Delivering a level playing field for offshore bank accounts

What the new OECD/Global Forum peer reviews on automatic information exchange must not miss

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Abstract. The OECD's Global Forum is set to publish the terms of reference for peer reviews on automatic exchange of information pursuant to the OECD's Common Reporting Standard (CRS) in the near future. This paper anticipates those terms and proposes concrete elements that future peer review should contain for them to be effective in protecting the integrity of the CRS. Chief among these elements are specific statistics to ensure compliance, identify avoidance schemes and allow evaluation by independent and excluded parties (e.g. developing countries and civil society).

We have written several reports identifying fundamental loopholes, gaps and biases in the CRS, and proposed fixes to them. However, we understand that neither the Global Forum nor the upcoming Terms of Reference for peer reviews can change or fix the CRS. For this reason, this report focuses *only* on recommendations for what peer reviews *can* do to ensure that the CRS, as it is, will be effectively implemented.

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Summary of Recommendations

Issue	Recommendation for Peer Review	Ideal Situation	Legal Source
Legal Framework			
Treaty framework approach and potential AEOI relationships	Each jurisdiction's potential AEOI relationships should be described based on its treaty framework approach, and the bilateral approach should be treated as a risk factor.	Multilateral-multilateral approach	DTA, TIEA, Multilateral Convention and MCAA
Annex A to avoid receiving information	Being listed under Annex A should be considered a risk factor, especially if said jurisdictions also have lenient tax residency rules (see Section 4.1 below) which allow foreigners to become resident in exchange for money as a strategy for avoiding the CRS.	No jurisdiction listed under Annex A	MCAA's Annex A
Extra safeguards for protection of personal data	Describe and assess safeguards imposed by each jurisdiction and ensure that they do not impose arbitrary obstacles to engaging in AEOI. Otherwise, it should be considered a non-compliant factor.	No arbitrary safeguards imposed	MCAA's Annex C
The Dating system	Describe and assess reasons for refusing to exchange information with any cosignatory of the MCAA, and treat as a non-compliant factor any refusal not allowed by the CRS (e.g. a refusal would be justified if the Global Forum determined that a country does not comply with confidentiality provisions)	All MCAA signatories chosen under Annex E	MCAA's Annex E
Extra arbitrary conditions (e.g. Market access, amnesty programs)	It should be considered a non-compliant factor any extra condition (e.g. market access, amnesty programs) imposed for engaging in AEOI.	No extra conditions for engaging in AEOI	-

Use of information to tackle corruption and money laundering	Indicate whether any jurisdiction has authorised any, or all partnered jurisdictions to use information for non-tax purposes, such as for tackling corruption or money laundering. Failure to do so should be considered a risk factor.	Authorisation to use information for non-tax purposes	Multilateral Convention, Chapter III.
Domestic Legal Framework	Publish the assessments of the domestic legal framework, especially if a jurisdiction is not referring to, or exactly incorporating the CRS and its commentaries into its domestic laws	Copycat of CRS	MCAA, Section 7.1.a)
Confidentiality Provisions	Publish (at least) the results of the confidentiality assessment to allow the public to review any justification for refusing to engage in AEOI with a specific jurisdiction.	Publish results	MCAA, Section 7.1.e)
The status of the U.S. as a jurisdiction "participating in the CRS"	Describe whether a country considers the U.S. as a jurisdiction "participating in the CRS" and in such cases, this should be considered a non-compliant factor.	The U.S. considered a "non-participating jurisdiction"	Domestic Law
Financial Institutions			
Non-reporting FIs	Require the publication of the list of non-reporting FIs by each participating jurisdiction, of statistics indicating the value held by all of these non-reporting FIs and whether any non-resident holds any account or value in any of these non-reporting FIs. It should be considered a non-compliant factor if the list of non-reporting FIs is not public.	There are no non-reporting FIs	CRS, Section VIII.B.1
Investment entity managed by an individual (or by a	- Assess and publish statistics (e.g. on the number and value) of all investment entities that avoid being considered a	There are no investment entities managed by individuals	CRS, Section VIII.A.6.b) and Commentaries, page 164.

reporting FI without binding investment advice)	reporting FI because they are managed by an individual. Absence of statistics should be considered a non-compliant factor. - Assess and publish statistics on the number and value of investment entities and funds that are incorporated either as companies or as trusts, especially if there has been an increase since 2014 (when the CRS was published) of investment funds incorporated as, or transformed into companies. This could indicate a strategy to avoid the broader reporting requirements at the controlling person level for passive NFEs that are trusts. Absence of statistics should be considered a non-compliant factor.		
Irrevocable Insurance	Assess cash value insurance contracts available in each jurisdiction, and especially irrevocable, insurance contracts or any type of insurance contract developed after 2014 (when the CRS was published) that would avoid reporting under the CRS. Availability of these types of insurance contracts outside the scope of the CRS should be considered a non-compliant factor.	No type of cash value insurance contract (available after 2014) is outside the scope of the CRS	CRS, Section VIII.A.8 and VIII.C.8
Reporting FIs	Describe and assess audit procedures, frequency and enforcement provisions (statutory and actually applied sanctions) to ensure reporting FIs comply with	All FIs are frequently (or randomly) audited and sanctions for non-	CRS, Section IX on effective implementation; and domestic law.

	the CRS, and publish comparable statistics of those. Absence of statistics should be considered a non-compliant factor.	compliance are applied	
LEI for reporting FIs	Indicate whether a jurisdiction requires an LEI from reporting FIs. It should be considered a risk factor when no identification number is available for reporting FIs	All reporting FIs report their LEI	CRS, Section II.2.c) and Commentaries, page 97
Reportable Persons			
Fake residence certificate (re: jurisdiction)	Assess residency rules of each jurisdiction. It should be considered a non-compliant factor if tax residency is possible for physical presence of less than 183 days per year, and/or if residence certificates are available in exchange for money or other types of indirect investment (e.g. purchase, rent or real estate).	Residency requires minimum presence in the territory (e.g. 183 days) and is not available in exchange of monetary investments or payments	CRS, Section VIII.E.6.a) and b).
Fake residence certificate (re: reporting FI)	Assess whether reporting FIs apply reasonable tests to residency certificates provided by account holders (e.g. if they ask for previous and other residencies, consistency with place of birth and nationality, school where children of account holder study, etc.). It should be considered a non-compliant factor if no reasonable test is applied.	Reporting FIs collect previous and additional residence certificates	CRS, Section III and IV (due diligence for individual account holders)
Non-reportable person: listed corporations	Assess and publish a list of "respectable stock exchanges" of each jurisdiction (if any). Assess reporting FIs' due diligence that determine the "regularity" of traded stocks. Require public listing of all excluded listed entities and their subsidiaries which are (legally) escaping	Reporting FIs cross-check information with public list of "respectable" stock exchanges, determine regularity of trades and	CRS, Section VIII.D.2.i) and ii)

	reporting under the CRS. Absence of such reports should be considered a non-compliant element.	publish statistics	
Non-reportable person: financial institution (and trusts with "reporting FI trustee")	Require reporting FIs that will not report accounts held by other FIs, to inform authorities about a) the reason for / type of non-reportable person account, b) the total value, annual turnover, and number of accounts that are not being reported by them (to avoid duplication, if applicable) and to list the reporting FIs that are supposed to do the reporting (if any). In other words, reporting FI "A" should say "I am not reporting 100 accounts with a total value of USD 1 m because half of them are a "vostro account" of FI B, who will be reporting the underlying account holders, and half of them by no one because they are held by an FI which is not a reporting FI". The same should apply with regard to "reporting FI trusts" that will not report information because such reporting will be done by their "reporting FI trustees". Absence of statistics should be considered a non-compliant factor.	Authorities cross-check that accounts not reported by reporting FI "A" (to avoid duplication) have actually been reported by reporting FI "B" or will not be reported at all.	CRS, Section VIII.D.2.vi) and Commentaries, page 193. CRS Section VIII.B.1.e) (trusts)
Non-reportable person: trust without tax residence, local related parties and discretionary beneficiaries before distributions	Each country should publish statistics on the values held in their FIs by "trusts without residence for tax purpose", especially if they are classified as "Active NFEs". It should be considered a risk factor if a jurisdiction provides for trusts in its legislation, but dispenses with a comprehensive registration	-Trusts are registered in a public online registry or there are no trusts without tax residence -Resident account holders are considered	-CRS Handbook, page 83 -CRS, Section VIII.D.9.d) - CRS Handbook, page 84 and Commentaries, page 199.

	requirement of all trusts[1]. Absence of statistics should be considered a non-compliant factor. - It should be considered a risk factor if a jurisdiction does not require local (resident) related parties of a trust to be reported, or explicitly states that local (resident) account holders that are Passive NFEs need to be looked at to determine whether any of their controlling persons have to be reported. - It should be considered a risk factor if a jurisdiction chooses not to report discretionary beneficiaries until a distribution takes place, unless any payment made to a beneficiary is considered a distribution for CRS reporting purposes.	reportable persons - Discretionary beneficiaries are always considered controlling persons and any payment to them is considered a distribution	-CRS Handbook, page 18 and Commentaries, page 198.
Active NFEs: Start-ups and entities under reorganization	Assess reporting FI's due diligence applied to determine the status of Active NFEs and require the publication of annually updated statistics about the number of accounts and values held by Active NFEs, broken down into the types of underlying income by type of activity (risk-based approach, e.g. by research, advisory, consultancy or design activities), as well as by start-ups and entities under reorganisation. Absence of statistics should be considered a non-compliant factor.	No accounts are held by Active NFEs or there are statistics on their value and number of accounts, especially for start-ups and entities under reorganisation	CRS, Section VIII.D.9.e and f
Controlling Persons	Assess reporting FIs' process to verify controlling	Reporting FIs apply a risk	CRS, Section I.A.1

[1] See more details in Knobel/Meinzer 2016b and Knobel 2016

	person information and require a risk-based approach, based for example on TJN's Financial Secrecy Index that describes the most opaque types of entities and registration systems in more than 100 jurisdictions.	approach when verifying controlling person information	
Wider and wider-wider approach	Describe whether a jurisdiction chooses the wider-wider approach. It should be considered a risk factor if it does not.	Jurisdiction chooses wider-wider approach	CRS Handbook, pages 18-19
Reportable Accounts			
No reporting if law prevents sale of insurance contract	Assess the effective implementation and enforcement of laws that prevent sale of insurance to non-residents and audits performed to confirm that no non-resident is a policyholder or beneficiary of such insurance contracts. Require the collection and publication of statistics on the values held by these exempted insurance companies. Absence of statistics should be considered a non-compliant factor.	There are no insurance companies excluded from the CRS (because they are prevented by law to sell contracts to non-residents)	CRS, Section III.A
No reporting of pre-existing entity accounts up to USD 250.000 even if related accounts opened after cut-off date	It should be considered a risk factor if a jurisdiction allows pre-existing entity accounts with an account balance below USD 250.000 not to be reported, especially if even new accounts can benefit from the 250k threshold exemption. Require the compilation and publication of statistics on the number and values held by these excluded accounts. It should be considered a non-compliant factor if no statistics are published.	There is no threshold to exclude pre-existing entity accounts. All have to be reported	CRS, Section V.A

Aggregation of accounts only if bank's computerized system allows it	Require the assessment and publication of whether a country's FIs allow accounts belonging to the same clients to be linked and aggregated. It should be considered a risk factor if FIs exist which do not aggregate the accounts.	All FIs link and aggregate accounts belonging to the same client	CRS, Section VII, C.1 and C.2
Undocumented accounts: unidentified residence or controlling person	Require the publication of statistics of the accounts and values held by undocumented accounts where the reporting FI was unable to determine (i) the residence of the account holder or (ii) the identity (and residence) of the controlling persons. It should be considered a non-compliant factor whenever a country has undocumented accounts and fails to take robust action, including account closures, towards regularisation. It should be considered a non-compliant factor if no statistics are published.	There are no undocumented accounts	CRS, Section III.B.5. and C.5.c), and Section IX.A.3
Nil returns	Publish statistics about the accounts and values held by non-reporting FIs and by reporting FIs without reportable accounts. It should be considered a risk factor if nil returns are not required to be filed. It should be considered a non-compliant factor if no statistics are published.	All FIs (non reporting FIs and reporting FIs without reportable accounts) must file nil returns	CRS Handbook, page 12
Closed accounts	Assess and publish jurisdictions' definitions of "closed" account, and require publication of statistics on account closures broken down by type of account (Passive NFE, Active NFE, etc.), date, and country of origin of the account holder. It should be	Effective definition of "closed" account and statistics are available	CRS, Section I.A.4 and Commentaries, page 99.

	considered a non-compliant factor if no statistics are published.		
Excluded accounts (e.g. estate and escrow accounts)	Assess the lists of excluded accounts, and require publication of statistics on the accounts and values held by these excluded accounts. Absence of statistics should be considered a non-compliant factor.	No excluded accounts	CRS, Section VIII.C.17
Due diligence and reportable information			
Pre-AML accounts	Require publication of statistics on accounts and values held by accounts not subject to AML/KYC. It should be considered a non-compliant factor or at least a risk factor if many of such "old" accounts are available. Absence of statistics should be considered a non-compliant factor.	There are no accounts that have not been subject to AML/KYC.	CRS Handbook, page 53 and Commentaries, page 113
No TIN	-It should be considered a risk factor if a country does not issue TINs or if it does not require its FIs to collect TINs from their account holders. -Publish statistics on the accounts and values held by accounts without a TIN. Absence of statistics should be considered a non-compliant factor	All countries issue TINs and require their FIs to collect them. All countries publish statistics on the accounts and values held by accounts without a TIN	CRS Handbook, page 72 and Commentaries, page 96
Account balance offset against loans and other liabilities	It should be considered a non-compliant factor if a jurisdiction allows balance accounts to be netted or off-set against loans and other liabilities.	Account balance cannot be offset against loans and other liabilities	Commentaries, page 98.
Enforcement: sanctions	-It should be considered a non-compliance factor if a jurisdiction does not have effective enforcement penalties for any case of non-compliance with any	Prison sentences and multiplier fines are available as sanctions against cases	CRS, Section IX.5 and Commentaries, page 211.

	CRS provision. Penalties for grave or deliberate cases of non-compliance or any conduct that frustrates the purposes of the CRS should not be limited to fixed fines but should consider multipliers of the amounts being unreported (if applicable) and include the potential for prison sentences. -Assess and publish statistics on the frequency and types of audits, both on-site and others, and on the number of penalties imposed, describing value of the fine and prison sentence.	of non-compliance with CRS provisions Statistics on the frequency and number of audits, and penalties imposed	

1. Introduction

1.1 Automatic Exchange of Information

In 2013 the G20 endorsed automatic exchange of information (AEOI) as the new global standard for exchanging information. Under AEOI, authorities should exchange financial account information (e.g. bank account data) held in their country's financial institutions with the country where the account holders are resident. Importantly (and in contrast to the current global standard of exchanges "upon request"), no previous request for information would be necessary and exchanges would cover all residents of a country with a financial account (e.g. a bank account) in another, instead of a specific taxpayer under investigation. Between 2014 and 2015, the OECD published the Common Reporting Standard (CRS)[2] for global AEOI, Commentaries[3] that explain and define CRS terms and a Handbook for Implementation[4] of the CRS. As of February 20th 2017, over 100 jurisdictions have committed[5] to joining the CRS and 87 jurisdictions have signed the Multilateral Competent Authority Agreement (MCAA)[6] for implementing the CRS.

TJN has published several reports and blogs endorsing AEOI[7] (especially for developing countries[8]) but also describing and suggesting fixes for many of the loopholes present in the CRS[9], the Implementation Handbook[10] and the MCAA[11]. Notably, the biggest concerns are obstacles which will prevent access to information by developing countries, lack of sanctions to enforce participation and compliance with the CRS from financial centres, most particularly inthe case of the United States[12].

The first exchanges under AEOI will take place in 2017 and 2018. In order to ensure effective AEOI, the OECD's Global Forum of Transparency and Exchange of Information (the Global Forum) conducted in 2015 and 2016 first-stage basic assessments on the domestic legal frameworks and the confidentiality provisions of jurisdictions participating in the CRS. However, neither the details, the results, or the terms of reference (ToR) of those basic reviews were published, which casts

[2] See OECD 2014a in References for more details.
[3] See OECD 2014b in References for more details.
[4] See OECD 2015 in References for more details.
[5] https://www.oecd.org/tax/transparency/AEOI-commitments.pdf; 30.1.2017.
[6] http://www.oecd.org/ctp/exchange-of-tax-information/MCAA-Signatories.pdf; 30.1.2017.
[7] See Meinzer 2012 in References for more details.
[8] See Knobel/Meinzer 2014a in References for more details.
[9] See Knobel/Meinzer 2014b in References for more details.
[10] See Knobel 2015 in References for more details.
[11] http://www.taxjustice.net/2016/10/25/oecd-information-exchange-dating-game/; 30.1.2017.
[12] http://www.taxjustice.net/2015/01/26/loophole-usa-vortex-shaped-hole-global-financial-transparency-2/; 30.1.2017.

doubt on OECD's and Global Forum's suitability to lead the transition towards a more transparent international tax order in the 21st century.

In 2019, the Global Forum will begin assessing jurisdictions' performance regarding AEOI through comprehensive peer reviews. The ToR of these future assessments have not yet been published, but work has reportedly[13] started at the Global Forum. In the light of the risks that the new ToR could harbour considerable secrecy, and in view of past failures in earlier peer reviews to provide the data needed for objective and independent evaluations, this paper suggests a number of crucial issues that should be addressed by future peer reviews for AEOI in order for them to produce reliable, relevant, comprehensive and comparable data to objectively assess the effectiveness of the CRS.

1.2 Peer Reviews

The Global Forum has been conducting peer reviews[14] regarding compliance with the international standard for the exchange of information. As of now, the only publicly available peer reviews are those on information exchange "upon request". Such a peer review typically involves desk-based research by specifically trained tax officials from member states of the Global Forum, and a field trip with some officials visiting the country under peer review. After a draft report has been written on the country's performance with respect to specific criteria, it needs to be signed off by the Plenary of the Global Forum before publication[15]. A full and published peer review report typically comprises around 80-100 pages, while follow-up supplementary and phase 2 reports are shorter[16]. Taken together (hundreds have been published to date[17]), these reports are intended to create peer pressure for countries to review and improve their laws related to transparency and exchange of information.

On the surface of it, these peer reviews bear witness to a great deal of cooperation and communication among countries, all pushing for more transparency. Often, the peer review reports contain detailed and valuable information on the legal framework of each country, including its loopholes and deficiencies (this is why peer review reports are an important source of TJN's Financial Secrecy Index[18]).

However, there are also a number of important problems in relation to peer reviews in general. As none of these are (hard) "international law", but rather "soft law", there is no possibility of enforcing any commitment or reform especially on the most powerful countries. Both the standards under review and the review

[13] Telephone communication with OECD on 2017.01.17.
[14] For more details on the Global Forum and the peer review, see Jaiswal (2016) in References.
[15] "The Global Forum shall use an approach to consensus that ensures that no one jurisdiction can block the adoption or publication of a review" (Global Forum 2016a: 14).
[16] Phase 1 reports assess the legal framework of a country, while phase 2 reports also assess implementation in practice.
[17] http://www.eoi-tax.org/#default; 15.1.2017.
[18] http://www.financialsecrecyindex.com/; 30.1.2017.

process itself may be biased towards powerful country interests (Abbott/Snidal 2000; Drezner 2005; Woodward 2016).

Particularly, the peer reviews by the Global Forum and the standard of information exchange upon request are riddled with these, and other problems (Meinzer 2012; Jaiswal 2016), as earlier analyses[19] have shown. The Global Forum is still subject to, and cannot insulate itself from political pressure when reaching its ratings. Big OECD countries appear to be let easily off the hook, even when the details described in their peer reviews would undoubtedly lead to the conclusion that a country does not meet transparency standards.

For instance, the U.S. is rated as "largely compliant" with transparency standards even when the same peer review acknowledges that the U.S. may have no ownership information whatsoever with regard to one of the most common types of companies used by non-residents: the limited liability company or LLC[20]. The same "largely compliant" rating was awarded to Germany, even though its peer review acknowledges that with regard to bearer shares, disclosure mechanisms "do not allow the owners of such shares to be identified in all circumstances" (Global Forum Germany 2011: 20) .

Moreover, some of the criteria used by the peer reviews are easy to pass, rendering them ineffective. For instance, as regards availability of information for exchanges upon request, the terms of reference for peer reviews considers that information is "available" to authorities not only when they already hold the data, but also when they are merely allowed to request it (from the holder of information). However, individuals involved in financial crimes (e.g. tax evasion, corruption, money laundering, etc.) usually abuse companies and trusts to hide their identity behind opaque structures, nominees and other mechanisms such as bearer shares. Therefore, if authorities need to ask information from the very same people that they are investigating (e.g. the owner of a company), there is obviously a high risk of not obtaining it. The same applies when asking information from a corporate service provider interested in protecting its clients. After all, the corporate service provider could simply disappear or even claim that information is held abroad.

[19] http://www.taxjustice.net/2016/07/22/g20-oecd-tax-haven-blacklist-proposals/; 30.1.2017.

[20] The Global Forum wrote regarding the U.S. legal framework: "[Where] a single-member LLC is not engaged in a U.S. trade or business, has no fixed, determinable, annual, or periodical gains, profits, or income, and does not otherwise have a tax nexus with the United States, there is no obligation to file a federal income tax return with the IRS. […] Pursuant to State laws, an LLC must know who its members are but ownership information is generally not required to be provided to the State's authorities, either at the time the LLC is formed or subsequently. Neither is it required to be kept in the United States. Similarly, only limited information may be required to be reported in respect of the LLC's management. All states require that a registered agent be appointed for service of process. This agent is not required to know the owners of the company. Accordingly, where a single member LLC has no tax nexus with the United States there may be no information available in the United States regarding the owners of that LLC" (Global Forum USA 2011: 38).

The most serious omission in the peer reviews of the existing information exchange upon request lies in the failure to establish the requirement for each jurisdiction to publish comprehensive and comparable annual statistics, including on the actual information exchanges, their impact and on the audits performed by every jurisdiction to check any economic actor's obligations, including those related to record keeping, anti-tipping off provisions, etc (Meinzer 2012). The lack of such data makes it impossible to hold authorities to account and thus undermines trust both between the jurisdictions involved, and the trust of taxpayers in the integrity of tax administrations and institutions, and in the honesty of fellow taxpayers.

Notorious secrecy jurisdictions were invited by the OECD to join the drafting of the standard 2000-2002, and they – together with the major Anglo-Saxon financial centres - continue to play an important role in the organisation of the peer review processes, as the leadership of the relevant peer review group is revealing (see below).

Global Forum on Transparency and Exchange of Information for Tax Purposes> About the Global Forum

Peer Review Group

In order to carry out an in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes, the Global Forum agreed on the setting up of a Peer Review Group (PRG) to develop the methodology and detailed terms of reference for a robust, transparent and accelerated process.

The PRG is chaired by Singapore (Mrs. Huey Min Chia-Tern), assisted by four Vice-Chairs – the Cayman Islands, India, the United Kingdom and the United States.

Peer Review Group Members (last updated: January 2017)

Bahamas, The		Malta	
Bermuda		Mexico	
Brazil		Norway	
British Virgin Islands		Samoa	
Cayman Islands (Vice Chair)		Saudi Arabia	
China		Seychelles	
France		**Singapore (Chair)**	
Georgia		South Africa	
Germany		Spain	
Guernsey		Switzerland	
India (Vice-Chair)		Turkey	
Indonesia		Uganda	
Italy		**United Kingdom (Vice Chair)**	
Japan		**United States (Vice Chair)**	
Liechtenstein		Uruguay	

http://www.oecd.org/tax/transparency/about-the-global-forum/peerreviewgroup.htm; 6.2.2017.

In light of these shortcomings of the existing peer review mechanisms, the stakes are very high during the development of the ToR[21] for peer reviews on AEOI. A failure to establish a robust and transparent peer review framework may ultimately undermine global AEOI, and trust in the level playing field and in an effective system may be eroded as a consequence.

[21] Peer reviews for exchanges "upon request" also have new Terms of Reference, published and applicable to peer reviews starting in 2016. The most important change is that availability of beneficial ownership will also be assessed. See Global Forum (2016a) in References.

The Global Forum's AEOI Group, which compromises over 60 jurisdictions and includes some developing countries, is allegedly already developing the ToR for peer reviews on AEOI. Civil society organisations, in spite of their interest in taking part in the development process, have not been included. This paper therefore attempts to engage in the process by proposing key elements for inclusion in the ToR for AEOI peer reviews.

Because Global Forum peer reviews will have a direct impact on blacklists, and in view of the track record of the GF, the new peer reviews are at serious risk of replicating the shortcomings of most "tax haven" lists[22] that only point fingers at the usual suspects (small countries and islands[23]). According to an OECD webinar of July of 2016[24], compliance with two out of three transparency criteria are necessary to avoid being blacklisted by the OECD. One of these criteria is to be rated by the Global Forum peer reviews as either "compliant" or "largely compliant" with the international standard.

2. Relevant criteria for peer reviews of the CRS: Legal Framework

2.1 Treaty Framework

Jurisdictions need a legal framework to exchange information automatically with other countries. A combination of bilateral and multilateral approaches are available to (i) authorise AEOI, and to (ii) engage in AEOI according to the CRS.

The bilateral approach to authorise AEOI involves either art. 26 of the OECD Model Double Tax Agreements (DTAs) or Tax Information Exchange Agreements (TIEAs) that explicitly allow AEOI. The multilateral approach involves being a party (not merely signing but also ratifying) the Amended[25] OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters[26] (the Multilateral Convention).

In order to implement the CRS, jurisdictions need to sign a Competent Authority Agreement (CAA). The OECD originally published in February of 2014 a model

[22] In contrast, TJN's Financial Secrecy Index with Switzerland, Hong Kong and the U.S. at the top of the 2015 assessment, objectively shows the contribution of big countries to financial secrecy. For a critical analysis of the concept of blacklists, see Meinzer/Knobel 2015, and Meinzer 2016.

[23] As of November 2016, jurisdictions rated as "non compliant" or only "partially compliant" are: Marshall Islands, Panama, and Andorra, Anguilla, Antigua and Barbuda, Costa Rica, Curaçao, Dominica, Dominican Republic, Indonesia, Samoa, Sint Maarten, Turkey, United Arab Emirates, respectively".

[24] http://www.oecd.org/tax/oecd-tax-talks-july-2016.htm; 30.1.2017.

[25] For example, the U.S. is only party to the original Multilateral Convention which was not open to non-OECD countries (the 2010 amending Protocol opened the Convention up to non-OECD countries). Therefore, the U.S. cannot be said to have an agreement with non-OECD countries which are party only to the Amended Convention.

[26] TJN has analysed this convention in greater detail elsewhere (Meinzer 2012)

bilateral CAA. In July of 2014, a model multilateral CAA was also published. In October of 2016, however, jurisdictions signed an amended Multilateral Competent Authority Agreement. As of February 20th, 2017, 87 jurisdictions have signed the MCAA.

While the MCAA requires signatories to become a party to the Multilateral Convention before the first exchanges take place, it is conceivable that a country that has many (bilateral) DTAs or TIEAs (that allow AEOI) would still be able to engage in AEOI according to the CRS without being a party to the Multilateral Convention (we call this case the bilateral-multilateral approach). The opposite case, the multilateral-bilateral approach (being a party to the Multilateral Convention but then signing bilateral CAAs instead of the MCAA), is possible. For example, Singapore[27] is doing this.

	Authorise AEOI	**AEOI according to the CRS**
Bilateral	DTA or TIEA	Bilateral CAA
Multilateral	Multilateral Convention	MCAA

Switzerland is taking an alternative approach that could be called multilateral-bilateral-multilateral. While it is a party to the Multilateral Convention and it has signed the MCAA, it requires an extra bilateral agreement[28] before it chooses a jurisdiction under the 'dating system' of the MCAA's Annex E (see Section 2.2.3 below). In other words, it *appears* to take the multilateral-multilateral approach, while in practice it is multilateral-bilateral.

The OECD seems to be criticising the case of the Bahamas[29], which has not even signed the Multilateral Convention and has declared it will sign only bilateral CAAs. However, since no criticism has taken place of Singapore or Switzerland, it appears that the OECD discourages only the bilateral-bilateral approach, but *not* the multilateral-bilateral approach.

Given the extra costs in time and resources of singing bilateral treaties (especially for developing countries), the OECD should encourage (or allow) only the multilateral-multilateral approach.

> Recommendation: Each jurisdiction's potential AEOI relationships should be described based on its treaty framework approach, and the bilateral approach should be treated as a risk factor.

[27] https://www.iras.gov.sg/irashome/News-and-Events/Newsroom/Media-Releases-and-Speeches/Media-Releases/2016/Singapore-and-Australia-to-Share-Data-to-Reduce-Tax-Evasion/; 30.1.2017.
[28] https://www.sif.admin.ch/sif/en/home/themen/internationale-steuerpolitik/automatischer-informationsaustausch.html; 30.1.2017.
[29] http://www.elmundo.es/economia/2016/09/24/57e56aa9468aeb67188b4631.html; 30.1.2017.

2.2 The Multilateral Competent Authority Agreement (MCAA)

Section 7 of the MCAA requires jurisdictions to notify the OECD about additional requirements. Three of these optional requirements pose transparency risks.

2.2.1 Annex A to avoid receiving information

Jurisdictions can choose *not* to receive information under AEOI by being listed under the MCAA's Annex A. While the CRS explains that this may be the case for countries without income tax, this option makes no sense whatsoever, and only provides a "certificate of secrecy" that a secrecy jurisdiction[30] can use to advertise for attracting illicit financial flows. If a country is not interested in the information, it may simply not use it or discard it. Not only could other taxes be applicable (e.g. wealth tax), but the received information could also be used to tackle money laundering or corruption (see Section 2.2.5 below).

Any resident of an Annex A jurisdiction will automatically become non-reportable under the CRS. In connection with dual residencies, lenient tax residency rules and with tax nomads, this provision becomes particularly problematic.

> Recommendation: Being listed under Annex A should be considered a risk factor, especially if said jurisdictions also have lenient tax residency rules (see Section 4.1 below) which allow foreigners to become resident in exchange for money as a strategy for avoiding the CRS.

2.2.2 Extra safeguards for protection of personal data

The Global Forum conducted a confidentiality assessment of each jurisdiction willing to engage in AEOI (see Section 2.3). However, the MCAA's Annex C allows jurisdictions to impose extra safeguards for the protection of personal data. Switzerland's focus on consultations on the protection of data[31] means they could use Annex C.

> Recommendation: Describe and assess safeguards imposed by each jurisdiction and ensure that they do not impose arbitrary obstacles to engaging in AEOI. Otherwise, it should be considered a non-compliant factor.

2.2.3 The Dating System

The MCAA's Annex E allows jurisdictions to choose with whom they want to engage in AEOI. AEOI will only take place among jurisdictions that choose each other (that were matched together). The OECD published a list of "activated" AEOI relationships[32]. However, it does not publicly reveal the full list of choices of each

[30] TJN prefers the term "secrecy jurisdiction" rather than "tax haven" because it better reflects their most striking feature. These jurisdictions are not necessarily (only) about zero taxes, but rather they provide facilities which enable people or entities to escape (and frequently undermine) the laws, rules and regulations of jurisdictions elsewhere, using secrecy as their primary tool. See TJN's Financial Secrecy Index for more details.
[31] https://www.edoeb.admin.ch/dokumentation/00153/01353/01388/index.html?lang=en; 30.1.2017,
[32] http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/; 30.1.2017.

jurisdiction. Therefore, it is not possible to know whether "inactive" relationships are a result of a mutual lack of interest or whether one country chose another one but wasn't chosen back.

While the MCAA requires no justification when choosing jurisdictions under Annex E, the Global Forum 2016 Annual report[33] suggests that countries should exchange information with all other countries interested in receiving information, as long as confidentiality and safeguards for protection of personal data are in place[34].

> Recommendation: Describe and assess reasons for refusing to exchange information with any cosignatory of the MCAA, and treat as a non-compliant factor any refusal not allowed by the CRS (e.g. a refusal would be justified if the Global Forum determined that a country does not comply with confidentiality provisions).

2.2.4 Extra arbitrary conditions

While the CRS authorises no arbitrary requirements for engaging in AEOI, countries like Switzerland are imposing them. For instance, for countries other than the U.S. and in the EU, Switzerland requires close political ties, market opportunities for the Swiss financial industry and amnesty programmes[35] (referred to as "regularisation") for tax evaders who hold their money in Swiss financial institutions. This should come as no surprise, since Switzerland has been violating the international standard for exchanges "upon request" by rejecting requests based on data provided by whistle-blowers (GF Switzerland 2016: 131-132).

> Recommendation: It should be considered a non-compliant factor any extra condition (e.g. market access, amnesty programs) imposed for engaging in AEOI.

2.2.5 The use of information to tackle corruption and money laundering

Both the Multilateral Convention and the MCAA refer to the principle of speciality (also lobbied for by Switzerland[36]) to limit the use of information received under AEOI for tax purposes only. However, both agreements contemplate that

[33] See Global Forum 2016b in References.

[34] 2016 Annual Report, page 24: "A process is being developed to ensure transparency in relation to whether jurisdictions have a network of exchange relationships covering all partners interested in receiving data from it".

[35] The Swiss Federal Department of Finance published Q&As in 2014: "The primary focus is on the EU and its member states, as well as the United States. Negotiations on the automatic exchange of information with other selected countries are to be examined. In an initial phase, consideration would be given to countries with which there are close economic and political ties and which provide their taxpayers with sufficient scope for regularisation and which are considered to be important and promising in terms of their market potential for Switzerland's financial industry". (https://www.newsd.admin.ch/newsd/message/attachments/36827.pdf; 30.1.2017).

[36] http://www.swissbanking.org/en/topics/current-issues/the-automatic-exchange-of-information

jurisdictions may allow information to be shared with other local authorities (e.g. financial intelligence units or law enforcement) for other uses, such as for tackling money laundering or corruption. TJN and the Financial Transparency Coalition have prepared a draft Declaration[37] (sent in a letter to the OECD and Global Forum) inviting countries to authorise the use of information for non-tax purposes.

> Recommendation: Indicate whether any jurisdiction has authorised any, or all partnered jurisdictions to use information for non-tax purposes, such as for tackling corruption or money laundering. Failure to do so should be considered a risk factor.

2.3 Domestic Legal Framework

The Global Forum has been undertaking first-stage assessments of the legal framework and confidentiality provisions of each jurisdiction to determine their readiness to implement the CRS (Global Forum 2016b: 24). However, neither the assessments nor their results have been published.

In principle, if a jurisdiction's domestic laws refer to the CRS and its Commentaries (or copies it word-for-word to its domestic legislation), the domestic legal framework should be considered satisfactory.

While there may be justified concerns with publishing a detailed assessment of confidentiality provisions (e.g. because hackers would be able to find out a country's vulnerable points), the results should be published to determine whether there is any justification in refusing to engage in AEOI with a specific jurisdiction.

> Recommendation: Publish the assessments of the domestic legal framework, especially if a jurisdiction is not referring to or fully incorporating the CRS and its Commentaries into its domestic laws.

> Recommendation: Publish (at least) the results of the confidentiality assessment to allow the public to review any justifications for refusing to engage in AEOI with a specific jurisdiction.

2.4 The status of the U.S.

Even though the U.S. has indicated - as noted by the OECD[38] - that it will *not* join the CRS, some jurisdictions such as Luxembourg[39] and Switzerland[40] originally indicated that they would consider the U.S. to be a jurisdiction participating in the

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[37] Financial Transparency Coalition Letter to Pascal Saint Amans, May 2016. Available at: https://financialtransparency.org/wp-content/uploads/2016/05/Letter-to-OECD.pdf; 27.1.2017.

[38] See the footnote to the list of jurisdictions committed to implementing the CRS. It indicates that the U.S. will not implement the CRS because it implements the FATCA Standard. However, not all countries have a FATCA agreement with the U.S. and even if they do, FATCA does not cover as much information as the CRS, especially on beneficial owners. See more details in Knobel 2016.

[39] http://www.taxjustice.net/2016/07/12/luxembourg-backs-supporting-tax-haven-usa/; 30.1.2017.

[40] http://www.taxjustice.net/2016/06/09/luxembourg-starts-rush-to-bolster-tax-haven-usa/; 30.1.2017.

CRS. While they have in the meantime changed course[41], other countries may be tempted in the future to also treat the US as a participating jurisdiction. The problem with this approach is that the CRS has anti-avoidance mechanisms for some financial institutions located in non-participating countries.[42]

> Recommendation: Describe whether a country considers the U.S. as a jurisdiction "participating in the CRS" and in such cases, this should be considered a non-compliant factor.

3. Relevant criteria for peer reviews of the CRS: Financial Institutions (FIs)

AEOI under the CRS depends entirely on FIs. They are the ones in charge of collecting information on all of their account holders and reporting this information to their local authorities. Therefore, loopholes relating to FIs will have a direct impact on the CRS effectiveness.

3.1 Non-reporting FIs

The most obvious avoidance scheme is to use a non-reporting FI (an FI that does not need to collect or report any information). Section VIII.B.1 (CRS: 31) lists all non-reporting FIs. While Central Banks, International Organisations and Government entities are assumed to pose no risk, other types of non-reporting FIs sound riskier. For example, a retirement fund, a qualified credit card issuer, an exempt collective investment vehicle and especially an "entity that has a low risk of being used to evade tax".

> Recommendation: Require the publication of the list of non-reporting FIs by each participating jurisdiction, of statistics indicating the value held by all of these non-reporting FIs and whether any non-resident holds any account or value in any of these non-reporting FIs. It should be considered a non-compliant factor if the list of non-reporting FIs is not public.

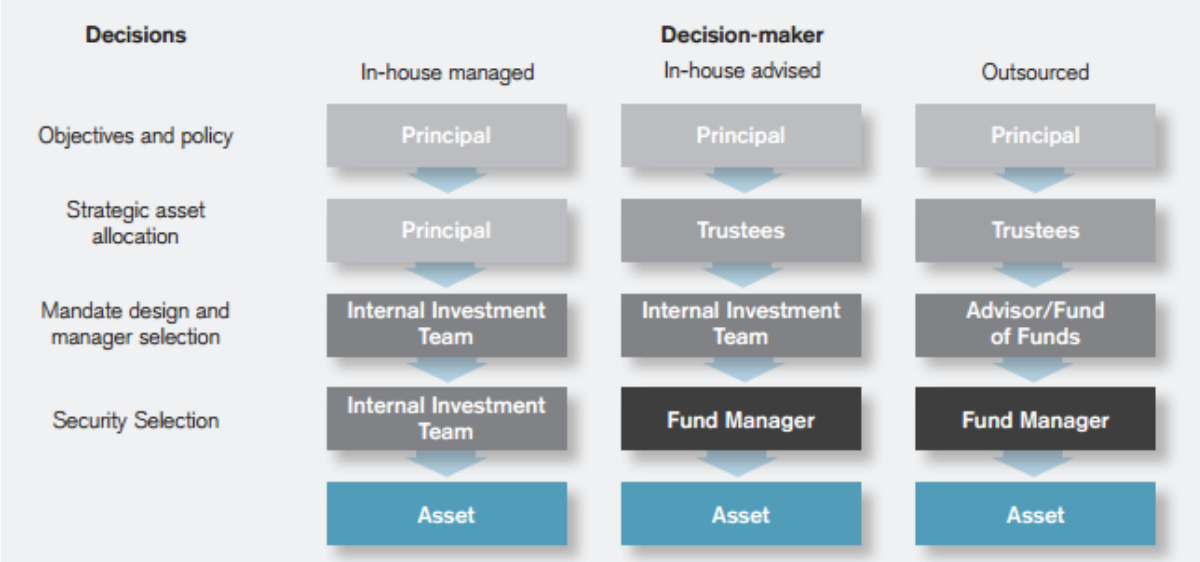
[41] http://www.taxjustice.net/2016/07/12/luxembourg-backs-supporting-tax-haven-usa/; ; http://www.taxjustice.net/2016/10/07/switzerland-backing-supporting-tax-haven-usa/; 6.2.2017.

[42] Basically, financial institutions located in countries participating in the CRS should consider some investment entities located in countries not participating in the CRS as "Passive non-financial entities or NFEs" and identify their beneficial owners (the natural persons ultimately controlling or benefitting from those investment entities). If the U.S. is considered "participating in the CRS", financial institutions will not need to identify those beneficial owners. Since the U.S. is not participating in the CRS, the countries where those beneficial owners are resident may never find out about those beneficial owners' interests (e.g. equity interests) in U.S. investment entities.

3.1.1 Investment entity managed by an individual (or by a reporting FI without binding investment advice)

Investment entities and trusts managed by an individual (but not by a reporting FI) are not considered reporting FIs[43]. In fact, such individual could – in practice - follow investment advice by a reporting FI, as if it were directly managed by that reporting FI. However, as long as – on paper – such investment advice is "non-binding" and the individual holds "discretion", the investment entity would not be considered an investment entity.

This may be especially problematic given the size of funds held by investment entities organised as "family offices" and that they may be managed[44] by individuals. For example, the UBS Global Family Office Report of 2016[45] carried out a survey of 242 family offices with an average of USD 759 million assets under management. The following chart suggests that investment decisions in a family office can happen in-house without the involvement of a financial institution.



Source: Credit Suisse 2015: 26

The consequence of not being an FI is that the investors who are the equity holders of the "investment entity managed by an individual" will not be reported (by such

[43] See for example the Commentary's Example 6 on page 164: "B, an individual broker, primarily conducts a business of providing advice to clients, has discretionary authority to manage clients' assets, and uses the services of an entity to conduct and execute trades on behalf of clients. B provides services as an investment advisor and manager to E, a corporation. E has earned 50% or more of its gross income for the past three years from investing, reinvesting, or trading in Financial Assets. Because B is an individual, notwithstanding that B primarily conducts certain investment-related activities, B is not an Investment Entity under subparagraph A(6)(a). Further, E is not an Investment Entity under subparagraph A(6)(b) because E is managed by B, an individual".

[44] For example, in the UK, "A family office can work at different levels, from being run by a small group of trusted individuals or family members, to being managed by a professional service provider" (Credit Suisse 2015: 51).

[45] http://www.globalfamilyofficereport.com/wp-content/uploads/2016/09/GFO-global-press-release-FINAL.pdf; 30.1.2017.

investment entity) under the CRS. In addition, even if such an investment entity holds an account with a reporting FI, it would be treated like any entity and thus no, or only limited reporting would take place at the investor level (at the controlling person level). If the investment entity (as an account holder) is considered an Active NFE, no reporting at all will take place at the investor level. If the investment entity is considered a Passive NFE, only investors holding more than 25% of the equity will be reported as "controlling persons", but not every equity holder (which would be the case if the investment entity were itself a reporting FI).

However, if the same investment entity is organised as a trust and holds an account in a reporting FI as a Passive NFE, then all investors would have to be identified, because in the case of trusts, controlling persons include among others, all beneficiaries of the trust.

> Recommendation: Assess and publish statistics (e.g. on the number and value) of all investment entities that avoid being considered a reporting FI because they are managed by an individual. Absence of statistics should be considered a non-compliant factor.

> Recommendation: Assess and publish statistics on the number and value of investment entities and funds that are incorporated either as companies or as trusts, especially if there has been an increase since 2014 (when the CRS was published) of investment funds incorporated as, or transformed into companies. This could indicate a strategy to avoid the broader reporting requirements at the controlling person level for passive NFEs that are trusts. Absence of statistics should be considered a non-compliant factor.

3.1.2 Irrevocable insurance

The CRS determines that insurance companies that issue "cash value" insurance contracts (or annuity contracts) are reporting FIs. The definition of "cash value" involves an amount of money that the policy holder is entitled to receive upon surrender, termination or borrowing under the insurance contract. As a strategy to avoid reporting under the CRS, experts[46] and The Economist[47] explained how insurance companies have been issuing irrevocable insurance contracts (where neither surrender, termination or borrowing is allowed) in order to remove these insurance contracts away from the definition (scope) of "cash value" contracts. If insurance contracts are not considered "cash value" the insurance companies would not be considered reporting FIs.

> Recommendation: Assess cash value insurance contracts available in each jurisdiction, and especially irrevocable, insurance contracts or any type of

[46] http://www.the-best-of-both-worlds.com/irrevocable-insurance.html; 30.1.2017.
[47] http://www.economist.com/news/finance-and-economics/21645259-making-tax-transparency-standards-watertight-will-be-difficult-leaks-tap; 30.1.2017.

insurance contract developed after 2014 (when the CRS was published) that would avoid reporting under the CRS. Availability of these types of insurance contracts outside the scope of the CRS should be considered a non-compliant factor.

3.2 Reporting FIs

The whole CRS system depends on FIs doing their job. This is especially problematic in secrecy jurisdictions where controls are lenient and where criminals may decide to establish their own FIs in order to avoid reporting, like Odebrecht[48] did in Antigua as part of its grand corruption strategy.

Reporting FIs should be regularly subject to in-depth audits by national regulators to ensure compliance with the CRS, testing e.g. the application of due diligence provisions, aggregation of account balances, collection of KYC/AML data on their customers, etc. Furthermore, there should be robust enforcement provisions in cases of detected non-compliance (both legal and in practice).

> Recommendation: Describe and assess audit procedures, frequency and enforcement provisions (statutory and actually applied sanctions) to ensure reporting FIs comply with the CRS, and publish comparable statistics. Absence of statistics should be considered a non-compliant factor.

3.2.1 LEIs for reporting FIs

Data to be exchanged under the CRS includes an identification number of the reporting FI (CRS, Section II.2.c). The Commentary to the CRS (Commentaries: 97) contemplates that, when identifying the reporting FI, either a Tax Identification Number (TIN) or Legal Entity Identifier (LEI) can be used. LEIs should be encouraged to facilitate identification of FIs globally.

> Recommendation: Indicate whether a jurisdiction requires an LEI from reporting FIs. It should be considered a risk factor when no identification number is available for reporting FIs.

[48] The Financial Times reported on December 22, 2016 that "worried that the problem could undermine its international system of paying bribes to corrupt government officials in developing countries in order to win contracts, Latin America's largest construction company bought its own bank on the island. 'By virtue of this acquisition, other members of the conspiracy, including senior politicians from multiple countries receiving bribe payments, could open bank accounts and receive transfers without the risk of attracting attention,' said a plea bargain signed by Odebrecht with US, Brazilian and Swiss prosecutors and published on Wednesday" (https://www.ft.com/content/91c23442-c7ee-11e6-8f29-9445cac8966f; 30.1.2017).

4. Relevant criteria for peer reviews of the CRS: Reportable persons

Reporting FIs must identify accounts held by reportable persons and determine their residence, so that authorities send banking information to the corresponding country (where the account holder is resident).

4.1 Fake residence certificates

Most countries define those who are tax resident in their territories by assessing if they live or work there during most of the year. The reason for that is that, if a person or entity has a sufficient connection to a country and is using its infrastructure and enjoying the public benefits provided, then he/she/it should start paying taxes there too[49]. Some secrecy jurisdictions have moved to offer tax residency on more lenient terms, by requiring a lower minimum stay (compared to the common 180-day threshold) for obtaining tax residency status. Many of these secrecy jurisdictions offer citizenship[50] and residence certificates in exchange for money or investments (as a way to raise revenues) without requiring a minimum stay in the country (e.g. Dominica, Grenada, St Kitts, Bulgaria, Greece, Hungary, Ireland, Latvia, Singapore, Spain and Switzerland for "immigrant investor programmes").[51]

The problem with these certificates, which we refer to as "fake", is that they allow a person to keep living and working in one country while pretending to be a resident somewhere else, without actually being there. While citizenship status may be legitimate (e.g. persons fleeing their country to protect their human rights, or to avoid visa requirements when travelling to other countries), lenient tax residency rules are problematic (when someone acquires a tax residency to avoid taxes in other countries from which they still benefit). In the case of the CRS, the risk is that an account holder living and working in say, Germany, may acquire a fake residence certificate from say St. Kitts, so that their account information will be exchanged with the "fake" jurisdiction (St. Kitts), instead of the correct one (Germany).

This is especially problematic if the secrecy jurisdiction offering fake residence certificates is listed under Annex A (see Section 2.2.1). In that case, residence holders of said secrecy jurisdiction will automatically become non-reportable persons.

> Recommendation: Assess residency rules of each jurisdiction. It should be considered a non-compliant factor if tax residency is possible for physical

[49] DTAs, if applicable, will decide where a person or entity has to pay taxes if it is considered resident in more than one country.

[50] While the CRS only cares about the tax residence of an account holder (and not their citizenship), account holders may submit as Documentary Evidence citizenship-type documents such as passports or other government-issued certificates that include an address.

[51] http://www.imf.org/external/pubs/ft/fandd/2015/12/gold.htm; 30.1.2017.

presence of less than 183 days per year, and/or if residence certificates are available in exchange for money or other types of indirect investment (e.g. purchase, rent or real estate).

Recommendation: Assess whether reporting FIs apply reasonable tests to residency certificates provided by account holders (e.g. if they ask for previous and other residencies, consistency with place of birth and nationality, school where children of account holder study, etc.). It should be considered a non-compliant factor if no reasonable test is applied.

4.2 Non-reportable person: listed corporations

The CRS Section VIII.D.2.i and ii (CRS: 39) excludes from reporting any account holder that is a corporation "seriously" listed in a stock exchange as well as all of its related entities that are also corporations. This is a huge loophole, which is only moderately mended by the "seriousness" test (the stock of such corporation is regularly traded and the value of the stocks traded in the stock exchange is over USD 1 billion).

Recommendation: Assess and publish a list of "respectable stock exchanges" of each jurisdiction (if any). Assess reporting FIs' due diligence that determine the "regularity" of traded stocks. Require public listing of all excluded listed entities and their subsidiaries which are (legally) escaping reporting under the CRS. Absence of such reports should be considered a non-compliant element.

4.3 Non-reportable person: financial institution

The CRS Section VIII.D.2.vi (CRS: 39), in another huge loophole, excludes from reporting any account holder that is a financial institution (other than an investment entity located in a non-participating jurisdiction, see Section 2.4 on the U.S. status). The explanation the Commentary gives is that FIs are either already doing their own reporting (so this would be a case of redundant information) or that FIs *per se* "present a low risk of being used to evade tax" (Commentary: 193).

The latter case (assuming that there is no risk for the mere fact of being an FI) has already been proven wrong by the case of Odebrecht (see Section 3.2), where an FI was established to conduct a major corruption operation.

The former case (avoidance of duplication) sounds logicical, but a reporting FI can avoid reporting some accounts by trusting[52] that they are already being reported. Also, correspondent banking relationships are an important feature in many money laundering and tax evading schemes, yet data on the volumes and patterns of correspondent banking relationships are absent or at best, scarce.

[52] During a conversation with a compliance officer working for a bank in Cayman Islands in December of 2016, the compliance officer advised that she thought it would be unlikely that many investment entities with accounts in her bank will actually do the reporting they are supposed to do, given their limited resources.

The same situation applies to CRS Section VIII.B.1.e (CRS: 31), where a "reporting-FI trust" does not have to report information because its trustee (that also is a reporting FI) will report the trust's information.

> Recommendation: Require reporting FIs that will not report accounts held by other FIs to inform authorities about a) the reason for/type of non-reportable person account, b) the total value, annual turnover, and number of accounts that are not being reported by them (to avoid duplication, if applicable) and to list the reporting FIs that are supposed to do the reporting (if any). In other words, reporting FI "A" should say "I am not reporting 100 accounts with a total value of USD 1m because half of them are a "vostro account" of FI B, who will be reporting the underlying account holders, and half of them by no one because they are held by an FI which is not a reporting FI". The same should apply with regard to "reporting FI trusts" that will not report information because such reporting will be done by their "reporting FI trustees". Absence of statistics should be considered a non-compliant factor.

4.3 Non-reportable person: trust without tax residence, local related parties and discretionary beneficiaries before distributions

An entity which has "no residence for tax purposes" (either because it is fiscally transparent or because it is located in a jurisdiction without income tax) could be considered resident either in the place of incorporation or in the place of effective management. However, this does not apply to trusts, which would avoid reporting at the level of the trust (legal entity/arrangement), as long as they have no residence for tax purposes[53]. Only if the trust is a passive NFE would its controlling persons be reportable in that scenario. If the trust is considered an Active NFE (for instance, if it is considered a holding NFE[54]), no information would be reported at all.

> Recommendation: Each country should publish statistics on the values held in their FIs by "trusts without residence for tax purpose", especially if they are classified as "Active NFEs". It should be considered a risk factor if a jurisdiction provides for trusts in its legislation, but dispenses with a comprehensive registration requirement of all trusts[55]. Absence of statistics should be considered a non-compliant factor.

[53] CRS Handbook, page 83: "In many cases a trust has no residence for tax purposes. In that case the trust is not considered to be a Reportable Person".
[54] http://www.the-best-of-both-worlds.com/trust-holding.html; 30.1.2017.
[55] See more details in Knobel/Meinzer 2016b and Knobel 2016

Even if the trust is considered a Passive NFE, its related parties will not have to be reported if they are resident in the same jurisdiction as the reporting FI (unless the jurisdiction decides otherwise).[56]

In relation to local (not "non-resident") account holders, jurisdictions should explicitly require that account holders that are passive NFEs will still have to be looked through (even if they are locals), to determine whether any of their controlling persons are non-residents and in such case, report them.

> Recommendation: It should be considered a risk factor if a jurisdiction does not require local (resident) related parties of a trust to be reported, or explicitly states that local (resident) account holders that are Passive NFEs need to be looked at to determine whether any of their controlling persons have to be reported.

Lastly, the CRS (Handbook: 17) allows a country to treat trusts that are Passive NFEs (and would thus have to identify all of their related parties) as if they were "reporting-FI trusts" with regard to discretionary beneficiaries. In such cases, discretionary beneficiaries will only be reported after receiving a distribution. Given that a "distribution" may be hidden as a loan (or other type of payment never to be repaid), jurisdictions should consider that any payment made to a beneficiary should be considered a distribution for CRS reporting purposes. The European Commission has ruled out this option in their implementation of the CRS in DAC2, considering all discretionary beneficiaries as controlling persons or beneficial owners[57].

> Recommendation: It should be considered a risk factor if a jurisdiction chooses not to report discretionary beneficiaries until a distribution takes place, unless any payment made to a beneficiary is considered a distribution for CRS reporting purposes.

4.4 Active NFEs: Start-ups and entities under reorganization

Entity account holders that are considered "Active" non-financial entities (Active NFEs) will not be "looked-through", so their controlling persons or beneficial owners (the natural person who ultimately owns, controls or benefits from such entity) will not be identified. This means that any individual, say a resident in Germany, may hide behind an Active NFE incorporated in a secrecy jurisdiction

[56] If a country requires no reporting of local related parties of a trust, and that country requires no registration of trusts either, there may be no information on such trusts whatsoever.

[57] "A Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust." (Council of the European Union 2014: 359/20).

since the information on such account will be reported to the secrecy jurisdiction, but not to Germany.

NFEs may be considered "Active" by their income or assets (as long as these are not mainly "passive", such as from interests or dividends) or by their type (e.g. government entity, listed corporation, etc.). Any alleged income from advisory, consultancy, web-design or research service is deemed enough to qualify an entity as an active business, as long as the income supersedes the interest/dividend income.

While all types of Active NFEs should be audited, two types sound especially risky for their low-threshold: (i) start-ups and (ii) entities under reorganization.

(i) CRS, Section VIII.D.9.e (CRS: 40) establishes that, as long as an entity is a new business investing capital into assets to operate a business (other than an FI), it can achieve "Active NFE" status during 2 years.

(ii) CRS, Section VIII.D.9.f (CRS: 40) establishes that, as long as an entity is under reorganisation to start or continue operations (but not to become an FI), it can obtain the "Active NFE" status, without a time frame.

> Recommendation: Assess reporting FI's due diligence applied to determine the status of Active NFEs and require the publication of annually updated statistics about the number of accounts and values held by Active NFEs, broken down in the types of underlying income by type of activity (risk-based approach, e.g. by research, advisory, consultancy or design activities), as well as by start-ups and entities under reorganisation. Absence of statistics should be considered a non-compliant factor.

4.5 Controlling Persons

One of the most important points of the CRS is the identification of controlling persons or beneficial owners for entity account holders considered "Passive NFEs" (the opposite of "Active NFEs, see Section 4.4).

It is important to assess how reporting FIs are verifying controlling persons' accuracy. The best case scenario that enables a direct cross-check is when a jurisdiction offers public online access to beneficial ownership information of their entities (e.g. the UK for companies). The worst case scenario is when a jurisdiction has no registry whatsoever of the entities or arrangements created or governed under their laws (e.g. the case of trusts in most countries).

Reporting FIs should consider it a risk factor and demand more proof whenever an entity account holder (e.g. company or trust) is incorporated or resident in a country that offers no public online registry of beneficial owners. TJN's Financial Secrecy Index offers exactly this assessment of the most opaque types of entities and registration systems in over 100 jurisdictions.

Recommendation: Assess reporting FIs' process to verify controlling person information and require a risk-based approach, based for example on TJN's Financial Secrecy Index that describes the most opaque types of entities and registration systems in more than 100 jurisdictions.

4.6 Wider and wider-wider approach

Reportable persons are in principle only account holders that are resident in a jurisdiction participating in the CRS, so a reporting FI should collect and report information on these account holders. However, the CRS (Handbook: 19) allows jurisdictions to choose the "Wider" approach, where reporting FIs collect information about all non-residents (not only those resident in a participating jurisdiction). Jurisdictions may also apply the "Wider-Wider" approach where information on all non-residents is not only collected ("Wider" approach) but also reported to authorities. This will be relevant for the purpose of statistics of AEOI (see Section 7). The OECD published a list of jurisdictions that chose the Wider approach[58], but not of those that chose the Wider-Wider approach.

Recommendation: Describe whether a jurisdiction chooses the wider-wider approach. It should be considered a risk factor if it does not.

5. Relevant criteria for peer reviews of the CRS: Reportable accounts

5.1 No reporting if law prevents sale of insurance contract

A pre-existing[59] individual account that is a cash value insurance contract or an annuity contract is not required to be reported in jurisdiction A if the insurance company (in jurisdiction A) is effectively prevented by law from selling the contract to non-resident persons who are resident in another reportable jurisdiction B. An insurance company could thus claim that only local residents may acquire their insurance contracts. However, if such jurisdiction A offers fake residence certificates (see Section 4.1), individuals effectively resident abroad would be able to acquire insurance contracts but avoid reporting. This exemption makes no sense because if an insurance company determines that none of its policyholders are non-residents (in other words, all policyholders are effectively local residents), then it would not need to report any information.

Recommendation: Assess the effective implementation and enforcement of laws that prevent sale of insurance to non-residents and audits performed to confirm that no non-resident is a policyholder or beneficiary of such insurance contracts. Require the collection and publication of statistics on the values

[58] http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/#d.en.345489; 30.1.2017.

[59] Pre-existing accounts are those opened before a cut-off date. For countries exchanging information in 2017, the cut-off date was December 31st, 2015.

held by these exempted insurance companies. Absence of statistics should be considered a non-compliant factor.

5.2 No reporting of pre-existing entity accounts up to USD 250.000 even if related accounts opened after cut-off date

Unless jurisdictions decide otherwise (Handbook: 14), financial institutions need not collect or report information on pre-existing entity account holders, the aggregate account or value of which does not exceed USD 250.000. These could be easily avoided by Series Companies (many companies incorporated at once, but each separate and with a separate account) or by splitting the account into different FIs. Another option would be to have many accounts in a bank which does not link them by TIN or client number (see Section 6.2). On top of everything, countries may choose (Handbook: 15) to treat 'new accounts' (opened after the cut-off date) as 'pre-existing,' benefitting –among other things - from the US$ 250,000 threshold, as long as the account holder already had an account and no new information is required to open the new account.

Recommendation: It should be considered a risk factor if a jurisdiction allows pre-existing entity accounts with an account balance below USD 250.000 not to be reported, especially if even new accounts can benefit from the 250k threshold exemption. Require the compilation and publication of statistics on the number and values held by these excluded accounts. It should be considered a non-compliant factor if no statistics are published.

5.3 Aggregation of accounts only if bank's computerized system allows it

An account holder's aggregate account value could trigger increased due diligence procedures or reporting altogether (e.g. if above the USD 250,000 threshold). However, this depends on each financial institution's computerised system being able to link and aggregate such accounts.

Recommendation: Require the assessment and publication of whether a country's FIs allow accounts belonging to the same clients to be linked and aggregated. It should be considered a risk factor if FIs exist which do not aggregate the accounts.

5.4 Undocumented accounts: unidentified residence or controlling person

The CRS determines that pre-existing accounts, whose account holders' address could not be determined (because either the FI did not obtain that information or the account holder provide it) should be reported as an undocumented account. Instead of requiring closure of those accounts that belong to persons who did not provide information and managed to avoid reporting to their resident jurisdiction, the CRS rewards them. While the CRS says nothing explicitly about it, it appears that the same should apply whenever a reporting FI cannot identify the beneficial owners of an account holder that is a Passive NFE.

Recommendation: Require the publication of statistics of the accounts and values held by undocumented accounts where the reporting FI was unable to determine (i) the residence of the account holder or (ii) the identity (and residence) of the controlling persons. It should be considered a non-compliant factor whenever a country has undocumented accounts and fails to take robust action, including account closures, towards regularisation. It should be considered a non-compliant factor if no statistics are published.

5.5 Nil returns

If a reporting FI (i.e. a bank) does not have any account that needs to be reported to authorities, then it could simply do nothing or instead, the CRS contemplates as one option (Handbook: 12) to require filing of a 'nil return' (to indicate that it has no reportable accounts). Filing a nil return seems a better option to ensure that all FIs are aware of their obligations - and also to hold them accountable in case of misreporting. This would be essential for statistical purposes of excluded accounts, so nil returns should also include the value of accounts held in the FI that are not being reported. The same should apply to non-reporting FIs.

Recommendation: Publish statistics about the accounts and values held by non-reporting FIs and by reporting FIs without reportable accounts. It should be considered a risk factor if nil returns are not required to be filed. It should be considered a non-compliant factor if no statistics are published.

5.6 Closed accounts

The CRS requires that upon closure of accounts, the reporting FI must report the account closure, without specifying the account balance. This appears to reward only those who try to avoid reporting. In addition, the CRS leaves it up to each jurisdiction to define when an account is considered "closed."

Recommendation: Assess and publish jurisdictions' definitions of "closed" account, and require publication of statistics on account closures broken down by type of account (Passive NFE, Active NFE, etc.), date, and country of origin of the account holder. It should be considered a non-compliant factor if no statistics are published.

5.7 Excluded accounts (e.g. estate and escrow accounts)

Retirement and pension accounts, non-retirement tax-favoured accounts, life insurance contracts, estate accounts, accounts related to court orders or judgements, escrow accounts, depository accounts due to non-returned overpayments, and low risk excluded accounts are excluded from reporting.

These exclusions could easily be exploited as loopholes. For instance, phoney lawsuits are common as a way to move money offshore or justify illicit origins of funds. If accounts under court orders are excluded from reporting, then a person

who won a lawsuit could withdraw all the cash (instead of transferring the money to his/her bank account) and this way s/he could avoid reporting on this amount, and the paper trail would be lost. While the court or judge would know who the beneficiary is, unless there is any reporting from the court or the financial institution, there will be no reporting to the corresponding jurisdiction. Likewise, escrow accounts could be used by faking a real estate purchase or another investment and leaving the money secure from reporting (for instance, to avoid reporting of account balance).

> Recommendation: Assess the lists of excluded accounts, and require publication of statistics on the accounts and values held by these excluded accounts. Absence of statistics should be considered a non-compliant factor.

6. Relevant criteria for peer reviews of the CRS: Due diligence and reportable information

6.1 Pre-AML accounts

For pre-existing individual accounts (likely opened before 1990[60] or grandfathered from having to apply AML/KYC[61]) that have a balance up to USD 1 million, the CRS (Commentaries: 113-115) establishes that even if a reporting FI performed no AML/KYC, or has no documentary evidence (i.e. a government-issue certificate) to prove the account holder's residence, the reporting FI is allowed to use whatever address it has on record, for example based on a utility bill presented when opening the account.

> Recommendation: Require publication of statistics on accounts and values held by accounts not subject to AML/KYC. It should be considered a non-compliant factor or at least a risk factor if many of such "old" accounts are available. Absence of statistics should be considered a non-compliant factor.

6.2 No TIN

The TIN and date of birth are essential for tax authorities to process the received information (by matching it with domestic file returns and other information) to detect tax evasion and underreporting. However, FIs are not always required to collect them, if they are not in their records (and after a "reasonable effort" to obtain them), or if they are not required by law to collect them or if they are not issued. The OECD published a list of countries issuing TINs and their criteria[62].

[60] Before FATF AML Recommendations were published.
[61] Anti-Money Laundering (AML) and Know-your-Client (KYC).
[62] https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/; 30.1.2017.

Recommendation: It should be considered a risk factor if a country does not issue TINs or if it does not require its FIs to collect TINs from their account holders.

Recommendation: Publish statistics on the accounts and values held by accounts without a TIN. Absence of statistics should be considered a non-compliant factor.

6.3 Balance account netted against loans

The CRS Commentaries state that "the balance or value of the account is not to be reduced by any liabilities or obligations incurred by an account holder with respect to the account or any of the assets held in the account" (page 98). Nevertheless, FIs in secrecy jurisdictions may[63] decide to net or offset balance accounts against loans given to an account holder.

Recommendation: It should be considered a non-compliant factor if a jurisdiction allows balance accounts to be netted or off-set against loans and other liabilities.

6.4 Enforcement: sanctions

The CRS Section IX.A.5 requires jurisdictions to have rules and administrative provisions to ensure effective implementation, including "effective enforcement provisions to address non-compliance". The Commentaries state that "a jurisdiction may have rules that provide for the imposition of fines or other penalties where a person does not provide information requested by the tax authority" (Commentaries: 211). A review of six countries (Austria, Germany, Switzerland, the Netherlands, United Kingdom, USA) reveals that except for one, all impose only fixed amounts and capped fines in cases of non-compliance (Henn 2015; Meinzer 2015; Bundestag/Bundesrat 2015). The Netherlands is the only country that has sanctions for wilful misreporting with a maximum prison term of 4 years (Meinzer, forthcoming).

Given that a financial institution or service provider may be assisting a client to evade millions in taxes, any fixed fine may be considered a cheap "cost". If this fine is low, the risk is even higher because staff at financial institutions can offer clients a cheaper service from breaking the law. It is clear that in cases of wilful misreporting, economic fines are not enough. Prison sentences should also be included for deliberately omitting or providing false information.

Recommendation: It should be considered a non-compliance factor if a jurisdiction does not have effective enforcement penalties for any case of non-compliance with any CRS provision. Penalties for grave or deliberate cases of non-compliance or any conduct that frustrates the purposes of the

[63] Idea expressed during a conversation with a compliance officer working for a bank in the Cayman Islands in December of 2016.

CRS should not be limited to fixed fines but should consider multipliers of the amounts being unreported (if applicable) and include the potential for prison sentences.

Recommendation: assess and publish statistics on the frequency and types of audits, both on-site and others, and on the number of penalties imposed, describing the value of the fine and the prison sentence.

7. Bridging the gap between legal framework and the reality on the ground: Public Statistics

Many of the previous recommendations and earlier analyses into the multiple loopholes suggest that detailed, public statistics by each jurisdiction are an indispensable part of any meaningful peer review of the implementation of the CRS. Jurisdictions that fail to provide comprehensive, comparable, detailed and robust statistics annually on the implementation of the CRS should automatically be treated as non-participating jurisdictions. The previous list of recommendations is based on previous research on CRS loopholes identified by TJN (here[64] and here[65]) and by others[66]. New loopholes and avoidance schemes (some more effective than others) are constantly being developed, such as the use of derivative instruments[67]. While fixing these loopholes is crucial, it is not the aim of this paper because peer review reports will not be able to fix or change the CRS, but merely assess its enforcement.

The only way to ensure the enforcement of the CRS is to have robust public statistics on the number and value of accounts that are being reported, and especially those which are excluded from reporting. By doing this, and comparing across jurisdictions, it will be possible to track compliance throughout the years, and also identify or provide an alert for avoidance mechanisms, for example if there is an increase in values held by non-reporting FIs, by non-reportable accounts or non-reportable persons.

Detailed public aggregate statistics on the performance of the CRS are also essential for a number of other reasons. First and foremost, as recent revelations in to the scale of cross-border tax abuse like Offshore Leaks, Swiss Leaks and Panama Papers have shown, it is vital to rebuild public confidence and trust in the rule of law. This entails data showing the degree of compliant reporting by financial

[64] Knobel/Meinzer 2014b

[65] Knobel 2015

[66] http://www.the-best-of-both-worlds.com/crs-loopholes.html; 24.1.2017.

[67] In this case, a reportable person transfers equity (and why not, money) to a non-reportable person, with the right to reclaim that equity or its value at some time in the future. Since the equity, say in an investment entity, is now held by a non-reportable person, no authority will find out about the owner of such equity.

institutions and impartial, efficient processing of data and following up on cases by the tax administration and public prosecutor. Researchers, civil society and journalists will therefore need comprehensive and robust public data to track reporting and enforcement over time. Without such public accountability, trust in the functioning of international institutions and the rule of law will continue to be eroded.

Furthermore, AEOI will provide a trove of useful information, but only for those receiving it. Developing countries unable join the CRS because of capacity constraints and countries arbitrarily rejected by others under the MCAA's 'dating system', will either get nothing or only partial information (depending on the number of rejections).

For robust and relevant statistics, it is essential for a jurisdiction to choose the wider-wider approach (FIs collect and report information on all non-residents) and requiring nil returns (see Section 5.5) with information on the values held by exempt reporting FIs, accounts or persons.

In the following sections, we present a data matrix for CRS public statistics, which protects taxpayer confidentiality, allows for easy comparison across jurisdictions, and builds on data that is readily available in case the wider-wider approach has been chosen. In case the wider-wider approach has not been chosen, the use of the matrix does not depend on additional data collection, but will enable public statistical reporting for most of the items for which data has already been collected.[68]

The following graph provides an overview of the proposal on CRS statistics, which will be explained in more detail in the subsequent sections.

Figure 1: Reporting Schema for the CRS - Overview

[68] This matrix is based on TJN's original template of AEOI statistics, see: http://www.taxjustice.net/wp-content/uploads/2013/04/AEoI-Statistics-Explanation-with-proposal.pdf; 24.1.2017.

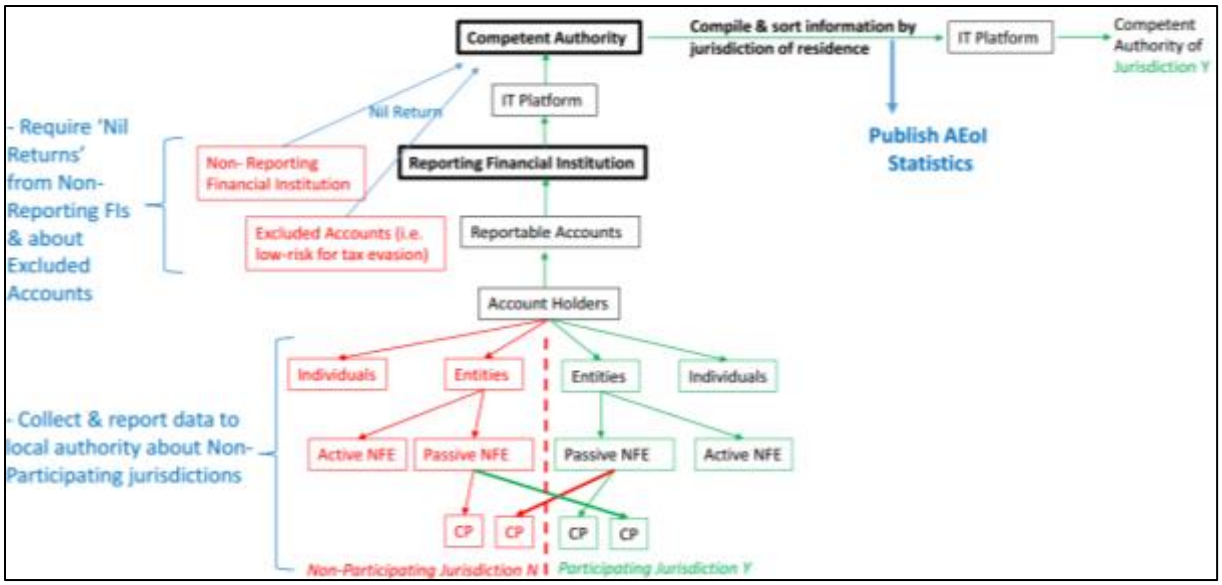


Figure 1 shows why AEOI Statistics involve no additional, or at least only a token cost for authorities and financial institutions. CRS information will be collected by Reporting FIs and sent to them (authorities), who will then have to compile it and sort it by jurisdiction of residence in order to exchange it with the corresponding foreign authority. After compiling and sorting the data for their exchange, authorities could simply add up all information by country of origin and publish these totals, so that civil society and other countries may have access to these aggregate statistics.

Given that only totals (aggregates) will be published, no individual taxpayer's confidentiality will be breached. If countries were to also choose the wider-wider approach ("collect & report data to local authority about non-participating jurisdictions") and the filing of nil returns, then statistics would also cover the "red" rectangles: data about excluded accounts, non-reporting FIs and about account holders and controlling persons ("CP") resident in non-participating jurisdictions.

The proposal for AEOI Statistics is divided into two sections, both of which are necessary to ensure compliance with the CRS. The first type of statistics are aggregate numbers that allow tracking of certain categories of data (such as legally unreported accounts) and comparing totals of information reported and (legally) unreported. This would be used to make sure that legal exclusions are not being exploited to illegally avoid reporting. The second section breaks down statistics on a country-by-country basis and therefore allows for much more granular tracking of compliance and enforcement. It would also reveal which financial centres are chosen by residents of each country to hold their money (and how much in total is held there) and allow to identify some avoidance mechanisms.

7.1 Aggregate statistics for monitoring overall compliance and enforcement of the CRS

The statistics proposed in this first section focus on comparing totals of reported and (legally) unreported data, with all of the Central Bank's data about the country's financial accounts. All of a country's financial accounts should have been either reported or (legally) unreported. Then, this section focuses on all the "legally" unreported data, such as the value of excluded accounts, of accounts held in non-reporting FIs, or accounts held by non-reportable persons. By tracking these numbers, especially if they keep increasing, it will be possible to detect certain avoidance mechanisms, as described in each of the boxes below.

7.1.1 Double-entry statistics to assess reporting compliance

Compare the Central Bank's statistics (or equivalent) on total value of financial accounts with both, the value of reported accounts and the value of non-reported accounts (e.g. accounts held in non-reporting FIs, non-reportable accounts or "excluded accounts", accounts held by non-reportable persons and undocumented accounts). This is a double-entry table because the total of reported and non-reported accounts, should be the same as the total value of financial accounts informed by the Central Bank of each country. In other words, all of a country's financial accounts supervised by the Central Bank should have been either reported, or legally unreported by FIs. If numbers do not match, then a country should determine whether some accounts are not being reported, or whether FIs are reporting the wrong information (see the box below for an example). It is essential for this data to require nil returns (see section 5.5). Otherwise, a country will have no information on data that is (legally) not being reported.

	Total Number of Accounts	**Total Value of Accounts (USD)**	**Central Bank's statistics on total value (USD)**
A. Reported accounts			
B. Not reported accounts (Total)			
Sum A + B		compare ↔	

Statistics Clue 1: Mismatch between Central Bank records and information subject to reporting or legal un-reporting

Example. Jurisdiction X has reporting problems. According to the Central Bank, there are 50 million financial accounts in the country's financial institutions. However, only 30 million financial accounts have been reported under the CRS and 15 million have been legally un-reported because they belong to non-reportable persons or are held in non-reportable jurisdictions. This means that 5 million financial accounts are missing. The country should enquire and explain this mismatch and correct reporting.

7.1.2 Non- reported accounts (B)

The totals described in the previous point allow comparison, but provide no details as to whether avoidance mechanisms are being used. More details are necessary and are provided in this section.

7.1.2.1 Reason for not reporting: Totals

Once the number and value of each type of account that is legally not being reported has been established, data about the types (or reason) of legally unreported accounts should be published. This includes (i) accounts held in non-reporting FIs (see Section 3.1), and for accounts held in reporting FIs, (ii) accounts that are excluded (see Section 5.7), (iii) accounts that are held by non-reportable persons (see Sections 4.2 and 4.3), and finally (iv) undocumented accounts (where not enough data was found to report such an account) (see Section 5.4). The box below shows how this table could be used to detect avoidance mechanisms.

B. Non-reported accounts		**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Accounts held in non-reporting FIs				
Accounts held in reporting-FIs	Excluded accounts (because of their type, e.g. escrow account)			
	Accounts held by non-reportable persons			
	Absolute[69] Undocumented accounts: (undetermined residence + no controlling person with non-reportable Passive NFE)			

Statistics Clue 2: Increasing number of non-reportable accounts

Example. Jurisdiction X published statistics for years 2017, 2018 and 2019. These show that the value and income of accounts held in non-reporting FIs grew 10% each year. Unless the jurisdiction provides a reasonable explanation, it can be assumed that avoidance strategies are being offered to hold accounts in Jurisdiction X's non-reporting FIs.

[69] There are three types of undocumented accounts: two absolute and one partial. "Absolute" undocumented accounts (no information at all can be sent to another jurisdiction) include (i) any pre-existing individual account where no residence could be determined, and (ii) any account held by a non-reportable Passive-NFE, where the controlling persons could not be identified (the account will be reported neither at the entity level, because the passive NFE is non-reportable, nor at the controlling person level, because no controlling person was identified). The partial undocumented account is when the controlling person could not be identified, but the passive NFE is reportable. In such case, information will only be exchanged at the entity level with the jurisdiction where the Passive-NFE is resident.

7.1.2.2 Reason for not reporting: by type of FI

This sub-section is the same as before, but providing even more details because these breakdowns will help to identify possible avoidance mechanisms (see the box below for an example). Instead of the "totals" of non-reported accounts, this table requires details about accounts held by each type of non-reporting FI, and by the type of reporting FI (e.g. depositary institution), that holds either excluded accounts, or undocumented accounts, etc.

B. Not reported accounts by type of FI			**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
B.1 Accounts held in non-reporting FIs	Governmental entity, Central Bank, Int'l org				
	Participation retirement funds + qualified credit card issuer				
	Entity that presents low risk of tax evasion *				
	Exempt Collective Investment entity				
	Trust with reporting trustee				
	Investment entity not considered FI because managed by an individual *				
B.2 Accounts held in reporting-FIs	Depositary FI	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			
	Custodial FI	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			
	Investment Entity (a)	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			
	Investment Entity (b)	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			
	Insurance Company	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			

Statistics Clue 3: Increasing number of non-reportable accounts

Example. The previous statistics table and Clue 2 showed that Jurisdiction X may be offering avoidance strategies to hold accounts in Jurisdiction X's non-reporting FIs. However, there are many types of non-reporting FIs. Which are being exploited? The descriptive table of 7.1.2.2 provides the answer. While accounts held in all other non-reporting FIs stayed the same, accounts held in "entities that present low risk of tax evasion" increased, accounting for the 10% annual growth in accounts held in non-reporting FIs. Jurisdiction X can now check the list of these entities and conduct audits to determine what is going on and how they are being abused for non-reporting.

7.1.2.2.a) No reporting by reporting-FIs: Excluded Accounts

This sub-section provides more details about excluded accounts. The previous tables focused on the total value of excluded accounts held in reporting FIs, by type of reporting FI. This table focuses on the type of excluded account. This allows identification of avoidance not by choosing the type of FI, but by choosing the type of excluded account (see an example in the box below).

B.2 Not reported accounts held in Reporting-FIs because the account is an excluded account, specifically:	**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Retirement and pension accounts			
Non-retirement tax-favoured accounts			
Term life insurance contracts			
Estate accounts			
Escrow accounts			
Depository Accounts due to not-returned overpayments			
Low-risk excluded accounts *			
Insurance contracts prevented by law from being sold to non-residents *			
Pre-existing entity accounts with balance below USD 250.000 *			

In addition, since the threshold of USD 250.000 for pre-existing accounts is one of the easiest loopholes to exploit, countries should publish statistics comparing the number of entity accounts with a balance below USD 250.000 existing before 2014 (when the CRS was published) and being opened every year since 2014 until the cut-off date chosen by each jurisdiction. For example, Switzerland when engaging in AEOI with Argentina, will consider an account as pre-existing if it is opened before December 31st of 2017. Therefore, Switzerland should publish the number

of entity accounts with a balance below USD 250.000 available before 2014 and until 2018, to see if they increased as an avoidance strategy.

Statistics Clue 4: Increasing number of excluded accounts

Example. Jurisdiction Z has a different problem. Its table 7.1.2.2 shows that excluded accounts kept increasing for years 2017, 2018 and 2019 especially in depositary and custodial financial institutions. However, there a lot of accounts to check because most of them are held in depositary and custodial institutions. Fortunately, table 7.1.2.2.a) shows that it is not all excluded accounts that are being abused, but only "estate accounts". Authorities may not audit how estate accounts are being exploited for non-reporting.

7.1.2.2.b) No reporting by reporting-FI: Non-reportable persons

This sub-section is the same as last one, but provides more details about non-reportable persons (instead of about excluded accounts, like last table). The previous tables focused on the total value of accounts held by non-reportable persons in reporting FIs, and by type of reporting FI. This table focuses on the type of non-reportable person. This allows identification of avoidance not by choosing the type of FI, but by choosing the type of non-reportable person (see an example in the box below).

B.2 Not reported accounts held in Reporting-FIs because the account holder is a non-reportable person, specifically:		**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Listed corporation and related corporations *				
Government entities				
Int'l organisation				
Central Bank				
Financial Institution *	To avoid duplication[70]			
	Not to avoid duplication[71] (this information will not be reported at all)			
Local (resident) account holder				
Trust without residence for tax purposes*				

[70] The account holder is a reporting FI that will do the reporting

[71] The account holder is not a reporting FI, but being an FI, the CRS considers it with low risk of tax evasion

Statistics Clue 5: Increasing number of accounts held by non-reportable persons

Example. Jurisdiction Q has a different problem. Its table 7.1.2.2 shows that accounts held by non-reportable persons kept increasing for years 2017, 2018 and 2019 in all types of reporting FIs. However, there a lot of accounts to check. Fortunately, table 7.1.2.2.b) shows that it is not all non-reportable persons that are problematic, but only accounts held by "other financial institutions which are not reported to avoid duplication". Problematically, those "other financial institutions" are not doing any reporting either. Authorities may now impose sanctions against them.

7.1.2.2.c) No reporting by reporting-FI: Undocumented accounts

This sub-section is similar to the last two, but provides more details about undocumented accounts (instead of about excluded accounts and non-reportable persons, like last tables). Undocumented accounts will be either partially reported or not reported at all, so they could also be exploited as an avoidance mechanism (see an example in the box below). The previous tables focused on the total value of undocumented accounts held in reporting FIs, and by type of reporting FI. This table focuses on the type of undocumented account. This allows identification of avoidance not by choosing the type of FI, but by choosing the type of undocumented account.

The first following table refers to "absolute" undocumented accounts, where no information will be reported at all, either because the account holder's residence could not be determined (so there is no jurisdiction to send the information to), or because the controlling person could not be identified and where the Passive NFE holding the account is not-resident in a participating jurisdiction. In the latter case, information will not be reported at the controlling person level (because they were not identified) nor at the entity level, because the Passive NFE is not resident in a participating jurisdiction.

B.2 Not reported accounts held in Reporting-FIs	**Absolute Undocumented Accounts**					
	Unidentified residence			**Unidentified controlling person of Passive NFEs not-resident in a participating jurisdiction (accounts not reported at all)**		
	Total Number of Accounts	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**	**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Depositary						
Custodial						
Investment entity (a)						
Investment entity (b)						

Insurance company						

The second table is for "partially" undocumented accounts, where the controlling persons were not identified, but the account was – at least – reported at the entity level, because the Passive NFE was resident in a participating jurisdiction.

B.2 Not reported accounts held in Reporting-FIs	**Partial Undocumented Account: Unidentified controlling person of Passive NFEs resident in a participating jurisdiction (accounts already reported at the entity level)**		
	Total Number of Accounts	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Depositary			
Custodial			
Investment entity (a)			
Investment entity (b)			
Insurance company			

Statistics Clue 6: Stable numbers of undocumented accounts

Example. Jurisdiction X has a very high number of undocumented accounts. These are accounts where both no residence was identified, and also accounts where no controlling person was identified. Numbers have remained the same after 2020. Jurisdiction X's financial institutions are clearly not doing enough to identify undocumented accounts. This jurisdiction should be considered non-compliant with the CRS.

7.1.3 Audits and Sanctions imposed

This section is not based on CRS data, but on enforcement measures taken by each jurisdiction. In order to track compliance, countries should publish statistics on audits and sanctions imposed for non-compliance.

Enforcement by reporting FIs	**On-site Audits**		**Other Audits**		**Sanctions**	
	Original	**Follow-up**	**Original**	**Follow-up**	**Value (USD)**	**Prison Term (number of cases)**
Depositary						
Custodial						
Investment entity (a)						

Investment entity (b)						
Insurance company						

Statistics Clue 7: Lack of effective enforcement

Example. Jurisdiction S has conducted no on-site audits. In addition, sanctions are scarce and refer only to low value fines. This jurisdiction has a problem with no-reporting regarding excluded accounts which increased year after year. This table shows that authorities are not serious about enforcement. The CRS is failing because of this jurisdiction. It should be blacklisted.

7.2 Detailed country level statistics for ensuring compliance and enforcement of the CRS

While some avoidance mechanisms may be identified through the statistics explained above, discovering other avoidance techniques requires more granular statistics.

The best result would be achieved if financial centres (where most foreigners keep their money) were required to apply the wider-wider approach. It would also be necessary for FIs to indicate which information is duplicated, e.g. because the whole account value is allocated to each account holder of a joint account, or an account with many controlling persons.

7.2.1. Accounts held by country of residence, specified by type of reporting FI: Totals

At the very least, each financial centre (e.g. Switzerland), should publish the aggregate value held by country of origin, specifying in which type of reporting FI the financial accounts are held. As Figure 1 above shows, authorities will already hold all of this information when compiling and sorting all the data received by the FIs. Authorities simply need to calculate and publish the totals by country of origin. This will provide invaluable basic information for civil society and countries not party to the CRS, to find out where each country's residents hold their money, and in what type of investment (savings accounts in depositary institutions, securities in custodial institutions, equity in investment entities, or in insurance companies).

For example, one of Ecuador's ministers[72] found out using the Bank of International Settlement (BIS)'s data where Ecuadorians hold their assets abroad, which was mainly in the U.S. and Panama. While BIS data is very limited, because among other things, it does not describe the deposits of Ecuadoreans held indirectly via

[72] Presentation during conference on tax havens organized by Ecuador's Foreign Minstry and Latindadd on February 13-14th of 2017, in Quito's Foreign Ministry.

tax haven entities, it shows a floor value of deposits. Based on this, Ecuador[73] will now try to join the Multilateral Tax Convention. It has also tried to sign exchange of information agreements with countries like Panama, but the latter has refused to sign one[74].

A. Account holder's jurisdiction of residence	[Switzerland]'s reporting FIs	Total Accounts (Individual + Entity)	
		Value (USD)	Income (USD)
Argentina	Custodial Institutions		
	Depositary Institutions		
	Investment Entities (a)		
	Investment Entities (b)		
	Insurance Companies		
	Total		
Austria	Custodial Institutions		
	Depositary Institutions		
	Investment Entities (a)		
	Investment Entities (b)		
	Insurance Companies		
	Total		
(Every country)			

Statistics Clue 8: Totals held in each financial centre

Example. Argentina will have to wait until 2019 to receive information from Switzerland. However, if Switzerland published these statistics earlier, Argentina could find out now how much money in total is held in Switzerland by Argentines, and compare this with money declared to be in Switzerland according to tax returns filed by Argentines. Then, authorities will know how much under-reporting is taking place. Using this table, Argentina could for instance also find out that most money is held in Custodial accounts, so it will focus its resources to find out more information about this, instead of wasting resources in other types of FIs such as insurance companies where Argentines hardly have any money invested.

[73] Email communication with Ecuador's Minister on February 13th, 2017.
[74] http://www.centralamericadata.com/es/article/home/Conflicto_Panam__Ecuador_por_informacin_fiscal; 20.2.2017.

7.2.2 Accounts held by country of residence, specified by type of reporting FI: Individual account holders

The following table is based on the table above of totals, but in this case it focuses specifically on individuals. It also provides more details, such as median account value and income and the total number of accounts, to know whether few individuals from a country hold most of the money or whether many people hold relatively small accounts.

The blue columns should be published only the first time, and would show the annual number of accounts opened and closed between 2013 and 2015. These years are relevant to track any changes between 2013 (before the CRS was published when no one had any reason to move their accounts), 2014 (when the CRS was first published and individuals seeking to conceal assets knew what information would be exchanged) and 2015 (when more details of the CRS were disclosed, including more time to rearrange someone's accounts). For instance, statistics could show that individuals resident in country D closed their accounts in financial centre A in 2014 and opened them in financial centre B in 2014 or 2015, etc. This way, avoidance mechanisms could be identified (the box below provides more examples).

Account holder's jurisdiction of residence	**[Switzerland]'s reporting FIs**	**Accounts according to Account Holder**								
		Individuals								
		Aggregate Value	**Median Account Value**	**Aggregate Income**	**Median Account Income**	**Number of Account Holders**	**Number of Accounts**	**Number of Accounts closed**	**Accounts […] between 2013 & 2015**	
									Opened	**Closed**
Argentina	Custodial Institutions									
	Depositary Institutions									
	Investment Entities (a)									
	Investment Entities (b)									
	Insurance Companies									
	Total									
[All other jurisdictions]	…									

Two additional columns could be added to indicate the number of accounts that were not subject to AML/KYC and where no TIN has been collected.

Statistics Clue 9: Totals held by individuals

Example. Argentina can compare information held by individuals based on the statistics published by three countries: S, G and L. The case of L is very interesting because only one individual with one account holds USD 10.000 in that country. Authorities will use resources to find out who this person is. The other statistics are useful when combining information. Statistics from countries A and G show that many Argentines hold accounts there and most of them with similar account value. However, statistics for years 2017-2018 reveal that accounts held in country G decreased 10% per year, while accounts held in country S increased. Even if Argentina does not receive information from either country G or S, it may assume that Argentines are closing their accounts in country G and taking their money to country S. Now it can focus its efforts on avoidance mechanisms available in country S and try to sign an agreement with country S to obtain information from them.

7.2.3 Accounts held by country of residence, specified by type of reporting FI: Entity account holders

The same table applied to individuals would also apply to entity account holders. However, an additional column could be added to describe the type of Active NFEs (e.g. holding NFEs, start-ups, etc.) and to find out if either of these are being used as an avoidance mechanism, for example if their values keep increasing compared to pre-CRS times (see box below).

Account holder's jurisdiction of residence	[Switzerland]'s reporting FIs	Accounts according to Account Holder								
		Entities (Active and Passive NFE)								
		Aggregate Value	Median Account Value	Aggregate Income	Median Account Income	Number of Account Holders	Number of Accounts	Number of Accounts closed	Accounts [...] between 2013 & 2015	
									Opened	Closed
Argentina	Custodial Institutions									
	Depositary Institutions									

	Investment Entities (a)									
	Investment Entities (b)									
	Insurance Companies									
	Total									
[All other jurisdictions]	…									

Statistics Clue 10: Totals held by entities

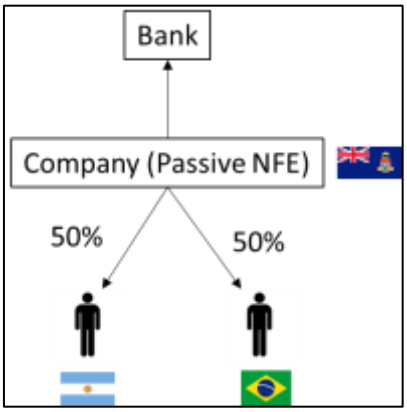
The above example also applies but for accounts held by entities, such as companies or trusts, instead of accounts held by individuals.

7.2.4 Accounts held by country of residence, specified by type of reporting FI: Passive NFEs and Controlling Persons

The same table for individuals and entities should be used for Passive NFEs, with the addition of one column on the list of jurisdictions where any controlling person is resident. This way it will be possible to know which secrecy jurisdictions are being used by individuals to incorporate entities to indirectly hold financial accounts.

For example, this is how an avoidance scheme would appear on the statistics.

Two individuals, one from Argentina and one from Brazil (the controlling persons) incorporate a company in Cayman Islands to hold a bank account in a Swiss bank. This is what Swiss statistics would show:



Account holder's jurisdiction	[Switzerland]'s reporting FIs	Accounts according to Account Holder

of residence		Passive NFE									
		Aggregate Value	Median Account Value	Aggregate Income	Median Account Income	Number of Account Holders	Number of Accounts	Number of Accounts closed	Accounts [...] between 2013 & 2015		List of Jurisdiction where any controlling person is resident
									Opened	Closed	
Argentina	Depositary Institutions										
	...										
Brazil	Depositary Institutions										
	...										
Cayman Isl.	Depositary Institution										Argentina, Brazil
	...										
[All other jurisdictions]											

The same table should be used for Controlling Persons, with the addition of one column on the list of jurisdictions where any Passive NFE is resident. This will allow cross-checking with the previous table.

Account holder's jurisdiction of residence	[Switzerland]'s reporting FIs	Accounts according to Account Holder									
		Controlling Person									
		Aggregate Value	Median Account Value	Aggregate Income	Median Account Income	Number of Account Holders	Number of Accounts	Number of Accounts closed	Accounts [...] between 2013 & 2015		List of Jurisdiction where any Passive NFE is resident
									Opened	Closed	
Argentina	Depositary Institutions										Cayman Islands
	...										
Brazil	Depositary Institutions										Cayman Islands
	...										

Cayman Isl.	Depositary Institution										
	…										
[All other jurisdictions]											

Statistics Clue 11: Tax havens or secrecy jurisdictions chosen to incorporate offshore entities

Example. Both 7.2.4 tables show information at the beneficial owner level. Both tables are used to cross-check information. The example of tables 7.2.4 shows that a country like Argentina may find out where and how much money their individuals hold abroad, not directly, but indirectly (as the beneficial owners of companies or trusts). However, both tables also reveal which jurisdictions are chosen by Argentines to create offshore companies and trusts with which to hold their financial accounts. Argentina can now focus on obtaining information or preventing Argentines from using companies from those tax havens or secrecy jurisdictions. In addition, civil society and international organisations will know which are the top tax havens chosen by most of the world to create offshore companies and trusts. This will lead to pressure for more transparency in those countries.

8. Conclusions

AEOI is an important step towards transparency. For the first time, many countries will start obtaining information about all of their residents' offshore holdings. Nevertheless, several loopholes with respect to non-reporting financial institutions, excluded accounts and non-reportable persons will allow tax dodgers to keep escaping transparency. In addition, the benefits of AEOI will only begin for developed countries (e.g. the EU) which have the highest number of AEOI relationships. Other countries (rejected under the MCAA's 'dating system') will not be able to receive as much, and many developing countries unable to join the CRS yet, will not be able to receive anything at all. Civil society will face the same problem, making it impossible to hold authorities to account.

It is thus essential to have robust public statistics on the information being collected (not only on information being exchanged with participating jurisdictions, but also on collected data about account holders resident in "non-participating jurisdictions", such as residents in most low income developing countries). Statistics on this and on information that will not be reported (e.g. on excluded accounts), will be the only way to ensure compliance and effectiveness of the CRS. The errors of the 2009/2010 peer review process should be avoided by the Global Forum, which dispensed at that time with the idea of the inclusion of robust statistical disclosure, possibly upon pressure from certain OECD member states.

As a result, trust in the performance of the "upon request" information exchange regime has been undermined.

In order to ensure the sustainability of the CRS information exchange regime, it is vital for the Global Forum to provide bold leadership in the adoption of a compulsory template for comprehensive, comparable, detailed and robust statistics, which must be published annually by any jurisdiction in order to be treated as a participating jurisdiction.

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Annex: Statistics Template

	Total Number of Accounts	Total Value of Accounts (USD)	Central Bank's statistics on total value (USD)
A. Reported accounts			
B. Not reported accounts (Total)			
Sum A + B		compare ↔	

B. Not reported accounts		Total Number of Accounts	Total Value of Accounts (USD)	Total Income of Accounts (USD)
B.1 Accounts held in non-reporting FIs				
B.2 Accounts held in reporting-FIs	Excluded accounts (because of their type, e.g. escrow account)			
	Accounts held by non-reportable persons			
	Absolute Undocumented accounts: (undetermined residence + no controlling person with non-reportable Passive NFE)			

B. Not reported accounts by type of FI			Total Number of Accounts	Total Value of Accounts (USD)	Total Income of Accounts (USD)
B.1 Accounts held in non-reporting FIs	Governmental entity, Central Bank, Int'l org				
	Participation retirement funds + qualified credit card issuer				
	Entity that presents low risk of tax evasion *				
	Exempt Collective Investment entity				
	Trust with reporting trustee				
	Investment entity not considered FI because managed by an individual *				
B.2 Accounts held in	Depositary FI	Excluded accounts			
		Non-reportable persons			

reporting-FIs		Absolute Undocumented accounts			
	Custodial FI	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			
	Investment Entity (a)	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			
	Investment Entity (b)	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			
	Insurance Company	Excluded accounts			
		Non-reportable persons			
		Absolute Undocumented accounts			

B.2 Not reported accounts held in Reporting-FIs because the account is an excluded account, specifically:	**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Retirement and pension accounts			
Non-retirement tax-favoured accounts			
Term life insurance contracts			
Estate accounts			
Escrow accounts			
Depository Accounts due to not-returned overpayments			
Low-risk excluded accounts *			
Insurance contracts prevented by law from being sold to non-residents *			
Pre-existing entity accounts with balance below USD 250.000 *			

B.2 Not reported accounts held in Reporting-FIs because the account holder is a non-reportable person, specifically:		**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Listed corporation and related corporations *				
Government entities				
Int'l organization				
Central Bank				
Financial Institution *	To avoid duplication[75]			
	Not to avoid duplication[76] (this information will not be reported at all)			
Local (resident) account holder				
Trust without residence for tax purposes*				

B.2 Not reported accounts held in Reporting-FIs	**Absolute Undocumented Accounts**					
	Unidentified residence			**Unidentified controlling person of Passive NFEs not-resident in a participating jurisdiction (accounts not reported at all)**		
	Total Number of Accounts	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**	**Total Number of Accounts**	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Depositary						
Custodial						
Investment entity (a)						
Investment entity (b)						
Insurance company						

B.2 Not reported accounts held in Reporting-FIs	**Partial Undocumented Account: Unidentified controlling person of Passive NFEs resident in a participating jurisdiction (<u>accounts already reported at the entity level</u>)**		
	Total Number of Accounts	**Total Value of Accounts (USD)**	**Total Income of Accounts (USD)**
Depositary			
Custodial			

[75] The account holder is a reporting FI that will do the reporting

[76] The account holder is not a reporting FI, but being an FI, the CRS considers it with low risk of tax evasion

Investment entity (a)			
Investment entity (b)			
Insurance company			

Enforcement by reporting FIs	**On-site Audits**		**Other Audits**		**Sanctions**	
	Original	**Follow-up**	**Original**	**Follow-up**	**Value (USD)**	**Prison Term (number of cases)**
Depositary						
Custodial						
Investment entity (a)						
Investment entity (b)						
Insurance company						

A. Account holder's jurisdiction of residence	**[Switzerland]'s reporting FIs**	**Total Accounts (Individual + Entity)**	
		Value (USD)	**Income (USD)**
Argentina	Custodial Institutions		
	Depositary Institutions		
	Investment Entities (a)		
	Investment Entities (b)		
	Insurance Companies		
	Total		
Austria	Custodial Institutions		
	Depositary Institutions		
	Investment Entities (a)		
	Investment Entities (b)		
	Insurance Companies		
	Total		
(Every country)			

Account holder's jurisdiction of residence	[Switzerland]'s reporting FIs	Accounts according to Account Holder								
		Individuals								
		Aggregate Value	Median Account Value	Aggregate Income	Median Account Income	Number of Account Holders	Number of Accounts	Number of Accounts closed	Accounts [...] between 2013 & 2015	
									Opened	Closed
Argentina	Custodial Institutions									
	Depositary Institutions									
	Investment Entities (a)									
	Investment Entities (b)									
	Insurance Companies									
	Total									
[All other jurisdictions]	…									

Account holder's jurisdiction of residence	[Switzerland]'s reporting FIs	Accounts according to Account Holder								
		Entities (Active and Passive NFE)								
		Aggregate Value	Median Account Value	Aggregate Income	Median Account Income	Number of Account Holders	Number of Accounts	Number of Accounts closed	Accounts [...] between 2013 & 2015	
									Opened	Closed
Argentina	Custodial Institutions									
	Depositary Institutions									
	Investment Entities (a)									

	Investment Entities (b)									
	Insurance Companies									
	Total									
[All other jurisdictions]	…									

Account holder's jurisdiction of residence	**[Switzerland]'s reporting FIs**	**Accounts according to Account Holder**									
		Passive NFE									
		Aggregate Value	**Median Account Value**	**Aggregate Income**	**Median Account Income**	**Number of Account Holders**	**Number of Accounts**	**Number of Accounts closed**	**Accounts […] between 2013 & 2015**		**List of Jurisdiction where any controlling person is resident**
									Opened	**Closed**	
Argentina	Depositary Institutions										
	…										
Brazil	Depositary Institutions										
	…										
Cayman Isl.	Depositary Institution										
	…										
[All other jurisdictions]											

Account holder's jurisdiction of residence	[Switzerland]'s reporting FIs	Accounts according to Account Holder									
		Controlling Person									
		Aggregate Value	Median Account Value	Aggregate Income	Median Account Income	Number of Account Holders	Number of Accounts	Number of Accounts closed	Accounts [...] between 2013 & 2015		List of Jurisdiction where any Passive NFE is resident
									Opened	Closed	
Argentina	Depositary Institutions										
	...										
Brazil	Depositary Institutions										
	...										
Cayman Isl.	Depositary Institution										
	...										
[All other jurisdictions]											