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OECD Releases Crypto-Asset Reporting Framework (CARF) and Updated Common Reporting Standard (CRS)

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TO: ICI Members

ICI Global Members

Global Tax Committee

Tax Committee SUBJECTS: International/Global

Tax RE: OECD Releases Crypto-Asset Reporting Framework (CARF) and Updated Common Reporting Standard (CRS)

The Organisation for Economic Co-operation and Development (OECD) has released [guidance](#) regarding reporting and exchanging tax-related information on (1) crypto-asset transactions (under the Crypto-Asset Reporting Framework (CARF)) and (2) financial assets (under the updated [Common Reporting Standard](#) (CRS)).^[1] This guidance was developed following a mandate from the G20 and was presented last week at the [G20 Finance Ministers and Central Bank Governors Meeting](#). The OECD is developing (1) an implementation package for the CARF to maximize the CARF's consistent application both domestically and internationally and (2) procedures whereby governments will exchange automatically the new information reported under the CRS. The time frames for these next steps remain under discussion.

Automatic Exchange of Information (AEOI) on Tax Matters

The OECD has been actively involved in crafting global AEOI standards for many years. The CRS was approved by the OECD in 2014^[2] after several years of consultations with financial services industry representatives on a business advisory group to the OECD's Working Party 10^[3]; in the intervening eight years, the CRS has been adopted by over 110 jurisdictions. Subsequently, the OECD crafted AEOI standards for [sharing economy platforms](#). Most recently, the OECD has considered standardized reporting requirements for e-money and digital (crypto) assets.

The CARF

The CARF consists of rules and associated commentary. The CARF's detailed rules are

provided in five sections: (1) obligations of reporting crypto-asset service providers (CASPs); (2) reporting requirements; (3) due diligence procedures; (4) defined terms; and (5) effective implementation.

For CARF purposes, a "crypto-asset" is a "digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions." For an asset to digitally represent value, according to the OECD, the asset "must represent a right to value, and that the ownership of, or right to, such value can be traded or transferred to other individuals or Entities in a digital manner." Excepted from the CARF are central bank digital currencies (CBDCs), certain e-money products (called "Specified Electronic Money Products"), and those crypto-assets for which a Reporting CASP "has adequately determined that they cannot be used for payment or investment purposes."

The CARF provides reporting requirements for several different types of transactions involving crypto-assets. Different reporting applies, for example, to crypto-asset to fiat-currency transactions, transactions involving one crypto-asset for another crypto-asset, certain retail payment transactions, and transfers to external wallet addresses. The reporting requirements also include detailed valuation and currency translation rules for different types of crypto-asset transactions. Finally, the CARF provides rules for determining the relevant taxing jurisdictions for information reporting and automatic exchange purposes.

Specified due diligence procedures are provided by the CARF for individual and entity crypto-asset users. Rules also are provided for determining whether an entity crypto-asset user is a reportable user and whether the entity has one or more controlling persons who are reportable persons. The CARF also provides requirements for validity of self-certifications and general due diligence requirements.

The CARF has been issued as stand-alone guidance rather than incorporated into the CRS because the United States has a strong interest in the automatic exchange of tax information on crypto-asset transactions but is not a CRS-participating jurisdiction. This construct requires some interaction between the CARF and the CRS to ensure appropriate and consistent application while preventing duplicative reporting.

The CRS

The CRS update reflects governments' perspectives on the need for new obligations on reporting financial institutions (RFIs) to improve tax compliance and enforcement. This additional information includes more detailed reporting requirements and the strengthening of the due diligence procedures. The amendments expand the CRS' scope by bringing in new financial assets and products (including digital money products and derivatives referencing crypto-assets) and doing so in a way that prevents duplicative (CRS and CARF) reporting. Finally, the Commentary has been expanded in several areas to increase consistency in the CRS' application—including consistency with [the 2012 FATF Recommendations](#)—and to incorporate previously released frequently-asked questions (FAQs) and interpretative guidance.

Specific changes to the CRS' rules were made to the general reporting requirements (Section I); the due diligence procedures for preexisting (Section V) and new (Section VI) entity accounts; special due diligence rules (Section VII); and defined terms (Section VIII). New transitional measures also are provided (Section X).

The new RFI reporting requirements include an obligation to report:

- whether the account holder has provided a valid self-certification;
- the role(s) by which reportable person is a controlling person of an entity and whether a valid self-certification has been provided for each reportable person;
- whether the account is a joint account, including the number of joint account holders;
- the type of account (e.g., depository account, custodial account, equity interest);
- whether the account is a preexisting or a new account; and
- in the case of any equity interest held in an investment entity that is a legal arrangement, the role(s) by virtue of which the reportable person is an equity interest holder.

To prevent duplicative reporting, the gross proceeds from the sale or redemption of a financial asset are not required to be reported under the CRS to the extent such gross proceeds are reported by the RFI under the CARF.

Preexisting guidance has been moved to the CRS itself confirming that, for purposes of determining controlling persons, the RFI may rely upon information collected for anti-money laundering/know your customer (AML/KYC) rules so long as the collection procedures are consistent with the 2012 FATF Recommendations.

Although the CRS requires that RFIs received a valid self-certification for a new account in time to meet its due diligence and reporting obligations, a limited exception has been added to the rules for "exceptional circumstances." Specifically, the CRS requires an RFI in this situation to apply the due diligence procedures for preexisting accounts until such self-certification is obtained and validated.

To eliminate confusion, the Commentary has been modified to confirm that investors of collective investment vehicles (CIVs) can be considered "customers" of the CIVs and that the CIVs themselves can be considered to conduct activities "as a business."

The effective date of these rule changes has not been determined. The OECD's Working Party 10, with input from business, will need to discuss how much time governments will need to develop implementing legislation and how much time business will need to implement the domestic rules. An additional two years will be provided by a transition rule for RFIs to gather the additional information regarding controlling persons that will be required under the CRS update.

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Notes

[1] The CRS consists of the [Standard](#), associated [Commentary](#), and [Frequently Asked Questions](#).

[2] The CRS was developed after the United States enacted the Foreign Account Tax Compliance Act (FATCA) and jurisdictions began signing Intergovernmental Agreements (IGAs) with the United States to ease FATCA compliance for their resident financial institutions.

[3] For a detailed summary of the CRS, please see [ICI Memo No. 27892](#), dated February 13, 2014. See also, [ICI Memo No. 29540](#), dated December 10, 2015, regarding ICI comments on applying the CRS to collective investment vehicles (CIVs).

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