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5x5 series: Insights and actions

Crypto reporting regulations: what to know now

In November 2021, the Biden administration signed into law the Infrastructure Investment and Jobs Act (IIJA). The Act brings digital assets into the scope of US Form 1099 reporting, including digital assets under the definition of specified security for broker reporting purposes. Regulations clarifying the reporting obligations under the IIJA are expected by year-end 2022. Further, on October 10, 2022, the Organization for Economic Co-operation and Development (OECD) released final guidance on the Crypto-Asset Reporting Framework (CARF), creating a global framework for reporting transactions in specified crypto-assets. CARF is similar in design to and intended to coordinate with, the Common Reporting Standard.

5 insights you should know

1. **Broad application:** The IIJA defines digital assets as any digital representation of value stored cryptographically. The result is a broad net encompassing a wide array of products including currencies, NFTs, stablecoins, smart contracts, and more.

2. **Broker reporting rules:** The current broker reporting requirements include collecting certified TINs to avoid backup withholding under section 6045. These rules are now applicable to digital asset broker reporting.

3. **Basis tracking:** The IIJA now requires brokers to track and report tax basis attributes, including permitting customers to identify the specific digital asset intended to be traded in a timely manner.

4. **OECD Adopts CARF:** The CARF rules are broad-reaching reporting rules for global digital asset service providers. These rules intentionally encompass service providers that provide platforms (including certain DeFI platforms) and service providers for merchants.

5. **Indications of expansion:** The Treasury's 2023 Greenbook proposes to require reporting of digital asset accounts held by non-US persons, including transaction and account balance information.

5 actions to take now

1. **Evaluate.** Products and services within your current operations should be evaluated to determine whether they fall under the definition of reportable digital assets.

2. **Update.** Customer onboarding processes, including anti-money laundering (AML) and know your customer (KYC) procedures should be updated. Also review your current customer information on file to ensure compliance.

3. **Invest.** Tracking the cost basis of digital assets, including specific identification methods, is a key component of IIJA requirements. Ensure that your systems and approach are ready to manage this.

4. **Prepare.** Global organizations should prepare for both IIJA and CARF rules for digital asset reporting. Digital asset exchanges, including certain DeFi platforms and service providers for merchants operating out of the US, will need to take similar documentation and reporting action for all global digital asset activity.

5. **Consider.** The scope of reporting in the context of digital asset reporting could be expanded beyond the IIJA and CARF.

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