New year, new compliance obligations: CRA releases updated CRS guidance

January 12, 2026

Canada's implementation of the Organisation for Economic Co-operation and Development's Common Reporting Standard under Part XIX of the *Income Tax Act* (CRS) imposes due diligence and reporting obligations on financial institutions. Financial institutions with CRS obligations include a wide array of entities such as banks, credit unions, insurance companies, trust companies, custodians, securities dealers, portfolio managers and collective investment vehicles (including, but not limited to, mutual funds, exchange traded funds, private equity funds, hedge funds, venture capital funds and leverage buy-out funds).

On December 19, 2025, the Canada Revenue Agency (CRA) released revised guidance on the CRS obligations of financial institutions (Amended Guidance).[1] Of note, the CRA has not released revised guidance on the obligations of financial institutions under Part XVIII of the *Income Tax Act* (commonly referred to as FATCA) to harmonize these changes.

Overview of the CRS compliance changes

The Amended Guidance presents several new compliance changes for financial institutions. These changes are discussed below.

Evolving landscape of financial institutions that are subject to CRS obligations

Residency rules for financial institutions structured as partnerships and trusts

One of the requirements for a financial institution to be subject to obligations under CRS is that the financial institution is either (i) resident in Canada or (ii) a branch located in Canada of a financial institution that is not resident in Canada. In the context of the former, the Amended Guidance has revised the situations where a partnership or trust would be considered to be resident in Canada, the effect of which is to expand the number of partnerships that have CRS obligations and narrow the number of trusts that have CRS obligations.

In the context of a financial institution that is structured as a partnership, the CRA's historical administrative position was that a partnership would be resident in Canada only if the place of effective management of the partnership's business was situated in Canada (*e.g.,* the general partner of the partnership was Canadian or the partnership's mind and management was conducted in Canada). The Amended Guidance has expanded the ways in which a partnership will be considered to be resident in Canada for purposes of determining whether the partnership is subject to CRS. Specifically, a partnership will now be resident in Canada in any of the following circumstances:

- The place of effective management and control of the partnership's business is situated in Canada;
- All of the partners, including all end members, are resident in Canada; or
- The partnership was formed under the laws of a province or territory.

In the context of a financial institution that is structured as a trust, the CRA's historical administrative position was that a trust would be resident in Canada for CRS purposes if **one or more of its trustees** were resident in Canada (even if such Canadian-resident trustees did not constitute the majority of the trustees of the trust). Under the Amended Guidance, a trust that is a financial institution will only be considered to be resident in Canada if the **majority of its trustees** are resident in Canada.

Expanded definition of depository account

Financial institutions that are depository institutions are subject to CRS obligations on the depository accounts that they maintain. Depository accounts include chequing accounts, savings accounts, accounts evidenced by an investment certificate, certain credit cards, certain reloadable payment cards, and amounts held by an insurance company under a guaranteed investment contract or similar agreement.

Under the Amended Guidance, the definition of "depository account" has been expanded to include time or thrift accounts and accounts evidenced by a thrift certificate.

Due diligence changes

Investors invested in multiple funds

The same investor may be invested in multiple funds that are managed by the same fund manager. In these circumstances, the CRA has historically permitted the fund manager to share the CRS documentation with the various funds it manages, so that the same investor was not required to provide a separate self-certification for each of the funds that the investor is invested in.

The CRA has changed its administrative position in the Amended Guidance. Specifically, if the separate financial accounts were not opened on the same day, the financial institution must either (i) obtain a new self-certification for each separate financial account or (ii) verify and document that the account holder's previous self-certification continues to be accurate and reasonable.

Confirming whether a foreign jurisdiction issues TINs

A foreign taxpayer identification number (TIN) is not required to be reported for a reportable financial account if the applicable foreign jurisdiction does not issue TINs. The Organisation for Economic Co-operation and Development's website compiles information from foreign jurisdictions that *voluntarily* provide information with respect to the issuance, structure, use and validity of their TINs.

The Amended Guidance clarifies that the absence of a jurisdiction from the aforementioned website does not mean that the jurisdiction does not issue TINs. If a jurisdiction is not listed on the website, financial institutions should use publicly available information to confirm whether the jurisdiction issues TINs.

Self-Certifications involving controlling person(s) of a passive NFE

When a self-certification is collected from an account holder that is a passive non-financial entity (passive NFE), the CRA has historically taken the view that the self-certification with respect to the controlling person is valid if it is signed (or otherwise positively affirmed) by the controlling person, a person with authority to sign for the controlling person or by the authorized signing officer of the passive NFE. There was much speculation that the CRA would no longer permit the authorized signing officer of the passive NFE to sign the self-certification with respect to the controlling person's tax residency. Fortunately, the Amended Guidance confirms that "a person with authority to sign […] for the account holder" may continue to sign the self-certification with respect to the controlling person.

The Amended Guidance also provides some helpful clarification for situations where the self-certification for a passive NFE does not include information in respect of all the controlling persons. In those circumstances, the financial institution can obtain *multiple* self-certifications that each contain some, but not all, of the controlling persons (as opposed to collecting a *single* self-certification that identifies all of the controlling persons).

Reporting changes

Filing particulars under the client-name account relief

Provided the parties meet certain requirements (as described in our previous bulletin), the CRA permits a sharing of due diligence and reporting responsibilities between financial institutions that have financial accounts in respect of the same account holders (commonly referred to as the "client-name account relief"). The client-name account relief is often relied upon by (i) dealers and fund manufacturers when fund units are issued in client-name and (ii) investment advisors and custodians in the context of separately managed accounts.

Where the client-name account relief applies, it avoids having multiple financial institutions duplicate their efforts (*i.e.,* the separate financial institutions do not need to each collect the same self-certification from the account holder, and the separate financial institutions do not need to each file the same return with the CRA). The client-name account relief results in the multiple financial institutions sharing the due diligence and reporting obligations as follows:

- *Due diligence* – This must be completed by the dealer.

- *Reporting* – This may be completed by the dealer or the fund.

In terms of the reporting obligation under the client-name account relief, the Amended Guidance clarifies that whichever financial institution performs the reporting (the Filing Financial Institution) must provide notice to the other financial institution (the Non-Filing Financial Institution) regarding the Filing Financial Institution's intention to complete the reporting. If the Non-Filing Financial Institution does not receive such notice from the Filing Financial Institution, then the Non-Filing Financial Institution must file its own CRS return.

The Amended Guidance also outlines the filing particulars, which vary depending on whether the dealer or the fund files the return under the client-name account relief. Specifically:

- *If the dealer assumes responsibility for the reporting* – The return identifies the fund as the reporting financial institution, and the return should be filed using the dealer's business number. If the account holder is invested in multiple funds, then the dealer must file a separate return for each fund that the account holder is invested in (since the return filed by the dealer must identify the applicable fund by name and a single return cannot identify multiple fund names).
- *If the fund assumes responsibility for the reporting* – The return is filed under the name of the fund (and not the fund manager). The return must also indicate the fund's business number.[2]

Undocumented accounts

An "undocumented account" is a pre-existing account (*i.e.,* opened on or before June 30, 2017) held by an individual where the financial institution cannot determine or obtain the individual account holder's tax residency in very specific circumstances.

The Amended Guidance helpfully clarifies that new accounts (*i.e.,* those opened after June 30, 2017) must always have a have a self-certification obtained and validated prior to account opening, thus such accounts would generally not qualify as undocumented accounts. Given that undocumented accounts must be pre-existing individual accounts, the number of undocumented accounts held by a financial institution should generally stay the same or decrease over time (as such accounts are closed or the individual account holder's tax residency is determined).

The CRA has observed year-over year increases in undocumented accounts, which should generally not be the case (as explained above). Avoiding this common reporting error is one way for financial institutions to avoid increasing their risk profile with the CRA, and thereby minimize the chances of being selected for audit.

Third-party service providers

Financial institutions may use third-party service providers in order to discharge their CRS obligations (although the liability for non-compliance still remains with the financial institution).

Under the Amended Guidance, the CRA indicates that where a financial institution relies on third-party service providers for CRS compliance, it must still maintain documented evidence demonstrating how it meets its CRS obligations.

Action plan for financial institutions

Given that the newly announced compliance changes in the Amended Guidance are already in effect, it will be important for financial institutions to consider taking the following actions:

- *Reviewing the scope of CRS obligations* – The Amended Guidance has expanded the scope of CRS obligations for financial institutions, and it will be important to consider whether such expansion impacts your financial institution. For example, partnerships that had a place of effective management and control outside of Canada were previously not subject to CRS obligations, but such partnerships may now be subject to CRS obligations if the partnership was formed under the laws of a province or territory. As another example, depository institutions should consider whether they maintain thrift accounts or accounts evidenced by a thrift certificate, as such accounts are within the scope of CRS.
- *Update policies and procedures* – CRS policies and procedures should be updated as soon as possible to incorporate these compliance changes. Financial institutions have an obligation to have a CRS policy, and the CRA often requests copies of these policies during the course of an audit or other enforcement action.
- *Prepare training sessions for your compliance team* – Begin scheduling training sessions and preparing the training materials for these sessions as soon as possible, as it is imperative that your CRS compliance team understands these changes and can implement them effectively. Attendance logs and copies of all training materials should be retained, as the CRA often requests these during an audit or other enforcement action.

Footnotes

[1] We also expect that the CRA will be releasing further updated guidance later this year to address the forthcoming proposed legislative amendments to CRS, which is currently proposed to be effective beginning in 2027.

[2] If the fund does not have its own business number, the business number of the fund manager may be used instead.

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