

UPDATE

# The British Virgin Islands and the Common Reporting Standard

This update provides an overview of the common reporting standard in the British Virgin Islands (BVI) and why it is more important than ever for BVI financial institutions to comply with their obligations.

In 2014, the Organisation for Economic Co-operation and Development (OECD) working with the G20 countries, developed the Standard for Automatic Exchange of Financial Account Information in Tax Matters (the **AEOI Standard**). The AEOI Standard provides for the annual exchange, between tax authorities, of a predefined set of information on financial accounts held by individuals and entities resident in a foreign jurisdiction. The common reporting standard (CRS) is the global standard for the automatic exchange of tax information.

## What is the purpose of the AEOI Standard?

In a financial sector that has become increasingly globalized, the AEOI Standard provides tax administrations with powerful information to assist with addressing international tax evasion. There are now over 110 jurisdictions exchanging information on over 111 million financial accounts, with a total value of €11 trillion. To date over €114 billion in tax, interest and penalties can be attributed to the implementation of the AEOI Standard.

## CRS in the BVI

The BVI has been committed to the implementation of the AEOI Standard from inception as an early adopter and commenced exchanges on a non-reciprocal basis in 2017. The International Tax Authority (ITA) is the authority designated to perform the function of the competent authority in the BVI for CRS.

Since 2017, the Global Forum on Transparency and the Exchange of Information for Tax Purposes (the **Global Forum**) has been monitoring and reviewing the global implementation of the AEOI Standard.

The Global Forum has already completed its assessment of the AEOI legal frameworks, concluding that the BVI's legal framework is in place and consistent with the requirements of the AEOI Terms of Reference<sup>1</sup>. The focus has now turned to the more onerous job of ensuring that the AEOI Standard is being implemented effectively in practice. This involves ensuring that financial institutions are properly implementing the due diligence and reporting rules, as well as ensuring that jurisdictions are carrying out the required exchanges of information.

The Global Forum published a report on 9 November 2022, presenting the effectiveness ratings for 99 jurisdictions<sup>2</sup>. The report gives the BVI a rating of 'partially compliant', stating that while the BVI is on track with respect to exchanging the information, significant issues were identified with respect to ensuring effectiveness in a domestic context. More specifically the report indicates an improvement is required in relation to implementation of the compliance strategy and verification activities, monitoring key information points such as tax identification numbers and dates of birth, and ensuring effective enforcement where non-compliance is detected.

<sup>1</sup> The framework for the full AEOI reviews: the Terms of Reference is linked [here](#).

<sup>2</sup> Peer Review of the Automatic Exchange of Financial Account Information 2022 is linked [here](#).

In the same report, the Global Forum confirmed that it is putting in place a second round of peer reviews which will be more in-depth and robust. This second round will involve a more detailed assessment of the effectiveness of each jurisdiction's administrative compliance framework and their exchange of information in practice, with a particular focus on the quality of the information reported.

### **What are the practical consequences?**

BVI financial institutions should expect an increase in the number of compliance queries from the ITA. In addition, the jurisdictions receiving information on BVI financial institutions through the automatic exchange will be more rigorously reviewing this data. Accordingly, a further increase in compliance queries, audits and inspections, investigations, and other enforcement measures, including administrative fines, should be anticipated.

Notably, BVI financial institutions (which will likely include most BVI funds) are already required to establish, implement and maintain written policies and procedures to comply with BVI legislation<sup>3</sup>.

In summary, if there was ever a time for BVI financial institutions to take a step back and review their CRS obligations and their compliance with those obligations in practice, it is now.

### **BVI key reporting dates for 2023 reporting year**

- CRS annual enrolment through the BVI Financial Account Reporting System (BVIFARS) by **30 April 2024**
- CRS annual reporting<sup>4</sup> through BVIFARS by **31 May 2024**

### **How we can help**

Mourant has a wealth of experience in assisting entities comply with all the various aspects of their AEOI obligations. Our services include:

- entity classification to determine if the entity is in scope of the AEOI regimes
- FATCA IRS Global Intermediary Identification Number (**GIIN**) registration
- enrolment with the BVI ITA.
- acting as AEOI delegates in the following roles (as required):
  - secondary user with the BVI ITA; and
  - responsible person with the IRS for FATCA
- conducting annual investor due diligence, including reviewing the account holder self-certifications
- preparing and submitting the relevant FATCA/CRS annual reports
- preparing or reviewing CRS policies and procedures
- liaising with the applicable authorities on behalf of the reporting financial institution, as necessary
- remediation and assistance with BVI ITA compliance and audit queries.

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<sup>3</sup> Section 27, Mutual Legal Assistance (Tax Matters) Act (2020 Revision), as amended.

<sup>4</sup> Including the filing of any nil return for CRS, if applicable.

## Contacts

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**Louise Somers**  
Head of Tax Reporting  
Mourant Governance Services  
+1345 814 9102  
[louise.somers@mourant.com](mailto:louise.somers@mourant.com)



**Gilda Martinez**  
Tax Reporting Services Officer  
Mourant Governance Services  
+1345 814 9279  
[gilda.martinez@mourant.com](mailto:gilda.martinez@mourant.com)



**Sara Galletly**  
Partner  
Mourant Ozannes (Cayman) LLP  
+1 345 814 9233  
[sara.galletly@mourant.com](mailto:sara.galletly@mourant.com)



**Saraid Taylor**  
Counsel  
Mourant Ozannes, British Virgin Islands  
+1 284 852 1770  
[saraid.taylor@mourant.com](mailto:saraid.taylor@mourant.com)

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