

Argentina

Overall findings

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

Argentina'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 Argentina's international legal framework to exchange information with all Argentina'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. More specifically, Argentina's legal framework has deficiencies related to the scope of Reporting Financial Institutions and the due diligence procedures to identify Reportable Accounts. Moreover, Argentina's domestic legal framework does not impose sanctions on Account Holders and Controlling Persons 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

Argentina 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, Argentina:

- relies on Section 7 of the Decree No. 618/1997;
- enacted the AFIP General Resolution No. 4.056/2017 and amendments, that replaced the AFIP General Resolution 3.826/2015;
- introduced the FIU Resolutions 121, 229 and 230; 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 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, Argentina made various amendments to its legislative framework to address issues identified, the last of which was effective from 14 February 2019.

With respect to the exchange of information under the AEOI Standard, Argentina 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.

Detailed findings

The detailed findings for Argentina 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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Argentina'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 Reporting Financial Institutions required to report information (SR 1.1), the due diligence procedures required to identify Reportable Accounts (SR 1.2) and the framework to enforce the requirements (SR 1.4). More specifically, Argentina's legal framework provides for some jurisdiction-specific Non-Reporting Financial Institutions that do not meet the requirements, does not fully incorporate the due diligence procedures for the purposes of identifying if a Controlling Person of a Passive NFE is a Reportable Person and does not impose sanctions on Account Holders and Controlling Persons for the provision of false self-certifications.

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

Argentina has defined the scope of Reporting Financial Institutions in its domestic legislative framework in a manner that is largely consistent with the CRS and its Commentary. However, deficiencies have been identified. More specifically, Argentina has provided for six jurisdiction-specific Non-Reporting Financial Institutions that are not in accordance with the requirements. The definition of Reporting Financial Institution, including the provision of Non-Reporting Financial Institutions, is material to the proper functioning of the AEOI Standard.

Recommendations:

Argentina should amend its domestic legislative framework to remove six entities from its jurisdiction-specific list of Non-Reporting Financial Institutions as they are Non-Financial Entities and should therefore be treated as such under the AEOI Standard. The entries are: i) Property Insurance; ii) Insurance on the Income related to the Labour Risk Law and Life Insurance; iii) Health Insurance and Personal Accidents Insurance that do not provide the creation of Savings Reserve; iv) Marketable Securities Broker Agents; v) Foreign Exchange Brokers; and vi) Foreign Exchange Houses, Agencies and Offices.

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.

Argentina 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, a deficiency has been identified. More specifically, Argentina does not specify that Reporting Financial Institutions may only rely on a self-certification by the Account Holder or its Controlling Person for the purposes of determining whether the Controlling Person is a Reportable Person.

Recommendations:

Argentina should amend its domestic legislative framework to specify that, for New Entity Accounts, Reporting Financial Institutions may only rely on a self-certification provided by a Passive NFE Account Holder or its Controlling Person to determine whether the Controlling Person is a Reportable Person.

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

Argentina 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.

Argentina 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, Argentina's legislative framework does not impose sanctions for the provision of false self-certifications by Account Holders and Controlling Persons. This is a key element of the required enforcement framework and is therefore material to the proper functioning of the AEOI Standard.

Recommendations:

Argentina 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

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

Argentina 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.

Argentina 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.

Argentina 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

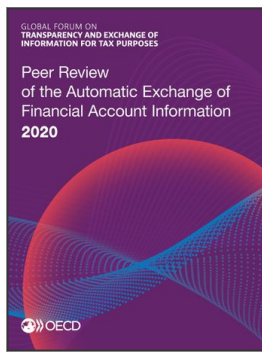
Argentina is working on further amendments of AFIP General Resolution N° 4056/17, which are currently being analysed within the Federal Administration of Public Revenue.

The draft provides for amendments to the list of Non-Reporting Financial Institutions (Annex II) and self-certifications for controlling persons (Annex IV).

The amendments will be made during the year in course and shall be in force for 2022 information exchanges with respect to information for the period 2021.

In addition, we are also working on a joint resolution between the Federal Administration of Public Revenue and the regulatory bodies of reporting entities with the purpose of creating and keeping updated a registry of reporting entities, provided they fall within the requirements stipulated in the CRS definition of Financial Institution, and that they are under the supervision of each regulatory body, that is to say, the Central Bank of the Argentine Republic, the National Securities Commission (CNV, for its Spanish acronym) and the National Superintendence of Insurance.

The Argentine Republic will continue to implement the necessary measures to ensure the successful implementation of the CRS.



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