

Uruguay

Overall findings

Overall determination on the legal framework: In Place But Needs Improvement

Uruguay'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 Uruguay's international legal framework to exchange the information with all of Uruguay'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, some definitions necessary to define Reportable Financial Institutions and Financial Accounts are incomplete, and there are no rules to prevent the circumvention of the due diligence and reporting procedures.

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

Uruguay 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, Uruguay:

- enacted Decree 77/017, as amended by Decree N° 243/2018;
- enacted DGI Resolution N° 6396/2017 of 25 September, 2017;
- published Frequently Asked Questions, which are not legally binding; and
- made reference to Law 19.484 for purposes of the identification of Controlling Persons under the AEOI Standard.

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, Uruguay 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 Uruguay 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
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Uruguay'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 required to report information (SR 1.1), the scope of Financial Accounts required to be reported (SR 1.2) and the framework to enforce the requirements (SR 1.4). Most significantly, it is not clear that fiscally transparent Reporting Financial Institutions are fully in scope, certain definitions related to Reportable Accounts are incomplete, and Uruguay's enforcement framework does not contain rules to prevent circumvention of due diligence and reporting obligations.

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

Uruguay 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. Most significantly, Uruguay's legislative framework does not specify how the residence of a fiscally transparent Reporting Financial Institution is to be determined. The scope of Reporting Financial Institutions is material to the proper functioning of the AEOI Standard.

Recommendations:

Uruguay should amend its domestic legislative framework to ensure that the residency of a fiscally transparent Financial Institution is determined in accordance with the AEOI Standard.

Uruguay should amend its domestic legislative framework to require the term Investment Entity to be interpreted in accordance with similar language defining "financial institution" in the FATF Recommendations.

Uruguay should amend its domestic legislative framework to remove Health Insurance Companies from its jurisdiction-specific list of categories of Non-Reporting Financial Institutions as their characteristics are not substantially similar to those set out in the AEOI Standard.

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.

Uruguay 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, Uruguay's domestic legal framework does not fully incorporate the definitions of Entity, Equity Interest and Annuity Contract. The scope of Financial Accounts and the due diligence procedures are material to the proper functioning of the AEOI Standard.

Recommendations:

Uruguay should amend its domestic legislative framework to define Entity in accordance with the AEOI Standard.

Uruguay should amend its domestic legislative framework to define the term Equity Interest in the case of partnerships, in accordance with the AEOI Standard.

Uruguay should amend its domestic legislative framework to include the complete definition of the term Annuity Contract in accordance with the AEOI Standard.

Uruguay should amend its domestic legislative framework to remove three entries from its jurisdiction-specific list of categories of Excluded Accounts as they do not meet the requirements. These are: i) insurance contracts and ii) retirement account policies held by Uruguayan residents, and iii) Dormant Accounts.

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

Uruguay 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.

Uruguay 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. Most significantly, Uruguay'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. This is a key element to the required enforcement framework and is therefore material to the proper functioning of the AEOI Standard.

Recommendations:

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

Uruguay 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, rather than from when they file the report.

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

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

Uruguay 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.

Uruguay 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.

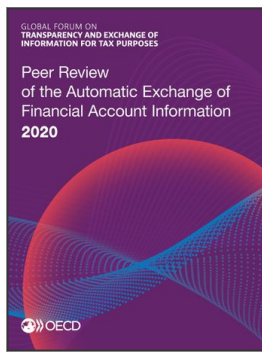
Uruguay's exchange agreements provide for the exchange of information in accordance with the requirements of the Model CAA.

Recommendations:

No recommendations made.

Comments by the assessed jurisdiction

No comments made.



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