

Turks and Caicos Islands

Overall findings

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| Overall determination on the legal framework: In Place But Needs Improvement |
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The Turks and Caicos Islands' 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 Turks and Caicos Islands' international legal framework to exchange the information with all of the Turks and Caicos Islands' 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 in areas significant to the proper functioning of elements of the AEOI Standard. More specifically, the Turks and Caicos Islands provides for a jurisdiction-specific Excluded Account that is not in accordance with the requirements and its legislative framework does not ensure that valid self-certifications are always obtained for New Accounts.

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 Turks and Caicos Islands 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, the Turks and Caicos Islands:

- amended the Tax Information (Exchange and Mutual Administrative Assistance) Ordinance;
- introduced the Tax Information (Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and the Common Reporting Standard) Order 2016, as amended in 2017;
- introduced the International Tax Compliance Regulations 2016, as amended in May 2017; 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.

With respect to the exchange of information under the AEOI Standard, the Turks and Caicos Islands:

- has the Convention on Mutual Administrative Assistance in Tax Matters in place¹ and activated the associated CRS Multilateral Competent Authority Agreement in time for exchanges in 2018; and
- put in place two bilateral agreements.²

Detailed findings

The detailed findings for the Turks and Caicos Islands 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.

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| Determination: In Place But Needs Improvement |
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The Turks and Caicos Islands' 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 framework to enforce the requirements (SR 1.4). More specifically, the Turks and Caicos Islands provides for a jurisdiction-specific Excluded Account that is not in accordance with the requirements and does not provide for specific measures to ensure that valid self-certifications are always obtained for New Accounts.

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

The Turks and Caicos Islands 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 Turks and Caicos Islands 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 the Turks and Caicos Islands has provided for a jurisdiction-specific Excluded Account that does not meet the requirements. The scope of Financial Accounts, including the provision of Excluded Accounts, is material to the proper functioning of the AEOI Standard.

Recommendations:

The Turks and Caicos Islands should amend its domestic legislative framework to remove Dormant Accounts from its jurisdiction-specific list of Excluded Accounts as they do not meet the requirements of the AEOI Standard, as no threshold for the exclusion has been set as required.

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

The Turks and Caicos Islands 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 Turks and Caicos Islands 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 Turks and Caicos Islands' legislative framework permits accounts to be reported as undocumented when self-certifications are not obtained and/or validated after the opening of the account, rather than include measures to ensure valid self-certifications are always obtained as required. This is a key element of the required enforcement framework and is therefore material to the proper functioning of the AEOI Standard.

Recommendations:

The Turks and Caicos Islands should amend its domestic legislative framework to include strong measures to ensure that valid self-certifications are always obtained for New Accounts and, more specifically, in the limited circumstances where a valid self-certification is permitted to be obtained after the opening of a New Account.

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.

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| Determination: In Place |
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The Turks and Caicos Islands' 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 Turks and Caicos Islands' Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from the Turks and Caicos Islands 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 Turks and Caicos Islands 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 Turks and Caicos Islands 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 Turks and Caicos Islands' 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

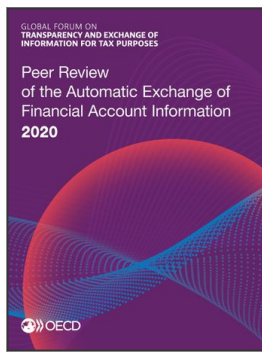
The Turks and Caicos Islands wishes to acknowledge the work of the Assessment Team and Experts reviewing the AEOI standard for compliance, and thank them for their assistance and cooperation. It was not a simple exercise and proved to be quite costly for a small jurisdiction to implement in terms of administration, technology and legislation. The capacity in terms of resources is still expanding with continuous efforts being made to fall within the boundaries of the standard.

Turks and Caicos Islands has recently implemented a new AEOI Reporting Tool with greater efficiency and reporting capabilities. For those partner jurisdictions that had some difficulty with previous years' submissions, we will happily review the files and re-submit.

Notes

¹ Through a territorial extension by the United Kingdom.

² With the Isle of Man and the United Kingdom.



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