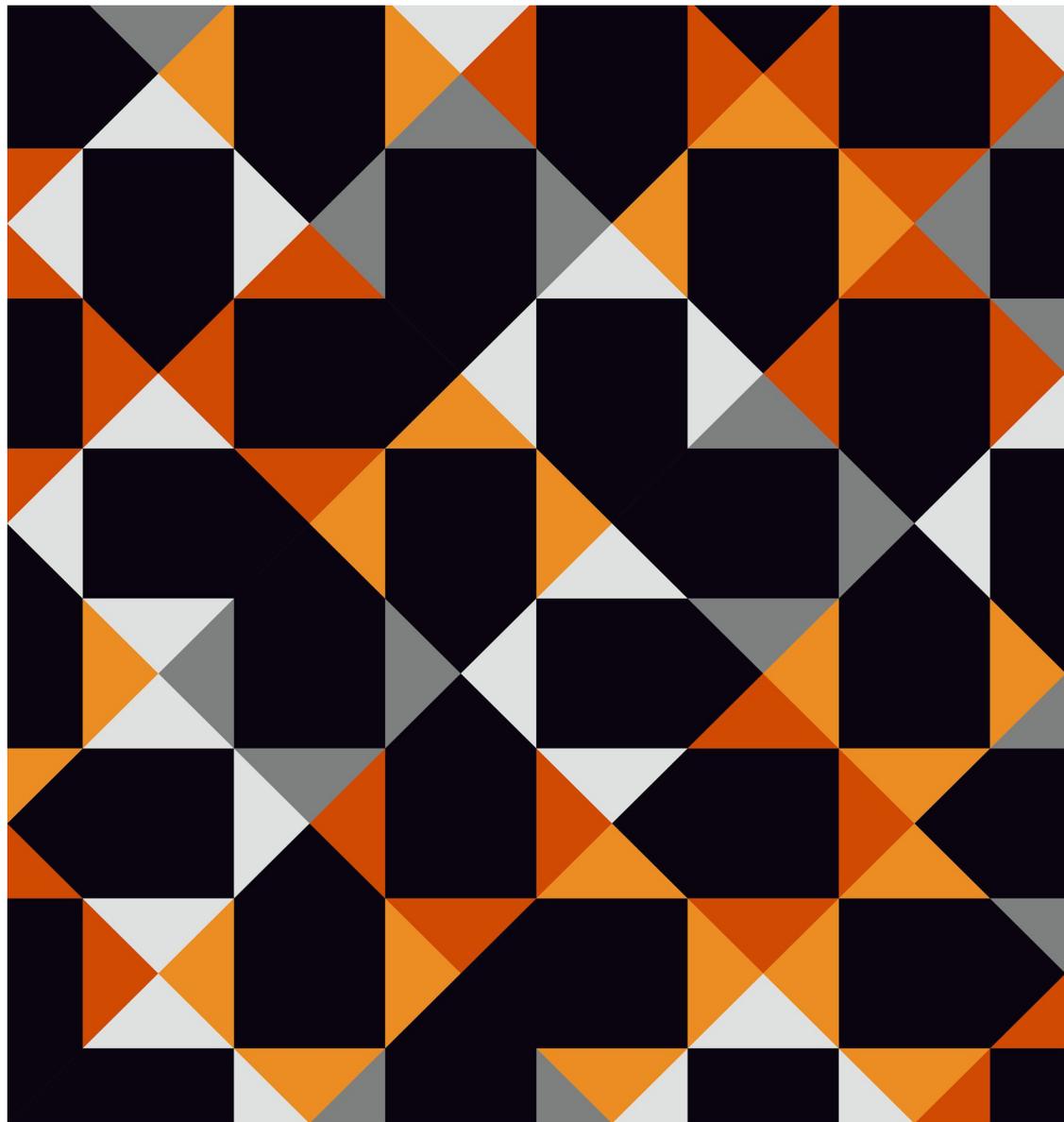


OECD release public  
consultation document  
concerning Crypto-Asset  
Reporting Framework  
(**CARF**) and Amendments  
to the Common Reporting  
Standard (**CRS**)

April 2022





## In brief

On March 22, 2022, the Organisation for Economic Co-operation and Development (OECD) released a new global tax transparency framework, which introduces the automatic exchange of tax information on transactions in Crypto-Assets in a standardised manner (“Crypto-Asset Reporting Framework” or “CARF”) and also proposed amendments as part of the first comprehensive review of the the Common Reporting Standard (CRS).

The OECD is seeking public comments on the above proposals, which should be submitted by 29 April 2022. This alert will cover the proposed changes in more detail as these proposals signify a significant evolution of the existing exchange of information regimes and therefore businesses affected should begin to prepare for the changes on the horizon.

## In detail

According to the [World Economic Forum](#), as of March 2022 there are 18,142 crypto-currencies, 460 crypto-exchanges and the market cap of crypto-currencies amounts to USD 1.7 trillion. As crypto-currencies continue to spread across the globe, so too the regulations put in place to govern them.

The CRS, published by the OECD in 2014, is a key tool in ensuring transparency on cross-border financial investments and in fighting offshore tax evasion. However, in most instances Crypto-Assets will not fall within the scope of the CRS, which applies to traditional financial assets and fiat currencies. Even where Crypto-Assets may fall within the definition of financial assets, they can be owned either directly by individuals in cold wallets or via Crypto-Asset exchanges that currently do not have reporting obligations under the CRS, and are therefore unlikely to be reported to the tax authorities in a reliable manner.

Therefore, at the behest of G20, the OECD has developed a new global tax transparency framework for the automatic exchange of information on Crypto-Assets. The newly proposed **Crypto-Asset Reporting Framework** provides for the collection and exchange of tax-relevant information between tax administrations, with respect to persons engaging in certain transactions in crypto-assets.

The rules and commentary of the CARF have been designed around four key building blocks:

1. *the scope of Crypto-Assets to be covered;*
2. *the intermediaries subject to data collection and reporting requirements;*
3. *the transactions subject to reporting as well as the information to be reported in respect of such transactions; and*
4. *the due diligence procedures to identify Crypto-Asset users and the relevant tax jurisdictions for reporting purposes.*

A Crypto-Asset is defined broadly in the CARF as “a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions”.

Further, the reference to a “similar technology” within the definition likely aims to ensure that the reporting requirements will cover new assets that may emerge in the future.



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## Amendments to the CRS

Seven years after its adoption, the OECD is proposing the first comprehensive review of the CRS with the aim of improving the operation of the CRS across participating jurisdictions. The proposed amendments can be overall divided into two key work streams:

1. The review seeks to **bring new, digital financial assets, products and intermediaries products within a scope of the CRS** as they may constitute a credible alternative to holding money or financial assets in an account that is currently subject to the CRS reporting.

In this regard, the proposal extends the scope of the CRS to:

- Cover new digital financial products by virtue of:
    - *introducing the terms of “Specified Electronic Money Product” and “Central Bank Digital Currency” (CBDC);*
    - *amending the definition of Depository Institution and related Commentary to include e-money providers that are not covered under the current definition;*
    - *amending the definition of Depository Account to include accounts that hold Specified Electronic money Products and CBDCs for customers;*
    - *adding two new categories of Excluded Accounts to bring out of scope low-risk digital money products that represent a low-risk in light of the limited capacity to store the monetary over time;*
    - *amending the definition of Non-reporting Financial Institution to clarify that a Central Bank is not considered a Non-reporting FI when it holds CBDCs on behalf of Non-Financial Entities or individuals.*
  - Cover the derivatives referencing Crypto-Assets and Investment Entities investing in Crypto-Assets:
    - *it is proposed to include the derivative contracts referencing Crypto-Assets in the definition of Financial Assets, thereby allowing Financial Institutions to apply the same due diligence and reporting procedures to derivatives referencing different types of assets;*
    - *to expand the definition of Investment Entity to include the activity of investing in Crypto-Assets.*
  - Ensure an efficient interaction between the CRS and the CARF, in particular to limit instances of duplicative reporting:
    - *as certain assets may simultaneously be subject to reporting as Crypto-Assets under the new CARF and Financial Assets under the CRS, the amendments foresees that where the disposal of a Financial Assets is reported upon under the new CARF, then no gross proceeds reporting is required under the CRS.*
2. The review seeks to **improve the due diligence procedures and reporting outcomes under the current CRS**, with a view to increase the usability of the information for tax administrations and limit burdens on financial institutions, where possible.

Specifically, it is therefore proposed that the reporting requirements under the CRS are expanded to cover the following:

- Account Holders, Controlling Persons and the Financial Account reporting requirements:
  - *the role of Controlling Persons in relation to the entity Account Holder;*
  - *whether the account is a Preexisting Account or a New Account and whether a valid self-certification has been obtained;*
  - *whether the account is a joint account as well as the number of joint Account Holders;*
  - *the type of Financial Account.*



## Amendments to the CRS (cont'd)

- Reliance on AML/KYC procedures for determining Controlling Persons:
  - *the conditions under which a Financial Institution can rely on AML/KYC Procedures to determine the Controlling Persons of an Entity Account Holder have been moved into the CRS.*
- Exceptional due diligence procedure for cases where a valid self-certification was not obtained:
  - *it is proposed to require Reporting Financial Institutions to temporarily determine the residence of the Account Holders and/or Controlling Persons on the basis of the due diligence procedures for Pre-existing Accounts. It should be noted that this is not a standard procedure and is not an alternative to the requirement to obtain a valid self-certification.*
- Qualification of certain capital contribution accounts as Excluded Accounts:
  - *current CRS does not cover instances of so-called 'capital contribution accounts', the purpose of which is to block funds for a limited period of time in view of the incorporation of a new company or a pending capital increase. It is proposed to include these accounts as Excluded Accounts, provided that adequate safeguards are in place to avoid the misuse of such accounts.*
- Broadening of the scope of Depository Institution:
  - *the Commentary on the term Depository Institution has been amended to expand the scope to include entities that are merely licensed to engage in certain banking activities.*
- Notions of customer and business in the context of Investment Entities:
  - *the scope of the definition via the terms "customer" and "business" has been amended, by explicitly confirming in Commentary that investors of funds can be considered "customers" and the funds themselves can be considered to conduct activities "as a business";*
- Reporting in respect of dual-resident account-holders:
  - *as per the proposal, in dual-residence (or multiresidence) scenarios all countries of tax residence should be self-certified by the Account Holder and the Account Holder should be treated as tax resident in all identified jurisdictions. The proposal further foresees the deletion of the Commentary language in relation to the tiebreaker rules to determine the jurisdiction of residence for self-certification purposes.*
- Reflecting Government Verification Services (GVS) within the CRS due diligence procedures:
  - *it is proposed to allow Financial Institutions to rely on a GVS procedure to document an Account Holder or Controlling Person in the CRS due diligence procedures, with the aim of making the CRS future-proof for future IT-developments. In this respect, it is proposed that the confirmation of an Account Holder's or Controlling Person's identity and tax residence via a GVS or similar IT-driven process is recognised as a functional equivalent to a TIN.*



## Amendments to the CRS (cont'd)

- Look-through requirements in respect of Controlling Persons of publicly traded Entities:
  - *it is proposed to expressly acknowledge that financial institutions are not required to request information on the beneficial owner(s) of publicly traded companies if such company is already otherwise subject to disclosure requirements ensuring adequate transparency of beneficial ownership information exclusion within the CRS, given the priority to maintain alignment with the FATF Recommendations and the limited utility of such information for tax risk assessment purposes.*
- Integrating CBI/RBI guidance within the CRS:
  - *it is proposed to include the explanatory guidance in the Commentary, which reiterates that a Financial Institution may not rely on a self-certification or Documentary Evidence where it knows or has reason to know, that it is incorrect or unreliable. In making this determination, Financial Institutions should take into account the information of potentially high-risk CBI/RBI schemes.*
- Incorporating FAQs:
  - *in order to reflect the substantive guidance given through the FAQs in the CRS itself, language has been added to the Commentary in several places.*
- Transitional measures:
  - *with respect to reporting on the role(s) by virtue of which each Reportable Person is a Controlling Person, it is understood that such information may not necessarily be collected or maintained in a readily available, electronic manner. It is proposed to provide for a two year transition period during which a Reporting Financial Institution is only required to collect such information with respect to Financial Accounts maintained prior to the effective date of the revised CRS, if such information is available in the electronically searchable data of the Reporting Financial Institution.*

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## Next Steps

Now the OECD is seeking public comments on the above two proposals, that should be submitted no later than April 29, 2022. On the basis of the input received via this public consultation, the OECD plans to finalise the rules and commentary to the CARF and the amended CRS. The OECD will also develop the exchange instruments and technical solutions needed to support reporting and exchanges pursuant to the CARF and the amended CRS. It is the OECD's intention to report back on the CARF and the amended CRS under the Indonesian Presidency of the G20 for its October 2022 meeting.

These proposals portray a significant change in the CRS and the evolution of automatic exchange of information between regimes and the way individuals and entities make investments.

## How can PwC help?

PwC can assist you in meeting your CRS reporting obligations by providing you with the following services:

- We can assist you to assess the impact of CRS on your business and support you with meeting your CRS reporting obligations.
- We can assist by completing a "health check" on your compliance with the requirements and, if necessary, advise on any appropriate disclosures to tax authorities.

### Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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# Thank you

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