



THE GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

INFORMATION BRIEF

16 April 2012

For more information please contact:

Pascal Saint-Amans, OECD Centre for Tax Policy and Administration Director (pascal.saint-amans@oecd.org)

THE GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) met in Paris on 25-26 October 2011 and adopted a report to the G20 on the progress it has made in ensuring the implementation of the international standard in tax cooperation. The integral text of the report is available as part of the Global Forum's annual report, *Tax Transparency 2011: Report on Progress* (the full text of annual report can be found at <http://www.oecd.org/dataoecd/52/35/48981620.pdf>).

Who

The Global Forum comprises 108 member jurisdictions plus the European Union and 9 international organisations as observers. (See Annex I for a list of members and observers).

What

The Global Forum is mandated to ensure that all jurisdictions adhere to the same high standard of international cooperation in tax matters. The transparency and exchange of information standard is set down in the *Terms of Reference*, agreed by the Global Forum in 2009. (See Annex II for a summary of the *Terms of Reference*).

Why

International cooperation in tax matters is crucial to ensuring the administration and enforcement of countries' tax laws as cross border tax evasion becomes easier with the liberalization of financial markets. The G20 has long been a strong proponent of the Global Forum's work. In 2008 and 2009, in the wake of the global financial crisis, the G20 Leaders called on the Global Forum to help secure the integrity of the financial system through the uniform implementation of high standards of transparency. (See Annex III for the latest statements by the G20 Leaders).

When

The Global Forum was fundamentally restructured at its meeting in Mexico in September 2009 to create an inclusive, truly global organisation where all of its members participate on an equal footing. Since then the Global Forum has met in Singapore (September 2010), Bermuda (May 2011) and Paris (October 2011). The Global Forum's next meeting will be in South Africa in October 2012. (See Annex IV for the Statement of Outcomes of the latest meeting in Paris).

How

The Global Forum ensures that high standards are met through a comprehensive, rigorous and robust peer review process conducted by teams of expert, independent assessors and overseen by a 30 member Peer Review Group chaired by Mr. François D'Aubert (France). (See Annex V for a description of the peer review process.) The work of the Global Forum is guided by an 18 member Steering Group chaired by Mr. Mike Rawstron (Australia).

Achievements to Date

Since the Global Forum was restructured in 2009:

- More than 700 agreements that provide for the exchange of information in tax matters to the standard have been signed
- 91 peer reviews launched
- 70 peer review reports have been completed and published (See Annex IV “peer review reports adopted and published” for a list of the peer review reports adopted so far.)
- 446 recommendations have been made for jurisdictions to improve their ability to cooperate in tax matters (See Annex VI for a breakdown of what areas the recommendations relate to and how jurisdictions have fared so far.)
- 37(+) jurisdictions have already introduced or proposed changes to their laws to implement the standard
- Continuous support by the G20, with 4 progress reports sent, including 2 provided for the G20 Leaders’ Summit in Cannes, France in November 2011 – one report on the progress made in the peer reviews and one on how the Global Forum can help developing countries combat the erosion of their tax bases.
- 2 pilot projects launched with developing countries – Ghana and Kenya, and a platform to coordinate technical assistance to developing countries.

**FOR MORE INFORMATION PLEASE VISIT THE GLOBAL FORUM WEBSITE:
WWW.OECD.ORG/TAX/TRANSPARENCY AND EOI PORTAL: WWW.EOI-TAX.ORG.**

**ANNEX I:
MEMBERS AND OBSERVERS OF THE GLOBAL FORUM**

	Andorra	Jersey (4)	
	Anguilla (1)	Kenya	
	Antigua and Barbuda	Korea	
		Latvia	
	Argentina	Liberia	
	Aruba (2)	Liechtenstein	
		Lithuania	
	Australia	Luxembourg	
	Austria	Macau, China	
	The Bahamas	Malaysia	
	Bahrain	Malta	
	Barbados	Marshall Islands	
	Belgium	Mauritania	
	Belize	Mauritius	
	Bermuda (1)	Mexico	
	Botswana	Monaco	
	Brazil	Montserrat (1)	
	British Virgin Islands (1)	Morocco	
	Brunei Darussalam	Nauru	
	Canada	Netherlands	
	Cayman Islands (1)	New Zealand	
	Chile	Nigeria	
	China	Niue (3)	
	Colombia	Norway	



Cook Islands (3)
Costa Rica
Curaçao (2)
Cyprus (6)
Czech Republic
Denmark
Dominica
El Salvador
Estonia
Finland
Former Yugoslav Republic of Macedonia (FYROM)
France
Georgia
Germany
Ghana
Gibraltar (1)
Greece
Grenada
Guatemala
Guernsey (4)
Hong Kong, China
Hungary
Iceland
India
Indonesia

Panama
Philippines
Poland
Portugal
Qatar
Russian Federation
St. Kitts and Nevis
St. Lucia
Sint Maarten (2)
St. Vincent and the Grenadines
Samoa
San Marino
Saudi Arabia
Seychelles
Singapore
Slovak Republic
Slovenia
South Africa
Spain
Sweden
Switzerland
Trinidad and Tobago
Tunisia
Turkey
Turks and Caicos Islands (1)
United Arab Emirates





Ireland

United Kingdom



Isle of Man (4)

United States



Israel

United States Virgin Islands
(5)



Italy

Uruguay



Jamaica

Vanuatu



Japan

European Union



Footnotes

1. Overseas Territory of the United Kingdom.
2. Aruba, Curaçao and Sint Maarten are constituent countries of the Kingdom of the Netherlands.
3. Fully self-governing country in free association with New Zealand.
4. Dependency of the British Crown.
5. External Territory of the United States.
6. - Note by Turkey:

The information on this web page with reference to « Cyprus » relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

- Note by all the European Union member states of the OECD and the European Commission: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information on this web page relates to the area under the effective control of the Government of the Republic of Cyprus.

OBSERVERS OF THE GLOBAL FORUM

ASIAN DEVELOPMENT BANK	INTERNATIONAL FINANCE CORPORATION
COMMONWEALTH SECRETARIAT	INTERNATIONAL MONETARY FUND
EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT	UNITED NATIONS
EUROPEAN INVESTMENT BANK	WORLD BANK
INTER-AMERICAN DEVELOPMENT BANK	

ANNEX II: THE TERMS OF REFERENCE

The Terms of Reference is available in full in the Key Documents section of the Global Forum website: www.oecd.org/tax/transparency and EOI portal: www.eoi-tax.org. Below is a summary of the key points.

The Terms of Reference

The standard of transparency and exchange of information that have been developed by the OECD are primarily contained in the Article 26 of the OECD Model Tax Convention and the 2002 Model Agreement on Exchange of Information on Tax Matters. The standard strikes a balance between privacy and the need for jurisdictions to enforce their tax laws. They require:

- Exchange of information on request where it is “foreseeably relevant” to the administration and enforcement of the domestic laws of the treaty partner.
- No restrictions on exchange caused by bank secrecy or domestic tax interest requirements.
- Availability of reliable information and powers to obtain it.
- Respect for taxpayers’ rights.
- Strict confidentiality of information exchanged.

The Terms of Reference developed by the Peer Review Group and agreed by the Global Forum break these standards down into 10 essential elements against which jurisdictions are reviewed.

THE 10 ESSENTIAL ELEMENTS OF TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

A AVAILABILITY OF INFORMATION

A.1. Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

A.2. Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

A.3. Banking information should be available for all account-holders.

B ACCESS TO INFORMATION

B.1. Competent authorities should have the power to obtain and provide information that is the subject of a request under an EOI agreement from any person within their territorial jurisdiction who is in possession or control of such information.

B.2. The rights and safeguards that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

C EXCHANGING INFORMATION

C.1. EOI mechanisms should provide for effective exchange of information.

C.2. The jurisdictions’ network of information exchange mechanisms should cover all relevant partners.

C.3. The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

C.4. The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

C.5. The jurisdiction should provide information under its network of agreements in a timely manner.

**ANNEX III:
CHRONOLOGY OF G7/G8/G20 SUPPORT FOR THE GLOBAL FORUM'S WORK ON
TRANSPARENCY AND EXCHANGE OF INFORMATION**

*G20 Finance Ministers and Central Bank Governors' Declaration
Mexico City, Mexico 25-26 February 2012*

"We look forward to a report to our Leaders by the Global Forum on Transparency and Exchange of Information on progress made and on a new set of reviews. We call upon all countries to join the Global Forum on transparency and to sign on the Multilateral Convention on Mutual Assistance. We call for an interim report and update by the OECD on necessary steps to improve comprehensive information exchange, including automatic exchange of information and, together with the FATF, on steps taken to prevent the misuse of corporate vehicles and improve interagency cooperation in the fight against illicit activities."

*G20 Leaders' Declaration
Cannes, France Summit 3-4 November 2011*

"In the tax area, we welcome the progress made and we urge all the jurisdictions to take the necessary actions to tackle the deficiencies identified in the course of the reviews by the Global Forum, in particular the 11 jurisdictions identified by the Global Forum whose framework has failed to qualify. We underline the importance of comprehensive tax information exchange and encourage work in the Global Forum to define the means to improve it."

*G 20 Leaders' Declaration
Seoul, Summit 11-12 November 2010*

"The Global Forum to swiftly progress its Phase 1 and 2 reviews to achieve the objective agreed by Leaders in Toronto and report progress by November 2011. Reviewed jurisdictions identified as not having the elements in place to achieve an effective exchange of information should promptly address the weaknesses. We urge all jurisdictions to stand ready to conclude Tax Information Exchange Agreements where requested by a relevant partner."

*G 20 Leaders' Statement
Toronto, Canada 26-27 June 2010*

"We fully support the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and welcomed progress on their peer review process, and the development of a multilateral mechanism for information exchange which will be open to all interested countries. Since our meeting in London in April 2009, the number of signed tax information agreements has increased by almost 500. We encourage the Global Forum to report to Leaders by November 2011 on progress countries have made in addressing the legal framework required to achieve an effective exchange of information. ..We stand ready to use countermeasures against tax havens."

G20 Leaders' Communiqué: The Global Plan for Recovery and Reform

London, U.K. 2 April 2009

[W]e agree...to take action against non-cooperative jurisdictions, including tax havens...We note that the OECD has today published a list of countries assessed by the Global Forum against the international standard for exchange of tax information...

*G20 Declaration: Strengthening the Financial System
London, U.K. 2 April 2009*

“We stand ready to take agreed action against those jurisdictions which do not meet international standards in relation to tax transparency.”

“We are committed to developing proposals, by end 2009, to make it easier for developing countries to secure the benefits of a new cooperative tax environment.”

ANNEX IV: STATEMENT OF OUTCOMES – PARIS 26 OCTOBER 2011

1. On 25-26 October 2011, over 250 delegates from 84 jurisdictions and 9 international organisations and regional groups came together at the fourth meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) in Paris ([Annex 1](#) provides a list of participants). The Global Forum welcomed El Salvador, Mauritania, Morocco, and Trinidad and Tobago as new members, increasing the membership of the Global Forum to 105 jurisdictions.

2. The Global Forum adopted and published 13 peer review reports and 5 supplementary reports which are the latest results of its intensive peer review program. It also adopted a Progress Report which will be submitted to the G20 for its Summit in Cannes on 3-4 November. The Report discloses jurisdictions' quality of co-operation with the Forum, their level of compliance with the international standard on tax transparency, and highlights deficiencies in respect of the implementation of the standard. It shows unprecedented progress towards improving transparency and a high level of co-operation by Global Forum members. It also recognises that further progress needs to be made with action to be taken to address the recommendations made to the reviewed jurisdictions.

3. Responding to a call from the G20 Development Working Group, the Global Forum will serve as a platform to facilitate co-ordination of assistance to support the effectiveness of information exchange provided to its members, in particular to developing jurisdictions. It also adopted guidelines on the best way to conduct technical assistance. Two pilot projects – with Ghana and Kenya – will test the usefulness of the guidelines.

4. The main outcomes of the meeting which were agreed by delegates are set out below.

Membership and Governance

5. The Global Forum welcomed four new members: El Salvador, Mauritania, Morocco and Trinidad and Tobago. With its 105 jurisdictions, the Global Forum is the largest tax group in the world, moving forward as one to ensure a global level playing field for transparency and exchange of information for tax purposes. The Global Forum took note of the commitments expressed by Latvia, Lithuania and Romania to join it in 2012 and the fact that Lebanon has recently engaged with the Global Forum. It is expected that a number of other countries from Asia and Africa will join in 2012. The Global Forum's engagement with relevant international and regional organisations has similarly deepened and it will now also engage with the World Customs Organisation.

6. At its meeting in Bermuda in May, the Global Forum requested its Steering Group to formulate a mechanism to ensure the governance of the Global Forum is both stable and representative of the membership. As a result, three new members were elected to the Steering Group – Kenya, Spain and the United Arab Emirates - and the meeting endorsed a proposal for a system of rotation to be implemented in 2013.

Reporting to the G20 on Progress with the Peer Reviews

7. The Global Forum adopted and published an additional 13 peer review reports (*i.e.* the combined reviews of Japan, Jersey, the Netherlands and Spain, and the Phase 1 reviews of Brunei, the Former Yugoslav Republic of Macedonia, Gibraltar, Hong Kong China, Indonesia, Macao China, Malaysia, Uruguay and Vanuatu, bringing the total number of published reports to 59 (see [Annex 2](#) for a complete list of the jurisdictions whose reports have been published to date). A further 5 supplementary reports - for Mauritius, Monaco, San Marino, the Turks and Caicos Islands and the Virgin Islands (British) - were adopted and published as well. In addition, member jurisdictions reported on recent developments in their jurisdictions regarding exchange of information for tax purposes and had a useful discussion on the peer review process.

8. At their summit in Seoul in November 2010, the G20 Leaders invited the Global Forum to report on progress made with respect to international tax transparency. This week the Global Forum adopted a Progress Report that will be delivered to the G20 Leaders' meeting at their Summit in Cannes on 3-4 November 2011. Based on the outcomes of the 59 peer reviews and 7 supplementary reviews completed so far, the report identifies the quality of these jurisdictions' co-operation with the Global Forum, their level of compliance with the international standard on tax transparency, and highlights deficiencies in implementation of the standard. It shows a high level of co-operation by its members and unprecedented progress made towards improving transparency.

Technical Assistance

9. The G20 Leaders' Development Working Group (DWG) requested the Global Forum to "enhance its work to counter the erosion of developing countries' tax bases and, in particular, to highlight in its report the relationship between the work on non-cooperative jurisdictions and development". The Global Forum submitted an outline of its report to the DWG for discussion at its meeting in Cape Town, on 2 July, and the final report "Working with Developing Countries" was provided to the DWG in early September. The Global Forum heard an update on the G20 process related to developing countries and on the positive way in which the report from the Global Forum was received by the DWG. This report will be considered by the G20 at its Summit in Cannes on 3-4 November.

10. Representatives from DFID, the IMF, World Bank and the OECD Task Force on Tax and Development provided an update on co-operation with the Global Forum and the demand for technical assistance in relation to transparency and exchange of information. The Global Forum reaffirmed its commitment to serve as a platform to facilitate the co-ordination of technical assistance and the Steering Group will oversee a new mechanism to make sure that technical assistance requests are appropriately responded to.

11. The Global Forum welcomed the commencement of two important pilot projects, funded by the UK Department for International Development (DFID), under which it will facilitate the co-ordination of assistance to Ghana and Kenya to help them build capacity and reinforce the legal infrastructure necessary for tax transparency and international co-operation.

Global Forum Annual Report

12. The Global Forum adopted its 2011 Annual Report "Tax Transparency, 2011: Report on Progress" in a new format. This report provides an overview of the progress made by countries, as reflected in the peer review reports. It draws upon the extensive work undertaken to prepare detailed reports to the G20 on the Global Forum's progress and on issues of relevance for developing countries. The Global Forum's 2011 Annual Report will be published on 4 November, following the G20 Leaders' summit.

Competent Authorities

13. Following the discussion at its previous meeting in Bermuda, Global Forum members decided to organise a meeting of competent authorities in charge of international exchange of information to enhance their co-operation through the Global Forum. It agreed that a meeting where competent authorities can exchange views on issues they have encountered and best practices would assist in ensuring effective exchange of information in practice. A meeting of competent authorities will be organised in conjunction with a Peer Review Group meeting in May 2012 in Paris. This dialogue may address ways to improve effectiveness of comprehensive exchange of information and include discussion of experiences in obtaining past information and in using all forms of exchange of information.

Budget

14. An intermediate financial report for 2011 was considered and the Global Forum adopted a revised budget for 2012 which maintains members' contributions for 2012 at the same level as originally anticipated. A number of Global Forum members and observers are making voluntary financial contributions and assisting by seconding staff to the Global Forum Secretariat. India announced it will make a 300 000 euro voluntary contribution to the Global Forum and the Cayman Islands and Germany proposed to provide secondees to the Secretariat.

Next Steps

15. After hearing an update on the fulfilment of the current mandate and on work which remains to be done, the Global Forum began its consideration of the future direction of the work of the Global Forum. It was agreed that the focus now will be on successfully completing Phase 2 reviews to assess the implementation of the standard in practice. It was also agreed to extend the Global Forum's current mandate until the end of 2015, in order to allow for commitments to the expenditure of funds to be made beyond 2012 when the current mandate expires. A more substantive discussion and on the future direction of the work will occur in 2012.

16. The Global Forum agreed that its next meeting will take place in October 2012 and thanked the South African government for its kind offer to host that meeting.

**LIST OF PARTICIPANTS AT GLOBAL FORUM MEETING
PARIS, 25-26 OCTOBER 2011**

Andorra; Antigua and Barbuda; Argentina; Australia; Austria; The Bahamas; Bahrain; Barbados; Belgium; Bermuda; Brazil; Brunei Darussalam; Canada; the Cayman Islands; Chile; Colombia; Cook Islands; Costa Rica; Cyprus; the Czech Republic; Denmark; El Salvador; Estonia; Finland; France; Germany; Ghana; Gibraltar; Greece; Guernsey; Hong Kong, China; Hungary; India; Indonesia; Ireland; Isle of Man; Israel; Italy; Japan; Jersey; Kenya; the Republic of Korea; Liberia; Liechtenstein; Luxembourg; Macao, China; Malaysia; Malta; Marshall Islands; Mauritius; Mexico; Monaco; Morocco; the Netherlands; Nigeria; Norway; Panama; the People's Republic of China; the Philippines; Poland; Portugal; Qatar; the Russian Federation; Saint Kitts and Nevis; Samoa; San Marino; the Seychelles; Singapore; Sint Maarten; the Slovak Republic; Slovenia; South Africa; Spain; Sweden; Switzerland; Trinidad and Tobago; Turkey; the Turks and Caicos Islands; the United Arab Emirates; the United Kingdom; the United States; Uruguay; Vanuatu; the Virgin Islands (British).

African Tax Administration Forum (ATAF); European Commission (EC); European Investment Bank (EIB); Financial Action Task Force of South America (GAFISUD); Inter-American Center of Tax Administrations (CIAT); International Monetary Fund (IMF); Organisation for Economic Co-operation and Development (OECD); United Nations (UN); World Bank (together with the International Finance Corporation).

PEER REVIEW REPORTS ADOPTED AND PUBLISHED

Jurisdiction	Type of review	Publication date
Andorra	Phase 1	12 September 2011
Anguilla	Phase 1	12 September 2011
Antigua and Barbuda	Phase 1	12 September 2011
Aruba	Phase 1	14 April 2011
Australia	Combined (Phase 1 and Phase 2)	28 January 2011
Austria	Phase 1	12 September 2011
The Bahamas	Phase 1	14 April 2011
Bahrain	Phase 1	12 September 2011
Barbados	Phase 1	28 January 2011
	Supplementary	5 April 2012
Belgium	Phase 1	14 April 2011
	Supplementary	12 September 2011
Bermuda	Phase 1	30 September 2010
	Supplementary	5 April 2012
Botswana	Phase 1	30 September 2010
Brazil	Phase 1	5 April 2012
Brunei Darussalam	Phase 1	26 October 2011
Canada	Combined (Phase 1 and Phase 2)	14 April 2011
The Cayman Islands	Phase 1	30 September 2010
	Supplementary	12 September 2011
Chile	Phase 1	5 April 2012
Costa Rica	Phase 1	5 April 2012
Curacao	Phase 1	12 September 2011
Cyprus	Phase 1	5 April 2012
Czech Republic	Phase 1	5 April 2012
Denmark	Combined (Phase 1 and Phase 2)	28 January 2011
Estonia	Phase 1	14 April 2011
The Former Yugoslav Republic of Macedonia	Phase 1	26 October 2011
France	Combined (Phase 1 and Phase 2)	1 June 2011
Germany	Combined (Phase 1 and Phase 2)	14 April 2011
Ghana	Phase 1	14 April 2011
Gibraltar	Phase 1	26 October 2011
Guatemala	Phase 1	5 April 2012

Jurisdiction	Type of review	Publication date
Guernsey	Phase 1	28 January 2011
Hong Kong, China	Phase 1	26 October 2011
Hungary	Phase 1	1 June 2011
India	Phase 1	30 September 2010
Indonesia	Phase 1	26 October 2011
Ireland	Combined (Phase 1 and Phase 2)	28 January 2011
The Isle of Man	Combined (Phase 1 and Phase 2)	1 June 2011
Italy	Combined (Phase 1 and Phase 2)	1 June 2011
Jamaica	Phase 1	30 September 2010
Japan	Combined (Phase 1 and Phase 2)	26 October 2011
Jersey	Combined (Phase 1 and Phase 2)	26 October 2011
Korea	Combined (Phase 1 and Phase 2)	5 April 2012
Liechtenstein	Phase 1	12 September 2011
Luxembourg	Phase 1	12 September 2011
Macao, China	Phase 1	26 October 2011
Malaysia	Phase 1	26 October 2011
Malta	Phase 1	5 April 2012
Mauritius	Combined (Phase 1 and Phase 2)	28 January 2011
	Supplementary	26 October 2011
Mexico	Phase 1	5 April 2012
Monaco	Phase 1	30 September 2010
	Supplementary	26 October 2011
The Netherlands	Combined (Phase 1 and Phase 2)	26 October 2011
New Zealand	Combined (Phase 1 and Phase 2)	1 June 2011
Norway	Combined (Phase 1 and Phase 2)	28 January 2011
Panama	Phase 1	30 September 2010
The Philippines	Phase 1	1 June 2011
Qatar	Phase 1	30 September 2010
	Supplementary	5 April 2012
Saint Kitts and Nevis	Phase 1	12 September 2011
San Marino	Phase 1	28 January 2011
	Supplementary	26 October 2011
Saint Vincent and the Grenadines	Phase 1	5 April 2012
The Seychelles	Phase 1	28 January 2011
Singapore	Phase 1	1 June 2011
Slovak Republic	Phase 1	5 April 2012
Spain	Combined (Phase 1 and Phase 2)	26 October 2011
Switzerland	Phase 1	1 June 2011
Trinidad and Tobago	Phase 1	28 January 2011

Jurisdiction	Type of review	Publication date
The Turks and Caicos Islands	Phase 1	12 September 2011
	Supplementary	26 October 2011
The United Kingdom	Combined (Phase 1 and Phase 2)	12 September 2011
The United States	Combined (Phase 1 and Phase 2)	1 June 2011
Uruguay	Phase 1	26 October 2011
Vanuatu	Phase 1	26 October 2011
The Virgin Islands (British)	Phase 1	12 September 2011
	Supplementary	26 October 2011

**ANNEX V:
PEER REVIEWS: THE PROCESS**

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, will undergo reviews of their systems for the exchange of information in tax matters. The peer review process is overseen by the 30 member Peer Review Group, which is chaired by France, assisted by four vice-chairs (India, Japan, Singapore and Jersey).

The members of the PRG are:

Composition of the Global Forum Peer Review Group				
France (Chair)	India (Vice-Chair)	Japan (Vice-Chair)	Singapore (Vice-Chair)	Jersey (Vice-Chair)
Argentina	Australia	Brazil	British Virgin Islands	Cayman Islands
China	Germany	Ireland	Isle of Man	Italy
Denmark	Korea	Luxembourg	Malaysia	Malta
Mauritius	Mexico	St. Kitts and Nevis	Samoa	South Africa
Switzerland	The Bahamas	The Netherlands	United Kingdom	United States

The PRG has developed the key documents for the peer review process, which were adopted by the Global Forum at the beginning of 2010. These are:

- Methodology for Peer Reviews and Non-Member Reviews;
- Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information;
- Note on Assessment Criteria; and
- Schedule of Reviews.

These documents are included in the Global Forum publication *implementing the Tax Transparency Standards - A Handbook for Assessors and Jurisdictions* and also available on the Global Forum web site at www.oecd.org/tax/transparency and EOI portal: www.eoi-tax.org.

Assessment Criteria

Phase 1 reviews include a determination of whether each element is “in place”, “in place, but certain aspects of the legal implementation of the element need improvement”, or “not in place”. Phase 2 and combined reviews will include a rating as to whether the jurisdiction is “compliant”, “largely compliant”, “partially compliant”, or “not compliant” with each of these elements in practice. In addition, an overall rating will be assigned. It will be necessary to complete Phase 2 reviews for a subset of jurisdictions representing a geographic and economic cross-section of the Global Forum before finalising ratings, in order to ensure that application of the ratings system is consistent across jurisdictions. This is because the ratings determination is likely to require some comparative perspective, without which early ratings may not be consistent.

The Schedule of Reviews

The Schedule of Reviews sets out the timeline in accordance with which all members – and non-members considered to be relevant to the Global Forum’s work – will be reviewed. By the end of 2011, reviews will have been completed or be well underway for 80 of the Global Forum’s members. Most of these reviews will be Phase 1 reviews of the legal and regulatory framework, and some will be combined Phase 1 and 2 reviews that also cover the practical aspects of exchange of information.

Methodology

Reviews are undertaken by assessment teams which prepare a report on the reviewed jurisdiction. Assessment teams normally consist of two expert assessors drawn from member jurisdictions who act in an independent capacity. One member of the Global Forum Secretariat is also appointed to coordinate each review.

Based on a two phase model, each of the Peer Reviews includes an assessment of the jurisdiction’s legal and regulatory framework (Phase 1) as well as assessing the application of the standards in practice (Phase 2), against the 10 elements. Most jurisdictions commence with a Phase 1 review which is followed about 18-24 months later by a Phase 2 review. Combined Phase 1 and Phase 2 reviews are being undertaken in a limited number of cases. A Phase 1 review includes an examination of the domestic laws as well as the jurisdiction’s agreements for the exchange of information. A Phase 1 review takes 20 weeks to complete, at which point the assessment team’s report is provided to the PRG members for their consideration.

A Phase 2 review focuses on the effectiveness of exchange of information. Even if satisfactory international instruments are in place together with a sound domestic legal framework, the effectiveness of exchange of information will depend on the practice of the competent authorities. To properly assess this practical aspect, the assessment team conducts an on-site visit, to allow a meaningful review of the treatment of requests, as well as the reliability of the information exchanged and the effectiveness of internal processes. Each Phase 2 review takes about 26 weeks before the report is circulated to the PRG members for their consideration. A combined Phase 1 and 2 review lasts about 30 weeks.

In addition to the information supplied to the assessment team by the jurisdiction itself, all Global Forum members are invited to provide input into the review process. For a Phase 1 review, all Global Forum members are invited to indicate any issue that they would like to see raised and discussed during the evaluation. Prior to the commencement of the Phase 2 review, members with an EOI relationship with the reviewed jurisdiction are again invited to provide comments, using a Peer Questionnaire. This takes a standard format, requiring input on the quality of the exchange of information relationship with the reviewed jurisdiction.

The aim of the Global Forum is to ensure that all jurisdictions fully implement the international standards on transparency and exchange of information. The reports adopted so far by the Global Forum have identified a number of deficiencies regarding the implementation of the standards and have made recommendations for improvement. It is essential to ensuring the credibility and relevance of the Global Forum, that it is able to take into account actions taken by jurisdictions to respond to the recommendations made. Accordingly, the Global Forum adopted a Revised Methodology in May 2011. Jurisdictions are now able to request that a supplemental report be conducted to evaluate changes they have made to their systems for exchange of information. Seven such supplementary reports are already adopted by the Global Forum. The assessed jurisdictions are required to provide intermediary/ yearly reports to Global Forum which enables it to monitor the developments in these jurisdictions.

Reviews of Non-members

Review of non-members of the Global Forum will occur in a manner similar to reviews of members to the greatest extent possible. The purpose of a review of a non-member jurisdiction is to prevent jurisdictions from gaining a competitive advantage by refusing to implement the standards or participate in the work of the Global Forum. When a non-member jurisdiction is to be reviewed, the jurisdiction will first

be invited to become a member of the Global Forum. Even if the jurisdiction declines to join the Global Forum, it will generally be given the same opportunities to participate in its review as Global Forum members. However, in all cases, the Peer Review report will be prepared using the best available information even if the jurisdiction does not participate.

The Global Forum has to date identified seven such jurisdictions: Botswana, Former Yugoslav Republic of Macedonia, Ghana, Jamaica, Lebanon, Qatar and Trinidad and Tobago. They all have now committed to implementing the standard, have been reviewed and joined the Global Forum, except Lebanon. Although Lebanon has refused to participate in the work of the Global forum, its peer review will be launched shortly.

ANNEX VI: OUTCOMES OF THE PEER REVIEWS

Jurisdictions' compliance with the standard

The Global Forum has so far completed 59 peer reviews. The tables below provide a breakdown of the recommendations and determinations that have been made in the peer reviews (see Annex V for a description of how reviews are conducted). Table 1 shows the distribution of the recommendations among the various elements. Table 2 shows the number of jurisdictions found to have elements not in place. This table shows that for 36 jurisdictions out of the 59 jurisdictions reviewed so far none of the elements was found not to be in place. Table 3 shows the number of elements that need improvement for these 36 jurisdictions (8 of which have all elements in place with none requiring improvement).

Figure 1: Phase 1 recommendations

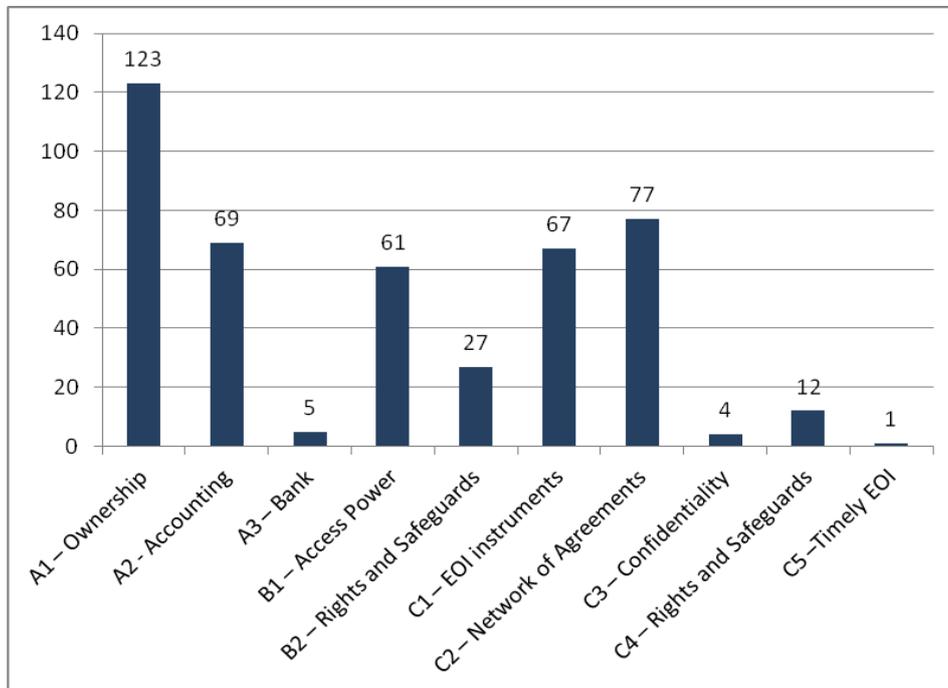


Figure 2: Distribution of jurisdictions based on the number of elements not in place

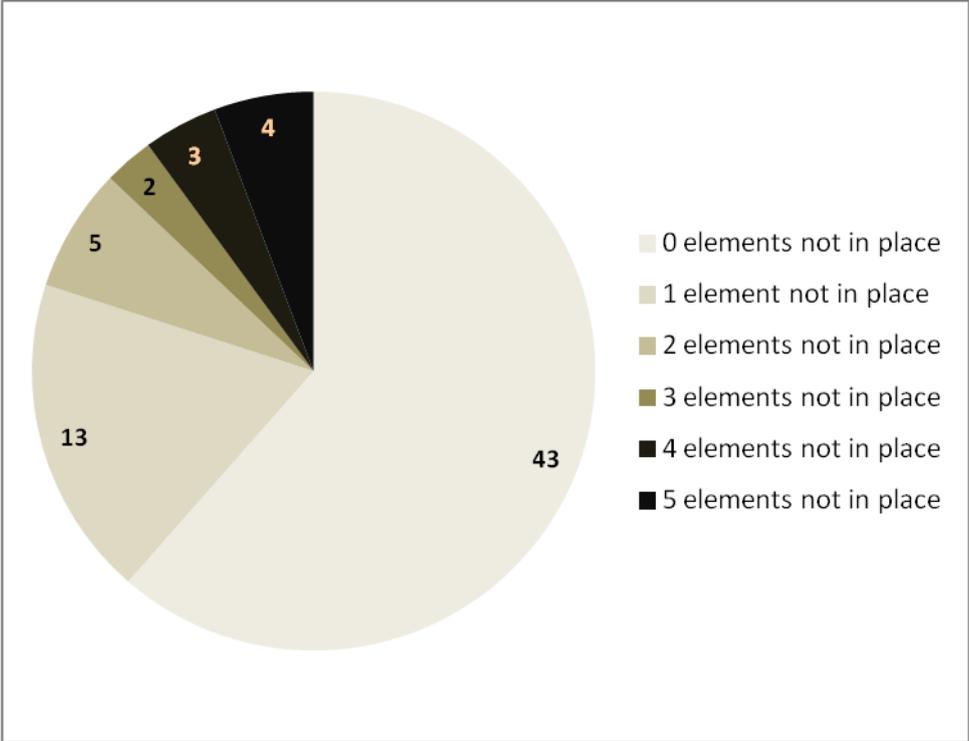
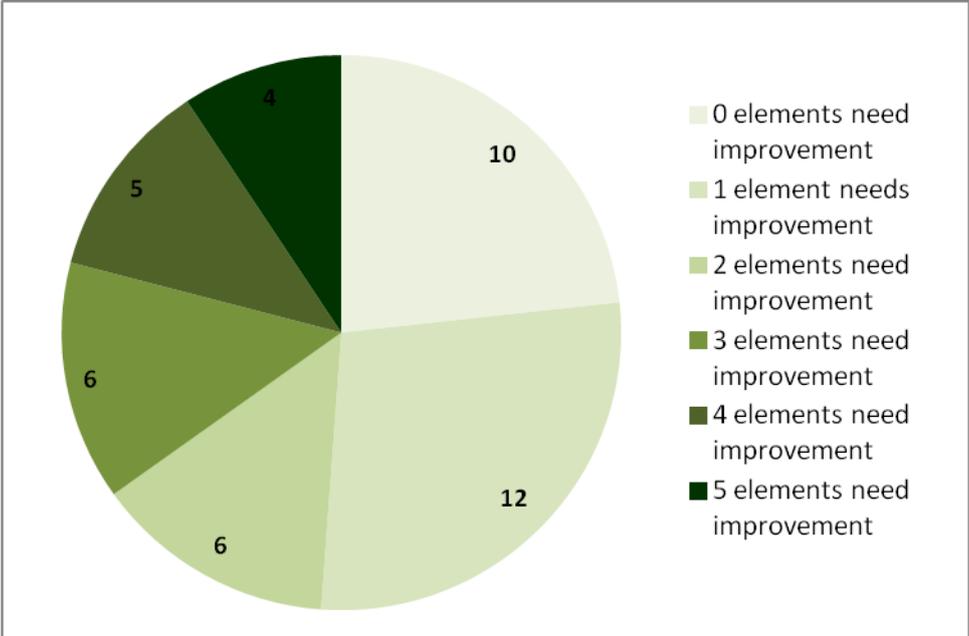


Figure 3: Distribution of elements needing improvement for jurisdictions with all elements in place or in place, but needing improvement



Recommendations per jurisdiction

The following table shows the number of recommendations made under Phase 1 for each of the reviewed jurisdictions. In addition, it shows the distribution of the recommendations between the various determinations, *i.e.*, how many recommendations are made in respect of elements that are found to be “in

place”, how many where the element is “in place, but needs improvement”, and how many where the element is “not in place”.

Figure 4: Distribution of recommendations between the various determinations

