



# British Virgin Islands FATCA and CRS update



## British Virgin Islands CRS update

### BVI CRS Guidance Notes Issued

The British Virgin Islands International Tax Authority (“BVI ITA”) on September 12, 2016 released the CRS Guidance Notes (available [here](#)).

The BVI ITA reiterated:

- CRS Notification is due by April 30, 2017 to the BVI ITA
- CRS Reporting is due by May 31, 2017 to the BVI ITA

It is expected that the BVI ITA will issue an amendment to the [Mutual Legal Assistance \(Tax Matters\) \(Amendment\) Act, 2015](#) (the “CRS Law”) to levy administrative penalties as required by the OECD.

### *What is the impact of CRS on my BVI FI?*

Refer to the CRS Timeline below for details on the deadlines with respect to remediation and reporting.

CRS may have an impact on those BVI Financial Institutions (“BVI FI”) whose classification under FATCA has been determined to be a Passive NFFE due to the fact that Controlling Persons of Passive NFFEs who are tax resident in participating jurisdictions will be required to be identified (as opposed to the current practice of only identifying US and UK Controlling Persons).

Similarly, further due diligence procedures may be required by those financial institutions with account holders in non-participating jurisdictions (i.e. the US). Financial institutions will be required to “look-through” the Non-Participating Financial Institution to determine whether the Controlling Persons are Reportable Persons.

Additionally, Sponsoring is not an option under CRS and as such those BVI FIs with Reportable Persons will have to notify and submit reports separately.

Further, Investment Managers may also be affected as the carve-outs afforded to them in the IGA Annex II do not exist under CRS. These financial institutions will need to review their classification to determine how CRS will apply to them.

For further details on the above and how we can be of assistance, please contact a member of the AEOI team.

### *What is the difference between CRS and FATCA?*

There are a number of differences between FATCA and CRS – some of which are highlighted below:

- There is no sponsoring option available under CRS;
- Most of the exceptions available under FATCA do not exist under CRS (i.e. investment advisor exemption);
- The thresholds are applied differently for individual and entity account holders; and
- There are certain changes to the method of the reporting under the Trustee Documented Trust option under CRS.

[Contact us](#) to further discuss the differences between CRS and FATCA and the impact on your BVI FI.

### **Transition to CRS from UK FATCA/CDOT**

The ITA clarified that UK FATCA/CDOT will transition to CRS by 2017.

Due to the implementation dates of CRS and UK FATCA/CDOT, there are items which would be reportable under UK FATCA/CDOT but not under CRS. Her Majesty's Revenue & Customs ("HMRC") has stated:

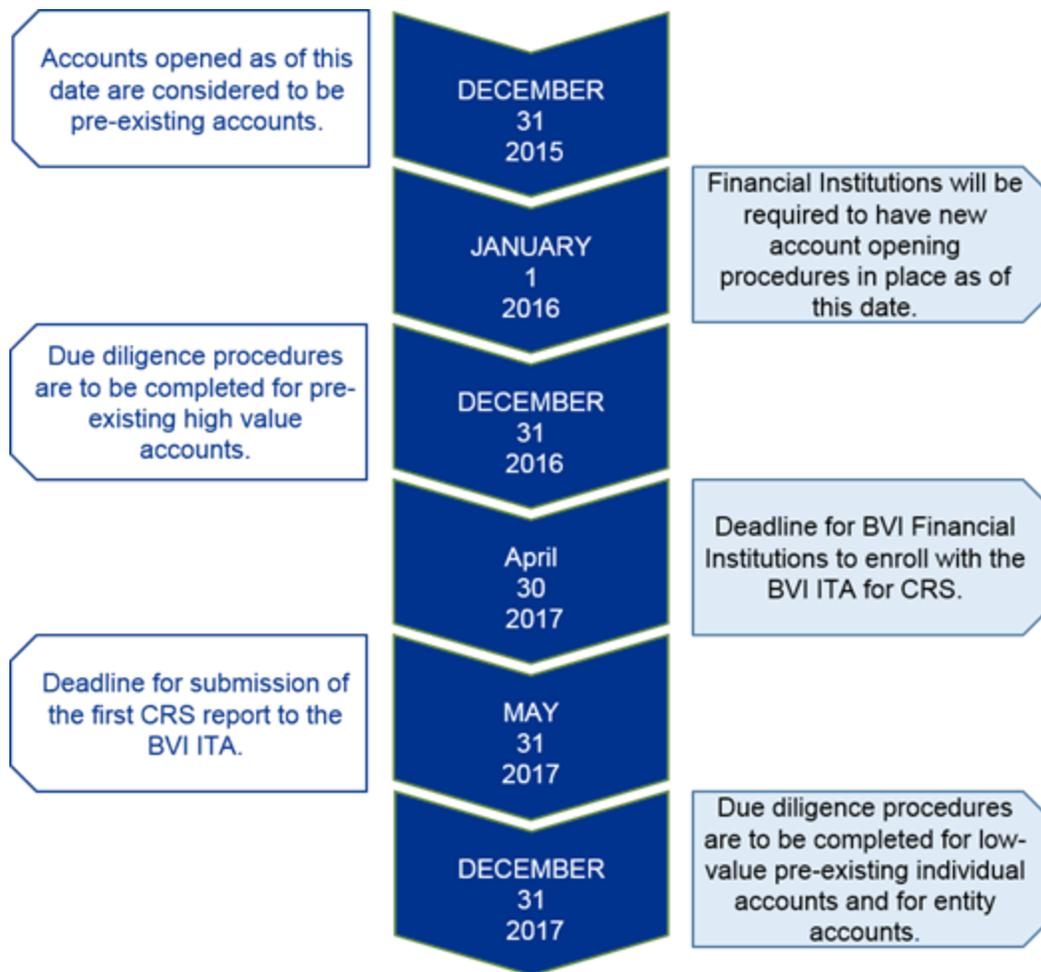
"to ease the transition, arrangements will be put in place to ensure that, while there is overlap in the period covered by the IGAs and the CRS, there is no need for duplicate reporting. The rule to follow will be that wherever the IGA or the CRS requires more reporting in the transition year of 2017, then the "more" should be reported.

The practical effect of this approach is that for 2016, reporting is done under the IGA requirements. For 2017, there is a mix under IGA and CRS requirements. From 2018 onwards it is just the requirements of the CRS that apply. However, at no time will there be a need to report the same thing twice."

### **US FATCA & CRS Reporting Filing Fee**

It is expected that the BVI ITA will institute an annual filing fee for entities in submitting their US FATCA and CRS Reports. It is not known at this time the amount of fee but it is expected to be less than US\$500 per entity.

### **CRS timeline**



### Have questions?

KPMG (BVI) Limited has an AEOI Help Desk for any questions you may have. Contact us [here](#).

### How can we help?

KPMG (BVI) Limited offers the following services to assist you in your preparations for CRS:

- We can provide a detailed written summary of CRS' impact to a BVI FI.
- We can review the AEOI policies you have implemented providing recommendations on improvements.
- We can conduct a review to ensure the process implemented remains appropriate in face of changing legislation and upcoming requirements.

### KPMG AEOI Team

Managing Director  
KPMG (BVI) Limited  
[Contact me](#)

Director  
KPMG (BVI) Limited  
[Contact me](#)

Partner  
KPMG in the  
Cayman Islands  
[Contact me](#)

Senior Manager  
KPMG in the  
Cayman Islands  
[Contact me](#)

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