

# Scope of new OECD rules on abuse of UAE residence schemes which may be used to circumvent CRS

- > Why OECD considers UAE residence schemes more egregious and abusive than any other Jurisdiction?
- > Impact on actual and future residents using Free Trade Zone resident visas?
- > Serious consequences for promoters, service providers and Financial Institutions dealing with UAE FTZ residence visas

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Noticeably, the OECD explicitly expresses its concern of jurisdictions like UAE avoiding the CRS as underlying the importance of maintaining the integrity of the CRS. This risk is specifically addressed in the «Mandatory Disclosure Rules addressing CRS Avoidance Arrangements». However, the OECD regards the abuse of these programmes, as warranting a separate initiative. High-risk Rbl schemes do not have a minimum stay or accept «not being elsewhere for 183 days» combined with no tax on unremitted income. The OECD has published its warnings the Finance Minister of jurisdictions such as UAE which are anticipated be placed on the list of abusive schemes. A flaw in CRS considering tax-residence as the physical residence. Anecdotal evidence indicates that these schemes are often used as the residence for CRS self-certification, whilst the account holder remains tax-resident elsewhere. The OECD is (i) assessing how these schemes can be exploited to circumvent the CRS; (ii) identifying high-risk of abuse schemes; (iii) reminding stakeholders of the importance of correctly applying relevant CRS due diligence procedures to prevent abuse.

Lists: 1: **UAE**, Cyprus, Malta, St. Kitts, St. Lucia, Dominica, Antigua, Grenada: 2: Portugal, Greece...; 3: Thailand, Andorra, Gibraltar, Channel Islands, Monaco, Cayman, Bahamas, Turks & Caicos, Montserrat...; 4: Singapore, Costa Rica, Ecuador, Guatemala, Nicaragua, Brazil, St. Maarten, Barbados, Panama, Hong Kong, Philippines, Malaysia, Seychelles, Mauritius, Vanuatu...; 5: Switzerland, Austria, Australia, New Zealand, Estonia, Latvia, Lithuania, Spain, Czech, Belgium, Isle of Man, Brazil, UK...

### Schedule

13.30-14.00 Registration  
14.00 Beginning of seminar  
15.30 Coffee break  
17.30 End of seminar

### The OECD initiative in context

- Why OECD addressing loopholes before full implementation of CRS?
- Why OECD considers Residence by Investment (RBI) has inordinate risk of abuse for circumventing CRS?
- Can jurisdictions decide to not implement these additional anti CRS avoidance measures?
- OECD high-risk hallmarks of Rbl abuse; How many avoidance hallmarks does UAE residence visa meet?
- Why is there a separate initiative to address Rbl if already covered by the Mandatory Disclosure Rules (MDR)?
- OECD considers UAE FTZ investor residence abusive because simplest, lowest cost Rbl; requires one visit every six months; and no tax on investor residents; especially egregious is UAE definition of tax resident being someone with UAE identity plus residence visa, in contrast to 2017 OECD Model Tax Convention

### How OECD addresses Rbl schemes

- What are hallmarks of avoidance arrangements for Rbl
- Who are reporting intermediaries?
- Under what circumstances must lawyers with confidential privilege still disclose arrangements?
- What are the triggers for disclosure?
- What information is disclosed?
- When to disclose on actual taxpayers?
- When to disclose on potential clients before obtaining Rbl?
- What are the proposed penalties for non-compliance on intermediaries? On clients? Lose financial and regulated licence?
- Who discloses retroactively on clients since 29 October 2014?

### How stakeholders other than FIs and intermediaries will to be obliged address the risks:

- Jurisdiction tax authority interaction with previous tax residence
- How does the Convention Mutual Assistance in tax matters apply here?
- What if Rbl jurisdiction has not signed the Convention?

### How must FIs enhance due diligence

- When to determine other tax residences if since October 2014 customer presents Rbl identity plus utility bill plus tax or / and residence certificate?
- Discovering indicia of multiple residences using the OECD Model Tax Convention, namely (i) Permanent home, (ii) Centre of Vital Interest (iii) Habitual Abode (iv) Other indicia
- When is a house / apartment / hotel room a Permanent Home
- Vital Centre of Interest: What are social relations vs. economic relations? Which take priority?
- Is twice yearly visit or declaring «not being elsewhere for more than 183 days» regarded as tax-residence?
- Must FI utilise Double Taxation Agreement tie breakers to determine tax residencies?
- What are the ways clients can prove they are not resident elsewhere?
- What if client cannot prove he is not tax resident elsewhere?

### Hurdles to implementing

- Ambiguous bright-line rules
- Invoking legal privileged confidentiality and individual protection from self-incrimination
- Unlikely extraterritorial projection
- Can penalties be applied for non-compliance if jurisdiction prohibit retroactive legislation? Can courts hear on the case if no prescriptive and adjudicative laws?
- Impact of residency on forced heirship rules

### Which avoidance is strongly or weakly covered?

- Under what conditions will Rbl not be addressed?

### Practical application

#### Which jurisdictions are impacted?

- Criteria assessment of the 72 jurisdictions offering schemes
- Ranking of Rbl for risk of abuse: Highest priority targets<sup>1</sup>, very High Risk<sup>2</sup>, High risk<sup>3</sup>, Watch list<sup>4</sup>, Whitelist<sup>5</sup>

### Impact of initiative on jurisdictions

- How are the Rbl jurisdictions likely to react to the OECD initiative: which jurisdictions are closest to changes of rules to their Rbl regime?

### Impact of initiative on promoters/service providers

- Which professionals are concerned: tax consultants, lawyers, accountants, corporate service providers and trust companies, corporate directors, banks, life insurance companies, compliance, fund administrators?
- What is their risk exposure for having sold the Rbl schemes before 2014 vs. since 2014?
- What do the promoters/ service providers have to do: informing their clients, reporting to tax authorities, informing upstream and downstream intermediaries, inform the financial institutions (bank...)?
- Legal and practical issues for promoters/service providers schemes for:
  - Highest priority targets UAE, Malta, Cyprus, Greece, Portugal, St Kitts...

- High risk jurisdictions like Monaco
- Watch list jurisdictions like Hong Kong, Singapore
- White list jurisdictions like Switzerland, UK, Belgium

### Impact of initiative on clients

- What can the clients do legally to avoid disclosure? Move to low-risk Rbl?
- How clients likely to react to OECD initiative: will staying 183 days from time rules are effective be solution?
- If obtaining tax clearance certificates from previous residences, how far back?
- What if they renounce their Rbl status before rules effective: are they going to be disclosed? Do they have to report/ prove that they have given up their Rbl status?

### Rbl vs. BEPS MDR vs EU MDR vs UK POTAS

- Is Rbl also under the scope of these?

## PRACTICAL INFORMATION

### Venue

Sofitel Downtown Dubai Hotel  
Sheikh Zayed Road, Dubai

### How to register

by phone: +41 (0) 22 849 01 11  
by fax: +41 (0) 22 849 01 10  
by e-mail: info@academyfinance.ch  
by post: Academy & Finance SA  
PO Box 6069, CH-1211 Geneva 6  
www.academyfinance.ch

### Fees

1300 AED  
Additional registrations from the same company: - 50%

### Payment

Payment is made bank transfer or by credit card. For payment by bank transfer, we will send you an invoice by email. For payments by credit card we will be debit the amount and send you an invoice / credit card receipt by email.

### Substitution & cancellation policy

Substitutions from the same company are accepted at any time. Cancellation requests must be received in writing, by fax or by post up to the following dates end of business :

- 24 August refund of 80%
- 10 September refund of 30%
- after 10 September no refund will be made for cancellation.

## REGISTRATION FORM

I register for the seminar «Scope of new OECD rules on abuse of UAE residence schemes which may be used to circumvent CRS» in Dubai on monday 24 September 2018.

### FIRST PARTICIPANT

Full name.....  
Position.....  
E-mail.....

### SECOND PARTICIPANT (-50%)

Full name.....  
Position.....  
E-mail.....  
Company.....  
Address.....  
Postcode..... City.....  
Tel ..... Fax.....

Bank transfer  Mastercard  VISA  AMEX

Credit card No : \_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_ Expiry date : \_\_\_\_/\_\_\_\_

Cardholder.....

Address of AMEX cardholder .....

Date ..... Signature.....