

## Automatic Exchange of Information (AEOI) under the OECD Common Reporting Standard: Operational impact and management of complexity

### Introduction

In this newsletter we will focus on the operational impact of the new standard and highlight possible courses of action to manage the resulting complexity.

In September 2014 the new 'Standard for Automatic Exchange of Financial Account Information', which was developed by the Organization for Economic Cooperation and Development (OECD), was formally endorsed at the ministerial level meeting of the G20 countries. At a meeting of the 'Global Forum on Transparency and Exchange of Information for Tax Purposes' at the end of October 2014 in Berlin a total of 93 jurisdictions have committed themselves to implement the new standard. A first group of 56 countries will exchange information beginning from 2017. Switzerland belongs to a 'second wave', the first exchange of information will take place in 2018, under the condition that the implementation of the standard into national law with a potential referendum is concluded in due time.

### AOEI – just one of the regulations to be considered

The OECD-Standard for the AOEI is strongly based on the '**Foreign Account Tax Compliance Act (FATCA/IGA1)**', which the USA have introduced in March 2010. One goal of FATCA is to close loopholes in the '**Qualified Intermediary (QI)**' regulation. The QI-regulation is still in force and has to be observed by the financial services industry. Besides this the introduction of the standard will have an impact on various other regulations and tax treaties:

- **EU savings directive (EUSD):** the EUSD will presumably be abolished with the implementation of the exchange of information. This is also valid for the scheduled extension. The existing EUSD-treaties with non-EU-member will be revised in order to bring them in line with the AOEI. The existing treaties with countries which will implement the AEOI not as early adapters, but only in 2018 (Andorra, Monaco, Switzerland) will remain in force until then.
- **EU directive on administrative cooperation (DAC):** the EU has decided to implement the AEOI with an extension of the existing directive on administrative cooperation. The application of the extended directive (DAC2) will be reconciled with the abolishment of the EUSD.
- **Tax treaties Switzerland/Austria/UK:** since both Austria and the UK will introduce the AEOI, the tax treaties which Switzerland has with these 2 countries will become obsolete. As both treaties have a period of notice of 2 years and can only be cancelled at the end of a calendar year, they will presumably remain in force until the end of 2017.

The impacted financial institutions must therefore deal with the new AEOI-standard and they have to consider the impact on existing regulations and the consequences this may have for their operational business as well. The complexity is further increased by the fact that the new standard has to be applied at different points of time, depending on the location of the financial institution and the domicile of the client.

### Operational impact of the AEOI

In the operational business the standard results in different requirements for the impacted banks and financial institutions. These requirements can be grouped as follows:

- **Identification:** the clients have to be identified in respect to their tax domicile in AEOI-countries. There are no thresholds regarding new clients (contrary to FATCA).
- **Documentation:** the usage of client self-declarations is possible. This is also the case with FATCA but not in the QI-program, where complex IRS-standards have to be respected.

- **Messages:** there will be an automatic exchange of information between the participating countries on the account holders who have their tax domicile in those countries. There is no phased reporting as for example with FATCA.
- **Tax withholding:** the AEOI-standard does not foresee any tax withholding, this contrary to EUSD, QI, FATCA and also the tax treaties Switzerland/Austria/UK.
- **Compliance:** contrary to QI and FATCA, the AEOI-standard does not require a periodic certification of compliance by a 'responsible officer'.

In order to manage these requirements on the operational business and to reduce the resulting complexity, the impacted financial institutions have to identify synergies in different fields of action and try to economize them:

- **Client data:** additionally required client data has to be identified, obtained and recorded. Thereby the banks have to focus on data quality and try to avoid duplicates.
- **IT-systems:** the IT-solutions for the AEOI should ensure a consistent pool of data also in respect to existing regulations and to avoid additional effort, for example for the production of the information exchange messages. Additionally the IT-solution has to meet the requirements concerning data protection and data security. Components that are not used anymore have to be identified and can be decommissioned in a phased approach.
- **Business processes:** with an efficient client opening process, the required effort for the financial institutions can be substantially reduced. A sophisticated forms and document management can contribute to avoid unnecessary and unproductive contacts with clients. Existing and new services have to be challenged. In those cases where it is not possible to forgo a service (eg: production of AEOI-messages), a 'Make or Buy' decision has to be made.
- **Governance and Compliance:** clear definitions can help to avoid 'shared' responsibilities between the different impacted business areas and the complexity will become manageable. Thereby especially the assignment of responsibilities between compliance, tax operations and client relationship management is relevant. Internal control systems have to ensure this.

The next newsletter on the AEOI will deal in more detail with current problems of the AEOI-implementation.

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