Malta

Overall findings

Overall determination on the legal framework: In Place

Malta's legal framework implementing the AEOI Standard is in place and is consistent with the requirements of the AEOI Terms of Reference. This includes Malta's domestic legislative framework requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures (CR1) and its international legal framework to exchange the information with all of Malta's Interested Appropriate Partners (CR2).

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

Malta 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, Malta:

- amended its Income Tax Act and Income Tax Management Act;
- introduced the Cooperation with Other Jurisdiction on Tax Matters (Amendment) Regulations, 2015; and
- issued further guidance, which is 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, Malta issued amended its legislative framework to address issues identified, effective from 1 January 2016.

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

- 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 European Union agreements with five European third countries.[1]
- put in place two bilateral agreements.[2]

Detailed findings

The detailed findings for Malta 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

Malta's domestic legislative framework is in place and contains all of the key aspects of the CRS and its Commentary requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures (SRs 1.1 – 1.3). It also provides for a framework to enforce the requirements (SR 1.4).

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

Malta 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.

Malta 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.

Malta 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.

Malta has a legislative framework in place to enforce the requirements in accordance with the CRS and its Commentary.

Recommendations:

No recommendations made.

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

Malta'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 Malta's Interested Appropriate Partners

(i.e. all jurisdictions that are interested in receiving information from Malta 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.

Malta 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.

Malta 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.

Malta'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.

Notes

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

[2] With Qatar and Singapore. Malta has also activated a relationship under the CRS MCAA with Qatar.



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