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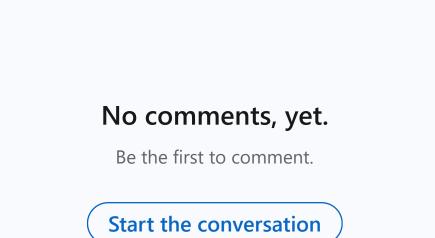
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Get rid of your wealth manager for CARF



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April 6, 2024

Mark Morris CRS and CARF expert. No, truly.

Here, you must do an Apprentice and fire your wealth manager

An entity that has a crypto account at a Crypto Asset Service Provider

- For CRS a Professionally Managed Investment Entity (PMIE) is an excluded reportable person.
- This means a Reporting Financial Institution (FI) maintaining the PMIE's account will not report on the PMIE.
- The PMIE will in turn, report on reportable Controlling Persons.
- If an entity has a crypto account, it is going to be categorized as a Professionally Managed Investment Entity (PMIE) if it has a FI wealth manager discretionary managing some iof the assets.
- This is because the entity will earns more than 50% of its gross earnings from Financial Assets. (CARF recategorises crypto assets as Financial Assets).

How Crypto Asset Reporting Framework differs from CRS

- CARF differs radically from CRS because for CARF, PMIEs are not exluded reportable persons
- This means teh Crypto Asset Service Provider (CASP) will report on the Controlling Persons of the PMIE
- Defacto, all PMIE's are treated as Passive NFE's for CARF
- Note that if an entity is treated as a Passive NFE, then there is look through of all parent
- entities in the legal chain of ownership, regardless of the status of the parent
- This means if an FI is in the chain of ownership, the CASP will look through the parent FIs to determine the controlling persons of the FI



CRS-related Frequently Asked Questions

(February 2019)

The OECD maintains and regularly updates this list of frequently asked questions (FAQs) on the application of the Common Reporting Standard (CRS). These FAQs were received from business and government delegates. The answers to such questions provide further precisions on the CRS and help to ensure consistency in implementation. More information on the CRS is available on the <u>Automatic Exchange Portal</u>.

SECTIONS II-VII: DUE DILIGENCE REQUIREMENTS 5. Identification of Controlling Persons of Passive NFEs with Financial Institutions in the chain of legal

ownership

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For purposes of determining the Controlling Persons of a Passive NFE, does the CRS allow a Reporting Financial Institution to not determine/report such Controlling Person on the basis that there is a Reporting Financial Institution in the ownership chain between the Passive NFE and the Controlling Person? No. The CRS status of intermediate Entities in the ownership chain is irrelevant for these purposes.

But, but but if I fire the wealth manager the entity will be a Passive NFE, so what have I accomplished?

- Ah yes, but let's look at CRS page 200 par 139 regarding Passive NFE being Nominees
 If the account holder, other than a FI, is a nominee/agent/signatory/guardian holding
- assets for someone else, the the account holder is deemed to be the other person.
 Note "nominee other than a FI". So if the PMIE is a Nominee, the CASP will not treat the other person as the Account Holder

But, but, but I'm lost with your train of thought.



Where are you going with your proposition of firing the wealth manager?

The fictional world of CRS



A Custodial Institution in CRS is simply an entity that holds assets for someone else, but earns more than 20% of its income from custody fees, which could be advisory on assets that potentially may be held.
Doesn't seem like your father's custodial Institution, which is usually giant subsidiaries of banks like Pershing.

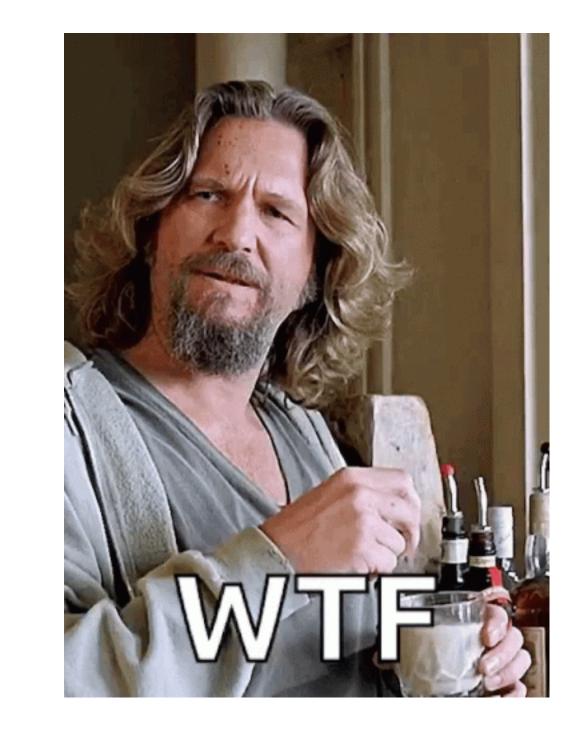
But doesnt a Custodial Institution need to be regulated and supervised

OECD Commentary page 159 - 160 on CRS section VIII Financial Institutions

The term "Financial Institution" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company, as defined in subparagraph A(3) - (8).

Whether an Entity is subject to financial laws and regulations of a Participating Jurisdiction or is subject to supervision and examination by agencies having regulatory oversight of Financial Institutions, is relevant to, but not necessarily determinative of, whether that Entity qualifies as a Financial

Won't it be up to the Custodial Institution to report?



CRS Commentary page 176 par 62

In general, an account would be considered to be maintained by a Financial Institution as follows: • in the case of a Custodial Account, by the Financial Institution that holds custody over the assets in the account (including a Financial Institution that holds assets in street name for an Account Holder in such institution).

CRS Commentary page 178 par 68

- Subparagraph C(3) defines the term "Custodial Account" as an account (other than an Insurance Contract or Annuity Contract) for the benefit of another person that holds one or more Financial Assets
- CRS states a custodial Institution must report the following on the Custodial Account it maintains
- CRS Commentary page 94-95 Paragraph A Information to be reported
- Pursuant to paragraph A, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:
- a) in the case of any individual that is an Account Holder and a Reportable Person: the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth;
- b) in the case of any Entity that is an Account Holder and a Reportable Person: the name, address, jurisdiction(s) of residence and TIN(s);
- c) in the case of any Entity that is an Account Holder and that is identified as having one or more Controlling Persons that is a Reportable Person: (1) the name, address, jurisdiction(s) of residence and TIN(s) of the Entity; and (2) the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Controlling Person that is a Reportable Person;
- d) the account number (or functional equivalent in the absence of an account number);
- e) the name and identifying number (if any) of the Reporting Financial Institution; and
 f) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during
- such year or period, the closure of the account.

Specific information to be reported by Custodial Institutions

• In addition, the following information must also be reported in the case of any **Custodial**

Account:

 (1) the total gross amount of interest paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period;

 (2) the total gross amount of dividends paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period;

 (3) the total gross amount of other income generated with respect to the assets held in the account paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and

 (4) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder

Trust as a Custodial Institution

• Of interest, HMRC confirms a trust can be a Custodial Institution

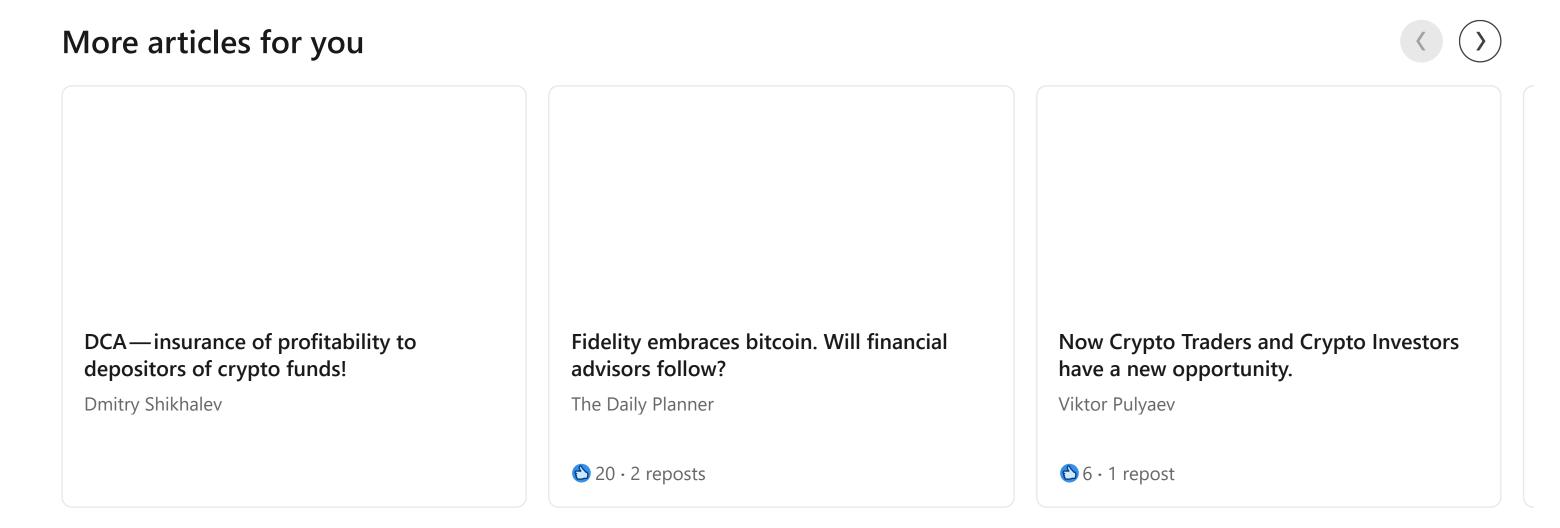
So if the Custodial Account information is going to be reported, why make the entity a Custodial Institution?

• If the Custodial Institution is located in a non-participating jurisdiction, there is no look-through by the CASP.

So how do I set up a non-participating CI?



CRS and CARF expert. No, truly.



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