

Dominica

Overall findings

Overall determination on the legal framework: Not In Place

Dominica's legal framework implementing the AEOI Standard is not in place in accordance with the requirements of the AEOI Terms of Reference. While Dominica's international legal framework to exchange the information with all of Dominica's Interested Appropriate Partners (CR2) is consistent with the requirements, Dominica's domestic legislative framework requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures (CR1) has significant deficiencies in areas that are fundamental to the proper functioning of the AEOI Standard. More specifically, deficiencies have been identified in relation to Dominica's enforcement framework.

The methodology used for the peer reviews and that therefore underpins this report is outlined in Chapter 2.

Conclusions on the legal framework

General context

Dominica committed to exchange information by 2018, although due to delays in implementing the legal framework, Dominica does not expect to commence exchanges until the end of 2020.

In order to provide for Reporting Financial Institutions to collect and report the information to be exchanged, Dominica:

- enacted the Automatic Exchange of Financial Account Information (Common Reporting Standard) Act, 2019; and
- made reference to the Money Laundering (Prevention) Statutory Rules and Orders No. 4 of 2013 for the purposes of the identification of Controlling Persons under the AEOI Standard.

Under this framework Reporting Financial Institutions were required to commence the due diligence procedures in relation to New Accounts from 1 January 2019. With respect to Preexisting Accounts, Reporting Financial Institutions were required to complete the due diligence procedures on High Value Individual Accounts by 31 December 2019 and on Lower Value Individual Accounts and Entity Accounts by 31 December 2020.

With respect to the exchange of information under the AEOI Standard, Dominica is a Party to the Convention on Mutual Administrative Assistance in Tax Matters and activated the associated CRS Multilateral Competent Authority Agreement in time for exchanges in 2020.

Detailed findings

The detailed findings for Dominica are below, organised per Core Requirement (CR) and sub-requirement (SR), as extracted from the AEOI Terms of Reference (www.oecd.org/tax/transparency/documents/aeoi-terms-of-reference.pdf).

CR1 Domestic legal framework: Jurisdictions should have a domestic legislative framework in place that requires all Reporting Financial Institutions to conduct the due diligence and reporting procedures in the CRS, and that provides for the effective implementation of the CRS as set out therein.

Determination: Not In Place

Dominica's domestic legislative framework is not in place as required as it does not contain key aspects of the CRS and its Commentary. Significant deficiencies have been identified relating to the framework to enforce the requirements (SR 1.4). More specifically, Dominica's legislative framework does not require records to be kept by Financial Institutions in accordance with the AEOI Standard and it does not apply sanctions for non-compliance in all cases including where self-certifications have not been obtained for New Accounts.

SR 1.1 Jurisdictions should define the scope of Reporting Financial Institutions consistently with the CRS.

Dominica has defined the scope of Reporting Financial Institutions in its domestic legislative framework in accordance with the CRS and its Commentary.

Recommendations:

No recommendations made.

SR 1.2 Jurisdictions should define the scope of Financial Accounts and Reportable Accounts consistently with the CRS and incorporate the due diligence procedures to identify them.

Dominica has defined the scope of the Financial Accounts that are required to be reported in its domestic legislative framework and incorporated the due diligence procedures that must be applied to identify them in accordance with the CRS and its Commentary.

Recommendations:

No recommendations made.

SR 1.3 Jurisdictions should incorporate the reporting requirements contained in Section I of the CRS into their domestic legislative framework.

Dominica has incorporated the reporting requirements in its domestic legislative framework in accordance with the CRS and its Commentary.

Recommendations:

No recommendations made.

SR 1.4 Jurisdictions should have a legislative framework in place that allows for the enforcement of the requirements of the CRS in practice.

Dominica does not have a legislative framework in place to enforce the requirements in a manner that is consistent with the CRS and its Commentary as significant deficiencies have been identified. More specifically, Dominica's legislative framework:

- does not include rules requiring Reporting Financial Institutions to keep records in accordance with the requirements;
- does not impose sanctions on Reporting Financial Institutions for failing to apply the due diligence procedures (they are restricted to failing to report the relevant information); and
- allows self-certifications to be obtained after the opening of the account under the permitted circumstances but does not specify the consequences if a valid self-certification is not obtained thereafter as required.

These are key elements of the required enforcement framework and are therefore material to the proper functioning of the AEOI Standard.

Recommendations:

Dominica should amend its domestic legislative framework to require all Reporting Financial Institutions to keep all of the records required to be maintained, rather than relying only on the requirements contained in the AML framework.

Dominica should amend its domestic legislative framework to require Reporting Financial Institutions to maintain records for at least five years from the deadline to report the information, in accordance with the AEOI Standard.

Dominica should amend its domestic legislative framework to include sanctions for failure to comply with the due diligence and reporting procedures in accordance with the AEOI Standard.

Dominica should amend its domestic legislative framework to include strong measures to ensure that valid self-certifications are always obtained for New Accounts in accordance with the requirements.

CR2 International legal framework: Jurisdictions should have exchange relationships in effect with all Interested Appropriate Partners as committed to and that provide for the exchange of information in accordance with the Model CAA.

Determination: In Place

Dominica's international legal framework to exchange the information is in place, is consistent with the Model CAA and its Commentary and provides for exchange with all of Dominica's Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from Dominica and that meet the required standard in relation to confidentiality and data safeguards). (SRs 2.1 – 2.3)

SR 2.1 Jurisdictions should have exchange agreements in effect with all Interested Appropriate Partners that permit the automatic exchange of CRS information.

Dominica has exchange agreements that permit the automatic exchange of CRS information in effect with all its Interested Appropriate Partners.

Recommendations:

No recommendations made.

SR 2.2 Such an exchange agreement should be put in place without undue delay, following the receipt of an expression of interest from an Interested Appropriate Partner.

Dominica put in place its exchange agreements without undue delay.

Recommendations:

No recommendations made.

SR 2.3 Jurisdictions should ensure that the exchange agreements in effect provide for the exchange of information in accordance with the requirements of the Model CAA.

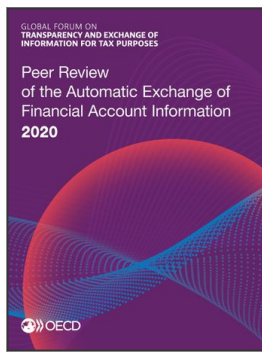
Dominica's exchange agreements provide for the exchange of information in accordance with the requirements of the Model CAA.

Recommendations:

No recommendations made.

Comments by the assessed jurisdiction

There is a plan in place to make potential changes to the Domestic Legislative framework in order to provide for the inclusion of rules requiring Reporting Financial Institutions to keep records in accordance with the requirements. Also to impose sanctions on these institutions who fail to apply the due diligence procedures and finally to specify the consequences if a valid self-certification is not obtained as required after the opening of an account.



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