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## **AFM Response to HMRC Consultation: Cryptoasset Reporting Framework, Common Reporting Standard amendments, and seeking views on extension to domestic reporting**

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:
  - a. Register our misgivings about the implications of some of the proposals, and
  - b. Summarise our concerns about the implications for our members.

### **About AFM and its members**

2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not-for-profit basis). As a whole, mutual insurers manage the savings, pensions, protection and healthcare needs of over 26 million people in the UK and Ireland, collect annual premium income of over £23 billion, and employ nearly 23,000 staff.<sup>1</sup>
3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, the financial services regulators FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses<sup>2</sup> and to take account of corporate diversity<sup>3</sup>.

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<sup>1</sup> ICMIF and AFM, 2023: <https://financialmutuals.org/wp-content/uploads/2023/10/UK-Market-Insights-2023.pdf>

<sup>2</sup> Financial Services Act 2012, section 138 K: <http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted>

## **Introduction**

4. We are responding only to consultation questions relating to the Common Reporting Standard (CRS) to the extent that these may affect our members as Financial Institutions (FIs).
5. We have no comments on the Cryptoasset Reporting Framework (CARF) as we would not expect any AFM members to be Cryptoasset Service Providers (RCASPs).

## **Background**

6. UK insurers and friendly societies are required to collect, maintain and report to HMRC annually by 31 May, certain information on any non-UK resident customers (policyholders) for HMRC to then exchange with participating jurisdictions. This requirement has been in place since 2016 and so should now be embedded in the “business as usual” processes and controls operated by FIs.
7. Insurance companies and friendly societies often maintain old, legacy systems, due to the long-term nature of their policies. Such systems are often difficult, costly and time-consuming to change.

## **Potential amendment to CRS – mandatory registration requirement**

- a. *Question 13: Do you agree with government’s proposal to introduce a mandatory registration requirement?*
8. As noted in the consultation document, where Reporting FIs have determined that they do not have any reportable account holders, they are not required to register with HMRC’s Automatic Exchange of Information (AEOI) service.
9. We note the proposal to introduce a mandatory registration requirement, but we note also that UK FIs would not be required to make annual nil returns.
10. Since AFM members typically sell their products only to UK customers, many may not have registered with HMRC for AEOI as there would be no CRS data for them to report.
11. The proposal to impose a mandatory registration requirement on FIs that have no reportable accounts would not achieve HMRC’s stated aim of ensuring compliance with CRS rules. Such a “blanket approach” would impose an unreasonable burden on smaller FIs for no benefit. It would potentially expose such FIs to the risk of penalties for very minor administrative breaches, despite those FIs having no CRS reporting requirements.

12. Mandatory registration would serve no purpose to HMRC whatsoever. If HMRC requires details of those FIs that are not registered for AEOI because they have no reportable accounts, it could easily obtain such details from other sources, such as the FCA's Financial Services Register or the Mutuals Public Register.

**13. We believe that AEOI registration should only be required where there is a reporting requirement, as is currently the case. To mandate universal registration would be both unreasonable and disproportionate.**

#### ***Potential reform of CRS penalty provisions***

- a. *Question 14: Do you agree that, in principle, penalties relating to CRS obligations should be consistent with those set out above?*
- b. *Question 15: Do you think that the penalty amounts in the Model Rules for Digital Platforms are appropriate for the CRS?*
- c. *Question 16: What additional strong measures would be appropriate to ensure valid self-certifications are always collected where required?*

14. Whilst we acknowledge that penalties may be required to encourage compliance and punish transgressors, we note that fixed amount penalties, such as those in Part 3 of the Model Rules for Digital Platforms, would fall disproportionately on smaller institutions.

15. In particular, it would be especially unreasonable for a fixed sum penalty for a minor issue to be applied to multiple instances of the same problem. This might happen, for example, if many customer accounts were affected similarly. In such a situation, no more than one penalty should apply in relation to any one issue.

16. The prospect of continuing daily penalties for non-compliance should be applied only as a last resort, if at all, rather than by default, and certainly not in cases of failures that are not deliberate.

17. Should the decision be to align penalties, safeguards would be essential. For example, penalty mitigation should be available when all reasonable efforts, supported by evidence, have been made to collect a self-certificate for FATCA/CRS pre-existing accounts.

**18. We believe that any penalties must be proportionate to both the size of the institution and the seriousness of the failure.**

#### ***Potential extension of CRS to domestic reporting***

- a. *Question 19: What are your views on extending CRS by including the UK as a reportable jurisdiction? What impacts would this have on reporting*

*entities in scope? Are there other issues, regulatory or legal, that will need further discussion?*

19. The existing CRS rules do not require reporting entities to provide any information on UK resident taxpayers. This means that in practice, UK insurers and friendly societies with a focus on UK customers are only required to report to HMRC on a small minority of policyholders (for example, where a policyholder has moved abroad since acquiring the policy), or perhaps none at all.
20. There are separate reporting requirements which may apply in certain specific cases for domestic policyholders, for example for chargeable event gains reporting<sup>4</sup>, for which insurers will have separate systems and processes in place where relevant. Domestic CRS reporting could not provide a viable alternative to such separate specific reporting requirements and therefore making insurers report on UK customers would only increase administrative obligations (and associated costs of business) with no meaningful benefit either to HMRC or the reporting entities.
21. For some sectors, such as banking, domestic CRS reporting may represent a potential simplification if it could replace existing alternative reporting requirements. This is very unlikely to be the case in the insurance sector, where domestic CRS reporting would simply add to extensive, existing specific reporting of policies held by UK residents.
22. The costs of complying with domestic CRS reporting, particularly for smaller FIs with mainly UK customers, would be very significant.
- 23. AFM strongly believes that the extension of CRS to domestic reporting would impose very significant additional burdens on insurers and friendly societies for no obvious benefit to HMRC. To do so would therefore be wholly disproportionate and the impacts would be felt most acutely by small FIs which lack the resources to run large change projects.**
24. If HMRC believes that there are genuinely some potential benefits of applying domestic CRS reporting to the UK insurance and friendly society sector, we would like to understand these, including the extent to which any existing (non-CRS) reporting by insurers would be withdrawn. The three bullet points in the consultation document (streamlining of reporting, time efficiency and an improved view of risk) seem less likely to apply to insurance products than, say, in the banking sector.
25. If domestic CRS reporting is to be applied to the UK insurance and friendly society sector, it should be limited to taxable products. Tax exempt products such as ISAs, pensions, qualifying policies, friendly society tax-exempt savings plans


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<sup>4</sup> s552 ICTA 1988

(TESPs) and protection business should all be excluded. A de minimis threshold should also be applied, e.g. comparable to the \$250,000 limit on the introduction of FATCA, to avoid the need to report immaterial amounts.

26. The benefits for HMRC to extend UK reporting to pre-existing cash value insurance products are unknown. Should HMRC proceed with these proposals, taking a risk-based approach would be welcomed, such as a carve out for this population.
27. Alternatively, consideration could be given to implementing the new rules to report UK residents only for those accounts that are opened on or after any changes to the UK legislation are made.
28. If cash value insurance products for UK tax residents are brought within scope of reporting, changes may be required to the legislation that requires the collection from customers of all of the data points to be reported, for example UK TINs. This will need to be considered when setting the timeframes for introducing and implementing any new rules.
29. We would welcome the opportunity to discuss further the issues raised by our response. We are happy to be included in the published list of respondents.

Yours sincerely,



**Andrew Whyte**  
**Chief Executive**