ALL YOU NEED TO KNOW WITH REGARDS TO THE INTRODUCTION OF CRS REPORTING TO SARS
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Now that the dust has mostly settled around the first FATCA submissions (for some the dust cloud might linger for a while longer), financial institutions have had a chance to take stock and try to make sense of their current regulatory position and strategies. However, now that they have had a chance to look ahead a number of financial institutions have come to realise that FATCA wasn't just a storm that had to be weathered after which the sailing would be plain. Other financial submissions such as IT3b and DWT continue to keep the pressure constant, and we are almost halfway to the due date for the next round of FATCA submissions – for institutions that followed a tactical rather than strategic approach the first time round, it might mean "the same procedure as last year" (miss Sophie). In addition to this, a new buzzword has started doing the rounds: CRS.

CRS (Common Reporting Standard), aka "the Standard for Automatic exchange of financial account information" (formal definition), is also sometimes referred to as "OECD reporting", "GATCA" (colloquially - "Global FATCA"), or "AEOI - OECD" (Automatic Exchange of Information – Organisation for Economic Co-Operation and Development). This standard spawned as a result of FATCA, and does bear some large similarities. In effect the agreement allows for the automated and systematic reciprocal sharing of tax information (specifically relating to assets and income) between the various tax authorities that are signatories of the agreement. The main differences between OECD reporting and FATCA are that:

1. FATCA was limited to accounts that had US ties only (i.e. either a US related account held by a non-US financial institution, or an account related to a participating jurisdiction held by a US financial institution (in cases where IGA's ensured reciprocity)).
2. Enforcement (and resultant punitive effects) is largely built into the FATCA standard itself. (I.e. If an FFI is non-compliant, a withholding tax of 30% would apply to US source payments). In cases where an IGA was signed, (non-compliant) FFI's covered by the IGA would receive some protection in that, automatic withholding would not immediately trigger – however, they would be subject to fines and penalties (and potential future withholding on US source payments) enforced by the local tax authority.
3. The IGA itself is dependent on the cooperation and enforcement of compliance by the local tax authorities, meaning that there is clear incentive for the local tax authorities to ensure compliance by all institutions covered by its IGA. OECD on the other hand does not currently have any aspect of automatic withholding built in. However, this does not mean that local tax authorities do not have incentive to ensure compliance. Since the CRS agreement is based on reciprocity, any local authority that does not perform a proper policing task will find itself shut out before long. In other words, the quality of the data provided to other CRS member countries is driven by each country's desire to receive (and continue receiving) reliable data in return.

The good news for South Africa is that SARS has been quite pro-active in terms of their approach to CRS reporting. The original FATCA reporting specification was clearly designed to avoid US specific information and assumptions as far as possible, and accommodate the most likely implementation parameters of CRS. This in turn means that there is a much lower impact on financial institutions that need to cater for CRS, since a lot of the groundwork has already been laid during the FATCA process. That being said, SARS has recently released an updated specification, and there are a number of changes that need to be accommodated prior to CRS, and indeed, prior to the next FATCA submission (this is due to the evolution of CRS).

As things stand at this stage, the FATCA reports due at the end of May 2016 need to make use of this new reporting specification – however, the data will still only be for accounts with US indicia. The first CRS reports are due at the end of May 2017, and will (almost certainly) form part of the same (FATCA) submission file. I.e. A single report would be issued to SARS as opposed to a separate FATCA and a CRS report.

There are various reporting solutions that can assist with FATCA/CRS which provide automatic coverage for CRS, as well as for the changes scheduled for the next FATCA submission. These solutions can remove the pain and hassle out of regulatory reporting making reporting to SARS a seamless process.