




## Canadian international insurers laughing their fecking heads off at the inane exemption from automatic exchange of information...

 **Mark Morris**  
CRS and CARF expert. No, truly.



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The prize for the most brainless CRS loophole given by the OECD is the exemption from review of pre-existing individual cash value insurance contracts that were "legally not allowed to be sold" to residents of a country



- In 2003 the EU Commission were duped when they excluded non-UCITS funds (e.g. hedge funds) from the EU Savings Tax Directive. Their obtuse thinking was that these funds were legally not allowed to be sold across borders.
- Therefore they were not used to avoid tax. The dolts at the Commission realised a few years later that non-UCITS were being sold like hot cakes to cross-border residents by either the foreign residents coming to subscribe for the units in the country of the fund, or more likely these funds were being distributed by third party countries like Switzerland, Bermuda, BVI, etc. On top of that, tens of thousands of funds converted to non-UCITS to avoid the savings tax directive.
- Now this method of bypassing the prohibition of sales to non-residents was used by international insurers by having prohibited distribution done by insurance subsidiaries in the Caribbean, mostly Bermuda.

### So let's see how Mr. Magoo at OECD grants exemption of these insurance policies

CRS Commentary Page 110 Paragraph (2) Accounts not required to be reviewed, identified or reported

Exempted from review are all Preexisting Individual Accounts that are Cash Value Insurance Contracts and Annuity Contracts, provided that the Reporting Financial Institution is effectively prevented by law from selling such contracts to residents of a Reportable Jurisdiction. A Reporting Financial Institution is "effectively prevented by law" from selling Cash Value Insurance Contracts or Annuity Contracts to residents of a Reportable Jurisdiction if:

(a) the law of the Reporting Financial Institution's jurisdiction prohibits or otherwise effectively prevents the sale of such contracts to residents in another jurisdiction; or

(b) the law of a Reportable Jurisdiction prohibit or otherwise effectively prevents the Reporting Financial Institution from selling such contracts to residents of such Reportable Jurisdiction.

- In plain language, a policy is exempted from CRS reporting if (a) the insurer's jurisdiction does not allow sales to a client's jurisdiction, or (b) the client's jurisdiction does not allow the insurer to sell to their resident. Condition (a) is rare, and in any event an insurer in a developed country will set up a subsidiary in a untaxed Caribbean nation which permits sale of policies to anyone and their dog.
- Now it's condition (b) that insurers in these Caribbean boltholes who bypass the client's jurisdiction prohibition of sales to them, as easy as pie. They do it in a variety of ways, similar to the old non-UCITS con used to avoid the EU savings tax Directive. Let's have a look a a very typical scenario. The two big international Canadian insurers have subsidiaries in Bermuda.
- Up to 2015 they sold to say a policyholder resident in India. It's not unheard of for brokers to fly into a country, sign policies and the leave like a robber's dog. Alternatively, the client signs the contract in a third country.
- Otherwise, what the heck, just have the client sign the contract at his home, who is going to know if the policy is exempt from the CRS?

Where the applicable law does not prohibit Reporting Financial Institutions from selling insurance or annuity contracts outright, but requires them to fulfil certain conditions prior to being able to sell such contracts to residents of the Reportable Jurisdiction (such as obtaining a license and registering the contracts), a Reporting Financial Institution that has not fulfilled the required conditions under the applicable law will be considered to be "effectively prevented by law" from selling such contracts to residents of such Reportable Jurisdiction.

### Summary

- Ho, ho, ho as if the Caribbean subsidiary of the Canadian international insurers are going to obtain a license and register the contracts in India.

- French and Spanish residents had all their Andorran accounts placed into bank subsidiary insurer policies to avoid the savings tax directive.
- If an insurer sold you a policy before CRS began and was not allowed to sell it to you, then that is exempt from reporting.
- Today, 8 years after CRS started, all those policies are excluded from the CRS review.
- Really whacko insanity to exempt this.

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