

April 29, 2022

International Co-operation and Tax Administration Division,
Centre for Tax Policy and Administration

OECD

taxpublicconsultation@oecd.org

Re: Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard

The Investment Industry Association of Canada (the IIAC) is the leading national association representing financial institutions that provide investment products and services to Canadian retail and institutional investors. We appreciate this opportunity to respond to the OECD's Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard (CARF and the Proposed CRS Amendments). While we are unable to provide in-depth commentary due to the limited time period available to comment, we would like to highlight certain high-level issues.

PROPOSED CRS AMENDMENTS

In general, IIAC members are supportive of the OECD's comments that when considering due diligence procedures and reporting requirements, to be mindful of limiting the burden on Financial Institutions (FIs) where possible.

- I. Reliance on AML/KYC Procedures for determining Controlling Persons (Sections V and VI – Due diligence requirements)

IIAC members believe that the Canadian Guidance on the Common Reporting Standard, with respect to when an FI can rely on AML/KYC Procedures to determine the Controlling Persons of an Entity Account Holder for both Preexisting and New Entity Accounts would be in line with 2012 FATF Recommendations, and that they would be compliant with the proposed changes.

- II. Reporting in respect of dual-resident account-holders (paragraphs 4 and 7 to the Commentary on Section IV and VII, respectively)

The amendments to these paragraphs and Commentary will result in changes for FIs. The Canadian Revenue Agency (CRA) would have to update their template forms, which many FIs directly use or model their own forms after. As FIs may have embedded the residency questions in various account opening forms and the instructions or guidance associated, may reference use of the tie breaker rules to determine residency, we request sufficient time to make the amendments. Further, the proposal should clarify that this change is to be applied on a prospective basis to ensure there is no confusion that FIs may need to re-certify individuals.

- III. Exceptional due diligence procedure for cases where a valid self-certification was not obtained, in order to ensure reporting with respect to such accounts (Sections II – VII – Due diligence requirements)

In limited circumstances, the proposal would require Reporting FIs 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. Please clarify which due diligence rules FIs are to follow as there are different procedures for low value or high-value accounts.

CRYPTO-ASSET REPORTING FRAMEWORK

In general, IIAC members do not directly deal with crypto-assets, however, we wanted to provide a few high-level comments, as they may be captured by rules related to intermediaries in the future.

I. Reporting Requirements

Where an FI is required to provide the fair market value for each Relevant Crypto-Asset, where there are Relevant Transactions, we request clarification on how the FI is able to determine what the fair market value is. We believe there needs to be standardized references, to ensure that the determinations are consistent between FIs.

II. Requirements for validity of self-certifications

The proposal would require a self-certification to be confirmed by a Crypto-Asset User or the Controlling Person at least once every 36 months. This is a departure from CRS. We have concerns if this renewal requirement were to apply outside of CARF as that would be a significant change.

III. Effective implementation requirements

The proposal would require the Reporting Crypto-Asset Service Provider to refuse to effectuate any Relevant Transactions where a valid self-certification is not obtained. While we understand obtaining and maintaining a valid self-certification is central to CARF and CRS. We believe the distinction between the proposed language in CARF and the current language in CRS should be maintained.

IV. Implementation Period

The IIAC requests a minimum of an 18-month implementation period from when CARF and the Proposed CRS Amendments are finalized. There are some nuances to the Proposed CRS Amendments and form changes are required that will take time to complete.

While IIAC members may not yet be captured under CARF explicitly, they may have clients who are considered Crypto-Asset providers. FIs will need time to evaluate which entities may need to be reclassified and their forms will need to be updated to capture these new entities.

We appreciate the opportunity to provide you with these comments. If you have any questions with respect to the foregoing, we kindly ask that you contact the undersigned at AWalrath@iiac.ca. Thank you.

Yours sincerely,

Investment Industry Association of Canada