

Saint Lucia

Overall findings

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

Saint Lucia'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 Saint Lucia's international legal framework to exchange the information with all of Saint Lucia'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 (CR1) has deficiencies significant to the proper functioning of elements of the AEOI Standard. Most significantly, Saint Lucia's legislative framework provides for a category of jurisdiction-specific Excluded Account that is not in accordance with the requirements and does not impose sanctions for the provision of a false self-certification.

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

Saint Lucia commenced exchanges under the AEOI Standard in 2018.

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

- enacted the Automatic Exchange of Financial Account Information Act No. 22 of 2016, which was subsequently amended by the Automatic Exchange of Financial Account Information (Amendment) Act No. 10 of 2017, the Automatic Exchange of Financial Account Information (Amendment Schedule 2) Order S.I. 105 of 2017 and the Automatic Exchange of Financial Account Information (Amendment) Act No. 7 of 2018;
- introduced the Automatic Exchange of Financial Account Information (Designation of Excluded Accounts) Order No. 106 of 2017 and the Automatic Exchange of Financial Account Information (Designation of Non-Reporting Financial Institution) Order No. 107 of 2017, which were subsequently amended by the Automatic Exchange of Financial Account Information (Designation of Excluded Accounts) Order No. 119 of 2017, the Automatic Exchange of Financial Account Information (Designation of Non-Reporting Financial Institution) Order No. 7 of 2019 and the Automatic Exchange of Financial Account Information (Designation of Excluded Accounts) Order No. 8 of 2019; and
- issued further guidance, which is not legally binding.

Under this framework Reporting Financial Institutions were required to commence the due diligence procedures in relation to New Accounts from 1 January 2017. With respect to Preexisting Accounts, Reporting Financial Institutions were required to complete the due diligence procedures on High Value Individual Accounts by 31 December 2017 and on Lower Value Individual Accounts and Entity Accounts by 31 December 2018.

Following the initial Global Forum peer review, Saint Lucia made various amendments to its legislative framework to address issues identified, the last of which was effective from 11 February 2019.

With respect to the exchange of information under the AEOI Standard, Saint Lucia 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 2018.

Detailed findings

The detailed findings for Saint Lucia 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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Saint Lucia's domestic legislative framework is in place and contains most 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 relation to the scope of Financial Accounts required to be reported (SR 1.2) and the enforcement framework (SR 1.4). Most significantly, Saint Lucia provides for a category of jurisdiction-specific Excluded Account that is not in accordance with the requirements and does not impose sanctions on Accounts Holders and Controlling Persons for providing a false self-certification.

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

Saint Lucia 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.

Saint Lucia 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 largely in accordance with the CRS and its Commentary. However, a deficiency has been identified. More specifically, Saint Lucia has provided for a jurisdiction-specific Excluded Account that is not in accordance with the requirements. The scope of Financial Accounts, including the provision of Excluded Accounts, is material to the proper functioning of the AEOI Standard.

Recommendations:

Saint Lucia should amend its domestic legislative framework to remove the Pension Fund Accounts from its jurisdiction-specific list of Excluded Accounts as they do not meet the requirements in the AEOI Standard, such as full reporting to the authorities with respect to the Account Holders and penalties on early withdrawals.

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

Saint Lucia 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.

Saint Lucia has a legislative framework in place to enforce the requirements in a manner that is largely consistent with the CRS and its Commentary. However, deficiencies have been identified. Most significantly, Saint Lucia's legislative framework does not impose sanctions on Account Holders and Controlling Persons for the provision of a false self-certification. This is a key element of the required enforcement framework and is therefore material to the proper functioning of the AEOI Standard.

Recommendations:

Saint Lucia should amend its domestic legislative framework to include sanctions on Account Holders and Controlling Persons for the provision of a false self-certification.

Saint Lucia should amend its domestic legislative framework to require Reporting Financial Institutions to maintain records of self-certifications for at least five years from the deadline to report the information, rather than six years from the date when an account is closed.

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

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

Saint Lucia 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.

Saint Lucia 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.

Saint Lucia'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

Saint Lucia notes the comments on the AEOI legal determination report and commits to making the necessary changes in adherence to the recommendations.



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