



# CRYPTO-ASSET REPORTING FRAMEWORK AND AMENDMENTS TO THE COMMON REPORTING STANDARD

Issued 3 May 2022

ICAEW welcomes the opportunity to comment on the Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard published by the OECD on 22 March 2022, a copy of which is available from this [link](#).

For questions on this response please contact our Tax Faculty at [taxfac@icaew.com](mailto:taxfac@icaew.com) quoting REP 36/22

## Summary of main points

We note that respondents have only been given a little over a month in which to provide comments, which is a period that includes a number of public holidays and religious festivals. We are unsure as to the reason for the short consultation period but consider that a lengthier period would have elicited more detailed responses.

We believe that a de-minimis threshold should apply to the due diligence and reporting requirements, based on the individual and combined value of transactions carried out by an individual user of a digital exchange.

We are concerned about the data privacy risks involved in sharing third party crypto-wallet addresses and suggest that the level of sensitivity of information to be shared under the OECD Crypto-Asset Reporting Framework (CARF) should be no higher than that shared under the Common Reporting Standard (CRS).

Steps should be taken to ensure that duplicate reporting is avoided so that tax authorities receive as accurate information as possible and do not open unnecessary enquiries into individual's tax affairs.

The CARF regime should not be more onerous than the CRS regime.

This response of 3 May 2022 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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## KEY POINTS

### TIME GIVEN FOR RESPONSES

1. We thank you for the opportunity to contribute to this consultation process. However, we are concerned that respondents have been given a relatively short period of time (just over a month, which includes a number of public holidays and religious festivals) in which to provide comments. Given this time constraint, we have not been able to answer any of the questions raised individually but instead provide general comments and observations.

### DE-MINIMIS LIMITS

2. In the section of the consultation document headed 'Reporting requirements', a question is asked as to whether an exclusion for low-value transactions via a de minimis threshold would help to reduce compliance burdens. We agree with the inclusion of such thresholds.
3. Ideally, we believe that parity should be achieved with the CRS as far as possible in setting limits and exclusions.
4. However, a de-minimis threshold only applies to accounts existing prior to the introduction of CRS. In addition, CRS is focussed on the size of accounts, rather than the value of transactions, and so the CRS and CARF regimes are not directly comparable. Having said that, setting a limit of US\$50,000 for the value of all transactions carried out by an individual user of a crypto-asset exchange in a reporting period seems to be a reasonable de-minimis threshold.
5. In addition, low value transactions should be excluded from being counted towards the \$50,000 limit. We suggest that it should not be necessary for digital exchanges to track transactions of a value of \$100 or less.
6. Finally, we consider that due diligence should not need to be carried out by the digital exchange on individual users unless they carry out a single transaction or combined number of transactions in a reporting period worth at least \$100.

### PROVISION OF CRYPTO-WALLET ADDRESSES

7. We have concerns around the proposal that tax authorities should have the choice to opt-in to receive reporting on the list of external wallet addresses to which the reporting crypto-asset service provider transfers crypto-assets to the user. We consider that this is a more sensitive piece of information than that required to be disclosed in respect of account holders under CRS. We believe that it could threaten their online security if intercepted.
8. We do not believe that the additional transparency this measure would provide justifies the privacy risk created by it. We also note the OECD's concerns around the practicality of crypto-exchanges complying with such requirements.

### AVOIDANCE OF DUPLICATE REPORTING UNDER CRS AND CARF

9. We are concerned that tax authorities may receive multiple reporting items in respect of the same transaction under both CRS and CARF such as where the proceeds of the sale of a crypto-asset are paid into an account of a financial institution, especially where the crypto-asset exchange is operated by that institution. Duplicate reporting may give tax authorities an inaccurate impression of the activity of the users concerned which may then lead to unnecessary enquiries being opened into their tax returns.
10. Detailed consideration needs to be given to effective ways of avoiding duplicate reporting before the final provisions are set out. Given the complexities, and the need for input from those that will be doing the reporting, we would suggest a separate consultation. One way of minimising duplicate reporting might be to prioritise one regime where the same entity or connected entities (such as in our example in paragraph 9) would otherwise have obligations

to report under both CRS and CARF. The issue with this suggestion is, however, that the entity or entities might find it difficult to get systems in place to:

- a. identify cases where both regimes apply; and
  - b. once cases have been identified ensure that reporting is only made under the regime given priority.
11. If duplicate reporting cannot be avoided, then the tax authorities should develop systems to identify when there has been duplicate reporting. Taxpayers should not be subject to unnecessary enquiries (whether under formal enquiry powers or informally) because the tax authority has a misleading picture of their transactions due to this issue.

## **PARITY BETWEEN CRS AND CARF**

12. Generally, we believe that there should be parity between the CRS and CARF regimes. That is the rules for the CARF regime should not be more onerous:
- a. as mentioned in paragraph 3, there should be limits and exclusions for CARF as there are for CRS; and
  - b. as mentioned in paragraph 7, tax authorities should not be able to obtain more sensitive information under the CARF rules.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).