HMRC

By email: eoi.policy@hmrc.gov.uk

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Cryptoasset Reporting Framework, Common Reporting Standard amendments, and seeking views on extension to domestic reporting

The BVCA is the industry body and public policy advocate for the private equity and venture capital (private capital) industry in the UK. With a membership of over 600 firms, we represent the vast majority of all UK-based private capital firms, as well as their professional advisers and investors. In 2022, £27.5bn was invested by private capital into UK businesses in sectors across the UK economy, ranging from consumer products to emerging technology. There are over 12,000 UK companies backed by private capital which currently employ over 2.2 million people in the UK. Over 55% of the businesses backed are outside of London and 90% of the businesses receiving investment are small and medium-sized enterprises (SMEs).

Thank you for the opportunity to respond to this consultation. We have confined our responses to the questions that are of most direct relevance to our members, which are principally those relating to the proposed extension of the CRS to domestic reporting.

Question 13: Do you agree with government's proposal to introduce a mandatory registration requirement?

Please see the answer we have provided below in response to Question 19.

Many of the points we have made in relation to Question 19 also apply to the new CRS mandatory registration requirement, for essentially the same reasons: that HMRC already has the information it needs about fund partnerships in the form of partnership tax returns, and that a new registration requirement would impose an unnecessary additional compliance burden.

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?

Under current rules, private capital funds structured as limited partnerships are within the scope of the CRS because they are "investment entities" and so are within the definition of a financial institution. For the purposes of the CRS, the "account holders" are the partners in the fund. It is also possible for other entities in private capital fund structures to be classified as financial institutions.

Viewed through the lens of the CRS, a UK-based partnership is an unusual category of financial institution because of the amount of information HMRC already receives in the form of the partnership tax return. The information in the partnership return is much more useful to HMRC than the information that would be obtained through the CRS: the figures in the partnership return include information on the type of profit distributed and how this is allocated between partners, while the amounts that would be reported for CRS purposes would be based on accounts valuations reflecting, for instance, net asset values.

CRS reports are also provided on a calendar year, rather than tax year, basis, which further reduces their utility for HMRC. In addition, CRS reports would exclude investors who were non-reportable, and so would be less comprehensive than current partnership returns.

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The implications of this can be illustrated by reference to the potential benefits identified by HMRC, in the consultation document, of extending the CRS to domestic reporting, as follows.

- **Streamlining third party reporting requirements** – unlike banks and building societies, fund partnerships do not currently complete BBSI reports, so replacing BBSI with CRS reporting is not a relevant consideration here.
- **More efficient use of HMRC, data-holder and taxpayer time** – for fund partnerships, extending CRS to domestic reporting would not replace any existing reporting requirements because the requirement to complete a partnership tax return would still apply.
- **Improved picture of risk** – the consultation states that "the additional information HMRC could obtain, for example account balances, would improve its ability to detect and tackle non-compliance." However, for the reasons explained above, the information available to HMRC from fund partnerships through CRS would be less useful than the information it already receives through partnership tax returns.

In light of this, our recommendation would be that any extension to the scope of the CRS should contain an optional exclusion for partnerships which submit UK tax returns. Otherwise the new rules will impose additional compliance costs, with no benefit to HMRC. Where a fund's investors are currently wholly domestic, or a combination of domestic and non-reportable, this would require the fund to file a CRS return for the first time. We have members who would be required to provide information on hundreds of UK resident partners under the proposed extended rules, so the additional costs would be substantial.

How this exclusion should be drafted would of course be a matter for the Parliamentary draftsperson, but in case this is of assistance, we envisage that the exclusion could operate by reference to a separate instrument, such as an Annex. So, for instance, the primary rule could contain an optional exclusion for a UK financial institution which completes other substantively similar domestic reporting as defined in Annex X. This Annex could then include UK partnership tax returns and any other exemptions HMRC may deem reasonable.

We would suggest that this exclusion should be optional, as in some cases it may be easier for funds to include UK tax resident account holders in their CRS reports rather than exclude them, for instance if they have only a small number of partners. We would not anticipate that this optionality would create any problems for HMRC.

If the Government decides to proceed with the measure without this exclusion, a further consideration is that private capital funds may face significant practical difficulties contacting existing investors (ie the limited partners in the fund) to obtain information which is needed to comply with the extended CRS (such as date and place of birth), but which is not needed to complete a tax return.

This is because private capital funds tend to obtain all the information they need from investors upfront, at the time when initial investments are being made. There may be no regular dialogue between the fund and the investors (as there might be in a more typical retail relationship) which would enable the fund to obtain further information at a later time in a cost effective manner: contacting existing investors to request information would be burdensome, and there would be little the fund could do if investors failed to respond.

To address this issue, we would suggest that the Government considers a lighter touch in terms of the information that must be reported in respect of UK residents who already hold accounts with the relevant institution at the time the extended rules are brought in. A similar measure was implemented at the time of the original introduction of the CRS, whereby the reporting requirements were less onerous for holders of pre-existing accounts, being effectively limited to information already held by the financial institution in question.

Question 20: If the UK were to decide to introduce domestic CARF and CRS reporting, what are your views on implementing to the same timeline as the international CARF/CRS2 package (information collected in 2026, exchange in 2027)?

If this measure were to be introduced, our members' preference would be for it to take effect at the same time as the international reforms, as this is perceived to be more efficient than a protracted period of successive changes.

Thank you again for the opportunity to contribute to this consultation. Please do not hesitate to get in touch if you have any questions or if you would like to discuss any of these issues in more detail (please contact Rachel Gauke at rgauke@bvca.co.uk in the first instance).

Yours faithfully

Maria Carradice

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Chair, BVCA Taxation Committee