

Hungary

Overall findings

Overall determination on the legal framework: In Place But Needs Improvement

Hungary's legal framework implementing the AEOI Standard is in place but needs improvement in order to be fully consistent with the requirements of the AEOI Terms of Reference. While Hungary's international legal framework to exchange the information with all of Hungary's Interested Appropriate Partners (CR2) is consistent with the requirements, its domestic legislative framework requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures has deficiencies significant to the proper functioning of elements of the AEOI Standard. More specifically, deficiencies have been identified in relation to the scope of Financial Accounts and the due diligence procedures to identify them and the 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

Hungary commenced exchanges under the AEOI Standard in 2017.

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

- enacted Act CXC of 2015 on the publication of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and Annexes 1 and 2, and Section V/B of the Act XXXVII of 2013 on the international administrative cooperation in tax matters;
- issued further guidance, which is not legally binding; and
- made reference to Act LIII of 2017 Preventing and Combating Money Laundering and Terrorist Financing implementing the FATF Recommendations 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 2016. With respect to Preexisting Accounts, Reporting Financial Institutions were required to complete the due diligence procedures on High Value Individual Accounts by 31 December 2016 and on Lower Value Individual Accounts and Entity Accounts by 31 December 2017.

With respect to the exchange of information under the AEOI Standard, Hungary:

- 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 2017;
- has in place European Directive 2011/16/EU on Administrative Cooperation in the Field of Taxation as amended by Directive 2014/107/EU; and
- has in place European Union agreements with five European third countries.¹

Detailed findings

The detailed findings for Hungary 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: In Place But Needs Improvement
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Hungary's domestic legislative framework is in place and contains many of the key aspects of the CRS and its Commentary requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures, but it needs improvement in several areas relating to the scope of Financial Accounts required to be reported and the due diligence procedures to identify them (SR 1.2) and the framework to enforce the requirements (SR 1.4).

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

Hungary 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.

Hungary 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 a manner that is largely consistent with the CRS and its Commentary. However, deficiencies have been identified. More specifically, Hungary's domestic legislative framework:

- provides for four jurisdiction-specific Excluded Accounts that are not in accordance with the requirements.
- does not explicitly require Reporting Financial Institutions to use a "current" residence address for the purposes of the residence address test; and
- does not provide for the full required procedures when there is a change of circumstances with respect to New Entity Accounts.

The deficiencies relate to key elements of the AEOI Standard and are therefore material to its proper functioning.

Recommendations:

Hungary should amend its domestic legislative framework to remove four entries from its jurisdiction-specific list of Excluded Accounts as they do not meet the requirements. They are: i) Stability Saving Accounts; ii) Pension savings accounts; iii) Deposit accounts held by public notaries and advocates; and iv) Treasury Start Security Accounts (Start Accounts).

Hungary should amend its domestic legislative framework to require Reporting Financial Institutions to use only a "current" residence address when applying the residence address test.

Hungary should amend its domestic legislative framework to require Reporting Financial Institutions to apply all of the specific procedures if there is a change of circumstance in relation to a New Entity Account.

Hungary should amend its domestic legislative framework to require Reporting Financial Institution to apply all of the specified procedures if there is a change of circumstance in relation to a Preexisting Entity Account.

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

Hungary 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.

Hungary has a legislative framework in place to enforce the requirements in a manner that is largely consistent with the CRS and its Commentary. However, a deficiency has been identified. More specifically, Hungary's legislative framework does not require Reporting Financial Institutions to keep records for the duration of time required. This is a key element of the required enforcement framework and is therefore material to the proper functioning of the AEOI Standard.

Recommendations:

Hungary 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.

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

Hungary'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 Hungary's Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from Hungary 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.

Hungary 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.

Hungary 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.

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

Recommendations:

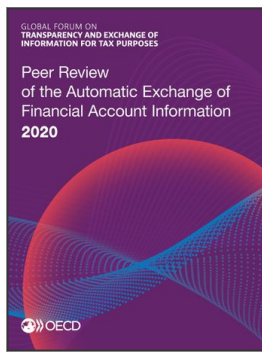
No recommendations made.

Comments by the assessed jurisdiction

Hungary expresses its thanks and gratitude to the assessment team and to the Secretariat for the preparation of this report, for their availability and for the constructive collaboration throughout this review. Hungary takes due note of the findings of the report and the recommendations made and will examine them carefully, with the aim of further improving its legal framework in the area of automatic exchange of information.

Note

¹ Andorra, Liechtenstein, Monaco, San Marino and Switzerland.



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