

# Common Reporting Standard (CRS) and Foreign Tax Compliance Act (FATCA)

## Frequently Asked Questions

This document contains frequently asked questions and answers relating to the CRS and FATCA. This document is provided to provide general information only regarding the CRS and FATCA. It does not constitute advice of any kind, may not be complete and is subject to change at any time without notice.

### 1. What is the Common Reporting Standard (CRS)?

The CRS is a global standard initiated by the Organisation for Economic Co-operation and Development (b) under the Automatic Exchange of Information (AEOI) for the collection and exchange of information between participating countries. Currently over 100 countries have agreed to implement the standard, including Australia.

### 2. What is Foreign Account Tax Compliance Act (FATCA)?

FATCA is an agreement between Australia and US tax authorities which is now part of Australian Tax Law. FATCA applies to all accounts held outside the US. It is designed to identify and report annually on any accounts held by US Persons or foreign entities that have US Persons as beneficial owners

### 3. Is CRS the same as FATCA?

No. FATCA was implemented by the US government to prevent tax evasion from US persons, whereas CRS was adopted by over 100 governments to essentially satisfy the same objective.

The Australian Government has incorporated both CRS and FATCA requirements into Australian law.

### 4. Who is CRS and FATCA information reported to?

Information that is required to be collected is reported to the Australian Tax Office, who may then exchange or share this information with overseas tax authorities.

### 5. What information are customers required to provide?

Depending on the jurisdiction, customers will generally be asked to provide the following information:

- Name
- Current residence address
- Place and date of birth (for Individual and Controlling Persons)
- Country or jurisdiction of tax residence
- Taxpayer identification number(s) or its equivalents (“TIN”)
- Entity type and place of registration/incorporation (for Entities)
- Controlling Person Type for certain Entity Types (for Controlling Persons)

### 6. Why do customers have to confirm their jurisdiction(s) of tax residency?

Under the CRS, tax authorities require SILC to obtain and report certain information relating to their customers' tax statuses. SILC will ask customers purchasing certain products (such as income protection, savings, and retirement products) or with a change in circumstances (such as a move to another country / jurisdiction) to certify a number of details in a process called self-certification.



## 7. How is the information required for CRS captured?

Customers are required to complete a self-certification. Self-certifications may be part of the account opening documents or a separate form and will vary by whether customers are an entity or individual.

The CRS forms will collect details such as jurisdiction of tax residence, TIN and entity type.

## 8. When does a CRS self-certification have to be completed?

New customers will complete a CRS self-certification before an application to invest can be accepted. Existing customers will be required to complete a similar CRS self-certification in certain circumstances (e.g. ownership change, tax residency change, or change in personal particulars) at a later stage where we have insufficient information to establish whether a customer is a non-reporting person.

## 9. What constitutes a 'Change in Circumstances'?

A 'Change in Circumstances' includes:

- Any change that results in the addition of information relevant to the client's status or otherwise conflicts with such client's status.
- Any change or addition of information to the client's account (including the addition, substitution or other change of an account holder)
- Any change or addition of information to any account associated with such account, if such change or addition of information affects your client's status

Please note that if there is any such change in circumstances as described above, or any change in circumstance of the investor or client that may lead you to know, or have reason to know, that the self-certification can no longer be relied on, you must advise SILC immediately and obtain a new self-certification from the investor.

## 10. Who is a Beneficial Owner?

A beneficial owner is an individual who ultimately owns or controls an entity such as a company trust or partnership directly or indirectly.

'Owns' in this case means owning 25 per cent or more of the entity. This can be directly (such as through shareholdings) or indirectly (such as through another company's ownership or through a bank or broker or Trust) that collective equals to 25 per cent.

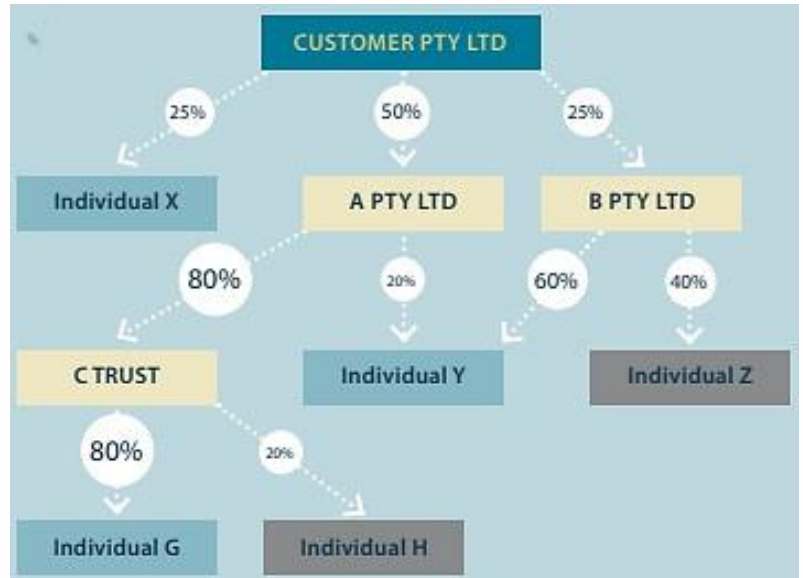
'Controls' in this case means having the power to make decisions about the entity's finances and operations. They may exert control through trusts, agreements, arrangements, understandings, policies or practices.

Example: Determining Beneficial Owner

Individual X is a beneficial owner because they directly own 25% of CUSTOMER PTY LTD.

Individual G is a beneficial owner because they hold 80% of the units in C TRUST (a unit trust) which in turn owns 80% of A PTY LTD, which owns 50% of CUSTOMER PTY LTD (meaning Individual G has an indirect  $.8 \times .8 \times .5 = 32\%$  ownership of CUSTOMER PTY LTD)

Individual Y is a beneficial owner because they have two interests that collectively amount to an indirect 25% of CUSTOMER PTY LTD:



- The first is their 20% interest in A PTY LTD, which owns 50% of CUSTOMER PTY LTD (providing an indirect  $20\% \times 50\% = 10\%$  ownership of CUSTOMER PTY LTD).
- The second is their 60% interest in B PTY LTD, which owns 25% of CUSTOMER PTY LTD (providing an indirect  $60\% \times 25\% = 15\%$  ownership of CUSTOMER PTY LTD).
- Adding these together, Individual Y has a  $10\% + 15\% = 25\%$  interest in CUSTOMER PTY LTD.

## 11. How is tax residence defined?

A person's tax residence is defined by having regard to jurisdiction-specific laws and individual / entity circumstances. Customers are advised to contact their tax advisor as SILC does not give tax or legal advice.

For further information on your tax residency, please refer to the [rules governing tax residence](#) that have been published by each national tax authority. You can also find out more at the [OECD Automatic Exchange of Information portal](#).

## 12. What is a Taxpayer identification number ("TIN") and how can I find mine?

A taxpayer identification number ("TIN") or its equivalent is a unique number typically issued to a customer by a tax authority. Some jurisdictions do not issue TINs, and other jurisdictions accept functional equivalents such as national identification numbers or similar unique identifiers as valid entries on the CRS self-certification.

## 13. How often will this information be requested?

Once a valid and complete self-certification on file, a new self-certification will only be required when certain information on a client account is updated or there is reason to believe the investor's reportable status may have changed.

## 14. What happens if this information is not provided?

Please ensure that you provide true, complete and accurate information and seek advice from an independent advisor where required to assist with your Tax Residency or other relevant information. Please note that penalties may apply under local and other laws if you provide false or misleading information.

If a client with an existing account refuses to complete the forms, or cannot be contacted for practical reasons by the relevant required monthly due date, you must continue to seek confirmation of your client's foreign tax residency status.

If you are unsuccessful in confirming this information then penalties may apply to the client by the ATO. You must inform SILC of this refusal and we may require further information from you or provide you with further instructions. To the extent any foreign tax residency for the client has been identified, this may be reported to the ATO.

**15. What information is shared with the tax authorities?**

SILC will provide the legally required information to the tax authorities, including information in the CRS self-certification and details about products and policies a customer holds with SILC, such as their balances or values and the total amount of interest or payments credited.

**16. Why does SILC ask for a CRS self-certification even if a customer lives in the same jurisdiction they are paying taxes in?**

SILC must establish, maintain and apply CRS due diligence procedures to identify account holders (including controlling persons if the account holder is an entity) who are tax residents in reportable jurisdictions. The CRS self-certification has been determined to be the best way to perform these due diligence procedures.

**17. Why does SILC ask for supporting documents in addition to the CRS self-certification?**

There are certain mandatory CRS due diligence procedures where SILC is required to identify, collect and report information of reportable accounts to tax authorities. As part of this requirement, SILC needs to verify the details provided by customers as part of the CRS self-certification. This verification process could include requiring address proof, copies of passports, past tax returns or other forms of evidence.

**18. What happens if a customer refuses to provide a CRS self-certification?**

New investor or customers

New investor who do not provide, during the onboarding phase, a completed CRS self-certification will not be accepted or processed.

Existing investors/customers

If an existing customer refuses to provide a CRS self-certification, the customer will be deemed a reportable person of the jurisdiction for which he/s holds any indicia such as the provided mailing address

**19. The information that customers are providing is confidential and sensitive. How will SILC protect this information?**

SILC takes information security very seriously and has established policies and procedures to ensure that customer information is properly protected. We also have measures to protect personal information in accordance with existing laws and regulations, including but not limited to controls regarding accessing, storing, processing, transmitting and handling of personal information.

## Glossary of Common CRS and FATCA Terms

Term	Meaning
<b>Active Non-Financial Entity (Active NFE)</b>	<ul style="list-style-type: none"> <li>• Any NFE that meets any of the following criteria:</li> <li>• less than 50 per cent of its gross income and assets are or produce Passive Income; or</li> <li>• it is a Governmental Entity, an International Organisation, a Central Bank or an entity wholly owned by one or more of the foregoing; or</li> <li>• it is a holding NFE that is a member of a nonfinancial group; or</li> <li>• it is a start-up NFE; or</li> <li>• it is an NFE that is liquidating or emerging from bankruptcy; or</li> <li>• it is a Treasury centre that is a member of a nonfinancial group; or</li> <li>• it is a non-profit NFE that meets all of the following requirements:               <ul style="list-style-type: none"> <li>o it is established and operated exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes;</li> <li>o it is exempt from income tax in its country of residence;</li> <li>o it has no members who have a proprietary or beneficial interest in its income or assets;</li> <li>o income and assets must not be distributed to a private person or noncharitable entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property purchased by the NFE; and</li> <li>o upon the NFE's dissolution, all of its assets must be distributed to a Governmental Entity or other non-profit organisation</li> </ul> </li> </ul>
<b>Beneficial Owner</b>	<p>An individual who ultimately owns or controls an entity such as a company trust or partnership directly or indirectly.</p> <ul style="list-style-type: none"> <li>o 'Owns' in this case means owning 25 per cent or more of the entity. This can be directly (such as through shareholdings) or indirectly (such as through another company's ownership or through a bank or broker or Trust) that collective equals to 25 per cent.</li> <li>o 'Controls' in this case means having the power to make decisions about the entity's finances and operations. They may exert control through trusts, agreements, arrangements, understandings, policies or practices.</li> </ul>
<b>Controlling Person</b>	<p>For an Entity that is a legal person, the term Controlling Person means the natural person(s) who exercises a controlling interest ('control') over the relevant entity. Determining control will depend on the legal structure of the entity.</p> <p>Control may be exercised through direct or indirect ownership or if no such person(s) exists, then by any natural person(s) that otherwise exercises control over the management of the Entity (e.g. the senior managing official of the company).</p> <p>Companies: Controlling Persons include any natural person that holds directly or indirectly more than 25 percent of the shares or voting rights of an entity as a beneficial owner.</p> <p>Partnerships: Controlling Person means, consistent with "beneficial owner" in anti-Money Laundering regulations, any natural person who exercises control through direct or indirect ownership of the capital or profits of the partnership, voting rights in the partnership, or who otherwise exercises control over the management of the partnership or similar arrangement.</p> <p>Trust (trust equivalents): Controlling Persons means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other</p>

	natural person(s) exercising ultimate effective control over the trust
<b>Foreign Financial Institution (FFI)</b>	A non-US financial institution. The FATCA legislation contains an extensive definition of FFI and includes entities such as banks, custodian institutions, investment funds and certain types of insurance companies.
<b>Governmental Entity</b>	The government of a jurisdiction, any political subdivision of a jurisdiction (which, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing.
<b>Non-financial foreign entity (NFFE)</b>	A non-US incorporated/established entity that does not meet the definition of an FFI and includes: <ul style="list-style-type: none"> <li>• listed or privately held operating or trading businesses</li> <li>• professional service firms</li> <li>• certain entities with a passive trade (ie, not an operating or trading business)</li> <li>• charitable organisations.</li> </ul>
<b>Passive Income</b>	Passive income would generally include: <ul style="list-style-type: none"> <li>• dividends;</li> <li>• interest;</li> <li>• income equivalent to interest;</li> <li>• rents and royalties, other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the NFE;</li> <li>• annuities;</li> <li>• the excess of gains over losses from the sale or exchange of Financial Assets that gives rise to passive income described above;</li> <li>• the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets;</li> <li>• the excess of foreign currency gains over foreign currency losses; and</li> <li>• net income from swaps.</li> </ul> <p>Where an NFE that regularly acts as a dealer in Financial Assets, any income earned in the ordinary course of such dealer's business is not passive income.</p>
<b>Passive Non-Financial Entity</b>	A Passive NFE means any NFE that is not an Active NFE. A NFE will be deemed a Passive NFE if more than 50% of the NFE's gross income for the preceding calendar year or appropriate reporting period is passive income or the assets held by the NFE during the same period are assets that produce or are held for the production of passive income
<b>Related entity</b>	An Entity is a "Related Entity" of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose, control includes direct or indirect ownership of more than 50 per cent of the vote and value in an Entity.
<b>US Person</b>	<ul style="list-style-type: none"> <li>• a citizen or resident of the United States</li> <li>• a partnership created or organised in the United States or under the law of the United States or of any state, or the District of Columbia</li> <li>• a corporation created or organised in the United States or under the law of the United States or of any state, or the District of Columbia</li> <li>• any estate or trust other than a foreign estate or foreign trust (see Internal Revenue Code section 7701(a)(31) for the definition of a foreign estate and a foreign trust)</li> <li>• a person that meets the substantial presence test</li> <li>• any other person that is not a foreign person (of the United States).</li> </ul>