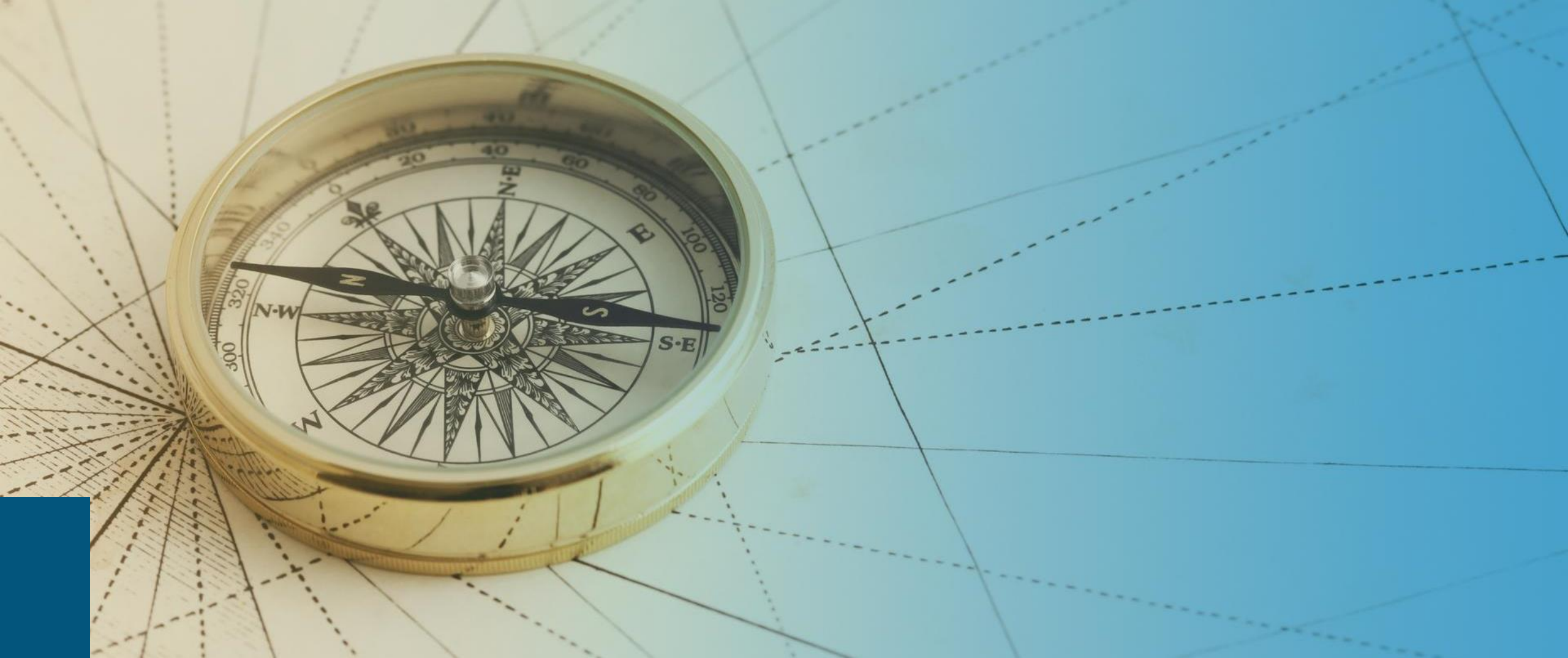


The background of the slide is a close-up photograph of water ripples, creating a complex, organic pattern of light and dark blue-green tones. The ripples are most prominent in the center and right side, while the left side shows a smoother, lighter greenish-blue area.

KENDRIS

Navigating the Tax Transparency Landscape

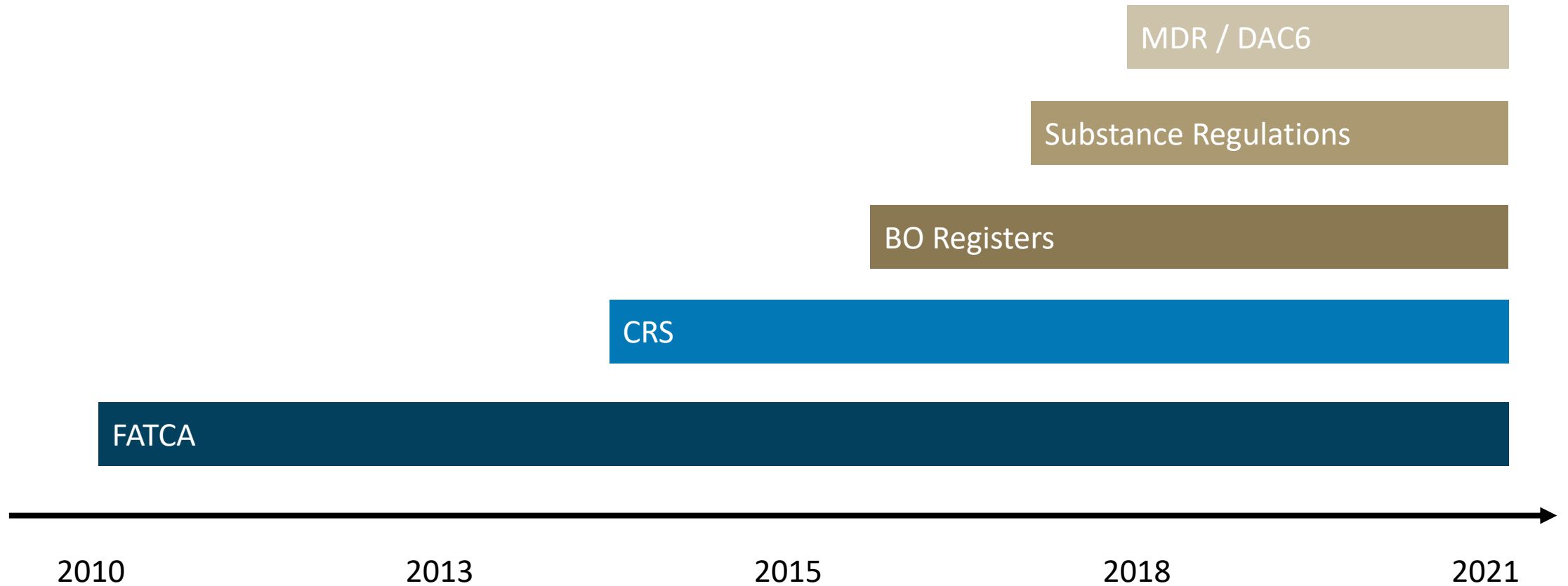




Introduction

Introduction

Regulatory Reporting Regimes





FATCA & CRS

FATCA

Background

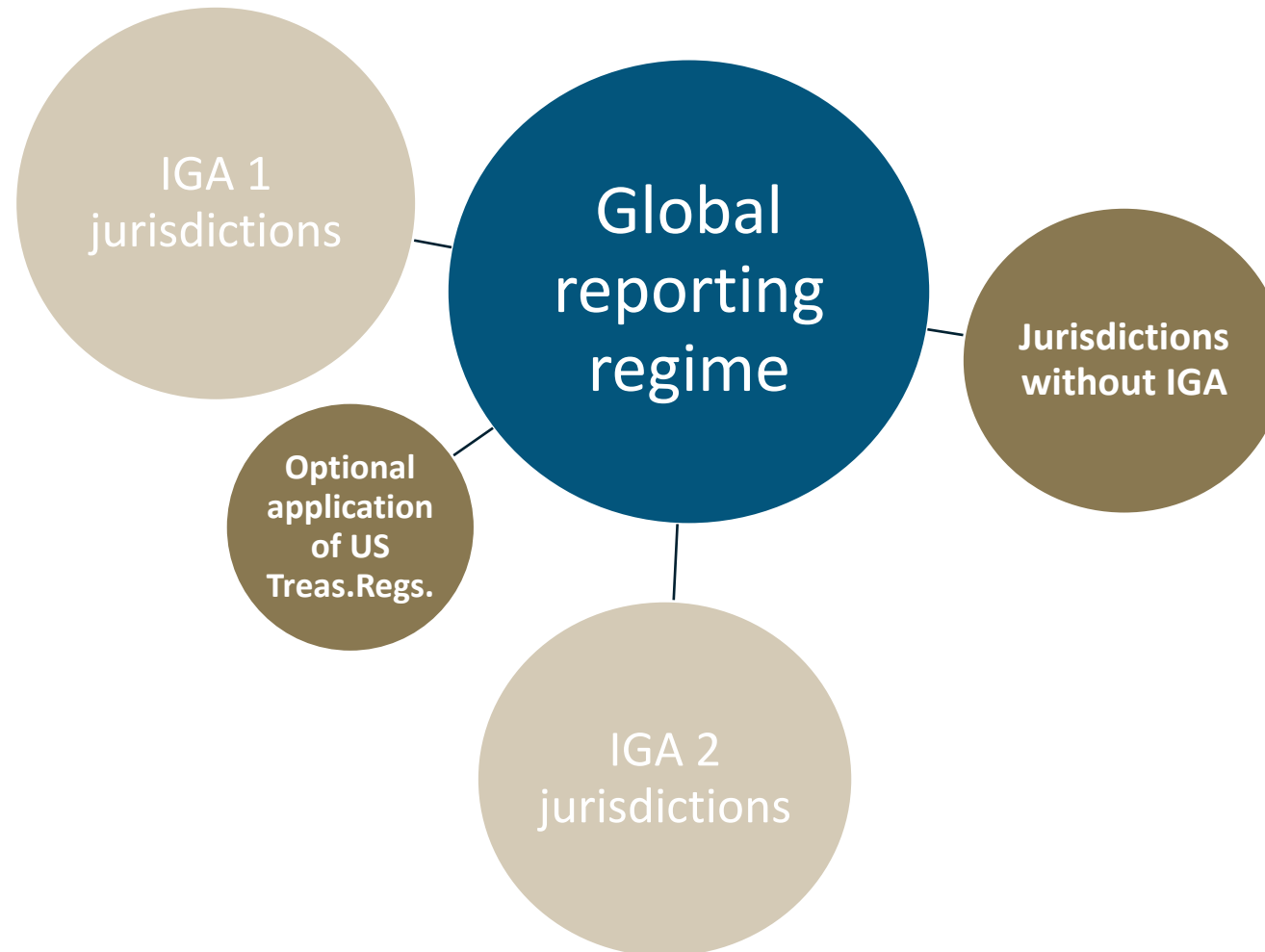
Foreign Account Tax Compliance Act (FATCA)

- US Regime (non-reciprocal)
- Requires foreign financial institutions (FFI) and certain other non-financial foreign entities to report on the foreign assets held by their US account holders

Inter- Governmental Agreements (IGA)

Many jurisdictions have concluded an IGA with the US to facilitate the implementation of FATCA and reduce costs for financial institutions

FATCA IGA Network



CRS

Background

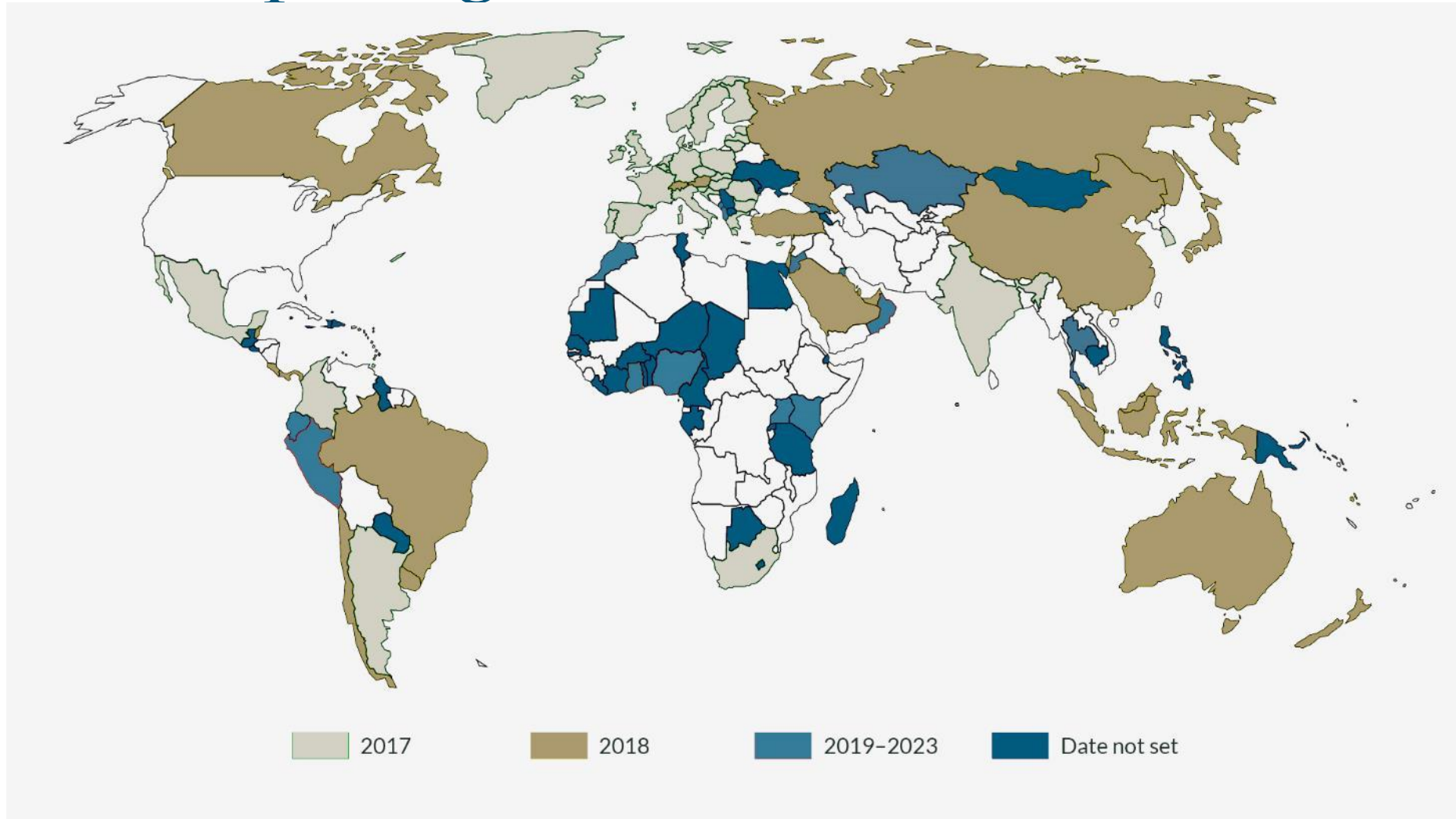
Common Reporting Standard (CRS)

- Developed in response to the G20 request and approved by the OECD council in 2014
- Calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis

Participating Jurisdictions

- Must implement CRS rules in their national legislation
- Select a legal basis for the exchange of information (bilateral or multilateral agreements)
- Put in place IT and administrative infrastructure and resources

CRS Participating Jurisdictions



Status as of February 2021: Over 150 jurisdictions have committed to the automatic exchange of information, and around 100 jurisdictions are already exchanging information with partner states

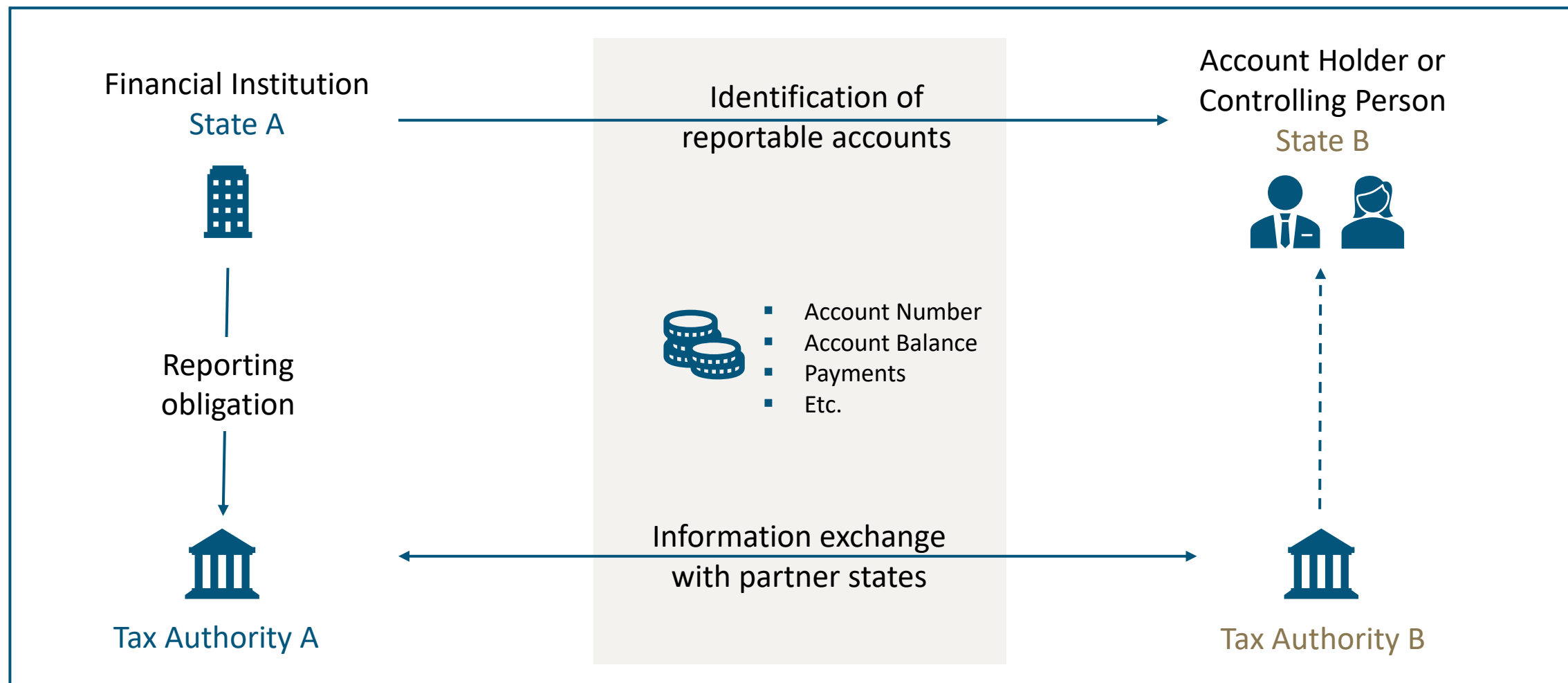
FATCA / CRS

Relevant Parties

- **(Foreign) Financial Institutions** – May have a reporting obligation
Depository Institutions, Custodial Institutions, Investment Entities, Specified Insurance Companies
- **(US) Account Holders** – May be subject to reporting
Bank Account Holder, Equity or Debt Interest Holder of an Investment Entity
- **Controlling (US) Persons** – May be subject to reporting
Natural person(s) exercising control over a Passive NF(F)E

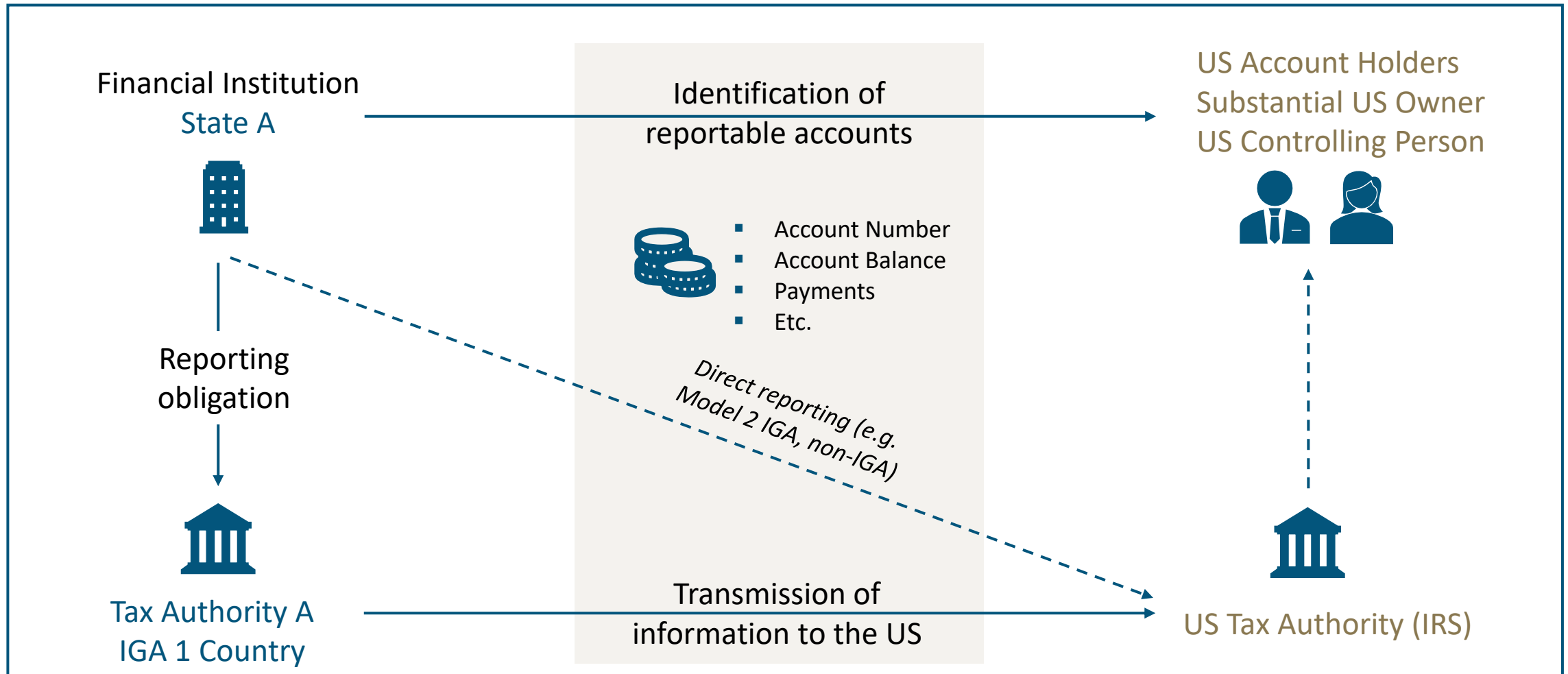
CRS

Reporting Process CRS



FATCA

Reporting Process FATCA



FATCA / CRS

What information is being disclosed?

Identification Information (example)

- Name
- Address
- Tax residence
- Date of birth
- TIN

Account Information (example)

- Name and identification details of Reporting (F)FI
- Account number
- Account balance and gross payments

FATCA / CRS

Compliance Requirements

OECD Initiative against fictional residences:

- "Citizenship by Investment" (CBI) and "Residence by Investment" (RBI) schemes are being offered by a substantial number of jurisdictions (Antigua and Barbuda, Bahamas, Bahrain, Barbados, Cyprus, Dominica, Grenada, Malta, Saint Kitts and Nevis, Saint Lucia, Seychelles, Turks and Caicos Islands, UAE, Vanuatu) and allow foreign individuals to obtain citizenship or temporary or permanent residence rights on the basis of local investments or against a flat fee. In some cases, the requirements for actual physical presence in the jurisdiction is set low.
- When validating self-certifications, FIs need to take into account all relevant information available, including the results of the OECD's CBI/RBI risk analysis.
- To the extent that the doubt is related to the fact that the Account Holder or Controlling Person is claiming residence in a jurisdiction offering a potentially high-risk CBI/RBI scheme, FIs may consider raising further questions.

- **Due diligence, policies & procedures and ongoing monitoring of changes in circumstances, RO Certifications (FATCA)**

FATCA / CRS

Main Challenges



High compliance costs



Level of technical
(un)sophistication



Monitoring jurisdictional
differences and updates



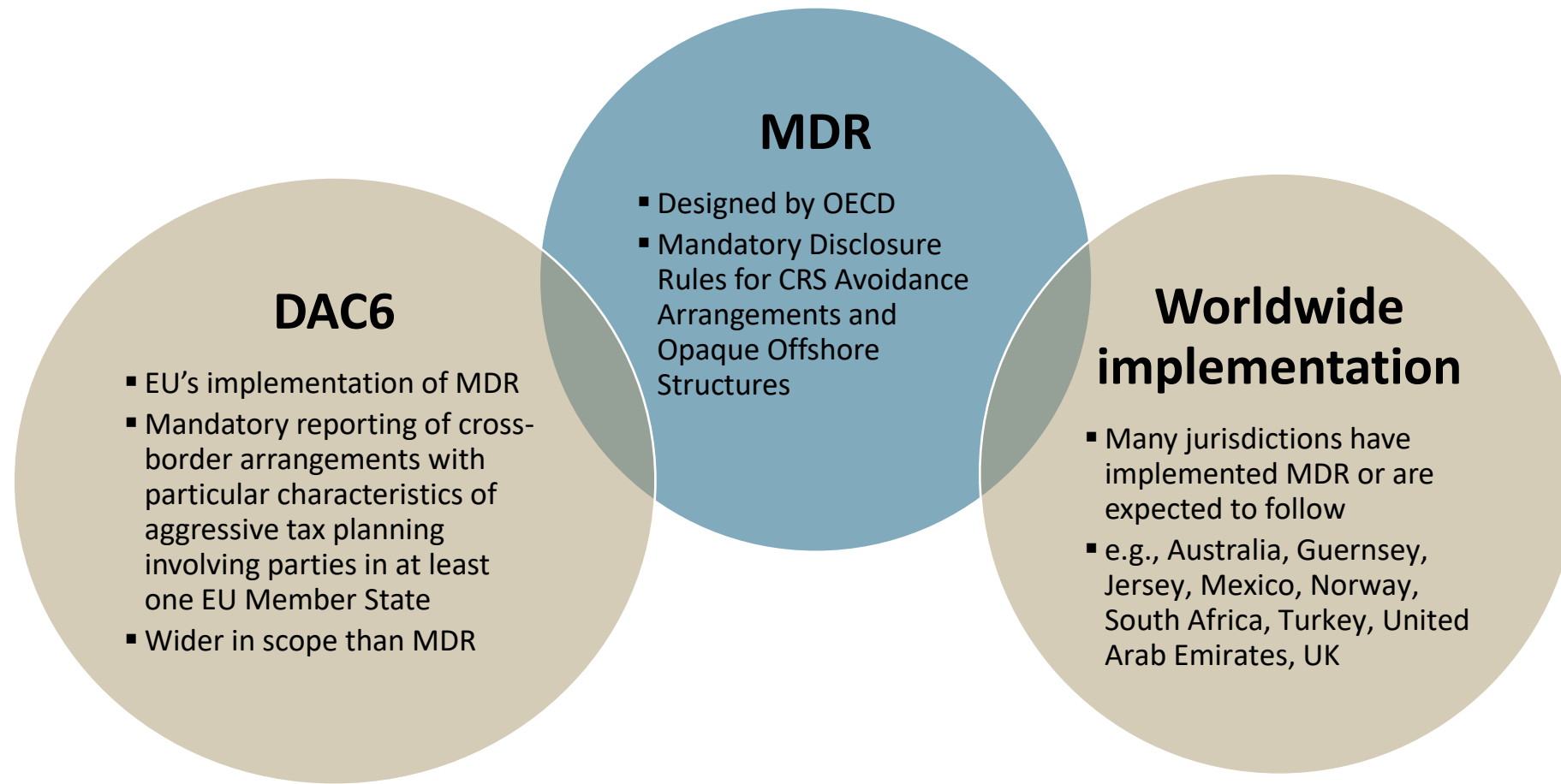
Documentation,
audit trail



Mandatory Disclosure Rules, DAC6

Mandatory Disclosure Rules

Background



Mandatory Disclosure Rules / DAC6

Relevant Parties

- **(EU) Intermediary**
May have a reporting obligation. Tax advisors, lawyers or accountants or any other person who designs, promotes or provides assistance in regard to certain arrangements.
- **(EU) Taxpayer (individuals and entities)**
May be subject to reporting. May under certain circumstances also have own reporting obligations.
- **Non-EU Intermediary (DAC6)**
Indirectly affected if designing, promoting or providing assistance in regard to certain cross-border arrangements for EU taxpayers insofar that the reporting obligation may pass on the to client.

Mandatory Disclosure Rules – DAC6

What information is being disclosed under DAC6?

Arrangement details (example)

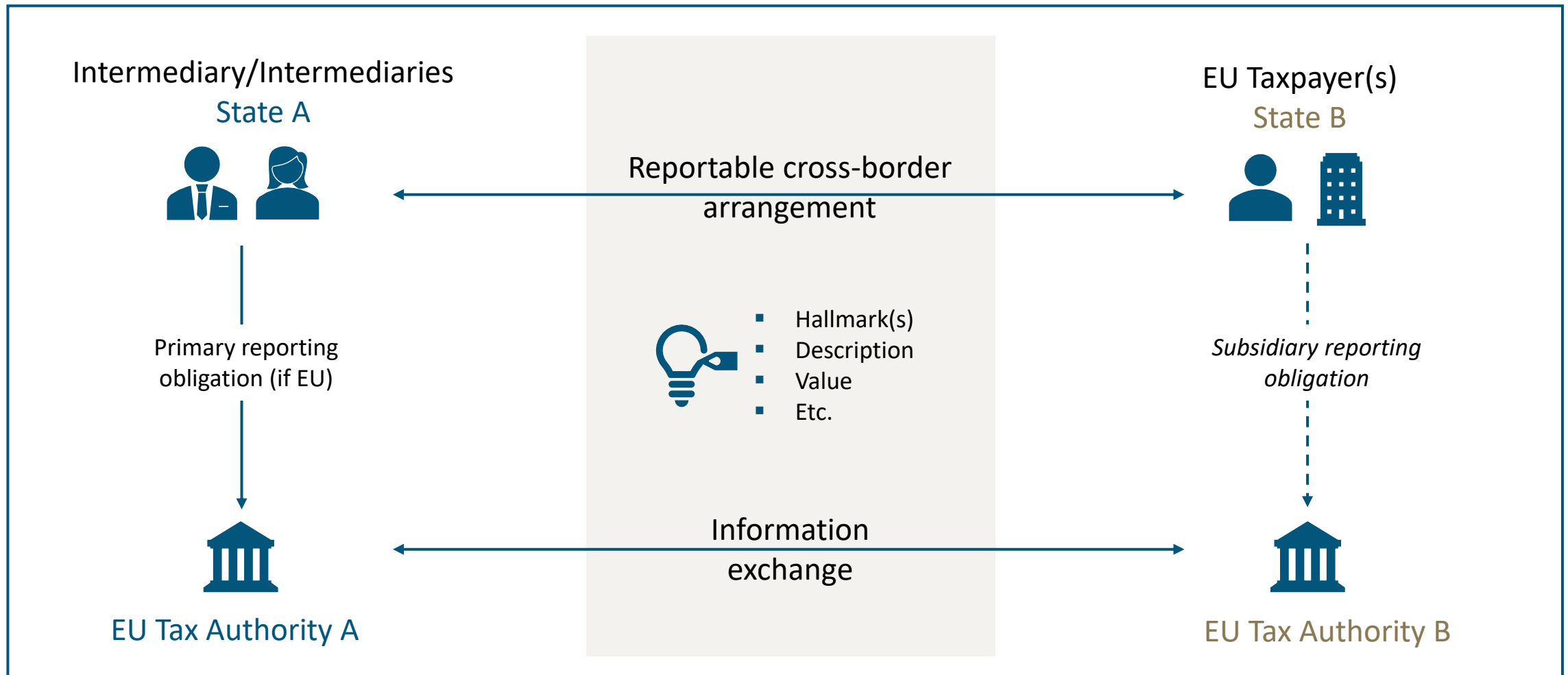
- Intermediaries, taxpayers, other involved persons
- Relevant Hallmark(s)
- Summary of content
- Value
- Date of first step of implementation
- National provisions

Identification information - intermediary and taxpayer (example)

- Name
- Address
- Tax residence
- Date of birth
- TIN

Mandatory Disclosure Rules – DAC6

Reporting Process DAC6



Mandatory Disclosure Rules – DAC6

Compliance Requirements

- **Timely identification**
of potentially reportable cross-border arrangements
- **Retrospective reporting**
for arrangements implemented between 25 June 2018 and 30 June 2020 (incl. extensions)
- **Rolling reporting**
within 30 days from implementation as of 1 July 2020

Mandatory Disclosure Rules – DAC6

Main Challenges DAC6



Jurisdiction specific rules
and guidance



Tight deadlines



Coordination with other
intermediaries



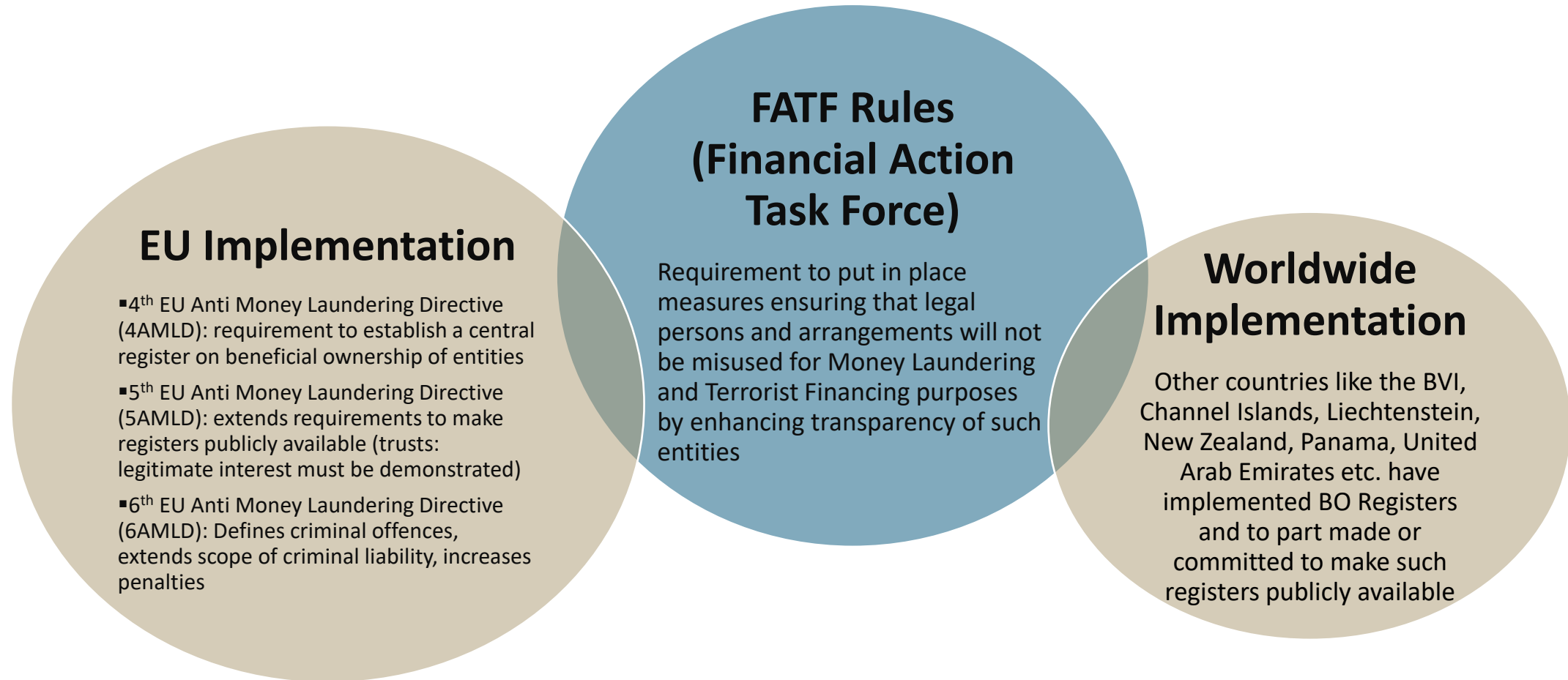
Difficult to automate



Beneficial Ownership Registers

Beneficial Ownership Registers

Background



Beneficial Ownership Registers

Relevant Parties

- **Entities incorporated in jurisdictions with BO registers**

Companies & partnerships, in many jurisdictions also trusts & foundations, must disclose the identity of their beneficial owners

- **Beneficial owners**

Their identity will normally be disclosed to a central register, which is in many jurisdictions also fully or partly available to the public

Beneficial Ownership Registers

What information is disclosed?

Who is a Beneficial Owner (main definitions)?

Corporate entities:

Natural person who directly or indirectly owns or control the entity (thresholds, e.g., 25 %, may apply)

Trusts and other legal arrangements:

- Settlor, and
- Trustee, and
- Protector, and
- Beneficiaries, and
- Any other natural person exercising ultimate control by means of direct or indirect ownership or by other means

If any of the above listed persons is a legal entity or other arrangement, a look-through approach is normally applied

Identification Information Beneficial Owner (examples)

- Name
- Address
- Tax domicile
- Date(/place) of birth
- TIN
- Passport copy
- Date the individual became BO
- Nature and extent of control

Beneficial Ownership Registers

Compliance Requirements

- **Identify and maintain documentation**
of beneficial owners according to local requirements
- **Disclose**
beneficial ownership information within set deadline
- **Monitor and update**
changes to beneficial owner information within set deadlines

Beneficial Ownership Registers

Main Challenges



Privacy concerns
(publicly available
information)



Keeping track of registers
and rules in different
jurisdictions worldwide



Technical restraints in
reporting infrastructure



Ongoing monitoring



Economic Substance Requirements

Economic Substance Requirements

Background

OECD & EU

Issued guidance which introduced economic substance standard for jurisdictions with no or only nominal tax
(BEPS Action 5)

ESR Rules implemented in

Bahamas, Barbados,
Bermuda, British Virgin
Islands, Cayman Islands,
Guernsey, Isle of Man, Jersey,
Marshall Islands, Mauritius,
Seychelles, United Arab
Emirates etc.

Economic Substance Requirements

Relevant Parties

- **Legal entities**
incorporated in relevant jurisdictions and in scope of ESR
- **Local representatives**
who file declarations on behalf of such legal entities

Economic Substance Requirements

What information is disclosed?

Information to be reported to local authority (example)

- Type of relevant activity being conducted (if any)
- Relevant core income generating activities (if any)
- Amount and type of expenses incurred, and assets and premises held, in the course of carrying out the business (if required)
- Number of full-time, qualified employees (if required)

Economic Substance Requirements

Compliance Requirements

- **Assess** ESR requirements and impact
- Filing of **Annual Declaration** to relevant authority
- **Maintain** sufficient economic substance (if in scope)

Economic Substance Requirements

Main Challenges



High administrative burden



Analysis of relevant activities and substance requirements



Annual declaration

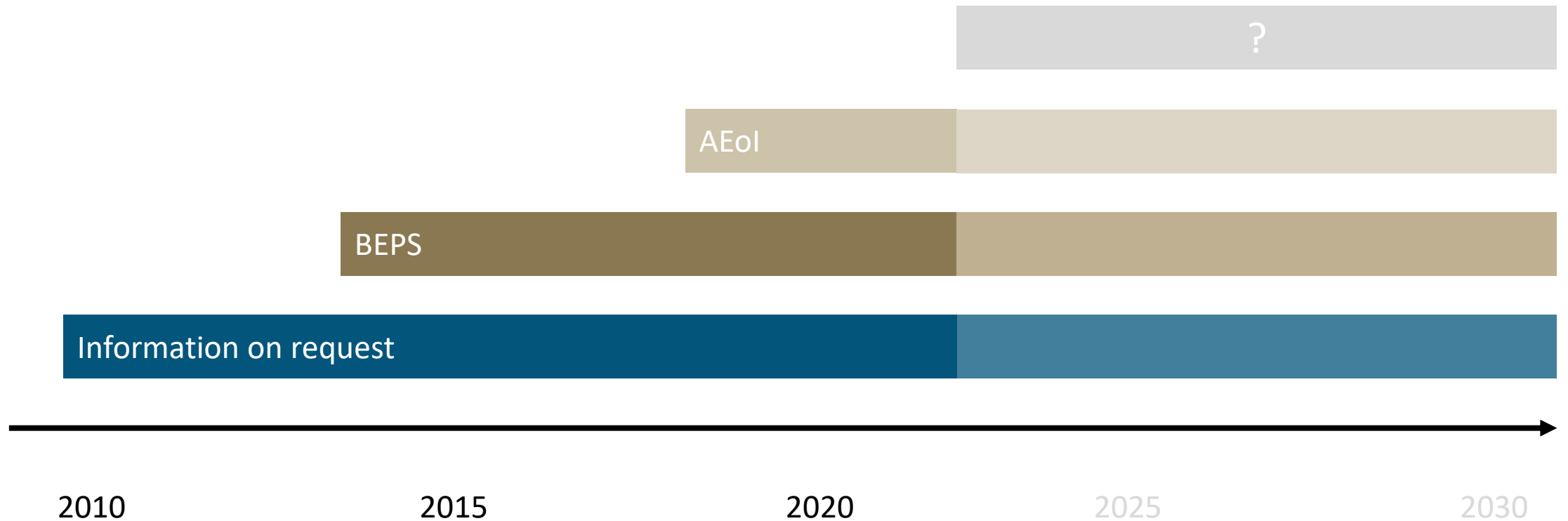


Differing documentation requirements

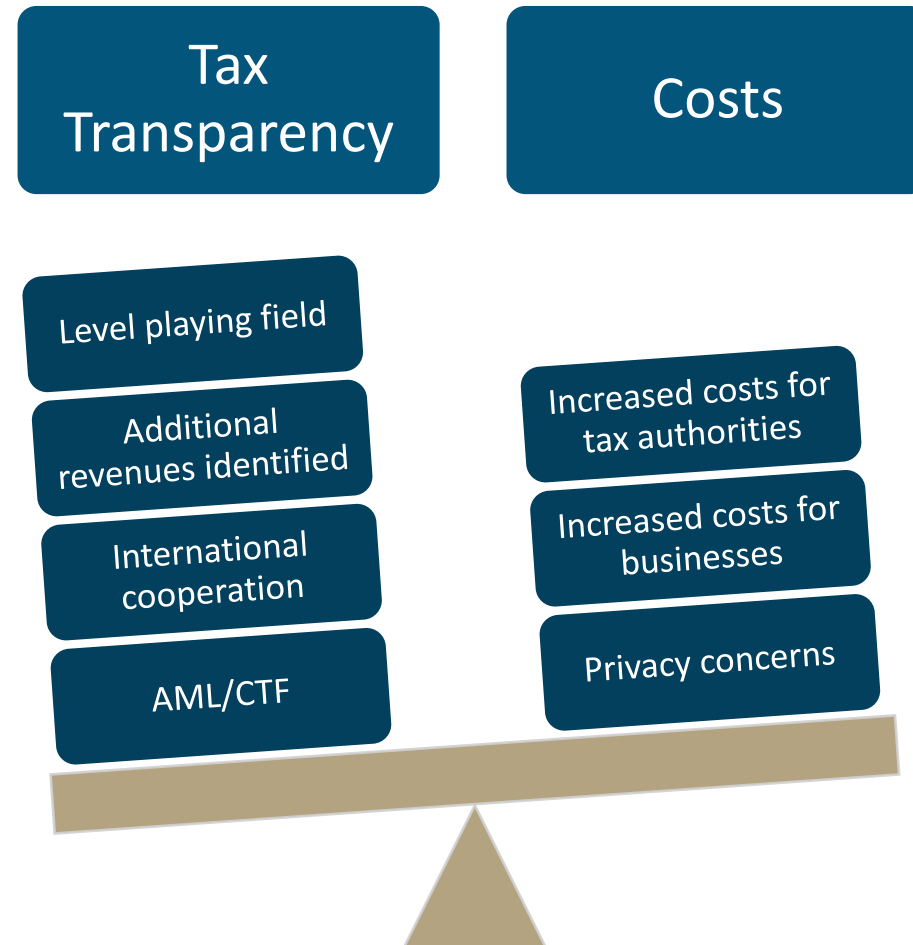


Where do we stand? What is next?

Where do we stand?



Where do we stand?



What is next?

- **CRS**
- **FATCA**
- **MDR, DAC6**
- **BO Registers**
- **Economic Substance**
- **New schemes**

Q & A





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