

# Canada

## Overall findings

<b>Overall determination on the legal framework:</b> In Place But <b>Needs Improvement</b>
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Canada'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 Canada's international legal framework to exchange the information with all of Canada'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, Canada's legislative framework does not incorporate the definition of Investment Entity in line with the requirements and provides for a jurisdiction-specific Non-Reporting Financial Institution that does not meet the requirements.

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**

Canada 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, Canada:

- enacted Part XIX of the Income Tax Act (ITA);
- Introduced Sections 9005 and 9006 of the Income Tax Regulations; 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 due diligence procedures on High Value Individual Accounts by 31 December 2018 and on Lower Value Individual Accounts and Entity Accounts by 31 December 2019.

Following the initial Global Forum peer review, Canada amended its legislative framework to address issues identified, effective from 10 July 2020.

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

- 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; and
- put in place two bilateral agreements.<sup>1</sup>

### **Detailed findings**

The detailed findings for Canada 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](http://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.***

<b>Determination:</b> In Place But Needs Improvement
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Canada'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). More specifically, Canada's legislative framework does not incorporate the definition of Investment Entity in line with the requirements, and provides for a jurisdiction-specific Non-Reporting Financial Institution that does not meet the requirements.

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

Canada 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, Canada's legislative framework does not fully incorporate the definition of Investment Entity in line with the requirements. In addition, Canada's legislative framework provides for a jurisdiction-specific Non-Reporting Financial Institution that does not meet the requirements. The definition of Reporting Financial Institutions, including the provision of Non-Reporting Financial Institutions, is material to the proper functioning of the AEOI Standard.

**Recommendations:**

Canada should amend its domestic legislative framework to ensure that its definition of Investment Entity includes all relevant Entities, not only those promoting or representing themselves to the public as an investment vehicle.

Canada should amend its domestic legislative framework to remove Labour Sponsored Venture Capital Corporations (LSVCCs) from its jurisdiction-specific list of Non-Reporting Financial Institutions as they do not meet the requirements, including not being established to provide benefits upon retirement, disability or death and not having limits on the contributions as required.

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**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.

Canada 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.

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

Canada has incorporated the reporting requirements in its domestic legislative framework in accordance with the CRS and its Commentary.

**Recommendations:**

No recommendations made.

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

Canada 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.***

<b>Determination: In Place</b>
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Canada'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 Canada's Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from Canada 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.

Canada 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.

Canada 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.

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

**Recommendations:**

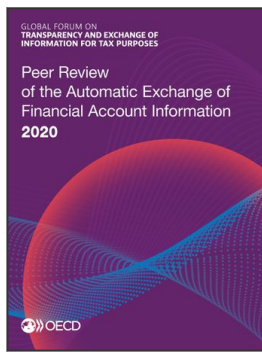
No recommendations made.

## Comments by the assessed jurisdiction

No comments made.

## Note

<sup>1</sup> With Hong Kong (China) and Singapore. Canada has also activated a relationship under the CRS MCAA with Singapore.



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