

FREQUENTLY ASKED QUESTIONS (FAQS): FAST TRACK REVIEW PROCEDURE

1. Why the need for a Fast-Track Procedure?

The G20 Finance Ministers in their April 2016 Communiqué indicated the need for all jurisdictions to “upgrade their Global Forum rating to a satisfactory level” by the time of the July 2017 G20 Leaders’ Summit. In addition, the Communiqué also called on the OECD to establish objective criteria to identify non-cooperative jurisdictions with respect to the tax transparency standards.

In July 2017 the OECD identified three criteria for identifying non-cooperative jurisdictions:: (i) signature of the multilateral Convention on Mutual Administrative Assistance in Tax Matters, (or equivalent),(ii) commitment to the automatic exchange of financial account information (where required) and (iii) achieving at least a Largely Compliant rating in the Global Forum’s peer review for exchange of information on request. A jurisdiction shall be listed as non-cooperative if it fails to meet two of the three criteria. However, if it is rated Non-Compliant overall for EOIR purposes or where it was previously blocked from moving past Phase 1 and has not yet received an overall rating under the Phase 2 process, a jurisdiction will be considered a non-cooperative jurisdiction notwithstanding that it may have met the benchmarks of two of the three criteria.

In September 2016, the G20 Leaders endorsed the proposals made by the OECD on the objective criteria and asked the OECD to report back by June 2017 on the progress made by jurisdictions on tax transparency. This listing of non-cooperative jurisdictions shall then be made available to the July 2017 G20 leaders’ summit.

Due to timing issues and the density of a full peer review, the acceleration process under the Methodology for the second round of reviews (2016 Methodology) is not viewed as an efficient mechanism in order for jurisdictions to be able to demonstrate progress for this specific purpose. Therefore, at the 2016 Georgia plenary meeting, the Global Forum adopted a ‘Fast-Track procedure’, specifically for this purpose.

2. What is the Fast-Track Procedure?

The Fast-Track review procedure, adopted by the Global Forum at its plenary in Tbilisi on 2-4 November, 2016, is designed to recognise progress made by jurisdictions in implementing the EOIR standard since its last review and the results will be taken into account for the purposes of communicating progress by the Global Forum and for OECD’s and in preparing the list of non-cooperative jurisdictions to the G20.

3. Who can apply?

The Fast-Track review procedure is open to:

- a) All jurisdictions with an overall rating of “Partially Compliant” or Non-Compliant” (including the jurisdictions that will be deemed “Non-Compliant” because they failed to progress to Phase 2 within the deadline set by the Global Forum);
- b) Jurisdictions that remain blocked from moving to Phase 2 and have not yet been assigned an overall rating due to the fact that their Phase 1 report was adopted late in first round of reviews and

therefore after the special procedure for blocked jurisdictions to request supplementary reviews was adopted by the Global Forum¹; and

- c) Jurisdictions that had previously been blocked for a long time in Phase 1 and have now undergone a supplementary report and have been deemed ready to move to Phase 2. However, the Phase 2 review could not be conducted during the first round of reviews and hence no rating has been assigned.

While the Fast-Track review procedure is not mandatory, it is highly advisable those jurisdictions that fulfil the above criteria apply for this procedure in order to demonstrate that progress has been made in its jurisdiction to address the Global Forum recommendations.

4. What is the deadline for requesting a Fast-Track review procedure?

Given the fact that the Global Forum will have to report progress in improvements of ratings and the OECD will have to report back to the G20 on the list of non-cooperative jurisdictions by its summit next year (July 2017), in order to have results finalised by that time, the latest time that a jurisdiction may apply for the Fast-Track review procedure is mid-April 2017.

5. What does the Fast-Track review procedure entail?

Basically, a jurisdiction must be able to show that it is “likely” that its overall rating would be upgraded as assessed against the 2010 Terms of Reference. In the case where the jurisdiction does not have a rating as it has not undergone a Phase 2 review, the Fast-Track review procedure shall assess its practice to determine the overall rating it would likely receive should it be assessed against the 2010 Terms of Reference.

The Fast-Track review is not a complete review, but it will require that jurisdictions provide detailed information to demonstrate to the Global Forum the progress made. As part of the evaluation, peers will be asked to provide input on any issues that they feel are relevant, in particular regarding their experience with EOI in practice.

As this modified procedure shall assess a jurisdiction against the 2010 Terms of Reference, the Fast-Track review procedure shall not consider any of the revisions contained in the 2016 Terms of Reference, including an examination of beneficial ownership.

6. Overview of steps and timeline for Fast-Track procedure

Once a jurisdiction has made its request and provided the supporting material to the Secretariat, the Secretariat will call on all GF members to provide input and then draft a report for the PRG. The report will indicate whether the Secretariat is of the view that the jurisdiction’s overall rating is likely to be upgraded. If the PRG agrees with the report then it will be sent to the Global Forum for adoption. The jurisdiction will be invited to participate in the PRG meeting for the discussion of its report.

¹ At the end of the first round of reviews, Kazakhstan was the only jurisdiction that remained in this category. However, on 28 November 2016, Kazakhstan formally requested an acceleration of its EOIR review as set out under the 2016 Methodology.



7. What is the outcome of the Fast-Track report procedure in regards to a jurisdictions overall rating?

Where a jurisdiction is considered as having undertaken the progress necessary to upgrade its rating, the upgraded rating would be provisionally used for the purposes of the preparation by OECD of the list of non-cooperative jurisdictions.

Where a report is not approved by the PRG or by the Global Forum then the process is terminated. The jurisdiction shall remain eligible to apply for an acceleration of its EOIR review according to the 2016 Methodology at such time as it is able to report additional progress. In this case, the jurisdiction’s current rating will be the rating used for the purposes of the OECD’s listing process.

The jurisdiction’s EOIR review under the second round of reviews, as evaluated against the 2016 Terms of Reference, would also be accelerated to launch in Q3 or Q4, 2017.

It is noted that the reports from the Fast-Track review procedure shall not be published. However, the results shall be publicly communicated via the Global Forum website. There may also be slight changes to the Schedule for the next round of EOIR reviews in order to accommodate any accelerated EOIR reviews. The changes to the schedule shall also be publicly communicated via the website.

8. How does the Fast-Track report procedure impact a jurisdictions EOIR review under the 2016-2020 Schedule?

Where a jurisdiction is considered as having undertaken the progress necessary to upgrade its rating the jurisdiction’s EOIR review under the second round of reviews, as evaluated against the 2016 Terms of Reference, shall be accelerated to launch in Q3 or Q4, 2017.

In those cases where it is concluded that the jurisdiction has not undertaken the progress necessary to upgrade its rating, the scheduling of its EOIR review shall remain unchanged. In the event that the jurisdiction requests an acceleration of its review and is successful, its EOIR review shall then be advanced accordingly.

9. What are the next steps in preparing for a Fast-Track review?

The Secretariat will be available to assist jurisdictions in preparing for the fast-track review through a number of initiatives:

- On 16 December 2016, the Secretariat will organise a conference call open to all jurisdictions that are considering applying for the Fast-Track review to describe the requirements of the process and to answer questions.
- From February 27 – 01 March 2017, the Secretariat will host a special three day training program in Paris to prepare jurisdictions both for the Fast-Track review but also for the follow-up EOIR review that would then be scheduled later in 2017.
- At all times, the Secretariat will be liaising one-on-one with jurisdictions that are interested in this process, including in relation to providing Technical Assistance where jurisdictions need help in implementing the standard.