KPMG AEOI Updates & Tracking Service
CRS Alert

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OECD: Published Updates to CARF and Amendments to CRS

In June 2023, the Organization for Economic Co-operation and Development (OECD) issued International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 Update to the Common Reporting Standard (the Standard). The Standard contains revisions, as discussed below, to the Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard (CARF), found here.

Background:

To enhance tax transparency, the OECD sought to create a reporting framework that would facilitate the automatic exchange of information for transactions involving crypto-assets. Following draft publications and a period for commentary, the OECD issued CARF in October 2022. The OECD noted that it also conducted its first comprehensive overview of the Common Reporting Standard (CRS) since 2014 due to the interaction of CARF and CRS provisions for crypto-assets. The OECD pointed out that participating jurisdictions have weighed in during this time with compliance obstacles and reporting shortfalls. Thus, while providing amendments to the CRS to integrate crypto-asset concepts and ensure efficient reporting between the separate regimes, the OECD also incorporated amendments to enhance reporting outcomes under CRS. For detailed information about the issuance of CARF in 2022, and the impact of the changes to the CRS, see KPMG TaxNewsFlash alert, here.

The Standard built on rules provided under CARF in October 2022 with a few significant changes. Updates include: 1) the Multilateral Competent Authority Agreement (MCAA) for CARF, 2) new sections and commentary for effective implementation of CARF, 3) an addendum to the current CRS MCAA to account for the amendments and related commentary, and 4) an annexure that includes the revised recommendation of the Council on the Standard for Automatic Exchange of Information in Tax Matters.

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As noted by the OECD, the Standard contains an implementation package, but does not yet provide the XML schema required for CARF, nor the updated schema for CRS, as these will be released at a later date. Finally, a few provisions that were deemed to be proposals in the October release, such as the definition of “Crypto-Assets” and use of fiat currency to report the value of Crypto-Asset-to-Crypto-Asset transactions, have been finalized.

MCAA for CARF

The Standard provides for an MCAA for CARF that is similar in design to the CRS MCAA. The CARF MCAA includes the required definitions, reporting requirements, confidentiality rules, and other measures required for implementation by competent authorities. The OECD has also provided commentary for the CARF MCAA to help with implementation.

Similar to the CRS, the MCAA for CARF provides a legal mechanism for jurisdictions to participate in the new reporting framework, enabling automatic exchange of information related to the crypto-asset users residing in participating jurisdictions. As an alternative to the CARF MCAA, jurisdictions can 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 through the Convention on Mutual Administrative Assistance in Tax Matters. Jurisdictions can also enter into self-standing intergovernmental agreements or rely on regional legislation covering both the reporting obligations and due diligence procedures coupled with the exchange of information modalities.

Effective Implementation

The Standard includes commentary to provide guidance to jurisdictions for the effective implementation of CARF. The OECD provides a three-pronged strategy that jurisdictions can follow to achieve compliance with the CARF rules:

- Identifying Reporting Crypto-Asset Service Providers:

  The OECD lays out potential challenges in identifying Reporting Crypto-Asset Service Providers and provides possible approaches to ensure identification. The primary concern is that the nexus criteria provided in Section I of the CARF rules will cover a broad range of entities and individuals that may be identified within the definition of Reporting Crypto-Asset Service Providers. This means that numerous emerging businesses in this space may be unaware of the rules and will be subject to non-compliance. Participating jurisdictions need to ensure they establish a strong compliance framework in order to identify Reporting Crypto-Asset Service Providers. The OECD provides the following approaches:

— Rely on existing frameworks like AML or financial markets registrations requirements, while ensuring such frameworks correspond with the scope of CARF — Rely on existing frameworks like AML or financial markets registrations requirements, while ensuring such frameworks correspond with the scope of CARF — Include additional mechanisms, if existing frameworks are insufficient. The OECD provides examples of additional mechanisms that may be used, including maintaining a central registry, enabling nil reporting requirements, having Crypto-Asset Users report on their tax returns the names and address of Reporting Crypto-Asset Service Providers, etc. — Ensuring compliance with due diligence and reporting requirements: Once a jurisdiction lays out robust identification measures, it must ensure that Reporting Crypto-Asset Service Providers are compliant with due diligence and reporting obligations. Much like the CRS, the OECD recommends designating administrative bodies with powers to verify compliance. Jurisdictions should introduce measures that would require Reporting Crypto-Asset Service Providers to maintain the required information in their records and provide this information to the administrative bodies on request. The OECD also lays out certain verification issues related to due diligence and reporting that the administrative bodies must be cautious about. In particular, additional scrutiny may be required to ensure that Reporting Crypto-Asset Service Providers fully comprehend the various definitions related to Crypto-Assets provided in Section IV of the CARF to ensure that entities do not incorrectly classify certain assets as exempt. The CARF provides certain exemptions from reporting for Crypto-Assets that cannot be used for payment or investment purposes, Specified Electronic Money Products, and Crypto-Assets that are Central Bank Digital Currencies. Administrative bodies should also be cautious of certain individuals or entities that may try to fragment transaction amounts, such as retail sales amounts, to circumvent reporting obligations. — Raising awareness, and promoting and enforcing compliance: Finally, the OECD recommends that jurisdictions initiate proactive measures to educate and promote compliance with the due diligence and reporting obligations. Jurisdictions should 1) institute measures to enforce compliance, including enforcing penalties, 2) introduce rules to block transactions until valid documentation is in place, 3) introduce withholding tax on payments made to Crypto-Asset users with invalid	

documentation, and 4) identify practices that may be used to circumvent reporting obligations, like carrying out cross-border Crypto-Asset transactions in jurisdictions that are not partner jurisdictions.

Addendum to the CRS MCAA

The Standard includes an Addendum to the CRS MCAA that was developed to provide an updated legal basis for participating jurisdictions to accommodate the expanded reporting requirements under the amended CRS. The Addendum, which will be an integral part of the existing CRS MCAA, will be in effect with respect to the Competent Authorities that are also signatories of the Addendum. It includes the additional information to be exchanged due to the amendments to CRS, including:

- Role of Controlling Persons of entities and Reportable Persons that hold an equity interest in an Investment Entity that is a legal arrangement
- Whether the account is Preexisting or New, and if a valid self-certification was obtained
- Whether the account is a joint account and the number of joint account holders
- Type of financial account

The OECD has also provided commentary for the Addendum to help with implementation.

KPMG Reminders and Observations:

Under the CRS, information exchanges were gradually phased in over a number of years, as jurisdictions slowly incorporated reporting requirements. The OECD expects much quicker implementation of CARF, as the rules were built on current AML/KYC obligations and are very similar to CRS. The OECD also leveraged recommendations by the Financial Action Task Force ("FATF"), which helps ensure that digital assets are not used for broader issues such as money laundering, terrorist financing, and the financing of proliferation of weapons of mass destruction. Thus, the recent issuance of the new CARF MCAA should lead to the relatively swift adoption of exchange relationship networks, at which point jurisdictions will begin introducing local laws to implement and enforce CARF rules. It is also expected that jurisdictions will start amending their local CRS laws to account for recent amendments and the CRS MCAA Addendum.

Although CARF provides a familiar framework, it will not be without its challenges due to the novelty and complexity of crypto-asset concepts. KPMG reminds entities which may be affected by CARF to start taking proactive measures to ensure timely compliance. Entities may consider reviewing the framework and familiarizing themselves with the new terminology to determine if

their structures or business activities give rise to potential reporting or due diligence obligations. Specifically, entities or individuals subject to classification as a Reporting Crypto-Asset Service Provider should consider reviewing their processes to ensure that they have the right systems in place to meet the onboarding and due diligence requirements, in addition to the ability to track and analyze transaction information. FIs should also review internally to determine what system updates are needed to capture additional information required to be reported by the amended CRS. FIs that have instituted CRS procedures and may be subject to CARF rules should review both regimes in tandem to determine how they can best leverage their CRS compliance programs to determine efficient ways of reporting information for both the regimes. KPMG will continue to monitor for updates in these matters.	
Reference: International Standards for Automatic Exchange of Information in Tax Matters. For information on KPMG's global AEOI network professionals, please email GO-FM AEOI Program Support. For more information on KPMG AEOI Updates & Tracking Service, please see here. For additional summaries of the latest AEOI developments, please visit KPMG's TaxNewsFlash-FATCA/IGA/CRS Insights page, here.	

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