

CRS GUIDANCE NOTE ON CIRCUMVENTION SCHEMES

Common Reporting Standard

Citizenship by Investment/Residence by Investment Schemes

The Curaçao Ministry of Finance has issued this guidance note to provide Reporting Financial Institutions (RFIs) with guidance on citizenship by investment (CBI) and residence by investment (RBI) schemes for purposes of the Common Reporting Standard (CRS).

CBI/RBI schemes are offered by a substantial number of jurisdictions and allow foreign individuals to obtain citizenship or temporary or permanent residence rights on the basis of local investments or against a flat fee.

CBI/RBI schemes can be misused to undermine the CRS due diligence procedures. This may lead to inaccurate or incomplete reporting under the CRS, in particular when not all jurisdictions of tax residence are disclosed to the Financial Institution. Such a scenario could arise where an individual does not actually or not only reside in the CBI/RBI jurisdiction but claims to be resident for tax purposes only in such jurisdiction and provides the Financial Institution that maintains his account with supporting documentation issued under the CBI/RBI scheme, for example, a certificate of residence, ID card or passport.

Not all CBI/RBI schemes present a high risk of being used to circumvent the CRS. Schemes that are potentially high-risk for these purposes are those that:

- give a taxpayer access to a low personal income tax rate of less than 10% on offshore financial assets; and
- do not require significant physical presence of at least 90 days in the jurisdiction offering the CBI/RBI scheme.

The list of CBI/RBI schemes that have been identified by the OECD as potentially posing a high risk to the integrity of the CRS can be found on the following website: [Residence/Citizenship by investment schemes | OECD](#).

With respect to potentially high-risk CBI/RBI schemes an RFI must observe and follow the below actions:

1. An RFI may not rely on a self-certification or documentary evidence if the RFI (including via the relationship manager for Preexisting High Value Accounts) knows or has reason to know that the CRS self-certification or documentary evidence is incorrect or unreliable.
2. It is expected that RFIs rely on the OECD-published information in making the determination of whether they have a reason to know that the self-certification is incorrect or unreliable. In particular, where the RFI has doubts as to the tax residency(ies) of an Account Holder or Controlling Person related to the fact that such person is claiming residence in a jurisdiction offering a potentially high-risk CBI/RBI scheme, the RFI should not rely on such self-certification until it has taken further

measures to ascertain the tax residency(ies) of such persons, including through raising further questions. Examples of such questions may include:

- Did you obtain residence rights under a CBI/RBI scheme?
- Do you hold residence rights in any other jurisdiction(s)?
- Have you spent more than 90 days in any other jurisdiction(s) during the previous year?
- In which jurisdiction(s) have you filed personal income tax returns during the previous year?

3. The answers to these questions – along with any relevant supporting documentation – should assist the RFI to determine whether the self-certification meets the reasonableness test. If, based on all available information, the RFI has reason to know that an Account Holder or Controlling Person is claiming tax residency under a CBI/RBI scheme, it should take appropriate measures to ascertain the jurisdictions of tax residence of such persons(s). Where it becomes evident to the RFI that the Account Holder or Controlling Person may be tax resident in another jurisdiction, the RFI should require the Account Holder or Controlling Person to submit a valid self-certification declaring the correct jurisdiction(s) of tax residence.

All correspondence and queries regarding the contents of this guidance note should be sent to info.aeoi@gobiernu.cw.

Ministry of Finance
Directorate Fiscal Affaires
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