

Grenada

Overall findings

Overall determination on the legal framework: Not In Place

Grenada's legal framework implementing the AEOI Standard is not in place in accordance with the requirements of the AEOI Terms of Reference. While Grenada's international legal framework to exchange the information with all of Grenada's Interested Appropriate Partners (CR2) is consistent with the requirements, Grenada's domestic legislative framework requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures (CR1) has significant deficiencies in areas that are fundamental to the proper functioning of the AEOI Standard. More specifically, deficiencies have been identified in Grenada's enforcement framework and in other key areas.

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

Grenada 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, Grenada:

- enacted the Mutual Exchange of Information on Taxation Matters Act 24 as amended by Act no.14 of 2017 and the Tax Administration Act; and
- introduced the Mutual Exchange of Information on Tax Matters (Common Reporting Standard) Regulations.

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.

With respect to the exchange of information under the AEOI Standard, Grenada 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 Grenada 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: Not In Place

Grenada's domestic legislative framework is not in place as required as it does not contain several key aspects of the CRS and the Commentary. Most significantly, deficiencies have been identified in relation to the framework to enforce the requirements (SR 1.4), such as the lack of rules to prevent the circumvention of the reporting and due diligence procedures and to impose record keeping requirements, of a framework for enforcement to address non-compliance, and of strong measures to obtain a valid self-certification for New Accounts. Moreover Grenada's domestic legislative framework needs improvement in relation to the scope of Reporting Financial Institutions required to report information (SR 1.1), the due diligence procedures to be applied (SR 1.2) and the information required to be reported (SR 1.3).

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

Grenada 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, a deficiency has been identified. More specifically, Grenada's domestic legislative framework does not provide for the interpretation of "managed by" in accordance with the requirements. The scope of Reporting Financial Institution is material to the proper functioning of the AEOI Standard.

Recommendations:

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

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.

Grenada 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, deficiencies have been identified. Most significantly, Grenada's legislative framework does not require Reporting Financial Institutions to always obtain a self-certification from the Account Holder or Controlling Person of a Passive NFE to establish whether the Controlling Person is a Reportable Person. The due diligence procedures are material to the proper functioning of the AEOI Standard.

Recommendations:

Grenada 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.

Grenada should amend its domestic legislative framework to require Reportable Accounts to be treated as such from the date they are identified as such.

Grenada should amend its domestic legislative framework to ensure that the responsibility to fulfil the due diligence and reporting obligations remains with Reporting Financial Institutions, even if service providers are used.

Grenada should amend its domestic legislative framework to remove the permission for Financial Institutions to not apply certain procedures with respect to Preexisting Individual Accounts if it is not "reasonably possible".

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

Grenada has incorporated the reporting requirements in its domestic legislative framework in a manner that is largely consistent with the CRS and its Commentary. However, deficiencies have been identified. Most significantly, Grenada's legislative framework does not require Reporting Financial Institutions to report the jurisdiction of residence or to use reasonable efforts to obtain the TIN(s) or date of birth of the Account Holder with respect to Preexisting Accounts. The reporting requirements are material to the proper functioning of the AEOI Standard.

Recommendations:

Grenada should amend its domestic legislative framework to require Reporting Financial Institutions to report the jurisdiction of residence for each Reportable Account.

Grenada should amend its domestic legislative framework to require Reporting Financial Institutions to use reasonable efforts, where they are needed to obtain a TIN or date of birth of a Preexisting Account Holder by the end of the second calendar year following the year in which a Preexisting Account is identified as a Reportable Account.

Grenada should amend its domestic legislative framework to require Reporting Financial Institutions to identify the currency in which each account is denominated.

Grenada should amend its domestic legislative framework to require Reporting Financial Institutions to report the account balance or value if an appropriate period other than a calendar year is used.

SR 1.4 Jurisdictions should have a legislative framework in place that allows for the enforcement of the requirements of the CRS in practice.

Grenada does not have a legislative framework in place to enforce the requirements in a manner that is consistent with the CRS and its Commentary as significant deficiencies have been identified. More specifically, Grenada's legislative framework:

- does not include rules to prevent Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures as required;
- does not incorporate rules requiring Reporting Financial Institutions to keep records in accordance with the requirements;
- does not provide for an enforcement framework to address non-compliance in relation to the due diligence procedures; or
- does not incorporate measures to ensure that self-certifications are always obtained and validated for New Accounts as is required, including in the limited circumstances where they may be obtained after account opening.

These are key elements of the required enforcement framework and are therefore material to the proper functioning of the AEOI Standard.

Recommendations:

Grenada should amend its domestic legislative framework to include rules to prevent Financial Institutions, persons and intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures.

Grenada should amend its domestic legislative framework to require Reporting Financial Institutions to keep records of the steps undertaken and evidence relied on for the performance of the due diligence procedures in accordance with the AEOI Standard.

Grenada should amend its domestic legislative framework to require Reporting Financial Institutions to maintain records for at least five years from the deadline to report the information, in accordance with the AEOI Standard.

Grenada should amend its domestic legislative framework to include sanctions for failure to comply with the due diligence and reporting procedures, rather than being limited to failures leading to incorrect information reporting.

Grenada 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

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

Grenada 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.

Grenada 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.

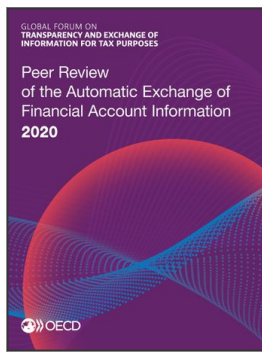
Grenada's exchange agreements provide for the exchange of information in accordance with the requirements of the Model CAA.

Recommendations:

No recommendations made.

Comments by the assessed jurisdiction

No comments made.



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