



COMPLIANCE



(Incorporated in Switzerland 1967)

HBZ, KENYA COMMON REPORTING STANDARD (CRS) FAQs



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FAQ on your smart phone.

What is CRS all about?

The Common Reporting Standard (CRS) were developed by the Organization for Economic Co-operation and Development (OECD) in July 2014 by the Organization for Economic Cooperation and Development (OECD) in response to a need for more transparency on financial account information following revelations that many organizations were using offshore entities to trade or hold financial assets to conceal taxable income.

Kenya signed the CRS Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information on 22 July 2020 and adopted the OECD Regulations as drafted.



What is your role as a customer regarding CRS?

Provide us with correct and up to date due diligence information to reporting financial institutions. Collaborate, co-operate with financial institutions on a continuous basis.

Who issued & when did it become effective?



In Kenya, the Finance Act, 2021 introduced the Common Reporting Standard through the introduction of Section 6B to the Tax Procedures Act (TPA). The TPA requires the Cabinet Secretary for the National Treasury (CS National Treasury) to issue Regulations to guide the implementation of the CRS in Kenya.



When?

The CS National Treasury vide Legal Notice No. 8 of 2023, gazetted the CRS regulations on 7 February 2023, with an effective date of 1 January 2023.

What is our role as FIs regarding CRS?

Financial institutions are required to identify reportable accounts and file with the Kenya Revenue Authority the following information:-

An information return on reportable accounts held, managed or administered by that reporting financial institution. A reportable account refers to the financial account maintained by the financial institution. A reportable account comprises of the pre-existing accounts and the new accounts. The new accounts refer to a financial account maintained by a reporting financial institution opened on or after 1 January 2023 whereas a pre-existing account means a financial account maintained by a reporting financial institution as of 31st December 2022.



Reporting financial institutions are required to document the due diligence procedures followed in identifying reportable accounts maintained by the institution and ensuring that the information on the reportable account is submitted annually (31 May of the year following the year) to the Commissioner.



Reporting financial institutions will be required to update their database with information as per the CRS Regulations. This might involve additional investment in the relevant technology, capacity building, or outsourcing service provider.



Reporting financial institutions need to ensure the accuracy of their tax returns in their tax jurisdictions and disclose their residence status to the financial institutions.



A return marked "nil" if no account held, managed, or administered by that reporting financial institution is identified as a reportable account.

Any penalties to customer/banks for non-compliance?

Section 88A - Penalties for non-compliance with common reporting standard obligations are as below:

1

A person who makes a false statement or omits any information required to be included in an information return under section 6B, shall be liable to a penalty of one hundred thousand shillings (100,000/=) for each such false statement or omission to imprisonment for a term not exceeding three years or to both unless, in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from that other person.

2

A reporting financial institution that fails to file an information return or a "nil" return when required under section 6B shall be liable to pay a penalty of one million shillings for each such failure.

3

A person who fails to comply with a duty or obligation under section 6B shall be liable, where no other penalty is prescribed, to a penalty of twenty thousand shillings, and twenty thousand shillings for each day during which non-compliance continues for a period not exceeding sixty days.



Way forward?

All new non-resident customers (individuals/businesses)

to furnish us (HBZ) with correct and up to date due diligence information by filling respective self-certification forms to enable both the customer & ourselves to comply with the above requirements.

All pre-existing customers

to submit a self-certification form as and when requested to do so by HBZ.

All customers to inform HBZ

within 30 days whenever there are relevant changes in circumstances in terms of their country of tax residency/Tax Identification Number (TIN).

All new customers to provide

information on their country of tax residency including their Tax Identification Number (TIN).

Kenya Branches

Main Branch

Habib House
Koinange Street
P.O. Box 30584-00100
Nairobi / Kenya
Swift: HBZUKENA
Tel: (254-20) 3341312 / 3341177 / 3340835
+254 720 208259

Industrial Area Branch

MKI House
Dar-Es-Salaam Road
P.O.Box 17875-00500
Nairobi / Kenya
Swift: HBZUKENA
Tel: (254-20) 6558380 / 6558387

Westlands Branch

Broadwalk Mall (1st Floor)
Muthithi Raod
P.O.Box 14620-00800
Nairobi / Kenya
Swift: HBZUKENA
Tel: (254-20) 4449908/4449814
+254 718 517 447

Mombasa Branch

Unity House
Nkrumah Road
P.O. Box 82202-80100
Mombasa / Kenya
Swift: HBZUKENA
Tel: (254-41) 2226394 / 2221907
+254 721 200450 / +254 734 200453

To find out more:

HBZ Kenya Contact: +254 20 3340694
Email: r.mambo@habibbank.com or
a.kalima@habibbank.com

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