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CRS: Be ready for July 1st, 2017

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CRS entry into force: July 1st, 2017

The Common Reporting Standard ("**CRS**") will impose new obligations on financial institutions, including investment funds, as of July 1st, 2017. These rules are an addition to the existing *Foreign Account Tax Compliance Act* ("**FATCA**"), which applies to Canadian investment funds. The entry into force of the CRS means that, as of 2018, at the time of reporting, any investment fund that does not comply with its due diligence and reporting obligations regarding a reportable account it maintains might be subject to penalties.

New guides from the Canada Revenue Agency

Guidance on the CRS
Guidance on the FATCA
Self-certification forms
- for entities: **English** and **French**
- for individuals: **English** and **French**

The Canada Revenue Agency ("**CRA**") recently published new guidance that aims to assist financial institutions in complying with the obligations under the FATCA and the CRS.

Here is an overview of the new measures that will be put in place and of recent publications by the CRA.

CRS

Canada signed the *Multilateral Competent Authority Agreement* ("**MCAA**") on automatic exchange of information on June 2nd, 2015. Through this agreement, Canada committed to implement the CRS. The purpose of the CRS is to make tax avoidance more complex for taxpayers. It advocates for international cooperation through the establishment of a system for the automatic transmission of tax information among the countries which adhere to it. In Canada, the implementation of this standard will be accomplished by way of an amendment to the *Income Tax Act*.[1] This amendment will come into force on July 1st, 2017.

In general terms, the CRS requires financial institutions to disclose certain information to the CRA regarding account holders or beneficial owners who are residents of foreign countries. The CRA will in turn transmit this information to the countries concerned and ensure that the taxes owed to these countries are paid. The CRS defines the due diligence procedures that must be put in place, the financial institutions that have to report, the different types of accounts to report, the taxpayers

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concerned, and the financial account information to be exchanged. The CRS draws significantly from the FATCA.[2]

Due diligence

The due diligence procedure requires financial institutions, including investment funds, to identify reportable accounts by collecting information about account holders. The main objective of this procedure is to determine the tax residency of the account holders and their beneficial owners.

Financial institutions are required to collect indicia linked to account holders and request account holders to self-certify their residence status. Any entity or individual who wishes to open an account after June 30th, 2017, and even before, will have to give this information to the investment fund in order to proceed with the opening of the account and the investment.

Reporting

Every financial institution, including every investment fund, will have to report to the CRA the required information on reportable accounts collected during the due diligence procedure. The reporting is done electronically. General information such as the name, address, foreign taxpayer identification number, jurisdiction, and birth date of the holder will be reported to the CRA if the account is classified as a reportable one. Institutions will also have to communicate the account balance, at the end of the year, and the payments made during the year.

This information will be sent directly by the CRA to the tax authorities in the country of residence of the account holder or of the beneficial owners.

New publications from the CRA

On March 22nd, 2017, along with the presentation of the 2017 federal budget, the CRA released two new guidance documents, one on the CRS and one on the FATCA, intended for financial institutions. In addition to the guidance documents, the CRA also introduced new online self-certification form templates that can be used by financial institutions in order to ensure that they have obtained all the necessary information to comply with the standards. The use of these forms is not mandatory, but it is recommended by the CRA. Institutions that make the decision to continue using their own forms or the American W8 forms will need to ensure that they meet all their obligations and that their forms allow the collection of all necessary information and attestations from account holders.

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1. *Income Tax Act*, R.S.C. (1985), c. 1 (5th Supp.), section XIX.
2. www.lavery.ca/en/publications, see our newsletter *Lavery Capital*, No. 4, April 2015.

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