Liechtenstein

Overall findings

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

Liechtenstein'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 Liechtenstein's international legal framework to exchange the information with all of Liechtenstein'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 a deficiency in an area significant to the proper functioning of the AEOI Standard. More specifically, Liechtenstein's legal framework extends the scope of Reporting Financial Institutions to some Passive Non-Financial Entities, which is not in accordance with the AEOI Standard.

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

Liechtenstein 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, Liechtenstein:

- enacted the Act on international automatic exchange of information in tax matters (AEOI Act), National Gazette 2015, No. 355, as amended in 2017 and 2018;
- introduced the Ordinance on international automatic exchange of information in tax matters (AEOI Ordinance), National Gazette 2015, No. 358, as amended in 2016; 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, Liechtenstein made various amendments to its legislative framework to address issues identified, the last of which was effective from 1 January 2019.

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

- 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; and
- has in place an agreement with the European Union.

Detailed findings

The detailed findings for Liechtenstein 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**

Liechtenstein'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 one area relating to the scope of Reporting Financial Institutions required to report information (SR 1.1). More specifically, Liechtenstein domestic legislative framework allows Passive Non-Financial Entities to classify themselves as Reporting Financial Institutions, which is not in accordance with the requirements.

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

Liechtenstein 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, Liechtenstein's legislative framework allows Passive Non-Financial Entities to classify themselves as Reporting Financial Institutions. The scope of Reporting Financial Institutions, as distinct from Passive Non-Financial Entities, is material to the proper functioning of AEOI Standard.

Recommendations:

Liechtenstein should amend its domestic legislative framework to remove the permission for Liechtenstein-based Passive Non-Financial Entities to classify themselves as an 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.

Liechtenstein 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.

Liechtenstein 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.

Liechtenstein 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

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

Liechtenstein 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.

Liechtenstein 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.

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

Recommendations:

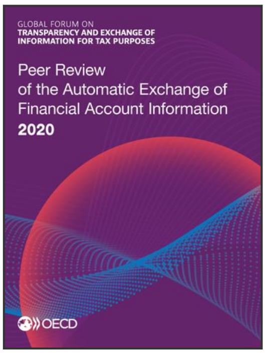
No recommendations made.

Comments by the assessed jurisdiction

In order to address the Recommendation under SR 1.1, the Liechtenstein Government in its meeting of 14 July 2020 approved a draft bill according to which the voluntary classification permission will be repealed with effect from 1 January 2021. The provision to voluntarily classify as Investment Entity will no longer be included in the law and the classification requirements will be aligned with the Standard.

The first reading of the bill in Parliament took place on 3 September 2020 and Members of Parliament did not challenge the repeal of the provision rather it was acknowledged that the provision should be deleted. The second and final reading was on 6 November 2020. The amendment was approved unanimously.

In line with the document [CTPA/GFTEI/2019/6] *Drawing Conclusions on the Legal Frameworks Implementing the AEOI Standard* the point where the bill is approved and no longer subject to change is reached. Liechtenstein has therefore requested a review of this recommendation and will request an amendment of the finding and determination in CR 1 and the overall determination to “In Place”.



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