

Russia

Overall findings

Overall determination on the legal framework: In Place But Needs Improvement
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Russia'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 Russia's international legal framework to exchange the information with all of Russia'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 AEOI Standard. Most significantly, the scope of Reporting Financial Institutions and Reportable Accounts are not fully in accordance with the AEOI Standard and there are deficiencies in relation to the framework to enforce of 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

Russia 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, Russia:

- enacted Federal Law No. 340-FZ;
- introduced Decree of June 16, 2018 No. 693; 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 20 July 2018. With respect to Preexisting Accounts, Reporting Financial Institutions were required to complete the due diligence procedures on High Value Individual Accounts by 31 July 2018 and on Lower Value Individual Accounts and Entity Accounts by 31 December 2018.

With respect to the exchange of information under the AEOI Standard, Russia 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 Russia 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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Russia's domestic legislative framework is in place and contains many 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 due diligence procedures to be applied (SR 1.2), and the framework to enforce the requirements (SR 1.4). Most significantly, key definitions significant to the scope of Reporting Financial Institutions, including Participating Jurisdiction Financial Institution and Financial Assets, are not in accordance with the requirements.

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

Russia 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, Russia's legislative framework does not explicitly incorporate the definition of Participating Jurisdiction Financial Institution, and the definition of Financial Assets is not in accordance with the requirements. The scope of Reporting Financial Institutions is material to the proper functioning of the AEOI Standard.

Recommendations:

Russia should amend its domestic legislative framework to define Financial Asset using an inclusive approach as contained in the AEOI Standard, rather than using an exhaustive list.

Russia should amend its domestic legislative framework to explicitly incorporate the relevant definitions defining the scope of Reporting Financial Institutions, such as the definition of Participating Jurisdiction Financial Institution.

Russia should amend its legislative framework to incorporate the definition of "managed by" in relation to the definition of Investment Entity.

Russia should amend its domestic legislative framework to require the interpretation of Investment Entity to be consistent with similar language defining "financial institution" in the Financial Action Task Force Recommendations.

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.

Russia has defined the scope of the Financial Accounts that are required to be reported in its domestic legislative framework and has 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. More specifically, Russia's legislative framework:

- does not provide for the interpretation of "change of circumstances" in accordance with the requirements; and
- does not define Reportable Jurisdiction Person or Account Holder in accordance with the requirements.

The deficiencies relate to key elements of the AEOI Standard and are therefore material to its proper functioning.

Recommendations:

Russia should amend its domestic legislative framework to ensure that “change of circumstances” is defined in accordance with the AEOI Standard, rather than being restricted to circumstances that lead or may lead to the change of residence for tax purposes.

Russia should amend its domestic legislative framework to define Account Holder in accordance with the AEOI Standard.

Russia should amend its domestic legislative framework to explicitly include the estate of a decedent that was a resident of a Reportable Jurisdiction as a Reportable Jurisdiction Person.

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

Russia 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.

Russia 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. More specifically, Russia’s legislative framework:

- does not include rules to prevent Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the due diligence and reporting procedures as required; and
- does not impose sanctions on Accounts Holders and Controlling Persons for the provision of a false self-certification.

These are key elements of the required enforcement framework and are therefore material to the proper functioning of the AEOI Standard.

Recommendations:

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

Russia should amend its domestic legislative framework to include sanctions on Account Holders and Controlling Persons for the provision of a false self-certification.

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

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

Russia 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.

Russia 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.

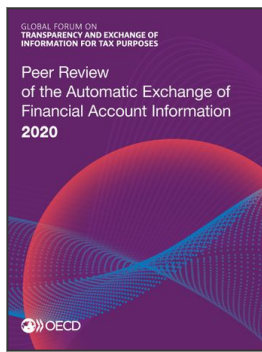
Russia's exchange agreements provide for the exchange of information in accordance with the requirements of the Model CAA.

Recommendations:

No recommendations made.

Comments by the assessed jurisdiction

No comments made.



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