

CRS due-diligence – Technical clarity on the due-diligence and reporting treatment of Active NFE-Others:

Irish Funds AEOI WG raised a technical point of clarity, on behalf of Members, with Revenue relating to the CRS due-diligence review, classification and the reportable status of UK registered charities/non-profits for CRS purposes. The clarity was required as mixed opinions exist within the industry as to whether a UK registered charity/non-profit¹ that has classified themselves as an Active NFE-Other on their CRS self-certification is a CRS reportable account or not?

The details of such UK registered charities/non-profits are publicly available on the Charity Commission website and as such it was suggested that HMRC would already have details of the charity from this public register. The general basis for the mixed opinion on this matter is that the definition of a CRS reportable person does not exclude registered charities/non-profits even though these could be viewed by tax authorities, such as HMRC, as low risk account holders on the basis that they do not generally pay tax.

Revenue discussed the point with HMRC who clarified that there are no provisions to exclude these accounts from CRS reporting and that such accounts classified as Active NFE-Other should be reported as this is required for all categories of Active NFE-Other under CRS. Revenue would also like to remind Irish FI's who are carrying out due-diligence on account holders that they need to follow the Irish CRS Legislation when determining what accounts constitute a reportable account irrespective of the treatment of the entity in its country of domicile/residence.

Notification from the Irish Revenue Commissioners re updated filing guidelines published on the Revenue website:

In advance of 2019 AEOI annual reporting, due date of 30 June 2019, the Irish Revenue Commissioners have published updated FATCA and DAC2-CRS filing guidelines on the Revenue website. These guidelines have been created to provide FATCA and DAC2-CRS filing guidance in Ireland and are replacing the "Filing guidelines for FATCA", "Revenue guide to filing a FATCA return", "Filing guidelines for DAC2-CRS", "CRS Naming conventions", and CRS XML Forbidden and Restricted Characters" which were previously available on the Revenue website.

The updated FATCA and DAC2-CRS filing guidelines may be found on the Revenue AEOI website at the below links:

FATCA Filing Guidelines: <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-38/38-03-25.pdf>

DAC2-CRS Filing Guidelines: <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-38/38-03-26.pdf>

Updates to FATCA filing guidelines:

FATCA auto-generated nil return-new field "Filer Category type":

One of the main changes to the FATCA filing guidelines is the inclusion of a new field of filer category type into the FATCA auto-generated nil return. This includes a drop down list of options of filer category, which the FI must choose from in order to file the return. The filer option list comes from the IRS FATCA XML Schema Guide (V2.0) and has always been required as a mandatory field by FI's when filing FATCA XML reports. This year for the first time they will also be required to be included in the auto-generated nil return. The drop down list which FI's must now choose from includes the following options;

¹ A UK registered charity is one that is registered with the Charity Commission for England and Wales, the Charities Commission for Northern Ireland or the Office of the Scottish Charity Regulator, and is registered with HMRC for charitable tax purposes, and whose information is publicly available on the UK Government charity commission website. <http://apps.charitycommission.gov.uk/ShowCharity/RegisterOfCharities/AdvancedSearch.aspx>

- **FATCA601** - PFFI (other than a Reporting Model 2 FFI and including a U.S. branch of a PFFI not treated as a U.S. person)
- **FATCA602** - RDC FFI (including a Reporting Model 1 FFI) Note: If a Host Country Tax Authority in a Model 1 IGA jurisdiction is sending information on accounts maintained by a Reporting Model 1 FFI, use filer category FATCA602 (RDC FFI). (Most Reporting Model 1 IGA FFI's would fall into this category)
- **FATCA603** - Limited Branch or Limited FFI
- **FATCA604** - Reporting Model 2 FFI
- **FATCA605** - Qualified Intermediary (QI), Withholding Foreign, Partnership (WP), or Withholding Foreign Trust (WT)
- **FATCA610** - Withholding Agent (including a U.S. branch of a PFFI, Reporting Model 1 FFI, Reporting Model 2 FFI, or RDC FFI treated as a U.S. person, and a U.S. branch of a Reporting Model 1 FFI (including any other RDC FFI) or Limited FFI that is not treated as a U.S. person)
- **FATCA611** - Territory Financial Institution treated as a U.S. person (Not applicable to a Model 1 IGA FFI)

In addition there are a number of FATCA Filer Category Codes listed in the IRS FATCA XML Schema Guide (V2.0) that are not available to FI's who want to file the pre-populated auto-generated nil FATCA returns through ROS these include:

- **FATCA 607** – Sponsoring Entity of a Sponsored FFI
- **FATCA 608** – Sponsoring Entity of a Sponsored Direct Reporting NFFE
- **FATCA 609** – Trustee of a Trustee-Documented Trust

Revenue have confirmed to the AEOI WG that these FATCA Filer Categories are not available for selection in the pre-populated nil return form as Sponsoring Entity/Trustee could be filing the return on behalf of a number of entities and consequently Revenue would not know who they are filing the return on behalf of and thus cannot pre-populate the nil return with all the required details.

In these instances, Revenue has advised that the FI must file a nil FATCA return using the XML schema only in order to identify both the Sponsored and Sponsoring (or Trust/Trustee) entities.

For further information on what category best applies to your FI, please review the [IRS FATCA XML Schema Guide \(V2.0\)](#).

Revenue would like to remind Members that if they are experiencing any difficulties filing FATCA or CRS reporting obligations to contact AEOI via My Enquiries (mark your enquiry for the attention of aeoi_technicalsupport@revenue.ie) and/or by telephone at 00353 42 9353337).

2019 reporting deadline:

A reminder to Members that the deadline for filing DAC2-CRS and FATCA returns in respect of the 2018 reporting period is **30th June 2019**.

In addition to the above changes impacting 2019 AEOI FATCA and CRS reporting, please see previous Members notes issued on the [15 January](#) and [27 March](#) following discussions with Members of the AEOI WG and representatives from the Irish Revenue Commissioners AEOI teams on the 2018 AEOI reporting cycle which may also assist Members with their 2019 AEOI reporting obligations.

For further information on changes impacting 2019 AEOI reporting, Members are invited to attend the Irish Funds Industry Seminar to hear representatives from the Revenue Commissioners along with experts from the Irish Funds AEOI (FATCA and CRS) WG to discuss changes impacting the 2019 FATCA and CRS reporting cycle. The discussions will include lessons learned from previous years reporting, how funds can implement best practice to ensure robust compliance procedures. In addition, industry experts will talk about EU DAC 6 ("EU Mandatory Reporting"), including potential operational challenges for the funds industry with this new framework.