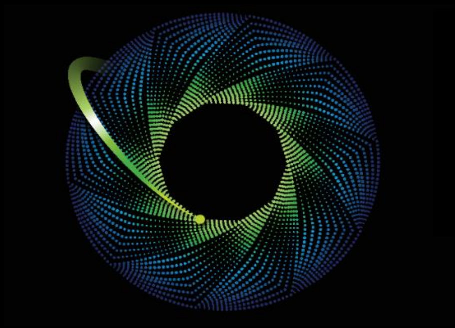
Deloitte. 德勤



Hong Kong Tax Newsflash

Commitment to implementing Crypto-Asset Reporting Framework

Hong Kong | Tax & Business Advisory | 24 December 2024 | Issue 233

Following the release of the guidance on the Crypto-Asset Reporting Framework (CARF) and the amendments to the Common Reporting Standard (CRS)[1] to include "relevant crypto-assets" under the definition of financial assets in October 2022 and the XML schema and user guide[2] in October 2024 by the Organization for Economic Co-operation and Development (OECD), the Hong Kong Government announced its commitment to implementing the CARF to enhance international tax transparency and combat cross-border tax evasion to the Global Forum on Transparency and Exchange of Information for Tax Purposes of the OECD on 13 December 2024.

Maintain the global tax transparency under the meteoric rise of the crypto-asset market

As an extension of the existing CRS for Automatic Exchange of Financial Account Information in Tax Matters (AEOI), CARF stipulates a similar mechanism for annual automatic exchange of tax-relevant crypto-asset account and transaction information among jurisdictions where crypto-asset users or controlling persons are tax residents. According to the Hong Kong Government, Hong Kong is committed to implementing CARF on a reciprocal basis with appropriate partners that meet the required standards for protecting data confidentiality and security.

Timeline

The first automatic exchanges between Hong Kong and relevant jurisdictions under CARF is aimed to commence from 2028, based on the initial plan that the necessary local legislative amendment can be enacted by 2026.

Our observation

With the rapid growth of the crypto-asset market, there is a significant risk to erode global tax transparency due to the shift from traditional financial intermediaries, which are generally required to disclose account holder information under tax reporting regimes such as CRS, to a new class of intermediaries and service providers, which are not yet subject to tax reporting requirements regarding their customers.

[1] Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard. The OECD subsequently further updated and published International Standards for Automatic Exchange of Information in Tax Matters - Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard in June 2023.

[2] Crypto-Asset Reporting Framework XML Schema - User Guide for Tax Administrations

CARF is a separate framework promulgated by the OECD to report the relevant tax information on crypto-assets. In general, entities or individuals that carry on a business to provide services of effectuating exchange transactions of crypto-assets for or on behalf of customers, including by making available a trading platform or acting as a counterparty/an intermediary to such exchange transactions, are considered reporting crypto-asset service providers with due diligence and reporting obligations under CARF. The definition of "crypto-assets" under CARF covers a wide range of digital assets, including those digital representations of value that could be held and transferred without intermediary involvement. Despite the broad definition of a service provider, certain types of persons (including investment funds investing in crypto-assets because investor cannot transact on their own behalf) are not intended to be included as reporting crypto-asset service providers under CARF. However, these persons may still be subject to CRS due to its amendment to cover "relevant crypto-assets". Given that CARF is a separate framework, some persons may be subject to both CARF and CRS.

We welcome the Hong Kong Government's commitment to implementing CARF. The existence of crypto-assets poses challenges to tax authorities' efforts in ensuring tax transparency and information exchange on cross-border financial investments and in combating offshore tax evasion under the current CRS framework. In this regard, the implementation of CARF is anticipated to lead to closer scrutiny of crypto transaction and prompt both crypto-asset service providers and their customers to adhere to stricter compliance requirements, especially the due diligence and reporting procedures for both pre-existing and new account holders.

In view of the above, we foresee the Inland Revenue Department would provide more guidance and compliance requirements to align the treatment of crypto assets with other types of investments from CARF and CRS perspectives in accordance with the OECD framework. The due diligence requirements are expected to be strengthened, particularly to be in line with the Anti-Money Laundering /Know Your Customer procedures and Financial Action Task Force recommendations. Therefore, particular attention shall be given to the development of CARF and CRS in Hong Kong. The relevant stakeholders, especially crypto-assets service providers, are recommended to assess the impacts and prepare in advance before the publication of the relevant legislation and guidance.

Authors

Edmond Lam
Tax Director
+852 2238 7564
elam@deloitte.com.hk

Eionia Cheung
Tax Manager
+852 2740 8663
eicheung@deloitte.com.hk

For more information, please contact:

International and M&A Tax
National Leader
Vicky Wang
Tax Partner
+86 21 6141 1035
vicwang@deloittecn.com.cn

Hong Kong
Candy Chan
Tax Partner
+852 2852 5886
cancha@deloitte.com.hk

MAKING AN IMPACT THAT MATTERS since 1845