



Global Forum on Transparency
and Exchange of Information for Tax Purposes



SUPPLEMENTARY PEER REVIEW REPORT

Phase 1

Legal and Regulatory Framework

GUATEMALA



Table of contents

| | |
|---|----|
| About the Global Forum | 5 |
| Executive summary | 7 |
| Introduction | 11 |
| Information and methodology used for the peer review of Guatemala | 11 |
| Compliance with the Standards | 13 |
| A. Availability of information | 13 |
| Overview | 13 |
| A.1. Ownership and identity information | 14 |
| A.2. Accounting records | 18 |
| A.3. Banking information | 18 |
| B. Access to information | 19 |
| Overview | 19 |
| B.1. Competent Authority’s ability to obtain and provide information | 20 |
| B.2. Notification requirements and rights and safeguards | 23 |
| C. Exchanging information | 25 |
| Overview | 25 |
| C.1. Exchange of information mechanisms | 26 |
| C.2. Exchange-of-information mechanisms with all relevant partners | 28 |
| C.3. Confidentiality | 29 |
| C.4. Rights and safeguards of taxpayers and third parties | 30 |
| C.5. Timeliness of responses to requests for information | 30 |
| Summary of determinations and factors underlying recommendations | 33 |

| | |
|---|-----------|
| Annex 1: Jurisdiction’s response to the review report | 37 |
| Annex 2: List of Guatemala’s exchange-of-information mechanisms. | 39 |
| Annex 3: List of laws, regulations and other relevant material. | 44 |

About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 120 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004. The standards have also been incorporated into the UN Model Tax Convention.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 and Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to www.oecd.org/tax/transparency and www.eoi-tax.org.

Executive summary

1. This is a supplementary report on the legal and regulatory framework for transparency and exchange of information in Guatemala. It complements the Phase 1 peer review report on Guatemala which was adopted and published by the Global Forum in March 2012 (“2012 Report”).
2. In response to the letter from the Chair of the Global Forum on 28 November 2014 inviting all jurisdictions that were previously prevented from moving to Phase 2 to request a supplementary review, Guatemala asked for a supplementary peer review report pursuant to paragraphs 58 and 60 of the Revised Methodology for Peer Reviews and Non-member Reviews. This supplementary report reviews the exchange of information agreements signed by Guatemala since December 2011 (the date at which the legal and regulatory framework was previously assessed) to address a number of the recommendations made in the Phase 1 peer review report. These amendments pertain to the exchange of information mechanisms (element C.1); and to Guatemala’s exchange of information network (element C.2).
3. The Phase 1 report also identified deficiencies under element A.1 in respect of the conversion process for bearer shares, foreign companies, foreign partnerships and foreign trusts. As a result, element A.1 was found to be not in place. Since the Phase 1 report (February 2012), the conversion process for bearer shares has been completed (June 2013), after which bearer shares are no longer valid and cannot be used for any purpose, including the participation in or the distribution of benefits within the company. Although a court procedure exists by which bearer shares may be converted to nominative, since the abolition of bearer shares in June 2013, there has been no application for such a conversion and authorities from Guatemala have reported that they are going to eliminate this conversion procedure shortly. As a result, element A.1 is upgraded to “in place, but certain aspects of the legal implementation of the element need improvement”.
4. Element B.1 was also determined to be “not in place” due to professional and bank secrecy preventing access to information and the identification of a domestic tax interest in the Tax Code. Since the adoption of the Phase 1 report, a bill containing proposed amendments to the Banks and

Financial Groups Law and Tax Code in order to address these recommendations was submitted to Congress in August 2013. However, due to political complications, the bill has not yet advanced through Congress and due to general elections which are to take place this year (2015), it is foreseen that this bill will not be approved before 2016. Therefore, as no legal changes have taken place since the Phase 1 report, the determination for B.1 remains “not in place”.

5. Element B.2 was found to be “in place but certain aspects of the legal implementation of the element need improvement” due to the requirement to notify the taxpayer in those cases where a judicial order is needed by the Tax Authorities to access information. A proposed amendment to provide for an exception to this notification requirement is contained in the above mentioned bill which is with the Congress of Guatemala for discussion and approval. Similarly, it is not foreseen that the bill will be approved before 2016. Therefore, as no legal changes have taken place since the Phase 1 report, the determination for B.2 remains “in place but certain aspects of the legal implementation of the element need improvement”.

6. There were no changes since the 2012 Report that affect elements A.2, A.3, C.3 and C.4 and the determination of “in place” for each of these elements remains the same.

7. Therefore, it can be summarised that the main changes since the Phase 1 report was adopted has been the completion of the process to eliminate the use of bearer shares, the signing of the Multilateral Convention (December 2012) and the signing of nine additional bilateral agreements (1 DTC and eight TIEAs). However, these agreements are still awaiting submission to the Congress of Guatemala for ratification as the *Ministerio de Relaciones Exteriores de Guatemala* (Ministry of Foreign Affairs) is currently in the process of preparing an official opinion and statement to be submitted alongside the agreements to the President who has to seek Congress Approval as part of the ratification process. Otherwise, while a bill with draft amendments to the Tax Code and the Banking and Financial Groups Law to address the B.1 and B.2 recommendations was submitted to Congress for discussion in August 2013, Guatemalan officials have reported that this bill will not be approved until 2016.

8. Therefore, Guatemala has made some progress towards complying with the international standard such as the conversion of bearer shares to nominative, joining the Multilateral Convention and commencing the process in order to be able to access all types of information for an EOI request. However, Guatemala is yet to act on some of the recommendations made in the Phase 1 report and a number of elements which are crucial to achieving effective exchange of information are still not in place, particularly with regard to element B.1 (access to information), and elements C.1 and C.2 (both

related to its EOI network). Guatemala is encouraged to continue to review and update its legal and regulatory framework in line with the standard.

9. Until such time as Guatemala has acted on the factors highlighted in this supplementary report and made further progress in addressing the recommendations, it is recommended that it should not move to a Phase 2 Review. A follow up report on the steps undertaken by Guatemala to answer the recommendations made in this report should be provided to the Peer Review Group within six months after the adoption of this report. In addition, Guatemala should provide a detailed written report to the Peer Review Group within 12 months of the adoption of this report.

Introduction

Information and methodology used for the peer review of Guatemala

10. The assessment of the legal and regulatory framework made through this supplementary peer review report was prepared pursuant to paragraph 60 of the Global Forum’s *Methodology for Peer Reviews and Non-member Reviews*, and considers recent changes to the legal and regulatory framework of Guatemala based on the international standards for transparency and exchange of information as described in the Global Forum’s *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information For Tax Purposes*. This supplementary report is based on information available to the assessment team including the laws, regulations, and exchange of information arrangements signed or in force as at 14 August 2015 and information supplied by Guatemala. It follows the Phase 1 peer review report on Guatemala which was adopted and published by the Global Forum in March 2012 (“the 2012 Report”).

11. The *Terms of Reference* breaks down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchange of information. This review assesses Guatemala’s legal and regulatory framework against these elements and each of the enumerated aspects. In respect of each essential element a determination is made that: (i) the element is in place; (ii) the element is in place, but certain aspects of the legal implementation of the element need improvement; or (iii) the element is not in place. These determinations are accompanied by recommendations for improvement where relevant.

12. The assessment was conducted by an assessment team, which consisted of two expert assessors and a representative of the Global Forum Secretariat: Ms. Maria Graça Pires, Tax Officer of the International Relations Department, Ministry of Finance of Portugal; Mr. A. Sreenivasa Rao, Director of Foreign Tax and Tax Research, Department of Revenue, Ministry of Finance of India; and Ms. Mary O’Leary from the Global Forum

Secretariat. The assessment team examined the legal and regulatory framework for transparency and exchange of information and relevant exchange of information mechanisms in Guatemala.

13. An updated summary of determinations and factors underlying recommendations in respect of the 10 essential elements of the Terms of Reference, which takes into account the conclusions of this supplementary report, can be found in the table at the end of the report.

Compliance with the Standards

A. Availability of information

Overview

14. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as accounting information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority may not be able to obtain and provide it when requested. This section of the report assesses the adequacy of Guatemala's legal and regulatory framework on availability of information.

15. The 2012 Report concluded that there were many deficiencies under element A.1 (ownership and identity information), which led to the determination of element A.1 to be "not in place". The deficiencies identified in the 2012 Report pertained to the conversion process of bearer shares and the ownership information requirements for foreign companies, foreign partnerships and trusts. Since the Phase 1 report (February 2012), the conversion process for bearer shares has been completed (June 2013), after which bearer shares are no longer valid and cannot be used for any purpose, including the participation in or the distribution of benefits within the company. Although a court procedure exists by which bearer shares may be converted to nominative, since the abolition of bearer shares in June 2013, there has been no application for such a conversion and authorities from Guatemala have reported that they are going to eliminate this conversion procedure shortly. It

is recommended that Guatemala should take further steps necessary to ensure that appropriate reporting mechanisms are in place to effectively ensure the identification of the owners of bearer shares in all cases. Nevertheless, in light of the progress in this regard, element A.1 is upgraded to “in place but certain aspects of the legal implementation of the element need improvement”.

16. At the time of the 2012 Report, both elements A.2 (accounting information) and A.3 (banking information) were determined to be “in place” without any recommendations. There have been no changes since the 2012 report and the determination for elements A.2 and A.3 remain as “in place”.

A.1. Ownership and identity information

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

Companies (ToR¹ A.1.1)

17. The 2012 Report concluded that while the availability of ownership and identity information in respect of domestic companies was ensured, for foreign companies no ownership information is required to be maintained by government authorities or by the foreign companies themselves. While foreign companies that have their headquarters in Guatemala or whose main focus of business is in Guatemala must have their deed of incorporation notarised and registered with the Registrar of Commerce in the same manner as a domestic company, this is according to the formalities of the place of incorporation. Therefore, the ownership information that is available would depend on the requirements of the company law of the place of incorporation and would not necessarily guarantee that ownership information will be available for all foreign companies.

18. Foreign companies which are operating in Guatemala are also required to register with the Tax Administration (SAT) before starting or resuming a taxable activity. Again, there is no requirement in this registration process for the foreign company to maintain information on its shareholders. A recommendation was made in the 2012 Report that Guatemala should ensure the availability of ownership information of all foreign companies with sufficient nexus to Guatemala. As there were no changes since the 2012 Report, the recommendation remains.

1. *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information.*

Bearer shares (ToR A.1.2)

19. Previously bearer shares could be issued by both *Sociedades Anónimas* (SAs) and *Sociedades en Comandita Simple* (SCPAs) in Guatemala. The 2012 Report concluded that although Guatemala took the option of eliminating the issuance of bearer shares, this would not be completed until June 2013 according to the law which was introduced in 2010. Further, there is also a conversion process for bearer shares to be reinstated as nominative shares after that time. While, at the time of conversion all ownership information will be available, it is foreseeable that the bearer share may be transferred several times in the interim and information would not be available on these owners. However, as the bearer share is worthless in terms of rights or benefits until its conversion to a nominative share, the multiple transfer of the share in the interim does not seem foreseeable and therefore does not pose a high risk. Guatemala has reported that since the conversion process terminated in June 2013, there has not been any requests for conversion of bearer share to nominative shares via court procedure. Nevertheless, it is recommended that Guatemala should take further steps necessary to ensure that appropriate reporting mechanisms are in place to effectively ensure the identification of the owners of bearer shares in all cases.

20. In light of the completion of the conversion process and considering that no activity has been reported to gain access to bearer shares, element A.1 is upgraded to “in place but certain aspects of the legal implementation of the element need improvement”.

Partnerships (ToR A.1.3)

21. The 2012 Report concluded that the legal framework ensured the availability of ownership and identity information as all partnerships *Sociedades Colectivas*, *Sociedades en Comandita Simple*, and *Sociedades de Responsabilidad Limitada* (SC, SCS and SRL) must be formed by a deed authorised by a notary. The deed, including ownership information as well as the terms governing the relationship between the owners, is then registered in the “*protocolo*” or notary’s register and any subsequent modification of the deed, including a change of ownership, is required to be done with the same formalities as the original deed and so must also be notarised. Further, the partnership deed and its modifications must be registered not only in the Notary’s register but also in the Registrar of Commerce within one month. Finally, all types of partnerships are taxed at the entity level in Guatemala and are taxpayers subject to registration and record keeping obligations under the Tax Code, and the obligation to maintain information that must be provided to SAT.

22. In respect of foreign partnerships in Guatemala there is a requirement that ownership information is submitted at the time of registration with the Registrar but there is no obligation for the foreign partnership to submit updated information to the Registrar. There have been no changes in this regard since the 2012 Report. Therefore, the Phase 1 recommendation that Guatemala should ensure that information that identifies the partners in a foreign partnership that carries on business in Guatemala or has income, deductions or credits for tax purposes in Guatemala is available to its competent authority remains unchanged.

Trusts (ToR A.1.4)

23. The concept of a “trust” as it is under the common law does not exist under the Guatemalan Law and according to the law only banks or other credit institutions authorised by the Monetary Board can act as trustees of a *Fideicomiso* (the closest legal arrangement similar to a common law Trust in Guatemala) which ensures the availability of ownership and identity information regarding all parties. However, there is no provision preventing a Guatemalan resident from acting as a trustee of a trust established under the laws of a foreign jurisdiction. In this case the availability of ownership information in respect of all parties to a trust is not ensured as this arrangement is not regulated under the Guatemalan Law. Therefore, a recommendation was made in the 2012 Report that Guatemala should take measures to ensure that information is available from the trustee that identifies the settlor and beneficiaries of foreign trusts. There have been no changes in this regard since the 2012 Report and the Phase 1 recommendation remains.

Foundations (ToR A.1.5)

24. Foundations may be formed in Guatemala but only as non-profit entities. Foundations formed in Guatemala are regulated mostly by the Civil Code and the Non-Governmental Organisations Law. There has been no change to the laws since.

Enforcement provisions to ensure availability of information (ToR A.1.6)

25. The 2012 Report concluded that when relevant entities are required to maintain ownership and identity information under Guatemala’s laws, these requirements are supplemented by sanctions for non-compliance. There has been no changes in this regard since the Phase 1 report. The effectiveness of Guatemala’s enforcement provisions will be considered in its Phase 2 Peer Review.

Determination and factors underlying recommendations

| Phase 1 Determination | |
|--|--|
| The element is not in place in place, but certain aspects of the legal implementation of the element need improvement. | |
| Factors underlying recommendations | Recommendations |
| The process for conversion of bearer shares to nominative shares in the Commerce Code does not ensure that all bearer shares must be converted to nominative shares by 2013. | Guatemala should ensure that bearer shares are converted to nominative shares in all cases. |
| <u>Although the issuance of bearer shares has been abolished in Guatemala and the conversion process terminated in June 2013, due to the reinstatement court procedure for future reinstated bearer shares, there is a slight risk that ownership information for all holders of bearer shares may not be available.</u> | <u>Guatemala should take further steps necessary to ensure that appropriate reporting mechanisms are in place to effectively ensure the identification of the owners of bearer shares in all cases.</u> |
| There is no provision requiring foreign companies with sufficient nexus with Guatemala to maintain ownership information. | Guatemala should ensure the availability of ownership information of all foreign companies with sufficient nexus to Guatemala. |
| Ownership and identity information on foreign partnerships may not be available in Guatemala, even when the foreign partnership carries on business in Guatemala or has income, deductions or credits for tax purposes in Guatemala. | Guatemala should ensure that information that identifies the partners in a foreign partnership that carries on business in Guatemala or has income, deductions or credits for tax purposes in Guatemala is available to its competent authority. |
| Ownership and identity information on the settlor and beneficiaries of a foreign trust may not be available in Guatemala. | Guatemala should take measures to ensure that information is available that identifies the settlor and beneficiaries of foreign trusts. |

A.2. Accounting records

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

General requirements (ToR A.2.1), Underlying documentation (ToR A.2.2), The 5-year retention standard (ToR A.2.3)

26. The 2012 Report found that there are legal requirements in place in the Commercial Code to ensure that accounting records and underlying documentation in line with the international standard are required to be maintained by all “traders” (which extends to all relevant entities and arrangements) for five years. There has been no changes in this respect since the Phase 1 report and therefore the determination of element A.2 remains as “in place” without any recommendations.

Determination and factors underlying recommendations

| Phase 1 determination |
|--------------------------|
| The element is in place. |

A.3. Banking information

Banking information should be available for all account-holders.

Record-keeping requirements (ToR A.3.1)

27. The 2012 Report found that Guatemala has a legal framework in place to ensure the availability of information on transactions and customers of banks under its Anti-Money Laundering (AML) Law. No relevant legislative changes have been made since the 2012 Report. Therefore the determination of element A.3 remains as “in place” without any recommendations.

Determination and factors underlying recommendations

| Phase 1 determination |
|--------------------------|
| The element is in place. |

B. Access to information

Overview

28. A variety of information may be needed in a tax inquiry and jurisdictions should have the authority to obtain all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership of companies or the identity of interest holders in other persons or entities, such as partnerships and trusts, as well as accounting information in respect of all such entities. This section of the report examines whether Guatemala's legal and regulatory framework gives to the authorities access powers that cover relevant persons and information, and whether the rights and safeguards that are in place would be compatible with effective exchange of information.

29. The 2012 Report found significant deficiencies concerning the ability of the competent authority to access information for EOI purposes and two recommendations were made in respect of element B.1.

30. The deficiencies identified in the 2012 Report related to bank secrecy preventing the access to information for EOI purposes and the identification of a domestic tax interest in the Tax Code. Since the 2012 Report, Guatemala has prepared a bill containing legislative amendments to the Bank and Financial Groups Law and the Tax Code in order to rectify these two significant deficiencies. Although the draft bill was introduced to Congress in August 2013, this bill is still pending approval which is not foreseen to occur prior to 2016. Therefore, the two recommendations that have been issued in respect of these deficiencies remain and the overall determination for element B.1 remains as “not in place”.

31. Similarly, under B.2 a deficiency was found in that in all cases where information was required to be accessed via judicial order there is a requirement to notify the taxpayer. A recommendation was made in this regard. Although an exception to this requirement is contained within the draft bill that has been submitted to Congress in August 2013, this bill is still pending approval. Therefore element B.2 remains “in place but certain aspects of the legal implementation of the element need improvement”.

B.1. Competent Authority’s ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

Bank, ownership and identity information (ToR B.1.1) and accounting records (ToR B.1.2.)

32. The 2012 Report concluded that the tax authorities (SAT) are empowered to require from any individual or legal entity information relating to the elements which form the basis of their tax obligation (Tax Code, art. 98). This power also extends to persons who are responsible parties with respect to the tax obligations of others. The power under this article is not limited to any particular type of information and also extends to accessing accounting information. The only criterion in exercising this power is that it must be information that forms the basis of a tax obligation.

Use of information gathering measures absent domestic tax interest (ToR B.1.3)

33. In the 2012 Report, Guatemala’s authorities asserted that their powers to obtain information apply equally for the purposes of obtaining information in response to a request for information under an international agreement as they do for domestic tax purposes and regardless of whether the information is needed for Guatemala’s domestic purposes. However, the construction of relevant provisions of the Tax Code were not clear on this point. Specifically, in the case of information obtained from taxpayers the powers to obtain information are limited to information that forms the basis of a *tax obligation* in Guatemala, and, in the case of information obtained from third parties, the powers are limited to information relating to acts, contracts or commercial relations that *give rise to taxes* in Guatemala. Therefore, the reference to a tax obligation and tax generating elements may mean that the access powers under the Tax Code will not be able to be applied in those cases where the SAT did not have any domestic tax interest in the information requested via an EOI request.

34. Therefore, in the 2012 Report, Guatemala was recommended to ensure that it has the power to obtain information for exchange purposes regardless of a domestic tax interest. There has been no change since the 2012 Report and therefore this recommendation remains.

Compulsory powers (ToR B.1.4)

35. Jurisdictions should have in place effective enforcement provisions to compel the production of information. As stated in the 2012 Report, penalties exist in Guatemala for failure to provide information requested by the SAT and it also has a wide range of powers to compel the provision of information.

Secrecy provisions (ToR B.1.5)

36. The 2012 Report sets out the secrecy provisions contained in the Constitution. Although the Constitution expressly states that the right to secrecy can be circumvented “in accordance with the law” (such as when information may be requested by the competent authority of the SAT for EOI purposes), the Tax Code specifically limits access powers in light of secrecy rules as it provides that persons may invoke the right to secrecy contained in the Constitution and insist that the tax authorities obtain a court order even to access to information that is protected by professional secrecy or the guarantee of confidentiality in respect of banking information as stated in the Constitution, Tax Code or special laws. While the tax authorities of Guatemala insisted that in practice they would have access to information without a court order, this is unclear in the legislative framework and in the 2012 Report, it was stated that this issue would be followed up in the Phase 2 review.

37. Further, in the 2012 Report, it was found that the scope of professional secrecy in Guatemala is very broad covering lawyers, notaries, accountants and other professionals. As with the secrecy provisions found in the Constitution, it is not clear if professional secrecy provisions could be overridden with a court order and if so in what conditions such an order would be granted. While Guatemalan authorities suggest that the professional secrecy could be lifted within the scope of a criminal investigation related with offences covered by AML/CFT regime, this would not cover tax offences.

38. In addition to the above secrecy provisions, in the 2012 Report, it was found that banks (including foreign bank branches operating in Guatemala), and their employees and representatives may not provide information in any form to any person, individual or entity, public or private, which would reveal the confidential nature of the identity of depositors of banks, financial institutions and financial groups, as well as information provided by account holders to these entities.

39. While the Banks and Financial Groups Law provides an exception for the disclosure of information which banks, financial companies and foreign entities must provide to the Monetary Board, Central Bank and the Banking Superintendent, this information can only be disclosed to other authorities via a judicial order. The circumstances in which a judicial order would be

granted, in particular for the purposes of disclosing information to the SAT for the purposes of fulfilling an EOI request were found to be unclear.

40. In light of both the professional and banking secrecy provisions, the 2012 Report recommended that Guatemala should ensure that its limitations on access to information do not prevent effective exchange of information in tax matters. While there is a draft bill with Congress to override the banking secrecy, no other action has been taken by Guatemala in respect of the uncertainty regarding the interaction of the other secrecy provisions in its laws and the powers of the tax authorities (SAT) to access information. Therefore, the recommendation remains in this regard.

Conclusion

41. At the time of the 2012 Report, in respect of access to information, two large deficiencies were found in the legal framework of Guatemala. First, the Tax Code was found to contain a domestic tax interest whereby the tax authorities are only enabled to access information where the information forms the basis of a tax obligation in Guatemala. Secondly, the interaction of the secrecy provisions in the Constitution, professional secrecy and bank secrecy and the ability of the tax authorities to access information is unclear. Two recommendations were issued to Guatemala in light of the domestic tax interest issue and the secrecy provisions. There has been no legislative change in this regard since the 2012 report. Therefore, the two recommendations as outlined below remain and the determination of element B.1 remains as “not in place”.

Determination and factors underlying recommendations

| Phase 1 Determination | |
|--|--|
| The element is not in place | |
| Factors underlying recommendations | Recommendations |
| The power of Guatemalan tax authorities to obtain information for exchange purposes is limited by professional and banking secrecy which cannot be lifted for exchange of information purposes. | Guatemala should ensure that its limitations on access to information do not prevent effective exchange of information in tax matters. |
| Article 98 of the Tax Code authorises the SAT to obtain information that forms the basis of a <i>tax obligation</i> , and it is not clear that this power applies for exchange purposes in the absence of a domestic tax interest. | Guatemala should ensure that it has the power to obtain information for exchange purposes regardless of a domestic tax interest. |

B.2. Notification requirements and rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

42. The 2012 Report found that information was required to be accessed via court order in Guatemala in a number of situations, such as when the taxpayer is able to invoke the right to a court order due to the right to secrecy of banking information within the Constitution; in order to obtain information from the Monetary Board, Central Bank, Banking Superintendent as well as directly from banks; or the access to information in criminal cases. In all cases where a court order is required to access information, the taxpayer must be notified. While Guatemalan authorities indicated that an exception to the notification requirement is possible, the legal basis for such exception was unable to be identified. Consequently, it is not clear if such an exception applies or in what circumstances. The notification of the taxpayer in these cases could prevent or unduly delay the exchange of information, and it was therefore recommended that Guatemala amend its laws in this regard to comply with the international standard.

43. While a draft bill was introduced to Congress in August 2013, with an amendment to the Tax Code providing for an exception to the requirement to notification of the taxpayer when information is requested via court order (such as banking information), it is not foreseen that this bill will be approved prior to 2016. Therefore, the recommendation remains and element B.2 is determined as “in place but with certain aspects of the legal implementation of the element needing improvement”.

Determination and factors underlying recommendations

| Phase 1 Determination | |
|---|--|
| The element is in place, but certain aspects of the legal implementation of the element need improvement. | |
| Factors underlying recommendations | Recommendations |
| Where a judicial order is needed to obtain information, the taxpayer must in all cases be notified. While a draft bill introducing an exception to this notification procedure was introduced to parliament in August 2013, this has not yet been approved. | Guatemala should introduce exceptions to this notification procedure where notification would unduly prevent or delay effective exchange of information. |

C. Exchanging information

Overview

44. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. This section of the report examines whether Guatemala has a network of agreements that would allow it to achieve effective exchange of information in practice.

45. In the 2012 Report, elements C.1 and C.2 were determined to be “not in place”. These determinations arose mainly from the assessment that Guatemala’s information exchange agreements had not been given effect due to the limitations of the access powers of Guatemala’s competent authority to obtain information due to a possible domestic tax interest in its Tax Code and various secrecy provisions. As discussed in Part B of this supplementary report, while Guatemala has drafted legal amendments to address these deficiencies, the bill with these draft amendments was introduced to Congress in August 2013 and has not been approved. However, it is not foreseen that this bill will be approved before 2016. As a result, the determination of elements C.1 and C.2 remain unchanged.

46. It is noted that since the 2012 Report Guatemala signed the Multilateral Convention for Mutual Administrative Assistance in Tax Matters (hereafter referred to as the “Multilateral Convention”) in December 2012. Guatemala has also signed eight additional bilateral TIEAs and one bilateral DTC. As a result, its treaty network has been extended to 88 treaty partners. However, as of yet none of these agreements have been submitted to the Congress for ratification as the *Ministerio de Relaciones Exteriores de Guatemala* (Ministry of Foreign Affairs) is currently in the process of preparing an official opinion and statement to be submitted alongside the agreements to the President who has to seek Congress approval within the ratification process. Therefore, it remains that Guatemala only has one agreement in force (the Central American Mutual Assistance Convention) to the standard. An additional recommendation has been issued for Guatemala to ensure that its remaining signed agreements are ratified expeditiously. Therefore, while the progress of Guatemala in negotiating and signing new agreements in order to extend

its treaty network is recognised, due to the above outlined restrictions in its access powers and the slow ratification of these agreements the determination of elements C.1 and C.2 as “not in place” remain unchanged.

47. The determination of the 2012 Report for element C.3 was “in place”. The additional ten agreements signed by Guatemala since the 2012 Report contain language that meets the international standard regarding confidentiality of information and does not have any impact to the determination. There have been no other legal changes in this regard. Therefore, element C.3 remains “in place”.

48. The determination for element C.4 remains unchanged as “in place”. The additional agreements as signed by Guatemala following the 2012 Report contain language that meets the international standard and does not have any impact to the determination for element C.4. Therefore, element C.4 remains “in place”.

49. The 2012 Report did not identify any issues relating to Guatemala’s ability to respond to requests within 90 days of receipt by providing the information requested or by providing an update on the status of the request or any restrictive conditions on exchange of information. Similar to the 2012 Report, this supplementary report does not address element C.5, as this involves issues of practice that will be examined in the next review of Guatemala.

C.1. Exchange of information mechanisms

Exchange of information mechanisms should allow for effective exchange of information.

50. Since the 2012 Report, Guatemala has signed the Multilateral Convention as well as having signed eight bilateral TIEAs with Australia, Denmark, Sweden, Finland, Norway, Iceland, Greenland and the Faroe Islands and a bilateral DTC with Mexico. Therefore, Guatemala’s EOI network is currently based on eight TIEAs, 1 DTC, a regional multilateral instrument that covers four other jurisdictions (from hereafter referred to as the “Central American Convention”) and the Multilateral Convention. This has greatly expanded its treaty partners bringing its EOI network to 88 jurisdictions. A listing of the EOI partner jurisdictions of Guatemala is at Annex 2.

Foreseeably relevant standard (ToR C.1.1), In respect of all persons (ToR C.1.2), Obligation to exchange all types of information (ToR C.1.3), Absence of domestic tax interest (ToR C.1.4), Absence of dual criminality principles (ToR C.1.5), Exchange of information in both civil and criminal tax matters (ToR C.1.6), Provide information in specific form requested (ToR C.1.7), In force (ToR C.1.8) and Be given effect through domestic law (ToR C.1.9)

51. At the time of the Phase 1 report, the Central American Convention was found to not permit the signatory jurisdictions to exchange information where it was not allowed under Constitutional provisions. Therefore, in the case of Guatemala whose Constitution contains a provision which protects the taxpayer information, this may represent a possible obstacle to exchanging information with other tax administrations.

52. While the tax authorities of Guatemala assert that pursuant to the Tax Code, it is the duty of the SAT to provide and receive tax and financial information with its treaty partners, due to the restrictions in Guatemala's domestic laws based on professional secrecy, and the restrictions on access to bank information, the 2012 Report concluded that Guatemala cannot exchange all types of information to the international standard.

53. As discussed in Part B of this supplementary report, a possible domestic tax interest was identified in the Tax Code at the time of the Phase 1 review of Guatemala. Since its Phase 1 review, although there is a bill in Congress containing amendments to the Tax Code in order to resolve this issue, due to general elections which are to take place this year (2015), it is not foreseen that this bill will be approved until 2016. There have been no other legislative amendments in this regard.

54. It is noted that since the Phase 1 report Guatemala has since signed the Multilateral Convention and nine additional bilateral EOI agreements (one DTC and eight TIEAs). However, to date, none of these have been ratified by Guatemala and have not yet been submitted to Congress for approval as the *Ministerio de Relaciones Exteriores de Guatemala* (Ministry of Foreign Affairs) is currently in the process of preparing an official opinion and statement to be submitted along with the agreements to the President who has to seek Congress approval within the ratification process. Therefore, the situation remains that as at the time of its Phase 1 review, Guatemala has only one EOI agreement (the Central American Mutual Assistance Convention) in force to the standard. Guatemala is recommended to ratify the remainder of its signed agreements expeditiously.

55. While the progress of Guatemala in negotiating and signing new agreements is recognised, due to the above outlined restrictions in its access powers and the slow ratification of these agreements, the Phase 1

recommendation that Guatemala should ensure access to all relevant information for tax purposes in accordance with the standard remains and the determination of element C.1 as “not in place” remains unchanged.

Determination and factors underlying recommendations

| Phase 1 Determination | |
|--|--|
| The element is not in place | |
| Factors underlying recommendations | Recommendations |
| Guatemala has domestic law limitations, including confidentiality of documents, bank and professional secrecy and a possible domestic tax interest requirement which prevents Guatemala from giving full effect to its EOI mechanisms. | Guatemala should ensure the access to all relevant information for tax purposes in accordance with the standard. |
| Guatemala has only ratified one of its 11 signed EOI agreements. | Guatemala should ensure that its EOI agreements are ratified expeditiously. |

C.2. Exchange-of-information mechanisms with all relevant partners

The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

56. The 2012 Report concluded that Guatemala has a network of EOI arrangements with relevant partners but none of them have been given full effect through domestic law due to deficiencies to enable the Guatemala competent authority to obtain all information. As discussed in B.1 of this supplementary report, although there is currently a draft bill in Congress to address these domestic law restrictions, it is not foreseen that this initiative will be approved prior to 2016.

57. Since the Phase 1 report Guatemala has signed the Multilateral Convention and nine additional bilateral EOI agreements consisting of one DTC (Mexico) and eight TIEAs (Australia, Denmark, Faroe Island, Finland, Greenland, Iceland, Norway and Sweden). However, as yet none of these agreements have been submitted to the Congress for ratification as the *Ministerio de Relaciones Exteriores de Guatemala* (Ministry of Foreign Affairs) is currently in the process of preparing an official opinion and statement to be submitted with the agreements to the President who has to seek Congress approval within the ratification process. While the progress of Guatemala in negotiating and signing new agreements in order to extend

its treaty network is recognised, due to the above outlined restrictions in its access powers the determination of element C.2 as “not in place” remains unchanged.

Determination and factors underlying recommendations

| Phase 1 Determination | |
|--|---|
| The element is not in place | |
| Factors underlying recommendations | Recommendations |
| Guatemala does not have any EOI arrangements in force to the standard. | Guatemala should ensure that it gives full effect to the terms of its EOI arrangements in order to allow for full EOI to the standard with its relevant partners. |
| | Guatemala should continue to develop its EOI network with all relevant partners. |

C.3. Confidentiality

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

Information received: disclosure, use and safeguards (ToR C.3.1) and All other information exchanged (ToR C.3.2)

58. The 2012 Report identified that Guatemala's EOI agreements had adequate provisions to ensure the confidentiality of the information received in the process of receiving an EOI request from its treaty partners. Further, the Multilateral Agreement of which Guatemala is now a signatory and the nine bilateral agreements which Guatemala has signed since the Phase 1 review also contain provisions in line with the international standard to ensure the confidentiality of information received in the course of exchange of information by Guatemala.

59. Guatemala's domestic law provisions within the Tax Code were also found to be consistent with the standard. No changes have been made since the 2012 Report. Therefore, the determination of element C.3 remains “in place”.

Determination and factors underlying recommendations

| Phase 1 determination |
|--------------------------|
| The element is in place. |

C.4. Rights and safeguards of taxpayers and third parties

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

60. The 2012 Report found that the rights and safeguards applicable in Guatemala did not unduly prevent or delay effective exchange of information. All arrangements signed by Guatemala, also contain wording consistent with Article 26 and Article 7 of the OECD Model Tax Convention, Model TIEA and their commentaries.

61. However, as noted above, under section B1.5, the access to information in Guatemala is restricted by professional and bank secrecy rules under Guatemala's domestic law and an in-text recommendation was made that Guatemala should address the recommendations made under section B.1.5 to ensure that these rules do not prohibit effective exchange of information. As there have been no changes since the 2012 Report, the determination of element C.4 remains "in place".

Determination and factors underlying recommendations

| Phase 1 determination |
|--------------------------|
| The element is in place. |

C.5. Timeliness of responses to requests for information

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

Responses within 90 days (ToR C.5.1), Organisational process and resources (ToR C.5.2), Absence of restrictive conditions on exchange of information (ToR C.5.3)

62. The 2012 Report did not identify any issues relating to Guatemala's ability to respond to EOI requests within 90 days, organisational processes and resources, or any restrictive conditions on the exchange of information. All arrangements signed by Guatemala adopt wording foreshadowing the timeframes in Article 5(6) of the Model TIEA regarding request

acknowledgements, status updates and provision of the requested information. No issues have been identified in the preparation of this supplementary report. With regards to the actual timeliness for responses to requests for information, the assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review. A review of Guatemala's organisational processes and resources will also be conducted in the context of its Phase 2 review.

Determination and factors underlying recommendations

| Phase 1 determination |
|--|
| The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review. |

Summary of determinations and factors underlying recommendations

| Determination | Factors underlying recommendations | Recommendations |
|---|---|--|
| Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>) | | |
| The element is in place, but certain aspects of the legal implementation of the element need improvement. | Although the issuance of bearer shares has been abolished in Guatemala and the conversion process terminated in June 2013, due to the reinstatement court procedure for future reinstated bearer shares, there is a slight risk that ownership information for all holders of bearer shares may not be available. | Guatemala should take further steps necessary to ensure that appropriate reporting mechanisms are in place to effectively ensure the identification of the owners of bearer shares in all cases. |
| | There is no provision requiring foreign companies with sufficient nexus with Guatemala to provide ownership information. | Guatemala should ensure the availability of ownership information of all foreign companies with sufficient nexus to Guatemala. |
| | Ownership and identity information on foreign partnerships may not be available in Guatemala, even when the foreign partnership carries on business in Guatemala or has income, deductions or credits for tax purposes in Guatemala. | Guatemala should ensure that information that identifies the partners in a foreign partnership that carries on business in Guatemala or has income, deductions or credits for tax purposes in Guatemala is available to its competent authority. |
| | Ownership and identity information on the settlor and beneficiaries of a foreign trust may not be available in Guatemala. | Guatemala should take measures to ensure that information is available that identifies the settlor and beneficiaries of foreign trusts. |

| Determination | Factors underlying recommendations | Recommendations |
|---|---|--|
| Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>) | | |
| The element is in place. | | |
| Banking information should be available for all account-holders (<i>ToR A.3</i>) | | |
| The element is in place. | | |
| Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>) | | |
| The element is not in place. | The power of Guatemalan tax authorities to obtain information for exchange purposes is limited by professional and banking secrecy which cannot be lifted for exchange of information purposes. | Guatemala should ensure that its limitations on access to information do not prevent effective exchange of information in tax matters. |
| | Article 98 of the Tax Code authorises the SAT to obtain information that forms the basis of a <i>tax obligation</i> , and it is not clear that this power applies for exchange purposes in the absence of a domestic tax interest. | Guatemala should ensure that it has the power to obtain information for exchange purposes regardless of a domestic tax interest. |
| The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>) | | |
| The element is in place, but certain aspects of the legal implementation of the element need improvement. | Where a judicial order is needed to obtain information, the taxpayer must in all cases be notified. While a draft bill introducing an exception to this notification procedure was introduced to parliament in August 2013, this has not yet been approved. | Guatemala should introduce exceptions to this notification procedure where notification would unduly prevent or delay effective exchange of information. |

| Determination | Factors underlying recommendations | Recommendations |
|--|--|---|
| Exchange of information mechanisms should allow for effective exchange of information (<i>ToR C.1</i>) | | |
| The element is not in place. | Guatemala has domestic law limitations including confidentiality of documents, bank and professional secrecy and a possible domestic tax interest requirement which prevents Guatemala from giving full effect to its EOI mechanisms | Guatemala should ensure the access to all relevant information for tax purposes in accordance with the standard. |
| | Guatemala has only ratified one of its 11 signed EOI agreements. | Guatemala should ensure that its EOI agreements are ratified expeditiously. |
| The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>) | | |
| The element is not in place. | Guatemala does not have any EOI mechanisms in force to the standard. | Guatemala should ensure that it gives full effect to the terms of its EOI arrangements in order to allow for full EOI to the standard with its relevant partners. |
| | | Guatemala should continue to develop its EOI network with all relevant partners. |
| The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>) | | |
| The element is in place. | | |
| The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>) | | |
| The element is in place. | | |
| The jurisdiction should provide information under its network of agreements in a timely manner (<i>ToR C.5</i>) | | |
| The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review. | | |

Annex 1: Jurisdiction’s response to the review report²

The Republic of Guatemala (ROG) extends its appreciation to the members of the Peer Review Group and the assessment team for this opportunity regarding the evaluation of the steps taken to comply with the adequacy of its legal and regulatory framework to the internationally agreed standard on transparency and exchange of information for tax purposes since its Phase 1 review.

Despite the very unfavorable political conditions our country has faced during the years following the Phase 1 review and the institutional crisis recently developed, which has led to the resignation of its elected President and Vice-president, Guatemala remains committed to comply with the referred standard.

This is because the Fiscal authorities have been clear about the route for compliance, which in our view can be simplified into three issues: 1. To lift bank secrecy for tax purposes, 2. To ensure the elimination of bearer shares after the end of the conversion process, and 3. To implement a network of EOI agreements according to the standard. After fulfilling those elements, we strongly believe that implementation in practice would guide the need for further adjustments.

Such beliefs are reflected in the actions taken during these years, which mainly deal with the drafting of legislation to enable the tax administration to have access to banks and other financial institutions information for tax purposes, and the signing of the Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2010 protocol, and eight bilateral TIEAS.

Unfortunately, the proposals to adjust our legal framework did not find a favorable environment to advance during these years because of the political disputes in the Legislative. General elections have just occurred in Guatemala and we are facing a change of Government and the representation in the

2. This Annex presents the jurisdiction’s response to the review report and shall not be deemed to represent the Global Forum’s views.

Legislative, in January 2016. We expect that with the change of administration and the renovation of Congress, an impulse to the compliance process will be provided, because after the severe crisis undergone in our Country there is a popular claim regarding the need to promote serious legal and institutional reforms to ensure transparency and effectiveness in the work of government, which should include the approval of the necessary changes to comply with the EOI for tax purposes standards.

Therefore Guatemala supports the recommendations derived from its supplementary review, which provide some level of recognition to the steps taken during the last years under difficult conditions and at the same time incentivize further and faster progress.

Annex 2: List of Guatemala’s exchange-of-information mechanisms

Exchange of information agreements signed by Guatemala as at 14 August 2015. Guatemala has signed one Double Tax Convention (DTC) and eight Tax Information Exchange Agreements (TIEAs) a Mutual Assistance Convention with four other Central American countries. Guatemala has signed but not ratified the Convention on Mutual Administrative Assistance in Tax Matters, as amended (Multilateral Convention). The EOI agreements listed below do not limit, nor are they limited by, provisions contained in other EOI arrangements between the same parties concerned or other instruments which relate to co-operation in tax matters.

The chart of signatures and ratification of the Multilateral Convention is available at www.oecd.org/ctp/exchange-of-tax-information/Status_of_convention.pdf.

| | Jurisdiction | Type of EO arrangement | Date signed | Date entered into force |
|----|--------------|--------------------------------------|-------------|-------------------------------|
| 1 | Albania | Multilateral Convention | Signed | In force in Albania |
| 2 | Andorra | Multilateral Convention | Signed | Not yet in force |
| 3 | Anguilla | Multilateral Convention ^a | Extended | In force in Anguilla |
| 4 | Argentina | Multilateral Convention | Signed | In force in Argentina |
| 5 | Aruba | Multilateral Convention ^b | Extended | In force in Aruba |
| 6 | Australia | TIEA | 1 Sept 2013 | Not yet in force |
| | | Multilateral Convention | Signed | In force in Australia |
| 7 | Austria | Multilateral Convention | Signed | In force in Austria |
| 8 | Azerbaijan | Multilateral Convention | Signed | Not yet in force ^c |
| 9 | Belgium | Multilateral Convention | Signed | In force in Belgium |
| 10 | Belize | Multilateral Convention | Signed | In force in Belize |
| 11 | Bermuda | Multilateral Convention ^a | Extended | In force in Bermuda |
| 12 | Brazil | Multilateral Convention | Signed | Not yet in force |

| | Jurisdiction | Type of EO arrangement | Date signed | Date entered into force |
|----|------------------------------|---|-------------|--|
| 13 | British Virgin Islands | Multilateral Convention ^a | Extended | In force in the British Virgin Islands |
| 14 | Cameroon | Multilateral Convention | Signed | Not yet in force ^d |
| 15 | Canada | Multilateral Convention | Signed | In force in Canada |
| 16 | Cayman Islands | Multilateral Convention ^a | Extended | In force in the Cayman Islands |
| 17 | Chile | Multilateral Convention | Signed | Not yet in force |
| 18 | China (People's Republic of) | Multilateral Convention | Signed | Not yet in force |
| 19 | Colombia | Multilateral Convention | Signed | In force in Colombia |
| 20 | Costa Rica | Central American Mutual Assistance Convention | 25 Apr 2006 | 11 Feb 2011 |
| | | Multilateral Convention | Signed | In force in Costa Rica |
| 21 | Croatia | Multilateral Convention | Signed | In force in Croatia |
| 22 | Curaçao | Multilateral Convention ^b | Extended | In force in Curaçao |
| 23 | Cyprus ^e | Multilateral Convention | Signed | In force in Cyprus |
| 24 | Czech Republic | Multilateral Convention | Signed | In force in Czech Republic |
| 25 | Denmark | TIEA | 15 May 2012 | Not yet in force |
| | | Multilateral Convention | Signed | In force in Denmark |
| 26 | El Salvador | Central American Mutual Assistance Convention | 25 Apr 2006 | 30 Aug 2012 |
| | | Multilateral Convention | Signed | Not yet in force |
| 27 | Estonia | Multilateral Convention | Signed | In force in Estonia |
| 28 | Faroe Islands | TIEA | 15 May 2012 | Not yet in force |
| | | Multilateral Convention ^f | Extended | In force in the Faroe Islands |
| 29 | Finland | TIEA | 15 May 2012 | Not yet in force |
| | | Multilateral Convention | Signed | In force in Finland |
| 30 | France | Multilateral Convention | Signed | In force in France |
| 31 | Gabon | Multilateral Convention | Signed | Not yet in force |
| 32 | Georgia | Multilateral Convention | Signed | In force in Georgia |
| 33 | Germany | Multilateral Convention | Signed | Not yet in force |
| 34 | Ghana | Multilateral Convention | Signed | In force in Ghana |
| 35 | Gibraltar | Multilateral Convention ^a | Extended | In force in Gibraltar |

| | Jurisdiction | Type of EO arrangement | Date signed | Date entered into force |
|----|---------------|---|---------------|-------------------------|
| 36 | Greece | Multilateral Convention | Signed | In force in Greece |
| 37 | Greenland | TIEA | 15 May 2012 | Not yet in force |
| | | Multilateral Convention ^f | Extended | In force in Greenland |
| 38 | Guernsey | Multilateral Convention ^a | Extended | In force in Guernsey |
| 39 | Honduras | Central American Mutual Assistance Convention | 25 Apr 2006 | 11 Feb 2011 |
| 40 | Hungary | Multilateral Convention | Signed | In force in Hungary |
| 41 | Iceland | TIEA | 15 May 2012 | Not yet in force |
| | | Multilateral Convention | Signed | In force in Iceland |
| 42 | India | Multilateral Convention | Signed | In force in India |
| 43 | Indonesia | Multilateral Convention | Signed | In force in Indonesia |
| 44 | Ireland | Multilateral Convention | Signed | In force in Ireland |
| 45 | Isle of Man | Multilateral Convention ^a | Extended | In force in Isle of Man |
| 46 | Italy | Multilateral Convention | Signed | In force in Italy |
| 47 | Japan | Multilateral Convention | Signed | In force in Japan |
| 48 | Jersey | Multilateral Convention ^a | Extended | In force in Jersey |
| 49 | Kazakhstan | Multilateral Convention | Signed | In force in Kazakhstan |
| 50 | Korea | Multilateral Convention | Signed | In force in Korea |
| 51 | Latvia | Multilateral Convention | Signed | In force in Latvia |
| 52 | Liechtenstein | Multilateral Convention | Signed | Not yet in force |
| 53 | Lithuania | Multilateral Convention | Signed | In force in Lithuania |
| 54 | Luxembourg | Multilateral Convention | Signed | In force in Luxembourg |
| 55 | Malta | Multilateral Convention | Signed | In force in Malta |
| 56 | Mauritius | Multilateral Convention | Signed | Not yet in force |
| 57 | Mexico | Multilateral Convention | Signed | In force in Mexico |
| | | DTC | 13 March 2015 | Not yet in force |
| 58 | Moldova | Multilateral Convention | Signed | In force in Moldova |
| 59 | Monaco | Multilateral Convention | Signed | Not yet in force |
| 60 | Montserrat | Multilateral Convention ^a | Extended | In force in Montserrat |
| 61 | Morocco | Multilateral Convention | Signed | Not yet in force |
| 62 | Netherlands | Multilateral Convention | Signed | In force in Netherlands |
| 63 | New Zealand | Multilateral Convention | Signed | In force in New Zealand |
| 64 | Nicaragua | Central American Mutual Assistance Convention | 25 Apr 2006 | 9 Jul 2011 |

| | Jurisdiction | Type of EO arrangement | Date signed | Date entered into force |
|----|--------------------------|--------------------------------------|-------------|--------------------------------------|
| 65 | Nigeria | Multilateral Convention | Signed | Not yet in force ¹ |
| 66 | Norway | TIEA | 15 May 2012 | Not yet in force |
| | | Multilateral Convention | Signed | In force in Norway |
| 67 | Philippines | Multilateral Convention | Signed | Not yet in force |
| 68 | Poland | Multilateral Convention | Signed | In force in Poland |
| 69 | Portugal | Multilateral Convention | Signed | In force in Portugal |
| 70 | Romania | Multilateral Convention | Signed | In force in Romania |
| 71 | Russia | Multilateral Convention | Signed | In force in Russia |
| 72 | San Marino | Multilateral Convention | Signed | Not yet in force |
| 73 | Saudi Arabia | Multilateral Convention | Signed | Not yet in force |
| 74 | Seychelles | Multilateral Convention | Signed | Not yet in force ² |
| 75 | Singapore | Multilateral Convention | Signed | Not yet in force |
| 76 | Sint Maarten | Multilateral Convention ^b | Extended | In force in Sint Maarten |
| 77 | Slovak Republic | Multilateral Convention | Signed | In force in Slovak Republic |
| 78 | Slovenia | Multilateral Convention | Signed | In force in Slovenia |
| 79 | South Africa | Multilateral Convention | Signed | In force in South Africa |
| 80 | Spain | Multilateral Convention | Signed | In force in Spain |
| 81 | Sweden | TIEA | 15 May 2012 | Not yet in force |
| | | Multilateral Convention | Signed | In force in Sweden |
| 82 | Switzerland | Multilateral Convention | Signed | Not yet in force |
| 83 | Tunisia | Multilateral Convention | Signed | In force in Tunisia |
| 84 | Turkey | Multilateral Convention | Signed | Not yet in force |
| 85 | Turks and Caicos Islands | Multilateral Convention ^a | Extended | In force in Turks and Caicos Islands |
| 86 | Ukraine | Multilateral Convention | Signed | In force in Ukraine |
| 87 | United Kingdom | Multilateral Convention | Signed | In force in United Kingdom |
| 88 | United States | Multilateral Convention | Signed | Not yet in force |

Notes: a. Extension by the United Kingdom

b. Extension by the Kingdom of the Netherlands

c. On 29 May 2015, Azerbaijan and Nigeria deposited their instruments of ratification of the Multilateral Convention. In accordance with its Article 28, the Convention shall enter into force on 1 September 2015 for Azerbaijan and Nigeria.

d. On 25 June 2015 and 30 June 2015 respectively, Seychelles and Cameroon deposited their instruments of ratification of Multilateral Convention. In accordance with its Article 28, the Convention shall enter into force on 1 October 2015 for Seychelles and Cameroon.

e. Footnote by Turkey: The information in this document 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”.

Footnote by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

f. Extension by Kingdom of Denmark.

Annex 3: List of laws, regulations and other relevant material

Fiscal legislation and regulations

- Tax Code (Decree 6-1991)
- Income Tax Law (Decree 26-1992)
- Tax Administration Superintendence Organic Law (Decree 1/1998)
- General Bonded Warehouses Law (Decree 1746)
- Fiscal Warehouses Regulation (Acuerdo Gubernativo 447-2001)
- Free Trade Zones Law (Decree 65-1989)
- Free Trade Zones Regulation (Acuerdo Gubernativo 242-1990)

Primary government authorities

- Guatemalan Constitution

Commercial laws

- Commercial Code (Decree 2-1970)
- Cooperatives General Law (Decree 82/1978)
- Securities Exchange and Merchandise Law (Decree 34/1996)
- Forfeiture Law (Forbiddance of Bearer Shares, Decree 55/2010)

The financial sector

- Financial Supervision Law (Decree 18/2002)
- Banks and Financial Groups law (Decree 19/2002)
- Private Financial Companies Law (Decree Law 208)

IVE TF-21, Monthly Reporting Instructions to Transfer Funds
Bank of Guatemala's Regulation 108-2010 (Foreign Currency Cash Operations)
Law Against Money Laundering (AML) (Decree 67/2001)
AML Regulation (Acuerdo Gubernativo 118-2002)
Counter Financing Terrorism Law (CFT) (Decree 55/2005)
CFT Regulation (Acuerdo Gubernativo 86-2006)

Other legislation

Notaries Code (Decree 314)
Criminal Code (Decree 17-1973)
Civil Code (Decree 106)
Professional Code of Ethics (1994)
Compulsory Professional Registration Law (Decree 72/2001)

For more information
**Global Forum on Transparency and
Exchange of Information for Tax Purposes**
www.oecd.org/tax/transparency
www.eoi-tax.org
Email: gftaxcooperation@oecd.org