

Marshall Islands

This report analyses the implementation of the AEOI Standard in the Marshall Islands 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

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

Overall determination on the legal framework: In Place

Effectiveness of AEOI in practice

The Marshall Islands' implementation of the AEOI Standard is partially compliant with the requirements of the AEOI Terms of Reference to ensure the effectiveness of the AEOI Standard in practice. While the Marshall Islands is on track with respect to exchanging the information in an effective and timely manner (CR2), there are significant issues with respect to ensuring that Reporting Financial Institutions correctly conduct the due diligence and reporting procedures (CR1).

Overall rating in relation to the effectiveness in practice: Partially Compliant

General context

The Marshall Islands commenced exchanges under the AEOI Standard on a non-reciprocal basis in 2018 (i.e. it send but it does not receive information).

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

- enacted the Automatic Exchange of Financial Account Information Act, 2016;
- relies on Chapter 5 of Title 48 of the Marshall Islands Revised Code; and
- introduced the AEOI Regulation 2016.

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, the Marshall Islands 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.

Table 1 sets out the number of Financial Institutions in the Marshall Islands 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 the Marshall Islands 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 the Marshall Islands' 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	8
Financial Accounts reported in 2021	20

Table 2 sets out the number of exchange partners to which information was successfully sent by the Marshall Islands 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 the Marshall Islands' 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	1	57	59	62

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

- the Secretary of Finance (representing the tax authority) and the Financial Institutions Supervision Department (the department responsible for conducting audits related to obligations under the AEOI Standard), in the Ministry of Finance, have the responsibility to ensure the effective implementation of the due diligence and reporting obligations by Reporting Financial Institutions and for exchanging the information with the Marshall Islands' exchange partners;
- technical solutions necessary to receive and validate the information reported by Reporting Financial Institutions were put in place by implementing the Multi Data Exchange Solution (MDES) system for Reporting Financial Institutions to report information to the Competent Authority; 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 the Marshall Islands' legal frameworks implementing the AEOI Standard concluded with the determination that the Marshall Islands' domestic and international legal frameworks are In Place. This has been taken into account when reviewing the effectiveness of the Marshall Islands' 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 the Marshall Islands 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

The Marshall Islands' 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:

The Marshall Islands 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:

The Marshall Islands 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:

The Marshall Islands 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:

The Marshall Islands 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

The Marshall Islands' 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 the Marshall Islands' Interested Appropriate Partners (i.e. all jurisdictions that are interested in receiving information from the Marshall Islands 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:

The Marshall Islands 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:

The Marshall Islands 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:

The Marshall Islands' 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 the Marshall Islands 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: Partially Compliant

The Marshall Islands' implementation of the AEOI Standard is partially compliant with respect to ensuring that Reporting Financial Institutions are correctly conducting the due diligence and reporting procedures. More specifically, while the Marshall Islands is meeting expectations with respect to collaboration with its exchange partners to ensure effectiveness (SR 1.6), there are significant issues with respect to ensuring effectiveness in a domestic context, such as through having an effective administrative compliance framework and related procedures (SR 1.5). The Marshall Islands should continue its implementation process to ensure its effectiveness, including by addressing the recommendations made.

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, the Marshall Islands implemented some of the requirements in accordance with expectations. However, significant issues were identified. The key findings were as follows:

- The Marshall Islands has put in place a strategy to effectively implement the AEOI Standard, which has now been complemented by an AEOI Reference Manual that provides high-level guidance and reference to the staff working on AEOI compliance. The compliance strategy seems to be informed by a risk assessment, which takes into account a range of relevant information sources, such as information reported by Reporting Financial Institutions, non-AEOI compliance activities performed on Financial Institutions and feedback received from peers. The Marshall Islands' compliance strategy facilitates compliance and incorporates a credible approach to enforcement.
- The Marshall Islands has worked to understand its population of Financial Institutions, including relevant non-regulated entities, utilising various relevant information sources, such as the list of licensed banks and financial service providers, the list of registered entities for tax purposes and the Foreign Financial Institution list for FATCA purposes. It has also taken action to ensure that Reporting Financial Institutions are classifying themselves correctly under its domestic rules and are reporting information as required. The Marshall Islands intends to keep its understanding of its Financial Institution population up to date on a routine basis.
- The institution responsible for implementing the Marshall Islands' compliance strategy appears to have the necessary powers and resources to discharge its functions. With respect to resourcing, the Marshall Islands has embedded its compliance functions related to the AEOI Standard into its existing compliance functions within the tax administration. Overall, there is a shared resource of five compliance staff available in the Ministry of Finance for AEOI Standard compliance when required.
- The Marshall Islands appears to have procedures in place to apply penalties and sanctions for non-compliance when it is identified. It also appears ready to take action to address the circumvention of the requirements if such circumvention is detected.
- Although the Marshall Islands' compliance strategy contemplates the verification of the completeness and accuracy of the reported information and enforcement activities, none of them have been carried out yet. So far, the Marshall Islands has carried out a risk assessment to identify the Reporting Financial Institutions that will be subject to in-depth reviews, although such reviews have not yet been carried out. This includes the activities related to the verification of self-certifications and to the monitoring of the interaction between the Marshall Islands' AML and CRS framework to ensure that the collection and reporting of information is always in accordance with the AEOI Standard. The AEOI Reference Manual provides further guidance on how to carry out the verification activities and which elements to consider, although it does not seem to be tailored to the own context of the Marshall Islands.
- Although the Marshall Islands' Reporting Financial Institutions have not reported any undocumented accounts so far, the Marshall Islands has a plan to follow up with them when they report undocumented accounts.
- It is noted that the Marshall Islands 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	The Marshall Islands has carried out some communication and outreach activities, such as providing regular guidance to Reporting Financial Institutions about their obligations under the AEOI Standard and the usage of the MDES system.
Verifying that Financial Institutions are reporting as required	The Marshall Islands has carried out some verification activities to ensure that Financial Institutions are reporting as required, such as performing matching exercises to identify its population of Reporting Financial Institutions. It has not yet identified any Financial Institutions that have incorrectly classified themselves for purposes of the AEOI Standard.
Verifying whether the information reported is complete and accurate	The Marshall Islands has not yet conducted desk-based checks to verify whether the information being reported is complete and accurate, but has plans to do so in the near future. Furthermore, the Marshall Islands has not yet conducted in-depth audits/onsite visits, but has plans to also do so in the near future.
Enforcement	The Marshall Islands has not yet imposed penalties and sanctions.

With respect to the Financial Account information collected and sent by the Marshall Islands, 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. The Marshall Islands reported that no undocumented accounts have been reported so far by its Reporting Financial Institutions and statistics in this regard seem to have been monitored.

Based on these findings it was concluded that the Marshall Islands is partially 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. More specifically, significant issues have been identified, including with respect to the lack of verification and enforcement activities carried out so far. The Marshall Islands should therefore continue its implementation process accordingly, including by addressing the recommendations made.

Recommendations:

The Marshall Islands should tailor its overall compliance strategy to its own specific circumstances.

The Marshall Islands should commence its verification activities and carry out enforcement activities where non-compliance is identified.

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.

It should be noted that, as the Marshall Islands 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 b) has therefore not been assessed in this case.

Findings:

In order to collaborate on compliance and enforcement, the Marshall Islands implemented all of the requirements in accordance with expectations. While no such notifications have yet been received, the Marshall Islands has the necessary systems and procedures to process them as required.

Based on these findings it was concluded that the Marshall Islands 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. The Marshall Islands 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

The Marshall Islands' 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 – 2.7) and providing corrections, amendments or additions to the information (SR 2.9). The requirements in relation to the receipt of the information (SR 2.8) have not been assessed as the Marshall Islands exchanges information non-reciprocally, so does not receive information. The Marshall Islands 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 the Marshall Islands' exchange partners did not raise any specific concerns with respect to their ability to process the information received from the Marshall Islands and therefore with respect to the Marshall Islands' implementation of these requirements. More generally, one of the Marshall Islands' 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. It was noted that the Marshall Islands is addressing the issue raised.

Based on these findings it was concluded that, overall, the Marshall Islands is meeting expectations in relation to sorting, preparing and validating the information. It was also noted that there is room for improvement with respect to the packaging of the information. The Marshall Islands is therefore encouraged to continue its implementation process accordingly, including in relation to the area highlighted.

Recommendations:

The Marshall Islands should continue to work with its exchange partner to address the issue raised.

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, the Marshall Islands linked to the CTS.

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

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

Based on these findings it was concluded that the Marshall Islands is fully meeting expectations in relation to sending the information in accordance with the agreed transmission methods and encryption standards. The Marshall Islands 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.

It should be noted that, as the Marshall Islands exchanges information on a non-reciprocal basis and does not therefore receive information, it is not required to have in place systems to receive the information and provide status messages. SR 2.8 has therefore not been assessed in this case.

Findings:

Not applicable.

Recommendations:

Not applicable.

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:

The Marshall Islands 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 the Marshall Islands' exchange partners and therefore with respect to the Marshall Islands' implementation of these requirements.

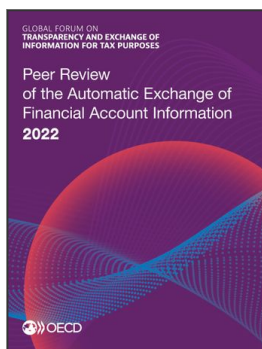
Based on these findings it was concluded that the Marshall Islands appears to be fully meeting expectations in relation to responding to notifications from exchange partners and the sending of corrected, amended or additional information. The Marshall Islands is encouraged to continue to ensure the ongoing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

Recommendations:

No recommendations made.

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

No comments made.



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