



29 April 2022

To: International Co-operation and Tax Administration Division
Organisation for Economic Co-operation and Development
Centre for Tax Policy and Administration
2 rue André-Pascal
75775, Paris, Cedex 16, France
Submitted by email: taxpublicconsultation@oecd.org

Re: *Business at OECD* (BIAC) comments to OECD's Public Consultation Document "Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard"

Dear Secretariat Team,

Business at OECD's detailed response to the questions presented in the Public Consultation Document "Crypto-Asset Reporting Framework [CARF] and Amendments to the Common Reporting Standard [CRS]" is attached. The response reflects our strong support for tax compliance measures that reflect appropriately the relative costs and benefits of each proposed requirement. This short cover letter summarizes many of our main points.

First, we must emphasize that the steps required for business to implement the CARF and the CRS amendments will require substantial and complex changes to existing business processes. Systems, including the underlying architecture, by which data is (i) collected, (ii) stored, (iii) transmitted to business units, business partners, and others in the ecosystem, and (iv) reported to customers and regulatory bodies all will need significant modifications. Substantial lead time (a minimum of two to three years, based upon the experience of implementing FATCA and the CRS) and appropriate penalty relief (also known as the "soft landing") will be essential.

Second, for governments' objectives to be achieved, carefully crafted and phased implementation time frames must be provided. Factors that must be considered include differences in asset type and use, the incremental benefits of expanding the due diligence and reporting requirements for each, and the relative difficulties of modifying existing, and building new, operational infrastructure. Phased implementations will vary. With respect to the CARF, for example, reporting information about customers holding Crypto-Assets is significantly easier than reporting the extensive range of other contemplated information.

Third, a key to successful implementation will be ease of administration—for both business and governments. Administrability will be enhanced for Financial Institutions (FIs) subject to both the CRS and the CARF to the extent that the applicable requirements are the same and are applied consistently. Similarly, the CARF rules should be applied consistently with countries' actual application of the Financial Action Task Force's Recommendations. Consequently, countries that have not yet implemented FATF Recommendations on anti-money laundering (AML)/terrorist financing (TF) should focus now on engaging with stakeholders to do so with appropriate recognition of jurisdictional considerations. The relevant tax information sharing mechanisms would then be built on top. Precisely defining the scope of Crypto-Assets and Reporting Crypto-Asset Service Providers (RCASPs) will reduce the possibility of double reporting under the CARF and CRS—and the attendant burdens on efficient tax administration.

Fourth, the CARF and the CRS should be applied with neutrality amongst technologies and in a manner that is aligned to local law requirements.

Fifth, any proposed requirement that restricts innovation and competition in the crypto industry should be scrutinized closely given the likely impact on this nascent marketplace. Financial infrastructure services providers in this budding industry already are subject to a myriad of capital-intensive regulatory requirements and related obligations. Excessively high compliance costs may create insurmountable barriers to entry that harm consumers and stifle innovation. To address these concerns, we suggest consideration of a CARF sandbox that would provide a three-to-four-year exemption from CARF reporting and allow new market entrants an opportunity to develop and survive in this competitive marketplace.

Sixth, care must be taken to ensure that activities are not pushed to jurisdictions that do not adopt the CARF or that do so inadequately. Appropriate defensive measures should be introduced, in a coordinated manner, against those businesses that do not comply with the rules, together with incentive mechanisms for those that comply. A peer review mechanism should be adopted.

Seventh, we also consider it essential, as recommended by the OECD in the 2020 report *Taxing Virtual Currencies - An Overview of Tax Treatments and Emerging Tax Policy Issues*, that countries publish detailed guidance regarding the tax treatment of acquiring, holding, and disposing Crypto-Assets. This tax treatment, in several instances, remains unclear. In fact, as the Commentary clarifies (p. 44 of the public consultation document, para. 21), “The term “Relevant Transactions” . . . targets those transactions likely to give rise to taxation events (i.e. capital gains and income taxation).” In that context, as with the introduction of the CRS, due consideration should be given to the introduction of Voluntary Disclosure initiatives that allow taxpayers to regularize their tax situation.

Eighth, as Crypto-Assets have implications for both direct and indirect taxation (as noted in the OECD’s *Taxing Virtual Currencies* report), we encourage close coordination regarding all aspects of this topic and welcome the opportunity to provide business input.

Ninth, we have serious reservations about the benefits to governments of the proposed expansion of the reporting requirements in Section 1 vis-à-vis the costs and other burdens that would be imposed on business. The increased “visibility” and “understanding” that governments anticipate gaining from the additional information, in our view, is of limited value due to the myriad of factors discussed in the attachment detailed response.

Tenth, substantive difficulties continue to arise from differences in how jurisdictions adopt the *Common Reporting Standard*. Divergencies identified through the Peer Review should be remedied promptly.

Eleventh, we urge additional efforts by governments to educate taxpayers regarding their tax-related obligations vis-à-vis the businesses that provide them with financial-related services. Taxpayers should be informed by governments of their obligations, for example, to provide requested taxpayer information and the consequences of seeking ways around these obligations.

Finally, we also consider it useful for the OECD and countries involved to evaluate the use of a (permissioned) blockchain as the infrastructure for providing and exchanging information for tax purposes.

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We would be pleased to discuss and answer any questions you may have on our submission. Again, thank you for the opportunity to provide these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Lawson".

Keith Lawson
Chair, Business Advisory Group on the CRS/CARF, *Business at OECD* (BIAC)

Attachment

Cc: Alan McLean, Chair, *Business at OECD* (BIAC) Tax Committee
Hanni Rosenbaum, Executive Director, *Business at OECD* (BIAC)
Nicole Primmer, Senior Policy Director, *Business at OECD* (BIAC)