

# FREQUENTLY ASKED QUESTIONS

## NEW REGULATORY CRS OBLIGATION

### LIST OF TERMS:

**Reportable person** – an individual or legal person who/which is a tax resident in a participating jurisdiction under its tax legislation or in line with Act No. 164/2013 Coll., on international cooperation in tax administration.

**Reportable account** – an account subject to reporting to a local tax administration for the purposes of international cooperation in the area of taxation. It means a financial account that is held by one or more reportable persons (or by a passive NFE with one or more beneficial owners who are a reportable person).

**Participating jurisdiction** – a country with which an agreement is in place pursuant to which there is an obligation to automatically exchange information for tax purposes.

### GENERAL QUESTIONS

#### 1. What is CRS?

CRS or the Common Reporting Standard is a global initiative created by the OECD (Organisation for Economic Co-operation and Development), which is partially based on the US FATCA (Foreign Account Tax Compliance Act). More than 100 jurisdictions have already committed to automatically exchanging information about financial accounts under the CRS regime, aiming at preventing tax evasion. By means of a multilateral agreement and Act No. 164/2013 Coll., on international cooperation in tax administration, the Czech Republic (the “CR”) has committed to cooperating with other participating jurisdictions in this regard.

All Czech financial institutions, including UniCredit Bank, are obliged to obtain a completed self-certification from clients with foreign data, where such a client declares his/her country/countries of tax residency. If such a client is identified, in line with the Act above, as a reportable person, Czech financial institutions are obliged to report the selected data to a Czech tax authority for the purposes of an automatic exchange of information.

#### 2. How do I find out whether I am a tax resident in a participating jurisdiction?

The current list of all participating jurisdictions is available on the website of the Ministry of Finance of the Czech Republic (MFCR). [https://www.mfcr.cz/assets/cs/media/Seznam\\_Seznam-smluvnich-statu-a-rozhodnych-dnu\\_v10.pdf](https://www.mfcr.cz/assets/cs/media/Seznam_Seznam-smluvnich-statu-a-rozhodnych-dnu_v10.pdf)

English version of such list can be also find on UniCredit Bank website in [here](#).

#### 3. My country of tax residency is on the list of participating jurisdictions, what does this mean for me?

Czech financial institutions, including UniCredit Bank, are obliged to report selected data of all account holders with tax residency in a participating jurisdiction to a tax authority in the CR. Subsequently, it shares the information about the account holders with a tax authority in the respective participating jurisdiction.

#### 4. My country of tax residency is not on the list of participating jurisdictions, what does this mean for me?

If you are an individual with tax residency in none of the participating jurisdictions, it means that this regulation should not apply to you so far and, thus, you should not become a reportable person on the grounds of the CRS legislation.

Even if you are a legal person with no tax residency in a participating jurisdiction, it may happen that information about such a legal person will be reported to the countries of its beneficial owners (controlling persons), provided they are tax residents of a participating jurisdiction.

## **5. How does the bank identify clients who may be tax residents for CRS tax purposes?**

When opening an account, Czech financial institutions, including UniCredit Bank, are obliged to identify a client's tax residency (part of the client's identification card) based on self-certification completed by the client. Subsequently, they check this information against the list of participating jurisdictions issued by the MFCR.

Czech financial institutions, including UniCredit Bank, are also obliged to conduct a due-diligence of their pre-existing clients (i.e. clients whose financial account was opened before the CRS legislation came into force). The due-diligence consists of testing whether the specified indicia are found in relation with client's data. These include, for example: the tax residency of the account holder, the current permanent residence address or correspondence address (including a post office box) of the account holder, the phone number registered in a participating jurisdiction (and none in the CR), standing orders to transfer funds (except those which concern deposit accounts), a currently valid power of attorney or authorisation to sign granted to a person with an address in a participating jurisdiction, "hold mail" instructions or the address of the person collecting mail in a participating jurisdiction (unless UniCredit Bank has a record of another address of the account holder).

## **6. I am a tax resident in a participating jurisdiction. What information about me is to be reported to a tax authority?**

The following data concerning a reportable account shall be reported: name, surname, permanent address, date and place of birth, country of tax residency, tax identification number or other similar unique code of the account holder (or of the controlling person of a passive legal entity) used for tax purposes in the country where he/she is a tax resident.

Similar information is also reported in the case of legal entities, i.e. name of the business corporation, address of the registered office, country of tax residency, tax identification number or other similar unique code of the account holder used for tax purposes in the country where it is a tax resident.

Further, information about financial accounts: account numbers, account balances as of 31 December, the gross dividend amount paid, the gross amount of interest paid, the gross amount of other income paid and generated from financial accounts, gross proceeds from the sale of assets made by the financial institution as a custodian, broker or agent.

## **7. Do I know beforehand what information about me is to be reported to a tax authority?**

UniCredit Bank shall only report to a tax authority the statutorily selected information that you have provided the bank with. The scope of reported data is specified in Act No. 164/2013 Coll. and in the answer to question 6 above.

## **8. Are you going to debit any amount of the payments received by you or sent to me in relation to a legal person under the CRS?**

No, we are not. UniCredit Bank is not obliged to debit any amount of payments under the CRS regime.

## **9. If I move my company (legal person) to another country, will I be excluded from reporting?**

This is very unlikely. More than 100 countries have already committed to the CRS and other countries are considering becoming a party. Nevertheless, even companies already located in a country which has not yet committed to the CRS legislation may be obliged to provide UniCredit Bank with information about their beneficial owners (controlling persons).

## **10. Is the FATCA regime going to be replaced by CRS?**

No, it is not. The CRS and the FATCA are two different regimes, existing separately alongside each other, and it is possible that you may be subject to reporting within both FATCA and CRS. The United States has confirmed that it will continue in the sharing of automatic information only within the FATCA regime, taking no steps so far to perform a replacement or accession to an additional agreement within the CRS regime.

## **11. What are the financial institutions obligations following from the international multilateral agreements and Act No. 164/2013 Coll.?**

The obligation is to identify all financial accounts held by tax residents of participating jurisdictions and to report, once a year (always as of 30 June), the statutorily selected information about such accounts to a tax authority, which, within international cooperation on taxation, shares the information with the relevant tax administration of participating jurisdictions.

## 12. What if I want further information regarding CRS?

UniCredit Bank is always willing to answer any of your questions; however, it is not authorised to advise on taxes. In such cases, please contact your tax advisor. Further information regarding CRS is available on the following pages:

### OECD – Standard for Automatic Exchange of Financial Account Information

<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

### Collection of Laws – Act No. 164/2013 Coll. (CZ only)

<http://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=z&id=25787>

### Collection of Laws – Amendment to Act No. 164/2013 Coll. (CZ only)

<http://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=z&id=49743>

## QUESTIONS ABOUT SELF-CERTIFICATION

### 1. What can I do if I am not sure what my country of tax residency is?

The rules for determining a country of tax residency are very complex. It is possible that you may be a tax resident in several countries at the same time. UniCredit Bank is not authorised to provide tax advice. If you are not sure as to your country of tax residency, please contact your tax advisor.

### 2. I am a tax resident in a participating jurisdiction. What should I do if I do not know/I forgot my tax identification number?

You can find information regarding your tax identification number in certain cases in one of your personal documents issued in your country of tax residency. Instructions on how and where to find out your tax identification number can be found on the following websites:

#### EC – European Commission:

[https://ec.europa.eu/taxation\\_customs/tin/tinByCountry.html](https://ec.europa.eu/taxation_customs/tin/tinByCountry.html)

#### OECD – Automatic exchange portal:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/#d.en.347759>

If you are still unsure about your tax identification number or you do not have a document containing such information, please contact the tax administration in your country of tax residency.

### 3. The self-certification for legal persons contains a large number of company types. Which one should I choose?

If you are not sure what company type to choose, we recommend you go through our helpful document Definitions of company types and the terms used in the self-certification of tax residency for legal persons.

If even then you are unsure about your company type, please contact your tax advisor. UniCredit Bank is not authorised to provide tax advice.

### 4. What if the information I provided changes?

Given the fact that various changes to your data may be expected over time, UniCredit Bank requires a timely notification of such changes. Such notification should be delivered to UniCredit Bank not later than 30 days after the respective change.

### 5. What happens if I do not provide UniCredit Bank with the required information?

If UniCredit Bank is not provided with the required information as defined by law (i.e. self-certification or documentary evidence), it will be impossible to determine your tax residency based on CRS requirements. In such a case, UniCredit Bank will be obliged to report information about your financial accounts to a tax authority, specifying all potentially relevant countries of your tax residency (these countries will be chosen in line with the procedure referred to in Act No. 164/2013).

## 6. How do I identify the beneficial owner? Or, whom should I identify as the controlling person if I do not know the beneficial owners?

Under Section 4(4) of Act No. 253/2008 Coll. on selected measures against the legitimisation of the proceeds of crime and the financing of terrorism, a beneficial owner is defined as follows<sup>1</sup>:

(4) For the purpose of this Act, the beneficial owner shall mean a natural person that can, effectively or by virtue of law, exercise direct or indirect dominant influence in a legal entity, trust or other legal arrangements without legal personality. It shall be assumed that subject to the conditions according to the first sentence, the beneficial owner is:

a) as regards business corporations, a natural person

1. who, itself or together with persons acting in concert with such person, holds more than 25% of the voting rights of such a business corporation or more than a 25% share in the registered capital,
2. who, itself or together with persons acting in concert with such person, controls the person referred to in clause 1,
3. who is supposed to be a beneficiary of at least 25% of the profits of such a business corporation, or
4. who is a member of a statutory body, representative of a legal entity in this body or in a position similar to the position of a member of a statutory body, provided that the beneficial owner does not exist or cannot be identified pursuant to clauses 1 to 3,

b) as regards associations, non-profit organisations, owners associations, churches, religious communities or other legal entities under the law governing the position of churches and religious communities, a natural person

1. who holds more than 25% of its voting rights,
2. who is supposed to be a beneficiary of at least 25% of the funds distributed by it, or
3. who is a member of a statutory body, representative of a legal entity in this body or in a position similar to the position of a member of a statutory body, provided that the beneficial owner does not exist or cannot be identified pursuant to clauses 1 or 2,

c) as regards foundations, institutions, endowment funds, trusts or other legal arrangements without legal personality, a natural person or beneficial owner of a legal entity in a position of

1. the settlor,
2. the trustee,
3. the beneficiary,
4. the person in whose interest the foundation, institution, endowment fund, trust or another legal arrangement without legal personality has been formed or operates, provided the beneficiary is not determined, and
5. the person authorised to conduct supervision of the management of the foundation, institution, endowment fund, trust or another legal arrangement without legal personality.

Further information regarding beneficial owner identification can be found in the methodological guideline of the Financial Analytical Office (FAO):

[http://www.financnianalytickyrad.cz/download/FileUploadComponent-1750233108/1495011685\\_cs\\_metodicky\\_pokyn\\_c\\_3\\_zjistovani\\_skutecneho\\_majitele.pdf](http://www.financnianalytickyrad.cz/download/FileUploadComponent-1750233108/1495011685_cs_metodicky_pokyn_c_3_zjistovani_skutecneho_majitele.pdf)

<sup>1</sup> The mentioned version of Act No. 253/2008 is valid as of 1 April 2018 and is used for information purposes only. Please note that the mentioned version of the Act may be modified at any time through legislative changes.