



George Henry Partners LP

Legal Update

## British Virgin Islands: Peer Review of the Automatic Exchange of Financial Account Information 2022

The OECD's Global Forum on Transparency and the Exchange of Information for Tax Purposes (the **Global Forum**) published the 'Peer Review of the Automatic Exchange of Financial Account Information 2022' on 9 November 2022. The full publication is accessible [HERE](#).

The Global Forum monitors and peer reviews the implementation of the global Standard for the Automatic Exchange of Financial Account Information in Tax Matters (the **AEOI Standard**). In pursuance of its mandate, the Global Forum reviewed each participating jurisdiction's internal legal frameworks, including that of the British Virgin Islands, to ensure they are complete and that the AEOI Standard is effectively implemented in practice.

### AEOI legal framework

The Global Forum concluded that the British Virgin Islands' domestic and international legal frameworks implementing the AEOI Standard are in place and are consistent with the core requirements of the [AEOI Terms of Reference](#).

### Effectiveness in practice of AEOI

The Global Forum found that the British Virgin Islands' implementation of the AEOI Standard is only partially compliant with the requirements of the [AEOI Terms of Reference](#).

In broad summary, the Global Forum concluded that the British Virgin Islands' implementation of the AEOI Standard is on track with respect to exchanging the information effectively in practice, including in relation to: (i) sorting, preparing and validating the information; (ii) most of the requirements in relation to correctly transmitting the information in a timely manner; and (iii) providing corrections, amendments or additions to the information. However, it identified some issues relating to the administrative compliance framework and related procedures including the exchanging of information in a timely manner.

In particular, the Global Forum noted that the British Virgin 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, issues were identified with: (i) the extent of the implementation of the British Virgin Islands' compliance strategy and verification activities; (ii) its monitoring of key information points such as Tax Identification Numbers and dates of birth; and (iii) its enforcement procedures;

- *fully meeting* expectations in collaborating with its exchange partners to ensure that Reporting Financial Institutions correctly conduct the required due diligence and reporting procedures;

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- *meeting expectations* in relation to sorting, preparing and validating financial account information to be reported (the **Information**). However, it was noted that there is room for improvement with respect to this process;
- *fully meeting expectations* in relation to agreeing and using appropriate transmission methods with each of its exchange partners;
- *meeting expectations* in relation to exchanging the Information in a timely manner, although there was noted room for improvement;
- *fully meeting expectations* in relation to sending the Information in accordance with the agreed transmission methods and encryption standards; and
- *appears to be meeting expectations* regarding responses to notifications from exchange partners and the sending of corrected, amended or additional information.

### The Recommendations

The Global Forum made three recommendations for the British Virgin Islands to implement relating to:

- monitoring and verifying compliance with the AEOI Standard. This would include developing and implementing administrative procedures to enable effective enforcement and appropriate sanctions when non-compliance is detected;
- sorting, preparing and validating information to ensure compliance with the AEOI Standard; and
- sending information to exchange partners in a timely manner,  
(together, the **Recommendations**).

### The British Virgin Islands' response

In response to the Global Forum's assessment, the British Virgin Islands has cited the significant progress it has made in implementing the AEOI Standard as an early adopter notwithstanding its challenges. It referred to the hindrances caused by Hurricanes Irma and Maria including damage to infrastructure and resulting loss of staff. It underscored its commitment to meeting its obligation and continuing the work toward the implementation of the AEOI Standard.

### What does this mean for industry players?

Based on the British Virgin Islands' response to the Global Forum's assessment, we expect that the BVI International Tax Authority will implement the Recommendations in due course. Accordingly, Reporting Financial Institutions should expect progressively increased compliance monitoring, verification activities and enforcements by the International Tax Authority including the establishment of administrative penalties and sanctions to address non-compliance with the AEOI Standard.

Reporting Financial Institutions should take a closer look at their existing CRS policies and procedures. They should also ensure that they identify the Financial Accounts they maintain, the Reportable Accounts among those Financial Accounts (including their Account Holders, and where relevant Controlling Persons) by correctly

conducting the due diligence procedures and collecting and reporting the Information with respect to each Reportable Account.

If you need any assistance with the classification and reporting obligations of any entity pursuant to the AEOI Standard, please reach out to your usual GHP contact.

## Contact Us

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