

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

# Facilitating the Use of Tax-Treaty- Exchanged Information for Non-Tax Purposes

A Contribution to a Whole-of-Government Approach  
to Tackling Illicit Financial Flows

July 2023

# **Facilitating the Use of Tax-Treaty Exchanged Information for Non-Tax Purposes**

A contribution to a whole-of-government approach to tackling illicit financial flows

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries or of members of the Global Forum on Transparency and Exchange of Information for Tax Purposes. The report was prepared for publication by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

**Please cite this report as:**

OECD (2023), *Facilitating the Use of Tax-Treaty-Exchanged Information for Non-Tax Purposes: A contribution to a whole-of-government approach to tackling illicit financial flows*, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD, Paris, <https://www.oecd.org/tax/transparency/documents/facilitating-the-use-of-treaty-exchanged-tax-information-for-non-tax-purposes.pdf>.

**Photo credits:** OECD with cover illustration by Renaud Madignier.

© OECD 2023

---

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at [www.oecd.org/termsandconditions](http://www.oecd.org/termsandconditions)

---

# Table of contents

Abbreviations and acronyms	4
Executive summary	5
1 Introduction	6
2 A whole-of-government approach to tackling illicit financial flows	7
3 Requirements for wider use	9
4 Experience in wider use	10
Requesting and granting authorisation for wider use	10
Challenges experienced in wider use	12
An example of wider use facilitation	12
5 A possible approach to facilitating the wider use of treaty-exchanged information	13
Legal basis	13
Scope	13
Administrative framework for co-operation	14
6 Conclusion	17

# Abbreviations and acronyms

AEOI	Automatic Exchange of Financial Account Information
AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
CAA	Competent Authority Agreement
Competent Authority	Competent Authority for Exchange of Information for Tax Purposes
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
EU Directive	European Union Directive on Mutual Administrative Assistance in Tax Matters
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IFF	Illicit Financial Flow
MAAC	Convention on Mutual Administrative Assistance in Tax Matters
MoU	Memorandum of Understanding
OECD	Organisation for Economic Co-operation and Development
UN	United Nations

# Executive summary

Illicit financial flows (IFFs) have a cross-cutting nature and involve a diversity of crimes and offences transcending tax evasion, such as money laundering, terrorism financing and corruption. It is thus highly important for jurisdictions to adopt a whole-of-government approach to addressing them, notably through the sharing of information from tax to non-tax authorities, which can include information exchanged under international tax agreements. This latter process is also known as the “wider use of treaty-exchanged information”.

Wider use is envisaged by various international tax agreements, bilateral and multilateral, provided that certain conditions are met, usually where a similar use for non-tax purposes is allowed at the domestic level in both collaborating jurisdictions and where prior authorisation is granted by the jurisdiction providing the information.

While several jurisdictions are interested in developing this form of co-operation as part of their whole-of-government approach to fighting IFFs, in practice they face operational challenges in implementing wider use, in particular with respect to the need to obtain consent from the jurisdiction providing the information.

Following a request from the Indian G20 Presidency, this report of the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) presents a possible approach to advance and streamline wider use between interested jurisdictions. This could be achieved through the implementation of co-operation agreements: (i) between Competent Authorities for exchange of information for tax purposes, and (ii) between tax and non-tax authorities at the domestic level. This suggested approach contemplates a possible administrative framework to reduce implementation barriers and ensure that the confidentiality requirements and data safeguards are upheld.

# 1 Introduction

The sharing of information obtained through the exchange of information for tax purposes (EOI) with other authorities for non-tax purposes, also known as the “wider use of treaty-exchanged information”, could significantly assist investigations carried out by other non-tax law enforcement authorities, such as anti-money laundering and countering the financing of terrorism (AML/CFT), anti-corruption, prosecution and customs authorities.

At its February meeting in 2023, the Indian G20 Presidency asked the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) to provide a report “*to assist interested jurisdictions to streamline the processes involved in obtaining consent for the use of information obtained through tax treaties for non-tax purposes, wherever provided in tax treaties*” that takes into account “*the issues faced by jurisdictions in obtaining consent for such purposes and exploring potential solutions, which could be utilised by interested jurisdictions on a bilateral and voluntary basis, while upholding the confidentiality of such information*”.<sup>1</sup>

To that end, this report highlights the benefits, the conditions and the challenges of using the information exchanged through tax-treaty channels for purposes other than tax, and then suggests an approach that could be implemented to facilitate this form of co-operation and to streamline the related processes.

---

<sup>1</sup> G20 Chair's Summary and Outcome Document. First G20 Finance Ministers and Central Bank Governors Meeting Bengaluru, 24-25 February 2023, Paragraph 14, available at [https://www.g20.org/content/dam/gtwenty/gtwenty\\_new/document/1st%20FMCBG%20Chair%20Summary.pdf](https://www.g20.org/content/dam/gtwenty/gtwenty_new/document/1st%20FMCBG%20Chair%20Summary.pdf).

## **2 A whole-of-government approach to tackling illicit financial flows**

Countries face a common threat posed by illicit financial flows (IFFs), including those associated with tax evasion, as well as money laundering, terrorism financing and corruption. Tax evasion and other IFFs are often closely linked, as offenders usually fail to report or misrepresent to tax authorities the income derived from illegal activities.

Tax authorities are in the possession of large amounts of information that can be of great relevance in assisting investigations by other law enforcement authorities, such as AML/CFT, anti-corruption, prosecution and customs authorities. The sharing of information between these law enforcement authorities is key to achieving a whole-of-government approach to combating and investigating IFFs and fighting the underlying criminal activities.

In addition to information collected domestically, tax authorities also hold information obtained through EOI for tax purposes (i.e. treaty-exchanged information), including information obtained on request, automatically or spontaneously. Since 2009, cross-border exchange of information between tax administrations has significantly increased with the world-wide adoption of the Standard on Transparency and Exchange of Information on Request (EOIR) and the Standard on Automatic Exchange of Financial Account Information (AEOI), with the implementation of both standards being monitored, reviewed and supported by the Global Forum.

An abundant literature has identified the critical role of improved co-operation between law enforcement authorities in fighting IFFs and has highlighted the importance of information sharing, as well as the benefits that this can bring to tax and non-tax authorities. For example, the Organisation for Economic Co-operation and Development (OECD) Oslo Dialogue<sup>2</sup> and other OECD work<sup>3</sup> promote a whole-of-government approach to fighting tax crimes and IFFs, and encourage countries to establish an administrative and legal framework to promote information sharing between government agencies and between countries to prevent, detect and recover the proceeds of illicit activities. OECD work also articulates the importance of effective co-operation and the benefits that this can bring to tax administrations, tax crime investigation authorities, and corruption investigation authorities.<sup>4</sup>

---

<sup>2</sup> The OECD Oslo Dialogue, available at <https://www.oecd.org/tax/crime/about-tax-and-crime.htm>.

<sup>3</sup> For example, *Recommendation of the Council to Facilitate Co-operation between Tax and Other Law Enforcement Authorities to Combat Serious Crimes*, available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0384> and OECD (2021), *Fighting Tax Crime – The Ten Global Principles*, Second Edition, OECD Publishing, Paris, available at <https://doi.org/10.1787/006a6512-en>.

<sup>4</sup> OECD and The World Bank (2018), *Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption*, OECD and The World Bank, Paris, available at <https://www.oecd.org/tax/crime/improving-co-operation-between-tax-authorities-and-anti-corruption-authorities-in-combating-tax-crime-and-corruption.htm>.



Effective co-operation between authorities is also part of the G20 high-level principles on beneficial ownership transparency, to ensure that authorities<sup>5</sup> have timely access to adequate, accurate and up-to-date information regarding the beneficial ownership of legal persons and arrangements.<sup>6</sup>

The 2018 Punta del Este Declaration, which has been endorsed by the ministers of finance of 15 Latin American countries,<sup>7</sup> also called for strengthening action against tax evasion and corruption by considering the possible use of the information provided through exchange of tax information channels for other law enforcement purposes.<sup>8</sup> To achieve this objective, Latin American members of the Global Forum have been working since 2021 to broaden the use of the information exchanged for tax purposes for purposes other than tax. In 2022, they approved a landmark framework and launched a pilot project to promote and facilitate the wider use of treaty-exchanged information to advance a whole-of-government approach to tackling IFFs.<sup>9</sup> The approach presented in this report is based on the work carried out under the Punta del Este Declaration.

---

<sup>5</sup> Including law enforcement and prosecutorial authorities, supervisory authorities, tax authorities and financial intelligence units.

<sup>6</sup> G20 High-Level Principles on Beneficial Ownership Transparency (2014), available at [http://www.g20.utoronto.ca/2014/g20\\_high-level\\_principles\\_beneficial\\_ownership\\_transparency.pdf](http://www.g20.utoronto.ca/2014/g20_high-level_principles_beneficial_ownership_transparency.pdf).

<sup>7</sup> Launched in November 2018, the Punta Del Este Declaration currently gathers 15 signatories (i.e. all the Latin American members of the Global Forum). The Punta del Este Declaration is available at <https://www.oecd.org/tax/transparency/documents/Latin-American-Ministerial-Declaration.pdf>.

<sup>8</sup> More information on the Punta del Este Declaration is available at <https://www.oecd.org/tax/transparency/what-we-do/technical-assistance/punta-del-este-declaration.htm>.

<sup>9</sup> In November 2022, a multilateral pilot project for wider use was entered into by three Latin American countries.

# 3 Requirements for wider use

EOI principles determine that Competent Authorities for EOI for tax purposes (Competent Authorities) can exchange information that is foreseeably relevant for the enforcement of tax laws or international tax agreements and that the confidentiality of the exchanged information should be preserved as determined by international tax agreements. The standard of “foreseeable relevance” is intended to provide for EOI in tax matters to the widest possible extent and, at the same time, to clarify that jurisdictions are not at liberty to engage in “fishing expeditions” or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer.<sup>10</sup> Foreseeably relevant information includes information on identity, legal and beneficial ownership, banking and accounting information, as well as any other information that is relevant for the enforcement of tax laws or the applicable international tax agreements.

As a principle, the confidentiality provisions of international tax agreements,<sup>11</sup> such as the Convention on Mutual Administrative Assistance in Tax Matters (MAAC), determine that treaty-exchanged information can only be used for tax purposes and can only be disclosed to certain specified persons or authorities involved in some tax functions.<sup>12</sup>

However, there are multiple instances where treaty-exchanged information may also be relevant to a non-tax investigation. Considering the potential relevance of treaty-exchanged information for investigations conducted by non-tax authorities, many international tax agreements<sup>13</sup> contemplate the possibility of sharing the information already received by a jurisdiction for tax purposes with other authorities for non-tax purposes.

Usually, where an international tax agreement permits the exchanged information to be used for other purposes, it requires that two cumulative conditions are met:

- i) such other use is allowed under the domestic laws of the supplying and receiving jurisdictions, which means that the domestic laws of both jurisdictions allow their tax authorities to share information they hold with non-tax authorities for the same specific non-tax purpose.
- ii) the receiving jurisdiction receives the prior authorisation of the supplying jurisdiction.<sup>14</sup>

Where the conditions for wider use are met and treaty-exchanged information is shared with another law enforcement authority, the receiving authority must abide by the provisions related to confidentiality of the international agreement under which the information was provided in the first instance. Therefore, the non-tax authorities must treat the information as confidential in accordance with the applicable international tax agreement, should only use the information for the specific non-tax purpose authorised, and should not disclose it to other persons or authorities.<sup>15</sup>

<sup>10</sup> Commentary to Article 26(2) of the OECD Model Tax Convention, paragraph 5.

<sup>11</sup> These provisions can also be found in the OECD Model Tax Convention and the United Nations (UN) Model Tax Convention.

<sup>12</sup> Persons and authorities involved in the assessment, collection, enforcement, prosecution and determination of appeals in relation to the taxes with respect to which information may be exchanged under the tax agreement.

<sup>13</sup> E.g. Article 22(4) of the MAAC, Article 26(2) of the OECD Model Tax Convention and Article 26(2) of the UN Model Tax Convention.

<sup>14</sup> See Article 26(2) of OECD Model Tax Convention and the UN Model Tax Convention.

<sup>15</sup> OECD (2012), *Keeping It Safe: The OECD Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes*, <https://www.oecd.org/ctp/exchange-of-tax-information/keeping-it-safe.htm>.

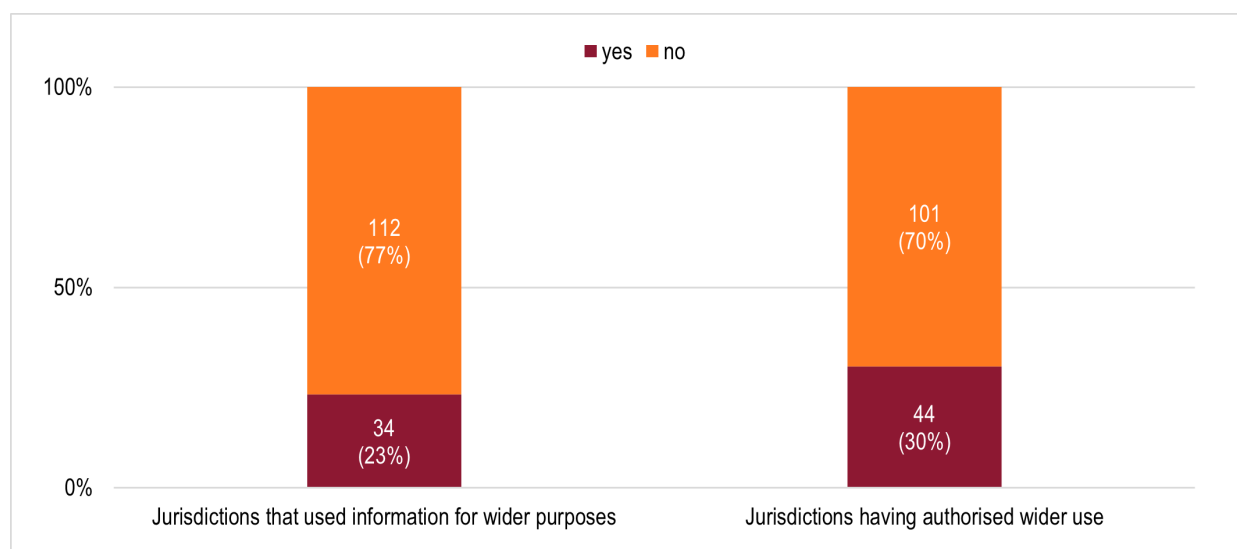
# 4 Experience in wider use

A survey conducted in 2023 by the Global Forum shows the experience in wider use among its members is: (i) very limited and incipient, and (ii) considered to be challenging. However, a few jurisdictions have engaged in wider-use with respect to a diversity of non-tax purposes.

## Requesting and granting authorisation for wider use

**The possibility offered by international tax agreements to use exchanged information for non-tax purposes has been pursued by a limited number of jurisdictions.** Only 23% of the respondents used information received under the tax treaties for wider purposes, and only 30% of the respondents reported having authorised a wider use (see Figure 1). The low proportion of jurisdictions making use of tax information for non-tax purposes may reflect the fact that (i) jurisdictions are not aware of the possibility of wider-use under international tax agreements or the exact procedures to follow in requesting authorisation, or (ii) they decide not to send a request because they do not know whether the conditions for wider-use are met, and, in particular, whether a similar use of tax information is permitted in the supplying jurisdiction.

**Figure 1. Use of information for wider purposes and authorisations provided for wider use**



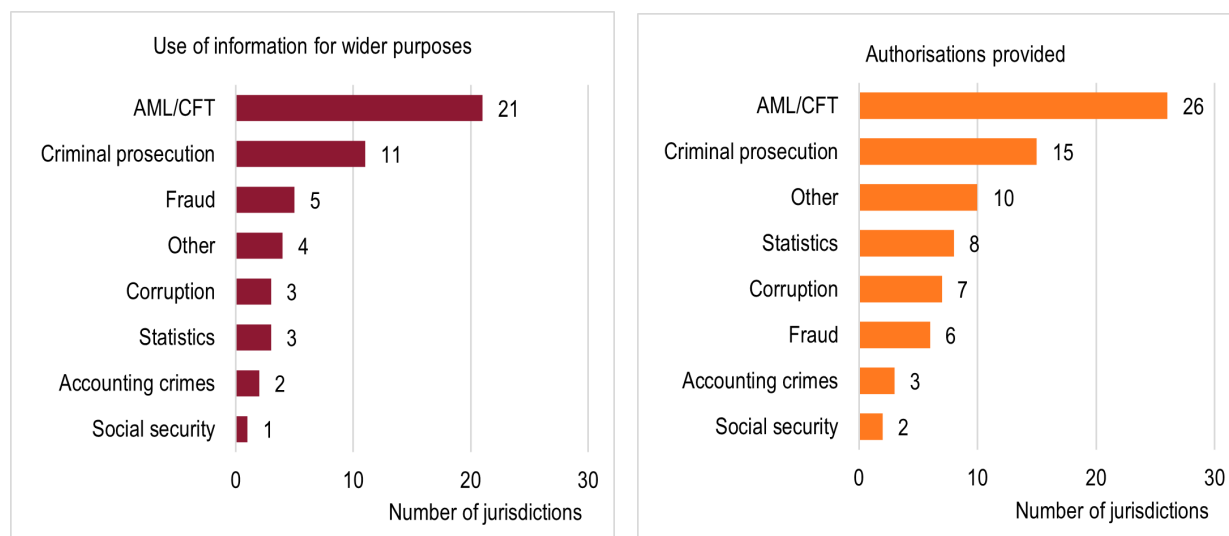
Note 1: Responses from 146 and 145 jurisdictions, respectively.

Note 2: The labels show the number of jurisdictions and the corresponding percentage in brackets.

Source: 2023 Global Forum Survey.

**The fight against AML/CFT is the most frequently cited non-tax purpose for which the information exchanged under tax treaties was used and for which authorisations were given by jurisdictions,** followed by the prosecution of criminal cases, and investigations of fraud and corruption (see Figure 2).

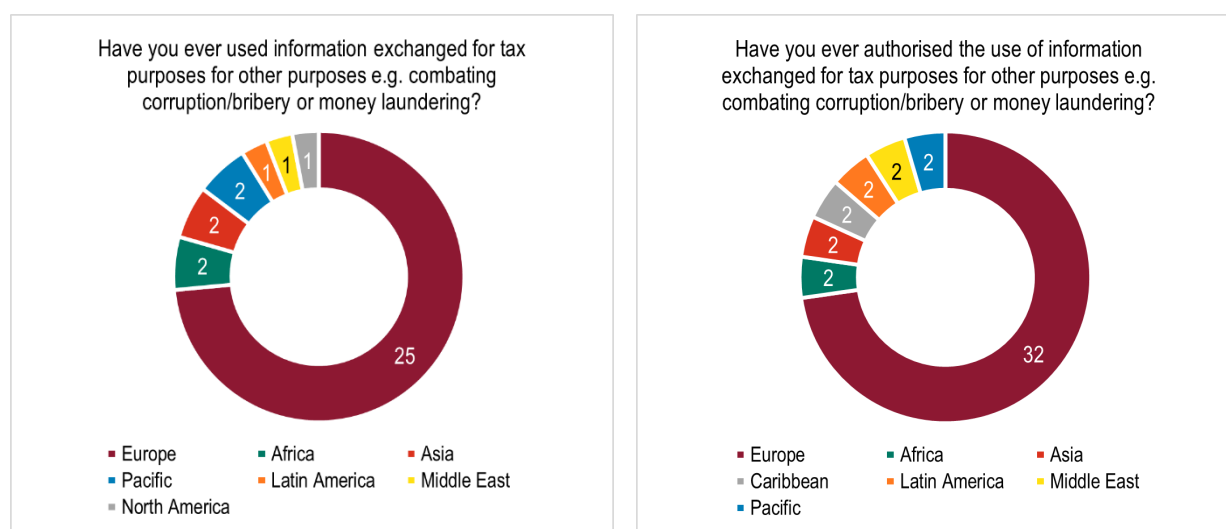
**Figure 2. Wider use: non-tax purposes for which treaty-exchanged information has been requested and authorised**



Note 1: Responses from 34 jurisdictions that used information for wider purposes and 44 jurisdictions that provided authorisations, respectively.  
 Note 2: The "Statistics" category refers to the sharing of anonymised/aggregated information with other agencies for statistical purposes.  
 Source: 2023 Global Forum Survey.

**The wider use cases are mostly reported by European countries.** Around 70% of the requests for wider use have taken place between European countries, with a similar percentage of authorisations. Other regions report very few instances of wider use (see Figure 3).

**Figure 3. Use of information for wider purposes and authorisations provided for wider use, by region**



Note 1: Responses from 34 jurisdictions that used information for wider purposes and from 44 jurisdictions that provided authorisations.  
 Note 2: The labels show the number of jurisdictions and the corresponding percentage in brackets.  
 Source: 2023 Global Forum Survey.

## Challenges experienced in wider use

At least 18 out of 140 respondents reported having encountered difficulties in attempting to use information exchanged under the tax treaties for non-tax purposes. The most common challenges identified by the respondents are both at the legal and operational levels:

- **Legal basis and similar use.** Requests may be declined because the domestic legislation of the supplying jurisdiction does not permit the sharing of information in the possession of tax authorities for the non-tax purpose pursued. A lack of awareness of the non-tax uses allowed in partner jurisdictions can lead to jurisdictions requesting authorisation in cases that will inevitably be refused.
- **No response or authorisation refused without clear justification.** Requests that never receive a response or authorisations that are declined without indicating a reason are also reported as frequent barriers to closer communication and co-operation. There are also instances where requests are declined on the grounds of not being permitted by the international tax agreement, even where the agreement allows for it provided that the conditions are met.
- **Delay in authorisations.** Jurisdictions report that some authorisations are received with long delays, potentially affecting the outcome of the non-tax investigation or prosecution.
- **Administrative burden.** Jurisdictions also consider the process of requesting authorisations to be administratively burdensome and overly time consuming.

## An example of wider use facilitation

There are some examples where jurisdictions have taken steps to facilitate the wider use of treaty-exchanged information. For instance, the European Union Directive on Mutual Administrative Assistance in Tax Matters (EU Directive) envisages the possibility of using the information received for non-tax purposes, under the conditions mentioned in Section 3 of this report. However, the EU Directive elaborates further on the authorisation process by making available to European Union (EU) Member States the possibility of upfront authorisation, by specifying that the Competent Authority of an EU Member State may communicate in advance to other EU Member States' Competent Authorities a list of non-tax purposes for which information may be used, in accordance with its domestic laws, and without prior authorisation. In this scenario, jurisdictions know in advance whether there is reciprocity in the non-tax purposes permitted and Competent Authorities do not need to obtain prior authorisation on a case-by-case basis, facilitating and simplifying the wider use process.

# **5** A possible approach to facilitating the wider use of treaty-exchanged information

Interested jurisdictions could take steps to streamline and facilitate the wider use of treaty-exchanged information by elaborating on the terms and conditions of such a co-operation. This section outlines some of the elements that could form the basis of a possible approach that could be pursued by interested jurisdictions to facilitate the wider use of treaty-exchanged information. In particular, such enhanced co-operation between interested jurisdictions could be streamlined through Competent Authority agreements, either bilateral or multilateral, and through the signature of co-operation agreements or memoranda of understanding at the domestic level.

## **Legal basis**

The MAAC could provide the legal basis for streamlining the process for and facilitating greater access to treaty-exchanged information for wider use. With 147 participating jurisdictions, it is the most powerful tax co-operation instrument.<sup>16</sup> Article 22(4) of the MAAC contains the possibility of engaging in wider use of treaty-exchanged information and, by mutually agreeing on the terms and conditions for implementation, could be a highly relevant and effective tool for interested jurisdictions to improve their co-operation in this area.

The MAAC could be complemented by a Competent Authority Agreement (CAA) (see below). Such an agreement could be on a bilateral basis or on a multilateral basis with bilateral effect (i.e. jurisdictions participating to the multilateral CAA would decide on a bilateral basis with which other participating jurisdictions it would like to engage in wider use).

## **Scope**

### ***Information to share***

Tax authorities would be able to share with their non-tax authorities any piece of individual treaty-exchanged information that has been previously provided for tax purposes and that is regarded to be foreseeably relevant for the enforcement of non-tax laws and to support non-tax investigations. Information subject to wider use could cover individual information exchanged through EOIR, AEOI, or spontaneously.

---

<sup>16</sup> As of May 2023, 147 jurisdictions participate to the MAAC, available at <https://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>.

### ***Non-tax purposes and authorities***

Under such an approach, jurisdictions could define and agree the non-tax purposes they wish to target, based on their own priorities and interests, and on what is permitted under their domestic laws. The non-tax purposes authorised for wider use could include, for example, the detection, investigation and prosecution of crimes and/or offences related to AML/CFT, corruption and customs. Other non-tax purposes could be implemented as determined and agreed by interested jurisdictions.

Non-tax authorities with which information could be shared would include those whose competence is one of the non-tax purposes envisaged. They could include, for example, financial intelligence units, anti-corruption agencies, customs authorities and public prosecutors.

An optimal approach to be considered by jurisdictions in determining non-tax authorities could be to ensure that the whole chain of investigation of the non-tax crime or offence, up to and including criminal prosecution, is covered, provided that the domestic legal framework also enables the sharing of domestic tax information with these authorities. Such an approach would help avoid situations where a case under investigation would be frustrated by a lack of access to the information when the case moves to the next phase (e.g. criminal prosecution), thus ensuring that the tax information can be shared with the authorities responsible for this next phase (e.g. public prosecutors).

### **Administrative framework for co-operation**

To support such an approach, interested jurisdictions could put in place an administrative framework for co-operation to facilitate and streamline the processes and procedures, while addressing the challenges identified when implementing or attempting to implement wider use. For example, such an administrative framework could include co-operation agreements between the Competent Authorities at the international level and also, at the domestic level, between the tax authority and other law enforcement authorities. In order to ensure consistent and smooth implementation and communication, the administrative framework could include templates to standardise and simplify procedures and could establish timelines for key stages of the processes that provide for the wider use.

Such an administrative framework could include the following co-operation agreements:

- a model CAA, providing the overarching international framework for wider use
- a model Memorandum of Understanding (MoU) between tax and non-tax authorities at the domestic level, providing the domestic framework for wider use.

Confidentiality would be a key element of the administrative framework. Both co-operation agreements would need to emphasise the confidentiality requirements of wider use. The modalities and arrangements for ensuring the proper safeguarding of the treaty-exchanged information would be determined as agreed between Competent Authorities and tax and non-tax authorities to ensure full compliance with the confidentiality requirements of the international tax agreements under which the on-shared information has been provided in the first instance.

### ***Competent Authority Agreement***

The CAA could provide a single mechanism for jurisdictions to facilitate wider use, with swift and consistent implementation. It could be signed bilaterally or multilaterally, and jurisdictions would have the ultimate control over the decision on the partner jurisdiction(s), the non-tax purposes and the non-tax law enforcement authorities covered.

The confidentiality and appropriate use of the treaty-exchanged information to be shared with non-tax authorities could also be covered under the CAA, in order to ensure the confidentiality requirements are observed.

Such a flexible framework has the potential to provide interested jurisdictions with the comfort that they will only engage in wider use according to their specific priorities and interests, while ensuring that their domestic legal frameworks are fully respected. It would further give jurisdictions the assurance that wider use will only be undertaken with mutually agreed partner jurisdictions and, within it, with the specified non-tax authorities. Concretely, jurisdictions would engage in wider use only with the jurisdictions of their choice, and for the non-tax use and the non-tax law enforcement authorities they have specified.

Under such an administrative framework, Competent Authorities could engage in wider use under a preferred authorisation approach, which could include one of the following options:

- **Authorisation on a case-by-case basis.** The authorisation for the agreed non-tax purposes would be requested by the Competent Authority for each individual case, but there would be a commitment to provide this authorisation if all the agreed conditions are met.

Under this approach, the requested Competent Authority commits to provide the authorisation. However, each request should be adequately justified and detail the context of the request and the grounds for believing that the information is foreseeably relevant for the non-tax purposes pursued.

- **Upfront authorisation.** A Competent Authority would receive authorisation in advance for the agreed non-tax purpose and non-tax authorities with whom the information could be shared, without the need to request an authorisation for each case. This streamlined approach would further simplify the authorisation process and reduce the administrative burden for Competent Authorities. However, under such an approach, a reporting obligation would be introduced so the receiving Competent Authority informs ex-post the supplying Competent Authority of the instances where it has shared treaty-exchanged information with non-tax authorities.

The CAA could be supplemented with templates providing detailed guidance for relevant communications between Competent Authorities, including for the request and approval of authorisations, for requesting clarifications, and for reporting the wider use when the upfront authorisation approach is followed. The templates could further include agreed deadlines for critical stages of the wider use process (e.g. for providing authorisations, for asking for clarifications and for reporting the use given to treaty-exchanged information).

### ***Memoranda of understanding***

In order to facilitate a smooth working relationship between a jurisdiction's tax and non-tax authorities, MoUs could be signed between them, under the parameters agreed in the CAA. An MoU would contain the requirements to implement wider use in practice in a manner consistent with domestic laws and regulations, as well as the procedures and arrangements to ensure swift co-operation at the domestic level, while also maintaining the confidentiality and adequate handling of the information.

The MoU could also cover the options for sharing treaty-exchanged information with the non-tax authority. Two options could be considered:

- **Sharing upon request:** the non-tax authority would, on a case-by-case basis, request from the tax authority information that is likely to be relevant for the non-tax purposes under its competence. Under this option the non-tax authority must provide adequate background information to support the request, thereby ensuring that the tax authority can make an informed decision on whether to share the requested information that is in its possession.



- **Spontaneous sharing:** under this option the tax authority would spontaneously provide treaty-exchanged information to the non-tax authority when it deems that it is foreseeably relevant for the specific non-tax purpose.

Both options could include reporting requirements so that non-tax authorities would be required to inform tax authorities on the use they have made of the information and on the outcomes of the case in question. This will further promote awareness of the usefulness of joint work and collaboration between authorities.

The MoU would also cover the agreed arrangements to address confidentiality concerns, which would intend to give confidence that the non-tax authority will handle the sensitive information on-shared in accordance with the confidentiality requirements. These arrangements could include, for example, confidentiality training requirements that could, for instance, highlight the tax treaty obligations, specific confidentiality controls to handle the information, and the procedures to be followed in the event of a breach.

The MoU could be supplemented with templates and guidance to further facilitate domestic implementation of wider use. These could include templates for requesting and sharing treaty-exchanged information, for asking for clarifications, for declining a request (where the request is not adequately justified), for reporting on the use of treaty-exchanged information and for other relevant communications between authorities. Templates could define deadlines for key stages (e.g. authorisation and sharing, requests for clarifications, reporting).

## **6** Conclusion

This report highlights the benefits, the conditions and the challenges of using the treaty-exchanged information for purposes other than tax. It also suggests a possible approach that could be implemented to streamline and facilitate this form of co-operation.

The approach suggested in this report intends to support wider use of treaty-exchanged information by allowing interested jurisdictions to streamline existing processes and facilitate greater access to such information for purposes other than tax in order to enhance their co-operation in fighting IFFs.

The approach draws on the work carried out under the Latin America Initiative to streamline and facilitate wider use by elaborating on the terms and conditions of such a co-operation.

The suggested approach would allow interested jurisdictions to comply with their international and domestic obligations, while respecting taxpayers' rights and making greater use of a possibility already provided for in international agreements, which would contribute to the fight against IFFs that harm the society as a whole and reduce citizens' confidence in public institutions.

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

## Facilitating the Use of Tax-Treaty-Exchanged Information for Non-Tax Purposes

Illicit financial flows (IFFs) have a cross-cutting nature and involve a diversity of crimes and offences transcending tax evasion, such as money laundering, terrorism financing and corruption. It is thus highly important for jurisdictions to adopt a whole-of-government approach to addressing them, notably through the sharing of information from tax to non-tax authorities, which can include information exchanged under international tax agreements. This latter process is also known as the “wider use of treaty-exchanged information”.

Wider use is envisaged by various international tax agreements, bilateral and multilateral, provided that certain conditions are met, usually where a similar use for non-tax purposes is allowed at the domestic level in both collaborating jurisdictions and where prior authorisation is granted by the jurisdiction providing the information.

While several jurisdictions are interested in developing this form of co-operation as part of their whole-of-government approach to fighting IFFs, in practice they face operational challenges in implementing wider use, in particular with respect to the need to obtain consent from the jurisdiction providing the information.

Following a request from the Indian G20 Presidency, this report of the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes presents a possible approach to advance and streamline wider use between interested jurisdictions. This could be achieved through the implementation of co-operation agreements: (i) between Competent Authorities for exchange of information for tax purposes, and (ii) between tax and non-tax authorities at the domestic level. This suggested approach contemplates a possible administrative framework to reduce implementation barriers and ensure that the confidentiality requirements and data safeguards are upheld.



For more information:



[www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency)



[gftaxcooperation@oecd.org](mailto:gftaxcooperation@oecd.org)



[@OECDtax](https://twitter.com/OECDtax)



[OECD Tax](https://www.linkedin.com/company/oecd-tax)