

**Briefing Note: Public Notice listing incidences of non-compliance in respect of the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters to be promulgated in Regulations under section 257 of the Tax Administration Act that are subject to a fixed amount penalty in under Chapter 15 of the Act.**

**General Background**

1. Greater transparency and the automatic exchange of information (AEOI) between tax administrations is an important step forward in countering cross border tax evasion, aggressive tax avoidance and base erosion and profit shifting.
2. At their meeting in September 2013, G20 Leaders endorsed the OECD proposal for a truly global model for AEOI. They invited the OECD, working with G20 countries, to develop a new single standard for AEOI, including the technical modalities, to better fight tax evasion and ensure tax compliance. Consequently, the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters (the Standard) was developed in 2014.
3. The Standard essentially contains a model competent authority agreement (MCAA); the common standard on reporting and due diligence for financial account information (CRS) and a schema (CRS Schema) to be used for exchanging the information. The MCAA links the CRS with the legal basis for the exchange, such as the Multilateral Convention on Mutual Administrative Assistance or a bilateral tax treaty. In October 2014 South Africa joined several other jurisdictions to sign the MCAA to automatically exchange information. The current signatories are available at <http://www.oecd.org/tax/exchange-of-tax-information/MCAA-Signatories.pdf>.

**Domestic Legislation**

4. One of the building blocks that needs to be in place for a jurisdiction to implement the CRS is the enactment or amendment of primary or secondary legislation.
5. Legislative amendments to the Tax Administration Act, 2011, were effected during 2014 and 2015 in order to implement a scheme under which South African financial institutions are required to collect information under the CRS.
6. Amongst others, a new definition of an “international tax standard” was inserted in section 1 of the Act, to *inter alia* include the Standard, subject to such changes as specified by the Minister of Finance in Regulations issued under section 257 of the Act. Draft Regulations have been published for public comment, reviewed and the final Regulations will be published in due course. The CRS reporting period commences on 1 March 2016.
7. The implementation of the CRS also requires mechanisms such as the imposition of fines or other penalties where a person does not provide the required information or otherwise fails to comply with obligations under the CRS.
8. This draft Public Notice lists the proposed incidences of non-compliance with the CRS that are subject to a fixed amount penalty in accordance with section 210(1) and 211 of the Act.

**Comments on the draft Public Notice must be submitted before or on 19 February 2016 to Adele Collins at [acollins@sars.gov.za](mailto:acollins@sars.gov.za)**