GLOBAL DIGITAL FINANCE

29 April 2022

Attn: International Co-operation and Tax Administration Division
OECD
Centre of Tax Policy and Administration
SENT VIA EMAIL: taxpublicconsultation@oecd.org

To whom it may concern,

Re: OECD, Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard, Public Consultation Document

Global Digital Finance (**'GDF'**) supports efforts by global standard setters, national authorities and regulators to consult and work with the nascent global digital / virtual asset industry.

To that end, we are hereby providing input to the OECD on the Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard, Public Consultation Document.

About GDF

GDF is a not-for-profit industry body that promotes the adoption of best practices for crypto and digital assets, and digital finance technologies through the development of conduct standards, in a shared engagement forum with market participants, policymakers and regulators.

Established in 2018, GDF has convened a broad range of industry participants, with 300+ global community members - including some of the most influential digital asset and token companies, academics and professional services firms supporting the industry. GDF is proud to include BitMex, Coinbase, DLA Piper, EQONEX Group, EY, Gate.io, Hogan Lovells, Huobi, the London Stock Exchange Group, Ownera, R3, SDX and Standard Chartered as patron members.

The GDF Code of Conduct (the 'Code') is an industry-led initiative driving the creation of global best practices and sound governance policies. GDF is informed by close conversations with regulators and developed through open, inclusive working groups of industry participants, legal, regulatory and compliance experts, financial services incumbents and academia. The principles set out in the Code undergo multiple stages of community peer review and open public consultation prior to ratification.

The input to this response has been curated through the work of both our AML/KYC and Tax Woking Groups. GDF is grateful for all of its members who have taken part however, a special thanks goes to representatives of the working group Co-Chairs, Dennis Post EY, Lisa Zarlenga Steptoe & Johnson, Nicky Gomez XReg Consulting and Malcolm Wright who led the way in drafting this response.[1]

As always, GDF remains at your disposal for any further questions or clarifications you may have and we would welcome a meeting with you to discuss these matters in more detail with our members.

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[1] This response of the publication would not have been possible without the valuable contributions of David Wren, Abi Jeffreys, and Ingebjørg Brekka, all of EY.

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Executive Summary of Comments

GDF supports the aim of the CARF to ensure global tax transparency. The OECD's stated rationale in the Public Consultation Document for adopting the CARF was that "the current scope of assets, as well as the scope of obliged entities, covered by the CRS do not provide tax administrations with adequate visibility on when taxpayers engage in tax-relevant transactions in, or hold, Crypto-Assets" and, as such, the recent gains in global tax transparency achieved by the CRS could be gradually eroded. However, the CARF goes well beyond the CRS in terms of the scope of assets and obliged entities covered. GDF considers that the scope of the CARF should be aligned with the CRS to create a level playing field between asset classes and types of intermediaries.

In addition, tax information reporting should be technology neutral. The CARF, as proposed, would apply to cryptographic tokens that represent physical property, contract rights, membership rights, collectibles, and games, notwithstanding that nondigitized forms of these assets are not subject to tax information reporting.

The global digital/virtual asset industry, although growing rapidly, is still a nascent industry. The CARF is an extremely detailed reporting regime, which would impose significant regulatory costs. This would include not only costs to build or upgrade systems to enable collection and retention of such detailed information but also risks associated with retention of greater personal information and exposure to potential penalties. GDF is concerned that, without protections, the CARF could prevent newcomers from entering the industry, thus potentially limiting growth and innovation. To this end, we recommend measures to assist start-up and small businesses with compliance, including:

- Providing safe-harbours that would permit start-up (less than five years old) and small (less than £5 million in gross income) businesses to perform reduced reporting, such as permitting such firms to use data already collected for anti-money laundering (AML)/know your customer (KYC) or CRS/Foreign Account Tax Compliance Act (FATCA);
- Permitting such smaller firms to avoid penalties for good-faith compliance;
- Permitting such smaller firms outsource or rely on a larger institution as an intermediary to handle their reporting;
- Publishing an implementation framework with user friendly and practical guidance for both taxpayers and tax administrators;

GDF also submits that the OECD may underestimate the burden on tax authorities receiving all of the data required by the CARF. The CARF requires reporting by asset and transaction type. With a daily volume of cryptocurrency transactions approaching $100 billion, and numerous transactions required to be reported by multiple counterparties, tax authorities will receive an enormous amount of data. Many jurisdictions may still be trying to catch up with conventional AML/KYC or CRS reporting. The OECD should consider providing capacity-building aid to governments not as well set up to implement tax information reporting. The OECD should also consider actively consulting with developing countries and countries that are active in crypto-asset adoption before finalizing any reporting regime.

Finally, GDF recommends that the OECD take its time to finalise and implement the CARF. The crypto-asset industry is still emerging, and tax authorities are still learning about this asset class and developing their substantive laws. In addition, information collection and reporting may be completely new for some intermediaries (particularly decentralised exchanges) who are not covered by AML/KYC requirements and whose jurisdictions have not implemented FATF guidance. Other reporting regimes, such as CRS and FATCA, have taken multiple years to implement. Further, the European Union and the United States are currently considering crypto

reporting regimes. The OECD should coordinate the CARF with these regimes to reduce gaps and facilitate compliance across jurisdictions.

Yours faithfully,

Lavan Thasarathakumar
Director of Government and Regulatory Affairs, Global Digital Finance

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- Response to Consultation -

A. Crypto-Assets in Scope

1. *Does the CARF cover the appropriate scope of Crypto-Assets? Do you see a need to either widen or restrict the scope of Crypto-Assets and, if so, why?*

As discussed above, GDF considers that the scope of the CARF should be narrowed to better align with the CRS and the OECD's stated rationale for adopting the CARF. For example, nonfungible tokens (NFTs), which reflect rights in assets such as artworks, property, domain names, and music would be reportable under CARF even where the underlying assets would not otherwise be reportable under CRS. GDF recommends that to achieve parity with traditional financial services, Crypto-Assets in scope should be determined by looking through to the underlying assets to apply to investment or other financial assets.

If it is determined that the CARF should not align with the CRS, GDF suggests that the focus should be on ensuring that the definition of Crypto-Assets (especially with respect to NFTs) does not include crypto-assets that have no value or for which it is difficult to determine value, and to ensure that the carve-out for closed-loop assets is practical manageable and covers relevant crypto assets. The OECD could achieve this by limiting the definition of Crypto-Assets to those that are readily tradeable or convertible to fiat currency.

2. *Does the definition of Closed-Loop Crypto-Assets contain the correct criteria for identifying Crypto-Assets that operate in a closed-loop environment?*

GDF recommends that the definition should be broadened to include other potential transfers within the closed-loop environment; otherwise a number of blockchain uses could be caught unnecessarily by the CARF. For example, the definition of Closed-Loop Crypto-Asset should also include:

- A provision for the Closed-Loop Crypto-Assets to be exchanged for other Closed-Loop Crypto-Assets within the same 'loop';
- A provision for the Closed-Loop Crypto-Assets to be exchanged for other Closed-Loop Crypto-Assets within different 'loops', provided that all such loops meet the definition;
- Tokens used only in a gaming environment to purchase goods or services within the game (and cannot be exchanged outside the game or for fiat currency).

3. *Are you aware of existing types of Crypto-Assets, other than Closed-Loop Crypto Assets or Central Bank Digital Currencies that present a low risk from a tax compliance perspective and should therefore be excluded from the scope?*

GDF is of the position that stablecoins pegged to fiat currency present a low risk from a tax compliance perspective, as any gain or loss will be minimal.

4. *An NFT is in scope of the FATF Recommendations as a virtual asset if it is to be used for payment or investment purposes in practice. Under the Crypto-Asset Reporting Framework, an NFT would need to represent value and be tradable or transferable to be a Crypto-Asset. On that basis it is expected that relevant NFTs would generally be covered under both the CARF (as a Crypto-Asset) and the FATF Recommendations (either as a virtual asset or a financial asset). Are you aware of any circumstances where this would*

> *not be the case, in particular, any NFTs that would be covered under the definition of Crypto-Assets and that would not be considered virtual assets or financial assets under the FATF Recommendations or vice versa?*

GDF notes that the FATF definition of a virtual asset is an asset which is "a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes."[2] However, the proposed CARF defines a Crypto-Asset as "a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions."[3]

Although the commentary to the CARF indicates that some specific uses of cryptographic technology should not be treated as Crypto-Assets, there is considerable scope for the CARF definition to be interpreted more widely than the FATF definition, in particular for NFTs whose primary purpose is not payment or investment purposes, but for which the tokens have a value nonetheless.

As a result, GDF considers that the NFTs in scope for the CARF is much broader than the NFTs in scope for the FATF Recommendations. The FATF applies only to NFTs held for investment or used for payment, but the CARF applies to any NFT with value. As such, the CARF assumes that NFTs are written/developed in isolation from their underlying blockchain. However, NFTs don't exist on separate blockchains; they will typically be written using specific protocols on blockchains that are also a store of value, for example the use of ERC-721 on Ethereum. Therefore, all NFTs written on widely used blockchains possess a value, albeit that value may be small.

In addition, certain NFTs may serve dual purposes allowing both a value and a non-value business proposition (for example, domain names written into NFTs, where the NFT has little resale value but the domain names have a high resale value).

It may, therefore, be difficult to determine whether an NFT is held for investment purposes or not based on any value ascribed. Instead, GDF recommends that the OECD should prioritize a level-playing field between the CARF and CRS by applying a **look-through approach** to NFTs and the underlying asset represented. If the underlying asset would not be reportable under the CRS, it should not be reportable under the CARF.

If this turns out to be too complex, then GDF recommends applying the FATF rule for NFTs in scope.

B. Intermediaries in Scope

1. *Do you see a need to either widen or restrict the scope of the intermediaries (i.e. Reporting Crypto-Asset Service Providers)?*

GDF notes that the definition of Reporting Crypto-Asset Service Provider (CASP), as "any individual or Entity that, as a business, provides a service effectuating Exchange Transactions for or on behalf of customers,"[4] is potentially too broad on its face. Although the commentary clarifies several points, GDF considers that, to avoid confusion, the definition itself should reflect the concept that the CASP is involved in the transaction or would have sufficient knowledge of the underlying transaction to comply with the reporting obligations 'but for' the existence of the CARF.

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[2] FATF, *The FATF Recommendations* (updated March 2022), at p. 132.
[3] Public Consultation Document, at p. 15.
[4] Public Consultation Document, at p. 15.

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The commentary clarifies that persons acting as a counterparty or intermediary to Exchange Transactions would be Reporting CASPs, but these activities do not include investment funds, validators, and creators.[5] In addition, the commentary clarifies that persons making available a trading platform would be Reporting CASPs, to the extent they exercise control or sufficient influence over the platform, or otherwise have sufficient knowledge allowing them to comply with the due diligence and reporting obligations (e.g., through AML/KYC or FATF rules).[6] However, then the commentary states:

> An individual or Entity may be a Reporting Crypto-Asset Service Provider by carrying out activities other than acting as a counterparty, or intermediary, to an Exchange Transaction, or making available a trading platform, as long as it functionally provides a service, as a business, effectuating Exchange Transactions for or on behalf of customers.[7]

It is not clear what this means or how it impacts the remaining commentary. To avoid confusion and an uneven application of these rules between jurisdictions and potential CASPs, GDF notes that the definition itself should contain the limitation that the CASP is involved in the transaction or would have sufficient knowledge of the underlying transaction to comply with the reporting obligations 'but for' the existence of the CARF.

Also, it should be noted that whilst the CARF seeks to align with the FATF rules, the FATF rules are yet to be fully implemented into local law and there are ongoing discussions as to the scope of the FATF rules.

GDF also notes that the FATF rules apply where an intermediary, as a business, performs one of the following services:

- Exchange between virtual assets and fiat currencies;
- Exchange between one or more forms of virtual assets;
- Transfer of virtual assets;
- Safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; or
- Participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

The scope is, therefore, more restricted than that of the CARF, and importantly is more clearly defined. GDF recommends that the CARF use the same definition as FATF rather than relying on the term 'effectuate.' If it is not possible to align the definition, GDF recommends that as a minimum the obligation should only apply where the platform is made available AND the platform provider would have sufficient knowledge to comply with the reporting obligations 'but for' the existence of the CARF.

In addition, as discussed above, GDF recommends adopting measures to assist start-up and small businesses with compliance, such as reduced reporting, protection from penalties, and permitting outsourcing of compliance functions.

[5] Public Consultation Document, at p. 43.
[6] Public Consultation Document, at p. 44.
[7] *Id.*

2. *Are there any circumstances in which multiple (affiliated or unaffiliated) Reporting Crypto-Asset Service Providers could be considered to effectuate the same Relevant Transaction with respect to the same customer? If so, which types of intermediaries (e.g. the one with the closest relationship with the client) would be best placed to ensure reporting?*

GDF notes that it is highly likely that there will be duplicative reporting. As an example, one may consider coins lent as part of a DeFi contract, in which the customer is using a CASP to effectuate the transaction. The CASP will be required to report the transaction, as will the person who controls the DeFi platform. At the end of the contract, the borrower will repay the coins to the customer along with an additional return, which will be reported by the borrower's CASP, the lender's CASP, and the person in control of the DeFi platform.

In addition, if there are multiple persons able to amend or terminate the smart contract (by majority voting for instance), the rules seem to indicate that all of these persons may fall within the definition of a Reporting CASP. If this is the case, reporting obligations may be placed on all the persons able to vote to change the protocol – this does not seem to be in line with the intention of the rules and should be clarified.

However, GDF submits that it will be too burdensome for CASPs to try to identify and eliminate duplicative reporting, and it would not in the best interests of tax transparency, as transactions could fall through the cracks. Instead, tax authorities may need to accept that there is duplicate reporting.

3. *Do the nexuses described in paragraph A of Section I of the CARF ensure a comprehensive coverage of all relevant Reporting Crypto-Asset Service Providers? If not, under what circumstances would relevant Reporting Crypto-Asset Service Providers not have a nexus in any jurisdiction? In your view, should this be a potential concern, and if so, what solutions could be considered to address it?*

The CARF does not appear to apply to CASPs in non-participating jurisdictions, which mirrors the approach taken in CRS. However, virtual assets are far more mobile than traditional banking relationships and, therefore, there would be an incentive for a CASP to establish itself in a non-participating jurisdiction to avoid the identification and reporting obligation. This may become a larger issue to the extent larger countries that have several CASPs based in their country would not be adopting the CARF (e.g. similar countries that also have not adopted CRS).

GDF considers that it is key to ensure a level playing field. This may be achieved by requiring a CASP that does not have a nexus in a participating jurisdiction to report to a participating jurisdiction all of its customers in that participating jurisdiction.

C. Reporting Requirements

1. *Do intermediaries maintain valuations on the equivalent Fiat Currency fair market values of Crypto-Assets? Do you see challenges in reporting on the basis of such fair market value? If yes, what do you suggest to address them?*

GDF notes that transaction reporting in fiat currency for crypto-assets is far more burdensome than reporting under the CRS. This is exacerbated by the fact that crypto-assets have greater price volatility than traditional fiat currencies and the number of daily transactions may number in hundreds or thousands per customer. In addition, many cryptocurrencies only trade on markets without a fiat pair (e.g., ETH/BTC). CASPs would have difficulties in reconciling the cost of the

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cryptocurrency back to fiat, and there could be considerable inconsistencies in the prices reported by different CASPs.

GDF notes that CASPs would be required to maintain fiat values concurrent with the transactions, as look-back calculations based on transactions carried out may take significant time to develop.

2. *Are there preferable alternative approaches to valuing Relevant Transactions in Crypto-Assets?*

It may be preferable to allow reporting in the native cryptocurrency in which a transaction takes place, and tax authorities can then maintain a single table of currency rates with which to 'translate' transactions. Although this may result in a degree of uncertainty for currencies which are highly volatile, this is likely to be more consistent that requiring all CASPs to translate to fiat currency.

If this cannot be permitted for the entirety of the cryptocurrency ecosytem, then GDF recommends that is permitted for at least a defined subset of currencies. For example, CASPs may be allowed to report in units for certain digital currencies (e.g., BTC, ETH). This should be considered in particular for newer and smaller CASPs.

3. *Are there specific difficulties in applying the valuation rules for illiquid tokens, for example, NFTs or other tokens that may not be listed on a marketplace, to identify a fair market value? If so, please provide details of any preferable valuation methods that could be adopted within the CARF.*

Yes, NFTs are typically sold at auction and their value can only be determined at spot prices, particularly where the NFT represents a unique underlying asset.

In the absence of an active market in a particular Crypto-Asset, CASPs should be able to report the actual cost of the asset where the asset is transferred. Where the NFT is exchanged, the exchange value should be taken as the fair market value.

4. *Regarding Reportable Retail Payment Transactions, what information would be available to Reporting Crypto-Asset Service Providers pursuant to applicable AML requirements (including the FATF travel rule, which foresees virtual asset service providers collecting information on originators and beneficiaries of transfers in virtual assets) with respect to the customers of merchants in particular where the customer does not have a relationship with a Reporting Crypto-Asset Service Provider, for whom it effectuates Reportable Retail Payment Transactions? Are there any specific challenges associated with collecting and reporting information with respect to Reportable Retail Payment Transactions? What measures could be considered to address such challenges? Would an exclusion of low-value transactions via a de minimis threshold help reducing compliance burdens? If so, what would be an appropriate amount and what measures could be adopted to avoid circumvention of such threshold by splitting a transaction into different transactions below the threshold?*

GDF highlights that the reporting of Retail Payment Transactions will place a significant burden on CASPs, particularly as cryptocurrency becomes more widespread in use. A *de minimis* exception would not necessarily decrease that burden, considering the transaction would first have to be 'captured' in order to filter it out under this de minimis exception. However, if the *de minimis* threshold is large enough (e.g., £10,000), it could filter out ordinary retail transactions. Alternatively,

the CARF could adopt an exception for ordinary retail payment transactions, which would then need to further defined (e.g., purchase of certain types of good and services, such as restaurants).

GDF further considers that CASPs should be required only to perform due diligence and report information with respect to the merchants with which it has a relationship (except possibly the name and wallet address of the customer, which can be provided by the merchant). The CASP is in no position to collect detailed information from the customer of the merchant, and any attempt to collect such information would be highly intrusive into the merchant-customer relationship. Indeed, the FATF travel rule appears to recognize this difficulty by requiring only the name and account number of the beneficiary (i.e., the party with which its customer is transacting), and not requiring due diligence on the beneficiary. In this respect it should also be noted that there may be differences depending on whether the customer of the merchant is also a customer of the Reporting CASP (and thus may be in a better position to conduct due diligence) then when this is not the case and the identification for FATF purposes only rely on the travel rule. Adopting a substantial *de minimis* threshold as noted above may also serve to reduce the burden of collecting information on the customer.

5. *Concerning the requirement to report transfers based on certain pre-defined transfer types (e.g. hardforks, airdrops due to other reasons, loans or staking), do Reporting Crypto-Asset Service Providers have the knowledge necessary to identify, and classify for reporting purposes, transfers effectuated according to such transfer types? Are there any other transfer types that typically occur and that are separately identified for customers or for other purposes?*

CASPs may not have the knowledge to classify and report transfers based on pre-defined transfer types, unless the transactions are executed through and supported by the exchange. As such, GDF recommends that the CARF continue to require such reporting only where the Reporting CASP is aware of the transaction type.

6. *Concerning the proposal for reporting with respect to wallet addresses, are there any specific challenges for Reporting Crypto-Asset Service Providers associated with the proposed requirement to report wallet addresses that are the destination of transfers sent from a customer's wallet maintained by a Reporting Crypto-Asset Service Provider? Do Reporting Crypto-Asset Service Providers have, or are they able to obtain, information to distinguish wallet addresses associated with other Reporting Crypto-Asset Service Providers from wallet addresses that are not associated with another Reporting Crypto-Asset Service Provider? The OECD is also considering to require, in addition, reporting with respect to wallet addresses that are the origins of transfers to a customer's wallet maintained by a Reporting Crypto-Asset Service Provider. Is this information available and would providing it materially increase compliance burdens for Reporting Crypto-Asset Service Providers? Are there alternative requirements (e.g. reporting of the public keys associated with Crypto-Asset Users instead of wallet addresses) that could be considered to more efficiently increase visibility over transactions carried out without the intervention of the Reporting Crypto-Asset Service Provider?*

GDF considers that the reporting of wallet addresses is a significant extension of powers beyond CRS from a data privacy perspective. This is not the functional equivalent of a bank account and sort code. GDF seeks to emphasize that this reporting requirement could potentially extend to hundreds or thousands of wallet addresses for a single customer. It is oversimplified to assume that a customer only has one wallet per currency.

Additionally, reporting all of these wallet addresses creates significant security risks if anyone in the chain of information reporting is hacked.

As an alternative, the OECD should consider requiring the exchange of this information only upon request.

Also, if tax authorities plan to use this information to de-anonymise the blockchain, they should be transparent in this by publishing, to a central register, which meets the data privacy laws applicable (e.g., GDPR):

- Whether and how the tax authority plans to use this information;
- How this information is kept securely, with regard for the need for wallet addresses to be quantum-secure when combined with other personal information; and
- Whether this information is made available to other government departments, except for purposes related to criminal investigations.

7. *Information pursuant to the CARF is to be reported on an annual basis. What is the earliest date by which information on the preceding year could be reported by Reporting Crypto-Asset Service Providers?*

GDF notes that the CARF should be on a level-playing field with CRS, so the due dates should align.

The implementation of CARF should also provide sufficient time for the CASPs and the adopting countries to prepare for this.

1.4 Due Diligence Procedures

1. *The due diligence procedures of the CARF are in large part based on the CRS. Accordingly, the CARF requires Reporting Crypto-Asset Service Providers to determine whether their Entity Crypto-Asset Users are Active Entities (corresponding largely to the definition of Active NFE in the CRS) and, on that basis, identify the Controlling Persons of Entities other than Active Entities. Would it be preferable for Reporting Crypto-Asset Service Providers to instead document the Controlling Persons of all Entity Crypto-Asset Users, other than Excluded Persons? Are there other elements of the CRS due diligence procedures that should be included in the CARF to ensure that Reporting Financial Institutions that are also Reporting Crypto-Asset Service Providers can apply efficient and consistent due diligence procedures?*

GDF questions whether the self-certification process is fit for purposes of tax information reporting. The process causes a big issue for financial institutions, who cannot collect them from customers. As a comparison, the model rules for digital platforms do not require self-certifications, with platforms reporting based on information held. GDF appreciates that it is desirable to collect TINs, but this can be mandated without asking clients to self-certify their tax residency.

GDF would prefer negative self-certifications – generally that CASPs would report based on the customer's address or other information, and customer could provide a self-certification to assert an alternative jurisdiction only. It should be noted that an equivalent change should be made to the CRS.

Also, as has become apparent under the CRS process, some accounts are opened automatically by operation of law or regulation (e.g., share plans). It is likely that there are scenarios now and in the future in which a smart contract could result in a CASP holding assets for a customer before the customer is on-boarded. GDF recommends that rules should specifically address this, particularly as it could stifle innovation.

2. *An Entity Crypto-Asset User qualifies as an Active Entity if less than 50% of the Entity's gross income is passive income and less than 50% of the assets held by the Entity produce, or are held for the production of, passive income. The Commentary on the term "Active Entity" provides that passive income includes "income derived from Relevant Crypto-Assets". Are there any specific instances in which such income (e.g. income from mining, staking, forks or airdrops) should qualify as active income?*

Where the jurisdiction of an Entity treats that income as trading income (or similar types of trade or business or non-passive income), that should also apply for the classification of the Active Entity. Also, the determination of Active Entity status should be based on the law of the jurisdiction of the Active Entity and not the jurisdiction of the CASP. This has created issues under the CRS.

3. *The CARF removes the information collection and reporting obligations with respect to Crypto-Asset Users which are Excluded Persons. The OECD is still considering whether Reporting Crypto-Asset Service Providers should be included in the definition of Excluded Persons. Against this background, would Reporting Crypto-Asset Service Providers have the ability to obtain sufficient information on clients that are Reporting Crypto-Asset Service Providers to verify their status?*

GDF submits that there is unlikely to be a single data source which CASPs could use for these purposes.

4. *Section III.D enumerates effective implementation requirements in instances where a Reporting Crypto-Asset Service Provider cannot obtain a self-certification from a Crypto-Asset User or Controlling Person. Notably, these requirements specify that the Reporting Crypto-Asset Service Provider must refuse to effectuate any Relevant Transactions on behalf of the Crypto-Asset User until such self-certification is obtained and its reasonableness is confirmed. Are there potential alternative effective implementation measures to those listed in Section III.D? If so, what are the alternative or additional effective implementation measures and which persons or Entities would be best-placed to enforce such measures?*

GDF notes that it is imperative to provide a level playing field between CASPs under the CARF and financial institutions under the CRS. Depending on the jurisdiction and how CRS is implemented, financial institutions are not always required to freeze accounts or refresh self-certifications, and neither should CASPs. While it is understood that the refreshment of self-certifications is built on the Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy, GDF is of the view that these rules may not serve as a good example for CARF purposes. The Model Rules govern platforms for selling services, making it much easier to refresh certifications, as opposed to investment accounts or platforms which are governed by the CRS or the CARF.

1.5 Other Elements of the Proposal

1. *Comments are also welcomed on all other aspects of the Crypto-Asset Reporting Framework.*

Fundamentally, the OECD should recognize that the crypto-asset industry is a developing industry, and imposing complex tax information reporting requirements where none currently exist could lead to substantial noncompliance and hamper a growing industry. Thus, this area is quite different from the CRS, which was applied to a mature industry and there were already a complex net of existing local reporting rules.

Additionally, the OECD should recognize that the tax treatment of Crypto-Assets may be either unclear, or poorly understood, by users depending on the maturity of their domestic tax authority. Collecting information about users without establishing a clear tax treatment for assets is likely to be inherently unfair for taxpayers.

Accordingly, GDF would strongly recommend that:

1. The OECD initially adopt a reporting regime for Crypto-Assets that is similar to the CRS. This decision can be revisited in the future, when the industry is more mature and the local laws have caught up.
2. The OECD should strongly encourage tax authorities to adopt CARF for domestic transactions rather than an alternative regime (see for example the United Kingdom's regime) to minimize duplicate reporting regimes.
3. The OECD should encourage tax authorities, prior to the first reporting date under the CARF, to issue clear guidance to individuals and businesses on the taxation of certain transactions, which include, but are not limited to:
    a. gains/losses on crypto disposals;
    b. hard forks/airdrops;
    c. staking income;
    d. mining income;
    e. non-fungible tokens;
    f. incidental income from utility tokens;
    g. gains/losses related to stable coins and CBDCs where the value differs from the underlying fiat currency;
    h. crypto borrowing and lending; and
    i. reporting requirements for crypto-asset users, particularly where they are not otherwise required to file a tax return.
4. The OECD should encourage tax authorities to publicize the introduction of the CARF and the requirements for paying tax on crypto-assets in their country, which can greatly assist with CASPs ability to collect relevant information.
5. The OECD should capture and publish the relevant rules for each country which adopts the CARF.

<u>*Enforcement*</u>

The OECD will need to make substantial efforts to make sure that all CASPs in all jurisdictions are compliant; otherwise substantial loopholes may arise which would jeopardize the adoption and maturity of the framework. In particular, GDF encourages the OECD to address the issue of larger countries that are not expected to adopt the CARF (similar to the CRS) to prevent driving business to the exchanges in these countries.