# Automatic Exchange of Information: The Next Step

## INFORMATION BRIEF

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# Automatic Exchange of Information

**1. What is automatic exchange of information for tax purposes?**

Automatic exchange of information involves the systematic and periodic transmission of “bulk” taxpayer information by the source country of income to the country of residence of the taxpayer concerning various categories of income (e.g. dividends, interest, royalties, salaries, pensions, etc.).

The information which is exchanged automatically is normally collected in the source country on a routine basis, generally through reporting of the payments by the payer (financial institution, employer, etc). Automatic exchange can also be used to transmit other types of useful information such as changes of residence, the purchase or disposition of immovable property, value added tax refunds, etc. As a result, the tax authority of a taxpayer’s country of residence can check its tax records to verify that taxpayers have accurately reported their foreign source income. In addition, information concerning the acquisition of significant assets may be used to evaluate the net worth of an individual, to see if the reported income reasonably supports the transaction.

In order to engage in automatic exchange of information, countries need to establish appropriate formats and operational processes and a legal framework permitting such exchanges, such as a bilateral or multilateral treaty or in the case of the EU, an applicable EU Directive such as the Directive on Administrative Cooperation.

**2. How does it work?**

The basic process of automatic exchange of information can be divided into seven steps:

1. Payer or paying agent collects information from the taxpayer and/or generates information itself.[1]

2. Payer or paying agent reports information to the tax authorities.

3. Tax authorities consolidate information by country of residence.

4. Information is encrypted and bundles are sent to residence country tax authorities.

5. Information is received and decrypted.

6. Residence country feeds relevant information into an automatic or manual matching process.

7. Residence country analyses the results and takes compliance action as appropriate.

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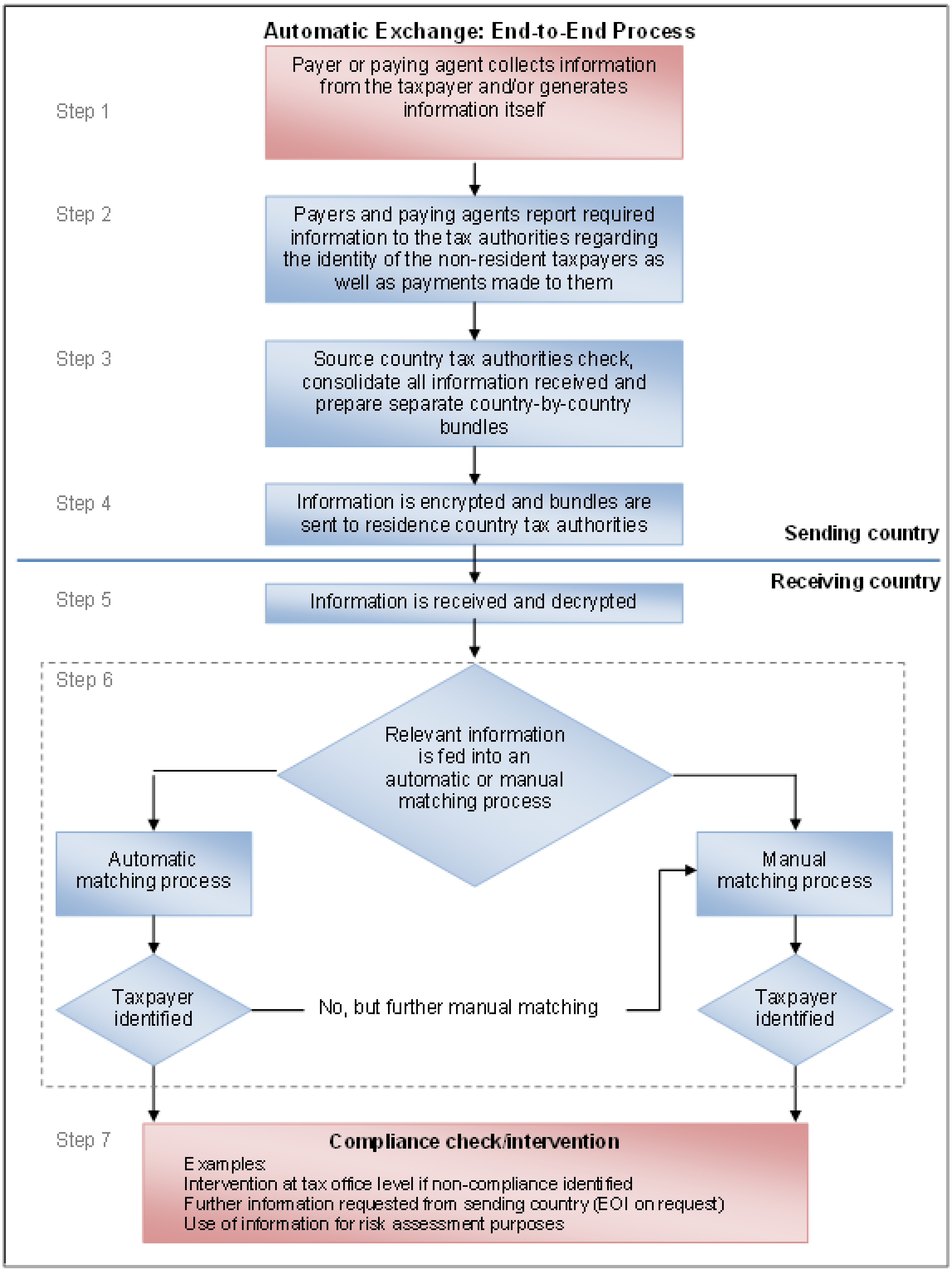
[1] While most tax systems operate in this way, some require the taxpayer to file a refund claim directly to the tax administration. It is from this refund claim that the tax administration obtains the information to exchange.



Automatic Exchange: End-to-End Process
Step 1
Payer or paying agent collects information from the taxpayer and/or generates information itself
Step 2
Payers and paying agents report required information to the tax authorities regarding the identity of the non-resident taxpayers as well as payments made to them
Step 3
Source country tax authorities check, consolidate all information received and prepare separate country-by-country bundles
Step 4
Information is encrypted and bundles are sent to residence country tax authorities
Sending country
Receiving country
Step 5
Information is received and decrypted
Step 6
Relevant information is fed into an automatic or manual matching process
Automatic matching process
Manual matching process
Taxpayer identified
No, but further manual matching
Taxpayer identified
Step 7
Compliance check/intervention
Examples:
Intervention at tax office level if non-compliance identified
Further information requested from sending country (EOI on request)
Use of information for risk assessment purposes

**3. What are the main benefits of automatic exchange?**

- Automatic exchange of information can provide timely information on non compliance where tax has been evaded either on an investment return or the underlying capital sum.

- It can help detect cases of non-compliance even where tax administrations have had no previous indications of non-compliance.

- It has deterrent effects, increasing voluntary compliance and encouraging taxpayers to report all relevant information.

- Automatic exchange may help educate taxpayers in their reporting obligations, increase tax revenues and thus lead to fairness – ensuring that all taxpayers pay their fair share of tax in the right place at the right time.

- In a small number of cases countries have been able to integrate the information received automatically with their own systems such that income tax returns can be prefilled.

**4. What is the OECD doing on automatic exchange of information?**

The OECD has been active in facilitating automatic exchange of information for many years, working closely with the EU, member countries, and non-member countries. The work has ranged from creating the international legal basis for automatic exchange to creating technical formats, toolkits and standards to support this type of exchange of information.

As automatic exchange of information becomes the new standard**,** and with the G20 support for a multilateral implementation in this domain, the OECD has redoubled its efforts to address the remaining challenges and to offer, to all interested countries, a standardized, secure and effective system of automatic information exchange. Working with partner countries (including Argentina, Brazil, China, India, the Russian Federation and South Africa), the OECD is advancing rapidly in the development of a **common model for reporting and automatic exchange** of certain account information held by financial institutions, including due diligence rules, reporting formats and secure transmission methods. The goal of this work is to maximise compliance benefits for residence countries, reduce costs for financial institutions and provide all necessary safeguards through the development of one standard (rather than a proliferation of different ones).

A key catalyst for automatic exchange of information and the on-going OECD work has been the **FATCA legislation** enacted by the United States in 2010.

**5. Is the political support for automatic exchange of information growing?**

**Continued support from G20**

There is growing political support for automatic exchange and the G20 has encouraged and supported the OECD's work on automatic exchange. At the G20 Leaders' Summit in Los Cabos in 2012, the Leaders welcomed the OECD report "*Automatic Exchange of Information: What it is, How it works, Benefits, What remains to be done*" which summarises the key features of an effective model for automatic exchange.

The communiqué issued at the G20 Finance Ministers and Central Bank Governors on 5 November 2012 stated: "*We will continue to implement practices of automatic exchange of information and call on the OECD to analyze the safeguards, mechanisms and milestones necessary to increase its use and efficient implementation in a multilateral context*." At their meeting in February 15-16, 2013 they said "*We reiterate our commitment to extending the practice of automatic exchange of information, as appropriate, and commend the progress made recently in this area. We support the OECD analysis for multilateral implementation in that domain"*. At their meeting on April 19 2013 they said *"We welcome progress made towards automatic exchange of information which is expected to be the standard and urge all jurisdictions to move towards exchanging information automatically with their treaty partners, as appropriate. We look forward to the OECD working with G20 countries to report back on the progress in developing of a new multilateral standard on automatic exchange of information, taking into account country-specific characteristics. The Global Forum will be in charge of monitoring"*

At the most recent meeting of the Finance Ministers and Central Bank Governors on July 19 & 20, 2013 they said

> .
> *"We are committed to automatic exchange of information as the new, global standard and we fully support the OECD work with G20 countries aimed at setting such a new single global standard for automatic exchange of information. We ask the OECD to prepare a progress report by our next meeting, including a timeline for completing this work in 2014. We call on all jurisdictions to commit to implement this standard."*

**Support from the G8**

The G8 Presidency requested a report from the OECD to analyse how jurisdictions could build on the recent developments to implement automatic exchange in a multilateral context. The Lough Erne Communiqué from the G8 in June 2013 said

> *"We commit to establish the automatic exchange of information between tax authorities as the new global standard, and will work with the Organisation for Economic Cooperation and Development (OECD) to develop rapidly a multilateral model which will make it easier for governments to find and punish tax evaders.*

**FATCA as a catalyst for automatic exchange**

In 2010 the United States enacted legislation commonly referred to as FATCA (Foreign Account Tax Compliance Act) which effectively requires foreign financial institutions around the globe to report account details of their U.S. customers to the U.S. tax administration. Recognising the important legal and cost issues of this approach the United States developed together with five other OECD (and EU) member countries (France, Germany, Italy, Spain and the United Kingdom) a model for the intergovernmental implementation of FATCA (Model FATCA IGA). The Model FATCA IGA provides for the implementation of FATCA through reporting by financial institutions to their local tax authorities, which then exchange the information on an automatic basis with the U.S. tax authorities.

The Model FATCA IGA is not only becoming a preferred route for the implementation of FATCA, it can also serve as a template for a common model for automatic exchange of information. The Model FATCA IGA itself contains a commitment to work with interested countries, the OECD and where appropriate the EU on adapting the terms of the Model FATCA IGA "in the medium term to a common model for automatic exchange of information, including the development of reporting and due diligence standards." In a press release on 26 July 2012 the OECD welcomed the model agreement. The OECD Secretary-General Angel Gurría said:

> *"I warmly welcome the co-operative and multilateral approach on which the model agreement is based. We at the OECD have always stressed the need to combat offshore tax evasion while keeping compliance costs as low as possible. A proliferation of different systems is in nobody's interest. We are happy to redouble our efforts in this area, working closely with interested countries and stakeholders to design global solutions to global problems to the benefit of governments and business around the world."*

On 9 April, the Ministers of the same five members (France, Germany, Italy, Spain and the UK) that developed the FATCA intergovernmental agreements with the United States announced their intention to exchange FATCA-type information amongst themselves in addition to exchanging information with the United States. They said:

> "*An important part of the fight against international evasion and fraud is tax transparency. As you know, following the passage of the US Foreign Account Tax Compliance Act we have all been in joint discussions with the US as to the most effective way of concluding intergovernmental agreements to provide for automatic information exchange. These discussions have resulted in a model agreement which minimises burdens on business while ensuring effective and efficient reciprocal exchange of information. We believe that these agreements represent a step change in tax transparency, enabling us to clamp down further on tax evasion. We will be looking to promote these agreements as the new international standard, including through the various international fora, with the ultimate aim of agreeing a multilateral framework."*

On April 13th, Belgium, the Czech Republic, the Netherlands, Poland, and Romania also expressed interest in this approach and subsequently several other countries endorsed this approach[2] with Mexico and Norway joining the initiative in early June.

Further the United Kingdom recently agreed to automatically exchange information, on the basis of the intergovernmental approaches developed with the United States, with its Crown Dependencies (the Isle of Man, Guernsey and Jersey) and many of its Overseas Territories (Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Montserrat, and Turks and Caicos Islands). All these jurisdictions have also made commitments to join the pilot project with France, Germany, Italy, Spain and the UK.

**EU Developments**

Within the European Union member states exchange information automatically on interest income within the meaning of the Savings Directive. Only Luxembourg and Austria are still making use of the possibility to levy a withholding tax instead of exchanging information during a transitional period. Separately, Luxembourg took the decision on April 10, 2013, to apply from January 1, 2015 automatic exchange of information on savings income (on the basis of the European Savings Tax Directive currently

[2] Joint Statement of 17 countries on 14 May at ECOFIN.

in force). Austria is still considering the issue but has indicated a willingness to negotiate in light of Luxembourg's decision.

There is also an amending proposal to the Savings Directive which however has not yet been adopted. Separately the revised Directive on Administrative Cooperation in the Field of Taxation introduces automatic exchange of information from 1 January 2015 on five categories of income and capital based on available information (income from employment, director's fees, life insurance products not covered by other Directives, pensions, ownership of and income from immovable property).

On 15 April 2013, the President of the European Commission, in his address to the General Assembly of the United Nations, provided the EU's strong support for the OECD work on automatic exchange and the interest in ensuring compatible standards for automatic exchange of information on a global basis. Further, on 22 May the EU Council unanimously agreed to give priority to efforts to extend automatic exchange of information at the EU and global level and welcomed the on-going efforts made in the G8, G20 and OECD to develop a global standard. On June 12 the European Commission adopted a legislative proposal to extend the scope of automatic exchange of information in Directive 2011/16 on administrative cooperation to new items: dividends, capital gains, account balances, *inter alia*.

**6. What instrument could serve as a legal basis for a standardised, secure and effective system of automatic exchange of information?**

As stated above, a legal basis is needed to carry out automatic exchange. While bilateral treaties such as those based on Article 26 of the OECD Model Tax Convention would permit such exchanges, it may be more efficient to implement through a multilateral instrument. The **Multilateral Convention on Mutual Administrative Assistance in Tax Matters**, as amended in 2010, is such an instrument.

The Convention was developed jointly by the OECD and the Council of Europe in 1988 and amended by Protocol in 2010. The Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange of information on request and to open it to all countries. The amended Convention was opened for signature on 1st June 2011.

The Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all countries. The amended Convention provides for all possible forms of administrative co-operation between States in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This co-operation includes automatic exchange of information. Under Article 6 of the Convention automatic exchange of information requires an agreement between the competent authorities of the Parties willing to provide each other information automatically. Without such an agreement of the competent authorities, there is no obligation under the Convention to engage in automatic exchange of information. Actual automatic exchanges under the Convention take place on a bilateral basis and include rules on confidentiality and reciprocity.

Since 2009 the G20 has consistently encouraged countries to sign the Convention including most recently at the meeting of the G20 Finance Ministers and Central Bank Governors in Moscow on 19-20 July where the communique stated

> *"We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters without further delay."*

"*We are looking forward to the Global Forum establishing a mechanism to monitor and review the implementation of the global standard on automatic exchange of information"*.

More than 70 jurisdictions, including all G20 countries, have signed the Convention or have committed to do so. At a signing ceremony held at OECD headquarters on 29 May Austria, Belize, Estonia, Latvia, Luxembourg, Nigeria, Saudi Arabia, Singapore and the Slovak Republic signed the Convention. In the meantime the Convention has been extended to cover also Montserrat and the Turks and Caicos Islands. With China's signature on 27 August all G20 countries have become signatories to the Convention.This represents a wide range of countries including major financial centres and developing countries, and interest in the Convention continues to grow.

More information on the Convention can be found on the OECD website www.oecd.org/ctp/eoi/mutual

## ANNEX: G20 Support

### Chronology of G20 support for automatic exchange of information and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters

***G20 Leaders'Declaration,***
***St Petersburg, Russia 6 September, 2013***

*"We commend the progress recently achieved in the area of tax transparency and we fully endorse the OECD proposal for a truly global model for multilateral and bilateral automatic exchange of information. Calling on all other jurisdictions to join us by the earliest possible date, we are committed to automatic exchange of information as the new global standard, which must ensure confidentiality and the proper use of information exchanged, and we fully support the OECD work with G20 countries aimed at presenting such a new single global standard for automatic exchange of information by February 2014 and to finalizing technical modalities of effective automatic exchange by mid-2014. In parallel, we expect to begin to exchange information automatically on tax matters among G20 members by the end of 2015. We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters without further delay. We look forward to the practical and full implementation of the new standard on a global scale. We encourage the Global Forum to complete the allocation of comprehensive country ratings regarding the effective implementation of information exchange upon request and ensure that the implementation of the standards are monitored on a continuous basis. We urge all jurisdictions to address the Global Forum recommendations in particular those 14 that have not yet moved to Phase 2. We invite the Global Forum to draw on the work of the FATF with respect to beneficial ownership. We also ask the Global Forum to establish a mechanism to monitor and review the implementation of the new global standard on automatic exchange of information."*

***G20 Finance Ministers and Central Bank Governors' Declaration,***
***Moscow, Russia 19-20 July, 2013***

*"We commend the progress recently achieved in the area of tax transparency and we fully endorse the OECD proposal for a truly global model for multilateral and bilateral automatic exchange of information. We are committed to automatic exchange of information as the new, global standard and we fully support the OECD work with G20 countries aimed at setting such a new single global standard for automatic exchange of information. We ask the OECD to prepare a progress report by our next meeting, including a timeline for completing this work in 2014. We call on all jurisdictions to commit to implement this standard. We are committed to making automatic exchange of information attainable by all countries, including low-income countries, and will seek to provide capacity building support for them. We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters without further delay. We look forward to the practical and full implementation of the new standard on a global scale. All countries must benefit from the new transparent environment and we call on the Global Forum on Exchange of Information for Tax Purposes to work with the OECD task force on tax and development, the World Bank Group and others to help developing countries identify their need for technical assistance and capacity building. We are looking forward to the Global Forum establishing a mechanism to monitor and review the implementation of the global standard on automatic exchange of information. We urge all jurisdictions to address the Global Forum's recommendations and especially the fourteen where the legal framework fails to comply with the standard without further delay. We ask the Global Forum to draw on the work of the FATF in connection with beneficial ownership, and also ask the Global Forum to achieve the allocation of overall ratings regarding the effective implementation of information exchange upon request at its November meeting and report to us at our first meeting in 2014."*

***G20 Finance Ministers and Central Bank Governors' Declaration,***
***Washington D.C., United States, 19 April, 2013***

*"More needs to be done to address the issues of international tax avoidance and evasion, in particular through tax havens, as well as non-cooperative jurisdictions. [...] In view of the next G20 Summit, we also strongly encourage all jurisdictions to sign or express interest in signing the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and call on the OECD to report on progress. We welcome progress made towards automatic exchange of information which is expected to be the standard and urge all jurisdictions to move towards exchanging information automatically with their treaty partners, as appropriate. We look forward to the OECD working with G20 countries to report back on the progress in developing of a new multilateral standard on automatic exchange of information, taking into account country-specific characteristics. The Global Forum will be in charge of monitoring."*

***G20 Finance Ministers and Central Bank Governors' Declaration***
***Moscow, 15-16 February, 2013***

*"We strongly encourage all jurisdictions to sign the Multilateral Convention on Mutual Administrative Assistance. [...] We reiterate our commitment to extending the practice of automatic exchange of information, as appropriate, and commend the progress made recently in this area. We support the OECD analysis for multilateral implementation in that domain."*

***G20 Leaders' Declaration***
***Los Cabos, Mexico 18-19 June, 2012***

*"In the tax area, we reiterate our commitment to strengthen transparency and comprehensive exchange of information. [ ...] We welcome the OECD report on the practice of automatic information exchange, where we will continue to lead by example in implementing this practice. We call on countries to join this growing practice as appropriate and strongly encourage all jurisdictions to sign the Multilateral Convention on Mutual Administrative Assistance."*

***G20 Finance Ministers and Central Bank Governors' Declaration***
***Mexico City, Mexico 25-26 February, 2012***

*"We call upon all countries to join the Global Forum on transparency and to sign on the Multilateral Convention on Mutual Assistance. We call for an interim report and update by the OECD on necessary steps to improve comprehensive information exchange, including automatic exchange of information and, together with the FATF, on steps taken to prevent the misuse of corporate vehicles and improve interagency cooperation in the fight against illicit activities."*