

# Niue

This report analyses the implementation of the AEOI Standard in Niue 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*

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

<b>Overall determination on the legal framework: In Place</b>
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### *Effectiveness of AEOI in practice*

Niue'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). Niue is encouraged to continue to its implementation process accordingly, to ensure its ongoing effectiveness.

<b>Overall rating in relation to the effectiveness in practice: On Track</b>
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## General context

Niue committed to commence exchanges under the AEOI Standard in 2018 on a non-reciprocal basis. As there does not appear to be any Reporting Financial Institutions in Niue, no information has yet been reported domestically in Niue for exchange. Niue has therefore also not yet needed to exchange information under the AEOI Standard.

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

- enacted the Niue Tax Amendment Act 2016 and Niue Income Tax Act 1961; and
- introduced the Income Tax (Automatic Exchange of Information) Regulations 2017.

Under this framework Reporting Financial Institutions were required to commence the due diligence procedures in relation to New Accounts from 1 July 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, Niue 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 2019.

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

- the Niue Revenue Office (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 Niue's exchange partners;
- technical solutions necessary to receive and validate the information reported by Reporting Financial Institutions have not yet needed to be put in place; and
- a transmission method has also not yet needed to be put in place.

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

<b>Determination: In Place</b>
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Niue'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:**

Niue 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:**

Niue 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:**

Niue 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:**

Niue 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.***

<b>Determination: In Place</b>
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Niue'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 Niue's Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from Niue 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:**

Niue 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:**

Niue put in place its exchange agreements without undue delay.

**Recommendations:**

No recommendations made.

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**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:**

Niue'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

Niue appreciates the opportunity to comment on this report.

Niue notes the assessment.

Niue also looks forward to continuing dialogue within the Global Forum regarding participation and compliance challenges for Small Island Developing States.

## Findings and conclusions in relation to effectiveness in practice

The detailed findings and conclusions in relation to effectiveness in practice of AEOI for Niue 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.***

<b>Rating: On Track</b>
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Niue'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. In the case of Niue, this consists of ensuring effectiveness in a domestic context by having an effective administrative compliance framework, specifically to identify Reporting Financial Institutions. Niue is encouraged to continue to monitor whether there are Reporting Financial Institutions in Niue to ensure the ongoing effectiveness of its implementation.

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**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 Reporting Financial Institutions correctly conduct the due diligence and reporting procedures, Niue implemented all of the necessary requirements in accordance with expectations. The key findings are set out below.

Niue has identified only one financial services provider in Niue that would be subject to the requirements of the AEOI Standard. It is registered as a bank in an offshore jurisdiction and operates under an agency banking arrangement with the Government of Niue. The bank itself does not maintain any Financial Accounts in Niue and is fully subject to the requirements of the AEOI Standard in the jurisdiction in which it is located, including in relation to its activities in Niue. Aside from that, Niue has only identified the Niue Development Bank that is of potential relevance, although its only activities are the provision of loans in accordance with the pre-set criteria, which are to promote the economic development of Niue. Neither entity is therefore required to report information under the AEOI Standard. Furthermore, Niue has cross-checked the Foreign Financial Institution list for FATCA purposes and it does not include any Financial Institution from Niue. It is for these reasons that, despite having the legal obligations in place, no information has been reported in Niue. Finally, Niue has confirmed that it will continue to monitor whether any Reporting Financial Institutions become located in Niue in the future.

Based on these findings it was concluded that Niue 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. Niue is encouraged to continue to monitor whether it has any Reporting Financial Institutions to ensure the ongoing effectiveness in its implementation of the AEOI Standard.

### Recommendations:

No recommendations made.

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**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:**

Niue has not commenced exchanges with its partners under the AEOI Standard as there are no Reporting Financial Institutions in Niue. Furthermore, it should be noted that, as Niue exchanges information on a non-reciprocal basis and does not therefore receive information, it is not required to have in place procedures to notify its exchange partners. SR 1.6 has therefore not been assessed in this case.

**Recommendations:**

Not applicable.

***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.***

<b>Rating: On Track</b>
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Niue's implementation of the AEOI Standard is on track with respect to exchanging the information effectively in practice as, to date, Niue has not needed to exchange information under the AEOI Standard. Niue is encouraged to ensure it will be able to exchange information effectively in practice if and when it is needed.

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**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:**

Niue has not commenced exchanges with its partners under the AEOI Standard as there are no Reporting Financial Institutions in Niue. SR 2.4 has therefore not been assessed in this case.

**Recommendations:**

Not applicable.

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**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:**

Niue has not commenced exchanges with its partners under the AEOI Standard as there are no Reporting Financial Institutions in Niue and Niue exchanges information on a non-reciprocal basis and does not therefore receive information. It therefore does not need to agree transmission methods with its partners. SR 2.5 has therefore not been assessed in this case.

**Recommendations:**

Not applicable.

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**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:**

Niue has not commenced exchanges with its partners under the AEOI Standard as there are no Reporting Financial Institutions in Niue. SR 2.6 has therefore not been assessed in this case.

**Recommendations:**

Not applicable.

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

**Findings:**

Niue has not commenced exchanges with its partners under the AEOI Standard as there are no Reporting Financial Institutions in Niue. SR 2.7 has therefore not been assessed in this case.

**Recommendations:**

Not applicable.

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**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:**

Niue has not commenced exchanges with its partners under the AEOI Standard as there are no Reporting Financial Institutions in Niue. SR 2.8 has therefore not been assessed in this case.

**Recommendations:**

Not applicable.

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**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:**

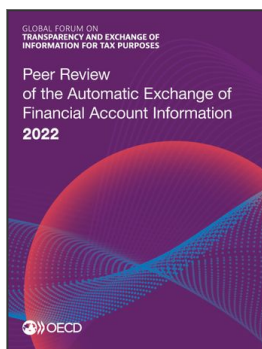
Niue has not commenced exchanges with its partners under the AEOI Standard as there are no Reporting Financial Institutions in Niue. SR 2.9 has therefore not been assessed in this case.

**Recommendations:**

Not applicable.

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

No comments made.



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