



## Automatic Exchange of Information (AEOI)

As a result of the drive of the G20 nations, the OECD (Organisation for Economic Co-operation and Development), together with the G20 countries and in close cooperation with the EU and other stakeholders, has developed a global Standard for the Automatic Exchange of Financial Information (AEI). The new standard is about improving transparency in the fight against tax evasion since tax authorities of participating countries will exchange tax-related client and financial data on a yearly basis.

### What is the Bank's position towards the AEI?

The AEI is a binding regulation that all financial institutions in participating countries must implement. Van Lanschot Kempfen (Schweiz) AG supports this effort and will fully comply with its AEI obligations.

### Which countries will participate?

The first reporting will begin in 2018 where data for calendar year 2017 is exchanged. For the first reporting, the Bank is obliged to report its clients which, during 2017, have tax residence(s) in a country with which Switzerland has agreed to exchange data (reportable Jurisdiction) Clients which, during 2017, have tax residency in a country with which Switzerland has agreed to exchange data (Reportable Jurisdiction). A list of the current Reportable Jurisdictions of Switzerland can be found under [www.sif.admin.ch](http://www.sif.admin.ch) > Topics > International tax policies > Automatic exchange of information.

### Which clients are in scope of the AIE?

As a general rule, a client who maintains a financial account at a bank in a country outside their tax residence jurisdiction could fall in scope of the due diligence and reporting requirements as set out in the CRS and requires closer scrutiny. The due diligence and reporting (i.e. disclosure) requirements apply to accounts held by both, individuals and legal entities. A client (individual or legal entity) will be impacted by AEI

- if the client's tax residence is not the country in which the client maintains a financial account (e.g. a Dutch resident client maintaining an account with Van Lanschot Kempfen (Schweiz) AG); and
- if these countries have agreed to exchange data under the CRS (e.g. Switzerland and the EU (including the Netherlands) have implemented an intergovernmental agreement); and
- if, in the case of a legal entity/ corporate client, the entity is not exempt from AEI reporting.

### What are the documentation requirements for affected clients?

If an agreement exists, the bank holding the account has to assess if such client is subject for reporting under the AEI, by verifying different criteria. Such criteria differ depending if the financial account is held by an individual or a legal entity client. For new accounts, the bank will collect the necessary information such as client's tax residence jurisdiction on forms (e.g. self-certifications) which will be part of the account opening process. For pre-existing clients, the bank will request information in case the existing documentation is not sufficient to determine the tax residence jurisdiction and/ or the legal entity classification of the client unambiguously

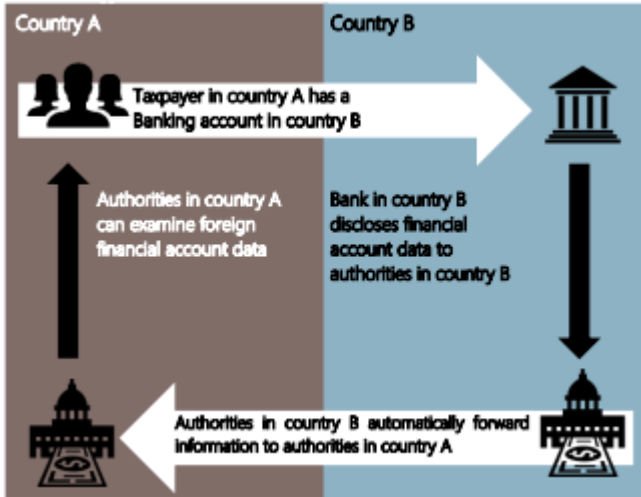
### What information will be exchanged?

The following will be reported to the local tax authority for both individual and legal entity account holder(s):

- personal information on the Reportable Person, i.e. name, address, Tax Identification Number (TIN), date of birth (for individual account holder[s] and controlling person[s]); and
- financial account information, i.e. account number, balance, interest, dividends, other income and gross proceeds.

**Who is a Reportable Person for AEI purposes?**

A Reportable Person, for the purposes of AEI, is a person who is resident in a country which has committed to the AEI (Participating Jurisdiction) and holds a financial account with a financial institution in a Participating Jurisdiction outside his/her country of tax residence. Information will only be shared if the two countries have agreed to exchange information. Therefore, the first general rule is the existence of an AEI agreement between the client's tax residence country and the country where the financial account is maintained. The AEI generally requires the Bank to request additional documentation for all entity relationships, regardless of whether AEI reporting to foreign tax authorities ultimately takes place.



**What are the requirements for individual clients?**

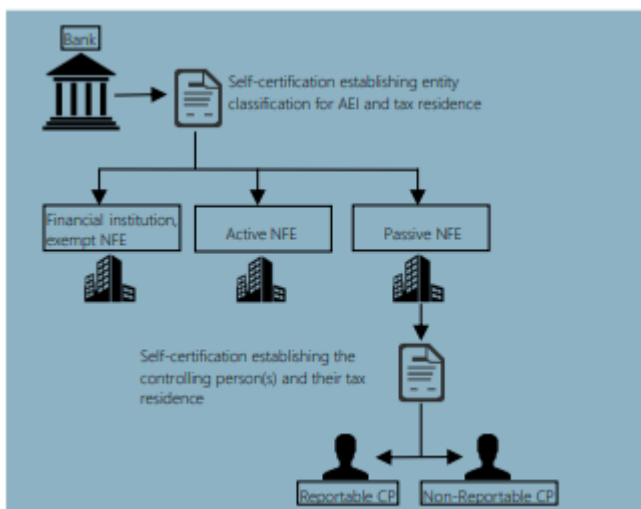
For individual accounts, the account holder of a custody or deposit account could qualify as a Reportable Person for AEI. Account holders with individual accounts become Reportable Persons by virtue of their tax residence jurisdiction and/or by certain criteria relevant to a Reportable Jurisdiction. Generally, client information suggesting possible residence in a given jurisdiction includes:

- a) a) current mailing or residence address (including a post office box);
- b) b) one or more telephone numbers (and no telephone number in the jurisdiction of the Reporting Financial Institution);
- c) c) standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a Reportable Jurisdiction;
- d) d) currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
- e) e) a 'hold mail' instruction or 'in-care-of' address in a Reportable Jurisdiction if the bank does not have any other address on file for the account holder. Should any of these indicate a link to a Reportable Jurisdiction, the account holder will be asked to provide further documentation to confirm his/her residence for the purposes of AEI.

In joint account structures the whole account (including all financial information without splitting) will be disclosed and reported for each Reportable Person.

**What are the requirements for (legal) entities?**

Legal entity clients become Reportable Persons depending firstly on their entity classification under AEI and secondly on their tax residence jurisdiction. For certain entity types, the individual controlling person (CP) behind such an entity must be identified as well. Both information will have to be indicated by the legal entity account holder.



Certain legal entities can classify as Non-Reportable Accounts irrespective of their tax residence jurisdiction, such as financial institutions (custodial and depository institutions, investment entities, specified insurance companies) or exempted NonFinancial Entities (NFE). For example, trusts with a gross income which is primarily attributable to investing, reinvesting, or trading in financial assets, which are professionally managed by a corporate trustee or have a discretionary mandate at a bank, and which are resident in a jurisdiction committed to the AEI (Participating Jurisdiction), classify as a financial institution for CRS.

NFEs qualify as exempted if they are a corporation the stock of which is regularly traded on one or more established securities markets or any entity that is a

Related Entity of a corporation the stock of which is regularly traded on an established securities market; a Governmental Entity; an International Organisation; or a Central Bank or an entity wholly owned by one or more of the foregoing. Accounts

held by entities classified as active Non-Financial Entities (active NFEs) are Reportable Accounts by virtue of the entity's tax residence

Entities which classify as active NFEs are:

- active NFEs by reason of income and assets: less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income (e.g. interest, dividend, rents, royalties, etc.) and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- holding NFEs that are members of a non-financial group;
- start-up NFEs; • NFEs in liquidation or emerging from bankruptcy;
- treasury centres that are members of a nonfinancial group; or
- non-profit NFEs.

Accounts held by entities classified as passive Non-Financial Entities (passive NFEs) are Reportable Accounts by virtue of the entity's tax residence and/or by virtue of the tax residence of the controlling person(s). A passive NFE is a NFE that is not an active NFE; e.g. it is an entity whose gross income is primarily ( $\geq 50\%$ ) passive income or whose assets are primarily ( $\geq 50\%$ ) held to produce or produce passive income. This can include trusts, foundations, partnerships and companies. Also entities that fulfil the criteria of an investment entity can classify as passive NFEs, in case the tax residence is not in a Participating Jurisdiction.

### **Example**

#### Background

XYZ Limited is a non-financial domiciliary company incorporated in the British Virgin Islands (BVI). The beneficial owner of ABC Limited has her tax residence in the Netherlands. ABC Limited maintains a relationship in Switzerland. Switzerland and the EU (including the Netherlands) have signed an agreement with each other while the BVI have neither signed with Switzerland nor with the EU or the Netherlands. How do the AEI requirements impact ABC Limited?

#### Documentation

Upon the Bank's request, ABC Limited as the account holder will provide the classification of the entity and tax-relevant information of the entity itself and its beneficial owner.

#### Reporting

The beneficial owner is considered a Controlling Person under the AEI. According to the agreement between Switzerland and the EU, Switzerland is required to report to the Dutch tax authorities.