

# Costa Rica

## Overall findings

### Overall determination on the legal framework: Not In Place

Costa Rica's legal framework implementing the AEOI Standard is not in place in accordance with the requirements of the AEOI Terms of Reference. While Costa Rica's international legal framework to exchange the information with all of Costa Rica'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 significant deficiencies in areas that are fundamental to the proper functioning of the AEOI Standard. More specifically, deficiencies have been identified with respect to Costa Rica's enforcement framework.

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

Costa Rica 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, Costa Rica:

- enacted Article 106 quáter of the General Tax Code Law No. 4755; and
- introduced the Resolution No. DGT-R-006-2017, Resolution No. DGT-R-006-2018 and Resolution No. DGT-R-16-2020.

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 and on Lower Value Individual Accounts and Entity Accounts by 31 December 2017.

Following the initial Global Forum review, Costa Rica amended its legislative framework to address issues identified, effective from 5 August 2020.

With respect to the exchange of information under the AEOI Standard, Costa Rica 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 Costa Rica 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](http://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.***

<b>Determination: Not In Place</b>
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Costa Rica's domestic legislative framework is not in place as required as it does not contain key aspects of the CRS and its Commentary. Significant deficiencies have been identified relating to the framework to enforce the requirements (SR 1.4). More specifically, Costa Rica's legislative framework does not require records to be kept by Financial Institutions in accordance with the AEOI Standard and it does not apply sanctions for non-compliance in all cases including where self-certifications have not been obtained for New Accounts.

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

Costa Rica 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.

Costa Rica 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.

Costa Rica 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.

Costa Rica does not have a legislative framework in place to enforce the requirements in a manner that is consistent with the CRS and its Commentary, as significant deficiencies have been identified. More specifically, Costa Rica's domestic legislative framework:

- does not include rules requiring Reporting Financial Institutions to keep records in accordance with the requirements;
- does not include rules that ensure that a Reporting Financial Institution is sanctioned for failing to apply due diligence procedures in accordance with the requirements; and
- does not incorporate measures to ensure that self-certifications are always obtained and validated for New Accounts as required.

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

**Recommendations:**

Costa Rica should amend its domestic legislative framework to require all Reporting Financial Institutions to keep all of the records required to be maintained, rather than relying only on the requirements contained in the AML framework.

Costa Rica should amend its domestic legislative framework to require Reporting Financial Institutions to maintain records for at least five years from the deadline to report the information, in accordance with the AEOI Standard.

Costa Rica should amend its domestic legislative framework to include sanctions for failure to comply with the due diligence and reporting procedures in accordance with the AEOI Standard.

Costa Rica should amend its domestic legislative framework to include strong measures to ensure that valid self-certifications are always obtained for New Accounts and, more specifically, in the limited circumstances where a valid self-certification is permitted to be obtained after the opening of a New Account.

***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.***

<b>Determination: In Place</b>
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Costa Rica'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 Costa Rica's Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from Costa Rica 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.

Costa Rica 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.

Costa Rica 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.

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

**Recommendations:**

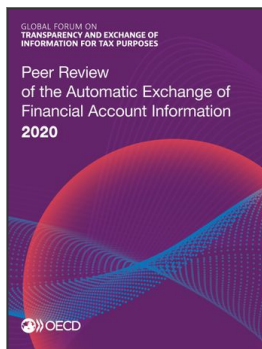
No recommendations made.

### Comments by the assessed jurisdiction

The Costa Rica Tax Administration appreciates the assistance provided by the Global Forum experts in this assessment in order to amend our secondary legislation (the Resolution) in accordance with the CRS standard.

The recommendations included in this Report are useful and will be part of the specific regulation regarding the implementation of the CRS standard in the Financial Institutions that we are going to draft together with the Superintendence of Financial Entities (GSFE-SUGEF) and the National Council of Financial Supervision in the upcoming months.

We renew our commitment with tax transparency in all of its modalities, and in turn, we are always open to receive comments to improve our internal proceedings in order to provide information with the best quality.



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