NALSAR University of Law
Public law school

Tax Transparency CRS,FATCA& CbCR

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22nd February 2025
(2nd Session: 11:30 am to 1:30pm)

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Table of content

PART A – Flashback 2009-2016

Aftermath of 2008 Financial Crisis

Focus of Government shifted to Profits shifted by MNCs through artificial means

Strong Political Support & Media Coverage

(to counter BEPS)

Aftermath of Financial Crises

Video

BEPS Techniques

BEPS stands for “Base Erosion and Profit Shifting”;

Tax avoidance tactics that exploit gaps and mismatches in exchange of information, treaties and domestic laws to artificially shift profits to low or no tax jurisdictions.

Some Techniques:

i) Shifting tax residency to low tax jurisdiction; **(Say Cayman Island, BVI, Bermuda – Shakira’s case)**

ii) Treaty-shopping **(Say, Mauritius Route for Investments);**

iii) Shifting intangibles to a jurisdiction with minimum royalty taxation **(Say Luxembourg);**

iv) Artificially leveraging the affiliates of a group in the high-tax jurisdiction **(Starbucks case);**

v) Avoidance of PE by splitting contracts **(Splitting up of Contracts among Group cos (Construction PE (India- Germany DTAA – 6 months))**

vi) Use of hybrid-instruments **(Say Compulsorily Convertible Debenture –India Netherlands) ;**

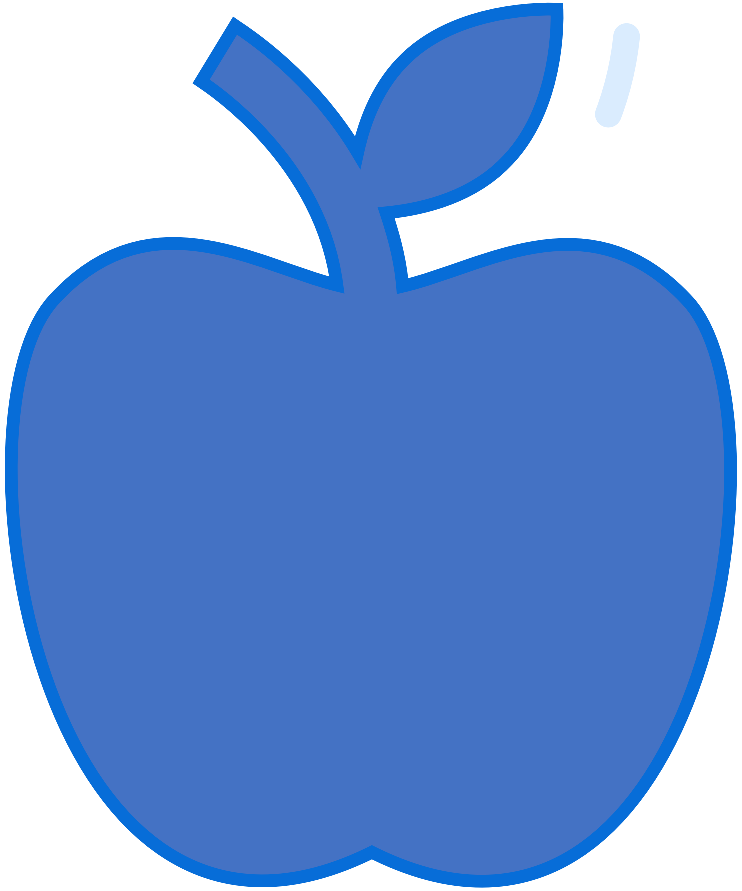
vii) Difficulties of applying traditional rules to digital businesses and businesses driven by intangibles;

viii) Exploiting tax arbitrage opportunities e.g. Apple shifted profits to Ireland

This was possible due to limitations of International Tax Law (as was existing prior to BEPS Project) & existence of Certain Preferential Tax Jurisdictions (discussed in subsequent slide.)

Background | Apple’s Case

- **Double Irish with a Dutch Sandwich** (historical strategy):
  - Apple used Ireland (low corporate tax rate) and the Netherlands (no withholding tax) to shift profits.
  - Irish subsidiaries licensed Apple's intellectual property (IP), allowing profits to be routed to tax havens.
- **Post-2015 Changes**:
  - Ireland phased out the "Double Irish" structure by 2020.
  - Apple restructured its operations, moving IP to Jersey (a tax haven) and maintaining a significant presence in Ireland.
- **EU Decision 2024**:
  - The European Commission ruled that **Apple must pay €13 billion** in back taxes to Ireland, citing illegal state aid.
  - Ireland and Apple appealed, but the EU upheld its decision in 2024, emphasizing the need for fair taxation.



Background | Starbucks

- **Transfer Pricing and IP Licensing:**
  - Starbucks shifted profits to lower-tax jurisdictions by charging high royalties for its brand and IP.
  - Example: UK operations paid royalties to a Dutch entity, reducing taxable profits in the UK.

- **Dutch Tax Rulings:**
  - Starbucks used the Netherlands for favorable tax rulings, allowing it to minimize taxes on European profits.

- **EU Investigation:**
  - The EU ruled that Starbucks received illegal state aid from the Netherlands and ordered the company to **repay €30 million in back taxes.**

Snapshot- Preferential Tax Regimes (in Pre-Beps Era)

Non- IP Regimes

Sr. No	Jurisdiction	Regime
1.	Argentina	Promotional regime for softwareindustry
2.	Australia	Conduit foreign income
3.	Brazil	PADIS - Semiconductors industry
4.	Canada	Life insurance business
5.	China	Reduced rate for advanced technology services enterprises
6.	Colombia	Foreign portfolio investment
7.	Greece	Offshore engineering and construction
8.	India	Deductions in respect of certain incomes of offshore banking units and international financial services centre
9.	India	Special provisions in respect of newly established units in special economic zones
10.	India	Special provisions relating to income of shipping companies - tonnage tax scheme
11.	India	Taxation of profit and gains of life insurance business
12.	Indonesia	Public / listed company regime
20.	Luxembourg	Private asset management company
21.	Luxembourg	Investment company in risk capital
22.	SouthAfrica	Headquarter company
23.	SouthAfrica	Exemption of income in respect of
24.	Switzerland	Auxiliary company regime
25.	Switzerland	Mixed company regime
26.	Switzerland	Holding company regime
27.	Switzerland	Commissionaire ruling regime
28.	Switzerland	Newly established or re-designed
29.	Turkey	Shipping regime

IP Regimes

Sr No	Jurisdiction	Regime
1	Belgium	Deduction for innovation income
2	China	Reduced rate for high & new tech enterprises
3	Colombia	Software regime
4	France	Reduced corporation tax rate on IP Income
5	Hungary	IP regime for royalties and capital gains
6	Israel	Amended preferred enterprise regime
7	Italy	Taxation of income from intangibleassets
8	Luxembourg	Partial exemption for income/gains derived from certain IP rights
9	Netherlands	Innovation box
10	Portugal	Partial exemption for income from certain intangible property
11	Spain	Partial exemption for income from certain intangible assets (Federal Regime)
12	Spain	Partial exemption for income from certain intangible assets (Basque
13	Spain	Partial exemption for income from

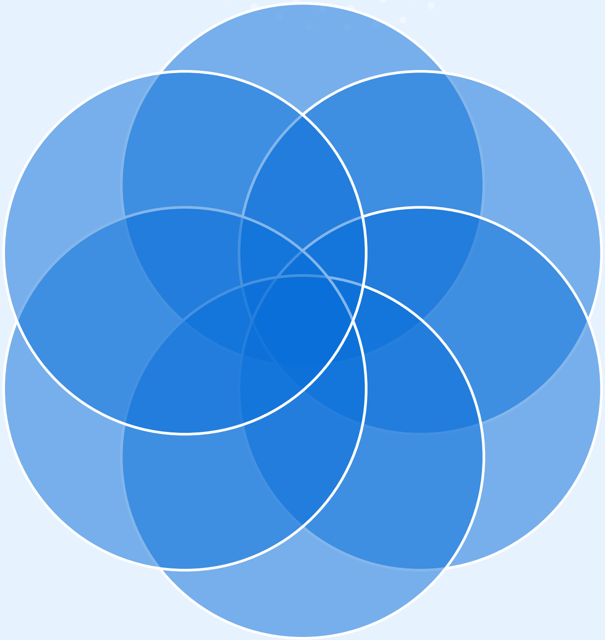
No/ Low Tax Jurisdictions

Sr. No	Jurisdictions
1.	Anguilla
2.	Bahamas
3.	Bahrain
4.	Barbados
5.	Bermuda
6.	British Virgin Islands
7.	Cayman Islands
8.	Guernsey
9.	Isle of Man
10.	Jersey
11.	Turks and Caicos Islands
12.	United Arab Emirates

There exists regimes such Headquarters, Finance & Leasing, Banking & Insurance Regimes, etc, which provides for preferential treatments.
All such type of regimes attract the MNCs and are most often seen as an opportunity for tax planning.
Note : Preferential Regimes are not always Harmful, the review of whether the jurisdiction is harmful is discussed in Action Plan 5. (Discussed in Subsequent Slides)

10

Background to the BEPS Project



“The Two-Pronged Approach to counter BEPS”

Global Tax Transparency Standards

The BEPS Project

First Prong : Global Tax Transparency standards

There are two standards on transparency and exchange of information for tax purposes:

- **Exchange of information on request**
- **Automatic exchange of information**

Exchange of information on request	Automatic exchange of information	Technical assistance
This standard requires the transparency of banking and accounting records as well as ownership of entities and legal arrangements. It provides a framework for obtaining information on request between tax authorities	This standard allows for the automatic annual exchange of information on offshore financial accounts.	Technical assistance activities ensure that all our members receive support, and benefit from the tools to implement the international tax standards

The Common Reporting Standard (CRS),
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 financial institutions

EUR 130 billion	450 000 information requests	EUR 12 trillion
Voluntary disclosure programmes, offshore tax investigations and related measures have helped identify close to EUR 130 billion in additional revenues so far	Our members have received nearly 450 000 requests for information since 2009, enabling the identification or collection of at least EUR 12.8 billion in additional tax.	Information on over 123 million financial accounts, covering total assets of almost EUR 12 trillion, was exchanged automatically in 2023.

Second Prong : BEPS Action Plans

Coherence

- Hybrid mismatch arrangements (2)
- Interest deductions (4)*
- CFC Rules (3)
- Harmful tax Practices (5)

Substance

- Preventing tax treaty abuse (6)*
- Avoidance of PE status (7)*
- TP/Risk capital (9)*
- TP aspects of Intangibles (8)*
- TP/High risk transactions (10)*

Transparency

- Methodologies & Data analysis (11)
- Disclosure rules (12)*
- CbCR (13)*
- Dispute resolution (14)

Digital Economy (1) (Industry specific)*

Multilateral Instruments (15) (Execution)*

Changes to Bilateral Treaty/ies (MLI/ Negotiation)

Through Domestic Legislation

***- These actions are considered crucial for India (Source : India comments given to UN available at www.un.org.)**

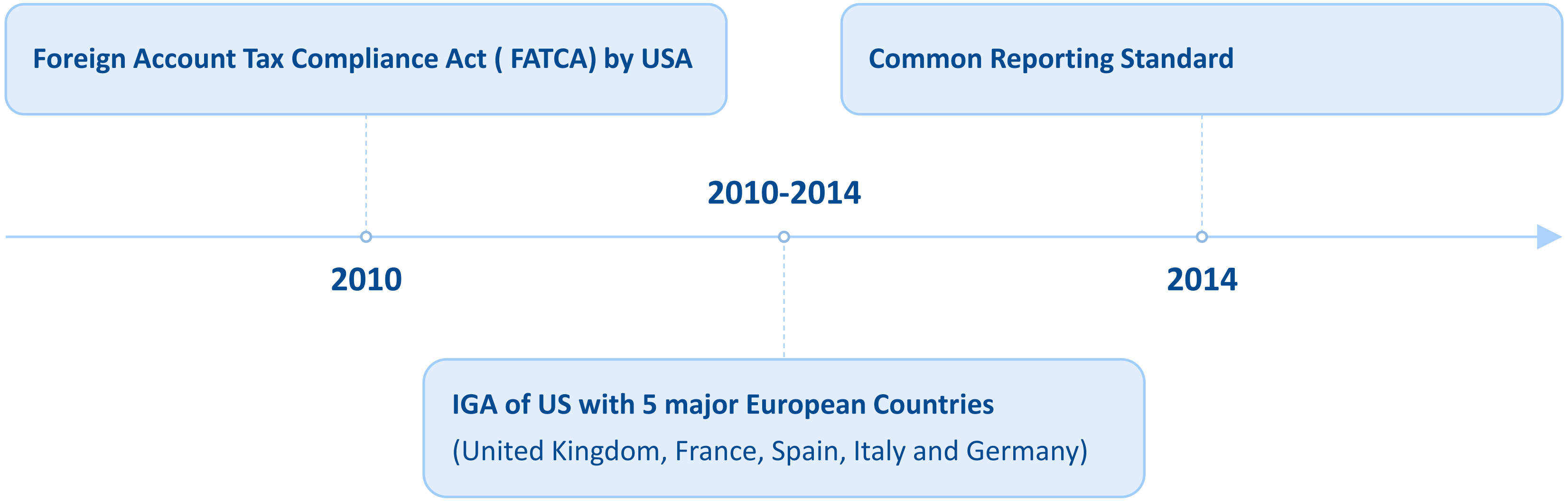
PART B – Exchange of Information

Modes of Exchange of Information

Exchange of Information of Request	Information is shared only at the request of the request of party to the bilateral/ multilateral event
Spontaneous Exchange of Information	Information is shared spontaneous as and when event is triggered
Automatic Exchange of Information	To be discussed in detail: • US FATCA • CRS (Convention on Mutual Administrative Assistance Model Competent Authority Agreement (CRS))

CRS & FATCA

1997	OECD Standard Magnetic Format for exchanging information
2003	EU Savings Directive - 2003 (first multinational automatic exchange of information programme)
2009	Restructuring of the Global Forum on Transparency and Exchange of Information for Tax Purposes
2010	Adoption of the Foreign Account Tax Compliance Act (FATCA) by the United States Congress
2012	Entering into of five Intergovernmental Agreements (IGAs) by major European countries (the) with the United States on a reciprocal exchange of FATCA information.
2013	September 2013 - Formal Request to the OECD to develop a common reporting standard.
2014	Agreement on text of Common Reporting Standard and initiation of commitment process by Global Forum among its members by signing of CRS Multilateral Competent Authority Agreement (CRS MCAA) in October 2014



"Agreement to Regulate Relationships with Registration Authorities" (France & Brazil – 1843)
Article 1 of this landmark Agreement read as follows: "There will be, between the receivers of the registration and the domains, exchange of all the documents and information which can help in the complete and regular collection of the rights established by the laws which govern the two Countries or relate to domain interests, their reciprocally related"

EOI | FATCA

Foreign Account Tax Compliance Act

Provisions of FATCA require **30% withholding tax on US Source Payments** to Foreign Financial Institutions, unless Foreign Financial Institutions do not enter into agreement with IRS to provide information about **USA persons or entities(firms/companies/trusts) controlled by USA persons.**

Poser:

Whether Foreign Financial Institutions can legally share such information with USA?

- Sovereign Nations allow sharing of information?

- Inter Government Agreement with United States of America,

Agreement between the Government of the Republic of India and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA

Whereas, the Government of the Republic of India and the Government of the United States of America (each, a "Party," and together, the "Parties") desire to conclude an **agreement to improve international tax compliance through mutual assistance in tax matter**s based on an effective infrastructure for the automatic exchange of information;

Whereas, Article 28 of the Convention between the Government of the Republic of India and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, together with a related protocol (the 'Convention"), done at New Delhi on September 12, 1989 **authorizes the exchange of information for tax purposes, including on an automatic basis**

Whereas, the United States of America enacted provisions commonly known as the Foreign Account Tax Compliance **Act ("FATCA"),** which introduce a reporting regime for financial institutions with respect to certain accounts;

Whereas, the Government of India is supportive of the underlying policy goal of FATCA to improve tax compliance;

Whereas, FATCA has raised a number of issues, including that **Indian financial institutions may not be able to comply with certain aspects of FATCA due to domestic legal impediments**;

Whereas, the Govern**ment of the United States of America collects information regarding certain accounts maintained by U.S. financial institutions held by residents of India** and is ommitted to exchanging such information with the Government of India and pursuing equivalent levels of exchange;

Whereas, the Parties are committed to working together over the longer term towards achieving common reporting and due diligence standards for financial institutions;

Whereas, the Government of the United States of America acknowledges the need to coordinate the reporting obligations under FATCA with other U.S. tax reporting obligations jf Indian financial institutions to avoid duplicative reporting;

Whereas, an intergovernmental approach to FATCA implementation would address **legal impediments and reduce burdens for Indian financial institutions;**

Whereas. the Parties desire to conclude an agreement to improve international tax compliance and provide for the implementation of FATCA based on domestic reporting and **reciprocal automatic exchange pursuant** to the Convention, and subject to the confidentialiy and other protections provided for therein, including the provisions **limiting the use of the information exchanged** under the Convention

EOI | CRS

It’s a common standard on domestic reporting, due diligence and exchange of financial account information.

Under this common standard, jurisdictions obtain from reporting financial institutions and automatically exchange with exchange partners, as appropriate, on an annual basis financial information with respect to all reportable accounts, identified by financial institutions on the basis of common reporting and due diligence rules.

An implementing jurisdiction must have rules in place that require financial institutions to report information consistent with the scope of reporting set out in Section I and to follow due diligence procedures consistent with the procedures contained in Sections II through VII of the CRS.

Pre-requisite of Exchange of Information :-

a) Bilateral Relationship or part of Convention on **Mutual Administrative Assistance in Tax Matters** (CMAA)
b) Entering into Model Competent Authority Agreement (CRS)

CMAA

No.402/92/2006-MC (4 of 2012)
Government of India / Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
***

New Delhi, 27th January, 2012

PRESS RELEASE

Signing of Convention on Mutual Administrative Assistance in tax matters as amended by the 2010 Protocol by India.

On 26th January, 2012, Indiahas signed a Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The Convention was signed by Shri Sanjay Kumar Mishra, Joint Secretary, Foreign Tax & Tax Research Division, Department of Revenue, Ministry of Finance, Government of India in the presence of Deputy Secretary-General of OECD Mr. RintaroTamaki. This instrument hitherto available for the members of OECD and council of Europewas amended in 2010 and open for all countries in June 2011. The Convention was amended to respond to the 2009G20 Summit call for developing a broader multilateral approach to improve the effectiveness of exchange of information, co-operation between the countries in the assessment and collection of taxes, with a view to combating tax avoidance and evasion.

Present signatories to the amended convention are: Argentina, Australia, Belgium, Brazil, Canada, Denmark, Finland, France, Georgia, Germany, Iceland, India, Indonesia, Ireland, Italy, Japan, Korea, Mexico, Moldova, Netherlands, Norway, Poland, Portugal, Russia, Slovenia, South Africa, Spain, Sweden, Turkey, Ukraine, the United Kingdom, and the United States.

By signing the Convention, India and the other 31 signatories encourage more countries to join, sending a strong signal that countries are acting together to ensure that individuals and multinational enterprises pay the right amount of tax, at the right time and in the right place.Many more countries are expected to signing the Convention in future. This provides for a wider network of countries co-operating in Exchange of Information, Assistance in Tax Collection etc. Out of the 31 signatories, 12 of them have ratified the convention so far.

*** 147 Jurisdictions as of Sep 2023 – Source : OECD**

CMAA- Salient Features

Multilateral, providing a single legal basis for multi-country cooperation compared to bilateral DTAA/TIEA agreements.

Establishes an extensive network with consistent application of provisions, reducing scope for deviation.

Enables extensive forms of cooperation among signatories on all taxes.

Facilitates exchange of information and assistance in tax recovery, aiding efforts to repatriate illegally stashed Indian funds abroad.

Allows for simultaneous tax examinations and participation in tax examinations in other countries, enabling tax officials to enter other territories for interviews and record examinations.

Explicitly provides for Automatic Exchange of Information and Spontaneous Exchange of Information.

Allows for the service of documents in other countries.

Permits exchange of past information in criminal tax matters.

Information received under the Convention can be used for purposes beyond tax cooperation, such as countering money laundering, with approval from the supplying state.#

Recent Ruling of Switzerland Supreme Court restricting use of information only for tax purposes and restricting it for money laundering

Model Competent Authority Agreement

Recital/ Preamble dealing with representations on domestic reporting and due diligence rules essential for information exchange, as well as assurances regarding confidentiality, safeguards, and infrastructure for effective exchange.

Section	Content
Section 1	Definitions relating to terms used within the agreement.
Section 2	Description of the type of financial information to be exchanged.
Section 3	Guidelines on the timing and method of exchanging financial information.
Section 4	Collaboration between competent authorities for compliance and enforcement.
Section 5	Confidentiality and data safeguards requirements that must be upheld.
Sections 4, 6 and 7	Consultations between Competent Authorities, amendments, and agreement terms. Suspension and termination procedures are addressed in these sections.

Model Competent Authority Agreement

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the "Agreement") are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the "Convention") or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the first exchange of financial account information takes place;

Whereas, the jurisdictions intend to improve international tax compliance by further building on their relationship with respect to mutual assistance in tax matters;

Whereas, the Common Reporting Standard was developed by the OECD, with G20 countries, to tackle tax avoidance and evasion and improve tax compliance;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the laws of the respective Jurisdictions require or are expected to require financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard;

Whereas, it is expected that the laws of the Jurisdictions would be amended from time to time to reflect updates to the Common Reporting Standard and once such changes are enacted by a Jurisdiction the definition of Common Reporting Standard would be deemed to refer to the updated version in respect of that Jurisdiction;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, the exchange of the information will be on a bilateral basis between the Competent Authorities;

Model Competent Authority Agreement (Contd.)

Whereas, the Jurisdictions have, or are expected to have, in place by the time the first exchange takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the Convention, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities of the jurisdictions intend to conclude an agreement to improve international tax compliance based on automatic exchange pursuant to the Convention, without prejudice to national legislative procedures (if any), respecting EU law (if applicable), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

AUTOMATIC EXCHANGE OF INFORMATION (AEOI): STATUS OF COMMITMENTS (as of Jan 2025)

YEAR	JURISDICTIONS UNDERTAKING FIRST EXCHANGES	COUNT
2017	Anguilla, Argentina, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Cyprus, Czechia, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, **India**, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands, United Kingdom	49
2018	Andorra, Antigua and Barbuda, Aruba, Australia, Austria, Azerbaijan, The Bahamas, Bahrain, Barbados, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Curaçao, Dominica, Greenland, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Lebanon, Macau (China), Malaysia, Marshall Islands, Mauritius, Monaco, Nauru, New Zealand, Niue, Pakistan, Panama, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Trinidad and Tobago, Türkiye, United Arab Emirates, Uruguay, Vanuatu	51
2019	Ghana, Kuwait	2
2020	Nigeria, Oman, Peru	3
2021	Albania, Ecuador, Kazakhstan	3
2022	Jamaica, Maldives	2
2023	Jordan, Montenegro, Thailand	3
2024	Georgia, Kenya, Moldova, Ukraine	4
2025	Armenia, Morocco, Rwanda, Senegal, Tunisia, Uganda	6
2026	Cameroon, Mongolia, Tunisia	3
2027	Papua New Guinea , Paraguay	2
Not yet committed	Algeria, Angola, Belarus, Benin, Bosnia and Herzegovina, Botswana, Burkina Faso, Cabo Verde, Cambodia, Chad, Congo (Republic of the), Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominican Republic, Egypt, El Salvador, Eswatini, Fiji, Gabon, Guatemala, Guinea, Guyana, Haiti, Honduras, Lesotho, Liberia, Madagascar, Mali, Mauritania, Namibia, Niger, North Macedonia, Palau, Philippines, Serbia, Sierra Leone, Tanzania, Togo, Uzbekistan, Viet Nam, Zambia, Zimbabwe	45

AUTOMATIC EXCHANGE RELATION FOR CRS Information

Last updated: 19 February 2025

india

From jurisdiction	To jurisdiction	Legal instrument
Albania	India	CRS MCAA activated
Andorra	India	CRS MCAA activated - Effective for taxable periods starting on or after 01 January 2017 (DTY)
Anguilla	India	CRS MCAA activated
Antigua and Barbuda	India	CRS MCAA activated
Argentina	India	CRS MCAA activated
Aruba	India	CRS MCAA activated
Australia	India	CRS MCAA activated
Austria	India	CRS MCAA activated
Azerbaijan	India	CRS MCAA activated
Bahamas	India	CRS MCAA activated

‹ 1 / 21 ›

Visit for more details : https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/

The 171 members of the Global Forum

Last update: January 2024

CRS- Common Reporting Standard

Framework for Determining Reportable Entity, Reportable Information, Due Diligence, Data Security / Confedentiality

Model Competent Authority Agreement which contains representations on domestic requirements and due diligence

Pre-requisite of an existing relationship

(Bilateral Treaty Network or Convention on Mutual Administrative Assistance)

Entering into Bilateral Model CAA for establishing the relationship

Peer review by Global Forum for ensuring effectiveness of the Exchange Network

Indian Context

Enabling Section	S. 285 BA of the Income-tax Act , 1961
Relevant Rules	Rule 114F to 114H of the Income-tax Rules, 1962
Form to be submitted	Form 61B

Aspect	FATCA	CRS
Cut-off date for pre-existing accounts	30.06.2014	31.12.2015
Date for considering New Accounts	01.07.2014	01.01.2016
First reporting (calendar year)	10.09.2015 (2014)	31.05.2017 (2016)
FATCA implementation in India	31.08.2015	From 2016

Process of Reporting

Reporting Financial Institutions

review their

Financial Accounts

to identify

Reportable Accounts

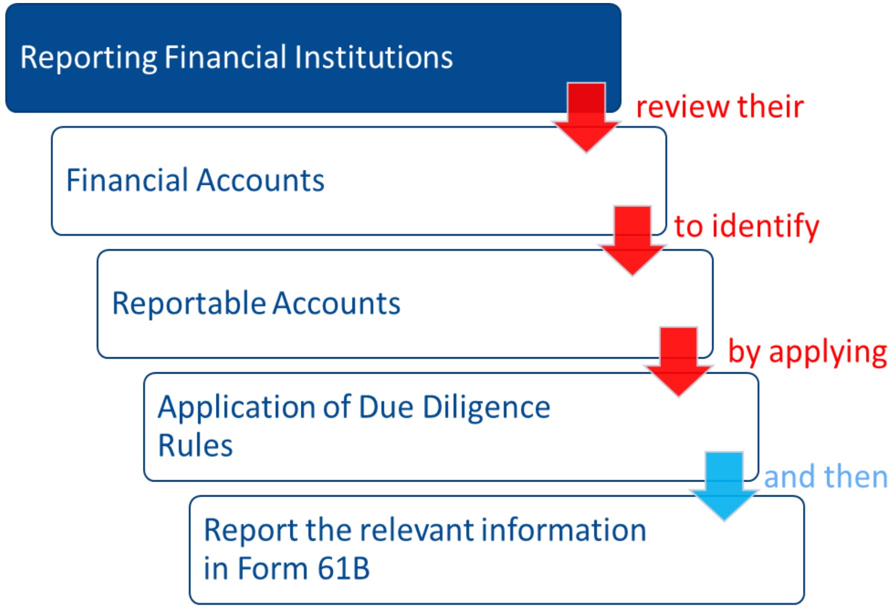
by applying

Application of Due Diligence Rules

and then

Report the relevant information in Form 61B

Key Terminology | Entity & Financial Institution



Entity ?

"Entity" would include legal persons and legal arrangements, such as corporations, partnerships, trusts, foundations and HUF.

Poser?

Q: Sole Proprietorship or Individual covered?

Financial Institution

Categories

- ❑ Custodial Institutions,
- ❑ Depository Institutions,
- ❑ Investment Entities and
- ❑ Specified Insurance Companies.

Key Terms | Financial Institutions (Contd.)

- **Depository Institutions**

Accepting Deposits “+” In the Ordinary Course of Banking or Similar Business

Meaning of Banking or Similar business:- In the Ordinary Course of Business with **CUSTOMERS,** is engaged in following activities:-

- Accepts **deposits** or other similar investments of funds
- Makes personal, mortgage, industrial, or other loans or provides other extensions of **credit**
- Purchases, sells, discounts, or negotiates accounts receivable, installment obligations, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness
- Issues **letters of credit** and negotiates drafts drawn thereunder
- Provides **trust or fiduciary services**
- Finances **foreign exchange** transactions
- Enters into, purchases, or disposes of **finance leases** or leased assets.

Key Terms | Financial Institutions (Contd.)

- **Custodial Institutions**

Holds financial assets for the account of others

"+"

Income attributable to holding Financial Assets & related services **> 20% of Gross Income**
(During last 3 years prior to which determination is made)

Example: CDSL, NSDL

33

Key Terms | Financial Institutions (Contd.)

Investment Entity : Primary business consists of one or more of the following activities for and on behalf of the customer :

- Trading in **money market instruments** (cheques, bills, certificates of deposit, derivatives, etc.), foreign exchange, exchange, interest rate, and index instruments.
- Engaging in transferable **securities or commodity** futures trading.
- Providing individual and collective portfolio management services.
- Otherwise investing, administering, or managing financial assets or money on behalf of other persons.

"+"

More than 50% of gross income is from said services (during preceding 3 year)

Primary income is from investing, reinvesting, or trading in financial assets

"+"

Managed* by any of the 4 categories;
More than 50% of gross income is from said services (during preceding 3 year)

*- "Managed by" entails entity should have discretionary authority to manage assets (whole or in part)

Key Terms | Financial Institutions (Contd.)

Exception:

a) Non-Reporting Financial Institution

Meaning Entity who is engaged in following :-

(i) renders investment advice to, and acts on behalf of; or

(ii) manages portfolios for, and acts on behalf of; or

(iii) executes trades on behalf of a customer for the purposes of investing, managing, or administering funds or securities

(+)

Funds or Securities are held in **the name of customer** (other than a non-participating financial institution)

Key Terms | Financial Institutions (Contd.)

- Specified Insurance Company
  - Insurance company OR
  - The holding company of an insurance company

that issues, or is obligated **to make payments** with respect to:-

✓ Cash Value Insurance Contract* (FOR US Reportable Person Threshold Of USD – 50,000)or

✓ Annuity Contract.

Exception:

Insurance companies **only** providing General Insurance , Term Insurance Company , Reinsurance Company providing Indemnity Reinsurance Contracts.

Key Terms | Reportable Financial Institutions

Reporting Financial Institutions

review their

Financial Accounts

to identify

Reportable Accounts

by applying

Application of Due Diligence Rules

and then

Report the relevant information in Form 61B

- Should be a Financial Institution

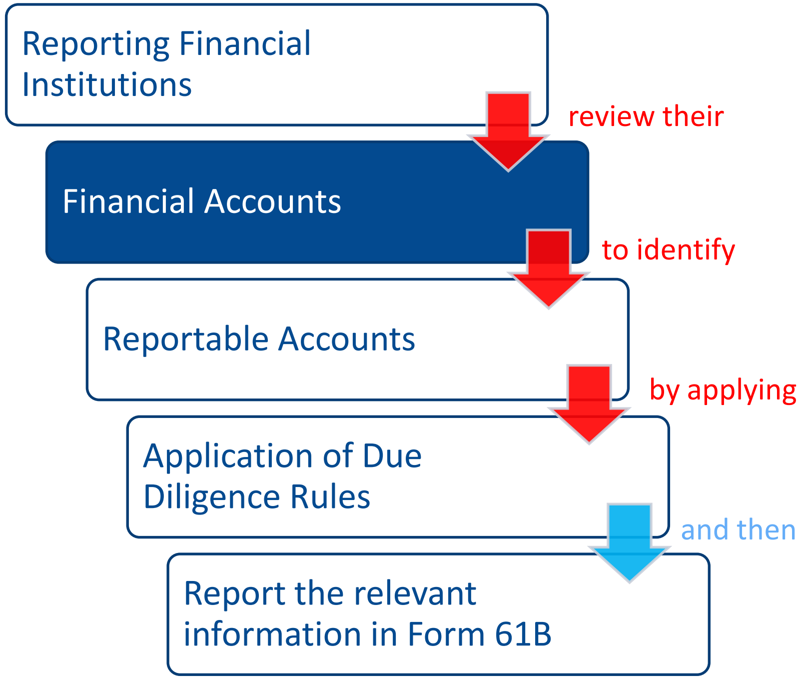
(That is any of the 4 categories:
Custodian Institution
Depositary Institution
Investment Institutions
Specified Insurance Institutions)

“+”

Should be located in India
(So Foreign Branch of Indian Entity shall not be in India, also Indian Branch of Foreign entity in India

Key Terms | Financial Accounts

Type of Account	Financial Institution Responsible
Depository Accounts	The Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Financial Institution).
Custodial Accounts	The Financial Institution that holds custody over the assets in the account.
Equity and Debt Interest	The Financial Institution maintaining the equity or debt interest in certain Investment Entities.
Cash Value Insurance Contracts	The Financial Institution that is obligated to make payments with respect to the contract.
Annuity Contracts	The Financial Institution that is obligated to make payments with respect to the contract.



Key Terms | Financial Accounts

Depository Account:

- Includes various types of accounts like commercial, checking, savings, etc., maintained by a financial institution.
- Can also include accounts evidenced by certificates such as certificate of deposit, investment certificate, etc.
- Not necessarily an interest-bearing account.

Examples: Commercial accounts, certificate of deposit accounts, etc.

Custodial Account:

- An account held by a financial institution for the benefit of another person and holds one or more financial assets.
- Can include mutual fund holdings in dematerialized format, reported by depository/depository participant.
- If mutual fund units are in physical format, the entity issuing the units is responsible for reporting.
- Examples: Accounts held by trustees for beneficiaries, mutual fund holdings, etc.

Key Terms | Financial Accounts

Equity and Debt Interest:

- Financial accounts if they represent interests in an investment entity like mutual funds, hedge funds, etc.
- Equity interest may vary depending on the nature of the investment entity. (Say Partnership interests, beneficiary interests in trusts, etc.)
- Exclusions apply for entities solely providing investment advice.

Cash Value Insurance Contracts & Annuity Contracts

- Contract where the issuer pays upon specified contingencies, with a cash value exceeding a certain threshold.
- Excludes certain types of insurance contracts like term life insurance, property/motor car, insurance for economic loss.
- Examples: Whole life insurance contracts, universal life insurance contracts, etc.
- Contract where the issuer agrees to make payments based on life expectancy.
- Payments made for a determined period based on individuals' life expectancy.
- Examples: Fixed annuity contracts, variable annuity contracts, etc.

Key Terms | Financial **Accounts** (**Excluded**)

- Retirement or pension account:
  - Subject to regulation as a personal retirement account or part of a registered or regulated retirement or pension plan.
  - Tax-favored contributions with reporting to income-tax authorities.
  - Withdrawals conditioned on specific events or subject to penalties.
  - Limited annual or lifetime contributions.
- Savings vehicle or investment account:
  - Subject to regulation as a savings vehicle or investment vehicle.
  - Tax-favored contributions with deferred taxation on investment income.
  - Withdrawals conditioned on specific criteria related to the account's purpose.
  - Limited annual contributions.
- Account under Senior Citizens Savings Scheme Rules, 2004.
- Life insurance contract:
  - Premiums payable annually until age ninety.
  - No accessible contract value, limited cancellation benefits.
  - Not held by a transferee for value.
- Account held solely by an estate with appropriate documentation.
- Account established in connection with court orders, property transactions, or obligations facilitating future payments.
- Depository account for credit card overpayments exceeding a certain threshold, with policies for preventing or refunding overpayments implemented by December 31, 2015.

Key Terms | Reportable Financial Accounts

Reportable Account (US) means an account, which has been identified pursuant to the due diligence procedure, as held by

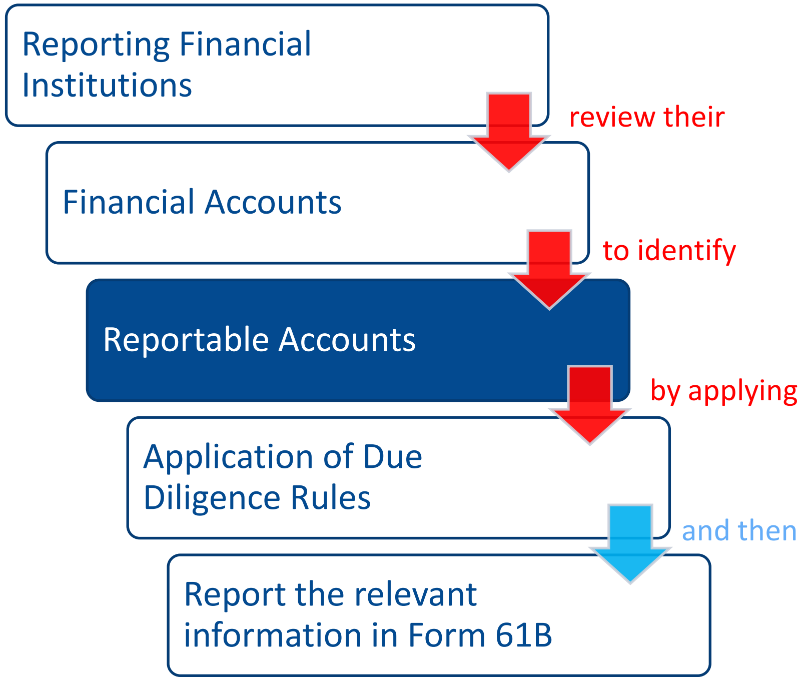
(a) **a reportable person;**

or

(b) **an entity, not based in United States of America**, with one or more **controlling persons# that is a specified U.S. person**;

or

(c) a passive non-financial entity (passive NFE) with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of the rule 114F **(NON-US PERSON)**.



#- % stake - 20% in case of Co, 15% in case of other entities

42

Key Terms | Reportable Person (US)

1.Citizen or Resident Individual:

1. Individuals who are citizens or residents of the United States, as defined by applicable tax laws.

2.Domestic Entities:

1. Partnerships or corporations organized in the United States or under U.S. laws, including those of any state thereof.

3.Trusts under U.S. Jurisdiction:

1. Trusts meeting the following criteria:
    1. A court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding trust administration.
    2. One or more U.S. persons have the authority to control all substantial decisions of the trust.

4.Estates of U.S. Decedents:

1. Estates of decedents who were citizens or residents of the United States

Exclusion from Reporting (US Reporting)

Publicly Traded Corporations:	• Corporations whose stocks are regularly traded on established securities markets.
Affiliated Corporations:	• Corporations that are members of the same expanded affiliated group as publicly traded corporations.
U.S. Government Entities:	• The United States government or any wholly-owned agency or instrumentality thereof.
U.S. States, Territories, and Political Subdivisions:	• Any state of the United States, U.S. territories, political subdivisions, or wholly-owned agencies or instrumentalities thereof.
Tax-Exempt Organizations and Individual Retirement Plans:	• Organizations exempt from taxation under section 501(a) of the U.S. Internal Revenue Code. • Individual retirement plans as defined in section 7701(a)(37) of the U.S. Internal Revenue Code.
Defined Financial Institutions:	• Banks, real estate investment trusts (REITs), regulated investment companies, SEC-registered entities, common trust funds, and tax-exempt trusts.
Securities, Commodities, and Derivatives Dealers:	• Registered dealers in securities, commodities, or derivative financial instruments under U.S. laws.
Brokers:	• Individuals or entities defined as brokers under section 6045(c) of the U.S. Internal Revenue Code.
Tax-Exempt Trusts under Specific Sections:	• Tax-exempt trusts under section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

Active Non-Financial Entity Criteria:

- Less than 50% of gross income for the preceding financial year is passive income, and less than 50% of assets held produce or are held for producing passive income.
- Stock of the entity is regularly traded on an **established securities market**, or it's a related entity of a regularly traded entity.
- Entity is a Governmental entity, International Organization, Central Bank, or wholly owned by any of these.
- Entity's activities primarily involve holding stock of subsidiaries or providing financing and services to them, excluding functioning as an investment fund.
- Entity is **investing capital into assets** with the intent to operate a non-financial business within 24 months.
- Entity was **not a financial institution in the past five years** and is liquidating assets or reorganizing to operate a non-financial business.
- Entity primarily engages in **financing and hedging transactions with related entities** not classified as financial institutions.
- Entity is established and operated in India for specified purposes, exempt from income tax, has no shareholders with proprietary interest, and requires asset distribution to governmental or non-profit organizations upon liquidation.
- Exceptions under this clause include certain funds mentioned in Section 10 of the Act.

Key Terms | Reportable Person (Other than US)

A person who is resident of any country or territory outside India (except United States of America) under the tax laws of such country or territory or

An estate of a decedent that was a resident of any country or territory outside India (except United States of America) under the tax laws of such country or territory.

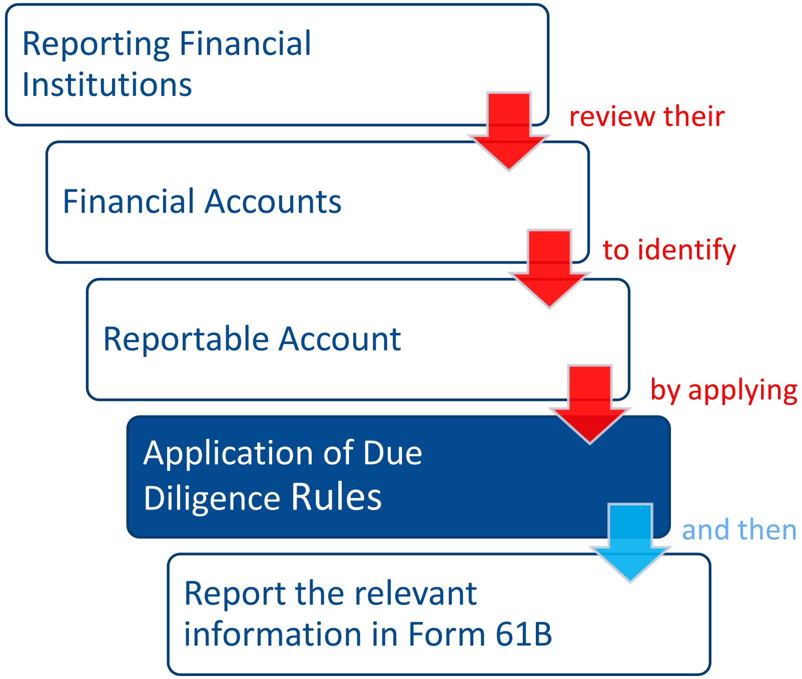
Other than following :-

- Corporations with Regularly Traded Stock & Related Entities of Publicly Traded Corporations
- Governmental Entities
- International Organizations
- Central Banks
- Financial Institutions Outside India (Excluding the United States)
- Estates of Decedents Outside India (Excluding the United States)

Due Diligence

Classification of accounts	Status	Value	Due Diligence Threshold
Preexisting-US (as on 30.06.2014)	Individual	High Value Account	Account balance or value exceeds $1,000,000
		Lower Value Account	Account balance or value exceeds $50,000 but does not exceed $1,000,000
	Entity	NA	Account balance or value exceeds $250,000
New-US (opened after 30.06.2014)	Individual	NA	Account balance or value exceeds $ 50,000*
	Entity	NA	No threshold
Preexisting-Other (as on 31.12.2015)	Individual	High Value Account	Account balance or value exceeds $ 1,000,000
		Lower Value Account	Account balance or value does not exceed $1,000,000
	Entity	NA	Account balance or value exceeds $250,000
New-Other (opened after 31.12.2015)	Individual	NA	No threshold
	Entity	NA	No threshold

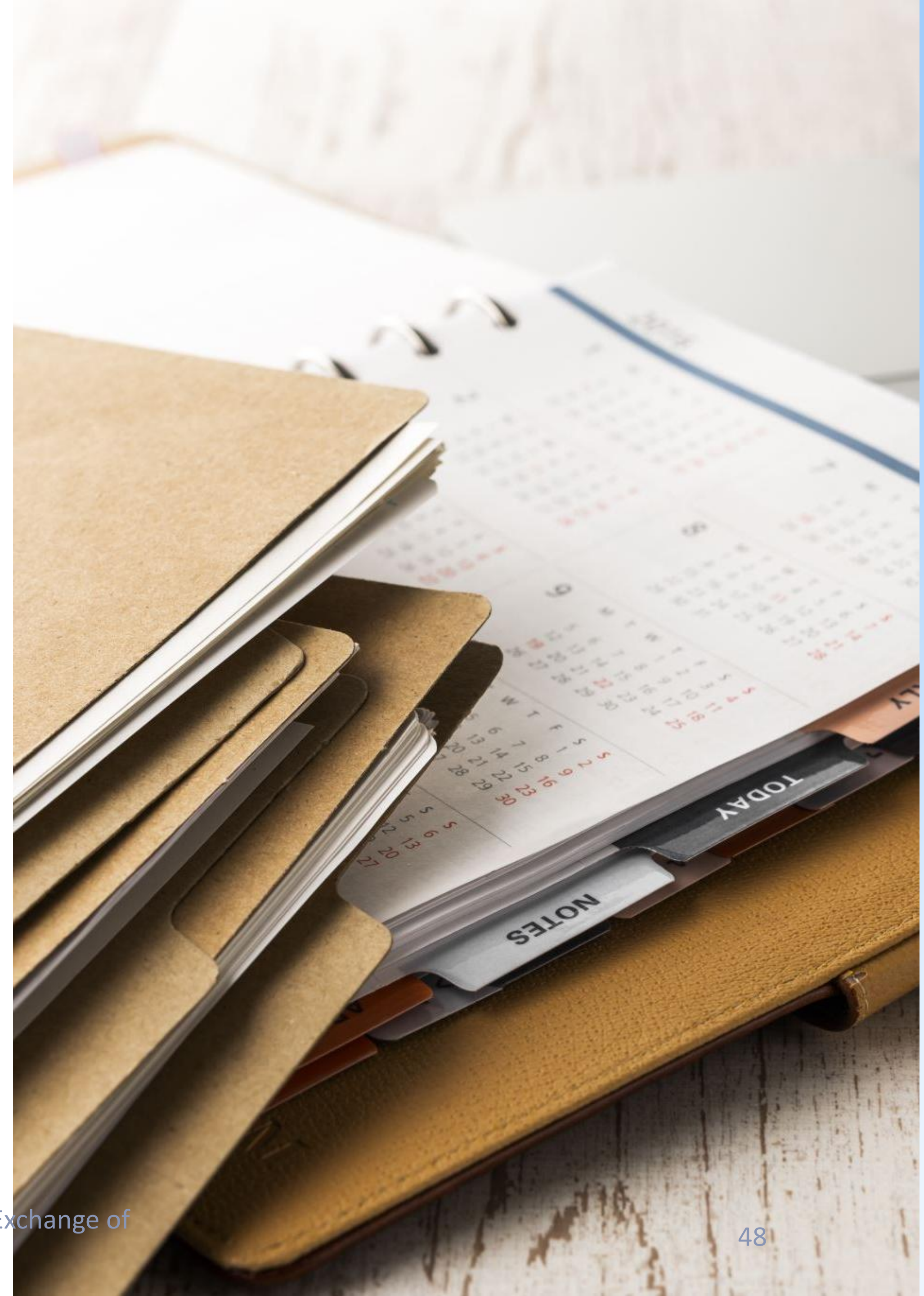
* only for depository account and cash value insurance contract



47

Due Diligence | Indicators

- Identification of the account holder as a resident of any country or territory outside India for tax purposes or an unambiguous indication of a place of birth in the USA.
- Current mailing or residence address (including a post office box) in any country or territory outside India.
- One or more telephone numbers in a country or territory outside India and no telephone number in India.
- Standing instructions (other than a Depository Account in the case of CRS) to transfer funds to an account maintained in a country or territory outside India.
- Currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India.
- A "hold mail" instruction or "in-care-of" address in a country or territory outside India if the reporting financial institution does not have any other address on file for the account hold



Due Diligence | Pre-existing Accounts

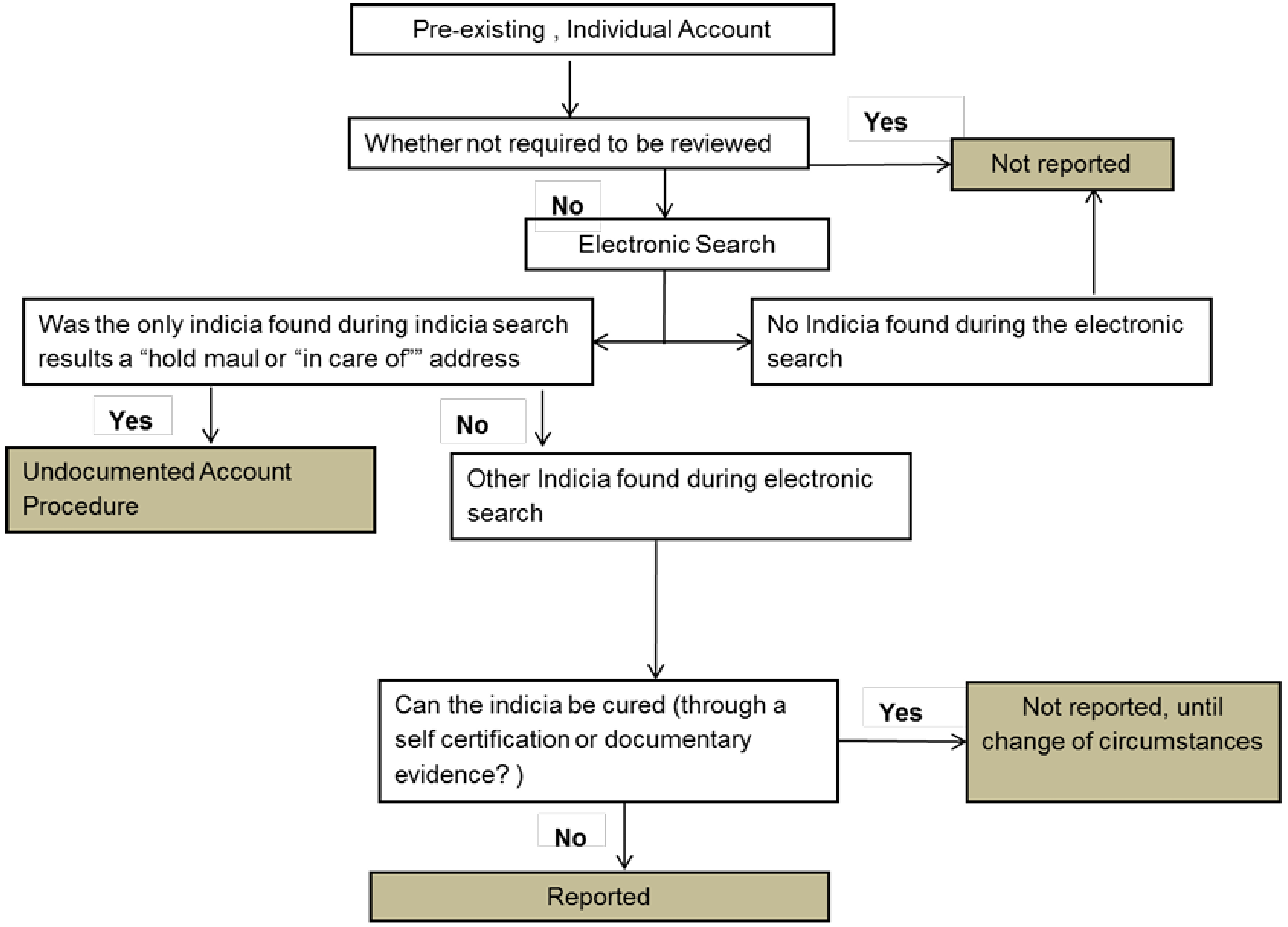


Figure: Due Diligence for Preexisting, Lower Value, Individual Accounts

Due Diligence | Pre-existing Accounts

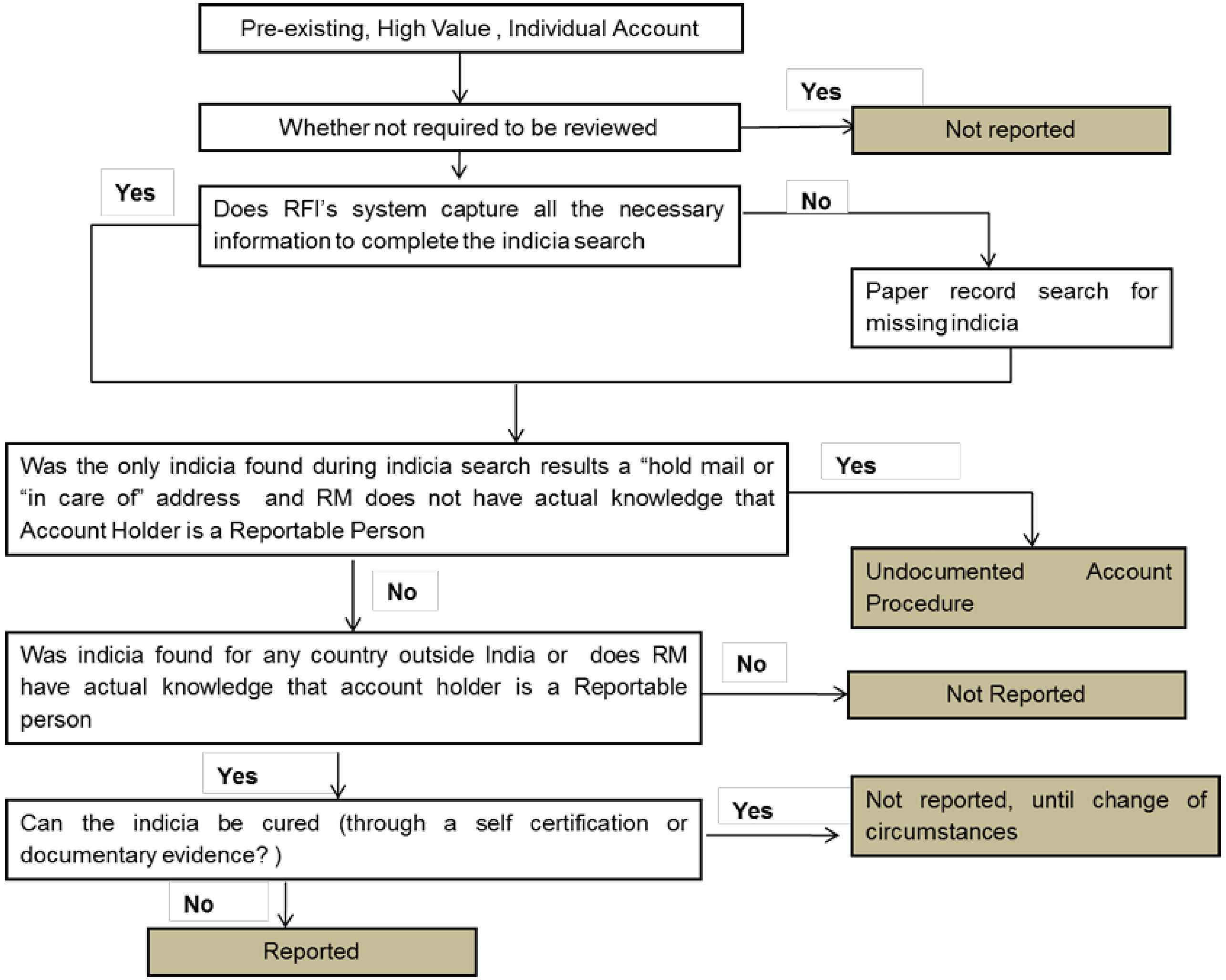
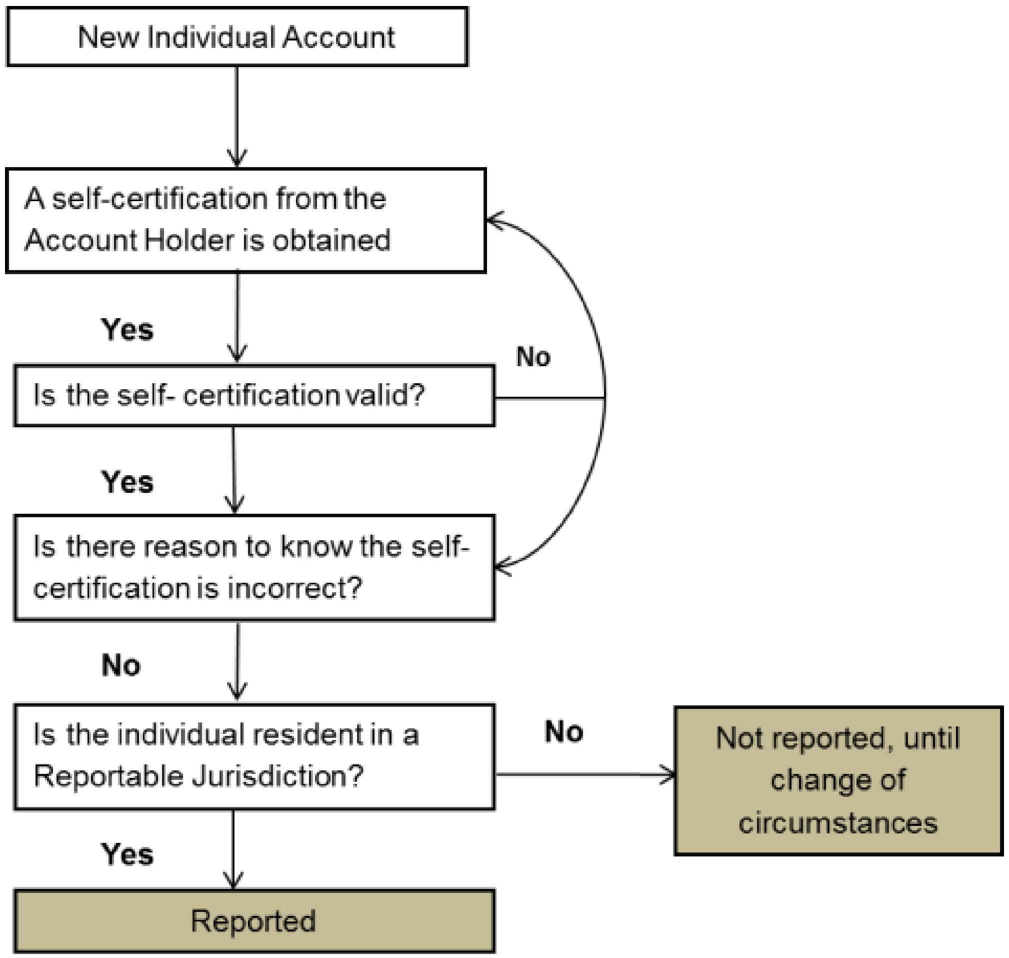
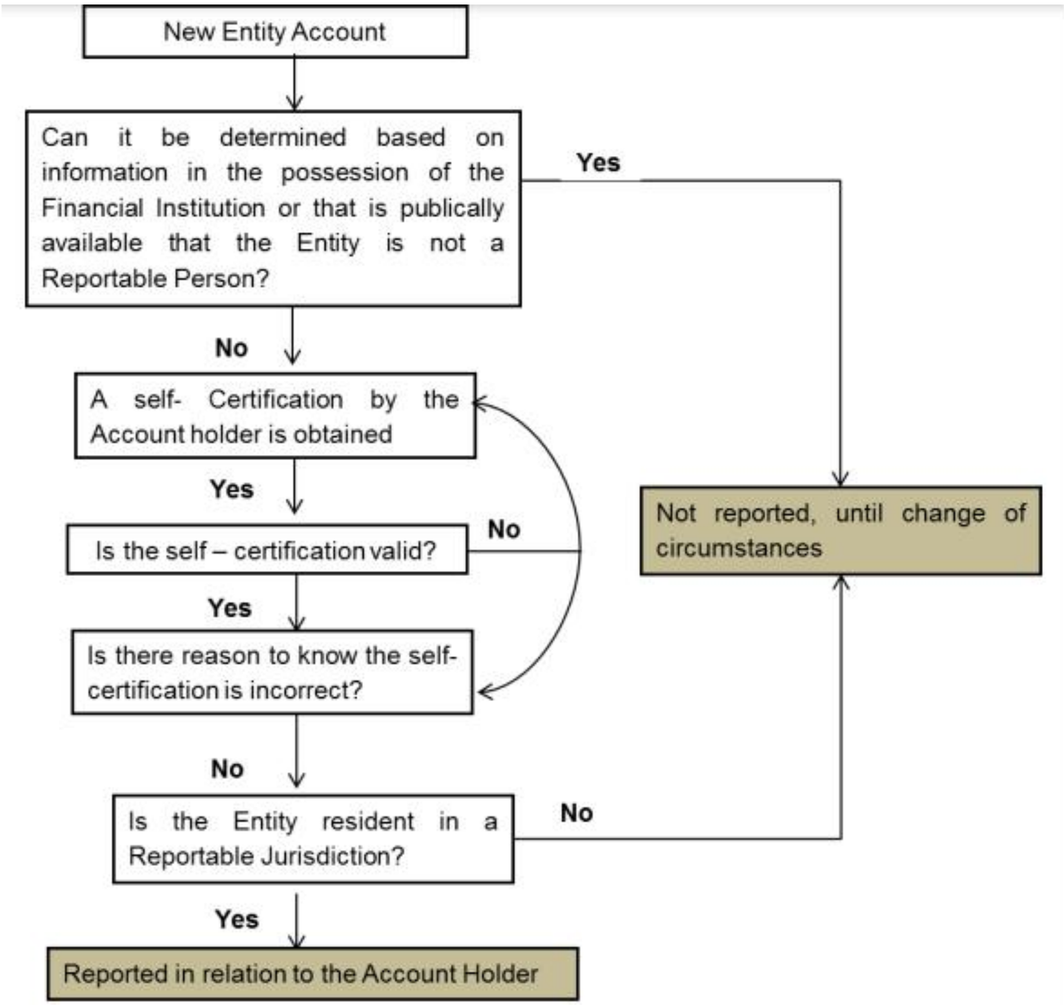


Figure: Due Diligence for Preexisting, High Value, Individual Accounts

Due Diligence | New Accounts

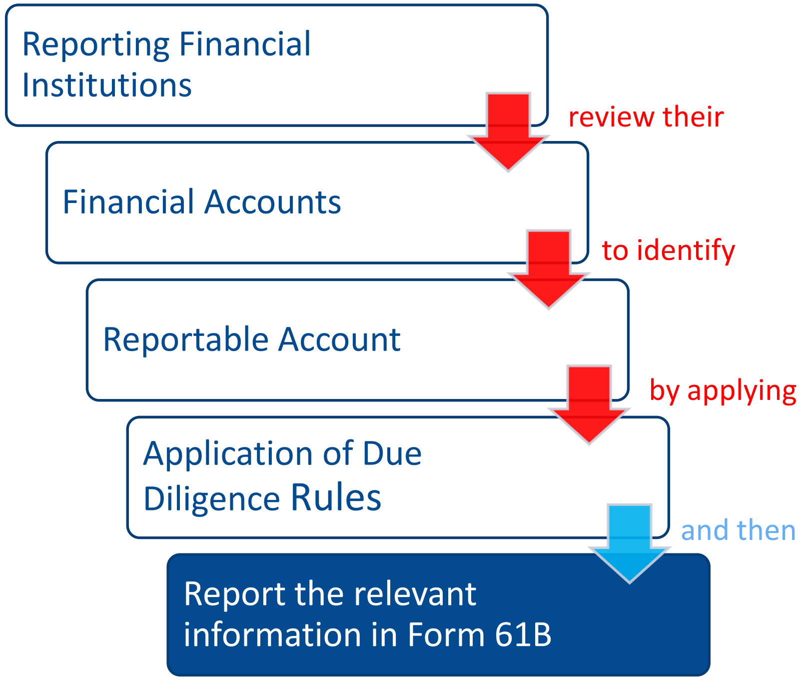


Due Diligence | New Account



Reporting

Information Required	Description
(a) Name, address, taxpayer identification number, date and place of birth of each reportable person	Details of individuals who are account holders, including their personal information and taxpayer identification number.
(b) Name and address of the entity, taxpayer identification number, name, address, date and place of birth of controlling persons	Details of entities holding accounts, including their information and that of their controlling persons.
(c) Account number (or functional equivalent)	Unique identifier for the account.
(d) Account balance or value at the end of relevant calendar year or immediately before closure	The financial value of the account at the specified times.
(e) Total gross amounts of interest, dividends, other income; total gross proceeds from asset sales	For custodial accounts, information on income generated and proceeds from asset sales during the calendar year.
(f) Total gross amount of interest paid or credited during the relevant calendar year	For depository accounts, the total amount of interest paid or credited during the calendar year.
(g) Total gross amount paid or credited to the account holder during the relevant calendar year	For accounts other than custodial or depository accounts, the total amount paid or credited during the calendar year.
(h) Name of non-participating financial institution, aggregate amount of payments	For accounts held by non-participating financial institutions, names of such institutions and aggregate payment amounts for specified calendar years.



India’s Progress Card– BEPS INCLUSIVE FRAMEWORK

Country	India
Exchange of information on request (EOIR)	
Global Forum membership	Yes
EOIR rating round 1	Compliant
EOIR rating round 2	Largely Compliant
Mutual Administrative Assistance Convention	In Force
Automatic exchange of information (AEOI)	
Commitment to AEOI (CRS)	2017
CRS MCAA signed	Yes
Mutual Administrative Assistance Convention	In Force
BEPS	
Inclusive Framework on BEPS membership	Yes
Existence of harmful tax regimes (BEPSAction 5)	Not Harmful(No Harmful Regime Exists)
Exchange of information on tax rulings (Action 5)	Reviewed/Recommendations made
Preventing treaty abuse (Action 6	Reviewed in 2018 and 2019,No Recommendation. 2020 Review Ongoing.
CbC - Domestic law (Action 13	Legal Framework in place
CbC - Information exchange network (Action 13	Activated
Effective dispute resolution (Action 14	Stage 1Reviewed & Recommendations made
Multilateral Instrument (Action 15	In Force

Source: OECD

Recent Developments- Crypto Asset Reporting Framework

1. Work by OECD & G20 countries on Crypto-Asset Reporting Framework (CARF)

"We acknowledge the progress made on implementing the internationally agreed tax transparency standards and support the Organization for Economic Cooperation and Development's (OECD) ongoing work to explore proposals for automatic exchange of information on crypto-assets."

G20 Finance Ministers Communique, April 7, 2021

2. Invitation to Global forum to endorse CARF

"We also welcome the Crypto-Asset Reporting Framework and the amendments to the Common Reporting Standard, both of which we consider to be integral additions to the global standards for automatic exchange of information. We call on the OECD to conclude the work on implementation packages, including possible timelines, and invite the Global Forum on Transparency and Exchange of Information for Tax Purposes to build on its commitment and monitoring processes to ensure widespread implementation of both packages by relevant jurisdictions."

G20 Leaders' Declaration, Bali, November 16, 2022

3. Commitment to share information by 2027

"We call for the swift implementation of the Crypto-Asset Reporting Framework ("CARF") and amendments to the CRS. We ask the Global Forum on Transparency and Exchange of Information for Tax Purposes ("Global Forum") to identify an appropriate and coordinated timeline to commence exchanges by relevant jurisdictions, noting the aspiration of a significant number of these jurisdictions to start CARF exchanges by 2027 and to report to our future meetings on the progress of its work."

G20 Leaders' Declaration, New Delhi, India, 9-10 September 2023

Key update : Proposal to Insert S. 285BAA for reporting of Crypto Asset vide Finance Bill, 2025

PART C – Country by Country Reporting (CbCR)

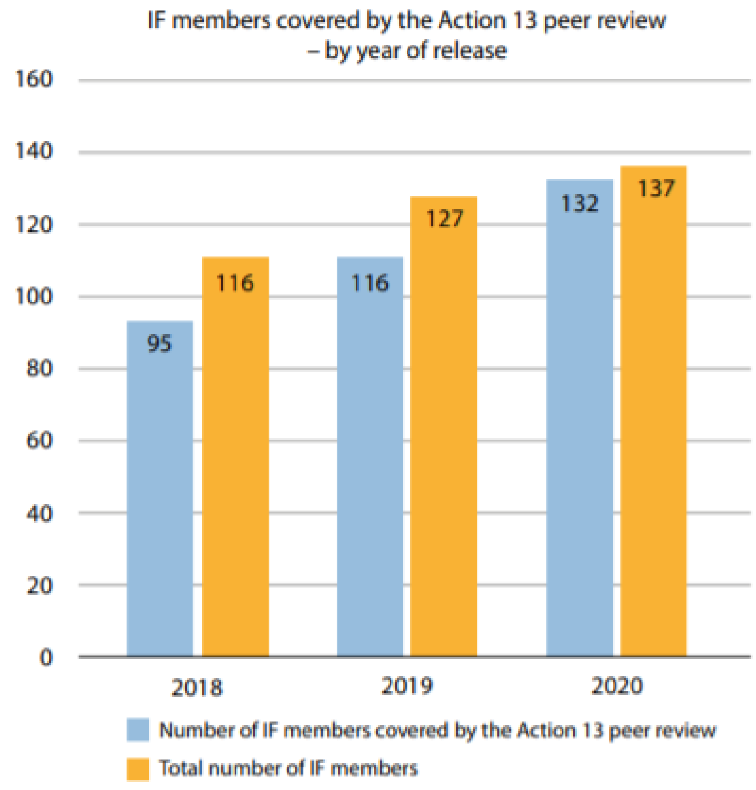
Action 13: CbCR

Significant increase in Transparency and coherence in International-tax

Master file
High-level information about the MNE's business, transfer pricing policies and agreements with tax authorities in a single document available to all tax authorities where the MNE has operations

Local file
Detailed information about the local business, including related-party payments and receipts for products, services, royalties, interest, etc.

CbC report
High-level information about the jurisdictional allocation of profits, revenues, employees and assets



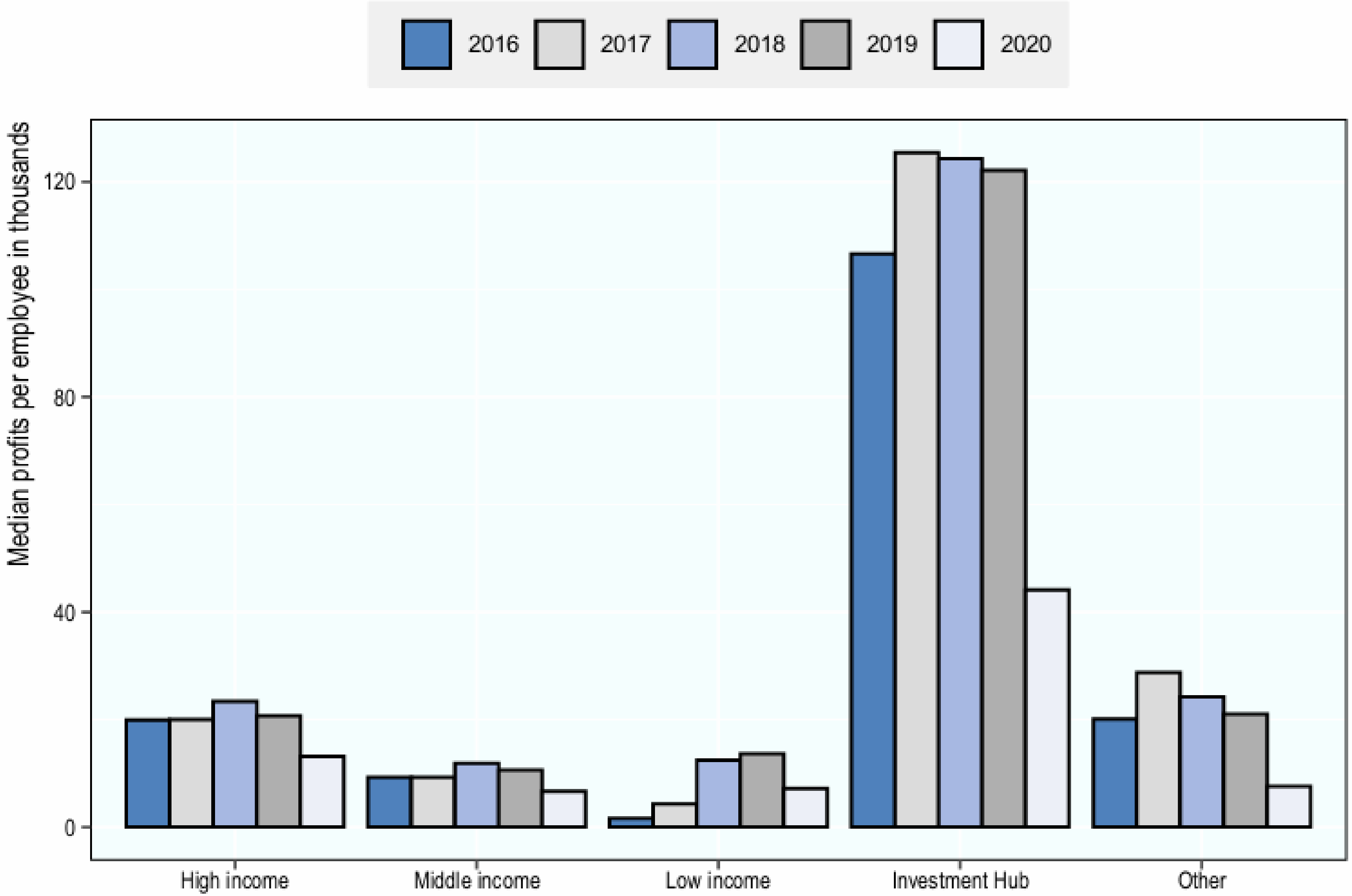
India's Perspective:
From the Assessment year 2017–18 the CbCR provision are applicable in respect of an international group having consolidated revenue above a threshold of €750 million equivalent in local currency (INR 6400 crores (at current rates))

Implementation of a CbC Reporting Exchange Framework
As of March 2024, there are more than 33000 bilateral relationships established for the exchange of CbC reports.

Signatories to CBCR MCA

1.	Andorra	18-10-2018
2.	Anguilla	11-04-2019
3.	Argentina	30-06-2016
4.	Aruba	12-03-2020
5.	Australia	27-01-2016
6.	Austria	27-01-2016
7.	Azerbaijan	12-03-2021
8.	The Bahamas	10-12-2018
9.	Bahrain	22-12-2019
10.	Barbados	23-12-2021
11.	Belgium	27-01-2016
12.	Belize	20-06-2017
13.	Bermuda	15-04-2016
14.	Brazil	21-10-2016
15.	British Virgin Islands	08-07-2019
16.	Bulgaria	17-11-2017
17.	Canada	11-05-2016
18.	Cayman Islands	21-06-2017
19.	Chile	27-01-2016
20.	China (People's Republic of)	12-05-2016
21.	Colombia	21-06-2017
22.	Costa Rica	27-01-2016
23.	Croatia	06-07-2017
24.	Curaçao	30-06-2016
25.	Cyprus	01-11-2016
26.	Czech Republic	27-01-2016
27.	Denmark	27-01-2016
28.	Dominican Republic	06-07-2023
29.	Estonia	27-01-2016
30.	Faroe Islands	17-05-2023
31.	Finland	27-01-2016
32.	France	27-01-2016
33.	Gabon	26-01-2017
34.	Georgia	30-06-2016
35.	Germany	27-01-2016
36.	Gibraltar	07-05-2020
37.	Greece	27-01-2016
38.	Guernsey	21-10-2016
39.	Haiti	22-06-2017
40.	Hong Kong, China	26-07-2018
41.	Hungary	01-12-2016
42.	Iceland	12-05-2016
43.	India	12-05-2016
44.	Indonesia	26-01-2017
45.	Ireland	27-01-2016
46.	Isle of Man	21-10-2016
47.	Israel	12-05-2016
48.	Italy	27-01-2016
49.	Japan	27-01-2016
50.	Jersey	21-10-2016
51.	Kazakhstan	12-06-2018
52.	Kenya	09-09-2022
53.	Korea	30-06-2016
54.	Latvia	21-10-2016
55.	Liberia	01-06-2022
56.	Liechtenstein	27-01-2016
57.	Lithuania	25-10-2016
58.	Luxembourg	27-01-2016
59.	Macau, China	21-08-2020
60.	Malaysia	27-01-2016
61.	Maldives	12-08-2021
62.	Malta	26-01-2017
63.	Mauritania	12-02-2024
64.	Mauritius	26-01-2017
65.	Mexico	27-01-2016
66.	Monaco	02-11-2017
67.	Montserrat	31-03-2023
68.	Morocco	25-06-2019
69.	Netherlands	27-01-2016
70.	New Zealand	12-05-2016
71.	Nigeria	27-01-2016
72.	Norway	27-01-2016
73.	Oman	16-07-2020
74.	Pakistan	21-06-2017
75.	Panama	24-01-2019
76.	Papua New Guinea	14-03-2023
77.	Peru	09-11-2018
78.	Poland	27-01-2016
79.	Portugal	27-01-2016
80.	Qatar	19-12-2017
81.	Romania	19-12-2017
82.	Russian Federation	26-01-2017
83.	San Marino	10-10-2018
84.	Saudi Arabia	06-08-2019
85.	Senegal	04-02-2016
86.	Seychelles	09-07-2019
87.	Singapore	21-06-2017
88.	Slovak Republic	27-01-2016
89.	Slovenia	
90.	South Africa	
91.	Spain	
92.	Sweden	
93.	Switzerland	
94.	Thailand	
95.	Tunisia	
96.	Türkiye	
97.	Turks and Caicos Islands	
98.	United Arab Emirates	
99.	United Kingdom	
100.	Ukraine	
101.	Uruguay	

Median profits per employee: distribution within jurisdiction groups



Note: “Other” reflects aggregate geographic groupings and Stateless entities.

Source: Anonymised and Aggregated CbCR statistics.

Model Competent Autority Agreement - CbCR

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (the "Agreement") are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol (the "Convention") or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the automatic exchange of Country-by-Country (CbC) Reports takes place;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the jurisdictions desire to increase international tax transparency and improve access of their respective tax authorities to information regarding the global allocation of the income, the taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which Multinational Enterprise (MNE) Groups operate through the automatic exchange of annual CbC Reports, with a view to assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate;

Whereas, the laws of the respective Jurisdictions require or are expected to require the Reporting Entity of an MNE Group to annually file a CbC Report;

Whereas, the CbC Report is intended to be part of a three-tiered structure, along with a global master file and a local file, which together represent a standardised approach to transfer pricing documentation which will provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree on the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, albeit that the actual exchange of the information will take place on a bilateral basis between the Competent Authorities;

Whereas, the Jurisdictions will have, or are expected to have in place by the time the first exchange of CbC Reports takes place, (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate, in accordance with Section 5 of this Agreement, (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement) and (iii) the necessary legislation to require Reporting Entities to file the CbC Report;

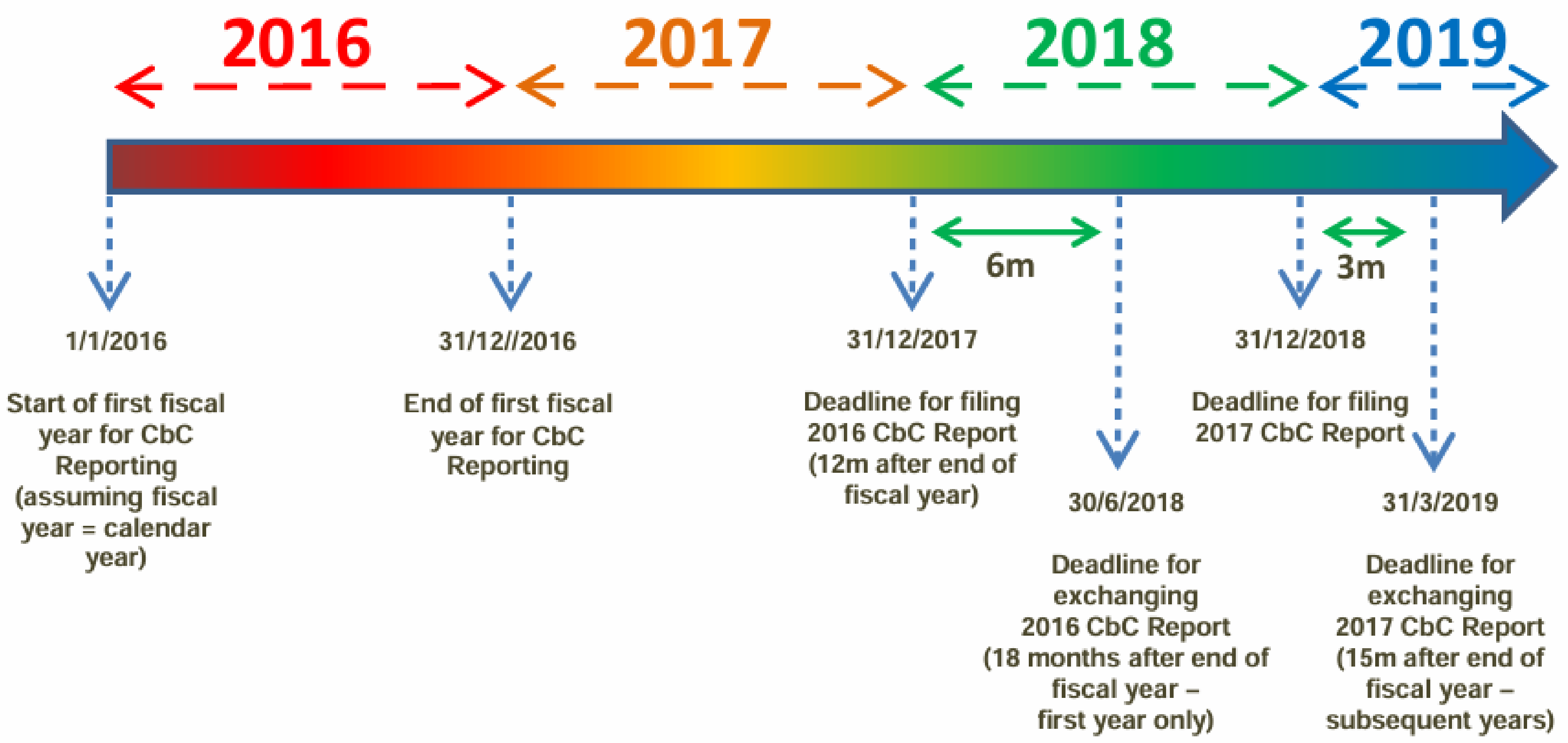
Whereas the Jurisdictions are committed to discuss with the aim of resolving cases of undesirable economic outcomes, including for individual businesses, in accordance with paragraph 2 of Article 24 of the Convention, as well as paragraph 1 of Section 6 of this Agreement;

Whereas mutual agreement procedures, for instance on the basis of a double tax convention concluded between the jurisdictions of the Competent Authorities, remain applicable in cases where the CbC Report has been exchanged on the basis of this Agreement;

Whereas, the Competent Authorities of the jurisdictions intend to conclude this Agreement, without prejudice to national legislative procedures (if any), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

Model Competent Autority Agreement - CbCR

CbCR | Timelines



Activated exchange relationships for Country-by-Country reporting

Last updated: 10 April 2024

india

From jurisdiction	To jurisdiction	Legal instrument
Andorra	India	CbC MCAA activated - Effective for taxable periods starting on or after 01 January 2017
Anguilla	India	CbC MCAA activated
Argentina	India	CbC MCAA activated
Aruba	India	CbC MCAA activated
Australia	India	CbC MCAA activated
Austria	India	CbC MCAA activated
Azerbaijan	India	CbC MCAA activated
Bahamas	India	CbC MCAA activated - Effective for taxable periods starting on or after 01 January 2019
Bahrain	India	CbC MCAA activated - Effective for taxable periods starting on or after 01 January 2019
Barbados	India	CbC MCAA activated - Effective for taxable periods starting on or after 01 January 2017

CbCR | Activated Exchange Relationship

CbCR | Form 3CEAD (Extract)

FORM NO. 3CEAD

[See rule 10DB]

COUNTRY-BY-COUNTRY REPORT

Report by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the purposes of sub-section (2) or sub-section (4) of section 286 of the Income-tax Act, 1961

Name of the reporting entity	
PAN of the reporting entity	
Address of the reporting entity	
Whether the reporting entity is the parent entity of the international group	

PART A: OVERVIEW OF ALLOCATION OF INCOME, TAXES AND BUSINESS ACTIVITIES BY TAX JURISDICTION

Name of the Multinational Enterprise group:
Reportable accounting year:
Currency used:

Tax Jurisdiction	*Revenues*			*Profit(Loss) before Income Tax*	*Income Tax Paid (on Cash Basis)*	*Income Tax Accrued – Reportable Accounting Year*	*Stated Capital*	*Accumulated Earnings*	*Number of Employees*	*Tangible Assets other than Cash and Cash Equivalents*
	Unrelated Party	*Related Party*	*Total*							

CbCR | Form 3CEAD (Extract)

PART B: LIST OF ALL THE CONSTITUENT ENTITIES OF THE MULTINATIONAL ENTERPRISES GROUP INCLUDED IN EACH AGGREGATION PER TAX JURISDICTION

	Name of the Multinational Enterprise group: Fiscal year concerned:															
				Main Business Activity (ies)												
Tax Jurisdiction	Constituent entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organisation or Incorporation if Different from Tax Jurisdiction of Residence	Research and Development	Holding or Managing Intellectual Property	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management and Support Services	Provision of Services to Unrelated Parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or other Equity instruments	Dormant	Other
	1.															
	2.															

Brief information or explanation that is considered necessary or that would facilitate the understanding of the compulsory information provided to be given in Part C. **(FOR EXERCISE READ "SHELL" Company's CBCR Filing)**

MA (International Tax): Ta
LLB. Rohit Jethani

CbCR | Key Elements

MNE Group	group means a collection of enterprises related through ownership or control, that it is either required to prepare consolidated financial statements under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.
Reporting Entity	entity within the group that is required to file a CbC Report on behalf of the group. A CbC Report should be filed by the UPE of the MNE group in its jurisdiction of tax residence.
Constituent Entity	any separate entity included / includible in the consolidated financial statement (or would have to be included), Also includes any PE where such financials are submitted to regulatory authority.
Reporting Fiscal Year	Annual accounting period with respect to which the UPE of the group prepares its financial statements.
First Reporting Fiscal Year	CbCR shall apply with respect to all fiscal years beginning on or after 1 January 2016.
Format and Content of a CbC Report	Form 3CEAD
Timing for filing	Upto 12 months from the end of the Fiscal Period
Appropriate use & confidentiality	can be used only for high-level transfer pricing risk assessment, the assessment of other BEPS-related risks, and, where appropriate, for economic and statistical analysis. The information cannot, under the minimum standard, be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and full comparability analysis.

CBCR- India Progress Report

Source: OECD

Aspect	Details
First reporting fiscal year	Commencing on or after 1 April 2016
Consolidated group revenue threshold	INR 64,000 million
Filing deadline	12 months following the end of the reporting fiscal year
Local filing required	Yes
Surrogate parent entity filing permitted	Yes
First review of domestic legal framework	2017/2018

CBCR- India Progress Report

Area of Implementation	Recommendations for Improvement
Domestic Legal and Administrative Framework	- Amend or clarify that the annual consolidated group revenue threshold calculation rule applies consistently with OECD guidance on currency fluctuations for MNE Groups with Ultimate Parent Entities outside India. - Ensure local filing is required only under circumstances defined in the terms of reference.
Exchange of Information Framework	None
Appropriate use of CbC Reports	India confirms no changes in rules, effective application, and meeting all terms of reference.

Master File & Local File

Source: OECD

Local File	Transactional Transfer Pricing Document specific to each country Identifying Material Related Party Transactions, Amounts Involved and Company's determination of arms length price	Already in place in Domestic Law (S. 92D r.w Rule 10D)
Master File	**Organisation Structure** **Description of MNE Group Business** (General Business Description of Important drivers of business profit, Supply chain for the group's five largest products/services, important service arrangements between group members, main geographic markets for products/services, Functional analysis of individual entities within the group, Description of important business restructuring transactions, acquisitions, and divestitures	**Organisation Structure :** List of all entities **Description of MNE Business:** Detailed Business Description is sought by Indian Revenue Authorities Indian Authorities have kept a threshold of 10% of revenue / assets/ profits of such group

Master File & Local File (Contd)

Source: OECD

Master File	**MNE group's intangibles** • Overall strategy for development, ownership, and exploitation of intangibles • List of important intangibles owned by the group • List of important agreements related to intangibles among associated enterprises • Transfer pricing policies related to R&D and intangibles • Description of important transfers of interests in intangibles among associated enterprises	Indian Law also requires furnishing of list and address of entities engaged in development and management of Intangible.
	Intercompany Financial Activities: • Description of how the MNE group is financed • Identification of entities providing central financing function • General transfer pricing policies related to financing arrangements	Indian Law also requires furnishing of list of top ten unrelated lenders.
	Financial and Tax Positions: • MNE group's annual consolidated financial statement • List and brief description of existing unilateral APAs and other tax rulings	Same.

Forms : Local File, Master File & CbCR

Report	Form	Purpose	Due Date	Filed By
Local File	3CEB	Transfer Pricing Audit Report	October 31	Indian constituent entity
Master File	3CEAA	Master File submission	October 31	Indian constituent entity
	3CEAB	Intimation of filing entity for Master File	August 31	Any Indian entity in the group
CbCR	3CEAC	Intimation of filing entity for CbCR	October 31	Indian constituent entity
	3CEAD	Actual CbCR report	December 31	Parent/Alternate Reporting Entity in India or Indian entity (if required)
	3CEAE	Notification of non-filing in India	December 31	Indian constituent entity

PART D – Recap

Recap

- Financial Crisis which led to Global Census to tackle tax evasion
  Two prong approach (Tax Trasparency and BEPS).
  Convention (Umbrella Convention) – Convention on Mutual Administrative Assistance in Tax Matters
- Model Agreement on CRS (For enabling sharing of Financial Information on Automatic basis)
- IGA – FATCA
- Key Terms of CRS & FATCA Reporting
- Recent Development of Crypto Asset
- Model Agreement on CBCR (For enabling sharing of high-level financial information for evaluating transfer pricing risks)

Thank you,
Have a Happy Learning!

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