

Andorra

Overall findings

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| Overall determination on the legal framework: In Place But Needs Improvement |
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Andorra'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 Andorra's international legal framework to exchange the information with all of Andorra'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 an element of the AEOI Standard. More specifically, Andorra's legal framework includes jurisdiction-specific Excluded Accounts that are not in accordance with the AEOI Standard.

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

Andorra 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, Andorra:

- enacted Law 19/2016, of 30 November 2016, on automatic exchange of information in tax matters as amended by Law 29/2017, Law 30/2017, and Law 19/2018;
- introduced Decree of 2 August 2017, Decree of 7 February 2018, Decree of 3 October 2018 and Decree of 16 January 2019;
- introduced the Ministerial Order of 7 February 2018;
- issued further guidance, which is not legally binding; and
- made reference to the Law 14/2017, of 22 June, on the prevention and fight against money laundering and terrorist financing with respect to the identification of Controlling Persons.

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.

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

- 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
- has in place an agreement with the European Union.

Detailed findings

The detailed findings for Andorra 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.

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| Determination: In Place But Needs Improvement |
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Andorra'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, Andorra provides for several jurisdiction-specific Excluded Accounts that are not in accordance with the requirements.

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

Andorra 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.

Andorra 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, Andorra provides for four 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.

Recommendations:

Andorra should amend its domestic legislative framework to remove four entries from its jurisdiction-specific list of Excluded Accounts as they do not meet the requirements because they are not subject to regulation as a savings or investment vehicle. The entries are: i) accounts linked to insurance contracts or any other contractual arrangement for pension plans or other social welfare instruments; ii) accounts linked to insurance contracts or any other arrangement for savings products for purposes other than retirement; iii) operative current accounts exclusively used for payments associated with ownership or usage of a residence in Andorra; and iv) custodial accounts holding Andorran Government public debt securities with an average balance not exceeding USD 50 000.

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

Andorra 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.

Andorra 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.

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| Determination: In Place |
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Andorra'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 Andorra's Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from Andorra 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.

Andorra 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.

Andorra 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.

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

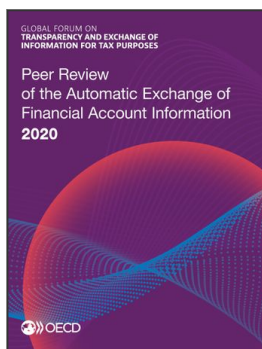
Recommendations:

No recommendations made.

Comments by the assessed jurisdiction

Since 2009, Andorra has initiated a transformative process to meet its commitments to transparency and meeting international standards of exchange of tax information, and has also consolidated a modern national tax and economic regulatory framework to be equivalent to those of our neighbouring countries. While it has been a challenging task, Andorra has had notable success in such a short period of time and Andorra has done it with the conviction that this was the only path to follow. The outcome of the evaluation contained in this report confirms this commitment.

Andorra's priority is to be as competitive as possible in a globalized economy, with full commitment to transparency and compliance with international standards, while continuing to improve the legal framework and ensuring a level playing field.



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