

Nigeria

This report analyses the implementation of the AEOI Standard in Nigeria with respect to the requirements of the AEOI Terms of Reference. It assesses the legal frameworks put in place to implement the AEOI Standard.

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

Overall findings

AEOI legal framework

Nigeria's legal framework implementing the AEOI Standard is in place but needs improvement in order to be fully consistent with the requirements in the AEOI Terms of Reference. While Nigeria's international legal framework to exchange the information with all of Nigeria'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 elements of the AEOI Standard. More specifically, the rules in Nigeria's legislative framework to prevent persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures are insufficient in scope.

Overall determination on the legal framework: In Place But Needs Improvement
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General context

Nigeria commenced exchanges under the AEOI Standard in 2020.

In order to provide for Reporting Financial Institutions to collect and report the information to be exchanged, Nigeria:

- enacted the *Income Tax (Common Reporting Standard) Regulations 2019*;
- introduced *The Income Tax (Common Reporting Standard) Implementation and Compliance Guidelines, 2019*.

Under this framework Reporting Financial Institutions were required to commence the due diligence procedures in relation to New Accounts from 1 July 2019. With respect to Preexisting Accounts, Reporting Financial Institutions were required to complete the due diligence procedures on High-Value Individual Accounts by 31 December 2019 and on Preexisting Lower Value Individual Accounts and Entity Accounts by 31 December 2020.

With respect to the exchange of the information under the AEOI Standard, Nigeria 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 2020.

Findings and conclusions on the legal frameworks

The detailed findings and conclusions on the AEOI legal frameworks for Nigeria 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 But Needs Improvement

Nigeria'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 one area relating to the framework to enforce the requirements (SR 1.4). More specifically, the rules in Nigeria's legislative framework to prevent persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures are insufficient in scope as they do not cover all relevant persons and circumstances.

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

Findings:

Nigeria 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:

Nigeria 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:

Nigeria 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:

Nigeria has a legislative framework in place to enforce the requirements in a manner that is largely consistent with the CRS and its Commentary. However, a deficiency has been identified. More specifically, Nigeria's legislative framework does not include rules to prevent all relevant persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures as required. This is

a key element of the required enforcement framework relates to and is therefore material to the proper functioning of the AEOI Standard.

Recommendations:

Nigeria should amend its domestic legislative framework to include rules to prevent all Financial Institutions, persons and intermediaries from adopting practices intended to circumvent the due diligence and reporting procedures, rather than just those on whom the AEOI Standard imposes an obligation.

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

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

Nigeria 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:

Nigeria 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:

Nigeria'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

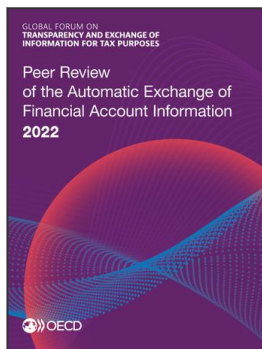
Nigeria has observed that under SR.1.4., this Report states that Nigeria's Legislative framework is in place to enforce the requirements in a manner that is Largely consistent with the CRS and its commentary.

However, the Report also highlighted a deficiency – that the Anti-avoidance Rule under Regulation 12 of Nigeria Income Tax (Common Reporting Standard) Regulations 2019 does not prevent ALL relevant persons, including intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures as required.

Nigeria notes the Recommendation to amend its CRS legal framework to address this deficiency, and will take the required steps to update the text of Regulation 12 to meet the Agreed standard.

However, Nigeria hereby places on record that the text of the Nigeria CRS Regulations 2019, including the Anti-avoidance rule, was modelled after the OECD Global Forum CRS Rules that was made available to Nigeria's Legal drafting team in 2018. We are now aware that the Global Forum learning from experience from reviews of CRS legal framework of over 100 jurisdictions, has in recent times issued a new version of CRS Rules, which amongst other things provides an updated text for the Anti-avoidance rule, with a view to ensuring that all persons in scope, are covered.

Nigeria will be guided by text of the latest version of the Global Forum Model CRS Rules, in our efforts to update the Nigeria Income Tax (Common Reporting Standard) Regulations 2019.



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