

1 Introduction

Crypto-Assets: The impact on financial markets

1. The market for Crypto-Assets (including cryptocurrencies, as well as cryptography-based tokens) is growing rapidly. This is also affecting tax administrations, which must adapt to the growing role of Crypto-Assets. In particular, several characteristics of Crypto-Assets are likely to pose novel challenges in tax administrations' efforts to ensure taxpayer compliance.
2. Firstly, Crypto-Assets' reliance on cryptography and distributed ledger technology, in particular blockchain technology, means that they can be issued, recorded, transferred and stored in a decentralised manner, without the need to rely on traditional financial intermediaries or central administrators.
3. In addition, the Crypto-Asset market has given rise to a new set of intermediaries and other service providers, such as Crypto-Asset exchanges and wallet providers, which may currently only be subject to limited regulatory oversight. Crypto-Asset exchanges typically facilitate the purchase, sale and exchange of Crypto-Assets for other Crypto-Assets or Fiat Currencies. Wallet providers offer digital "wallets", which individuals can use to store their Crypto-Assets via authorisation through public and private keys. These services may either be provided in online (i.e. "hot") wallets, or via service providers offering products allowing individuals to store their Crypto-Assets offline on downloaded (i.e. "cold") wallets. Both types of products are relevant for tax authorities.

Repercussions of Crypto-Assets on global tax transparency

4. The Crypto-Asset market, including both the Crypto-Assets offered, as well as the intermediaries and other service providers involved, poses a significant risk that recent gains in global tax transparency will be gradually eroded. In particular, the Crypto-Asset market is characterised by a shift away from traditional financial intermediaries, the typical information providers in third-party tax reporting regimes, such as the Common Reporting Standard (CRS), to a new set of intermediaries and other service providers which only recently became subject to financial regulation and are frequently not yet subject to tax reporting requirements with respect to their users. Furthermore, the ability of individuals to hold Relevant Crypto-Assets in wallets unaffiliated with any service provider and transfer such Relevant Crypto-Assets across jurisdictions, presents the risk that Relevant Crypto-Assets are used for illicit activities or to evade tax obligations. Overall, the characteristics of the Crypto-Asset sector have reduced tax administrations' visibility on tax-relevant activities carried out within the sector, increasing the difficulty of verifying whether associated tax liabilities are appropriately reported and assessed.
5. 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. The CRS has improved international tax transparency by requiring committed jurisdictions to obtain information on offshore accounts held with Financial Institutions and automatically exchange that information with the jurisdictions of residence of taxpayers on an annual basis. However, Relevant Crypto-Assets will in most instances not fall within the scope of the CRS, which applies to traditional Financial Assets and Fiat Currencies held in accounts with

Financial Institutions. Even where Relevant Crypto-Assets do fall within the definition of Financial Assets for purposes of the definition of Custodial Account, they can be owned either directly by individuals in cold wallets or via Crypto-Asset exchanges that do not have reporting obligations under the CRS (if they are not Financial Institutions) and are therefore unlikely to be reported to tax authorities in a reliable manner.

6. Therefore, the current scope of assets, as well as the scope of obliged entities covered by the CRS, do not provide tax administrations with adequate visibility on when taxpayers engage in tax-relevant transactions in, or hold, Relevant Crypto-Assets.

Increasing global tax transparency with respect to Crypto-Assets

7. Recognising the importance of addressing the above-mentioned tax compliance risks with respect to Relevant Crypto-Assets, the OECD has developed the Crypto-Asset Reporting Framework (CARF), designed to ensure the collection and automatic exchange of information on transactions in Relevant Crypto-Assets.

8. The CARF consists of three distinct components:

- Rules and related Commentary that can be transposed into domestic law to collect information from Reporting Crypto-Asset Service Providers with a relevant nexus to the jurisdiction implementing the CARF;
- a Multilateral Competent Authority Agreement on Automatic Exchange of Information pursuant to the CARF (CARF MCAA) and related Commentary (or bilateral agreements or arrangements); and
- an electronic format (XML schema) to be used by Competent Authorities for purposes of exchanging the CARF information, as well as by Reporting Crypto-Asset Service Providers to report CARF information to tax administrations (as permitted by domestic law).

9. It is acknowledged that Crypto-Asset markets, including the types of Crypto-Assets offered, the Entities and individuals active in, and the technology supporting the markets, are evolving rapidly. In this context, the OECD will continue to monitor Crypto-Asset markets and consider whether further technical work to elaborate the rules will be necessary to ensure adequate tax reporting on Relevant Crypto-Assets. It is also anticipated that the OECD will continue developing guidance to support the consistent application of the CARF, including on the definition of Relevant Crypto-Assets and in particular the criteria for adequately determining that a Crypto-Asset can or cannot be used for payment or investment purposes. Furthermore, the OECD stands ready to proceed with future amendments to the CARF, in case this is needed to ensure adequate tax reporting with respect to Relevant Crypto-Assets, as well as sufficient global coverage of the CARF. In this respect, particular attention will be given to the development of decentralised finance.

The Rules and Commentary of the Crypto-Asset Reporting Framework

10. The Rules and Commentary of the CARF have been designed around four key building blocks: i) the scope of Crypto-Assets to be covered; ii) the Entities and individuals subject to data collection and reporting requirements; iii) the transactions subject to reporting as well as the information to be reported in respect of such transactions; and iv) the due diligence procedures to identify Crypto-Asset Users and the relevant tax jurisdictions for reporting and exchange purposes.

Scope of Crypto-Assets to be covered

11. The definition of Crypto-Assets under the CARF focuses on the use of cryptographically secured distributed ledger technology, as this is a distinguishing factor underpinning the creation, holding and transferability of Crypto-Assets. The definition also includes a reference to “similar technology” to ensure it can include new technological developments that emerge in the future and that operate in a functionally similar manner to Crypto-Assets and raise similar tax risks. The definition of Crypto-Assets thereby targets those assets that can be held and transferred in a decentralised manner, without the intervention of traditional financial intermediaries, including stablecoins, derivatives issued in the form of a Crypto-Asset and certain non-fungible tokens (NFTs).

12. The term Relevant Crypto-Assets (i.e. Crypto-Assets that give rise to reporting on Relevant Transactions) excludes from reporting requirements three categories of Crypto-Assets that pose limited tax compliance risks. The first category are those Crypto-Assets which the Reporting Crypto-Asset Service Provider has adequately determined cannot be used for payment or investment purposes. This exclusion builds on the scope of the virtual asset definition of the Financial Action Task Force (FATF) and seeks to exclude Crypto-Assets that do not have the capacity of being used for payment or investment purposes. The second category are Central Bank Digital Currencies, representing a claim in Fiat Currency on an issuing Central Bank, or monetary authority, which function similar to money held in a traditional bank account. The third category covers Specified Electronic Money Products that represent a single Fiat Currency and are redeemable at any time in the same Fiat Currency at par value as a regulatory matter, in addition to meeting certain other requirements. Reporting on Central Bank Digital Currencies and certain Specified Electronic Money Products held in Financial Accounts will be included within the scope of the CRS.

13. With the above-mentioned considerations in mind, the definition of Relevant Crypto-Assets means that in most cases Relevant Crypto-Assets covered under the CARF also fall within the scope of the FATF Recommendations, ensuring the due diligence requirements can, as far as possible, build on existing AML/KYC obligations.

Intermediaries and other service providers in scope

14. As noted above, intermediaries and other service providers facilitating exchanges between Relevant Crypto-Assets, as well as between Relevant Crypto-Assets and Fiat Currencies, play a central role in the Crypto-Asset market. As such, those Entities or individuals that as a business provide services effectuating Exchange Transactions in Relevant Crypto-Assets, for or on behalf of customers, are considered Reporting Crypto-Asset Service Providers under the CARF.

15. Such intermediaries and other service providers are expected to have the best and most comprehensive access to the value of the Relevant Crypto-Assets and the Exchange Transactions carried out. These intermediaries and other service providers also fall within the scope of obliged entities for FATF purposes (i.e. virtual asset service providers). As such, they are in a position to collect and review the required documentation of their customers, including on the basis of AML/KYC documentation.

16. The above functional definition covers not only exchanges, but also other intermediaries and other service providers providing exchange services such as brokers and dealers in Relevant Crypto-Assets and operators of Relevant Crypto-Asset ATMs. Further, taking into account the October 2021 updated guidance of the FATF on virtual asset service providers, the Commentary clarifies the scope of application of the CARF to certain decentralised exchanges.

17. With respect to the reporting nexus, Reporting Crypto-Asset Service Providers will be subject to the rules when they are (i) tax resident in, (ii) both incorporated in, or organised under the laws of, and have legal personality or are subject to tax reporting requirements in, (iii) managed from, (iv) having a regular place of business in, or (v) effectuating Relevant Transactions through a branch based in, a

jurisdiction adopting the rules. The CARF also contains rules to avoid duplicative reporting in case a Reporting Crypto-Asset Service Provider has nexus with more than one jurisdiction by creating a hierarchy of nexus rules and including a rule for cases where a Reporting Crypto-Asset Service Provider has nexus in two jurisdictions based on the same type of nexus.

Reporting requirements

18. The following three types of transactions are Relevant Transactions that are reportable under the CARF:

- exchanges between Relevant Crypto-Assets and Fiat Currencies;
- exchanges between one or more forms of Relevant Crypto-Assets; and
- Transfers (including Reportable Retail Payment Transactions) of Relevant Crypto-Assets.

19. Transactions will be reported on an aggregate basis by type of Relevant Crypto-Asset and distinguishing outward and inward transactions. In order to enhance the usability of the data for tax administrations, the reporting on Exchange Transactions is to be distinguished between Crypto-Asset-to-Crypto-Asset and Crypto-Asset-to-Fiat Currency transactions. Reporting Crypto-Asset Service Providers will also categorise Transfers by Transfer type (e.g. airdrops, income derived from staking, or a loan), in instances where they have such knowledge.

20. The CARF foresees that for Crypto-Asset-to-Fiat Currency transactions, the fiat amount paid or received is reported as the acquisition amount or gross proceeds. For Crypto-Asset-to-Crypto-Asset transactions the value of the Crypto-Asset (at acquisition) and the gross proceeds (upon disposal) must (also) be reported in Fiat Currency. In line with this approach, in respect of Crypto-Asset-to-Crypto-Asset transactions, the transaction is split into two reportable elements, i.e.: (i) a disposal of Crypto-Asset A (the reportable gross proceeds based on the market value at the time of disposal); and (ii) an acquisition of Crypto-Asset B (the reportable acquisition value based on the market value at the time of acquisition). The Commentary to the CARF furthermore contains detailed valuation rules for Relevant Crypto-Assets subject to reporting on the basis of a Transfer.

21. Taxpayers' holdings and transfers of Relevant Crypto-Assets outside the scope of Reporting Crypto-Asset Service Providers subject to reporting are also relevant to tax authorities. In order to increase visibility on these, the CARF requires reporting of the number of units and the total value of Transfers of Relevant Crypto-Assets effectuated by a Reporting Crypto-Asset Service Provider, on behalf of a Crypto-Asset User, to wallets not associated with a virtual asset service provider or a financial institution. In case this information gives rise to compliance concerns, tax administrations could then request more detailed information on the wallet addresses associated with a Crypto-Asset User through existing exchange of information channels.

22. Finally, the CARF also applies to certain instances where a Reporting Crypto-Asset Service Provider processes payments on behalf of a merchant accepting Relevant Crypto-Assets in payment for goods or services, focussing on high-value transactions (i.e. Reportable Retail Payment Transactions). In such instances, the Reporting Crypto-Asset Service Provider is required to also treat the customer of the merchant as a Crypto-Asset User (provided the Reporting Crypto-Asset Service Provider is required to verify the identity of the customer on the basis of domestic anti-money laundering rules and by virtue of effectuating the Reportable Retail Payment Transaction), and report with respect to the value of the transaction on that basis. This information is expected to provide tax administrations with information on cases where Relevant Crypto-Assets are used to purchase goods or services, therewith realising a capital gain on the disposal of such Relevant Crypto-Assets.

Due diligence procedures

23. The CARF contains the due diligence procedures to be followed by Reporting Crypto-Asset Service Providers in identifying their Crypto-Asset Users, determining the relevant tax jurisdictions for reporting purposes and collecting relevant information needed to comply with the reporting requirements under the CARF. The due diligence requirements are designed to allow Reporting Crypto-Asset Service Providers to efficiently and reliably determine the identity and tax residence of their Individual and Entity Crypto-Asset Users, as well as of the natural persons controlling certain Entity Crypto-Asset Users.

24. The due diligence procedures build on the self-certification-based process of the CRS, as well as existing AML/KYC obligations enshrined in the 2012 FATF Recommendations, including updates in June 2019 with respect to obligations applicable to virtual asset service providers.

Effective implementation

25. The effective implementation requirements of the CARF are set out in the Commentary on Section V. Similar to Section IX of the CRS, these requirements aim to ensure effective implementation by Reporting Crypto-Asset Service Providers and participating jurisdictions.

Multilateral Competent Authority Agreement on Automatic Exchange of information pursuant to the CARF (CARF MCAA) and related Commentary

26. The CARF MCAA provides for the automatic exchange of information collected under the CARF with jurisdiction(s) or residence of Crypto-Asset Users and is based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters.

27. As an alternative to the CARF MCAA, jurisdictions can also establish automatic exchange relationships through bilateral competent authority agreements based on bilateral double tax treaties or tax information exchange agreements that permit the automatic exchange of information, or the Convention on Mutual Administrative Assistance in Tax Matters. Jurisdictions could also enter into a self-standing intergovernmental agreement or rely on regional legislation covering both the reporting obligations and due diligence procedures coupled with the exchange of information modalities.

Interaction between the Crypto-Asset Reporting Framework and the CRS

28. As the CARF is a separate and complementary framework, there will be some Entities reporting under both the CRS and the CARF. The CARF was designed to report information on Crypto-Assets to address tax compliance risks. Nonetheless, to reduce reporting burdens, particular attention was given to the efficient and frictionless interaction of the CARF with the CRS, as reflected in the following features:

- The definition of Relevant Crypto-Assets excludes Specified Electronic Money Products and Central Bank Digital Currencies from the scope of the CARF, as reporting on these assets is ensured under the CRS;
- As there are certain assets that qualify both as Relevant Crypto-Assets under the CARF and as Financial Assets under the CRS (e.g. shares issued in crypto form), the CRS contains an optional provision to switch-off gross proceeds reporting under the CRS if such information is reported under the CARF;
- Indirect investments in Relevant Crypto-Assets through traditional financial products, such as derivatives or interests in investment vehicles, are covered by the CRS; and
- To the extent possible and appropriate, the due diligence procedures are consistent with the CRS due diligence rules, to minimise burdens on Reporting Crypto-Asset Service Providers, in particular when they are also subject to CRS obligations as Reporting Financial Institutions. In

particular, the CARF allows Reporting Crypto-Asset Service Providers that are also subject to the CRS to rely on the due diligence procedures for New Accounts performed for CRS purposes.



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