

Korea

This report analyses the implementation of the AEOI Standard in Korea 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

Korea's legal framework implementing the AEOI Standard is in place and is consistent with the requirements of the AEOI Terms of Reference. This includes Korea'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 Korea's Interested Appropriate Partners (CR2).

Overall determination on the legal framework: In Place

Effectiveness of AEOI in practice

Korea'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). Korea 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

Korea 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, Korea:

- enacted Paragraphs 3~11 of Art. 31 of the Law for the Coordination of International Tax Affairs;
- introduced regulation number 47 "Enforcement degree of the Act on reporting and Using Specified Financial Transaction Information"; 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 on Entity Accounts by 31 December 2017.

Following the initial Global Forum peer review, Korea amended its legislative framework to address issues identified, effective from 31 May 2019.

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

- 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 three bilateral agreements.¹

Table 1 sets out the number of Financial Institutions in Korea 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 Korea 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 Korea'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	1 778
Financial Accounts reported in 2021	1 094 114

Table 2 sets out the number of exchange partners to which information was successfully sent by Korea 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 Korea'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	59	67	70	74

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

- the Korea National Tax Service (KNTS) (the tax authority) 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 Korea's exchange partners;
- technical solutions necessary to receive and validate the information reported by Reporting Financial Institutions were put in place with the AXIS reporting system for Reporting Financial Institutions; 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 Korea's legal frameworks implementing the AEOI Standard concluded with the determination that Korea's domestic and international legal frameworks are In Place. This has been taken into account when reviewing the effectiveness of Korea'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 Korea 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 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

Korea'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:

Korea 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:

Korea 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:

Korea 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:

Korea 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

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

Korea 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:

Korea 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:

Korea'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 Korea 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

Korea'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). Korea 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, Korea implemented most of the requirements in accordance with expectations. However, some issues were identified. The key findings were as follows:

- Korea 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 information obtained from the financial supervisory authority and from its New Tax Integrated System. Korea's compliance strategy facilitates compliance and appears to incorporate a credible approach to enforcement. Korea intends to keep its compliance strategy and risk assessment under review to ensure its effectiveness on an ongoing basis.
- Korea has worked effectively to understand its population of Financial Institutions, including relevant non-regulated entities, utilising various relevant information sources, such as information from the AML regulator and the Foreign Financial Institution list for FATCA purposes, and through the introduction of a nil reporting requirement. Korea is taking action to ensure that Reporting Financial Institutions are classifying themselves correctly under its domestic rules and reporting information as required. Korea intends to keep its understanding of its Financial Institution population up to date on a routine basis.
- The institution responsible for implementing Korea's compliance strategy appears to have the necessary powers to discharge its functions, although the adequacy of its resourcing is unclear, particularly in light of the issues identified. With respect to resourcing, Korea has assigned the equivalent of two full time staff to monitor and ensure compliance by Reporting Financial Institutions, which have access to IT systems and tools to conduct risk assessments, such as the AXIS reporting system and tools to cross-check the reports with other domestically reported information.
- Korea has carried out substantial activities to verify that the information reported by its Reporting Financial Institutions is complete and accurate, including through the inspection of records. These activities appear to be effective at identifying non-compliance by Korean Reporting Financial Institutions, including a significant number of errors in the due diligence and reporting. This includes a significant proportion of accounts reported with errors, the reporting of incorrect Tax Identification Numbers and dates of birth, and failures by Reporting Financial Institutions to obtain addresses and valid self-certifications when required, including upon account opening. Overall, Korea has implemented a plan that includes communications, outreach and verification activities to ensure that Financial Institution procedures and reported information are corrected and this appears to have resulted in improvements over time.
- Where non-compliance has been identified, enforcement activities are not yet routinely applied, which could impede the effectiveness of Korea's enforcement mechanism. However, it does appear that Korea is ready to take effective action to address circumvention of the requirements if such circumvention is detected, and that action is being taken to follow up on undocumented accounts. Korea will also keep its jurisdiction-specific lists of Non-Reporting Financial Institutions and Excluded Accounts under review to ensure they continue to pose a low risk of being used for tax evasion purposes.

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	Korea has carried out substantial communication and outreach activities, such as creating materials including videos to educate Reporting Financial Institutions on their due diligence and reporting obligations and establishing close partnerships with certain Financial Institutions.
Verifying that Financial Institutions are reporting as required	Korea has carried out substantial verification activities to ensure that Financial Institutions are reporting as required, such as contacting all Korean FFIs which register on the FATCA FFI list and reviewing national

Activity type	Activities undertaken
Verifying whether the information reported is complete and accurate	<p>lists of financial institutions subject to regulatory supervision. Korea identified some Financial Institutions incorrectly not reporting. It is following up on these issues with a view to ensuring future compliance.</p> <p>Korea has conducted a significant number of desk-based checks to verify whether the information being reported is complete and accurate. Furthermore, Korea has conducted some onsite visits. It accordingly identified many issues, commonly concerning failures to obtain self-certifications when required, and incorrect reporting of Tax Identification Numbers and dates of birth. It is following up on these issues with a view to ensuring future compliance.</p>
Enforcement	Following the activities mentioned above, Korea has not yet imposed penalties and sanctions, but has plans to do so where necessary. It will monitor the impact of these penalties and sanctions with a view to ensuring future compliance.

In terms of the Financial Account information collected and sent by Korea, while the presence of the key data point of dates of birth appeared to be in line with most other jurisdictions, it was found to include a lower proportion of Tax Identification Numbers with respect to the individuals associated with the accounts when compared to most other jurisdictions. This is a key data point for exchange partners to effectively utilise the information. Information provided by Korea also showed a higher number of undocumented accounts reported by its Reporting Financial Institutions, when compared to other jurisdictions, which should only occur when it is not possible for the Reporting Financial Institutions to identify whether the accounts are held by Reportable Persons. However, the number of undocumented accounts has reduced over time. Follow-up discussions confirmed that Korea is aware of these issues and is taking steps to address them.

Feedback from Korea's exchange partners indicated that, compared to what they generally experience when seeking to match information received from their exchange partners with their taxpayer database, they achieved a much lower level of success when seeking to match information received from Korea. Furthermore, three exchange partners highlighted issues with respect to the information received, such as a high proportion of accounts with no first names, and a very high proportion of accounts that do not have valid Tax Identification Numbers and that cannot be matched. Follow-up discussions confirmed that Korea is aware of these issues and is seeking to improve the situation.

Based on these findings it was concluded that, overall, Korea is 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. It was also noted that there is room for improvement with respect to ensuring that valid self-certifications and key data points for exchange partners are always obtained when required. Korea is therefore encouraged to continue its implementation process accordingly, including by addressing the recommendations made.

Recommendations:

Korea should continue to monitor and verify whether Reporting Financial Institutions are obtaining valid self-certifications as required, including dedicated communication activities, with a particular focus on self-certifications obtained after the opening of a Financial Account.

Korea should implement effective enforcement mechanisms to address non-compliance by Reporting Financial Institutions, including the application of dissuasive penalties and sanctions as appropriate, and routinely apply them where non-compliance is identified.

Korea should ensure that it allocates adequate resources to carry out its compliance strategy.

Korea should continue to address the issues raised by its exchange partners.

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 Korea 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, Korea has the necessary systems and procedures to process them as required. Korea also notifies its partners effectively of errors or suspected non-compliance it identifies when utilising the information received.

Based on these findings it was concluded that Korea 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. Korea 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

Korea'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). Korea 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:

One exchange partner highlighted a particular issue with respect to preparation and format of the information sent by Korea. This concerned the CRS XML Schema validation requirements. More generally, one of Korea's exchange partners reported rejecting more than 25%, although not more than 50%, of the files received, due to the technical requirements not being met. This is a relatively low amount when compared to other jurisdictions. It was noted that Korea has already successfully addressed the issue.

Based on these findings it was concluded that Korea is fully meeting expectations in relation to sorting, preparing and validating the information. Korea 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, Korea linked to the CTS.

Based on these findings it was concluded that Korea is fully meeting expectations in relation to agreeing and using appropriate transmission methods with each of its partners. Korea 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 Korea's exchange partners did not raise any concerns with respect to timeliness of the exchanges by Korea and therefore with respect to Korea's implementation of this requirement.

Based on these findings it was concluded that Korea is fully meeting expectations in relation to exchanging the information in a timely manner. Korea 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 Korea's exchange partners did not raise any concerns with respect to Korea's use of the agreed transmission methods and therefore with Korea's implementation of this requirement.

Based on these findings it was concluded that Korea is fully meeting expectations in relation to sending the information in accordance with the agreed transmission methods and encryption standards. Korea 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 Korea's exchange partners did not raise any concerns with respect to Korea's receipt of the information and therefore with Korea's implementation of these requirements.

Based on these findings it was concluded that Korea is fully meeting expectations in relation to the receipt of the information. Korea 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:

Korea 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 Korea's exchange partners and therefore with respect to Korea's implementation of these requirements.

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

Recommendations:

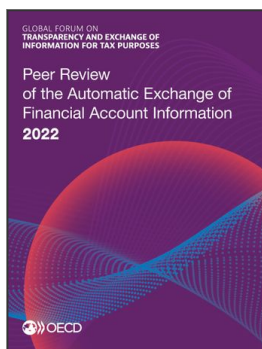
No recommendations made.

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

No comments made.

Note

¹ With Hong Kong (China), Qatar and Singapore. Korea has also activated relationships under the CRS MCAA with Qatar and Singapore.



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