

Mexico

Overall findings

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

Mexico'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 Mexico's international legal framework to exchange the information with all of Mexico'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 in an area relevant to the proper functioning of the AEOI Standard. More specifically, Mexico provides for three jurisdiction-specific Excluded Accounts that do 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

Mexico 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, Mexico:

- relies on Article 32-B Bis of the Mexican Tax Code; and
- enacted Annex 25-Bis of the Mexican Administrative Tax Regulations.

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, Mexico made various amendments to its legislative framework to address issues identified, the last of which was effective from 8 May 2019.

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

- 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
- put in place a bilateral agreement.¹

Detailed findings

The detailed findings for Mexico 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
--

Mexico'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 Financial Accounts required to be reported (SR 1.2). More specifically, Mexico's legal framework provides for three jurisdiction-specific Excluded Accounts that do not meet the requirements.

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

Mexico 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.

Mexico 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, Mexico provides for three jurisdiction-specific Excluded Accounts that are not in accordance with the requirements. The definition of Financial Accounts, including the provision of Excluded Accounts, is material to the proper functioning of the AEOI Standard, although it should be noted that the incorrect entries are likely to currently have a very limited impact.

Recommendations:

Mexico should amend its domestic legal framework to remove three entries from its jurisdiction-specific list of Excluded Accounts as they do not meet the requirements because withdrawals are permitted before reaching a specified retirement age, disability or death with the only penalty being a different treatment for the purposes of calculating the annual income tax. The entities are: i) Voluntary contributions for retirement funds; ii) Accounts for individual retirement programme and iii) Retirement insurance contracts.

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

Mexico 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.

Mexico 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

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

Mexico 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.

Mexico 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.

Mexico'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

¹ With Hong Kong (China).



From:

Peer Review of the Automatic Exchange of Financial Account Information 2020

Access the complete publication at:

<https://doi.org/10.1787/175eeff4-en>

Please cite this chapter as:

OECD (2020), "Mexico", in *Peer Review of the Automatic Exchange of Financial Account Information 2020*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/f057716d-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.