

Czech Republic

Overall findings

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

The Czech Republic'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 the Czech Republic's international legal framework to exchange the information with all of the Czech Republic'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 a deficiency significant to the proper functioning of an element of the AEOI Standard. More specifically, the Czech Republic's legislative framework does not impose sanctions on Account Holders and Controlling Persons for providing 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

The Czech Republic 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, the Czech Republic:

- enacted Act No. 164/2013 Coll. as amended by Act No. 105/2016 and Act No. 80/2019;
- introduced Decree No. 108/2016 Coll. repealed and replaced by Decree No. 26/2019 Coll.;
- issued further guidance, which is not legally binding; and
- made reference to Act No 253/2008 Coll. (as amended in July 2018) 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.

Following the initial Global Forum peer review, the Czech Republic made various amendments to its legislative framework to address issues identified, the last of which was effective from 27 March 2019.

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

- 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 agreements with five European third countries.¹

Detailed findings

The detailed findings for the Czech Republic 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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The Czech Republic'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 one area relating to the framework to enforce the requirements (SR 1.4). More specifically, the Czech Republic's legislative framework does not impose sanctions on Account Holders and Controlling Persons for providing a false self-certification as required.

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

The Czech Republic 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.

The Czech Republic 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.

The Czech Republic 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.

The Czech Republic 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, the Czech Republic'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:

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

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

The Czech Republic'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 the Czech Republic's Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from the Czech Republic 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.

The Czech Republic 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.

The Czech Republic 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.

The Czech Republic'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

The Czech Republic has initiated the process to amend its domestic legislative framework to address the recommendation made.

Note

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



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