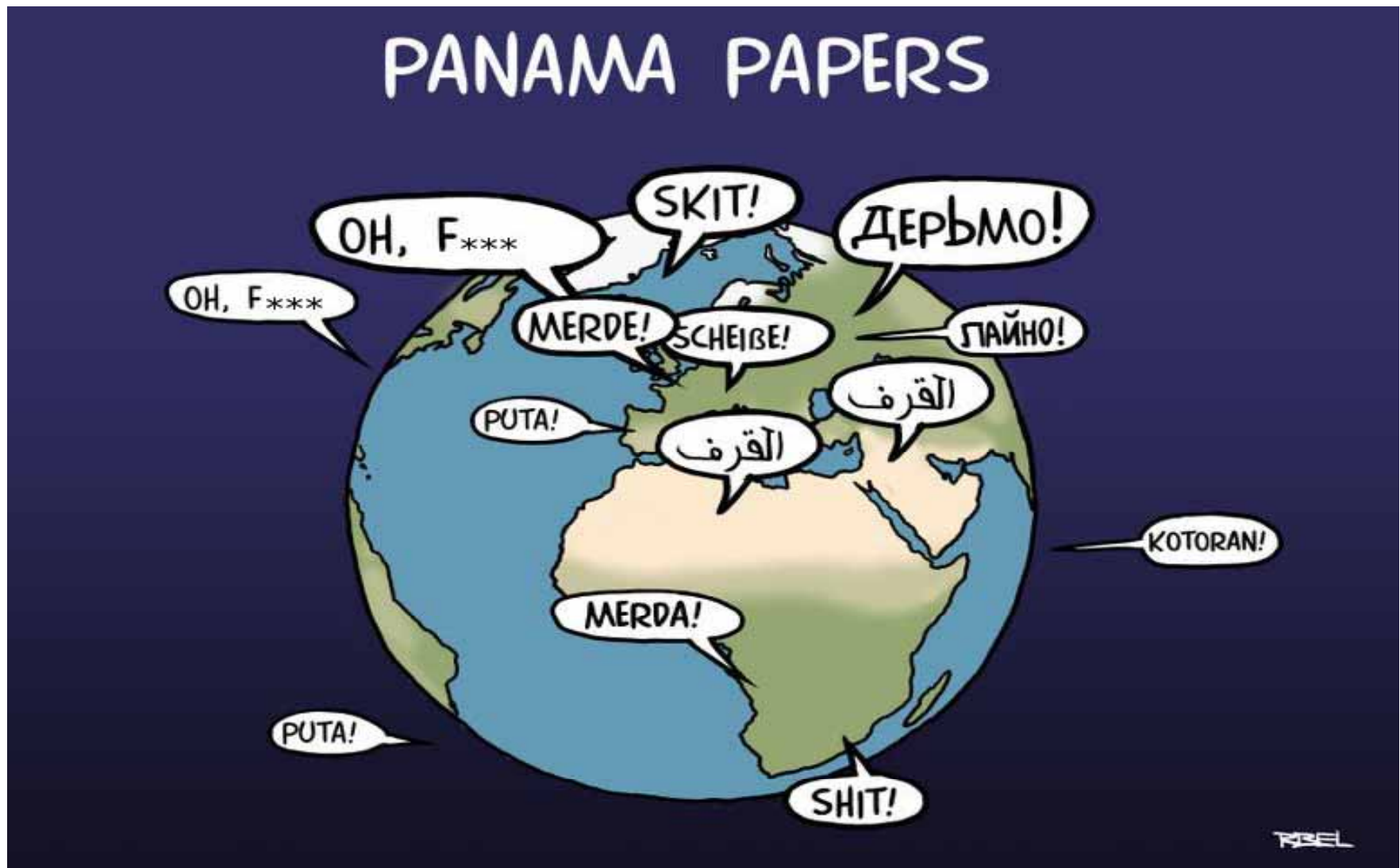


Common Reporting Standard

The latest developments

Philippos Aristotelous



Initial reactions around the globe...

CRS: Latest developments

- Cyprus implemented the OECD Common Reporting Standard and the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information with effect from 1 January 2016.
- **The first reporting will occur in the first half of 2017 and will cover the year 2016**
- The Cyprus Tax Department expects to release the long awaited draft unified FATCA & CRS guidelines by **October 2016** and the final guidelines by year end. It is expected that these should be comprehensive to valuable provide and guidance to financial institutions (“FI”) and professionals in Cyprus.

Disclaimer:

Until the release of the guidelines in October 2016, it is not possible to provide any definite answers on CRS issues and questions...

Common Reporting Standard - 1

The legal framework

- The Standard has been initiated by the Organization for Economic Cooperation and Development (OECD) aiming at improving international tax compliance and preventing tax evasion, through the automatic exchange of information between the countries that implement CRS.
- CRS has been implemented at the European Union level through the Directive that relates to the mandatory automatic exchange of information in the field of taxation (Directive 2014/107/EU).
- Cyprus has implemented Directive 2014/107/EU in its national legislation (Law No. 60(I)/2016).
- Relations with countries that are non-EU members are defined through multilateral agreements. Cyprus has co-signed on 29 October 2014, together with other participating jurisdictions a Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (published in the official Government Gazette on 18 December 2015). First step of implementing CRS.

Common Reporting Standard - 2

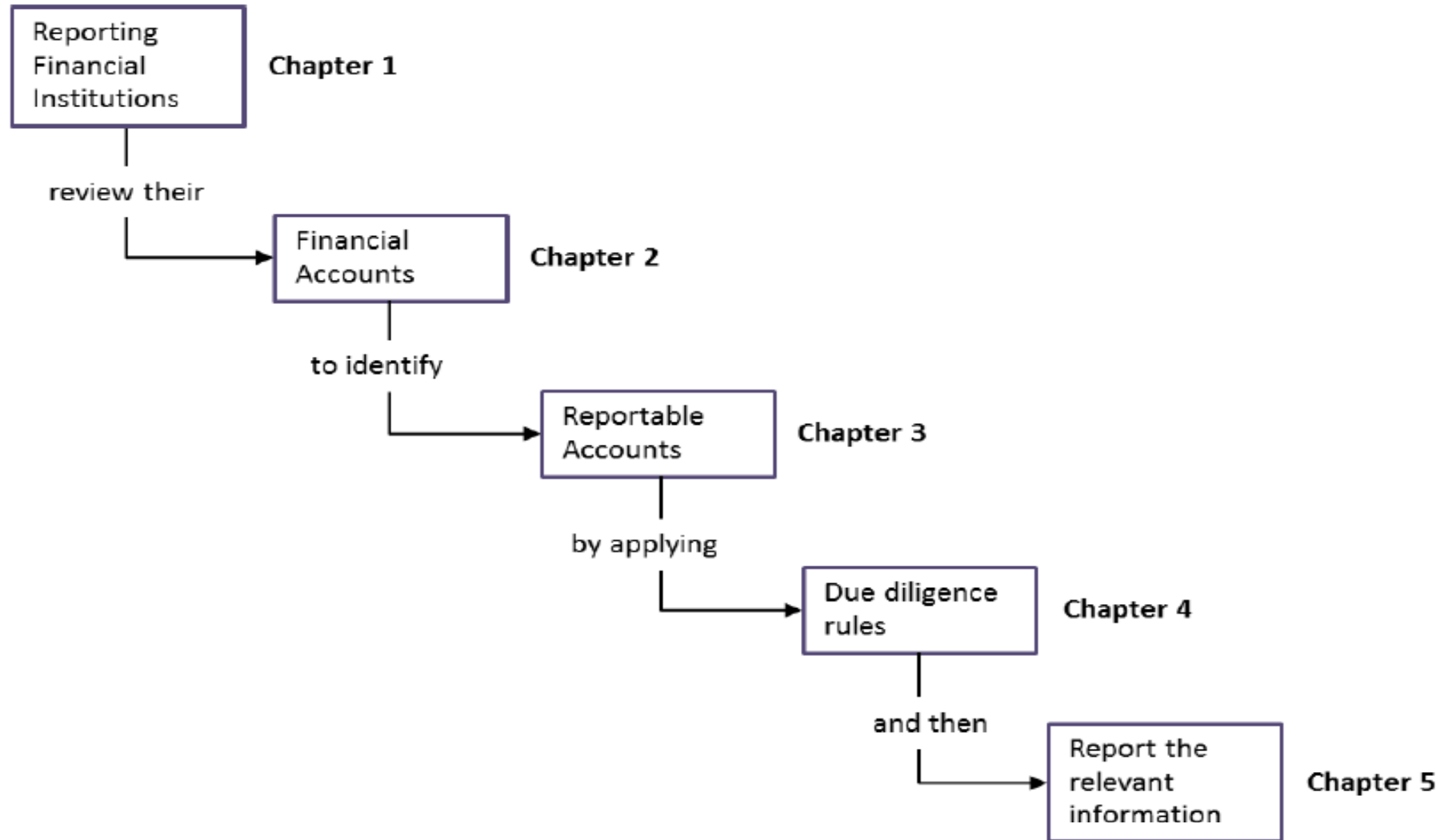
The scope of CRS

- CRS requires reporting FIs in countries that implement CRS to submit information on financial accounts held by account holders who are tax residents of countries which implement CRS.
- FIs should perform due diligence procedures to identify reportable cases in line with CRS provisions.
- The identification of the country of tax residence of individuals and companies is effected (i) on a self- certification basis i.e by the taxpayers and/or (ii) pursuant to the documents collected in the context of the due diligence performed.
- CRS applies to both individuals and entities.
- Insofar as pre-existing accounts of entities are concerned, FIs are not required to report accounts where balance < USD250,000 as of 31 December 2015 or in any subsequent year.

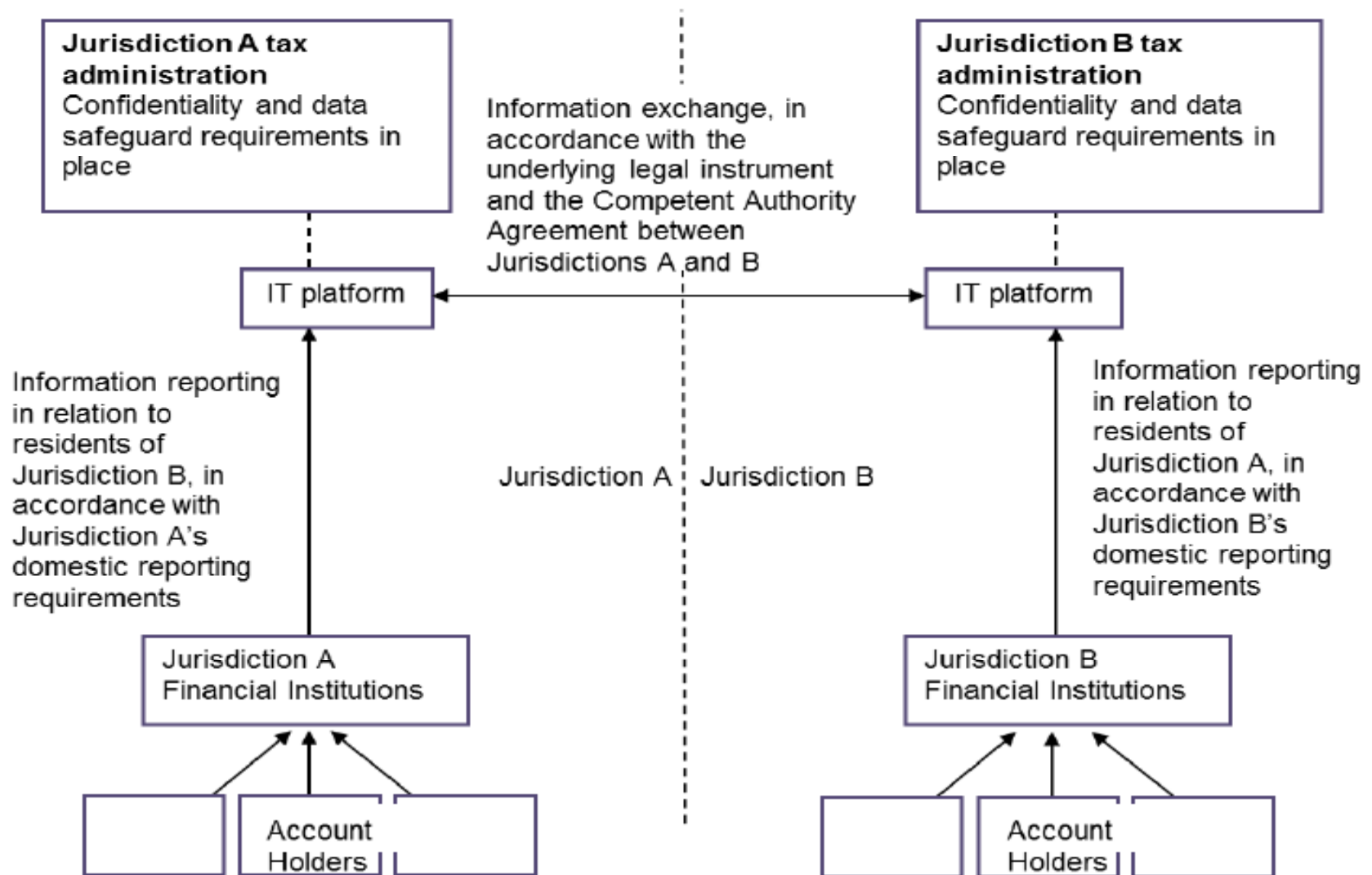
Reporting Financial Institutions

- **Depository Institutions** – Generally includes savings banks, commercial banks, savings and loan associations and credit unions
- **Custodian institutions** – generally includes custodian banks, brokers and central securities depositories
- **Investment entities** – generally includes Entities investing, reinvesting or trading in financial instruments, portfolio management or investing, administering or managing financial assets
- **Specified insurance companies** – generally includes most life insurance companies

How CRS works (Country level)



How CRS works (Cross-border level)



New accounts vs pre-existing accounts

New Accounts vs Pre-existing Accounts

- **For new customers** as from 1 January 2016, FIs required to ask for information on tax residence and tax identification number (TIN). Without basic information, FI cannot open account.
- **Pre-existing customers.** FIs can rely on existing KYC documentation for identifying tax residency etc. FIs can also ask customers for self-certification form to determine their tax residence(s) and TIN (e.g if conflicting indicia).

→ Individuals vs Entities –specific due diligence procedures for each

→ See also High Value (>USD1m) vs Low Value (=<USD1m) Accounts.

Entity classification

Financial Institutions Vs Non Financial Entities (NFE)

- Considerable part of CRS rules deals with **entity classification**.
- See especially **Active NFEs vs Passive NFEs** distinction.
- Entity deemed to be **Active NFE** e.g if less than 50% of its income is passive income and less than 50% of its assets produce or are held for the production of passive income. (***) *Other types of Active NFE also*
- A **Passive NFE** is an entity that is **not an Active NFE**.
- In case of **Passive NFE** – Reporting FI is also obliged to look through and identify reportable Controlling Persons.

A Two-Tier Test for Entities

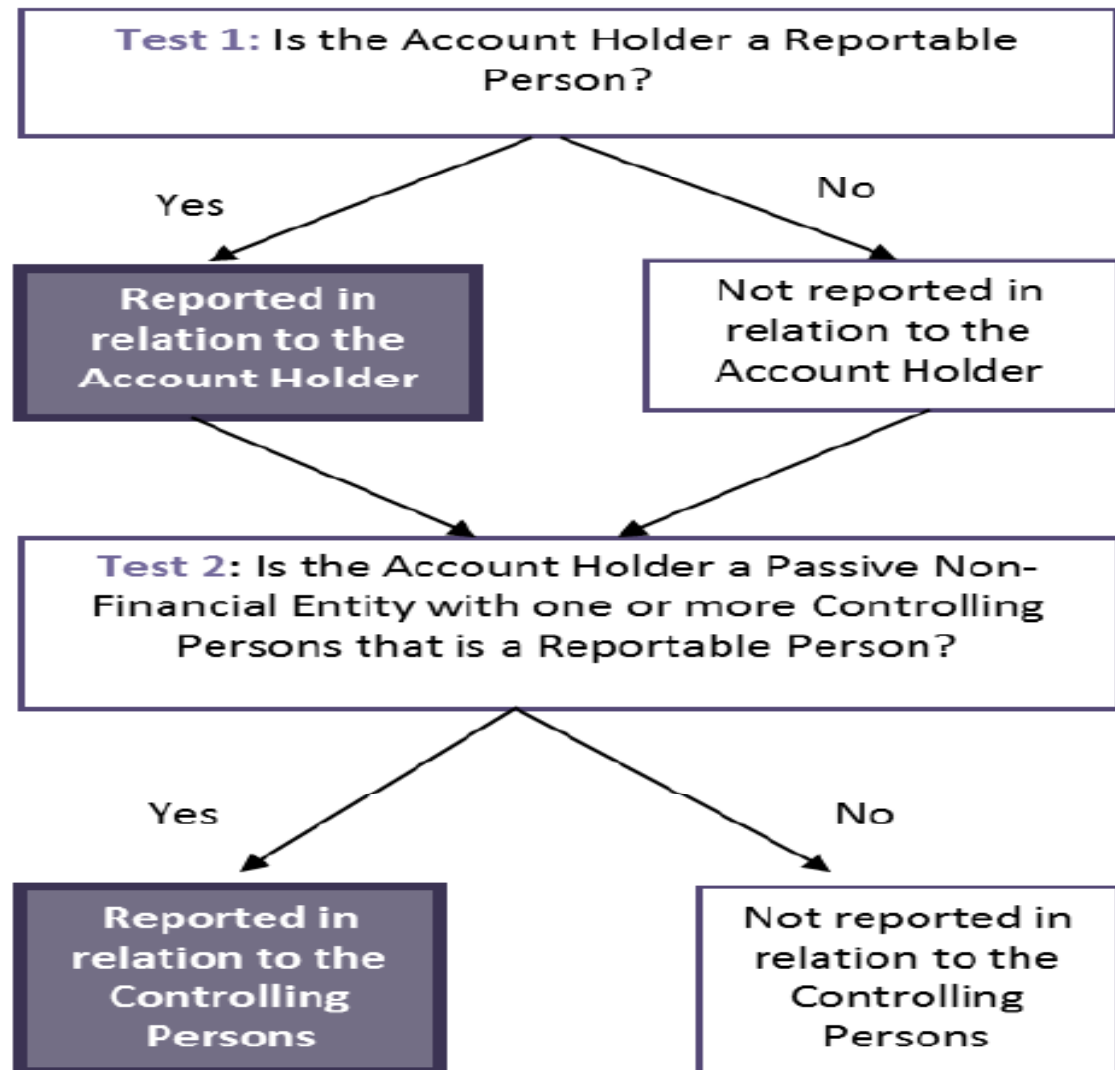
A test for determining

(i) whether;

and

(ii) who

to report in case of **Non-Financial Entities (NFEs)** which are account holders.



CRS: What's really the catch?

The effect of CRS and Automatic Information Exchange:

- Substantial **taxpayer information** will be released in **multiple directions**
- Information to be disclosed includes **name, address, DOB, bank accounts, account balances or value, dividends, interest, income from insurance products, sales or redemption proceeds**
- Imposition of reporting, due diligence and exchange of information rules on financial institutions
- Disclosure of taxpayers “hidden” assets to their home tax authorities → huge penalties (including potentially criminal liability in some countries)

The end of the “tax free” globe-trotter phenomenon?

- No longer easy or even possible for businesses/individuals to engage in international business involving banking/FI transactions without having established tax residency status and having obtained a TIN (tax identification number).
- Opportunities for candidate jurisdictions to attract individuals and their families by modernizing their legal and tax systems and upgrading their infrastructure.

What about moving to Cyprus?

Opportunities combined with Cyprus tax residency.

→ *Acquiring Cypriot tax residency- “183 days per year in Cyprus” test*

- Cyprus “non-dom” regime: Exemption from all qualifying investment income earned worldwide
- Tax exemptions for persons relocating to Cyprus (mutually exclusive):
 - A 50% earnings exemption for individuals earning €100,000 or more per year, for up to the first 10 years of employment in Cyprus.
 - 20% earnings exemption (limited to €8,550) for other employees, for up to 5 years.
- Cyprus programs for non Cypriots who wish to invest in Cyprus:
 - Economic citizenship program
 - Permanent Residence program

QUESTIONS?