Australian Banking Association

Treasury Laws Amendment Bill 2026: Tax information reporting

Treasury

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Australian Banking Association

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Key Recommendations

The ABA recommends that the Government:

1. Make the amendments to the Exposure Draft and EM set out in Appendix A.

2. Issue detailed, codifiable ATO guidance and the reporting schema before mandatory implementation.

3. Publish the expected timelines for enactment, the CARF regulations and Ministerial rules, the DCRR legislative instrument and ATO guidance, and allow at least 12 months between the final implementing instruments and guidance and the commencement of mandatory obligations.

4. If 1 January 2027 is retained, legislate a transition to 1 January 2029 under which Reporting Financial Institutions (RFIs) may continue to apply the existing CRS until they transition, with the date an RFI adopts the amended CRS treated as its effective date, and a safe harbour from the expanded due diligence penalty for an RFI acting reasonably under an implementation plan provided to the ATO.

5. If a transitional period is not provided, defer the amended CRS effective date, the application of the other CRS amendments and the application of the expanded due diligence penalty to the 2029 calendar year.

6. Align CRS and CARF implementation with the AML/CTF reforms.

7. Implement the CARF consistently with the OECD model rules, with minor amendments only where they align with existing compliance regimes.

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About the ABA

The Australian Banking Association advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

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ABA submission to Treasury

The ABA welcomes the opportunity to comment on the exposure draft Treasury Laws Amendment Bill 2026: Tax information reporting (Exposure Draft) and explanatory materials (EM). The ABA supports improving tax transparency and maintaining Australia's alignment with international reporting standards. This submission builds on the ABA's March 2026 letter.[1]

The Exposure Draft does not address the implementation concerns the ABA has previously raised. It sets 1 January 2027 as the effective date of the amended Common Reporting Standard (CRS), applies the other CRS amendments to the 2027 calendar year and extends due diligence penalties to requirements falling due from the later of that date and commencement, while the detailed Crypto-Asset Reporting Framework (CARF) and Domestic Crypto Reporting Regime (DCRR) requirements remain subject to regulations, Ministerial rules and legislative instruments that have not been released. Banks advise that they need at least 12 months from final law and guidance to implement the base CRS amendments to a minimum standard, because every onboarding and account opening channel and system, the system interfaces and the end-to-end solution architecture must change. That work cannot be effectively completed in the few months remaining before the proposed 1 January 2027 effective date.

The specific amendments sought are set out in Appendix A. If the 1 January 2027 date is retained, the ABA also seeks a formal transitional compliance period and, failing that, reiterates its request that the amended CRS be deferred to the 2029 calendar year.

Implementation timing and transitional relief

Amended section 288-85 extends the existing due diligence penalty beyond failures to obtain a self-certification to failures to validate it, including confirming its reasonableness, or to respond to a relevant change in circumstances. Under subitem 17(2), this applies to requirements falling due on or after the later of 1 January 2027 and commencement, including for accounts opened earlier. Validation depends on OECD tax identification number (TIN) information that is incomplete or inconsistent, particularly for historical and non-resident TINs. Those inconsistencies could produce differing interpretations between institutions and will now also carry penalty risk. Guidance should specify the steps an RFI can reasonably take in reliance on published jurisdictional information, and confirm that an uncertain TIN is not, of itself, a penalty event.

A compressed implementation period will force institutions into tactical and manual workarounds, retrospective data correction, repeat customer outreach and rework, while attracting additional operational and control risk. That is inconsistent with the objective of accurate, complete and consistent reporting and diverts resources from building a sound solution, even though penalties will still apply. Compressed timeframes reduce, rather than improve, the quality and consistency of the ultimate implementation and standard of compliance.

If the Government retains the 1 January 2027 effective date, the ABA requests a formal transitional compliance period, as proposed in its March 2026 letter. The AML/CTF reforms provide a direct precedent. Under the AML/CTF transitional rules, existing reporting entities may continue their current customer identification procedures for initial customer due diligence until 31 March 2029 or move to the reformed obligations at any point in that period.

The ABA proposes the same model for the CRS. RFIs should be able to elect to continue applying the existing CRS until 31 December 2028, or to adopt the amended CRS before 1 January 2029 when operationally ready, supported by an implementation plan provided to the ATO showing how full compliance will be achieved by 1 January 2029. The legislation should expressly preserve the former CRS requirements during that period and treat the date on which an RFI adopts the amended CRS as its

[1] ABA, *Crypto Asset Reporting Framework and amendments to the Common Reporting Standard – Extension Request*, letter to Treasury, 20 March 2026.

effective date, so that accounts opened before then are Preexisting Accounts. This requires amendments to the definition of the CRS in section 396-110, proposed subsection 396-115(6) and subitems 17(1) and (4). Banks consider transitional relief of at least 24 months to be the minimum required. This would give regulatory certainty and recognise the practical implementation challenges, while giving Treasury and the ATO comfort that institutions are progressing towards full compliance.

During the transitional period, the expanded section 288-85 penalty should be subject to an express statutory or binding-rule safe harbour where an institution acts reasonably and consistently with its implementation plan. Section 288-85 penalties are already subject to the Commissioner's discretion to remit under section 298-20, but discretionary remission alone would not provide equivalent certainty. The ATO should adopt an education and assisted-compliance approach, consistent with the initial education period recommended in the ABA's February 2025 submission. Institutions should be able to phase implementation by customer, product or system population, with reasonable temporary controls and manual processes recognised, and no retrospective application of the amended CRS should be required solely because an institution adopted the revised rules after 1 January 2027 in accordance with the transition. Implementation issues should be resolved through continuing consultation with Treasury and the ATO. The issue is therefore not simply elapsed implementation time. Institutions require sufficient regulatory certainty to translate the final requirements through end-to-end impact assessment, business and functional design, customer and operational process changes, technology build, data and reporting changes, control implementation, testing and production readiness.

Subordinate instruments and guidance

The Exposure Draft does not, by itself, provide the detail needed for implementation. Under proposed section 396-160, the Ministerial rules may determine reporting entities, reportable entities, transactions, information, reporting periods, due diligence obligations and penalties. The EM contemplates CARF information being collected for the 2027 calendar year. DCRR reporting defaults to financial years starting on or after 1 July 2027, and the quarterly reporting the EM contemplates depends on a Commissioner's legislative instrument that has not been made. While institutions are progressing mobilisation, impact assessment and solution design on the basis of available information and reasonable planning assumptions, implementation cannot responsibly be finalised, comprehensively built and tested until the legislative framework, subordinate instruments, detailed ATO guidance and reporting specifications are sufficiently settled. The ABA asks Treasury to indicate the expected timelines for enactment, the regulations, the Ministerial rules, the DCRR reporting instrument, approved form and reporting schema, and to allow at least 12 months between their finalisation and the commencement of mandatory obligations.

Without clear minimum standards for validity and reasonableness, institutions will apply different thresholds and report different outcomes, which matters more now that self-certification status is itself reportable. The revised OECD CRS also contains limited transitional relief for Preexisting Accounts, for an initial period, for certain new information (including Controlling Person and Equity Interest Holder roles) that is not held in electronically searchable form. The ATO should confirm the scope of that relief and the applicable Australian reporting periods, and reflect it in the schema validation rules. The specific matters requiring guidance are set out in Appendix A.

More broadly, expanded classifications should not create unnecessary manual verification requirements where an RFI has undertaken reasonable checks and relied on information provided by an account holder. Divergence between FATCA and CRS definitions and classifications should be avoided wherever practicable, as it makes reasonableness checks more manual and more likely to fail. The ABA also asks Treasury to confirm whether use of a Government Verification Service will be optional. It should not become mandatory without consultation and an assessment of implementation costs.

Alignment with the AML/CTF reforms

CRS and CARF compliance depends in part on customer information collected and maintained through AML/KYC processes, and the amended CRS deepens that dependency. RFIs may rely on AML/KYC Procedures to identify Controlling Persons where those procedures are consistent with the 2012 FATF Recommendations and must otherwise apply the undefined 'substantially similar' procedures (EM paragraph 1.64). Despite the uplift in Australia's AML/CTF laws from 31 March 2026, Australia's most recent FATF technical compliance ratings for Recommendations 10 and 25 were Largely Compliant and Non-Compliant respectively,[2] so RFIs need guidance on how the test is to be applied. The concepts also differ. AML/CTF beneficial ownership turns on ultimate effective control, while CRS Controlling Persons are defined by role, particularly for trusts, where all roles are required. Collection and reporting outcomes differ as a result. Settlors have always been Controlling Persons of trusts under the CRS, but the amended CRS links reliance on AML/KYC Procedures to consistency with the 2012 FATF Recommendations. Australian procedures before 31 March 2026 did not require settlor identification in all cases, and banks using their previous customer identification procedures during the AML/CTF transition may still not collect it. Appendix A sets out the changes requested.

These dependencies are why the ABA has consistently sought alignment with the AML/CTF reforms. Unaligned timelines force institutions to build interim CRS and CARF solutions that must later be redesigned around the reformed AML/CTF framework, and to ask customers repeatedly for related information, which lowers completion rates and data quality.

CARF and the DCRR

The ABA welcomes the separate DCRR, which reflects its February 2025 view that CARF due diligence should not apply to Australian residents and that domestic reporting should be aligned with existing Australian mechanisms. The CARF should be implemented consistently with the OECD model rules, with minor amendments only where they align with existing compliance regimes, to minimise the compliance burden. Because the CARF and the DCRR will operate alongside one another, the ATO should clarify overlapping reporting obligations, the treatment of residency changes, common data fields and reconciliation between returns. The ABA would welcome further engagement with Treasury and the ATO as the rules, instruments and guidance are developed.

[2] FATF, *Anti-money laundering and counter-terrorist financing measures – Australia, 4th Follow-Up Report & Technical Compliance Re-Rating*, March 2024.

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Appendix A: Requested amendments to the Exposure Draft and EM

#	Provision	Issue	Requested change
1	**Item 15, s396-115(6); subitems 17(1) and (4); EM 1.49, 1.81–1.83**	The amended CRS effective date is 1 January 2027, the other CRS amendments apply to the 2027 calendar year and the expanded penalty applies from the transition time in subitem 17(1). Banks need at least 12 months from final law and guidance to implement the base amendments.	If transitional relief (item 2) is not provided, amend proposed subsection 396-115(6) and subitems 17(1) and (4) so that the amended CRS, the other CRS amendments and the expanded penalty first apply from the 2029 calendar year or, at a minimum, 12 months after final law and guidance.
2	**s396-110; item 15, s396-115(6); subitems 17(1) and (4); EM 1.44–1.45, 1.81–1.83**	The amendments apply to the 2027 calendar year with no transitional arrangements. If Royal Assent occurs after 1 January 2027, subitem 17(4) would also apply them to a period before the Schedule commences.	Provide a statutory transition to 1 January 2029 allowing RFIs to continue applying the existing CRS until 31 December 2028, or to adopt the amended CRS earlier, under an implementation plan provided to the ATO. For an RFI that makes the election, treat the date it adopts the amended CRS as its effective date, so that accounts opened before then are Preexisting Accounts. Preserve the former rules, including the former meaning of the CRS in section 396-110, during that period and confirm that compliant use of the election does not trigger retrospective application of the amendments. Independently of the election, align subitem 17(4) with subitem 17(1) so that no amendment applies to a period before the Schedule commences.
3	**Items 7–9 and 16, s288-85; subitem 17(2); EM 1.73–1.78**	The expanded penalty for failing to obtain or validate a self-certification, or to act on a change in circumstances, applies to requirements falling due on or after the later of 1 January 2027 and commencement, including for accounts opened earlier.	Provide an express legislative or binding-rule safe harbour from the expanded penalty during the transition where an RFI acts reasonably and consistently with its ATO implementation plan. Discretionary remission under section 298-20 alone is not sufficient.
4	**EM 1.73 (validation)**	OECD TIN information is incomplete or inconsistent for historical and non-resident TINs. Divergent interpretations between institutions now carry penalty risk under amended section 288-85.	Work with the OECD to improve TIN specifications and publish a reliable jurisdiction-by-jurisdiction table that RFIs can rely on. Clarify what checks constitute reasonable reliance on that information, and confirm that an uncertain TIN is not, of itself, a penalty event.
5	**EM 1.62–1.63, 1.77**	The treatment of discrepancies affecting the validity of a self-certification is unclear.	Clarify whether an obsolete address or returned mail invalidates the whole self-certification or requires further enquiries, and how the 90-day cure period applies where it extends beyond year end or the reporting deadline, or where the discrepancy remains unresolved despite reasonable attempts.
6	**EM 1.61 (reporting indicators)**	The new indicators are binary and require consistent interpretation and business rules across industry.	Provide explicit guidance on the minimum standard and data extraction timing for each element; new self-certifications from Preexisting Account holders; New Accounts previously treated as Preexisting that have closed; joint account status changes; and whether 'valid self-certification held' means valid only, or valid and reasonable.
7	**EM 1.61 (Equity Interest Holder role)**	Role reporting is complex when read with the updated schema, and overlaps with the treatment of Controlling Persons of Managed Investment Entities in Non-Participating Jurisdictions.	Publish practical guidance on role codes, the treatment of Managed Investment Entities in Non-Participating Jurisdictions and record-level schema validations. Confirm the scope of the OECD transitional relief for Preexisting Accounts where new information, including role information, is not held in electronically searchable form, and the Australian reporting periods to which it applies.

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#	Provision	Issue	Requested change
8	**EM 1.64 (AML/KYC reliance)**	'Substantially similar' is not defined. Despite the March 2026 reforms, Australia's most recent FATF ratings (March 2024) were Largely Compliant for Recommendation 10 and Non-Compliant for Recommendation 25.	Explain how RFIs should assess whether their AML/KYC procedures are consistent with the 2012 FATF Recommendations or substantially similar for CRS purposes, including when relying on overseas procedures and what evidence should be retained. If that is not possible, define the term in domestic law.
9	**EM 1.64 (Controlling Persons of trusts)**	Settlors have always been Controlling Persons of trusts under the CRS; the change is that reliance on AML/KYC Procedures now depends on consistency with the 2012 FATF Recommendations, and where they are not consistent, the RFI must apply substantially similar procedures. Australian procedures before 31 March 2026 did not require settlor identification in all cases, and banks using their previous customer identification procedures during the AML/CTF transition to 30 March 2029 may still not collect it. Trustees of older trusts may not hold settlor and/or protector details, and banks cannot impose retrospective contractual requirements. AML/CTF beneficial ownership turns on ultimate effective control, while CRS requires all trust roles, irrespective of control.	Through an express domestic modification of the CRS as applied under section 396-110, limit Controlling Persons of trusts to those named in the trust deed and require settlor details only for trusts established after the amended CRS takes effect, in line with AML/KYC procedures. Confirm that RFIs can continue to rely on AML/KYC information collected under Australian procedures to identify trust Controlling Persons, consistent with section 4.11 of the ATO's automatic exchange of information guidance. Confirm that the amended CRS preserves the existing treatment of Preexisting Entity Accounts where historical settlor details are unavailable, and explain how RFIs should manage ageing trust deeds through customer notification under the change in circumstances provisions.
10	**EM 1.65 (tie-breaker rules)**	All relevant jurisdictions of tax residence must be considered in due diligence, which is distinct from determining Reportable Jurisdictions.	Confirm that only foreign jurisdictions of residence are reportable. Clarify the distinction between collecting all tax residencies, determining Reportable Jurisdictions and populating the Australian CRS reporting schema, including the interaction with treaty tie-breaker rules.
11	**EM 1.66 (low-value SEMPs)**	Determining eligibility requires daily balance monitoring to calculate a rolling 90-day average, adding cost and time to an already tight implementation.	Confirm that RFIs may elect not to rely on the low-value Specified Electronic Money Product Excluded Account category, so they need not build eligibility-monitoring systems. Provide guidance on aggregation and calculation where the exclusion is used.
12	**EM 1.51 (capital contribution accounts)**	It is unclear how the requirement that the account be used exclusively for capital 'as prescribed by law' applies in Australia. Requirements of this kind are applied manually and are difficult to monitor.	Explain how the exclusion applies under Australian law, including what evidence establishes eligibility, how exclusivity is assessed and how an account is treated if it ceases to qualify. Include a provision where RFIs may elect not to rely on the Capital Contribution Excluded Account category.
13	**EM 1.68 (listed companies)**	'Disclosure requirements' is not defined in the CRS. The concept derives from the FATF Interpretive Note to Recommendation 10.	Provide examples of qualifying listed-company disclosure regimes (such as ASX listing) and the documentary evidence RFIs may rely on, rather than a new domestic definition that departs from the OECD approach. Include a provision where RFIs may elect not to rely on the exclusion from determining CPs in the case where publicly listed companies which exercise control over a passive NFE Account Holder are subject to disclosure requirements.

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#	Provision	Issue	Requested change
14	**EM 1.56 (CBDCs)**	Relevant CBDC products are not yet offered in Australia, so institutions need to understand the scope and practical trigger for the new classification.	Confirm how CBDCs are to be classified under Australian CRS rules and when obligations arise for institutions that begin offering relevant products.
15	**Item 4, s396-160; EM 1.19–1.20, 1.27**	CARF obligations depend on regulations and rules that have not been released, yet information is to be collected for the 2027 calendar year.	Publish the regulations and Ministerial rules early enough for implementation. Assess whether transitional due diligence for existing entity relationships can align with the CRS without departing from the OECD CARF requirements, and explain how the jurisdictional nexus of reportable transactions is to be established.
16	**Items 5–6, s396-55; EM 1.35–1.37, 1.80**	DCRR reporting defaults to financial years starting on or after 1 July 2027. Quarterly reporting depends on a Commissioner's legislative instrument that has not been made.	Publish the reporting-period instrument, approved form, schema, reporting dates and validation specifications with sufficient lead time. Clarify overlapping CARF and DCRR reporting, residency changes, common data fields and reconciliation, to minimise duplicate data collection. Correct EM 1.80, which refers to subparagraph 396-55(1)(a)(ii) rather than 396-55(a)(ii) as in item 6.
17	**Item 4, s396-160(2)(g)–(3); EM 1.20–1.21**	The Ministerial rules may impose administrative penalties and prescribe their amount or calculation. The draft protects against duplicate penalties under another taxation law, but leaves penalty settings to subordinate legislation.	Consider limits on proposed penalty amounts, calculation methodology, maximum exposure and remission criteria before making the rules, and explain how subsection 396-160(3) will operate.
18	**New provision; EM 1.58 (definitional precedence)**	Where FATCA and CRS definitions differ, RFIs must manage different classifications for the same entity, adding complexity. The exclusion from the Non-Reporting Financial Institution definition for a Central Bank holding CBDCs on behalf of Non-Financial Entities or individuals (EM 1.58) is one example.	Include a provision in domestic law under which, where FATCA and CRS definitions differ, the CRS definition takes precedence over the FATCA definition, provided this does not contravene the Australia–United States FATCA Intergovernmental Agreement.