



**International
Banking Federation**

5th Floor, One Angel Court
30 Throgmorton Street
London EC2R 7HJ
tel: + 44 (0)7725 350 259
web: www.ibfed.org

International Co-operation and Tax
Administration Division,
OECD/CTPA
CRS.Consultation@oecd.or

May 16, 2018

Dear Sir, Madam

Re: Preventing abuse of residency by investment schemes to circumvent the Common Reporting Standard (CRS)

The IBFed Tax Working Group is pleased to provide comments in relation to the prevention of abuse of residence by investment schemes to circumvent the CRS. We acknowledge that the OECD had requested that interested parties submit their contribution by 19 March 2018, and that this date has since passed. We nevertheless hope that our submission will be taken into consideration.

Background

Increasingly, jurisdictions are offering “residence by investment” (RBI) or “citizenship by investment” (CBI) schemes. These are schemes that allow foreign individuals to obtain citizenship or temporary or permanent residence rights in exchange for local investments or against a flat fee.

As outlined by the OECD, individuals may be interested in these schemes for a number of legitimate reasons, including greater mobility thanks to visa-free travel, better education and job opportunities for children, or the right to live in a country with political stability. At the same time, these schemes can also offer a backdoor to money-launderers and tax-evaders. In this regard, information released in the market place and obtained through the OECD’s CRS public disclosure facility and as part of its consultation, highlights the abuse of RBI and CBI schemes to circumvent reporting under the Common Reporting Standard (CRS).

We take this opportunity to provide our input as well.

Comments

The IBFed recognises the importance of addressing any abuse arising from the use of RBI and CBI schemes to circumvent reporting under the CRS. It should also be recognised that Banks have made significant investment to date into compliance with CRS and FATCA. Our observations are below.

- Whilst Banks play an important role in complying with CRS due diligence procedures (e.g. reviewing Anti Money Laundering, Know Your Customer information), any additional measures should directly address the cause of the issue, i.e. the jurisdictions offering such schemes, rather than providing additional obligations for Banks.
- There is an inherent limitation in self-certification in respect to the reliance on information provided by individuals. Banks may be well placed to assist in exchange of information, but are not equipped for verifying residency documentation and challenging the asserted tax residency of individuals.
- The risks described by the OECD in the consultation document arise because of jurisdictions issuing genuine documentation that could be used to disguise tax residence. It may not be possible to prevent abuse of CRS by persons using genuine government documentation in all cases. Accordingly, the IBFed would welcome measures that counter the misuse of genuine government documentation that could assist misrepresentation of tax residence. This is particularly so for those high risk schemes identified by the OECD (e.g. schemes requiring limited or no physical presence in the jurisdictions and no checks done as to physical presence).
- If there are particular jurisdictions operating RBI or CBI programs that concern the OECD, and they are not open to dialogue, these jurisdictions could be specifically targeted as part of new measures.
- Any new measures should have a prospective effect. A retrospective impact would impose considerable cost to Banks.

In summary, the jurisdictions (rather than Banks) should be the focus of any new measures as they are best placed to implement abuse around tax residency. Banks will of course continue to play an important role in undertaking due diligence through existing CRS obligations.

Yours sincerely,

Ms. Hedwige Nuyens
Managing Director of the IBFed