

## Annex C. Extract from the AEOI Terms of Reference with respect to the legal frameworks

Below is an extract from the AEOI Terms of Reference, containing each of the Core Requirements and Sub-Requirements relating to the required legal frameworks to implement the AEOI Standard.

**CR 1 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**

### *Defining Reporting Financial Institutions*

**SR 1.1** Jurisdictions should define the scope of Reporting Financial Institutions consistently with the CRS, in particular by:

- a) incorporating the definitions contained in paragraph A of Section VIII of the CRS into their domestic legislative framework; and
- b) ensuring that any Financial Institution or category of Financial Institutions defined domestically as a Non-Reporting Financial Institution meets the requirements for its status as a Non-Reporting Financial Institution as set out in paragraph B of Section VIII of the CRS.

### *Defining the Financial Accounts to be reported and incorporating the due diligence procedures to identify them*

**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, in particular by:

- a) incorporating the definitions contained in subparagraphs C. 1 to 16, and paragraphs D and E of Section VIII of the CRS into their domestic legislative framework.
- b) defining New Accounts as those opened from the first day of the calendar year (or other appropriate reporting period) prior to the year of first exchange and Preexisting Accounts as those that are open on the last day of the preceding calendar year (or other appropriate reporting period).
- c) incorporating the due diligence procedures contained in Sections II to VII of the CRS into their domestic legislative framework.<sup>1</sup>
- d) ensuring that any Financial Account or category of Financial Accounts defined in their domestic legislative framework as an Excluded Account meets the requirements for its status as an Excluded Account as set out in subparagraph C. 17 of Section VIII of the CRS.

### *Reporting the information*

**SR 1.3** Jurisdictions should incorporate the reporting requirements contained in Section I of the CRS into their domestic legislative framework.<sup>2</sup>

### *Enforcement*

**SR 1.4** Jurisdictions should have a legislative framework in place that allows for the enforcement of the requirements of the CRS in practice, including through rules to:

- a) prevent Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the due diligence and reporting procedures;
- b) require Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the due diligence procedures for at least five years following the end of the period within which the Reporting Financial Institution must report the information required to be reported under Section I of the CRS;
- c) ensure that valid self-certifications are always obtained for New Accounts; and
- d) address non-compliance with the requirements of the CRS.

## **CR2 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**

### *Putting in place the exchange agreements on time*

**SR 2.1** Jurisdictions should have exchange agreements in effect with all Interested Appropriate Partners that permit the automatic exchange of CRS information.

**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.<sup>3</sup>

### *The contents of the agreements*

**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,<sup>4</sup> including with respect to:

- a) the categories of information to be exchanged;<sup>5</sup>
- b) the timing of the exchange of information;<sup>6</sup>
- c) the notifying of an exchange partner when the jurisdiction has reason to believe that an error may have led to incomplete or incorrect information reporting or there is non-compliance with the due diligence or reporting procedures by a Reporting Financial Institution, located in the exchange partner;<sup>7</sup> and
- d) taking all appropriate measures available under the jurisdiction's domestic law to address errors or non-compliance notified to it.<sup>8</sup>

## Notes

<sup>1</sup> Sections II to VII of the CRS set out the General Due Diligence Requirements, the Due Diligence for Preexisting Individual Accounts, the Due Diligence for New Individual Accounts, the Due Diligence for Preexisting Entity Accounts, the Due Diligence for New Entity Accounts, the Special Due Diligence Rules and the Defined Terms respectively. Paragraphs D and E of 3 Section VIII of the CRS set out the definitions relevant to the due diligence procedures.

<sup>2</sup> Section I of the CRS sets out the General Reporting Requirements, specifying the information that must be reported with respect to each Reportable Account.

<sup>3</sup> Exchange agreements are expected to be put in place in time for exchanges from the date committed to unless the expression of interest indicates a later date for the commencement of exchanges or the expression of interest is not received in time. Whether the expression of interest is received in time for exchanges to commence in a particular year will depend on the specific circumstances, including the approach to the implementation of the AEOI Standard taken by the potential exchange partners.

<sup>4</sup> Note that the agreements can take various forms. What is key is that both exchange partners are satisfied that the arrangement in place delivers the outcomes specified in the requirements.

<sup>5</sup> Section 2 of the Model CAA

<sup>6</sup> Section 3 of the Model CAA

<sup>7</sup> Section 4 of the Model CAA

<sup>8</sup> Section 4 of the Model CAA



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