS), the various participating countries committed to implementing such standards by way of a Multilateral Competent Authority Agreement (“MCAA”). It should be noted that, although this is a multilateral agreement, the specific bases of exchange (entry into force, accounts excluded from review, excluded entities, etc.) must be ratified bilaterally between each of the participating states and jurisdictions. The European Union is acting as a block when bilaterally negotiating and ratifying the bases of exchange with the other countries and jurisdictions committed to the automatic exchange of information.

Information to be exchanged shall include, among other things, (i) **personal details** such as: tax identification numbers of both natural and legal persons (including entities or businesses with no legal personality such as trusts and partnerships), the names of natural persons / registered offices of entities, addresses and dates of birth of taxpayers; and (ii) **financial details** such as: income from investments (interest, dividends, income attributable to certain insurance contracts and similar income), capital gains, bank account balances and identification of custodial accounts.

This information shall be delivered **according to the tax residence of the holder of the account, and provided its jurisdiction or state of residence has signed and ratified an Agreement for the Automatic Exchange of Information with the jurisdiction in which the financial institution which is required to report is resident**. In this regard, the client shall have to certify its tax residence by way of official documentation issued by its country of residence.

On 12 February 2016, Andorra and the European Union signed an agreement for the Automatic Exchange of Information establishing the rules for automatic exchange, which shall enter into force on 1 January 2017, scheduling the first automatic exchange for 2018.

On 1 January 2017 the *Llei 19/2016, del 30 de novembre, d'intercanvi automàtic d'informació en matèria fiscal* (the "Automatic Exchange Law") entered into force in Andorra.

Schedule III of Law 29/2017, of 30 November, contains a list of the states with which financial account information relating to 2017 will be automatically exchanged in 2018, in the framework of the MCAA.

The aim is to exchange information automatically for 2018 with the following 41 jurisdictions:

- Member states of the European Union (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom).
- Jurisdictions which have an agreement with the European Union which contemplates the automatic exchange of information (Liechtenstein, Monaco and San Marino).

It is intended to extend the 2018 list to include member states of the G20, the OECD, the Global Forum and various international financial centres.

The countries proposed to be included are G20 states (India, Mexico, Brazil, Canada, China, Indonesia, Japan, Russia and Saudi Arabia), OECD states (Chile, Israel and Switzerland) and members of the Global Forum on Tax Transparency (Colombia, Costa Rica, Kuwait, Malaysia and Uruguay).

Information will also be exchanged with states and territories which have important sector or regional financial centres (Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man, Jersey, Montserrat, Seychelles, Turks and Caicos Islands, Antigua and Barbuda, Cook Islands, Curaçao, Granada, Mauritius, and Saint Vincent and the Grenadines).