

Date: 03/11/2016



Ready for the CRS and Transparency Typhoon in Asia?

Presented by: Eric Boes

Amicorp Group
3 November 2016

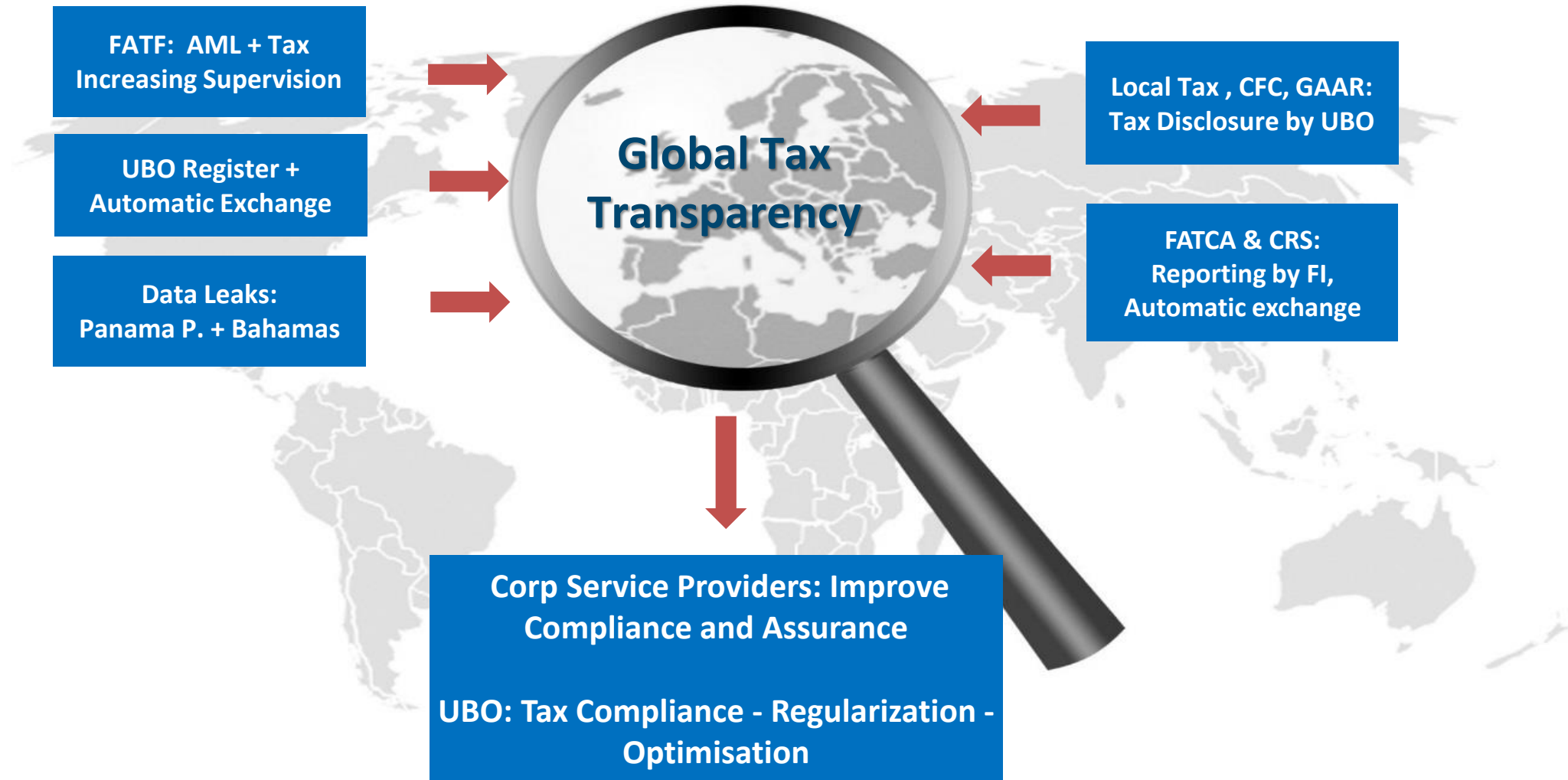
www.amicorp.com

Copyright Notice: ©2010 Amicorp Group. All rights reserved. The contents of this presentation have been prepared by the Amicorp Group A.G. for informational purposes only. The information contained in this presentation does not constitute or contain any type of advice, and neither our presentation of such information nor your receipt of it will create a commercial or legal relationship. Consequently, you should not act or rely upon the information contained in this presentation without seeking professional counsel. The information presented in this presentation, the access to the information contained herein or your receipt of it will not create any service provider-client relationship. Amicorp Group A.G. is the owner of all copyright and other rights in and to all copyrightable text and graphics on this presentation. Your company or its representatives may lawfully use this presentation for its own, non-commercial purposes, by displaying this copyright notice. Any other reproduction, copying, distribution, retransmission or modification of all or any parts of this presentation is strictly prohibited without the express prior written permission of the Amicorp Group.

Trademark Notice: The Amicorp word and device are trademarks of Amicorp Holding Limited. All rights reserved.



Road to Transparency: AML - Tax - AEOI - PP



Common Reporting Standard (CRS)



- FATCA and IGA's (2014): combat tax evasion US taxpayers with foreign accounts.
- OECD created the Multi Competent Authority Agreements (MCAA) for Automatic Exchange of Information (AEOI) based on CRS
- CRS to combat tax evasion by tax residents of Participating Jurisdictions.
- **101 Jurisdictions** already committed to implement CRS, in 2 waves:
 - **54** Jurisdiction (early adopters) start Jan 2016 with first exchange Sept 2017 (re FY 2016): incl EU, India, BVI, Cayman (53 signed Multi CAA)
 - **47** Jurisdictions (Wave 2) start Jan 2017 with first exchange Sept 2018 (re FY 2017): incl. China, Indonesia, Malaysia, HK, Singapore, Switzerland (32 signed Multi CAA)
 - No commitment yet: incl. Taiwan, Thailand, Philippines

Which CAA are signed now in Asia?



- ▶ Singapore ratified Convention, committed to CRS (CRS 2, did not sign the Multi CAA but signs many Bilateral CAA
 - ▶ Signed 6: UK, Australia, Japan, Korea, Norway, South Africa



- ▶ Hong Kong (CRS 2) ratified Convention, committed to CRS, did not sign the Multi CAA but signs many Bilateral CAA
 - ▶ Signed 2: UK, Japan



- ▶ Indonesia (CRS 2) signed but not ratified Convention, signed the Multilateral CAA
 - ▶ Signed : 0

<https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/#d.en.345426>

Multi and Bila CAA - Ensure Data protection

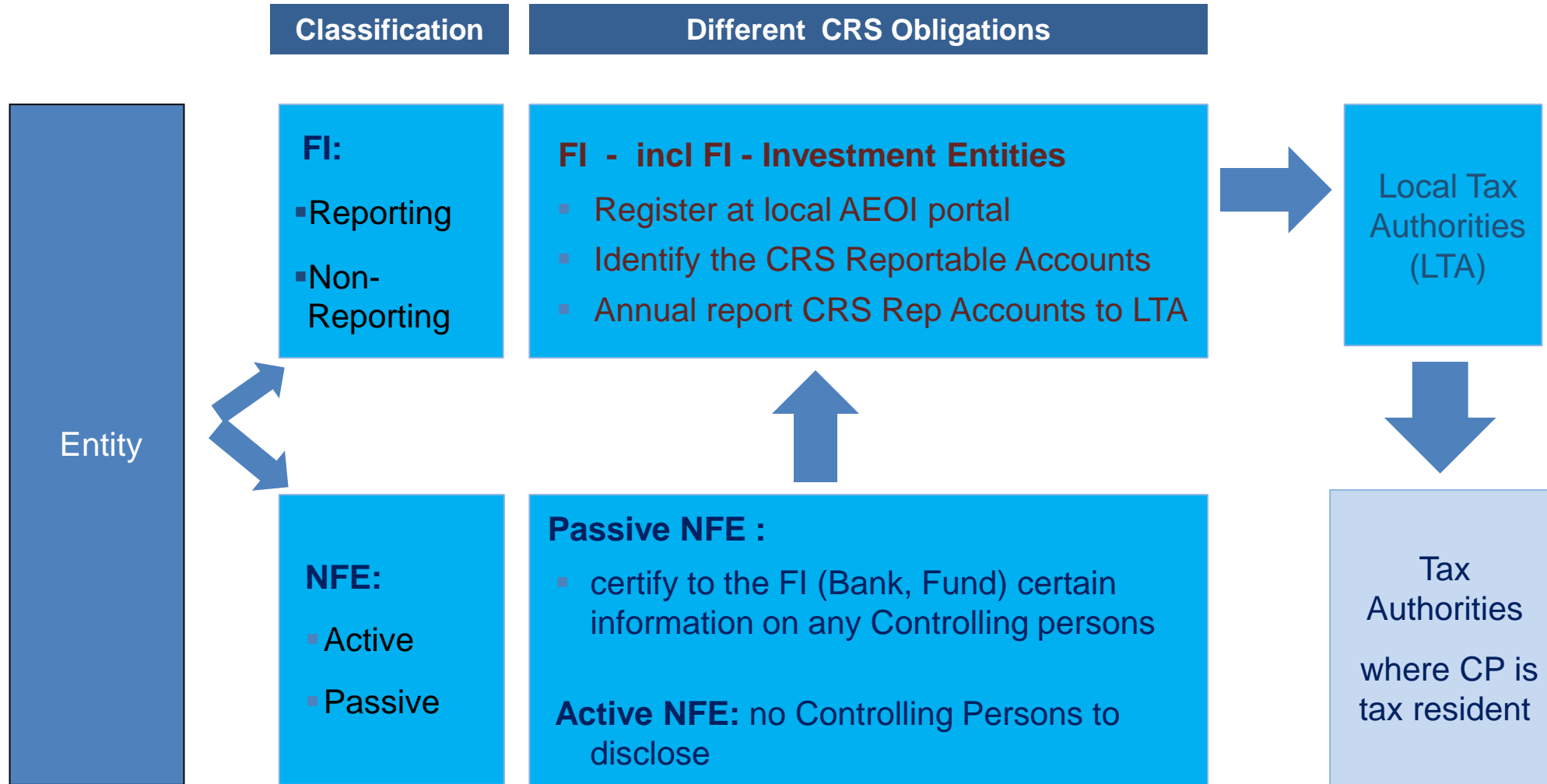


- ▶ Legal Basis of Multi CAA or Bila CAA : Multilateral Convention
- ▶ Once Multi CAA is signed : file Notification:
 - ▶ confirm CRS legislation,
 - ▶ system for data protection and confidentiality in place,
 - ▶ list of intended exchange partners.
- ▶ 2 signatories both Notify and Specify the other: MCAA in effect
- ▶ Committed jurisdictions are expected to AEOI with all other PJ
- ▶ Global Forum to perform Peer Reviews:
 - ▶ **Meet standards on confidentiality, data safeguards and proper use of info**
 - ▶ Ensure exchange relationships with all interested appropriate partners

<https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/Questions-and-answers-international-exchange-relationships-crs-information.pdf>



FI or Non-Financial Entity (NFE) ?



Who and what to be Reported?

WHO ?

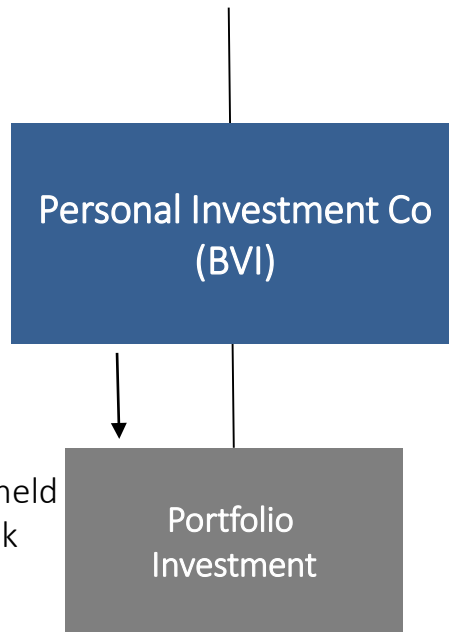
- ▶ If entity /trust is FI-Investment Entity: Equity and Debt Holders:
 - Trust/SPF as FI-IE: Settlor, Protector and mandatory beneficiaries, +
 - any other natural person exercising ultimate effective control over the trust,
 - while discretionary beneficiaries only as of year of distributions,
- ▶ If entity / Trust is Passive NFE: PNFE + its Controlling Persons (>25%)
 - Trust/SPF as PNFE: Same as above, plus Named Beneficiaries (unless aligned)
- ▶ If Active NFE: ANFE, but no reporting of Controlling Persons

WHAT ?

- ▶ Personal Data: Name, Place/Date of Birth, tax residency, TIN, Role of CP, etc
- ▶ Financial Data: Account Balance/Value, gross income (dividends, distributions), gross proceeds, closure of account

Case Study under CRS

Indonesia UBO



Step 1 : Is PIC a tax resident in CRS Participating Jurisdiction?

- PIC is tax resident in CRS 1.

Step 2: Is UBO Tax resident in CRS Participating Jurisdiction?

- UBO is tax resident of Indonesia: has committed to CRS 2, but not signed a CAA

Step 3: Is the bank resident in a CRS participating jurisdiction?

- Bank is in SGP , being CRS 2. SGP Bank will identify and collect as of 2017.

Step 4: Classification PIC as FI-IE or Passive NFE?

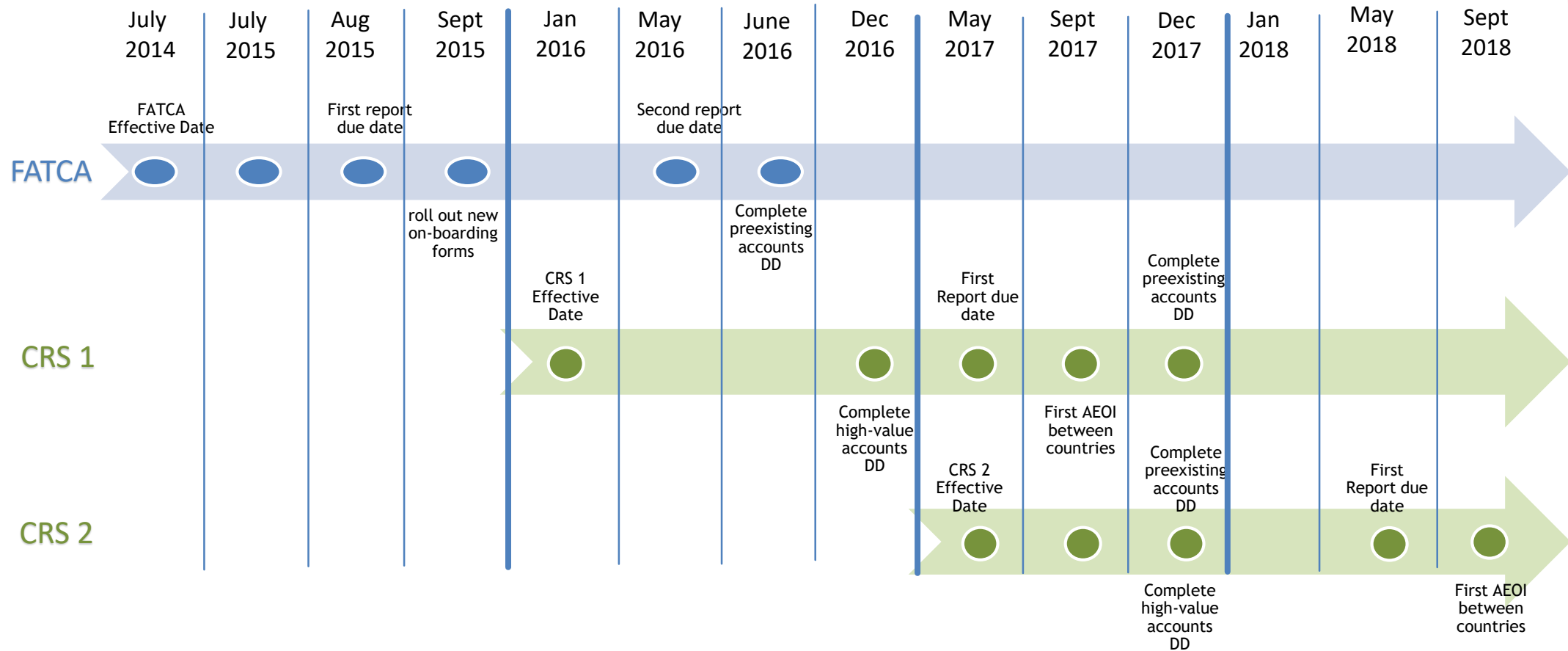
- Check if PIC meets the “managed-by” test
- Check if assets of PIC are managed by Sing Bank, based on Discretionary Mandate

Conclusion: if PIC is not classified as FI-IE, but instead as Passive NFE:

- Sing Bank will collect data, and based on wider approach may report Controlling Persons to Sing tax authorities
- Sing authorities will only automatic exchange with country of tax residence of the reported persons, once 2 countries have signed a Bila- or Multilateral CAA



FATCA and CRS timelines for FI's in CRS1 and CRS2



- Wider approach: allows FI's to run DD also on AH form CRS 2 or non-CRS Jurisdictions
- CRS 1: Data collection starts in FY2016, Reporting in May 2017, exchange by Sept 2017, but only if CAA is effective
- CRS 2: Data collection starts in FY2017, Reporting in May 2018, exchange by Sept 2018, but only if CAA is effective

CRS loopholes ?



- ▶ “Loopholes” identified by TJN in the report dd 15 September 2015
 - ▶ FI in non CRS Participating Jurisdictions (PJ)
 - ▶ USA: banks CDD upon bankaccount; FinCen register upon Formation; IGA reciprocal?
 - ▶ PJ with few Bilateral CAA
 - ▶ Active NFE
 - ▶ Life Insurance
 - ▶ Land, real estate, non-financial assets
- ▶ Intention of TJN and intention of OECD is to focus/ close loopholes
- ▶ Transparency is much more than FATCA & CRS
- ▶ What are the Trends and Developments?

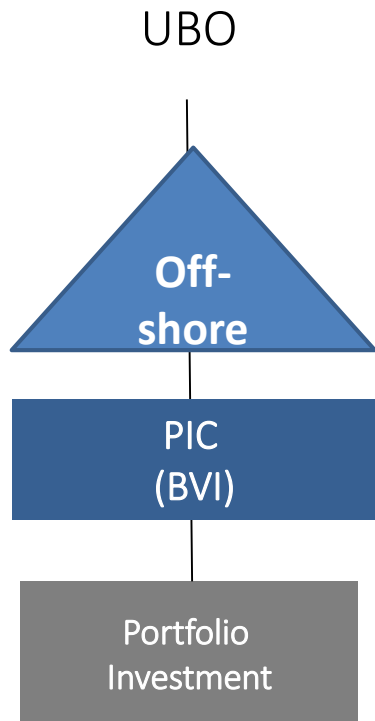
A GLOBAL INVESTIGATION

THE PANAMA PAPERS

- Mossack Fonseca
- Huge data leak: 214k entities, 14k clients, 11.5 million documents
- Many Politically Exposed Persons (PEP) a.o Gunnlaugsson
- Global , Coordinated leak, public database per 9 May 2016
- Evasion vs avoidance
- Database: <https://offshoreleaks.icij.org>
- Aftermath: reaction of OECD-G20-EU - USA

UBO register + Automatic Exchange of UBO data

Initiatives to create Transparency tackling tax evasion, terrorist financing and money laundering:



- UK: 2016 Public Register for PSC of UK Co's and P'ships
- EU: 4th AMLD, incl Public Register of UBO's of EU entities and Trusts
- 2016: OECD and FATF to cooperate to combat tax evasion and AML
- 2016: Commitment of 46 countries on HMRC initiative :
 - Public registers on UBO data of Entities and Trusts
 - Automatic exchange of UBO data between authorities,
 - based on global standard to create linking between national UBO registers
- <https://www.gov.uk/government/publications/beneficial-ownership-countries-that-have-pledged-to-exchange-information/countries-committed-to-sharing-beneficial-ownership-information>:

Tax evasion as criminal offence



Existing laws based on FATF recommendations :

- 1. tax evasion by a taxpayer is a criminal offence
- 2. facilitation of tax evasion by a person is also criminal offence

New developments:

- UK and EU introduce plans for criminal offence for corporations who fail to prevent their staff criminal facilitating of tax evasion
- EU: Tougher anti-tax avoidance and AML rules, incl those who give advise in tax evasion planning and elaborate tax evasion schemes.



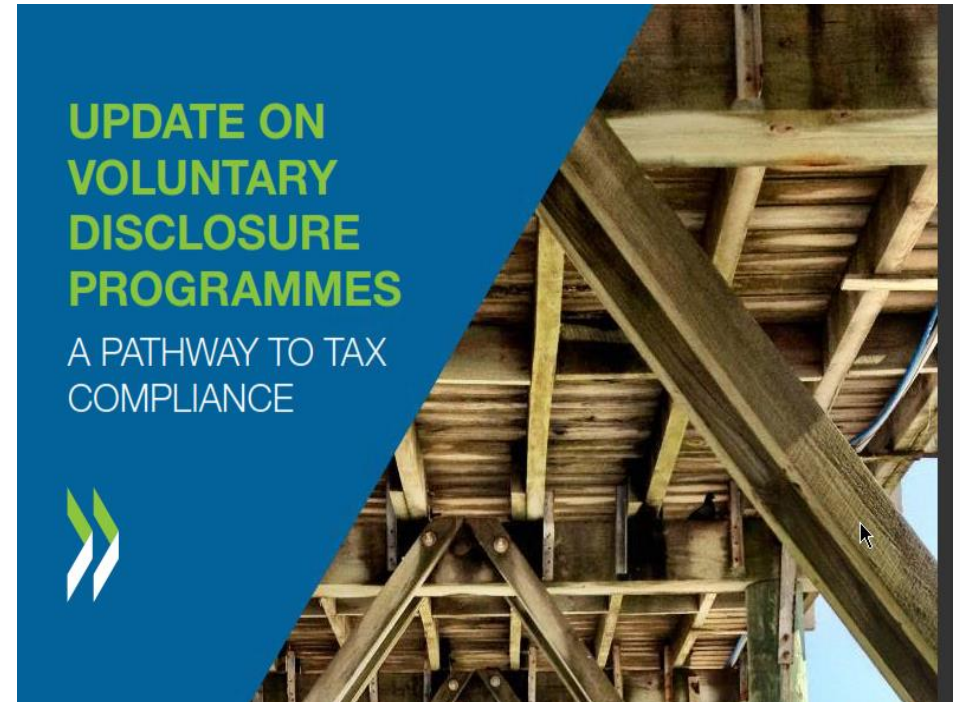
Asia - Singapore



- ▶ Authorities in Asia under global pressure to combat AML and tax evasion
- ▶ Policies re KYC, transaction monitoring, tax risk management
- ▶ Tax Risk Assessment of structures and UBO – tax compliance forms
- ▶ Banks / Providers push clients with undeclared assets to go for Amnesty
- ▶ File STR in case of Amnesty and other suspicion of tax fraud
- ▶ Shut down of Banks and Funds: wake up call
- ▶ Banks and Corporate Providers required to cooperate with request of Tax and Regulatory Authorities
- ▶ Sign many Bilateral CAA to implement CRS and AOEI
- ▶ Leaks and impact on reputation

Impact of global (tax) transparency on HNWI

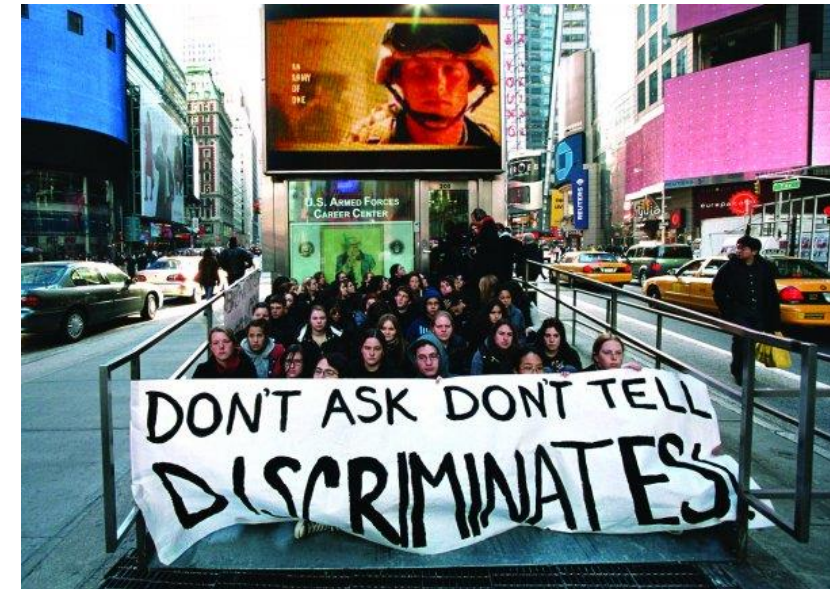
- High chance that info of UBO being reported
- Ensure adequate tax disclosure in Home Country;
- Tax amnesties - VDP
- Sustainable structuring more non-fiscal driven:
 - Asset Protection, Estate and Succession Planning, Diversification
 - Onshore vs offshore
 - Trusts, Foundations, Funds, Life Insurances



Impact on wealth management and structuring

- As CRS tax agents: to collect info, identify and report
- AML and Tax crime: Collect info UBO in KYC and tax compliance forms
- To support clients in maintaining compliance
- Push undeclared clients for tax amnesty, or terminate
- More compliance costs: higher break-even
- More tailor made structuring
- Renewed focus on core offerings and competencies
- Fiduciary structures by independent providers

This is a game changer in the way the industry is organized





Conclusions

- CRS will come to Asia per 1 January 2017
- UBO's including Settlers will be reported
- Many other global transparency and regulatory developments
- Ensure tax compliance, apply VDP, prepare for extra compliance
- Wealth structuring on a case-by-case basis, objectives and UBO country
- Trusts, Foundations, Funds are still alive
- Due to increase compliance cost, break even point changes
- The 'Buying your client some time' strategy. What is it worth?

Are you ready?

Amicorp Worldwide Offices



The Americas

- The Bahamas
- Barbados
- Bogotá
- British Virgin Islands
- Buenos Aires
- Curaçao
- Mexico City
- Miami
- Montevideo
- New York
- San Diego
- Santiago
- São Paulo
- Cayman Islands

Europe & Africa

- Amsterdam
- Barcelona
- Cyprus
- Johannesburg
- London
- Luxembourg
- Malta
- Mauritius
- Monaco
- The Seychelles
- Vilnius
- Zug and Zurich

Asia & Pacific

- Auckland
- Bangalore
- Beijing
- Chengdu
- Davao
- Dubai
- Hong Kong
- Mumbai
- New Delhi
- Shanghai
- Shenzhen
- Singapore
- Taipei



THANK YOU

Eric Boes

Global Head of FATCA & CRS Services

e.boes@amicorp.com

+31 619 18 36 41

www.amicorp.com

Copyright Notice: ©2010 Amicorp Group. All rights reserved. The contents of this presentation have been prepared by the Amicorp Group A.G. for informational purposes only. The information contained in this presentation does not constitute or contain any type of advice, and neither our presentation of such information nor your receipt of it will create a commercial or legal relationship. Consequently, you should not act or rely upon the information contained in this presentation without seeking professional counsel. The information presented in this presentation, the access to the information contained herein or your receipt of it will not create any service provider-client relationship. Amicorp Group A.G. is the owner of all copyright and other rights in and to all copyrightable text and graphics on this presentation. Your company or its representatives may lawfully use this presentation for its own, non-commercial purposes, by displaying this copyright notice. Any other reproduction, copying, distribution, retransmission or modification of all or any parts of this presentation is strictly prohibited without the express prior written permission of the Amicorp Group.

Trademark Notice: The Amicorp word and device are trademarks of Amicorp Holding Limited. All rights reserved.