

Factsheet

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

Frequently asked questions

This document contains frequently asked questions and answers relating to the CRS and FATCA, and is intended for use by customers using the BNZ Client Funds Service (CFS) Product.

Note: For the purposes of this document 'You' refers to the CFS customer who may deposit funds on behalf of their clients (e.g. open, close and manage clients' funds in interest bearing deposit accounts through the CFS product) and holds the banking relationship with BNZ. 'Your client' or 'client' refers to any entity or individual who is the account holder of a Client Account (as defined in the CFS terms and conditions).

Useful links for further information on CRS

- Inland Revenue's [guidance](#) on CRS for automatic exchange of information.
- Inland Revenue website - [CRS webpages](#).
- The OECD's [AEOI Portal](#) provides guidance and implementation assistance.
- OECD website - [OECD Common Reporting Standard](#).
- OECD website - [AEOI Portal TIN](#).

Useful links for further information on FATCA

- Inland Revenue website - [IRD FATCA pages](#).
- IRS website - [IRS website FATCA pages](#).

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| 1 | What is Common Reporting Standard (CRS)? | <p>The CRS is a global standard initiated by the Organisation for Economic Co-operation and Development (OECD) 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 New Zealand.</p> <p>As part of global measures to counter tax evasion, all NZ banks and financial institutions are now required to collect information about customers' foreign tax residency and pass that and other personal and account information onto Inland Revenue, which may then be exchanged with overseas tax authorities.</p> |
| 2 | How do CRS requirements align to the Foreign Account Tax Compliance Act (FATCA)? | <p>The New Zealand Government has incorporated both CRS and FATCA requirements into New Zealand law.</p> |

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| 3 | What is FATCA? | <p>The Foreign Account Tax Compliance Act (FATCA) came into effect on 1 July 2014.</p> <p>FATCA is an agreement between the NZ and US tax authorities which is now part of NZ 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.</p> |
| 4 | When do the CRS requirements come into effect? | <p>The requirement to conduct CRS due diligence on new Client Accounts applies from 1 July 2017.</p> |
| 5 | Who is CRS and FATCA information reported to? | <p>The information collected by BNZ will be reported to New Zealand Inland Revenue, who may in turn share this information with the relevant overseas tax authorities.</p> |
| 6 | What does CRS mean for CFS customers who use the BNZ Client Funds Product? | <p>For the purposes of meeting CRS and FATCA requirements, BNZ requires you to obtain completed and signed FATCA and CRS self-certifications from your clients before you open a new Client Account through the CFS product (unless the Client Account can be treated as an excluded account).</p> <p>You must also complete the Reasonableness Test for any CRS self-certification obtained before opening and depositing funds into the Client Account through the CFS product. Refer to questions 13-15 below for more information about the Reasonableness Test.</p> |
| 7 | What should I do if my client refuses to provide a self-certification and/or answer the questions? | <p>A new Client Account (that is not a pre-existing account or an excluded account) must not be opened if the client refuses to provide a completed and signed self-certification.</p> |
| 8 | What self-certification forms will BNZ accept? | <p>BNZ will accept (in order of preference) the BNZ CRS and FATCA self-certification forms, the NZBA self-certification forms and self-certification forms of major trading banks in New Zealand including ANZ, ASB, Kiwibank and Westpac.</p> |
| 9 | I am a law firm and my customer has already completed the NZ Law Society self-certification forms. What do I need to do? | <p>BNZ isn't able to accept the NZLS self-certification forms, as they do not capture all the required information. We've reviewed the NZLS forms and they may not allow BNZ to meet all of our obligations under FATCA and CRS as some key information is missing. We will only accept BNZ CRS and FATCA self-certification forms, the NZBA self-certification forms and self-certification forms of major trading banks in New Zealand including ANZ, ASB, Kiwibank and Westpac.</p> |
| 10 | Does BNZ require me to retain the hard copy original or a scanned soft copy of the completed and validated self-certification? | <p>Irrespective of how you choose to collect and store the completed self-certifications from the client, it is only a requirement of BNZ that you provide us with copies of these documents if requested and that any electronic copies saved can be easily re-produced by BNZ without compromising the integrity of the data held in its original form.</p> |
| 11 | What will happen if I return the Client Tax Residency Data information in a different format than required by BNZ? | <p>Please follow the instructions outlined in the Client Tax Residency Data Capture process on the CFS customer portal. Please note that data received in an incorrect format may not be accepted and may be returned and requested to be re-submitted in the correct format.</p> |
| 12 | What happens if this information is not provided? | <p>CFS Customers and their respective clients may face penalties under New Zealand law if they provide false or misleading information, fail to provide this information, or fail to provide an update if there is a material change to the information that they have provided.</p> <p>Please refer to Automatic Exchange of Information IR1033 - your obligations if you hold or control financial accounts.</p> |
| 13 | What is a Reasonableness Test? | <p>Reasonableness testing is based on the information obtained in connection with opening the Client Account, including any documentation collected pursuant to Anti-Money Laundering (AML)/Know Your Customer (KYC) procedures.</p> |

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| <p>14 How do I complete a Reasonableness Test?</p> | <p>To complete the Reasonableness Test on your client’s CRS self-certification, you are required to check that:</p> <ol style="list-style-type: none"> 1) all key fields and sections in the form have been completed and that the form has been signed and dated by your client 2) there is no conflicting/inconsistent information within the form 3) there is no conflicting/inconsistent information between the form and documentation collected pursuant to the AML/KYC procedures on your client 4) the Reason Code provided by your client (in the absence of a Taxpayer Identification Number) is valid, by reference to the AEOI Portal TIN page to determine the reasonableness of your client’s claim. |
| <p>15 What should I do if my client fails a Reasonableness Test?</p> | <p>If a self-certification fails the Reasonableness Test, the corresponding Client Account should not be opened unless a new self-certification is obtained or until a reasonable explanation and supporting documentation (as appropriate) is provided.</p> <p>Example reasons for failure of a Reasonableness Test;</p> <p>If there is information on your client’s file (held by you on the system or elsewhere) and/or you have knowledge of your client which conflicts with your client’s self-certification obtained as part of the account opening process, this would constitute ‘reason to know’ that the self-certification is unreliable/incorrect.</p> <p>If a self-certification has failed the Reasonableness Test, you must obtain:</p> <ul style="list-style-type: none"> • a new valid self-certification; or • a reasonable explanation and supporting documentation (as appropriate) supporting the reasonableness of the original self-certification. You should retain a copy or a notation of such explanation and documentation and provide to BNZ, on request. <p>If a valid self-certification or reasonable explanation and supporting documentation (as appropriate) is not held the Client Account must be closed.</p> |
| <p>16 How do I provide evidence that a Reasonableness Test has been conducted?</p> | <p>It is sufficient to manually mark the self-certification form, against the fields as shown in the example screen shot below, to provide evidence of the Reasonableness Test conducted (RT).</p> <p>Use the RT guide on the CFS customer portal and follow the completeness and consistency checks for all fields to support your outcome.</p> <p>A ✓ indicates a satisfactory field</p> <p>A ✗ indicates an unsatisfactory field</p> <div data-bbox="470 1164 1428 1579" style="border: 1px solid #ccc; padding: 10px;"> <p style="text-align: right;">CFS customers only form</p> <h3 style="text-align: center;">Individual tax residency self-certification</h3> <p>All fields marked * are mandatory</p> <p>Section 1: Identification of individual account holder</p> <p>Full legal name*</p> <p>First: James ✓ Date of birth* ✗</p> <p>Middle: Richard ✓ IRD number (NZ only) ✓</p> <p>Last: Donaldson ✓ 1 2 3 4 5 6 7 8 9</p> <p>Physical address*</p> <p>Street address: 23 Bond Street ✓</p> <p>Suburb: Te Aro ✓</p> <p>Town/City: Wellington ✓ Postcode: 6011</p> <p>Country: ✗</p> <p><small>NB: If no IRD number is provided, a tax rate of 45% p.a will be applied.</small></p> <p>Tax rate required:</p> <p><input type="radio"/> 10.5% <input type="radio"/> 17.5% <input type="radio"/> 30% <input type="radio"/> 33%</p> <p><small>If you have provided your IRD number but not selected a tax rate, a tax rate of 33% will apply.</small></p> </div> |
| <p>17 What constitutes a ‘Change in Circumstances’?</p> | <p>A ‘Change in Circumstances’ includes:</p> <ul style="list-style-type: none"> • 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. <p>Please note that if there is any such change in circumstances as described above, or any change in circumstance of your 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 BNZ immediately and obtain a new self-certification from your client.</p> |
| <p>18 What if my client is unsure about their tax residency?</p> | <p>If your client is unsure about their foreign tax residency, or has any specific questions regarding foreign tax residency, we recommend they seek professional tax advice, as BNZ is unable to provide tax advice. You and your clients can also visit the following resources on the Inland Revenue’s website for further information regarding CRS or FATCA.</p> |

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| 19 What is an excluded account? | Please refer to the IRD definition of an excluded account. <ul style="list-style-type: none">• For CRS, please refer to the 'NZ CRS Applied Standard' (Section VIII Defined Terms – Part C (No.17) for the definition of 'Excluded Account' in NZ CRS Applied Standard.• For FATCA, please refer to the 'Intergovernmental Agreement with the United States in regard to FATCA' (Annex II Section V) in FATCA IGA. |
| 20 If an account is excluded, what evidence do I need to provide to this effect? | BNZ may request supporting documentation to evidence an excluded account. Two common excluded accounts are described below: <ul style="list-style-type: none">• For an account held by a deceased estate then it would suffice to provide BNZ with a copy of the deceased's grant of probate, or the deceased's death certificate. Note the exclusion does not apply if the account is held jointly with another person or a testamentary trust (depending on circumstances).• In the case of an escrow account involving the sale of real or personal property there is no requirement to provide BNZ with copies of relevant sale and purchase documents. For the purposes of submitting information to BNZ, a file note containing all the following information would be sufficient upon request by BNZ:<ul style="list-style-type: none">- The exemption criteria used;- Details of the type of supporting documentation relied upon to prove the exemption.For example, if the CFS account was established for the purposes of a sale of a personal property, the file note could include:<ul style="list-style-type: none">• specific details of the Sale and Purchase Agreement (name(s) of Vendor and Purchaser)• date of signed Sale & Purchase Agreement• date and name of person completing the file note.Please note however that you must be able to provide an original (or certified) copy of the required documentation (to prove such an exemption) if requested by BNZ. |
| 21 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, what is the Bank's position? | You must continue to seek confirmation of your client's foreign tax residency status. If you are unsuccessful in confirming this information then IRD penalties may apply to the client. If a valid self-certification or reasonable explanation and supporting documentation (as appropriate) can not be obtained the Client Account must be closed. |
| 22 If an existing client refuses to complete the forms, or cannot be contacted for practical reasons by the relevant required monthly due date, are we obligated to close the client's CFS account? | No new CFS Client Accounts should be opened for this client until a valid self-certification form has been received and the self-certification passes the Reasonableness Test. If a valid self-certification or reasonable explanation and supporting documentation (as appropriate) can not be obtained any existing Client Account(s) must be closed. |

23 How do I determine my Client's CFS account number?

To determine the Client's CFS account number, please refer to one of the following examples:

a) CFS screen

For example, your client Benjamin Woods holds a CFS Call account. To establish the Client's CFS Account Number for Benjamin Woods, refer to the 'Account Number' in the CFS screen below to identify the 5-digit client CFS Account Number.

This shows the Client's CFS Account Number for Benjamin Woods would be 00486.

Client Accounts

Click on the account type link to view more details for a specific account.

Note: Closed/Matured Term Deposits are not displayed on this screen.

Client Details

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|------------------|----------------|
| Client Number | 563 |
| Client Name | BENJAMIN WOODS |
| Client Reference | KENSW100789 |

Account(s) List

| Account Type | Account Number |
|------------------------------|----------------|
| Call Account | 00486 |

This is the Client's CFS Account Number

b) CFS term investment letter

Dear Partners

Your client's investment is maturing

The Client Fund Service (CFS) term investment you have with us is about to mature. The details are provided below.

The investment details

This is the Client's CFS Account Number

| Investment details | Interest details |
|---------------------------------------|---------------------------|
| Client account number: 12345678-00276 | Interest rate: 3.30% p.a. |

This is the Client's CFS Account Number

Using the above example, the Client's CFS Account Number would be **00276**.

24 The same client has a number of 'matters' held in different CFS accounts. Do I need to provide self-certifications for each matter, or at the client level?

In this example the client has three individual CFS accounts opened in its name for three matters:

- CFS Account related to the sale of Asset One.
- CFS Account related to the purchase of Asset Two.
- CFS Account related to the purchase of Asset Three.

If a valid self-certification has previously been obtained from the client, a new self-certification is not required from the client to open a new CFS account (in relation to a new matter), provided that:

- the client is the sole account holder (i.e. the new CFS account is not held jointly with any other person, in which case a self-certification would be required from each joint account holder before the new CFS account may be opened); and
- you are comfortable that there has not been any change in circumstances which affects the FATCA certificate and/or CRS self-certification provided by your client that would require you to obtain a new self-certification from the client.

Please note that you are still required to provide details of all CFS Accounts held by the client per the Client Data Capture Process document for reporting purposes.

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| 25 | Can guardians complete the forms for minors? | Parents or guardians can sign for minors (minors are any person under the age of 18), where a parent or guardian signs the form, this should be reflected in the capacity field. |
| 26 | Does the information need to be sent in the 7 Zip file or can we accept a .ZIP file format? | BNZ recommend using 7 Zip for compressing and encrypting sensitive data. Instructions to perform this encryption can be found in the Client Tax Residency Data Capture process document on the CFS customer portal. BNZ can accept information in .ZIP file format but this may not be as secure as 7 Zip. |
| 27 | Do I need to provide a monthly submission if no new client accounts have been opened since my last submission? | You do not need to send a monthly submission to BNZ if: <ul style="list-style-type: none"> • you have not opened any new client accounts since your last monthly submission; and • there have been no change in circumstances for your submitted client accounts; and • there are no outstanding queries from your previous submissions to BNZ |

Glossary of terms as defined by CRS and/or FATCA

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| What is a self-certification? | <ul style="list-style-type: none"> • A form of disclosure provided by the customer about their tax residency status, to certify whether or not they are a foreign tax resident, including any relevant Taxpayer Identification Number (TIN) or equivalent, or a reason if they can't provide their foreign tax number (e.g. some countries don't issue a foreign tax number). • The self-certification must contain the customer's name, address, countries of tax residency, TIN and date of birth (for individuals). | <ul style="list-style-type: none"> • A process whereby an individual customer certifies whether they are a US citizen or US tax resident; or • An entity customer certifies their status as a particular type of entity for FATCA purposes. |
| What is an entity? | A legal person or a legal arrangement such as a corporation, partnership, trust, or foundation. | A legal person or a legal arrangement such as a trust. It does not require that a separate legal entity is created. It therefore includes companies, joint ventures, partnerships, limited partnerships, and trusts (including units trusts and discretionary trusts). |
| What is a Tax Number or equivalent? | The Taxpayer Identification Number (TIN), which for a person and a jurisdiction other than New Zealand, means the functional equivalent of the person's IRD number in that jurisdiction. | The US Taxpayer Identification Number (TIN): <ul style="list-style-type: none"> • For individual - this is generally the individual's Social Security Number (SSN) but maybe an Individual Taxpayer Identification Number (ITIN) for certain non-resident and resident aliens, their spouses and dependents. • For entity - this is likely to be the entity's Employer Identification Number (EIN). |
| What is a Financial Institution (FI)? | <p>A Custodial Institution, Depository Institution, Investment Entity, Specified Insurance Company, or Managed Investment Entity. These types of financial institutions are broadly similar to financial institutions for FATCA, although there is a slight difference in the definition of Investment Entity.</p> <p>The definition of Financial Institution is further explained in the Inland Revenue's 'NZ CRS Applied Standard' (Section VIII Defined Terms).</p> <p>NZ CRS Applied Standard</p> <p>Apart from more obvious entities such as banks, this can also include non-bank deposit takers, collective investment entities, mutual funds, private equity funds, hedge funds, certain investment managers and advisors, and certain brokers and trusts (including some managed family trusts).</p> | <p>A Custodial Institution, Depository Institution, Investment Entity, or Specified Insurance Company.</p> <p>The definition of Financial Institution is further explained in the Inland Revenue's 'Registration and Reporting'.</p> <p>IRD Registration and Reporting</p> |

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| <p>What is a Non Financial Entity (NFE)?</p> | <p>If an entity is not a Financial Institution, it will by default be an NFE. There are two categories of NFE:</p> <p>Active NFE – A likely status for entities that derive the majority of their income, within a reporting year, through the course of an active trade or business (for example retail or service-based businesses).</p> <p>Passive NFE – An NFE that is not an Active NFE where main sources of income is passive (for example an organisation that has greater than or equal to 50% passive income AND/OR greater than or equal to 50% passive income generating assets (in the previous reporting period)).</p> <p>For more information, please refer to IRD CRS webpages.</p> | <p>If an entity is not a financial institution, it will by default be a Non Financial Foreign Entity (NFFE).</p> <p>There are two categories of NFFE:</p> <ul style="list-style-type: none"> • Active NFFE – A likely status for entities that derive the majority of their income, within a reporting year, through the course of an active trade or business e.g. retail or service based businesses. • Passive NFFE – An NFFE that is not an Active NFFE (where main source of income is passive).; <p>For more information, please refer to IRD FATCA pages</p> |
| <p>Who is a Controlling Person?</p> | <p>Where an Entity is classified as a Passive NFE under CRS, the Controlling Person(s) need to be identified and a self-certification collected from each Controlling Person.</p> <p>A Controlling Person is a natural person who exercises control over the Entity. This broadly corresponds with 'beneficial owner' in the Financial Action Task Force Anti-Money Laundering Recommendations and generally includes a person who:</p> <ul style="list-style-type: none"> • has a controlling ownership interest (generally more than 25%) in the Entity; OR • exercises control over the Entity through other means (where no natural person exercises control through ownership interests); OR • holds the position of senior managing official of the Entity (where no natural person is identified as exercising control of the Entity through other means); OR • for a Passive Non-Financial Entity trust, the Controlling Persons are the settlor(s), the trustee(s), the protector(s), the beneficiaries, or classes of beneficiaries, irrespective of whether they actually exercise control over the trust, and any other natural person exercising ultimate effective control over the trust. <p>For companies, Controlling Persons includes any natural person that holds directly or indirectly more than 25 percent of the shares or voting rights of an entity. In some countries this percentage may be a lower figure.</p> <p>For partnerships and similar arrangements, Controlling Person includes any natural person who holds through direct or indirect ownership more than 25 percent 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>For trusts (and entities similar to trusts), the term Controlling Persons means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies), or class(es) of beneficiaries, irrespective of whether they actually exercise control over the trust, and any other natural person(s) exercising ultimate effective control over the trust (or for similar entities, persons in equivalent or similar positions as those that are Controlling Persons of the trust).</p> | |
| <p>What is an 'excluded' account?</p> | <p>An 'excluded' account is defined under CRS/FATCA as a non-financial account for CRS/FATCA purposes and not subject to CRS/FATCA reporting obligations. Examples of 'excluded' accounts include certain retirement/pension accounts, accounts held solely by an estate and escrow accounts.</p> <ul style="list-style-type: none"> • For CRS, please refer to the 'NZ CRS Applied Standard' (Section VIII Defined Terms – Part C (No.17) for the definition of 'Excluded Account' in NZ CRS Applied Standard. • For FATCA, please refer to the 'Intergovernmental Agreement with the United States in regard to FATCA' (Annex II Section V) in FATCA IGA. <p>An escrow account is an 'excluded' account if it is an account established with any of the following:</p> <ul style="list-style-type: none"> • A court order or judgement; or • A sale, exchange, or lease of real or personal property, provided that the account satisfies certain specific requirements as set out in CRS/FATCA; or • an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time; or • an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time. | |
| <p>What is a Global Intermediary Identification Number (GIIN)?</p> | <p>The identification number issued by the IRS to each registering Foreign Financial Institution.</p> <p>The GIIN is a 19-character identification number, and can be looked up on the IRS website. For instance, a BNZ GIIN is X3M0TN.00001.ME.554.</p> <p>We need to collect GIINs from all registering Financial Institutions. If applicable to your entity, please provide your entity's GIIN on the Certificate of FATCA Status for Entities.</p> | |
| <p>What is passive income?</p> | <p>Income that is not derived from the active conduct of a trade or business.</p> <p>Examples include dividends, interest, rents and royalties (other than rents and royalties derived in the active conduct of a trade or business) and annuities.</p> <p>Passive Income will not include, in the case of an NFE that regularly acts as a dealer in Financial Assets, any income from any transaction entered into in the ordinary course of such dealer's business as a dealer.</p> | |