

MOORE STEPHENS

DOEREN MAYHEW

Common Reporting Standard (CRS): FATCA on Steroids?

January 2016

CRS: The Reporting Trend Expands



- First US FATCA, then the UK CDOT and now the OECD CRS.
- Increases financial account reporting to 96+ jurisdictions.
- There is nothing common or standard about CRS as each jurisdiction will have its own rules. The UK is probably farther along in adopting rules.
- Similar to FATCA- Requires:
 - Implementation of due diligence procedures.
 - Documentation requirements.
 - Reporting process.

CRS: The Reporting Trend Expands



- FATCA reporting started in 2015 and expands in 2017.
- UK-CDOT starts in 2016.
- CRS starts in 2017 for any residents in “Early Adopter” jurisdictions. But documentation gathering started as of January 1, 2016!

CRS: The Reporting Trend Expands



- There are 54 Early Adopter jurisdictions and 24 jurisdictions that start reporting in 2018.
- Local legislation will be required, so differences may result in definition of Investment Entities.
- Classifications under CRS are different, and many of the exceptions and de minimis exclusions (e.g., \$50,000 minimum account reporting) allowed under FATCA are not available under CRS.

CRS versus FATCA



	CRS	FATCA	Notes
Governing Authority	96 Separate Jurisdictions	US: IRS	Will need to monitor each jurisdiction.
Account Scope	1. Individual and Entity accounts held by tax residents of any CRS jurisdiction. 2. Passive NFEs with Controlling persons resident in any CRS jurisdiction.	1. US Individuals. 2. US Entities. 3. Passive NFFEs held by Substantial US Owners.	CRS will probably involve more reportable accounts than under FATCA.
Thresholds	No thresholds (except for pre-existing accounts)	\$50,000 for individuals; \$250,000 for pre-existing accounts.	May want to consider having no thresholds for either type of reporting to avoid culling process.
Documentation Requirements	New Self-Certification Forms will be needed. (Must address multiple tax residences, CRS legal entity classification.)	Form W-9/ W-8 Series may be used.	CRS can not use the US tax forms. Under CRS, all entities will ultimately have a Controlling Person(s).
Withholding	No Withholding Required under CRS.	30% withholding on Non-compliant Payees and Intermediaries.	Audits and potential penalties by CRS jurisdictions to be enacted.

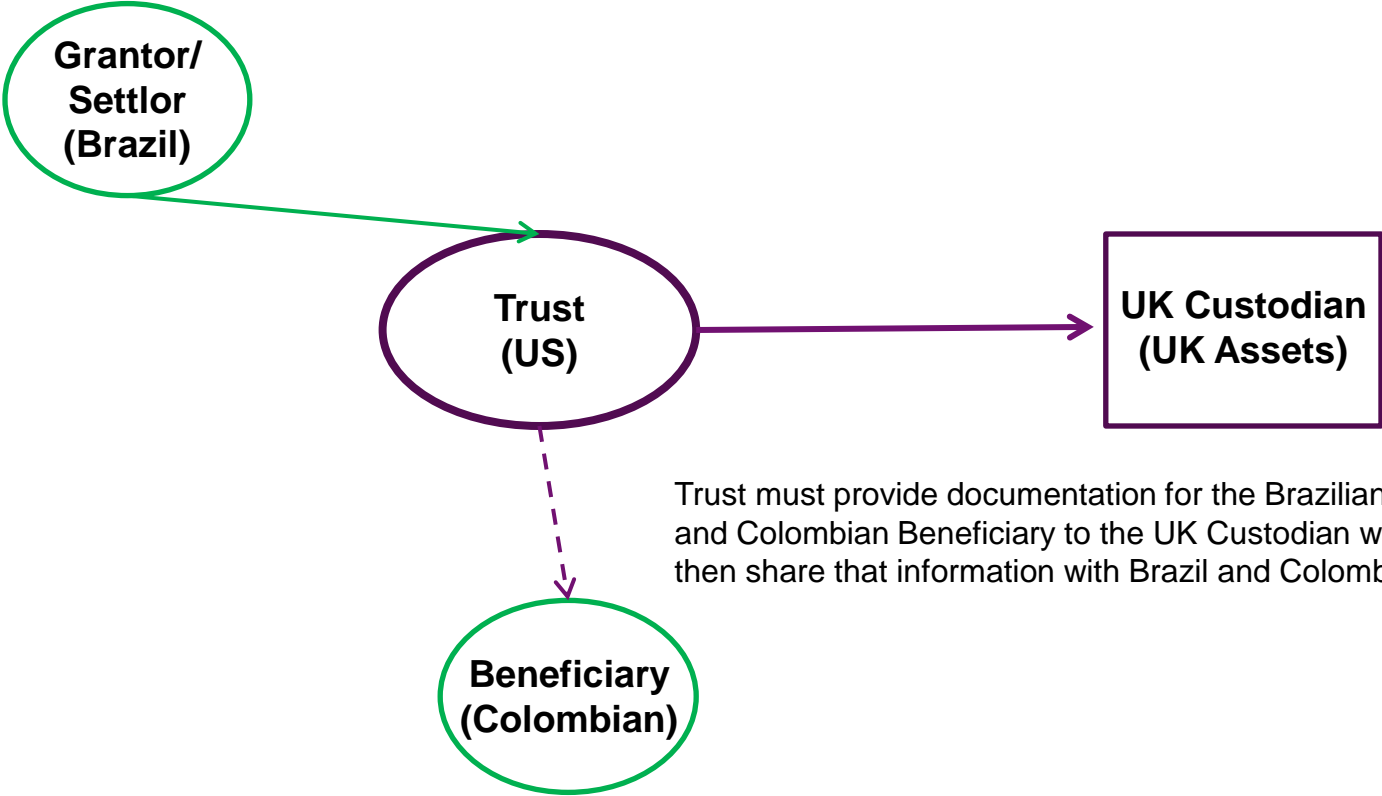
CRS: Impact on Trusts



- Trusts that may have escaped FFI classification under FATCA less likely to avoid the Investment Entity Type II under CRS.
- There will also be reporting required by a financial institution in a CRS jurisdiction where a trust in a nonparticipating CRS jurisdiction opens an account.
 - The US has not signed a CRS agreement and so will probably be considered a nonparticipating jurisdiction.
 - US trusts that open a UK bank account or invest in UK securities will need to complete documents concerning its beneficial owners.
 - There is also an issue of residency if a US trust has a UK trustee: the UK trust may have a reporting responsibility.
 - US is not on the UK lists of Participating jurisdictions [Schedule 1 Regulation 1(3)(b)].



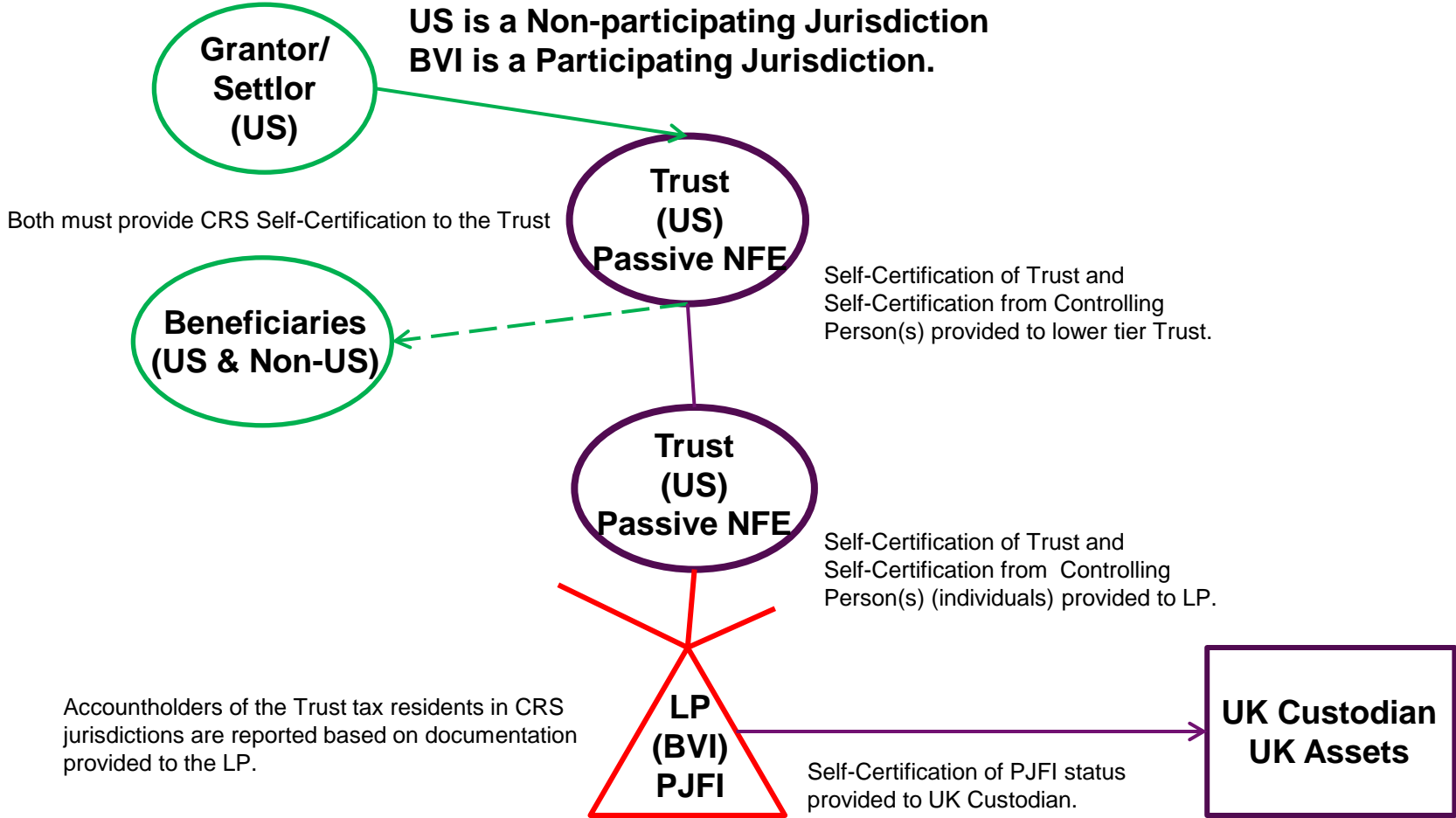
CRS: Impact on US Trusts-Example



Trust must provide documentation for the Brazilian Grantor and Colombian Beneficiary to the UK Custodian who will then share that information with Brazil and Colombia.



CRS: Impact on US Trusts-Example



CRS: Actions Needed



- Review Entities with Financial Accounts
 - Determine Classification under CRS (contrast with FATCA, if applicable).
 - Identify Accounts.
 - Determine Controlling Person(s).
- Any Forms W-8 or W-9 filed with a foreign financial institution will have to be supplemented with CRS forms.

Questions or comments?



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