



REFORMING INFORMATION POWERS AND MODERNISING COMPUTER RECORDS LAW

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ICAEW welcomes the opportunity to comment on draft legislation relating to the reform of HMRC's information powers and associated computer records law, a copy of which is available from this [link](#).

KEY POINTS

1. We suggest that the definition of a cryptoasset service provider is scoped more precisely so that it is clear that it only applies to parties that facilitate or carry out financial or transactional activities in relation to cryptoassets.
2. We request that the legislation makes clear that the giving of a notice under paragraph 6A Schedule 36 Finance Act 2008 can only be by a human officer of HMRC.

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This response of 2 September 2026 has been prepared by ICAEW's Tax Faculty.

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DEFINITION OF CRYPTOASSET SERVICE PROVIDER

1. We are very concerned that the proposed definition of a cryptoasset service provider to be included in the new paragraph 61ZB Schedule 36 Finance Act (FA) 2008 may be capable of extending beyond the types of businesses which would ordinarily be understood to provide financial or transactional services in relation to cryptoassets.
2. The reference to a person providing “services relating to crypto assets” is potentially very broad. On a literal interpretation, it could encompass businesses which provide services concerning information about cryptoassets without themselves providing any financial, transactional or custodial service. For example, this could potentially include cryptoasset tax calculation software and professional advisers providing tax or accounting services to persons holding or transacting in cryptoassets.
3. We note that this definition is intended to be inserted at paragraph 4A of Schedule 36 FA 2008, putting those providing services related to cryptoassets on the same footing as Financial Institutions.
4. The concern is not simply theoretical. A definition of this breadth creates uncertainty as to the circumstances in which a third party could fall within the scope of the information powers. It extends the concept of a cryptoasset service provider well beyond the scope of financial or transactional activities that appear to be the underlying focus of the Financial Information Notice provisions.
5. As a reminder, the definition of an FI¹ provides that:

“Financial institution” means—

 - (a) a financial institution under the CRS other than one which is such an institution because (and only because) it is an investment entity within section VIII(A)(6)(b) of the CRS, or
 - (b) a person who issues credit cards.
6. Paradoxically, HMRC has not chosen to use the OECD’s definition of a Reporting Crypto Asset Service Provider (RCASP) from the OECD’s equivalent regime, the Crypto Asset Reporting Framework (CARF); however, are content to follow the definition of the Common Reporting Standard (CRS).
7. Under CRS, the term “Financial Institution” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company. This, broadly, brings into scope businesses that accept banking, engage in investments and insurance companies. It is expected that these entities will have other regulatory obligations and are, understandably, a key source of financial records.
8. Under CARF the definition of an RCASP is one where an entity or individual “provides a service effectuating Exchange Transactions for or on behalf of customers, including by acting as a counterparty, or as an intermediary, to such Exchange Transactions, or by making available a trading platform”. This is supported by the paragraph that states “for or on behalf of customers by making available a trading platform that provides the ability for such customers to effectuate Exchange Transactions on such platform”.
9. We think that this definition warrants reconsideration as, similar to an FI, an RCASP has wider responsibilities and obligations than, say, a cryptoasset tax calculator.
10. The Explanatory Note (EN) only provides an example of “payment services providers who facilitate payments in cryptoasset transactions”. This appears to be in line with the position of FIs. We have no concerns with this example and consider it to be appropriate for such information to be within the scope of Schedule 36.

¹ Paragraph 61ZA(1) Schedule 36 FA 2008

11. We recommend that the definition contains a clearer connection with financial or transactional activity involving cryptoassets. The legislation should distinguish between persons who provide financial or transactional services in respect of cryptoassets and persons whose activities merely concern cryptoassets in an informational, advisory or ancillary capacity.
12. This would provide greater certainty for taxpayers and third parties while preserving HMRC's ability to obtain information from businesses that are genuinely involved in the cryptoasset financial ecosystem.
13. Without appropriate safeguards to ensure that HMRC's information powers are proportionate, we are concerned that this could be applied very broadly.

GIVING OF NOTICES

14. The proposed new paragraph 6A of Schedule 36 FA 2008 notes that:
 “An officer of Revenue and Customs may only give a notice under sub-paragraph (1) if—
 (a) the officer is an authorised officer of Revenue and Customs,
 or
 (b) an authorised officer of Revenue and Customs has agreed to the giving of the notice.”
15. We consider that paragraph 6A should make clear that the decision to issue a Financial Information Notice must ultimately be attributable to a human officer of HMRC.
16. The increasing use of automated systems and artificial intelligence makes it necessary for legislation to establish a clear principle concerning responsibility and accountability for the exercise of statutory information-gathering powers.
17. Whilst this is not currently being suggested, we consider that an automated system may assist an officer in identifying cases, preparing information or administering the process, but the statutory decision to issue a notice should remain one for an appropriately authorised human officer.
18. We therefore suggest that the drafting be reviewed to ensure there is no ambiguity regarding the requirement for human authorisation and accountability.

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. A clear statutory basis ensures legitimacy, accountability, and public trust in the tax system.
2. **Certain.** As far as possible, the application of tax rules and compliance processes should be certain. Taxpayers should not normally need to resort to the courts to understand how the rules apply to their affairs.
3. **Simple.** The tax system should be easy to understand for all taxpayers and advisers. Complexity undermines trust, creates unfairness, and discourages compliance.
4. **Easy to administer.** Tax liabilities should be straightforward to administer for HMRC, agents, and all taxpayers. Taxes should be designed to work effectively in a digital environment, while administration must remain accessible to those with limited digital capability.
5. **Properly targeted.** Anti-avoidance rules and other targeted measures should be proportionate, clearly defined, and carefully scoped to achieve their policy objective without undermining simplicity or certainty. Poorly targeted measures add complexity and uncertainty, harming compliance.
6. **Stable.** Changes to the tax system should only be made when clearly justified by economic, social, or environmental goals. Transparent, purposeful reforms build confidence and move the system toward greater coherence and long-term stability.
7. **Subject to proper consultation.** Other than in exceptional circumstances, tax changes should be subject to open and meaningful consultation. Adequate time for stakeholder input improves policy quality, practicality, and public trust.
8. **Regularly reviewed.** Tax rules, reliefs, and policy-driven interventions should be subject to regular, transparent review to assess whether they remain relevant, effective, and aligned with current policy goals. Outdated or unjustified provisions should be reformed or repealed to maintain coherence.
9. **Fair and accessible.** The tax system should be fair and accessible in design and in operation, ensuring equitable treatment of taxpayers. Revenue authorities must exercise their powers proportionately, and all taxpayers should have timely access to HMRC assistance, independent appeal, and redress.
10. **Efficient.** The tax system should raise revenue in a way that minimises unnecessary distortions, compliance burdens, and resource misallocation. While all taxes affect behaviour to some degree, tax design should avoid cliff edges, unintended incentives, or inefficiencies that reduce economic wellbeing unless these serve a clearly defined policy aim.

For more information, please see [Ten Tenets for a Better Tax System | ICAEW](#)