

DIMS providers, Custodians and the CRS

As a Discretionary Investment Management Services (DIMS) provider, Custodian used by a DIMS provider, or Customer of a DIMS provider, you should consider whether you have obligations under the Common Reporting Standard (CRS).

As a DIMS provider or Custodian

- **Are you an Investment Adviser/Manager (DIMS provider)?**
 - Providing investment advice and portfolio management services?
 - Acting on behalf of Customers with financial assets or relevant crypto-assets held with a Custodian?
- **Are you are a financial institution (FI) for CRS purposes?**
 - A DIMS provider will generally be a financial institution for CRS purposes.
 - A Custodian will generally be a financial institution for CRS purposes.
 - A Customer may sometimes be a financial institution for CRS purposes.
- **Does the Custodian or DIMS provider have CRS due diligence obligations?**
 - Generally the Custodian will have CRS due diligence obligations for the Customer.
 - Generally the DIMS provider will not have CRS due diligence obligations for the Customer.
 - If the Customer is a financial institution, they will have their own CRS due diligence obligations.

The Common Reporting Standard

New Zealand is one of more than 100 countries that are using the Common Reporting Standard (CRS) for the automatic exchange of financial account information (AEOI) to help combat global tax evasion.

Under the CRS, Reporting New Zealand financial institutions are required to review their financial accounts and annually report to us prescribed information about certain accounts held or controlled by relevant foreign tax residents.

We will then send the information to the tax authority in the person's jurisdiction(s) of tax residence, if New Zealand has an agreement to exchange such information with that jurisdiction.

To clarify how the CRS applies to fund managers and investment advisers, refer to our CRS guidance and supporting documents at www.ird.govt.nz/crs.

- Inland Revenue Guidance on the CRS (sections 3.1.3 'Investment Entity' and 4.5.1 'Equity or debt interest in an investment entity')
- CRS: Due Diligence and Reporting Obligations (IR1049)
- CRS: Is the entity a Reporting NZ Financial Institution? (IR1050)

Are you a financial institution (FI) for CRS purposes?

A provider of “discretionary investment management services” (**DIMS provider**) will generally be defined as a financial institution, for CRS purposes.

If the entity:

- provides such DIMS services, and
 - derives most of its income (50% or more) from these DIMS services (and/or other financial services)
- then** the entity will generally be defined as a financial institution (ie, investment entity), for CRS purposes.

A **Custodian** will generally be defined as a financial institution, for CRS purposes.

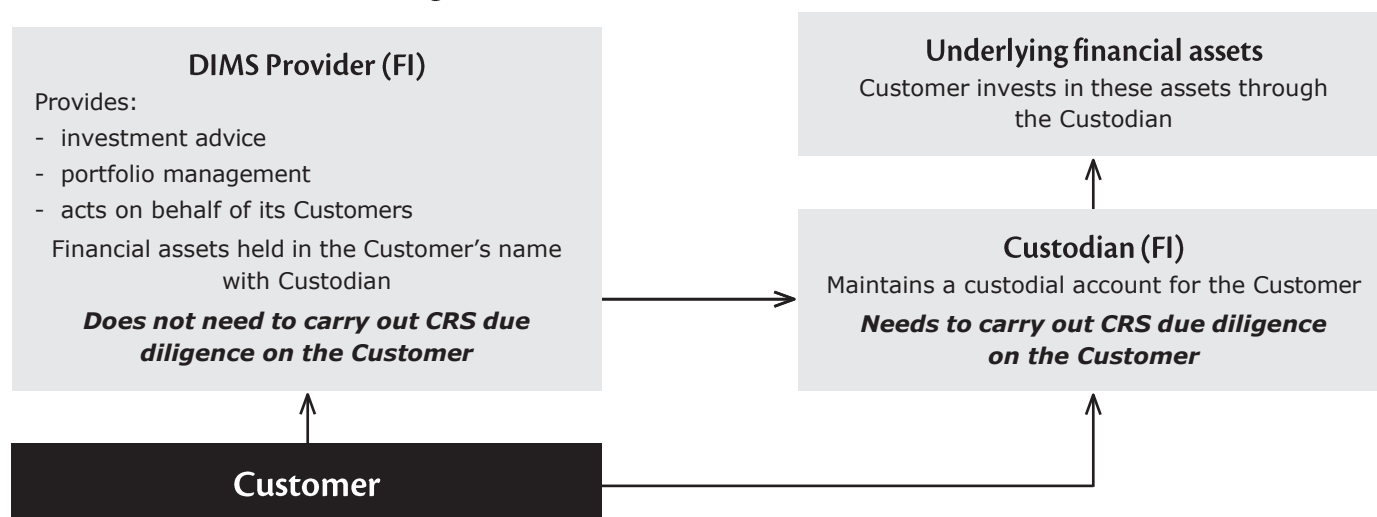
If the custodial entity:

- provides custodial services (and related financial services), and
- derives 20% or more of its income from these custodial services

then the custodial entity will generally be defined as a financial institution for CRS purposes (ie, a custodial institution). The entity could also potentially be an investment entity.

Does the Custodian or the DIMS provider have CRS due diligence obligations?

Custodian does CRS due diligence



Example: Albert Investments Limited is an investment adviser and DIMS provider. It provides investment advice and portfolio management and acts on behalf of its customers.

Albert Investments Limited derives most of its income from providing such advisory and DIMS services (as a business) for customers who have portfolios of assets. Albert Investments Limited arranges such investments on behalf of the customers, and these investments are held in the customer's name with Custodian Limited (a financial institution).

Is Albert Investments Limited a financial institution?

Yes. Albert Investments Limited is an investment entity financial institution.

Does Albert Investments Limited need to carry out CRS due diligence on the customers that it acts for?

No. Albert Investments Limited merely facilitates the investments in the customers' names with Custodian Limited (a financial institution).

This means that Albert Investments Limited does not need to carry out CRS due diligence on the customers.¹ Instead, it is Custodian Limited that needs to carry out CRS due diligence on the customers.

¹ This is because of the exclusion from the CRS definition of “financial account” that applies to Albert Investments Limited's accounts that are held by the customers (see Section VIII(C)(1)(a) of the CRS) i.e. these accounts are treated as **not** being financial accounts.

What CRS due diligence does Custodial Limited need to carry out on the customers?

Custodian Limited will be required to carry out CRS due diligence on the customers (i.e. to identify whether any of those customers is a relevant foreign tax resident or is controlled² by a relevant foreign tax resident).

If Custodian Limited identifies that one (or more) of these customers (or controlling persons) is a relevant foreign tax resident they will then need to annually report prescribed information about those customers/controlling persons to Inland Revenue.

However, if Custodian Limited carries out such due diligence and identifies that one of these customers is a financial institution (from a Participating Jurisdiction)³ the account (ie, the account held by the customer) will not be reportable by Custodian Limited and they will not need to "trace through" that customer to identify its controlling persons. This is because that customer will be doing *its own* due diligence (ie, this is an anti-duplication measure).

If a customer is a financial institution it will have its own CRS due diligence and reporting obligations. The financial institution customer would be able to engage a service provider to carry out such due diligence and reporting on its behalf.

However, the financial institution customer will still have the legal obligations, and therefore may be liable for penalties if the service provider does not comply with these obligations on its behalf.

Glossary

Term	Definition	IR Guidance
Common Reporting Standard (CRS)	The CRS is a global framework for the collection, reporting, and exchange of financial account information about people and entities investing outside of their tax residence jurisdiction.	Section 1
Financial institution	A custodial institution, depository institution, investment entity (including certain entities that are managed by financial institutions), or specified insurance company.	Section 3
Reporting New Zealand financial institution	A New Zealand Financial Institution that must carry out CRS due diligence on its financial accounts and report to us on all reportable accounts on an annual basis. This also covers reporting undocumented account information in the circumstances set out in the CRS.	Section 3-6
Entity	A legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation. (Note that individuals are excluded from the definition of "entity" for CRS purposes and that only entities can be financial institutions).	Section 3.1

² This will be the case if the customer is a type of entity known as a passive non-financial entity.

³ Please note that there is a trace through rule that can apply if the financial institution **that holds the account** is a managed investment entity from a jurisdiction that is **not** a Participating Jurisdiction. This is because such entities are deemed to be passive non-financial entities. It is necessary for a financial institution that maintains such accounts to trace through the passive non-financial entity account holder to then identify their controlling persons. A list of Participating Jurisdictions can be found on www.ird.govt.nz (search keywords: participating jurisdictions).