

Japan

Overall findings

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

Japan'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 Japan's international legal framework to exchange the information with all of Japan'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, Japan's legislative framework is deficient as far as the definition and identification process for Controlling Persons is concerned.

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

Japan 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, Japan:

- enacted the Act on Special Provisions of the Income Tax Act, the Corporation Tax Act and the Local Tax Act Incidental to Enforcement of Tax Treaties (CRS Act), as amended;
- introduced the Order for the Enforcement of the Act on Special Provisions of the Income Tax Act, the Corporation Tax Act and the Local Tax Act Incidental to Enforcement of Tax Treaties (CRS Order), as amended;
- introduced the Ordinance for the Enforcement of the Act on Special Provisions of the Income Tax Act, the Corporation Tax Act and the Local Tax Act Incidental to Enforcement of Tax Treaties (CRS Ordinance), as amended; and
- made reference to the Order for Enforcement of the Act on Prevention of Transfer of Criminal Proceeds as well as the Ordinance for Enforcement of the Act on Prevention of Transfer of Criminal Proceeds for the purposes of implementing the FATF Recommendations for the 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.

Following the initial Global Forum peer review, Japan amended its legislative framework to address issues identified, effective from 1 April 2020.

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

- 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.¹

Detailed findings

The detailed findings for Japan 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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Japan'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 Financial Accounts required to be reported (SR 1.2). More specifically, Japan's legislative framework does not fully incorporate the definitions and processes related to the identification of Controlling Persons of trusts and similar legal arrangements.

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

Japan has defined the scope of Reporting Financial Institutions in its domestic legislative framework in accordance with the CRS and its Commentary.

Recommendations:

No recommendations made.

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.

Japan 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. More specifically, Japan's legislative framework does not fully incorporate the definition of Controlling Persons as required and does not fully incorporate the due diligence procedures to identify Controlling Persons. The definition and identification of Controlling Persons is material to the proper functioning of the AEOI Standard.

Recommendations:

Japan should amend its domestic legislative framework to require Reporting Financial Institutions to always identify and determine the reportable status of the Controlling Persons of trusts and similar legal arrangements in accordance with the AEOI Standard.

Japan should amend its domestic legislative framework to fully incorporate the definition of Controlling Persons in accordance with the AEOI Standard by including all natural persons required to be identified with respect to trusts and similar legal arrangements.

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

Japan 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.

Japan 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

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

Japan 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.

Japan 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.

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

Recommendations:

No recommendations made.

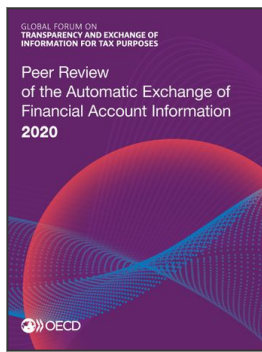
Comments by the assessed jurisdiction

Japan would like to extend its sincere appreciation to the assessment team for their dedicated work and professionalism throughout the peer review process. Japan will work on the implementation of the

recommendations indicated in the report taking account of further contributions toward enhancing international tax transparency.

Note

¹ With Hong Kong (China) and Singapore. Japan has also activated a relationship under the CRS MCAA with Singapore.



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