

San Marino

This report analyses the implementation of the AEOI Standard in San Marino with respect to the requirements of the AEOI Terms of Reference. It assesses both the legal frameworks put in place to implement the AEOI Standard and the effectiveness of the implementation of the AEOI Standard in practice.

The methodology used for the peer reviews and that therefore underpins this report is outlined in Chapter 2.

Overall findings

AEOI legal framework

San Marino's legal framework implementing the AEOI Standard is in place and is consistent with the requirements of the AEOI Terms of Reference. This includes San Marino's domestic legislative framework requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures (CR1) and its international legal framework to exchange the information with all of San Marino's Interested Appropriate Partners (CR2).

Overall determination on the legal framework: In Place

Effectiveness of AEOI in practice

San Marino's implementation of the AEOI Standard is on track with respect to the requirements of the AEOI Terms of Reference to ensure the effectiveness of the AEOI Standard in practice. This includes ensuring Reporting Financial Institutions correctly conduct the due diligence and reporting procedures (CR1) and exchanging the information in an effective and timely manner (CR2). San Marino is encouraged to continue its implementation process accordingly, to ensure its ongoing effectiveness.

Overall rating in relation to the effectiveness in practice: On Track
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General context

San Marino 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, San Marino:

- enacted Law no. 174 of 27 November 2015;
- introduced Regulation no. 20 of 30 December 2015 – Technical Regulations on the protection of personal data in application of exchange of information in tax matters; and
- issued further guidance, which is legally binding.

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.

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

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

Table 1 sets out the number of Financial Institutions in San Marino that reported information on Financial Accounts in 2021 as defined in the AEOI Standard (essentially because they maintained Financial Accounts for Account Holders, or that were related to Controlling Persons, resident in a Reportable Jurisdiction). It also sets out the number of Financial Accounts that they reported in 2021. In this regard, it should be noted that San Marino requires the reporting of Financial Accounts based on a prescribed list of exchange partners and some accounts may be required to be reported more than once (e.g. jointly held accounts or accounts with multiple related Controlling Persons), which is reflected in the figures below. These figures provide key contextual information to the development and implementation of San Marino's administrative compliance strategy, which is analysed in the subsequent sections of this report.

Table 1. Number of Financial Institutions reporting and Financial Accounts reported

	Number
Financial Institutions reporting Financial Accounts in 2021	12
Financial Accounts reported in 2021	22 332

Table 2 sets out the number of exchange partners to which information was successfully sent by San Marino in the past few years (including where the necessary frameworks were in place, containing an obligation on Reporting Financial Institutions to report information, but no relevant Reportable Accounts were identified). These figures provide key contextual information in relation to San Marino's exchanges in practice, which is also analysed in subsequent sections of this report.

Table 2. Number of exchange partners to which information was successfully sent

	2018	2019	2020	2021
Number of exchange partners to which information was successfully sent	57	63	68	71

In order to provide for the effective implementation of the AEOI Standard, in San Marino:

- the Central Liaison Office (the Competent Authority for tax purposes) has the responsibility to ensure the effective implementation of the due diligence and reporting obligations by Reporting Financial Institutions and for exchanging the information with San Marino's exchange partners;
- technical solutions necessary to receive and validate the information reported by Reporting Financial Institutions were put in place through the web application "ExFin" which requires CRS files to meet XML Schema validation requirements in order for them to be submitted; and
- the Common Transmission System (CTS) is used for the exchange of the information, along with the associated file preparation and encryption requirements.

It should be noted that the review of San Marino's legal frameworks implementing the AEOI Standard concluded with the determination that San Marino's domestic and international legal frameworks are In Place. This has been taken into account when reviewing the effectiveness of San Marino's implementation of the AEOI Standard in practice.

Findings and conclusions on the legal frameworks

The detailed findings and conclusions on the AEOI legal frameworks for San Marino are below, organised per Core Requirement (CR) and sub-requirement (SR), as extracted from the AEOI Terms of Reference (see Annex C).

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

San Marino's domestic legislative framework is in place and contains all of the key aspects of the CRS and its Commentary requiring Reporting Financial Institutions to conduct the due diligence and reporting procedures (SRs 1.1 – 1.3). It also provides for a framework to enforce the requirements (SR 1.4).

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

Findings:

San Marino 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.

Findings:

San Marino 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.

Findings:

San Marino 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.

Findings:

San Marino 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

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

Findings:

San Marino 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.

Findings:

San Marino 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.

Findings:

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

Recommendations:

No recommendations made.

Assessed jurisdiction's comments on the assessment of its legal frameworks

No comments made.

Findings and conclusions in relation to effectiveness in practice

The detailed findings and conclusions in relation to effectiveness in practice of AEOI for San Marino are below, organised per Core Requirement (CR) and then per sub-requirement (SR) as extracted from the AEOI Terms of Reference (see Annex C).

CR1 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.

Rating: On Track

San Marino's implementation of the AEOI Standard is on track with respect to ensuring that Reporting Financial Institutions are correctly conducting the due diligence and reporting procedures and are therefore reporting complete and accurate information. This includes ensuring effectiveness in a domestic context, such as through having an effective administrative compliance framework and related procedures (SR 1.5), and collaborating with exchange partners to ensure effectiveness (SR 1.6). San Marino is encouraged to continue its implementation process to ensure its ongoing effectiveness.

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, conducted by authorities that have adequate powers with respect to the reviewed Reporting Financial Institutions, with procedures to access the records they maintain; 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;
- 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; 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.

Findings:

In order to ensure that all Reporting Financial Institutions correctly conduct the due diligence and reporting procedures, San Marino implemented all of the requirements in accordance with expectations. The key findings were as follows:

- San Marino implemented an overarching strategy to ensure compliance with the AEOI Standard developed after conducting a risk assessment that took into account a range of relevant information sources, such as the information reported by its Reporting Financial Institutions and the nature of its financial industry. San Marino's compliance strategy facilitates compliance and incorporates a credible approach to enforcement. San Marino intends to keep its compliance strategy and risk assessment under review to ensure its effectiveness on an ongoing basis.
- San Marino has worked effectively to understand its population of Financial Institutions, including relevant non-regulated entities, utilising various relevant information sources, such as the list of entities regulated to provide financial services, the Foreign Financial Institution list for FATCA purposes and information obtained from Trust and Company Service Providers (TCSPs). San Marino is taking action to ensure that Reporting Financial Institutions are classifying themselves correctly under its domestic rules and reporting information as required. San Marino intends to keep its understanding of its Financial Institution population up to date on a routine basis.
- The institution responsible for implementing San Marino's compliance strategy appears to have the necessary powers and resources to discharge its functions. With respect to resourcing, San Marino has assigned the equivalent of one full time staff to monitor and ensure compliance by Reporting Financial Institutions, which has access to IT systems and tools to conduct risk assessments, including the reports submitted by Reporting Financial Institutions. Overall, they appear to have effectively implemented an operational plan to verify compliance with the requirements, incorporating appropriate compliance activities.
- It appears that San Marino effectively enforces the requirements, including through desk-based reviews, which include the inspection of records of Reporting Financial Institutions. San Marino has not yet applied its penalties and sanctions for non-compliance. It also appears that San Marino is ready to take effective action to address circumvention of the requirements if such circumvention is detected, and that action is being taken to ensure self-certifications are obtained as required. No accounts have been reported as undocumented accounts.
- It is noted that San Marino does not have a jurisdiction-specific list of Non-Reporting Financial Institutions or Excluded Accounts for ongoing monitoring.

Table 3 provides a summary of the specific activities undertaken, or that are planned to be undertaken, in relation to each of the key parts of the framework described above.

Table 3. Activities undertaken

Activity type	Activities undertaken
Communication and outreach	San Marino has carried out substantial communication and outreach activities, such as setting out guidance to its Financial Institutions on the implementation of the AEOI Standard. It also has a close relationship with its population of regulated Reporting Financial Institutions and has regular meetings and contact with their representatives in relation to their obligations.
Verifying that Financial Institutions are reporting as required	San Marino has carried out substantial verification activities to ensure that Financial Institutions are reporting as required, such as by cross-checking Financial Institutions against its list of AML regulated Financial Institutions, the Foreign Financial Institution list for FATCA purposes and information obtained from TCSPs, and identified no Financial Institutions incorrectly not reporting.
Verifying whether the information reported is complete and accurate	San Marino has conducted a significant number of desk-based checks to verify whether the information being reported is complete and accurate. Furthermore, San Marino has conducted a significant number of in-depth audits with a review of the records held by Reporting Financial Institutions. San Marino has not yet conducted onsite visits, but has plans to do so in the near future. It accordingly identified one issue concerning an incorrect payment reported. It has followed up on this issue with a

Activity type	Activities undertaken
Enforcement	view to ensuring future compliance. Following the activities mentioned above, San Marino has not yet imposed penalties and sanctions, but has plans to do so in the near future. It is monitoring the impact of these penalties and sanctions with a view to ensuring future compliance.

With respect to the Financial Account information collected and sent by San Marino, the presence of the key data points of the Tax Identification Numbers and dates of birth appeared to be in line with most other jurisdictions. San Marino stated that no undocumented accounts were reported.

More generally, many of the exchange partners that received a significant number of records from San Marino indicated that they achieved a success rate when matching the information received from San Marino with their taxpayer database that was broadly equivalent to, or better than, what they usually achieve.

Based on these findings it was concluded that San Marino is fully meeting expectations in ensuring that Reporting Financial Institutions correctly conduct the due diligence and reporting procedures, including by having in place the required administrative compliance framework and related procedures. San Marino is encouraged to continue its implementation process accordingly.

Recommendations:

No recommendations made.

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; 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.

Findings:

In order to collaborate on compliance and enforcement, it appears that San Marino implemented all of the requirements in relation to issues notified to them (i.e. under Section 4 of the MCAA or equivalent) in accordance with expectations. While no such notifications have yet been received, San Marino has the necessary systems and procedures to process them as required. It also appears that San Marino will notify its partners effectively of errors or suspected non-compliance it identifies when utilising the information received.

Based on these findings it was concluded that San Marino is fully meeting expectations in relation to collaborating with its exchange partners to ensure that Reporting Financial Institutions correctly conduct the due diligence and reporting procedures. San Marino is encouraged to continue its implementation process accordingly, to ensure its ongoing effectiveness.

Recommendations:

No recommendations made.

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.

Rating: On Track

San Marino's implementation of the AEOI Standard is on track with respect to exchanging the information effectively in practice, including in relation to sorting, preparing and validating the information (SR 2.4), correctly transmitting the information in a timely manner (SRs 2.5 – 2.8) and providing corrections, amendments or additions to the information (SR 2.9). San Marino is encouraged to continue its implementation process accordingly, to ensure its ongoing effectiveness.

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 Guide and the File Error and Correction-related validations in the Status Message User Guide (i.e. the 50000 and 80000 range).

Findings:

Feedback from San Marino's exchange partners did not raise any specific concerns with respect to their ability to process the information received from San Marino and therefore with respect to San Marino's implementation of these requirements. More generally, none of San Marino's exchange partners reported rejecting more than 25% of the files received, due to the technical requirements not being met. This is a relatively low amount when compared to other jurisdictions.

Based on these findings it was concluded that San Marino is fully meeting expectations in relation to sorting, preparing and validating the information. San Marino is encouraged to continue its implementation process accordingly, to ensure its ongoing effectiveness.

Recommendations:

No recommendations made.

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.

Findings:

In order to put in place an agreed transmission method that meets appropriate minimum standards in confidentiality, integrity of the data and encryption for use with each of its exchange partners, San Marino linked to the CTS.

Based on these findings it was concluded that San Marino is fully meeting expectations in relation to agreeing and using appropriate transmission methods with each of its partners. San Marino is encouraged to continue to ensure the ongoing effectiveness of its implementation.

Recommendations:

No recommendations made.

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.

Findings:

Feedback from San Marino's exchange partners did not raise any concerns with respect to timeliness of the exchanges by San Marino and therefore with respect to San Marino's implementation of this requirement.

Based on these findings it was concluded that San Marino is fully meeting expectations in relation to exchanging the information in a timely manner. San Marino is encouraged to continue to ensure the ongoing effectiveness of its implementation.

Recommendations:

No recommendations made.

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

Findings:

Feedback from San Marino's exchange partners did not raise any concerns with respect to San Marino's use of the agreed transmission methods and therefore with San Marino's implementation of this requirement.

Based on these findings it was concluded that San Marino is fully meeting expectations in relation to sending the information in accordance with the agreed transmission methods and encryption standards. San Marino is encouraged to continue to ensure the ongoing effectiveness of its implementation.

Recommendations:

No recommendations made.

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.

Findings:

Feedback from San Marino's exchange partners did not raise any concerns with respect to San Marino's receipt of the information and therefore with San Marino's implementation of these requirements.

Based on these findings it was concluded that San Marino is fully meeting expectations in relation to the receipt of the information. San Marino is encouraged to continue to ensure the ongoing effectiveness of its implementation.

Recommendations:

No recommendations made.

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.

Findings:

San Marino appears ready to respond to notifications and to provide corrected, amended or additional information in a timely manner and no such concerns were raised by San Marino's exchange partners and therefore with respect to San Marino's implementation of these requirements.

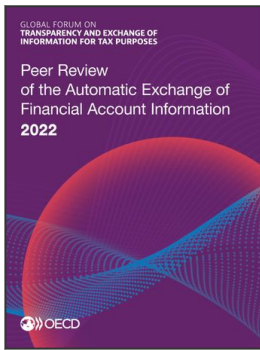
Based on these findings it was concluded that San Marino appears to be meeting expectations in relation to responding to notifications from exchange partners and the sending of corrected, amended or additional information. San Marino is encouraged to continue to ensure the ongoing effectiveness of its implementation.

Recommendations:

No recommendations made.

Assessed jurisdiction's comments on the assessment of effectiveness in practice

San Marino would like to thank the evaluation team and the Secretariat for their continued support and for the quality of the draft report.



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