

Malaysia

Overall findings

Overall determination on the legal framework: In Place

Malaysia's legal framework implementing the AEOI Standard is in place and is consistent with the requirements of the AEOI Terms of Reference. This includes Malaysia'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 Malaysia'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

Malaysia 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, Malaysia:

- enacted Sections 113A, 119B, 132B and 154(1)(c) of the Income Tax Act 1967;
- introduced the Income Tax (Automatic Exchange of Financial Account Information) Rules 2016 - P.U.(A) 355/2016 as amended in 2017 and 2020;
- introduced the Labuan Business Activity Tax (Automatic Exchange of Financial Account Information) Regulations 2018 – P.U.(A) 20/2018 (with effect from 1 July 2017) as amended in 2020; 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 July 2017. With respect to Preexisting Accounts, Reporting Financial Institutions were required to complete the due diligence procedures on High Value Individual Accounts by 30 June 2018 and on Lower Value Individual Accounts and Entity Accounts by 30 June 2019.

Following the initial Global Forum peer review, Malaysia amended its legislative framework to address an issue identified, which was effective from 28 August 2020.

With respect to the exchange of information under the AEOI Standard, Malaysia 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 Malaysia 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

Malaysia'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.

Malaysia 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.

Malaysia 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.

Malaysia 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.

Malaysia 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

Malaysia'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 Malaysia's Interested Appropriate

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

Malaysia 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.

Malaysia 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.

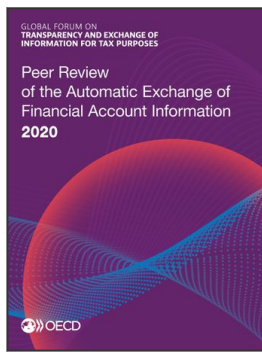
Malaysia's exchange agreements provide for the exchange of information in accordance with the requirements of the Model CAA.

Recommendations:

No recommendations made.

Comments by the assessed jurisdiction

No comments made.



From:

Peer Review of the Automatic Exchange of Financial Account Information 2020

Access the complete publication at:

<https://doi.org/10.1787/175eeff4-en>

Please cite this chapter as:

OECD (2020), "Malaysia", in *Peer Review of the Automatic Exchange of Financial Account Information 2020*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/bb5ad0ea-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.