

Annex C. The AEOI Terms of Reference

Below are the Core Requirements and Sub-Requirements of the AEOI Terms of Reference with respect to the implementation of 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.¹
- 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.²

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.

CR 1 Effectiveness in practice: Jurisdictions should ensure that in practice Reporting Financial Institutions correctly implement the due diligence and reporting procedures, which includes a requirement for jurisdictions to have in place an administrative framework to ensure the effective implementation of the CRS

Ensuring effectiveness domestically

SR 1.5 Jurisdictions should ensure that in practice Reporting Financial Institutions identify the Financial Accounts they maintain, identify the Reportable Accounts among those Financial Accounts, as well as their Account Holders, and where relevant Controlling Persons, by correctly conducting the due diligence procedures and collect and report the required information with respect to each Reportable Account. This includes having in place:

- a) an effective administrative compliance framework to ensure the effective implementation of, and compliance with, the CRS. This framework should:
 - i. be based on a strategy that facilitates compliance by Reporting Financial Institutions and which is informed by a risk assessment in respect of the effective implementation of the CRS that takes into account relevant information sources (including third party sources);
 - ii. include procedures to ensure that Financial Institutions correctly apply the definitions of Reporting Financial Institutions and Non-Reporting Financial Institutions;
 - iii. include procedures to periodically verify Reporting Financial Institutions' compliance,³ conducted by authorities that have adequate powers with respect to the reviewed Reporting Financial Institutions, with procedures to access the records they maintain;⁴ and
- b) effective procedures to ensure that Financial Institutions, persons or intermediaries do not circumvent the due diligence and reporting procedures;
- c) effective enforcement mechanisms to address non-compliance by Reporting Financial Institutions;
- d) strong measures to ensure that valid self-certifications are always obtained for New Accounts;⁵
- e) effective procedures to ensure that each, or each type of, jurisdiction-specific Non-Reporting Financial Institution and Excluded Account continue to present a low risk of being used to evade tax;⁶ and
- f) effective procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported in order to establish the reasons why such information is being reported.⁷

International collaboration to ensure effectiveness

SR 1.6 Jurisdictions should collaborate on compliance and enforcement. This requires jurisdictions to:

- a) use all appropriate measures available under the jurisdiction's domestic law to address errors or non-compliance notified to the jurisdiction by an exchange partner;⁸ and
- b) have in place effective procedures to notify an exchange partner of errors that may have led to incomplete or incorrect information reporting or non-compliance with the due diligence or reporting procedures by a Reporting Financial Institution in the jurisdiction of the exchange partner.⁹

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.¹⁰

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,¹¹ including with respect to:

- a) the categories of information to be exchanged;¹²
- b) the timing of the exchange of information;¹³
- 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;¹⁴ and
- d) taking all appropriate measures available under the jurisdiction's domestic law to address errors or non-compliance notified to it.¹⁵

CR2 Effectiveness in practice: Jurisdictions should exchange the information effectively in practice, in a timely manner, including by sorting, preparing, validating and transmitting it in accordance with the AEOI Standard

Preparing and validating the information

SR 2.4 Jurisdictions should sort, prepare and validate the information in accordance with the CRS XML Schema and the associated requirements in the CRS XML Schema User Guide¹⁶ and the File Error and Correction-related validations in the Status Message User Guide (i.e. the 50000 and 80000 range).¹⁷

Transmitting the information

SR 2.5 Jurisdictions should agree and use, with each exchange partner, transmission methods that meet appropriate minimum standards to ensure the confidentiality and integrity of the data throughout the transmission, including its encryption to a minimum secure standard.¹⁸

SR 2.6 Jurisdictions should carry out all exchanges annually within nine months of the end of the calendar year to which the information relates.¹⁹

SR 2.7 Jurisdictions should send the information in accordance with the agreed transmission methods and encryption standards.²⁰

SR 2.8 Jurisdictions should have the systems in place to receive information and, once it has been received, should send a status message to the sending jurisdictions in accordance with the CRS Status Message XML Schema and the related User Guide.

Providing corrections, amendments or additions

SR 2.9 Jurisdictions should respond to a notification from an exchange partner as referred to in Section 4 of the Model CAA (which may include Status Messages) in accordance with the timelines set out in the Commentary to Section 4 of the Model CAA. In all other cases, jurisdictions should send corrected, amended or additional information received from a Reporting Financial Institution as soon as possible after it has been received.²¹

Core Requirement 3: Jurisdictions should keep the information exchanged confidential and properly safeguarded, and use it in accordance with the exchange agreement under which it was exchanged SR

SR 3.1 Jurisdictions should meet the confidentiality and data safeguard requirements, including on the use of the information, referred to in Section 5 of the Model CAA to be able to receive information under the AEOI Standard.

Notes

¹ 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.

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

³ Paragraph A. 3 of Section IX of the CRS

⁴ Paragraph A. 2 of Section IX of the CRS

⁵ Paragraph 18 of the Commentary on Section IX of the CRS

⁶ Paragraph A. 4 of Section IX of the CRS

⁷ Paragraph A. 3 of Section IX of the CRS

⁸ Section 4 of the Model CAA

⁹ Section 4 of the Model CAA

¹⁰ 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.

¹¹ 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.

¹² Section 2 of the Model CAA

¹³ Section 3 of the Model CAA

¹⁴ Section 4 of the Model CAA

¹⁵ Section 4 of the Model CAA

¹⁶ Paragraph 5 of Section 3 of the Model CAA

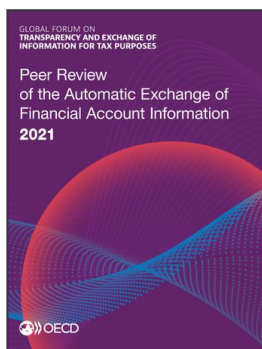
¹⁷ If using the Common Transmission System, the information should be prepared in accordance with the File Preparation and Encryption User Guide.

¹⁸ Paragraph 6 of Section 3 of the Model CAA and the File Preparation and Encryption User Guide

¹⁹ Paragraph 3 of Section 3 of the Model CAA also states that information is only required to be exchanged with respect to a calendar year if both jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange required (Section 2 of the Model CAA) and the reporting and due diligence procedures contained in the CRS.

²⁰ Paragraph 6 of Section 3 of the Model CAA and the File Preparation and Encryption User Guide

²¹ Commentary on Section 2 of the Model CAA



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