Frequently Asked Questions

Common Reporting Standard

Frequently Asked Questions: Common Reporting Standard

Preface

These frequently asked questions (FAQs) address interpretive questions and provide clarity on the CRS Regulations issued under the Tax Administration Act 28 of 2011. It has been developed in response to questions from Financial Institutions and other stakeholders, based on comments on the draft amended CRS Regulations published for public comment before the publication of the final CRS Regulations on 28 November 2025. The final CRS BRS was published on 16 February 2026.

These SARS FAQs on CRS is drafted to assist crypto-asset service providers, crypto-asset users and the general public to obtain clarity and to ensure consistency on certain practical and technical aspects relating to the CRS Regulations.

It is not an "official publication" as defined in section 1 of the Tax Administration Act and accordingly does not create a practice generally prevailing under section 5 of that Act. Although reasonably comprehensive, these FAQs do not deal with all the legal detail associated with the subject matter and should, therefore, not be used as legal reference.

It is also not a general binding ruling under section 89 of the Tax Administration Act. Should an advance tax ruling[1] or a value-added tax (VAT) ruling[2] be required, visit the SARS website at www.sars.gov.za for details of the application procedure.

In the case of any discrepancies between SARS's interpretation in these FAQs and the OECD (2017), *Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition*, (which encompasses the CRS) read with the OECD (2023), *International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard*, and the OECD *Commentary to the CRS*, the latter will prevail.

These FAQs are based on the legislation and related official documents or guidance as at date of issue but will also be updated periodically to address new questions and issues that arise in practice, as well as any changes to the legislation.

All documents referred to in these FAQs are available either on the SARS website at www.sars.gov.za/legal-counsel/ or the OECD Tax Transparency website at https://www.oecd.org/en/topics/sub-issues/international-standards-on-tax-transparency/tax-transparency-resource-centre.html#crs.

Legislative Policy: Tax, Customs and Excise

SOUTH AFRICAN REVENUE SERVICE

5 March 2026

[Note that these FAQs are in addition to the SARS CRS FAQ issued on 5 December 2016, which is currently under review to align with the amended CRS.]

1 For further commentary, see the *Comprehensive Guide to Advance Tax Rulings*.
2 For further commentary, see the *VAT Rulings Process Reference Guide*.

Index

21	Legality of effective implementation provisions of Section X(B) and if the Minister of Finance, in promulgating Section X(B), acted within the scope of the enabling provisions of the TAA
22	Changes to Section X(B) – effective enforcement

Note

* Capitalised words are words defined in the CRS

** Acronyms are explained where first used in the document

*** References to the **CRS**, as the context may indicate, are to the:

- **CRS** under the OECD (2017) *Standard for Automatic Exchange of Financial Account Information in Tax Matters* (the Standard) including/or to the **amended CRS** under the OECD (2023), *International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard*;
- **CARF** under the OECD (2023), *International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard*;
- **previous CRS Regulations** published in Oct 2020;
- **draft amended CRS Regulations** or **draft CARF Regulations** published for public comment in Sep 2025; or
- **CRS Regulations** published in Nov 2025.

GENERAL

1. Extension of the amended CRS Regulations' and CARF's effective date of 1 March 2026 by up to a year

Should the effective date be extended to 1 March 2027 to allow RFIs and RCASPs additional time after publication of the final regulations and SARS BRS to implement the necessary system, technology and training changes?

Response:

The effective date for both the amended Common Reporting Standard (CRS) and Crypto-Asset Reporting Framework (CARF), as reflected in the final regulations, is 1 March 2026. SARS did not agree with the requested extension of a year as stakeholders were informed since 2023 that development could start based on the Organisation for Economic Co-operation and Development (OECD) publication of the amended CRS and CARF model rules, as well as the OECD XML schemas, allowing over two years lead time.

On 16 November 2024, the SARS Competent Authority signed the Addendum to the CRS Multilateral Competent Authority Agreement (MCAA) and the CARF MCAA, committing to commencing with exchange of information in 2027. The latter is only possible with an effective date in 2026. Under both the Addendum to the CRS MCAA and the CARF MCAA, signatories of the MCAAs will have to demonstrate exceptional circumstances to the OECD Co-ordinating Body to postpone exchanges to 2028. The bases for extending the effective date advanced by stakeholders are not regarded as sufficient for this purpose, based on the experiences of other jurisdictions seeking similar relief. Furthermore, the OECD Task Team on Risk advised jurisdictions of substantial emerging CRS and CARF risks, necessitating implementing the amended CRS and CARF sooner rather than later.

Timeline:

Date	Published Information & Events
Dec 2021	G20 called for updating AEOI Standard to bring tax transparency to Crypto-Asset Market
Nov 2022	Responding to G20, OECD at Global Forum Plenary agreed to develop CARF
Nov 2022	OECD at 2022 Global Forum Plenary agreed to establish **CARF Group**
June 2023	OECD published CARF & ACRS, Commentaries and XML Schemas & Guides
July 2023	G20 called for a commitment to timeline of exchanges by 2027
Oct 2023	South Africa signed CARF Joint Statement committing to 2027 EOI
Nov 2024	South Africa signed CARF MCAA & Addendum to CRS MCAA
2024-2025	SARS advised stakeholders at operational meetings to start preparing
15 Sep 2025	Draft ACRS and CARF Regulations published for public comment > 3 Oct 2025
23 Oct 2025	Draft external AEOI BRS published for public comments (2 commentators)
24 Oct 2025	Draft external CARF BRS published for public comments
28 Nov 2025	Final ACRS and CARF Regulations published in GG
> …to date	Ongoing meetings / workshops on BRS

The final CRS Business Requirement Specification (BRS) and CARF BRS, after extensive consultation, were published on 16 February 2026.

Accordingly, the amended CRS and CARF plus their Commentaries, other guidance and the amended CRS and CARF XML Schemas were published more than 3 years ago, and it was public information that SARS would be an early adopter. Reporting Financial Institutions (RFIs) and Crypto Asset Service Providers (CASPs) accordingly had sufficient lead time to

commence preparation and implementation, but made the decision to wait for the final amended CRS and CARF regulations and the SARS BRS for both, despite being well aware that it is SARS's intention to start exchanging in 2027. SARS also has an established history of hewing closely to the OECD/Global Forum models, for obvious reasons. Examples of this include the Country-by-Country Reporting Regulations (CbCR) and the CRS, first published in CRS (including Managed Detection and Response (MDR)), as well as the Global Minimum Tax legislation (which incorporated the GloBE Model Rules by reference). This alignment is also evident from the draft CRS and CARF Regulations published in September 2025, the draft CRS BRS and CARF BRS published in October 2025, the final CRS and CARF Regulations published in November 2025, and the final CARF BRS published in February 2026. Thus, RFIs & CASPs were in the position of starting development in time, only subject to some minor changes arising from BRS alignment with SARS systems.

2. Alignment between the CRS and CARF

Can the CRS and CARF be simplified and aligned to reduce reporting burden and regulatory inconsistencies?

Response:

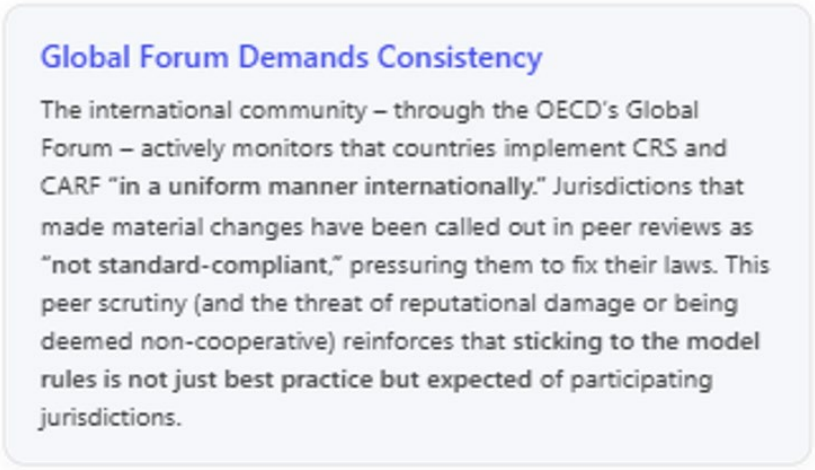
A significant number of comments on the draft CRS Regulations and CARF Regulations sought changes to "simplify and align" the frameworks outside the permitted scope for changes. The choice of provisions to effect alignment or cross-referencing between the amended CRS and CARF is based on deliberate policy decisions by the OECD drafters in consultation with delegates to CARF Group and WP10 which seeks to promote the amended CRS's and CARF's consistent application across jurisdictions. Accordingly, these changes were not effected and are not included in these FAQs, with the exception of appropriate comments seeking clarity.

The CRS and CARF are designed as globally consistent standards for automatic exchange of tax information and rely on global standardised data formats (the XML schemas) to ensure correct implementation of the frameworks. As the amended CRS and CARF are complementary but separate frameworks, there will be some RFIs and Reporting Crypto-Asset Service Providers (RCAPSs) reporting under both the CRS and the CARF. For example, "Financial Assets" as defined in the amended CRS, now includes Relevant Crypto-Assets under the CARF. Furthermore, the amended CRS includes two set of amendments: one that is CARF related, and another set to enhance the reporting outcomes under the CRS, the strengthening of the CRS due diligence procedures, and increasing consistency in the application of the CRS.

Alignment between the amended CRS and CARF reflects agreed OECD Inclusive Framework policy choices aimed at ensuring consistent implementation and a level playing field. The OECD strictly limits jurisdictional variation, with permitted changes set out in the amended CRS and CARF Commentaries and legislative checklists. Given the complexity of these frameworks – particularly CARF – material deviations risk unintended consequences, including interoperability issues, gaps, data-exchange failures, and adverse OECD peer-review outcomes. The OECD explicitly cautions that reporting formats must remain standardised to enable efficient capture, exchange, and processing of data. Excessive local variation undermines matching rates, as evidenced by South Africa's CRS peer reviews, where data matching has been lower than that of other jurisdictions. Differences between the CRS and CARF Regulations and other domestic legislation, such as the Financial Intelligence Centre Act (FICA) and the Financial Advisory and Intermediary Services (FAIS)

Act, are not determinative, as these regimes serve distinct regulatory purposes and require only limited alignment.

See further FAQ 2 of the SARS FAQs on CARF, and the text box below.



PREAMBLE

3. Meaning of Addendum to the CRS MCAA

What is the meaning of the term "Addendum to the CRS MCAA" referred to in paragraph A(1)(*a*) of the Preamble to the CRS Regulations and as defined in Section VIII(E)(8)?

Response:

The CRS Multilateral Competent Authority Agreement (CRS MCAA), defined in Section VIII(E)(8), refers to the legal basis for the exchange of information between South Africa and other jurisdictions participating in the CRS, and enables the exchange of information on Account Holders or Controlling Persons reported by RFIs, between the participating jurisdictions where these persons are tax resident. As set out in paragraph A(1) of the Preamble, the CRS Regulations have effect for and in connection with the implementation of obligations which may arise or arise under, amongst others, the CRS MCAA and the Addendum to the CRS MCAA.

To implement the amended CRS, an Addendum was introduced to the CRS MCAA. The original CRS MCAA was signed by the Competent Authority of South Africa on 23 October 2014, while the Addendum was signed on 26 November 2024. The Addendum is now incorporated into and forms part of the CRS MCAA.

The amendments to the CRS and the Addendum to the CRS MCAA were done alongside the development of the CARF and the CARF MCAA at the same time when the first comprehensive review of the CRS was conducted. Accordingly, South Africa signed the Addendum to the CRS MCAA and the CARF MCAA – the legal basis for exchange of information reported under the CARF – on the same date of 26 November 2024.

SECTION I – GENERAL REPORTING REQUIREMENTS

4. Reporting country of birth instead of place of birth

In Section I(A)(*a*) and (*b*) the phrase "or, if paragraph E of this section applies, the country of birth" have been removed from in the draft amended CRS. Does this mean that RFIs are now required to obtain the place of birth of an Account Holder or Controlling Person, even if this is not required by other domestic legislation and RFIs may no longer, in the alternative, only obtain the country of birth?

Response:

The reference to "country of birth" as an alternative to "place of birth" in Section I(A)(1) of the CRS Regulations was initially removed as it was considered unnecessary, given that the exception permitting the use of country of birth already applies by operation of paragraph E of the same section. The wording "or, if paragraph E of this section applies, the country of birth" had previously been inserted in paragraph A(1) as a South Africa-specific clarification in response to requests from RFIs, which indicated that obtaining place of birth information is often challenging.

Although this reference was omitted in the draft amended CRS Regulations on the basis that paragraph E sufficiently addresses the exception, public comments reflected uncertainty regarding its deletion. The earlier wording has therefore been retained in the CRS Regulations for clarity. In substance, where the conditions in paragraph E are met – namely, that place of birth is not required under South African law *and* is not available in the RFI's electronically searchable data – the RFI is not required to obtain or report place of birth, but must instead obtain and report country of birth. Conversely, where place of birth is required under domestic law and is available in the RFI's electronically searchable data, the paragraph E exception does not apply, and place of birth must be reported.

5. Requirements for a valid self-certification and the reasonability test

Should references to a "self-certification" in the CRS Regulations be clarified to mean a "valid and reasonable self-certification" and when does the reasonability test apply? Should the CARF Regulations be similarly changed to align with the CRS?

Response:

When a New Individual Account is opened, the CRS Regulations requires that the RFI must obtain a self-certification from the Account Holder as part of the account opening documentation. If the Account Holder is a Passive Non-Financial Entity, such a company or similar legal person or a trust or similar legal arrangement, the Controlling Person of that entity must provide a self-certification. This self-certification enables the RFI to determine the Account Holder's or Controlling Person's residence(s) for tax purposes. Importantly, the RFI must confirm the reasonableness of the self-certification using information obtained during the account opening process, including any documentation collected in accordance with Anti-Money Laundering (AML) and Know Your Customer (KYC) Procedures, as set out in Section IV(A).

The obligation to validate self-certifications by applying a reasonability test arises under the General Due Diligence Requirements for RFIs in Section II, particularly subparagraph A(1). This section mandates that RFIs must establish, maintain, and document due diligence procedures to identify the jurisdiction where an Account Holder or Controlling Person is resident for tax purposes, as required by the law of that jurisdiction. Adhering to this due

diligence requirement is crucial to ensure that, if the Account Holder or Controlling Person is reportable, the necessary information is reported to the correct jurisdiction for possible exchange.

In view of the above structure of the CRS and that of the CARF, references in the CRS or CARF to a "self-certification" are understood to mean a self-certification that is both valid and reasonable, having regard to all information obtained or maintained by the RFI (under CRS) or CASP (under CARF). An invalid or unreasonable self-certification may not be relied upon for due-diligence or reporting purposes and is treated as not having been obtained. Accordingly, it is not necessary to qualify the term "self-certification" by expressly referring to it as "valid" or "valid and reasonable", as these requirements are inherent in the operation of the CRS and CARF rules. Neither the CRS nor the CARF recognises a category of "unreasonable but still effective" self-certification – a defective self-certification is treated as non-existent for due-diligence purposes.

6. Reporting roles and role attribution of Controlling Persons in multi-layered entity structures

How should the role that makes an individual a Controlling Person be reported under amended Section I(A)(1)(*b*) in complex, multi-layer structures, and how does the BRS address situations where the individual's role relates only to an intermediate entity rather than the Account Holder or ultimate entity? For example, if Joe Blogs is a beneficiary and trustee of Trust C, which owns part of Entity B, which is a shareholder of Entity A, it is uncertain how Joe's roles in Trust C relate to reporting for Entity A. Also, what is meant by terms like "other legal person"?

Response:

According to the CRS Commentary on Section I(A)(1), paragraphs 7*bis* and 7*ter*, the requirements to identify Controlling Persons and their roles in relation to the Entity Account Holder, are dictated by AML/KYC Procedures, as described in the Commentary to Section VIII, paragraphs 132 to 137. The latter paragraph explains that this term corresponds to the term "beneficial owner" as described in Recommendation 10 and the Interpretative Note on Recommendation 10 of the 2012 Financial Action Task Force (FATF) Recommendations and must be interpreted in a manner consistent with such Recommendations. Both the FATF 2012 Recommendations and FICA provide clear guidelines on the roles that make a Controlling Person or beneficial owner in relation to the Account Holder.

Under the amended CRS, if an entity Account Holder has one or more Reportable Persons as Controlling Persons, the RFI must report "the role(s) by virtue of which each Reportable Person is a Controlling Person of the Entity". In practice, this means the RFI must specify the capacity or relationship that makes each individual a Controlling Person (for example, owner, trustee, beneficiary, etc.). This new requirement was introduced to give tax authorities more context, allowing them to distinguish whether a person's control derives from ownership, other forms of control, beneficiary interest, or a managerial role. The OECD's updated CRS Commentary and XML Schema User Guide detail the permitted "Controlling Person Type" categories and emphasise that these roles should be determined in line with AML or KYC procedures and the FATF beneficial owner standards. In essence, the CRS concept of a "Controlling Person" aligns with the definition of "beneficial owner" under FATF Recommendation 10 and corresponding domestic law, which require RFIs to "look through" complex ownership chains to identify the natural persons (the "warm bodies") who ultimately own or control the entity.

In a multi-layered structure, therefore, the RFI must apply the look-through principle of beneficial ownership: tracing through each layer of entities or legal arrangements until the ultimate natural-person Controlling Persons are found. The roles reported for each such individual should reflect the capacities identified at the level where the person's influence makes them a beneficial owner of the Account Holder, even if those roles are held in an intermediate entity or trust.

In the example:

- Entity A is the Account Holder (i.e., the reported entity), owned (through an intermediate shareholder Entity B) by Trust C (an intermediate legal arrangement that owns an interest in Entity B), in which trust Joe Blogs is a beneficiary and a trustee. Neither Entity B nor Trust C is treated as the end-point, as the analysis must continue until natural persons are reached.
- In Trust C, Joe Blogs is identified a "warm body" beneficiary and a trustee. In most cases, being a discretionary or passive beneficiary of Trust C is irrelevant for Entity A reporting *unless* Joe has fixed entitlements that effectively confer control, or exercises influence equivalent to ownership or control over Entity A in practice. His role as trustee may be more likely to have ownership or control of Entity A. Thus, the question is if Joe's roles in Trust C result in ownership or control over Entity A itself.
- This is determined by applying a look-through approach. The look-through principle requires tracing ownership and control through intermediate entities, but reporting is limited to individuals whose roles ultimately result in ownership or effective control of the entity being reported – not merely roles held in upstream structures. Importantly, the look-through principle does not require reporting Joe's roles in Trust C merely because Trust C is somewhere in the ownership chain or mapping or disclosing roles held only at intermediate levels where they do not translate into control of Entity A. Joe's roles are relevant if, after applying the look-through approach, Joe is identified as a natural person whose roles result in him owning or controlling Entity A. This requires a substance-based assessment, not role-label attribution, i.e., an effective control analysis to determine if Joe can direct how Trust C exercises its shareholder rights (or control by other means over Entity B) and this influence flows through to Entity A (e.g., voting, appointment rights, strategic decisions).
- If Joe is identified as the ultimate Controlling Person of Entity A, his influence comes via Trust C's ownership of Entity B (which in turn owns Entity A). Accordingly, Joe's roles as Trustee and Beneficiary of Trust C must be reported for Entity A's account, since those are the capacities through which he ultimately exercises control or benefit in the chain. In other words, even though Joe is not a direct shareholder or officer of Entity A, the RFI would still report him as a Controlling Person of Entity A – and would specify "Trustee" and "Beneficiary" as the roles that make him a Controlling Person.

This approach is in line with the FATF-aligned beneficial ownership regime under South African law (e.g., FICA and its guidance as well as tax administration requirements under the Tax Administration Act (TAA) and related guidance), which mandates identifying all natural persons who ultimately own or control an entity, whether directly or indirectly.

To ensure consistent reporting, the CRS XML Schema (given effect in a SARS BRS) define a standard list of Controlling Person role types. These roles correspond to those used in global AML or beneficial-owner standards and cover both legal entities and legal arrangements. The RFI should select the appropriate category (or categories) for each Controlling Person. Notably, if a single individual holds multiple roles that make them a Controlling Person, the reporting treatment differs by context: for a company or other legal

person, the RFI should report only one role according to the hierarchy (ownership takes precedence, then control by other means, then senior official). However, for a trust or similar legal arrangement, if the person has more than one role (e.g., someone is both a trustee and a beneficiary of the trust), each role must be reported for that person, as long as those roles are identified through the RFI's AML or KYC procedures. This ensures that all pertinent relationships are disclosed.

Finally, regarding the phrase "other legal person" – this term does not appear as a defined role in the CRS text or Commentary, and it likely was used informally to refer to additional legal-entity layers in a corporate ownership chain. The official categories distinguish "legal persons" (e.g., corporations, partnerships) from "legal arrangements" (trusts and similar), rather than using the term "other legal person".

7. Clarification on the meaning of "joint account" and reporting requirements

Should the term "joint account" be expressly defined, and does Section I(A)(1)(*c*) require the reporting of personal details of joint account holders (beyond confirmation of a joint account and the number of holders), and if so, where in the BRS should such details be reported?

Response:

Under the CRS, a "joint account" is an account held by two or more persons who are each treated as an Account Holder. The CRS does not create a separate reporting category for joint accounts. Instead, it requires full reporting for each joint Account Holder individually.

Accordingly, where an account is a joint account –

- personal details for each joint account holder (including name, address, jurisdiction(s) of tax residence, Taxpayer Identification Number(s) TIN(s), date of birth (for individuals), and account balance/value) must be reported in full, as each holder is an Account Holder in their own right; and
- the requirement in Section I(A)(1)(*c*) to indicate that an account is a joint account and to specify the number of Account Holders is supplementary and does not replace the obligation to report full identifying information for each holder.

In the BRS, personal details of joint Account Holders should therefore be reported in the standard Account Holder data elements, with one complete Account Holder record per joint holder, while the joint account indicator and number of holders serve only as contextual or validation information. This approach is consistent with the CRS principle that reporting is Account Holder based, regardless of whether an account is held singly or jointly, and ensures completeness and consistency of CRS reporting.

SECTION IV – DUE DILIGENCE FOR NEW INDIVIDUAL ACCOUNTS

8. Validation of self-certification: application of day one and day two processes (interpretive question)

May an RFI interpret Section IV(A) consistently with Section VI(A)(1)(*a*), read with CRS Commentary on Section VI, paragraph 4*bis* and its cross-reference to Commentary on Section IV, paragraph 2*bis*, so as to permit validation of an Entity self-certification to be performed by a back-office function within 90 days of account opening?

Response:

Under the CRS, RFIs are required to obtain valid self-certifications from Account Holders (including Controlling Persons if the Account Holder is a passive Non-Financial Entity) upon account opening for all new accounts. There are two key elements to this process:

- Obtaining a complete self-certification for new accounts.
- Validating the reasonableness of the self-certification.

CRS Commentary emphasise the necessity for RFIs to have strong measures in place to ensure that valid self-certifications are always obtained at new account opening (Commentary on Section VI, paragraph 4*bis* and to Section VI paragraph 2*bis*). The OECD's FAQ 22 on Section II-VII (July 2025) states that, as a general rule, self-certifications must be obtained and validated on “day one” of the account opening process. However, self-certifications under certain exceptional circumstance can be obtained and validated through a “day two” process – meaning within 90 days of opening the account, but no later than the reporting deadline for the period in which the account was opened (end of May each year). Reporting Financial Institutions should not materially progress the account opening process until a complete self-certification is obtained. For example, most jurisdictions do not permit deposits until self-certification is complete. Two validation options are available:

- Day One Reasonableness Process (Default Rule): The RFI validates the self-certification before materially progressing the account opening (e.g., before allowing deposits).
- Day Two Reasonableness Process (Exception): Validation may occur within 90 days using a back-office process, provided the RFI can freeze, suspend, or close accounts where validation fails within the stipulated period.

Thus, an RFI should only adopt a “day two reasonableness process” if they have strong measures in place where they are unable to confirm the reasonableness of such self-certifications, within 90 days and no later than the deadline for reporting. This is because RFIs have obligations to take reasonable care when carrying out their CRS due diligence obligations. They also have specific obligations to always obtain valid self-certifications for new accounts. The OECD has stipulated that the 90-day period for day two validation is conditional: validation must be completed within 90 days and no later than the reporting deadline (31 May of the relevant year). RFIs must employ strong measures if a valid self-certification is not obtained within this period, such as:

- Not completing account opening procedures without a valid self-certification.
- Freezing the account until a valid self-certification is received.

- Closing the account if self-certification is not received.

"Freezing" implies no deposits or withdrawals are allowed. Penalties may apply to RFIs that do not take reasonable measures, and to Account Holders (or Controlling Persons) who fail to provide timely self-certification. Reporting Financial Institutions must also keep records of any instances where valid self-certifications were not obtained. Given these requirements, RFIs may find it preferable to condition account opening on receipt of valid self-certification (default "day one" approach), rather than relying on the "day two" process, which requires the ability to freeze or close accounts. The OECD confirms that reporting new accounts based on indicia search or undocumented account procedures is not a sufficiently strong measure to ensure valid self-certifications for new accounts. These approaches (and OECD CRS FAQ 22 on Section II-VII) are now regulated under the amended CRS and its Commentary.

It is appropriate to confirm that Section IV(A)(1) and Section VI(A)(1)(*a*) of the CRS Commentary may be read as supplementary in understanding the exception explained in the Commentary. Although the wording of the CRS Regulations has changed from "may" to "must," the Day Two Process remains an exception to the RFI's duty to obtain and validate self-certification upon account opening, applicable only when validation is a subsequent back-office process or in exceptional circumstances. The Day Two Process is defined to apply only under limited and specific circumstances, which may be stricter than the CRS Commentary. A definition of the "Day Two Process" was included in Section VIII of the CRS Regulations to implement OECD CRS FAQ 22 on Section II-VII and related Commentary, which emphasises the necessity for a valid and exceptional basis – such as back-office validation or exceptional circumstances – for reliance on the Day Two Process. While the Commentary refers to "a limited number of circumstances" rather than "exceptional circumstances", the proposed interpretation can be confirmed as long as the Day Two Exception is correctly applied, and the jurisdictional requirements of its definition are met. The provisions of the CRS Regulations will prevail over any less stringent interpretation suggested by the Commentary. Assuming the account is not suspended – a suspension which may occur only after the expiry of the 90-day validation period – monies may flow to the account and other transactions are permitted during the 90-Day Period.

9. Validation of Self-Certification: Application of Day One and Day Two Processes (operational question)

Provided that validation under the Day Two Process is completed within the prescribed 90-day period and in time to meet due-diligence and reporting obligations for the relevant reporting period, may funds flow to the account during this period without breaching CRS Regulations or domestic legislative requirements?

Response:

For purposes of the default rule (day one), RFIs should not materially progress the account opening (e.g., allow deposits or transactional functionality) until a complete self-certification is obtained and validated for reasonableness ("day one reasonableness process").

For purposes of the default rule (day two exception – back-office validation). An RFI may complete reasonableness validation within 90 days ("day two") via a back-office process only if the RFI –

- has robust controls to freeze/suspend/close the account if validation fails or is not completed within 90 days (and, in all cases, no later than the reporting deadline for

the period in which the account was opened);

- completes validation in time to meet due diligence and reporting obligations for that period; and
- complies with AML/CFT and domestic legal requirements that may further restrict or condition account activity before validation is completed.

May funds flow during the 90 day period?

- Conservative default (consistent with day one emphasis): no material progression (e.g., no deposits) until validation is completed, unless the RFI is relying on the Day Two Exception and has implemented strong, documented controls (including the ability to freeze, suspend or close promptly if validation fails).
- Where domestic rules expressly permit transactional activity during the 90 day validation window, monies may flow subject to the RFI's controls and the obligation to complete validation within 90 days and before the reporting deadline. This is not supported by the amended CRS Regulations and RFIs may be aware of their compliance risks in this regard.

Strong measures that may be taken if validation is not completed timely:

- Freeze (no deposits/withdrawals).
- Suspend or close the account.
- Treat account as undocumented only where permitted and not as a substitute for obtaining a valid self-certification for new accounts.
- Record keeping and penalties. RFIs must document all instances and remediation where valid self-certifications were not obtained or validated timeously. Penalties may apply to RFIs for failure to take reasonable care and to Account Holders or Controlling Persons for failing to provide required information.

10. Self-certification obligations of RFIs in determining tax residence of individual or Entity declaring "no tax jurisdiction"

Should RFIs be allowed to apply pre-existing accounts due-diligence procedures not only where no self-certification is provided, but also where an Account Holder explicitly states that it has "no tax jurisdiction" (e.g., a foreign migrant) until valid self-certified tax-residence information is obtained and validated?

Response:

The term "foreign migrant" is not specifically defined within the CRS or its accompanying Commentary. Regardless, it is evident that different due diligence rules apply to two distinct scenarios concerning self-certification:

- Scenario 1: Self-certification is obtained, but the Individual Account Holder indicates that they have no residence for tax purposes (refer Section IV(B)(3)).
- Scenario 2: No self-certification is obtained at all (refer Section VII(A*bis*)).

Section IV of the CRS outlines the due diligence procedures for new individual accounts, whereas Section VII contains special due diligence rules. The application of the special rules in Section VII is limited to the circumstances expressly provided for in that section – specifically, they only address the second scenario where a self-certification is not obtained. The intention is clear that the special due diligence rule in Section VII(A*bis*) does not extend

to the first scenario described in Section IV(B)(3). In that context, the RFI must follow the procedure detailed in Section IV(B)(3), which is distinctly different.

Therefore, the proposed amendment – which would allow the application of Section VII(A*bis*) procedures in cases where a self-certification is obtained but the Account Holder indicates no tax residence – conflicts with the CRS read together with its Commentary on Section IV as supplemented by the OECD CRS FAQ 7 on Section II-VII (Dec 2025). The obligations of a Financial Institution in establishing the tax residency of customers providing self-certifications under new account procedures, are that a Financial Institution is required to confirm the reasonableness of the self-certification on the basis of other documentation, including any documentation collected pursuant to AML or KYC Procedures that is at its disposal. If the Financial Institution does not obtain a reasonable explanation as to the reasonableness of the self-certification, the Reporting Financial Institution may not rely on the self-certification and must obtain a new, valid self-certification from the Account Holder.

The AEOI Standard states that a Financial Institution is not required to provide customers with tax advice or to perform a legal analysis to determine the reasonableness of self-certification. It also states that participating jurisdictions are expected to help taxpayers determine, and provide them with information with respect to, their residence(s) for tax purposes (refer Commentary on Section IV, paragraph 6 and Commentary on Section VI, paragraph 9). The OECD is facilitating this process through a centralised dissemination of the information (on the Automatic Exchange Portal). Financial Institutions could also direct customers towards this information.

11. Meaning of 'jurisdiction of residence' vs 'resident for tax purposes' vs 'resident for purposes of any tax'

What is the difference in meaning between "jurisdiction(s) of residence" in Section I(A)(1)(*a*) and "residence(s) for tax purposes" in Section IV(C)? In Section II(A)(1), does the phrase "resident for the purposes of any tax imposed by the law of that jurisdiction" refers exclusively to tax residence for income tax (or comparable direct tax) purposes or also mere liability for other taxes such as VAT or withholding taxes?

Response:

Jurisdiction of residency

OECD guidance and established global practice make clear that "jurisdiction of residence" means residence for tax purposes, not physical presence, place of living, or maintenance of a household, although such factors may be relevant indicators under domestic tax law. The OECD CRS Commentary on Section IV, paragraph 44 confirms that, as a general rule, an individual or Entity is a Reportable Jurisdiction Person if it is resident in a Reportable Jurisdiction under that jurisdiction's tax laws.

Tax residence is determined through the CRS due-diligence procedures set out in Sections II-VII of the CRS. For Pre-existing Accounts, this is based on the residence address test, indicia search, or a self-certification if obtained; for New Accounts, it is based on a valid self-certification. For reporting purposes, the "jurisdiction of residence" is therefore the jurisdiction identified by the Reporting Financial Institution in accordance with its CRS due-diligence obligations. In confirming a self-certification, the RFI must assess its reasonableness against information available to it, including AML or KYC documentation (CRS Sections IV, VI, VIII, and IX; CRS Implementation Handbook).

Which tax liabilities confer tax residency?

Following public comments on ambiguity, Section II(A)(1) of the CRS Regulations was amended (and retained in the current Regulations) to clarify that "resident" means resident for the purposes of tax under the law of that jurisdiction. SARS CRS FAQ 7 (Dec 2016) confirms that –

- a Reportable Jurisdiction Person is an individual or entity resident for tax purposes in a Reportable Jurisdiction (or, where applicable, resident by reference to place of effective management);
- determining tax residence is the first step in identifying a Reportable Account; and
- RFIs must apply the detailed CRS Regulations due diligence rules for individuals and entities to establish tax residence.

It is well established under international tax principles and South African law that liability for VAT, withholding tax, or other source-based or indirect taxes does not confer tax residence. Tax residence is generally based on comprehensive income tax liability, linked to domicile, residence, or similar personal connecting factors. Consistent with the OECD Model Tax Convention, a person is not a tax resident merely because they pay VAT or are subject to withholding taxes on local source income.

These concepts are used consistently to identify whether reporting and exchange obligations are triggered and are aligned with long-standing CRS practice to ensure administrability, proportionality and international consistency (see CARF Sections I-III and CARF Commentary on Section III).

Under the CARF, in comparison, references to "jurisdiction of residence", "the residence of the Entity Crypto-Asset User", and being "resident in a Reportable Jurisdiction" all relate to tax residence as determined under ordinary domestic tax-law principles, not a separate CARF-specific test. An Entity Crypto-Asset User is treated as resident in a Reportable Jurisdiction where it is resident for tax purposes in a jurisdiction that participates in CARF exchange. Where an Entity's residence is not clearly established through a self-certification, CARF permits a RCASP to rely on objective proxy indicators, notably the place of effective management or the address of the principal office, to determine the Entity's residence.

12. Reporting of individual Reportable Person with more than one jurisdiction of residence

What are the reporting obligations for purposes of the CRS when a Reportable Person is a tax resident in more than one jurisdiction? Does the same apply for CARF?

Response:

A self-certification must enable the RFI to determine the Account Holder's jurisdiction(s) of tax residence. A Reportable Person means a Reportable Jurisdiction Person, namely, an individual or Entity that is resident for tax purposes under the tax laws of a Reportable Jurisdiction (i.e., a jurisdiction other than South Africa or the United States), or the estate of a decedent that was so resident.

While it is generally expected that an individual or Entity will have a single jurisdiction of tax residence, the CRS recognises that dual or multiple tax residence is possible (CRS Commentary on Section VI, paragraph 7). In such cases, all jurisdictions in which the person is treated as tax resident under domestic law must be identified and reported in accordance

with the applicable CRS due-diligence procedures, so that each relevant jurisdiction is appropriately reported.

The OECD CRS FAQ 3 on Sections II-VII (Dec 2025) further clarifies that, following application of the residence address test, an Account Holder may have more than one qualifying residence address. Where this occurs, the RFI may request a self-certification or, absent clarification, report the account to each Reportable Jurisdiction in which a qualifying residence address exists.

Where an individual or Entity is resident for tax purposes in two or more jurisdictions, the expectation is that all such jurisdictions are declared in the self-certification, and the account is treated as a Reportable Account in respect of each Reportable Jurisdiction. Although tax treaties may resolve dual residence through tiebreaker rules, following the effective date of the CRS Regulations (1 March 2026), re-documented dual-resident individuals may no longer rely on treaty tiebreakers and must instead declare all jurisdictions of tax residence (CRS Commentary on Section IV, paragraphs 4 and 23).

Under the CARF, the CARF framework also contemplates that a Crypto-Asset User may be resident for tax purposes in more than one jurisdiction. The CARF Commentary on Section III(A)(1) and Section IV confirms that due-diligence and reporting obligations apply by reference to all jurisdictions of tax residence identified, and are not limited to a single jurisdiction. Accordingly, where a Crypto-Asset User is resident in multiple jurisdictions, the RCASP must similarly treat the user as reportable in respect of each such jurisdiction, subject to any applicable exclusions.

13. Reporting of 'Tax Nomads' or persons claiming to be not resident in any jurisdiction

How must “tax nomads”, i.e., Account Holders (individuals or entities) without a fixed tax residence or who claim not to be resident for tax purposes in any jurisdiction, be dealt with and reported under the CRS?

Response:

“Tax nomad” is not a legal concept in domestic tax law or in international tax standards, but a colloquial term sometimes used to describe individuals who live across multiple jurisdictions and assert that they are not tax-resident anywhere. No mainstream tax system recognises “tax nomad” status as conferring tax non-residence by default. Under international norms, the starting presumption is that every individual is tax-resident somewhere, subject only to limited and exceptional circumstances determined by domestic law.

Tax residence is determined solely by the domestic tax laws of jurisdictions, not by personal preference, mobility, absence of registration, or the existence of private tax opinions. Liability for source-based taxes or the absence of a tax number or filing history does not establish, or negate, tax residence. As a result, unqualified claims of being “tax-resident nowhere” are treated as high-risk assertions by tax administrations and are not accepted where other indicia of residence exist.

Neither the CRS nor the CARF, or for that matter SA tax law, recognises a category of individuals who are resident nowhere, or who are exempt from residence determination due to mobility or income patterns. Accordingly, it is incorrect to conclude that an individual who claims to be a “tax nomad” is therefore not reportable under the CRS or CARF. Both frameworks require RFIs or RCASPs to apply the due diligence rules to determine if

individuals are linked to one or more jurisdictions of tax residence based on self-certification and/or indicia.

In the context of the CRS, where an individual asserts that they are not resident in any jurisdiction, an RFI must do the following:

- *Handle as an exceptional case*: An individual may in limited cases assert they are not resident for tax purposes in any jurisdiction. RFIs may accept this only if the position is supported by a valid self-certification and is reasonable based on the information obtained in connection with account opening (including AML or KYC documentation).
- *Obtain self-certification that is complete and allows determination of tax residence*: The RFI must ensure the self-certification contains sufficient information to determine the Account Holder's jurisdiction(s) of tax residence (and TINs where applicable). If the customer claims "no tax residence", the self-certification should explicitly record that claim and any explanation required by local rules or form design.
- *Apply the reasonableness test using the Financial Institution's records and AML or KYC information*: The RFI must check whether the "no tax residence" claim is consistent with information already collected, such as residence or mailing address(es) and phone number; identification documents; permanent address or correspondence instructions, and other AML or KYC documentation. While customers may present legal or tax opinions on their "lack" of tax residency, these do not replace the CRS requirement to obtain a self-certification and to apply the reasonableness test based on the RFI's information. The RFI's obligation is to collect and validate CRS information, not to adjudicate tax residency as a matter of law.
- *Where indicia conflict, request clarification or a new self-certification*: If the RFI has reason to doubt the claim (e.g., indicia pointing to a particular jurisdiction), the self-certification fails the reasonableness test and the RFI should obtain a new valid self-certification or sufficient clarification consistent with the CRS Regulations.
- *Practical outcomes*:
  - *Claim is not reasonable or inconsistent with RFI records*: If the claim is inconsistent with indicia or AML data, the RFI should obtain a corrected self-certification (or clarification); treat the account in accordance with the applicable due diligence procedures until the inconsistency is resolved, and retain evidence of the steps taken.
  - *No self-certification (or incomplete self-certification)*: If the customer does not provide a self-certification (or provides an incomplete one), the RFI must follow the applicable CRS due-diligence and local implementing rules on how to treat the account pending receipt of a valid self-certification (including any "Pre-existing Account" style procedures where applicable under SA domestic law or guidance, including these FAQs).

Importantly, pursuant to the Anti-Avoidance provisions of the CRS Regulations (Section X(A)) if a crypto-asset user enters into any arrangement or structure with the main purpose, or one of the main purposes, to avoid any obligation under the CARF, including reporting to their jurisdiction of tax residence, the CARF Regulations are to have effect as if the arrangement or structure had not been entered into.

SECTION VI - DUE DILIGENCE FOR NEW ENTITY ACCOUNTS

14. Use of information to assess reasonability of self-certification with more than one tax jurisdiction

For purposes of Section VI(A)(1)(*a*), where an Account Holder or Controlling Person declares multiple jurisdictions of tax residence in a self-certification, may a Reporting Financial Institution rely on information in its possession or publicly available sources to assess the reasonableness of that declaration and determine whether the person is reportable in respect of one or more of those jurisdictions?

Response:

Yes. Under Section VI(A)(1)(*a*), an RFI may use information in its possession or publicly available information (together with AML or KYC records) to assess the reasonableness of a self-certification, but not to override it. Where an Account Holder or Controlling Person declares multiple jurisdictions of tax residence, the RFI may similarly use such information to confirm that the declaration is plausible and consistent and to identify whether the person is reportable in respect of one or more of those jurisdictions. If the information supports the declaration, the self-certification may be relied upon; if it raises doubts or indicates an undeclared jurisdiction, the RFI must seek clarification or obtain a corrected self-certification. If the self-certification with multiple jurisdictions satisfies the reasonability test, the RFI must treat the account as a Reportable Account in respect of each Reportable Jurisdiction.

The OECD CRS FAQ 3 on Section II-VII (Dec 2025) also states that, *after applying the residence address test and all the requirements thereof are met*, it is possible for an Account Holder or Controlling Person to have two qualifying residence addresses. In such cases, a self-certification could be sought, or the account may be reported to all jurisdictions where there is a residence address.

SECTION VII – SPECIAL DUE DILIGENCE RULES

15. Reporting during temporary lack of self-certification

Where a Reporting Financial Institution is unable to obtain a self-certification from a new Account Holder at account opening, which pre-existing-account due-diligence procedures must be applied pending receipt and validation of the self-certification, and must such accounts nonetheless be treated and reported as New Accounts (including account number, account type, and account status)?

Response:

Where a self-certification cannot be obtained from a new Account Holder at account opening, the CRS permits RFIs to temporarily apply the due-diligence procedures applicable to Pre-existing Accounts until a valid self-certification is obtained and its reasonableness confirmed. This approach is reflected in the CRS Commentary on Section VI(A)(1)(*a*) and is expressly codified in Section VIII(A*bis*), which allows reliance on pre-existing-account due-diligence procedures in these limited circumstances, subject to the requirement that a valid self-certification be obtained and validated within the prescribed period.

Importantly, the classification of the account does not change. In accordance with Section I(A)(2) of the CRS, the account remains a New Account and must be treated and, where applicable, reported as such, including the reporting of standard New Account data (such as account number, account type, and account status). The temporary application of

pre-existing-account due-diligence procedures does not convert the account into a Pre-existing Account, nor does it defer its status as a New Account for reporting purposes.

This approach is consistent with the earlier "indicia based" reporting for accounts without valid self-certification permitted by the OECD CRS FAQ 22 on Section II-VII. Section VII(A*bis*) and its Commentary now regulate "indicia-based reporting". It should be noted if a self-certification is not received due to a Change in Circumstances, the RFI must treat the Account Holder as a resident of both the original and any new relevant jurisdictions (refer CRS Commentary on Section IV, paragraph 15).

16. Exchange rate for purposes of translation of U.S. dollar to South African Rand

Given exchange-rate volatility, should SARS consider, for purposes of Section VII(C)(4)(*c*), referencing the prevailing spot exchange rate at the end of the tax period as published by SARS, rather than applying the current fixed rate of R18 to USD 1?

Response:

No. Retaining a fixed exchange rate for purposes of Section VII(C)(4)(*c*) provides greater legal certainty, administrative simplicity, and consistency for both SARS and RFIs. A fixed rate avoids variability caused by short-term exchange-rate fluctuations, reduces compliance complexity, and ensures uniform application of thresholds across reporting periods and institutions. Reliance on a prevailing spot rate would introduce volatility into threshold determinations, increase operational burden (including systems updates and reconciliation risks), and could result in inconsistent outcomes for similarly situated Account Holders depending on timing. From a policy perspective, the purpose of the threshold is risk-screening rather than precise valuation, and a fixed rate remains a proportionate and predictable proxy that supports efficient CRS administration.

SECTION VIII – DEFINED TERMS

17. Relevance of the Addendum to the CRS MCAA to CARF

Does the reference in Section VIII(E)(8) to the "Addendum" to the CRS Multilateral Competent Authority Agreement also apply for purposes of the CARF?

Response:

No. The Addendum referred to in Section VIII(E)(8) relates only to the CRS Regulations and is not applicable to the CARF. Although the amended CRS and the CARF are designed to interact at an operational level, the legal basis for the amended CRS – namely, the Addendum to the CRS MCAA – is neither required for nor applicable to the CARF MCAA.

The CARF has its own independent legal basis, as reflected in the Preamble to the CARF Regulations (paragraph A(1)(*a*)), which refers to the CARF Multilateral Competent Authority Agreement signed by South Africa on 26 November 2024, together with Participating Jurisdictions as updated by the OECD from time to time, as well as any applicable multilateral or bilateral arrangements published by SARS that provide for the implementation of the CARF.

While some entities may be subject to both CRS and CARF reporting obligations, these obligations arise separately under the respective CRS and CARF Regulations, not from the CRS MCAA or the CARF MCAA themselves. The MCAAs serve only as the legal

instruments enabling the automatic exchange of information reported under each framework with partner jurisdictions.

18. Clarification on the revised definition of "Depository Account" and interaction with SEMP

Does the revised definition of "Depository Account", particularly following the changes to "Specified Electronic Money Product" (SEMP) and the removal of the phrase "in the ordinary course of a banking or similar business", intentionally broaden CRS obligations to include non-bank fintech entities holding SEMPs or CBDCs, and how should this be reconciled with prospective SARB directives that may exclude certain electronic money activities from being regarded as deposit-taking?

Response:

The amended CRS introduces the concept of Specified Electronic Money Products (SEMPS) to address developments in digital payment ecosystems. The objective is to ensure that digital representations of fiat value-particularly those functioning as close substitutes for bank deposits-are captured within the global tax-transparency framework. The amendment to the definition of a Custodial Account responds to the risk that financial activity may shift from traditional banks to fintech and non-bank payment service providers, potentially undermining CRS effectiveness if these products remained outside scope. The changes to the definition are necessary to include SEMPs as products reportable under the CRS and not the CARF.

The previous wording, which tied Depository Accounts to entities conducting banking-like business, was too narrow for the inclusion of e-money products. SEMPS do not always involve a "banking or similar business". If the phrase had remained, many fintech-issued digital money products would have fallen outside the CRS. The revised definition of "Depository Account", read together with the introduction and expansion of Specified Electronic Money Products (SEMPs) and the inclusion of CBDCs, is not intended to indiscriminately broaden CRS obligations to all fintech or electronic-money providers. Rather, consistent with OECD CRS policy, the amendments are designed to ensure functional equivalence – that products which operate economically like bank deposits are brought within scope, regardless of the provider's legal form.

Under the OECD framework, SEMPs are included only where they store monetary value on behalf of customers, are redeemable at par, and are used as a means of payment or store of value in a manner comparable to a traditional deposit. The focus is therefore on the nature of the product and customer relationship, not on whether the provider is a licensed bank. Where a fintech merely facilitates payments or provides technical infrastructure without holding customer funds or assuming custody of stored value, CRS treatment as a Depository Institution is not intended.

The removal of the phrase "in the ordinary course of a banking or similar business" reflects an OECD policy decision to avoid form-based distinctions that could exclude deposit-like products offered outside the traditional banking sector. Its removal does not eliminate the need for a substantive deposit-like function, but rather prevents regulatory arbitrage whereby economically equivalent products escape reporting solely because they are offered by non-banks.

Prospective South African Reserve Bank directives distinguishing deposit-taking from certain electronic-money activities are relevant for prudential and licensing purposes, but they do not, of themselves, determine CRS classification. CRS is a tax transparency

standard, and its application depends on whether the entity maintains Financial Accounts within the meaning of the CRS, including SEMPs, rather than on domestic banking labels. Accordingly, an activity exempted from "deposit-taking" under SARB rules may still fall within CRS scope if it meets the OECD SEMP criteria.

Finally, the revised definition does not collapse the distinction between fintechs as service providers and fintechs as account-maintaining institutions. CRS obligations attach only where the entity maintains the account for the customer. Fintechs acting purely as intermediaries, processors, or technology providers remain outside scope, while those holding customer value in deposit-like form may be in scope, consistent with OECD policy and the risk-based objectives of the CRS.

As for the OECD policy intent behind including fintech entities, the OECD's inclusion of fintechs is intentional and grounded in several objectives:

a) *Preventing Circumvention*: Digital value products have grown as alternatives to traditional bank accounts. Without this amendment, individuals and entities could shift funds into fintech-issued e-money to avoid CRS reporting.

b) *Ensuring Global Consistency*: Jurisdictions have limited flexibility in altering core CRS definitions. Uniform application prevents gaps across markets and ensures that SEMPs are consistently treated as CRS-reportable products.

c) *Reflecting Evolving Payment Systems*: The financial landscape has shifted beyond banks. The amended CRS acknowledges that fintech entities increasingly offer stored-value products with economic characteristics analogous to traditional deposits.

d) *Delineating CRS vs. CARF Scope*: SEMPS are deliberately assigned to the CRS (not CARF) because they represent fiat-linked value, not crypto-assets. This ensures clarity between digital money products (CRS) and crypto-assets (CARF).

The CRS Commentary on Section VIII(A)(1) and Section VIII(E)(5) confirms that the revised Depository Account and SEMP definitions apply on a functional, product-based basis, capturing only deposit-like electronic money arrangements maintained for customers, irrespective of the provider's banking status, while excluding mere payment facilitators, and operate independently of domestic prudential classifications.

19. Definition of Non-Reporting Financial Institution to include Qualified Non-Profit Entity

Should the definition of a Non-Reporting Financial Institution be expanded to include a "Qualified Non-Profit Entity"?

Response:

No. In Section VIII(B)(1) of the draft amended CRS Regulations the term "Non-Reporting Financial Institution" initially included a "Qualified Non-Profit Entity". However, this inclusion is a jurisdictional option but conditional. The CRS Commentary on Section VIII(B)(1)(f) at paragraph 36*quater* explains that in addition to the categories listed as Non-Reporting Financial Institution in its definition, jurisdictions may wish to also treat Qualified Non-Profit Entities as Non-Reporting Financial Institutions. Any jurisdiction adopting this optional provision must have in place appropriate legal and administration mechanisms to ensure that any Entity claiming the status of a Qualified Non-Profit Entity is confirmed to fulfil the conditions of Section VIII(D)(9)(*h*) before such Entity is treated as a Non-Reporting Financial Institution. As the required appropriate legal and administration mechanisms intended here

are not in place in South Africa, a Qualified Non-Profit Entity is not included in the CRS Regulations as a Non-Reporting Financial Institution.

20. Definition of "TIN" to explain meaning of a functional equivalent of a TIN

Should the definition of "TIN" in Section VIII(E)(5), and the related definition of "Government Verification Service" in Section VIII(E)(12), be expanded to incorporate the CRS Commentary language clarifying when a government-issued reference, code, or confirmation obtained through a Government Verification Service may be treated as a functional equivalent of a TIN?

Response:

No. The CRS Regulations provides that the Regulations must be interpreted in accordance with the CRS Commentary (paragraph D of Preamble) and the CRS Commentary have legal standing by virtue of this incorporation by reference, although not to the same extent as secondary legislation such as the CRS Regulations. Accordingly, it is neither required nor feasible that every explanation in the Commentary be included in the Regulations, except where guidance is provided by the OECD that jurisdictions should consider including a specific part of the Commentary in the relevant domestic law of CRS jurisdictions, for example, if it requires a stronger legal standing given its importance or value to a CRS rule.

Furthermore, it is not appropriate to amend the definitions of "TIN" in Section VIII(E)(5) or "Government Verification Service" in Section VIII(E)(12) to incorporate the detailed wording of the CRS Commentary. The CRS deliberately maintains a principles-based definition in the operative rules, with interpretive detail provided in the Commentary, to preserve flexibility and international consistency. Elevating Commentary language into the regulatory text risks over-prescription, may unintentionally narrow the scope of acceptable functional equivalents, and could require frequent technical amendments as verification mechanisms evolve.

Importantly, introducing such detail into the CRS Regulations would also create unnecessary divergence from the model CARF, which adopts a similarly high-level, technology-neutral approach to TINs and functional equivalents without embedding commentary-level explanations in the definitions. Maintaining alignment between the CRS and CARF frameworks is critical to ensure coherent implementation, reduce interpretive fragmentation, and avoid imposing asymmetric or duplicative requirements on entities subject to both regimes.

SECTION X – EFFECTIVE IMPLEMENTATION

21. Constitutional legality of compulsory suspension or closure of accounts without self-certifications under Section X(B)

Legal concern (authority and constitutionality)

Section X(B) was introduced (in response to industry concerns in 2020) to provide a clearer legal basis for "strong measures" where self-certifications are not obtained, precisely because RFIs feared client litigation if they suspended or closed accounts without an express regulatory hook. The remaining question is whether these coercive measures are sufficiently anchored in the TAA framework (notably the incorporation of international tax standards via section 257 and the due diligence duties in section 26), and whether Section X(B) risks being viewed as introducing enforcement machinery not contemplated in primary law.

Reasons for requesting clarity

- **Regulatory risk: Industry requested Section X(B) to reduce litigation exposure and standardise practice; clarity is still needed to confirm the measures are securely grounded in the TAA framework.**
- **Conflict of laws: No concrete conflict has been identified; the Banks Act, FICA and the CRS Regulations serve different purposes and can generally be applied concurrently, while contractual terms are subject to statute.**
- **Operational ambiguity: Agreed – vague drafting (e.g., references to "risk management framework") created inconsistency; this concern is addressed where such wording has been removed/clarified in the CRS Regulations.**
- **Due process: Section X(B) governs the RFI–client relationship; RFIs can (and typically should) implement notice, remediation and reinstatement processes contractually and operationally, even if not prescribed in the regulation.**
- **International alignment: OECD guidance expects "strong measures" to ensure self-certifications are obtained; many jurisdictions achieve this either by prohibiting account activation without self-certification or by enabling blocks, freeze or closure as escalation tools.**
- **Constitutional risk: The CRS is an information reporting framework; any alleged infringement would most plausibly arise from how a measure is implemented (procedural fairness), rather than the mere existence of a regulatory obligation.**

Request for substantiated response

(a) ***Legal basis or mandate*: Confirm that Section X(B) suspension or closure measures fall within the Minister's delegated authority under the TAA framework for implementing international tax standards (including the "effective implementation" obligation), and that they are consistent with section 26 rather than creating new enforcement powers outside primary legislation.**

(b) ***If not*: If any aspect is considered ultra vires or uncertain, confirm whether remedial steps are contemplated (e.g., targeted TAA amendments, tighter regulatory wording, or explicit procedural safeguards/guidance to support consistent and lawful implementation).**

Response:

Reasons for requesting clarity

- *Regulatory risk*: Section X(B) was introduced at industry's request in 2020 to address persistent non-compliance with self-certification requirements and to mitigate litigation risk where RFIs suspend or close accounts. The provision was intended to provide an explicit legal basis for "strong measures" necessary for effective CRS implementation.
- *Conflict of laws*: No concrete conflicts have been identified between the CRS Regulations and the Banks Act, FICA, or contract law. These regimes serve distinct purposes and can operate concurrently, while contractual arrangements remain subject to statutory (including secondary) law.

- *Operational ambiguity*: Agreed. Earlier references to a "risk management framework" created uncertainty; this concern has been addressed through removal or clarification in the CRS Regulations.
- *Due process*: Section X(B) governs the RFI–customer relationship. RFIs remain free to implement notice, remediation, and reinstatement processes (e.g., soft lock pending compliance), even where not expressly prescribed. The absence of procedural detail in the regulation does not preclude fair process in practice.
- *International alignment*: OECD guidance requires jurisdictions to adopt "strong measures" to ensure self-certifications are always obtained. Suspension of transactions, non-activation, or account closure after a grace period are widely used internationally and recognised as effective compliance tools.
- *Constitutional risk*: CRS is an information reporting framework. It does not involve deprivation of property, and any constitutional risk would arise from the manner of implementation rather than the existence of Section X(B) itself.

Request for substantiated response

(a) Whether imposition of coercive enforcement mechanisms permitted under the TAA (i.e., paragraph (a) of definition of "international tax standard", section 26 and section 257) and within the Ministers mandate under TAA

Section 257 of the TAA is the delegated mechanism that gives domestic effect to the Standard for Automatic Exchange of Financial Account Information in Tax Matters (including the CRS). The TAA's definition of "international tax standard" incorporates the Standard as primary law, while the section 257 regulations operate as the secondary framework, allowing the Minister to give effect to the Standard "subject to such changes" prescribed by regulation. The exchange-of-information basis is the CRS MCAA, and the CRS Regulations incorporate the OECD CRS Commentary and FAQs by reference, providing interpretive guidance in applying the rules.

Section 26 of the TAA embeds the Standard's due-diligence obligations in primary law (including obtaining and validating self-certifications). Failure to obtain or verify a required self-certification is not merely procedural: a wilful or negligent failure may constitute a statutory non-compliance/offence under the TAA, and section 26 also empowers prescription of the form and format of CRS returns and imposes a duty on Account Holders or Controlling Persons to comply with information requests (including self-certifications), with non-compliance attracting administrative and criminal consequences.

Section 3(2)(*j*) further confirms that "administration of a tax Act" includes giving effect to an international standard, enabling SARS to use its general TAA administration powers (e.g., information-gathering, verification, audit and investigation) for CRS purposes. The Standard itself (Section IX) and the CRS Commentary require jurisdictions to have effective enforcement provisions and "strong measures" to ensure valid self-certifications are obtained for New Accounts, with examples including making account opening conditional on receipt of a valid self-certification or other measures with sufficient deterrent effect.

Consistent with this, the previous CRS Regulations introduced Section X(B) to standardise "strong measures" in South Africa: where a self-certification is not obtained within the permitted period, RFIs must suspend transactions (a "soft lock") and may ultimately close the account as a last resort. This was intended to address inconsistent industry practice and improve enforceability; the reporting schema/BRS has been updated to support oversight (e.g., indicating suspended accounts).

(b) As for international alignment in the context of coercive enforcement mechanisms, in particular to ensure a valid self-certification is always obtained, the following examples can be given:

Explicit authorisation to freeze or close accounts

- *Australia and New Zealand:* Both require or strongly encourage account blocks where a valid self-certification is not obtained. Australian guidance lists blocking transactions or closing the account as acceptable "strong measures", removable only once a valid self-certification is received, and warns of penalties for failure to act by the reporting deadline. New Zealand similarly expects accounts to be frozen or treated as not fully opened if a self-certification is not received within 90 days.
- *Canada:* While legislation does not expressly mandate freezing, CRS compliance expectations align with OECD guidance. In practice, Canadian banks typically freeze accounts where self-certifications are not provided timeously, supported by an administrative penalty regime.
- *Guernsey, Jersey, and the Isle of Man:* These jurisdictions have formalised enforcement. Guernsey has empowered its tax authority to freeze accounts, while Jersey and the Isle of Man rely on RFIs not to activate accounts without documentation, backed by significant penalties and structured remediation processes.

Many jurisdictions impose a general obligation to obtain self-certifications, leaving the precise enforcement method to guidance or supervisory practice:

- *Singapore:* Requires self-certifications but does not expressly mandate closure; instead, RFIs are expected to maintain robust controls, with non-compliance addressed through penalties.
- *EU (DAC2):* Member States require self-certifications, with enforcement ranging from strict local guidance to general compliance clauses. In practice, most European banks do not finalise account opening without a self-certification, often reinforced by AML or KYC requirements.

Account opening prohibitions

- *Ireland:* Takes a strict approach: accounts may not be opened or operated without a valid self-certification. Even limited "day two" validation scenarios prohibit transactions until the self-certification is obtained and validated.
- *UAE and Bermuda:* Adopt similar approaches. Bermuda allows a short grace period (up to 90 days) but treats the self-certification as an integral part of account opening.
- *Luxembourg and Canada:* Commonly treat self-certifications as mandatory onboarding documents and generally refuse to activate accounts without them.

The 90-day grace period norm

The OECD recognises a short grace period (typically 90 days) for obtaining or validating a self-certification, provided strong measures apply if the deadline passes:

- *Australia:* Allows limited post-opening validation but only where RFIs can immediately block transactions or close accounts if the self-certification is missing or invalid.
- *New Zealand:* Requires action after 90 days, explicitly stating that RFIs should freeze accounts or close them if compliance is not achieved.

- *United Kingdom:* Initially relied on indicia based reporting where self-certifications were missing, but this approach was viewed by the OECD as insufficiently strong. United Kingdom practice has since tightened, and many RFIs now refuse to open accounts without a self-certification as a matter of policy.

Conclusion

The comparative overview demonstrates a clear and consistent international policy direction under the CRS: jurisdictions are expected to implement "strong measures" to ensure that valid self-certifications are always obtained for new accounts. While the legal techniques differ – ranging from account-opening prohibitions to transaction blocks, freezes, or ultimate closure – the common outcome is that accounts may not remain operational where self-certification obligations are unmet beyond a short grace period (typically 90 days). Importantly, these measures are widely regarded as proportionate compliance tools, not punitive sanctions, and are embedded either in law, regulatory guidance, or supervisory practice across leading CRS jurisdictions. Against this backdrop, South Africa's approach in Section X(B) – providing for suspension of transactions and, if necessary, account closure – falls squarely within established international practice and reflects the OECD's expectation that jurisdictions adopt effective, deterrent mechanisms to prevent persistent non-compliance and ensure the integrity of the CRS.

22. Proposed changes to Section X(B) – Effective Enforcement

Should Section X(B) of the draft amended CRS regulations be revised to (i) require mandatory account suspension after 90 days but retain account closure as a discretionary last-resort measure rather than mandatory; (ii) remove vague references to AML or KYC procedures that do not directly address CRS risks; (iii) retain or clarify the continued availability of indicia-based reporting for non-compliant new accounts following the proposed deletion of Section X(B)(1)(*c*); and (iv) retain the existing regulatory dates in Section X(B)(3) rather than aligning them to the CRS Regulations effective date, in order to ensure proportionality, legal certainty, and consistency with CRS policy and prior recommendations?

Response:

Overall approach

The CRS Regulations appropriately aligns with OECD guidance, which requires jurisdictions to implement strong measures to ensure that valid self-certifications are always obtained for New Accounts. Such measures may include halting account opening, freezing (i.e., no deposits or withdrawals), or ultimately closing accounts where self-certifications are not provided within the prescribed period. Freezing or suspension is therefore the minimum mandatory response, while closure should remain a risk-based last resort.

Section X(B)(1)(a) and (b): Suspension vs closure

Section X(B)(1)(*a*) correctly provides that where the Day Two Process is not permitted, an account must not be completed without a valid self-certification. Section X(B)(1)(*b*) addresses cases where the Day Two Process is permitted, allowing up to 90 days for the self-certification to be obtained and validated.

Consistent with OECD guidance, account suspension (freezing) is mandatory where the self-certification is not obtained within the permitted period. The revised drafting appropriately shifts decision-making away from vague AML or KYC references and grounds it in CRS-specific risks, such as tax evasion or frustration of CRS objectives. This ensures proportionality while maintaining effective enforcement.

Section X(B)(1)(c) and Section VII(Abis): Indicia-based reporting

The revised approach does not remove indicia-based reporting, but instead integrates it through Section VII(A*bis*). Where a valid self-certification remains outstanding, the RFI must apply Pre-existing Account due-diligence procedures for each reporting period until the self-certification is obtained and validated, while continuing to take all reasonable steps to secure compliance. This preserves indicia-based reporting for non-compliant New Accounts and remains consistent with the CRS Commentary.

Section X(B)(2): Closure as a last resort

Section X(B)(2) appropriately retains account closure as discretionary, not mandatory. Closure may occur only where, despite reasonable efforts by the RFI, no valid self-certification is obtained, and the account presents a material risk of tax evasion, CRS avoidance, or circumvention. This reflects OECD policy that closure should be a last-resort measure, assessed on the facts and proportional to the risk.

Section X(B)(3): Effective dates

Section X(B)(3) should remain unchanged. Retaining the existing regulatory dates avoids unnecessary disruption and maintains consistency with prior CRS implementation and earlier policy recommendations.