

COMMON REPORTING STANDARD (CRS) AND FATCA AT KATHREIN PRIVATBANK AKTIENGESELLSCHAFT

Common Reporting Standards (CRS)

What is the Common Reporting Standard (CRS)?

In 2014 the Organisation for Economic Cooperation and Development (OECD) published a global Standard for the Automatic Exchange of Financial Account Information. The so-called Common Reporting Standard (CRS) constitutes a regulatory reporting requirement for Financial Institutions seated in participating jurisdictions (currently more than 100 jurisdictions) and pursues the aim to avoid tax evasion.

In December 2014, the CRS was implemented in the EU-Directive on Administrative Assistance in Tax Matters. Due to that European Member States were obligated to implement the provisions into national law. In Austria this Standard was implemented into national law with the "Gemeinsamer Meldestandard-Gesetz" (GMSG) on 14 August 2015.

Customer Identification, Documentation and Reporting Obligation of Austrian FIs

According to the provisions set forth in the GMSG Financial Institutions seated in Austria are obligated to implement appropriate measures to identify their customer's tax residence (relevant customers are private individuals, entities and under certain circumstances controlling persons) and the Tax Identification Number of the respective jurisdiction of tax residence. Financial Institutions are further required to report financial accounts maintained by customers who are resident for tax purposes in a participating jurisdiction to the national tax authority which again may exchange the information with the tax authorities of another country or countries in which the customer (or in certain cases the controlling persons) may be tax resident.

Reportable Data according to CRS/GMSG

The report of financial accounts includes certain data about the account holder (in certain cases also about the controlling person) as well as data about the account.

According to the provisions of the GMSG the following information has to be reported to the tax authority:

- Name and address
- Jurisdiction(s) of Residence
- Tax identification number(s)
- Date and place of birth (for natural persons)
- Information as to whether the account holder has submitted a valid self-declaration
- Accounts and transaction information
 - account number(s) for savings, depository, current and custodial accounts
 - account balances or values as of the end of the calendar year or the closure of the account
 - the total gross amount of income, dividends or other income generated with respect to the assets held in the account, as well as total gross proceeds from the sale or redemption of financial assets, in each case paid or credited to the account during the calendar year or other reporting period.

In the case of entities, additionally <regarding the controlling person(s) of the entity, identified in accordance with the provisions of the GMSG:

- Name and address
- Jurisdiction(s) of Residence
- Tax Identification Number(s)
- Date and place of birth
- the function(s) by virtue of which a reportable person is a controlling person of the legal entity, and
- whether a valid self-declaration has been submitted for each reportable person.

Furthermore, it must be reported whether the account is a joint account, including the number of joint account holders.

Not reportable “excluded” accounts

In this regard the legislator has also defined certain exemptions in § 87 GMSG as well as in § 2 of the [Verordnung zur Durchführung des Gemeinsamer Meldestandard-Gesetzes](#) for accounts which are no reportable financial accounts.

Non reportable persons

Furthermore, an exemption exists for specific customers who are not defined as “reportable persons” according to § 89 GMSG. These are Financial Institutions, Governmental Entity, International Organizations, Central Banks, Corporations the stock of which is regularly traded on one or more established securities markets (or a related entity thereof).

Austria committed to participate in the OECD Automated Exchange Of Information (AEOI) and to implemented CRS in local jurisdiction

Starting on 1 October 2016 Financial Institutions seated in Austria are obligated to implement procedures and measures in order to meet the due diligence obligations according to GMSG. Hence all customers who want to open a new account are required to provide a reasonable Self-Certification to determine their tax residence(s) and their respective Tax Identification Number(s). Under certain circumstances also for Pre-existing Accounts/Pre-existing Customers that do not open a new account are also required to provide a reasonable Self-Certification in order to clearly determine their tax residence(s) and their Tax Identification Number(s). In general, the necessary TIN information to be provided by the customer correlates with the unlimited income tax liability of the tax resident in the country of tax residence.

Mandatory Self-Certifications for all (new) Accounts/Customers

It should be pointed out that the obligation to provide a reasonable Self-Certification applies for all customers, irrespective of their tax residence, thus, also for customers who are exclusively tax resident in Austria. If customers are unsure about their tax residence(s), they should consult their tax adviser in order to clarify their residence(s) for tax purposes. Moreover, customers may also consult certain information centers of the Austrian tax authority. It is important to emphasize that Financial Institutions are prohibited from providing any tax or legal advice.

Further information about the OECD Common Reporting Standard can be found on the Automatic Exchange Portal of the OECD.

CRS-Forms:

- Self-Certification for private individuals and sole traders for CRS and FATCA
- Self Certification for entities

Furter Documents and Links:

- [Gemeinsamer Meldestandard-Gesetz \(GMSG\)](#)
- [Durchführungsverordnung zum Gemeinsamen Meldestandard-Gesetz](#)
- [OECD Standard for the Automatic Exchange of Financial Account Information](#)
- [TIN \(Tax Identification Number\)](#)
- [Online Check for TINs](#)
- [Countries that decided to implement CRS](#)

Foreign Account Tax Compliance Act (FATCA)

FATCA is essentially a regulatory reporting requirement for foreign financial institutions on their US account holder base. Kathrein complies with the FATCA requirements and has registered itself on the U.S. IRS website with the FATCA Status "Reporting Financial Institution under a Model 2 IGA" and has received "28CWN4.00001.ME.040" as Global Intermediary Identification Number (GIIN).

Customers with links and/or indicia to the US must either submit US Form W9 and a 'Consent to Report' to Kathrein, or US Form W8-BEN to formally declare that they are not liable for income tax in the US.

Customers with US owners who act predominantly as investors (foundations, venture capital firms, etc.) must also be reported. Reports submitted by the bank do not exempt the customer from the obligation to file a tax return with the IRS, where required.

Customers subject to US tax liability are, in principle, those with

- US citizenship
- US as their country of birth
- US as their principal place of residence
- US tax liability for any other reason

FATCA-Forms:

- W-9
- W-8BEN
- W-8BEN-E
- W-8IMY
- Consent to Report (waiver banking secrecy)

Additional Information

- [US-Tax Administration IRS - FATCA](#)