



30 Monck Street
London SW1P 2AP
T: +44 (0)20 7340 0550
E: technical@ciot.org.uk

Cryptoasset Reporting Framework, Common Reporting Standard amendments, and seeking views on extension to domestic reporting

Response by the Chartered Institute of Taxation

1. Executive Summary

- 1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.
- 1.2. The CIOT supports proportionate measures that facilitate greater tax compliance and give HMRC the data needed to do this. Likewise, we support the idea of penalties within the Cryptoasset Reporting Framework (CARF) being consistent with the UK's implementation of the Model Rules for Digital Platforms (MRDP) and suggest that all HMRC's data-gathering powers should come within an aligned penalty regime¹. However, we do have some concerns about how onerous the reporting requirements within section 2 of CARF might be for a Reporting Crypto Asset Service Provider (RCASP) and whether it might simply encourage some providers to leave the UK; likewise, we are concerned that some of the definitions are potentially too wide.
- 1.3. More importantly, however, we believe greater compliance can only come with greater public awareness about the reporting obligations around cryptoassets; without greater efforts to educate the public on this, the introduction of CARF alone may have minimal desired effect.

2. About us

- 2.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

¹ See para 3.2 below.

- 2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3. Introduction

- 3.1. This consultation concerns the implementation into UK law of the CARF and amended Common Reporting Standards (CRS), which have been agreed at an international/OECD level, to ensure that treatment of cryptoassets is brought into line with the reporting standards concerning other assets. As well as the CARF and amendments to the CRS, this consultation also considers matters of domestic reporting.
- 3.2. The CIOT recently submitted a response to the Tax Administration Framework Review (TAFR) consultation and some of the comments made therein are also relevant to this consultation², for example having a simpler overall penalties regime, with fewer different types of penalties which could have many advantages such as ease of administration and increased deterrent effect.
- 3.3. Our stated objective for the tax systems include:
 - A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
 - Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
 - Greater certainty, so businesses and individuals can plan ahead with confidence.
 - A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
 - Responsive and competent tax administration, with a minimum of bureaucracy.
- 3.4. Rather than answer the individual questions of this consultation, we would just like to make some broad observations.

4. Impact on RCASPs

- 4.1. Broadly, the CIOT welcomes the introduction of the CARF and amendment to the CRS; incorporating these into UK by making the UK a 'reporting country' will no doubt help with the provision of relevant data to HMRC and improve compliance.
- 4.2. We welcome the proposal for penalties for a failure of RCASPs to inform individual reportable users of what information has been reported to HMRC (and potentially other jurisdictions). However, there is currently no obligation for RCASPs to provide these details to reportable users nor seemingly is there any proposal to incorporate such an obligation. If this is the case, it would seem odd to have a penalty in place for failing to

² <https://www.tax.org.uk/ref1295>

do something which isn't an obligation. However, we think it should be an obligation because it would not only provide a degree of transparency, but also certainty for that individual; should there be an enquiry they will know precisely which data is under scrutiny, and it may assist them with their record-keeping and reporting obligations.

- 4.3. However, whilst we support measures which improve compliance, including through the exchange of data, we would caution against the dangers of potentially overburdening any business with reporting and due diligence requirements on reportable persons. Clearly these obligations are necessary, but by imposing criteria which would prove overly-burdensome or onerous, there is a greater danger of non-compliance by the RCASPs, and even potentially their leaving the UK to a jurisdiction which is not an OECD reporting country. Only those details necessary for compliance and due diligence purposes should be required.
- 4.4. The definitions within CARF and CRS should also be made as clear as possible. We have heard of concerns about how wide some of the definitions are such as: 'reportable user', what precisely constitutes 'reportable information' and a 'relevant transaction', and even who might be included as a RCASP. With respect to questions 1 and 3 of the consultation, we would therefore respond in the affirmative by saying that further guidance on definitions would be most welcome. Examples within guidance are very useful, so we would recommend that these be added to aid readers' understanding of these various definitions. The nexus criteria, whilst also welcome to determine the dominant jurisdiction, will require further guidance and examples on matters such as what constitutes 'the strongest link', so we would also respond positively to question 2. With respect to question 4, and aligning the reporting timeframe with CRS, any form of simplification is welcome, although if it's to be in line with a calendar year, it will still require some time and effort to adjust the figures to a 5 April year end, so its effectiveness is questionable.

5. Penalties for CRS and CARF

- 5.1. As stated above, we welcome the move to bring CARF and CRS in line with those penalty provisions within MRDP; indeed, we would favour all data-collection powers within the UK being enforced with the same penalties – we recommended this within para 15.6 of our TAFR response.
- 5.2. Question 7, asking whether the penalties within MRDP would be suitable for CARF, seemingly implies that CARF would necessitate a higher rate of penalties and signals an intention to levy penalties accordingly. If this is so, we cannot think of any obvious reason why there should be differing rates; if the penalty regimes are to be brought into line, then so should the rates unless there are any exceptional reasons why CARF necessitates sterner penalties.

6. Public understanding

- 6.1. Our key concern, and one which CIOT and LITRG have both made public and conveyed to HMRC on multiple occasions, is to ensure that there is a greater public awareness of the tax compliance obligations surrounding cryptoassets. There is no tailored legislation and only (sometimes scant) guidance available for agents (especially on VAT matters), but for lay taxpayers there would appear to be very little understanding that cryptoassets are even taxable – HMRC's own research supports this assertion³. The reporting requirements (e.g. treating cryptoassets as shares with respect to base costs) are highly onerous given the huge number of transactions usually involved. We believe that before utilising the data which HMRC received from CARF and imposing the consequential penalties, HMRC really needs to make concerted effort to increase public education/awareness about the tax and record-keeping obligations surrounding cryptoassets. Whilst disclosure schemes are in place, and CGT pages of personal tax returns will have tailored boxes for such

³ <https://www.gov.uk/government/publications/individuals-holding-cryptoassets-uptake-and-understanding>

assets, people don't know what they don't know – they will not realise there is an issue and thus seek professional advice or proactively make disclosures. Until a reasonable level of awareness is obtained, the effectiveness of these proposed changes will be limited. The recent proposals surrounding the tax treatment of Centralised/Decentralised-Finance⁴ transactions (as well as the disclosure facility and the tailored CGT pages of tax returns) are all welcome moves in the right direction of simplification, but tailored legislation concerning cryptoassets, greater guidance and a concerted public education/awareness drive from HMRC remain outstanding recommendations by the CIOT.

7. Acknowledgement of submission

- 7.1. We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

29 May 2024

⁴ See the CIOT's responses to the consultations of July 2022 (<https://www.tax.org.uk/ref973>) and April 2023 (<https://www.tax.org.uk/ref1126>)