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ИМЕНИ Е.Т. ГАЙДАРА

International Best Practices Analysis Department

# Monitoring of international legal regulation trends aimed at development of legislation in the digital economy in Russia

International information exchange on crypto-assets

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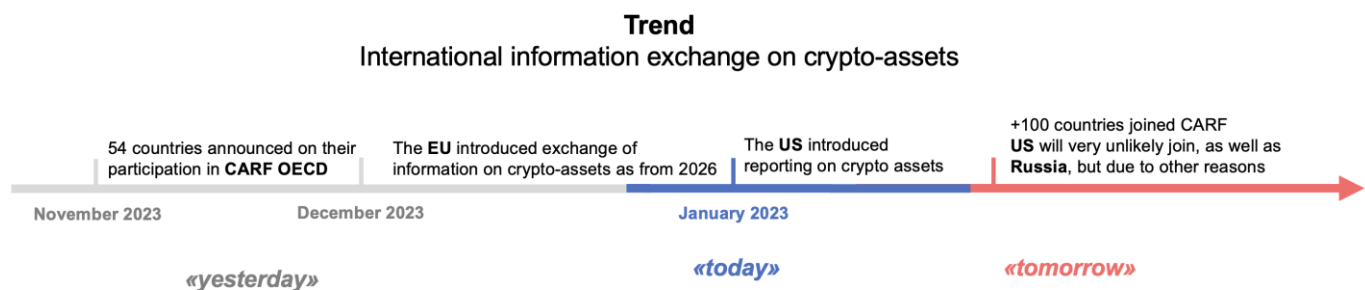
**Monitoring** was prepared by a team of experts of the Gaidar Institute for Economic Policy (the Gaidar Institute):  
*Antonina Levashenko*, Senior Researcher, International best practices analysis department at the Gaidar Institute;  
*Maria Girich*, Researcher, International best practices analysis department at the Gaidar Institute;  
*Ivan Ermokhin*, Researcher, International best practices analysis department at the Gaidar Institute;  
*Olga Magomedova*, Researcher, International best practices analysis department at the Gaidar Institute;  
*Tatiana Malinina*, Senior Researcher, International best practices analysis department at the Gaidar Institute.

“Man tends to grow more than his means of subsistence”  
Charles Darwin

The beginning of the year is the traditional time for US residents to file their tax returns. However, in January 2024, the U.S. Internal Revenue Service

reminded about the need to pay taxes for income in crypto-assets, but in a new format.<sup>1</sup> Now information will be collected not only as part of tax returns, but also directly from crypto exchanges, crypto changers, as well as from crypto-asset users. Thus, in January of this year, the United States became the first country to adopt a national standard considering the international trend towards disclosure of information on crypto-assets.

This trend was launched already in late 2023, when the OECD updated the standard for international reporting by crypto asset service providers on their clients' crypto asset transactions (CARF). In December 2023, CARF was also adopted in the EU as well, but will only be effective from 2026.



*Fig. 1.*

*Trend in the international information exchange on crypto currencies*

The OECD CARF embraces crypto- asset service providers conducting crypto-fiat or crypto-to-crypto exchange transactions.

Interestingly, the US, which has adopted CARF as a framework, is actually implementing a unilateral exchange of information, where reporting to the US IRS will have to be done not only by domestic, but also by foreign cryptocurrency exchanges on US residents around the world.

Russia has not expressed its intention to join the OECD CARF, but it could potentially do it, and conclude bilateral agreements on information exchange with individual countries on its basis. In our opinion, such an agreement would make sense to conclude with Japan, Canada, Korea, Singapore, Luxembourg, which have already expressed their desire to join CARF and where the largest number of crypto exchanges are registered. However, before doing it, Russia will need the establishment of the institute of crypto exchanges and crypto changers in the legislation.

Thus, a trend has been established from November 2023 to January 2024 aimed at development of exchange of financial information on crypto-assets of residents of the countries. The United States became the first country, where from January 2024 the national standard started to operate for obtaining information, but only about their residents around the world, i.e. excluding the task of exchanging information with other countries. It is assumed that within a year this trend will develop: 54 countries that have already announced their participation in the exchange of information, as well as about 70 more countries will start working on the implementation of the standard. The OECD countries will also influence those countries with the largest number of crypto exchanges (India, UAE, Hong Kong, Seychelles, British Virgin Islands) to join the exchange of information.

<sup>1</sup> <https://www.irs.gov/newsroom/taxpayers-should-continue-to-report-all-cryptocurrency-digital-asset-income>





## Key aspects

### CARF OECD

The reporting is submitted with regard to **crypto assets** (*Crypto-Asset*), a digital value representation that relies on a cryptographically secure distributed ledger or similar technology to verify and protect transactions. The US and the EU use a similar concept.

In other words, it is about crypto assets that can be stored and transferred in a decentralized manner excluding intervention of traditional financial intermediaries, including stablecoins, derivatives in the form of crypto assets, and certain non-fungible tokens (*NFT*).

In this respect, the OECD excluded 3 types of crypto assets from reporting: crypto assets, which cannot be used for payment or investment purposes (for example, *NFT*, which can be sold as collectibles, if such *NFT* cannot be resold); digital currencies of the central bank; specialized products of electronic money.

Reporting has to be submitted by **provider of crypto-asset services** (*Crypto-Asset Service Provider*)<sup>2</sup> – any individual or legal entity, who provides exchange services as an entrepreneur for clients or on their behalf, including acting as a counterparty or intermediary in such exchanges, or providing access to a trading platform. Thus, they are individuals who provide crypto-to-fiat, crypto-to-crypto exchange services. Reporting has to be submitted by such providers as exchanges (Bybit, Coinbase, Binance), providers of exchange services (changers Kraken, Bitfinex, Gemini), brokers and dealers, crypto-asset ATM operators (Bitcoin Depot., CoinCloud), as well as decentralized exchanges (Uniswap v3, Jupiter). Wallet service providers have been left out of the reporting requirement.

The OECD has identified the following 4 criteria: fulfillment of at least one of them results in recognizing of such a supplier as obliged to render accounts:

1) if he is a resident for tax purposes; 2) if he is registered or organized according to right of jurisdiction, and either has legal personality in the country or is required to file tax returns; 3) is regulated by this jurisdiction; 4) has a fixed place of business in that jurisdiction.

If a provider operates in multiple countries, the OECD establishes a hierarchy of “knock out” criteria to determine the country where such provider is required to file reports.<sup>3</sup>

**Reporting frequency** – every calendar year.

Reporting is submitted in relation of **a crypto-assets user** – individual or legal entity, who is a client of the provider.

**Information for reporting.** Reporting is submitted in relation of two types of transactions: 1) in relation of exchange (*Exchange*), i.e. exchange of a crypto-asset for fiat currency and exchange between crypto-assets;

2) in relation of respective crypto-assets transfer (*Transfer*) from the address or account for crypto-assets of the user to another account, which does not belong to this user.

The following information has to be provided for each type of crypto-asset: 1) full name of the crypto-asset type; 2) cost of purchase or sale of assets; 3) cumulative number of units; 4) number of transactions in the acquisition.

Single reporting is also maintained for transactions involving the transfer of crypto-assets in exchange for goods or services in excess of \$50,000.

<sup>2</sup> “Reporting Crypto-Asset Service Provider” means any individual or Entity that, as a business, provides a service effectuating Exchange Transactions for or on behalf of customers, including by acting as a counterparty, or as an intermediary, to such Exchange Transactions, or by making available a trading platform.

<sup>3</sup> A provider does not report if he has already reported in a partner jurisdiction as well as:

1) In the partner jurisdiction, the provider is a resident for tax purposes, irrespective of the country of incorporation, management and conduct of business.

2) In a partner jurisdiction, the provider is a legal entity that is incorporated or organized under the law of that partner jurisdiction and either has legal personality in the partner jurisdiction or is required to file tax returns with the tax authorities of that partner jurisdiction in respect to its income, regardless of where the provider is regulated/ does business.

3) In the partner jurisdiction from which the provider is being controlled, irrespective of the fact that the business place is located in another country.

Reporting is rendered in fiat currency based on the market value of crypto-assets.

### The EU experience

The EU implements CARF slightly different: when determining a reporting provider in the EU, the first consideration is the country where the provider is authorized to operate, and only then the residency criteria established by the OECD are applied.

Pursuant to Article 8ad(7) of Directive 2011/16/EU, for the purposes of complying with the reporting requirements, each Member State shall establish the necessary rules for mandatory registration of crypto-asset operators within the EU, with the competent authorities of the Member States required to assign individual identification numbers to such operators. The Directive repeats CARF, including the concept of crypto-asset, the list of assets that do not qualify as crypto-assets, CBDC, e-money, etc.

It is worth noting that the first information exchange between countries in the EU is scheduled to take place in 2026 for the relevant reporting period (i.e. 2025).

### The US experience

Unlike CARF, which aims at international exchange, the U.S. has enacted legislation starting in 2024 to collect information on U.S. tax residents worldwide. **Two types of reporting** have been adopted as part of the legislation.

The first type of reporting shall be submitted by **entrepreneurs** with regard to their own revenues. Such reporting shall be generated within 15 days of receipt of a payment over \$10,000. The requirement to file such returns applies only to parties liable for U.S. taxes.

The second type of reporting<sup>4</sup> shall be submitted with regard to revenues of the third parties. These parties include **clients** of crypto-exchanges, crypto changers, wallet providers and etc. However, in this respect, reporting is

being generated by services providers, i.e. brokers. Brokers play the role of trade platforms of digital assets in crypto economy (*digital asset trading platforms*), payment operators of digital assets (*digital asset payment processors*), determined<sup>5</sup> wallet providers for digital assets

Types of crypto assets CARF OECD	Are they regulated in Russia?
Crypto currencies	Yes, excluding transactions on crypto-currency deals, as purchase of goods and services in exchange for crypto-currency is forbidden.
Stablecoins	No, however, certain DFA actually may represent stablecoins
Crypto-assets – securities or financial instruments	Yes, DFA
Crypto-assets as derivatives	No
NFT, if they are not a piece of art and cannot be sold for investment purposes	Yes, if issued as utility digital rights for intellectual property.
Utility tokens	Yes, if they present utility digital rights for transfer of things / receipt of services

(*wallet providers*) and individuals who regularly suggest repurchasing of their established or issued digital assets. The broker reports fiat-to-digital asset transactions for each sale made for the client. It is not required to report if the client or the type of transaction is exempt from taxation.

Brokers include both U.S. and foreign parties providing services to a U.S. tax residents, regardless of where such taxpayer is physically located and the service is performed (Article 1.6045-1). There is an obligation imposed on a foreign broker to ensure that the client is not a US tax resident if such broker does not wish to be subject to US tax reporting innovations with respect to crypto-assets.

Crypto-assets receive monetary status under reporting – “cash” according to 6045(g)(3)(D). Any type of crypto-assets, including NTF is taken into account. Exceptions

<sup>4</sup> <https://www.law.cornell.edu/uscode/text/26/6045>.

<sup>5</sup> Brokers include those wallet providers that act as principals in the sale of digital assets or as agents of a party to a transaction if they generally know the transaction amount, or as intermediaries and know or have the ability to know the identity of the seller and the transaction

amount. If a wallet provider merely stores and transfers digital assets on behalf of his customers without processing or the ability to know the transaction amounts, he does not fall within the definition of a broker.

in the U.S. include assets that exist only in a closed system (e.g., video game tokens that can be purchased using cash, but can only be used in-game), and to the use of DLT technology for ordinary business purposes that do not create digital assets, such as inventory tracking or order processing in buying and selling.

Compared to CARF, current US law is structured in a way that the obligation to report US tax residents arises for both domestic and foreign brokers (crypto exchanges).

**Actually, it is about unilateral exchange of information for the U.S. Internal Revenue Service.**

### Russia's experience

Russia's participation in CARF may be limited both by geopolitical reasons and the lack of a proper regulatory framework. At the same time, if this exchange standard becomes a joint OECD and G20 document, as it was done in respect of MCAA CRS (Russia participates), Russia's accession is possible by signing CARF and concluding bilateral agreements.

It is worth noting that all crypto-assets regulated in Russia fall under the definition of crypto-assets under the OECD CARF, including utilitarian digital rights, if their issuance occurred using distributed ledger technology (see *Table*).

*Table 1. Comparison of crypto-assets types in CARF and in Russia*

Under the OECD standard, any crypto-asset service provider that performs crypto-asset to fiat currency exchanges and exchanges between different forms of crypto-assets is subject to reporting. In Russia, however, the legal status is provided to the operator of the information system in which the DFA is issued, the operator of the DFA exchange, and the investment platform for trading in utilitarian digital rights. All the three subjects will be obliged to generate reporting in respect to crypto-assets.

Currently, the infrastructure for trading cryptocurrencies is not regulated in Russia. The status of a DFA exchange operator allows

trading in DFA or other digital rights (digital currencies do not have the status of digital rights in accordance with Article 1.2 of the Federal Law "On DFA").

In particular, the Federal DFA Law does not cover crypto exchanges, crypto changers, crypto wallets, and various cryptocurrency investment funds.

In terms of countries that are the most promising for sharing information about Russian users of crypto-asset services, at the moment many major crypto exchanges are not available to Russian citizens (the EU and the US have imposed restrictions on crypto-asset services), but providers registered in friendly countries are available.

It can be noted that the most promising countries for the exchange of financial information on crypto-assets are the countries with the largest number of registered crypto exchanges, including the countries where crypto exchanges have branches: USA (Coinbase, Kraken, Bitstamp, HTX) and UK (Bitstamp) (countries where the automatic exchange of information is suspended at the moment<sup>6</sup>), as well as Japan (HTX, bitFlyer, XT.COM), Canada, Korea (Upbit, HTX, XT.COM), Singapore (Bitstamp, Deepcoin), Luxemburg, i.e. countries that expressed their intention to participate in CARF.

Among countries that did not join CARF, priorities are: Hongkong (Bitfinex, HTX), UAE (Bybit, XT.COM), Seychelles (OKX, Bitget, HTX), British Virgin Islands (Bybit, Bitfinex), i.e. countries, where there is a significant number of crypto-exchanges and who currently conduct an exchange of financial information with Russia.

It is worth noting that, as a general rule, taxes are required to be paid when there is an income from digital currency and DFA related transactions. The Article 210 of the RF Tax Code states the rules of taxation from DFA and other digital rights (that do not include cryptocurrencies) within PIT. Nevertheless, there is no special reporting of transactions

<sup>6</sup> RF FTS Decree of 28.10.2022 N ED-7-17/986@ "On approval of the list of countries (territories), with whom financial information is automatically exchanged"

similar to the US; individuals, for example, can file a 3-PIT declaration indicating the fact of ownership of cryptocurrencies.

## Conclusions

To date, a trend has emerged to develop regulation of reporting by cryptocurrency exchanges, crypto-changers and other actors with respect to assets of their clients. The analysis also shows that in the future, OECD countries, including BRICS+ countries and others, will join the trend by joining the system of international exchange of financial information on crypto assets.

The following conclusions can be made on approaches set in CARF, EU, US and Russia:

1. Purpose of reporting. CARF and the EU approach aim to collect information on crypto-asset transactions for the international exchange of financial information for tax purposes; in the US reporting is aimed for domestic tax and AML/CFT purposes with respect to US residents.

2. Reporting Party. In the OECD CARF and the EU Directive, reporting parties are crypto-asset service providers who conduct exchange transactions (i.e. crypto exchanges, crypto changers, brokers, dealers, etc.) for individuals and legal entities, i.e. the clients. In the US, reporting is done by entrepreneurs (including miners) for transactions with third parties over \$10,000, as well as by brokers for their clients (crypto exchanges).

3. The concept of crypto-asset. The OECD CARF and the EU Directive use the concept of crypto-asset, while the US uses the concept of digital asset, which are completely identical in content. As with CARF, the OECD and EU Directive exclude tokens that are not used for investment or payment purposes from reporting. In the US, all assets that are issued using DLT technologies are taken into account, including potentially reporting of CBDCs. The EU and the OECD exclude CBDCs from crypto-asset reporting.

4. Types of transactions. The OECD, EU, and US standards cover transactions by service

providers for crypto-to-crypto and crypto-to-fiat exchanges, as well as transactions involving the transfer of crypto assets to other parties.

5. Reporting deadlines. For brokers in the US, service providers in the EU and under CARF, reporting occurs once a year. Thus, in the U.S., taxpayers receiving \$10,000 or more in a transaction must report within 15 days of receiving that amount.

Russia has not currently expressed its intention to join the OECD CARF. At the same time, there are still a number of domestic legal problems related to the regulation of the crypto-economy, which makes international exchange impossible: there is no regulation of crypto exchanges and crypto changers, forming the basis of CARF reporting, mining activities, and crypto wallet activities.

Once domestic legal issues are resolved and Russia joins CARF, Russia will need to establish bilateral relationships to implement automatic exchange.

The most promising countries are the US, UK, Japan, Canada, Singapore, South Korea and Luxembourg, which have already announced they are joining CARF.

It is necessary to develop the exchange of information with countries that have not yet joined CARF, but where major cryptocurrency exchanges are located: UAE, Hong Kong, Seychelles, British Virgin Islands. These countries are already in the MCAA CRS and conduct financial exchanges with the Russian Federation for tax purposes.