

Latvia

Overall findings

Overall determination on the legal framework: In Place But Needs Improvement
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Latvia'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 Latvia's international legal framework to exchange the information with all of Latvia'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, deficiencies have been identified in Latvia's 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

Latvia 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, Latvia:

- amended the Law "On Taxes and Duties"; and
- introduced Regulation No. 20 "Procedures by which a Financial Institution Implements the Due Diligence Procedures for Financial Accounts and Provides Financial Accounts Information to the State Revenue Service".

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 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, Latvia made amendments to its legislative framework to address issues identified, the last of which was effective from 19 March 2020.

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

- 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 Union Directive 2011/16/EU on Administrative Cooperation in the Field of Taxation, as amended by Directive 2014/107/EU;
- has in place agreements with five European third countries¹; and
- put in place three bilateral agreements.²

Detailed findings

The detailed findings for Latvia 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

Latvia'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 (SR 1.1) and the framework to enforce the requirements (SR 1.4). Most significantly, Latvia's domestic legislative framework does not incorporate sanctions on Account Holders and Controlling Persons for the provision of false self-certifications and does not include strong measures to ensure that valid self-certifications are obtained for New Accounts.

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

Latvia 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, the definition of Investment Entity and the definition of the term "managed by" are not in accordance with the requirements. The scope of Reporting Financial Institutions is material to the proper functioning of the AEOI Standard.

Recommendations:

Latvia should amend its domestic legislative framework to include the definition of "managed by" in relation to the definition of Investment Entity.

Latvia should amend its domestic legislative framework to require the term Investment Entity to be interpreted consistently with similar language defining "financial institution" in the Financial Action Task Force Recommendations.

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.

Latvia 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.

Latvia 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.

Latvia 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. More specifically, Latvia's legislative framework:

- does not impose sanctions on Account Holders and Controlling Persons for the provision of a false self-certification; and
- does not incorporate measures to ensure that self-certifications are always obtained and validated for New Accounts as is required.

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

Recommendations:

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

Latvia should amend its domestic legislative framework to include strong measures to ensure that valid self-certifications are always obtained for New Accounts in accordance with the requirements.

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

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

Latvia 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.

Latvia 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.

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

Recommendations:

No recommendations made.

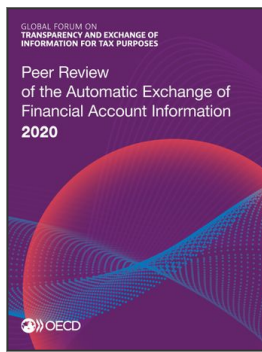
Comments by the assessed jurisdiction

In general, Latvia agrees with the findings of this report as they comply with the findings of the Checklist "Assessment of the domestic legislative framework implementing the AEOI Standard". However, we are in a position that our legislation provides the sanctions on Account Holders and Controlling Persons for the provision of false self-certification. These sanctions are a part of the Latvian anti-money laundering legislation, and we believe they are also applicable for the AEOI Standard. When addressing the recommendation put in the Checklist and this report, we will carry out consultations with the responsible institutions, providing a more detailed analysis on this issue and finding the optimal solution compatible with our legal system.

Note

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

² With Qatar, Singapore and Turkey. Latvia has also activated relationships under the CRS MCAA with Qatar and Turkey.



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