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OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information
on Request

COSTA RICA

2019 (Second Round)



Global Forum on Transparency and Exchange of Information for Tax Purposes: Costa Rica 2019 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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as at May 2019)

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multi-lateral framework within which work in the area of tax transparency and exchange of information is carried out by over 150 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. 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 reports, please refer to www.oecd.org/tax/transparency and <http://dx.doi.org/10.1787/2219469x>.

Abbreviations and acronyms

2010 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum in 2010.
2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.
2016 Methodology	2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015.
2016 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015.
AEOI	Automatic Exchange of Information
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CDD	Customer Due Diligence
CRS	Common Reporting Standard
DTC	Double Tax Convention
EIRL	Individual enterprise of limited liability (<i>empresa individual de responsabilidad limitada</i>)
EOIR	Exchange Of Information on Request
FATCA	Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit (the Costa Rican Institute on Drugs)
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes

GSFE	General Superintendence for Financial Entities
GSS	General Superintendence for Securities
LTDA	Limited liability company (<i>sociedades de responsabilidad limitada</i>)
ITD	International Tax Directorate
MEIC	Ministry of Economy, Industry and Commerce
MOF	Ministry of Finance
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NBFI	Non-bank financial institution
PRG	Peer Review Group of the Global Forum
SA	<i>Sociedad nónima</i>
TIEA	Tax Information Exchange Agreement

Executive summary

1. This second round report analyses the implementation by Costa Rica of the standard of transparency and exchange of information on request for tax purposes against the 2016 Terms of Reference. It includes an assessment of its legal framework, as well as its operation in practice as concerns the handling of EOI requests received during the period of 1 April 2015 to 31 March 2018. This second round report concludes that Costa Rica is rated **Largely Compliant** overall. In 2015, the Global Forum similarly evaluated Costa Rica against the 2010 Terms of Reference and assigned an overall rating of Partially Compliant; as the result of a Fast-Track review in 2017, Costa Rica received a provisional upgraded rating of Largely Compliant.

2. The following table shows the comparison of results from the first and the second round review of Costa Rica's implementation of the EOIR standard:

Comparison of ratings for the First Round Report and the Second Round Report

Element	First Round Report (2015)	Second Round EOIR Report (2019)
A.1 Availability of ownership and identity information	NC	PC
A.2 Availability of accounting information	PC	LC
A.3 Availability of banking information	C	LC
B.1 Access to information	LC	C
B.2 Rights and Safeguards	C	C
C.1 EOIR Mechanisms	LC	C
C.2 Network of EOIR Mechanisms	C	C
C.3 Confidentiality	C	C
C.4 Rights and safeguards	C	C
C.5 Quality and timeliness of responses	C	LC
OVERALL RATING	PC	LC

C = Compliant; LC = Largely Compliant; PC = Partially Compliant; NC = Non-Compliant

Progress made since previous review

3. The major issues identified in the Phase 2 report published in October 2015 related to: the availability of current ownership information in respect of limited liability companies and foreign trusts and the lack of supervision of inactive entities (element A.1); the availability of accounting information and underlying documentation for foreign trusts and lack of supervision for inactive entities (element A.2); and inability to access bank information for civil tax matters pertaining to taxable periods prior to October 2012 (elements B.1 and C.1). All other elements were considered Compliant with the standard.

4. Since the Phase 2 report, Costa Rica has addressed several of these recommendations by introducing an annual legal entity tax regime that requires enhanced maintenance of ownership and accounting information (including foreign companies and trusts) and strengthens a strike-off process for inactive entities. Most of these changes are sufficient to remove some of the prior recommendations.

Key recommendations

5. As noted above, Costa Rica has largely addressed the recommendations in respect of the availability of legal ownership information. However, the 2016 Terms of Reference contain additional requirements in respect of the availability of beneficial ownership information. Costa Rica has enacted a new law aimed at implementing a centralised register for collecting identity and beneficial ownership information for all legal entities and arrangements, but the legal framework established may not fully be in line with the standard.

6. The key issues raised by this report relate to several gaps identified regarding the availability of beneficial ownership information (elements A.1 and A.3); the lack of strong supervision programmes for ensuring the availability of beneficial ownership information and accounting records (elements A.1 and A.2); and the timeliness of providing requested information to partners (element C.5).

EOI practice

7. During the review period, Costa Rica received 52 requests from approximately 10 treaty partners and sent 9 requests. Status updates were provided in nearly all cases not receiving a complete response in 90 days. Costa Rica provided complete responses to partner EOI requests in approximately 37% of cases within 180 days of receipt. In one case Costa Rica was unable to obtain and provide data pursuant to a treaty partner's request,

because the enquired entity had been merged and ceased to exist; when informed of the situation, the treaty partner did not send a new request. One partner noted that Costa Rica has not been able to provide information for tax periods preceding entry into force of the applicable EOI agreement because of how Costa Rica interprets constitutional provisions regarding retroactivity of laws. Otherwise, peer input has been mostly positive regarding Costa Rica's EOI practice, although noting the delays encountered by two peers.

Overall rating

8. Costa Rica has achieved a rating of Compliant for six elements (B.1, B.2, C.1, C.2, C.3, C.4), Largely Compliant for three elements (A.2, A.3, and C.5), and Partially Compliant for one element (A.1). Costa Rica's overall rating is Largely Compliant based on a global consideration of its compliance with the individual elements.

9. This report was approved at the PRG meeting in June 2019 and was adopted by the Global Forum on 29 July 2019. A follow-up report on the steps undertaken by Costa Rica to address the recommendations in this report should be provided to the PRG no later than 30 June 2020 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
The legal and regulatory framework determination is in place, but needs certain improvements.	The legal framework for beneficial ownership information consists of both AML customer due diligence procedures and new Law 9416. Both of these have deficiencies: the AML definition only covers ownership, not control; and does not specifically require the identification of all of a trust's beneficial owners. The Regulation to Law 9416 allows a legal entity to identify its administrator as the beneficial owner if the natural persons of foreign legal owners having interest or control over the entity cannot be identified because the foreign entity issues bearer shares. For trusts, it is unclear whether Law 9416 requires the identification of "any other person exercising control over the trust".	Costa Rica should ensure that the beneficial owners of all relevant legal entities and arrangements are properly identified in line with the standard.
Partially Compliant	All legal entities (including foreign companies, inactive entities, and foundations), regardless of whether they perform any profitable activity or not in Costa Rica, must now register with the Tax Administration and file returns. This requirement has only been recently introduced and not yet tested in practice.	Costa Rica should ensure that it has supervision programmes in place to monitor the availability of ownership information of foreign companies, inactive entities, and foundations.

Determination	Factors underlying recommendations	Recommendations
	The requirement to provide legal and beneficial ownership information to the beneficial ownership register was recently enacted. The Tax Administration recently introduced a supervision programme to monitor the transitional recordkeeping provisions and is developing a supervisory programme that will apply once the beneficial ownership register becomes operational. However, in this transitional period, the Tax Administration has carried out a very limited number of reviews to verify whether taxpayers are complying with record-keeping obligations	Costa Rica should ensure that it has supervision programmes in place to monitor the compliance of obliged entities and arrangements with Law 9416.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
The legal and regulatory framework determination is in place.		
Largely Compliant	Costa Rica has improved its current supervision practices but they do not adequately ensure that all relevant entities and arrangements are properly maintaining accounting records and underlying documentation.	Costa Rica should monitor the implementation of the accounting record keeping obligations in respect of all relevant entities and arrangements, including for entities that are struck off the register, and should ensure that its enforcement powers are sufficiently exercised in practice.

Determination	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
The legal and regulatory framework determination is in place, but needs certain improvements.	The AML customer due diligence procedure applicable to banks in Costa Rica is inadequate as it only covers instances of ownership, leaving out control over a legal entity or arrangement as applicable criteria for identifying a beneficial owner, and does not specifically require the identification of all of a trust's beneficial owners.	Costa Rica should ensure that banking information for all legal and beneficial owners of an account-holder is available.
Largely Compliant	Prior to 9 May 2017, the penalty regime for banks and NBFIs that failed to comply with their AML/CFT obligations was not effective. The new penalty regime recently came into force and sanctions are now being imposed. However, this regime is relatively new and not yet fully tested in practice.	Costa Rica should monitor the application of the enforcement measures of the new penalty regime to ensure the availability of banking information consistent with the standard.
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 legal and regulatory framework determination is in place.		
Compliant		
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 legal and regulatory framework determination is in place.		
Compliant		

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework determination is in place.		
Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework determination is in place.		
Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework determination is in place.		
Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework determination is in place.		
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework determination:	This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.	

Determination	Factors underlying recommendations	Recommendations
Largely Compliant	Over the review period, Costa Rica was able to fully answer EOI requests in less than 90 days in 12% of all cases, 37% within 180 days, and in 56% of all cases it took almost one year to provide the requested information.	Costa Rica should ensure that its authorities establish appropriate internal procedures to be able to respond to EOI requests in a timely manner.
	During the review period, organisational and resource constraints contributed to timeliness issues.	Costa Rica should monitor that the resources allocated to its competent authority are sufficient to deal with all incoming EOI requests.

Overview of Costa Rica

10. This overview provides some basic information about Costa Rica that serves as context for understanding the analysis in the main body of the report and is not intended to be a comprehensive overview of Costa Rica's legal, commercial or regulatory systems. Additional background information can be found in the 2015 Phase 2 report.

Governance and legal system

11. Costa Rica is a constitutional republic, with its system of government based on the 1949 Constitution and made up of three separate branches: executive, legislative and judicial. Presidential elections take place every four years and the president is elected by popular vote. The President serves a four-year term and cannot be re-elected consecutively, but may be re-elected after at least one term out of office for up to one more term. The President appoints two vice-presidents and 18 cabinet members.

12. Costa Rica has a unicameral legislature with 57 seats. Representatives are elected by popular vote during the presidential elections. The legislature has six permanent commissions which oversee agricultural affairs and natural resources, economic affairs, government and administration, fiscal affairs, legal affairs, and social affairs. The Legislative Assembly can override presidential decisions by two-thirds majority. Legislators can be re-elected only after spending one term out of office. The judicial branch is made up of the Supreme Court, appellate courts, and trial courts.

13. The Costa Rican legal system is based on civil law, with the legal hierarchy as: the Constitution; international treaties; laws; decrees; and other administrative acts such as resolutions and internal guidelines. Administrative acts can also include binding opinions by the Attorney General; pursuant to Article 2 of the Attorney General Organic Law of 1982 (Law 6815), opinions issued by the Attorney General are binding on government agencies in Costa Rica. Regulations are published in the form of Executive Decree and become effective upon the date of publication. Treaties require the approval of not less than two-thirds of the members of the Legislative Assembly. According to

Article 13 of the Constitutional Jurisdiction Law of 1989 (Law 7135), jurisprudence from the Constitutional Chamber of the Supreme Court is binding *erga omnes*, except for itself.

Financial sector

14. As of March 2018, there were a total of 50 banks and financial institutions operating in Costa Rica, made up of:

- 16 banks (2 state owned, 2 special, and 12 private)
- 24 savings and loan co-operatives
- 5 non-bank financial entities
- 2 mutual fund companies
- 2 money exchanges
- 1 other financial entity.

15. The Central Bank estimates that financial and insurance activities account for 5.4% of the country's GDP at the end of 2018, with the above entities holding total assets of approximately USD 56 billion.

16. The financial sector is regulated by the General Superintendence of Financial Entities (GSFE), which also has supervisory authority for compliance with AML laws.

17. Costa Rica has a private stock exchange called the *Bolsa Nacional de Valores (BNV)*, which is the oldest and largest in Central America. Its annual turnover was approximately USD 56 million in 2018. There are 16 brokerage companies and 31 investment funds that currently participate in the exchange. The securities industry is supervised by the General Superintendence of Securities (GSS), which also supervises brokerage houses, corporations for administering investment funds, issuers of securities, non-banking financial enterprises and custodian entities.

Tax system

18. Costa Rica has a territorial system of taxation, meaning that only the portion of income earned within Costa Rica is subject to tax, whether derived by a resident or non-resident; foreign source income is exempt from tax.

19. The income tax is governed by the Income Tax Law (*Ley del Impuesto sobre la Renta*) and the Income Tax Regulations (*Reglamento de la Ley del Impuesto sobre la Renta*). The General Tax Code (*Código de Normas y Procedimientos Tributarios*) contains general taxation principles, as well as

rules for the administration and collection of taxes, penalties, and administrative procedures.

20. Income tax (*impuesto sobre las utilidades*) is levied on the net income derived by resident corporations and individuals conducting “lucrative activities” in Costa Rica, which means activities for profit. For corporations and legal entities, the income tax rate is 30%. For individuals, income is taxed at progressive rates, with a maximum rate of 25%. For small and medium-sized enterprises, the rate is from 10% to 20% depending on the gross income of the enterprise. Essentially, any form of entity with a legal personality engaged in for-profit activities within Costa Rica is subject to income tax, including partnerships, *fideicomisos*, and branches, agencies, or permanent establishments of non-residents operating in Costa Rica (Article 2, Income Tax Law). An entity with a legal personality engaged in non-profit activities within Costa Rica is also required to register with the Tax Administration as a declarant and file a declarant tax return annually (Article 6 of Regulations to the Income Tax Law).

21. The Income Tax Law also contains a 15% withholding tax (*impuesto sobre la renta disponible*) which is levied on dividend or similar income derived by resident individuals. Dividend or similar income paid to other resident legal entities and partnerships that are also subject to income tax is exempt.

22. Costa Rican source income paid to non-residents is also taxed under the Income Tax Law. Income tax for non-residents (*impuesto sobre remesas al exterior*) is levied on the gross amount of Costa Rican source income paid to non-resident entities or individuals. The withholding tax rates vary from 5% to 50% depending on the type of income derived by the non-resident.

AML framework

23. Costa Rica adopted its main AML/CFT law, Law 7786, in 1998, which has been further amended over the years. The most recent version, Law 9449, was adopted in 2017.

24. Costa Rica’s AML/CFT law sets out general principles and rules that must be followed in order to tackle money laundering and terrorist financing transactions. Included in the broad framework are customer due diligence (CDD) rules that all regulated entities must follow.

25. Entities subject to the AML/CFT law include all institutions performing financial transactions or managing funds (Article 15), as well as a wide array of service providers which were recently added (Article 15bis), including: (i) casinos; (ii) real estate agents; (iii) dealers in precious metals and stones; (iv) certain non-profit organisations; (v) individuals or legal

entities (including lawyers, notaries, and accountants) performing real estate transactions for clients, or managing money, bank accounts, savings, securities, or other assets for their clients, or engaged in managing or selling legal entities or legal arrangements; (vi) fiduciary service providers; and (vii) pawnshops. As of March 2018, there were 110 financial entities subject to Article 15, made up of 96 trust managers and 14 money remitters. By the end of May 2018 the number of financial entities decreased to 59 financial entities as a result of many closing their businesses due to the new supervision requirements.

26. Supervision of the AML/CFT law is carried out by four superintendencies: (i) the General Superintendence of Financial Entities (GSFE) which registers and supervises all of the entities listed in the paragraph above; (ii) the GSS which supervises the securities industry as explained in paragraph 17; (iii) the General Insurance Superintendence; and (iv) the Pension Superintendence. Each supervisory authority is obliged to develop and implement programmes and procedures to monitor compliance with the AML/CFT rules and regulations. Non-compliance by regulated entities and service providers results in an administrative proceeding and possible monetary sanction.

27. CDD is mandatory for regulated entities when establishing a relationship with a client. The regulated entity must obtain information as part of the “Know Your Customer” (KYC) process which includes identity information of the person named as the account-holder or in whose name the transaction is carried out, address, legal capacity, occupation, and origin of funds. Each regulated entity must verify the KYC information, maintain the underlying documentation, and periodically update the information (at least as often as any significant modification to the client’s transactional profile occurs). Financial institutions are not allowed to maintain anonymous or encrypted accounts, or to open accounts under fictitious or inaccurate names.

28. Transactions exceeding USD 10 000 require additional information to be processed by the financial institution on a special form. Specifically, the form must contain the following information: (i) identity information, signature, date of birth, address of the person making the transaction, and legal representative information for cases involving legal entities; (ii) identity information and address of the person in whose name the transaction is made and beneficiary (if available); (iii) number of persons affected by the transaction; (iv) type of transaction; (v) financial institution performing the transaction; (vi) date and time; (vii) origin of the transaction; and (viii) identity of the officer processing the transaction.

29. A regulated entity and service provider must keep a copy of the evidence used to identify and verify a client’s identity for at least five years from the end of the customer relationship, or at least five years from the end of a transaction (Article 16).

30. Currently, an AML-obliged entity or service provider accepting introduced business cannot rely on the CDD measures conducted by the introducer. The regulated entity always remains solely responsible for meeting the CDD rules.

Supervision

31. As noted in the 2015 report (paragraphs 122-124), GSFE has in place a supervisory programme to determine compliance with the AML/CFT law that uses both remote examinations and onsite inspections. All financial institutions and service providers are included in a macro-planning activity that determines which entities will be monitored in co-ordination with financial risk areas; criteria used include the risk profile and systemic importance of each entity (based on characteristics such as size, structure, and number of employees), as well as date of last supervision.

32. Entities not chosen for onsite inspection based on the risk assessment may nevertheless be subject to extra situ (i.e. remote) or in situ (i.e. onsite) monitoring. During the current review period, GSFE conducted 198 inspections: 31 in situ visits, and 167 extra situ supervision monitoring visits.

33. Between 2014 and 2017, the Compliance Directorate's examinations led to one licensee being put under CBB administration and two fines.

34. The addition of nearly 30 000 new AML-obliged entities under Article 15bis led to a new regulation (GSFE Agreement 11-18) to update the registration and supervision processes. The Article 15bis subjects have a 6-month registration window with GSFE (from 1 January to 30 June 2019). Agreement 11-18 simplifies the registration requirements, but also allows for suspension and/or revocation of non-compliant entities.

FATF review

35. The most recent FATF assessment on AML/CFT is the Mutual Evaluation Report (MER) Costa Rica 2015 conducted by GAFILAT. In this report, Costa Rica received a largely compliant rating on Recommendation 10 regarding CDD of financial institutions, a compliant rating for Recommendation 11 on record-keeping, and a non-compliant rating for Recommendation 17 on Introduced Business. Recommendation 22 on DNFBPs (Designated Non-Financial Businesses Professions) was rated partially compliant due to lack of CDD obligations covering all DNFBPs. Recommendations 24 and 25 were both rated partially compliant due to beneficial ownership information not always being updated and a lack of enforced penalties.

36. Over the course of several follow-up reports, GAFILAT issued new ratings where improvements had been made by Costa Rica. As reflected in the fifth enhanced follow-up report adopted in July 2018, Costa Rica achieved a rating of partially compliant for Recommendation 17, and largely compliant ratings for Recommendations 24 and 25. The analysis provided by GAFILAT primarily focused in summary fashion on the changes to the legal framework made by Law 9416. As recognised in this report, some prior deficiencies were indeed addressed in the laws themselves by Law 9416, but overall there remain questions about the effectiveness in practice of these regimes as they are new and largely untested in practice. The GAFILAT re-rating did not address any of these practical issues in its report.

Recent developments

37. In 2017, Costa Rica enacted Law 9416, which requires legal entities and arrangements to submit ownership information to a centralised beneficial ownership register. Law 9428 was also enacted in 2017. This law imposes an annual tax on all legal entities and arrangements, which in turn requires registration with the Tax Administration. Further, in December 2018, Costa Rica enacted Law 9635, a tax reform bill. Among the measures introduced by Law 9635, the General Tax Code was amended to put in place several international taxation rules necessary to prevent tax fraud and introduce a new taxation regime for capital income and capital gains. These laws are fully described in element A.1.

Part A: Availability of information

38. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of bank information.

A.1. Legal and beneficial ownership and identity information

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

39. In the 2015 Phase 2 report, the Global Forum made four recommendations regarding the availability of ownership information in element A.1. The first two recommendations were for Costa Rica to ensure that ownership information for individual enterprises of limited liability (EIRLs) and the identification of the settlors and beneficiaries of foreign trusts was maintained and available. A third recommendation stated that Costa Rica should put in place effective enforcement provisions for legal entities that failed to register or update ownership information. A fourth recommendation involved Costa Rica's lack of practical supervision to ensure the maintenance of ownership information, particularly for inactive companies, and imposition of penalties for non-compliance.

40. Costa Rica has taken steps to address these recommendations. A new law imposes an annual tax on all legal entities and arrangements, which in turn requires registration with the Tax Administration and reporting of legal ownership information, with penalties for non-compliance. This addresses the first three recommendations. Costa Rica has also begun supervision activities to monitor record-keeping obligations and importantly has struck-off a significant number of inactive entities.

41. Not discussed in the 2015 report, but now an integral part of the 2016 ToR, is availability of beneficial ownership information. Costa Rica collects some beneficial ownership information through its AML procedures and is in the process of implementing a centralised register for beneficial ownership information, but several deficiencies have been identified regarding the

availability of beneficial ownership information in the legal framework; as well there is no practical experience yet with supervision of the new requirements and there is weak monitoring of AML obligations.

42. The updated table of determinations and ratings is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified in the implementation of the legal and regulatory framework	The legal framework for beneficial ownership information consists of both AML customer due diligence procedures and new Law 9416. Both of these have deficiencies: the AML definition only covers ownership, not control; and does not specifically require the identification of all of a trust's beneficial owners. The Regulation to Law 9416 allows a legal entity to identify its administrator as the beneficial owner if the natural persons of foreign legal owners having interest or control over the entity cannot be identified because the foreign entity issues bearer shares. For trusts, it is unclear whether Law 9416 requires the identification of "any other person exercising control over the trust".	Costa Rica should ensure that the beneficial owners of all relevant legal entities and arrangements are properly identified in line with the standard.
Determination: In place, but certain aspects need improvement		

Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified in the implementation of EOIR in practice	All legal entities (including foreign companies, inactive entities, and foundations), regardless of whether they perform any profitable activity or not in Costa Rica, must now register with the Tax Administration and file returns. This requirement has only been recently introduced and not yet tested in practice.	Costa Rica should ensure that it has supervision programmes in place to monitor the registration and availability of ownership information of foreign companies, inactive entities, and foundations.
	The requirement to provide legal and beneficial ownership information to the beneficial ownership register was recently enacted (Law 9416). The Tax Administration recently introduced a supervision programme to monitor the transitional recordkeeping provisions and is developing a supervisory programme that will apply once the beneficial ownership register becomes operational. However, in this transitional period, the Tax Administration has carried out a very limited number of reviews to verify whether taxpayers are complying with record-keeping obligations.	Costa Rica should ensure that it has supervision programmes in place to monitor the compliance of obliged entities and arrangements with Law 9416.
Rating: Partially Compliant		

A.1.1. Availability of legal and beneficial ownership information for companies

43. The identification and verification of legal owners in Costa Rica primarily occurs from such information being obtained by government agencies through the registration and reporting process, as well as from AML-obliged institutions. Beneficial ownership information in Costa Rica is primarily collected pursuant to the AML law and the recently enacted Beneficial Ownership Registry procedure.

44. In Costa Rica, all *sociedades* (a legal entity separate from its owners) are merchants under the Commerce Code and so must be registered in the Public Registry. There are two main types of *sociedades* in Costa Rica consistent with the characteristics of a company: *sociedad anónima* (SA) and *sociedades de responsabilidad limitada* (LTDA).

45. Joint stock corporations (SAs) are the most common form of company in Costa Rica. SAs are composed of at least two shareholders whose liability is limited to their capital contribution, and must have a steering committee or board of directors with at least three members (who may or may not be shareholders) and who serve as the president, secretary, and treasurer. This is the only form of public company in Costa Rica, but SAs can also operate as a private company. As at 12 October 2018, there were 278 063 SAs registered in the Public Registry. The corresponding figure as at December 2014 was 484 503 SAs; the reduction is largely a result of inactive companies being struck off the register (as explained at paragraph 72).

46. LTDAs are made up of partners who are liable solely for their contributions and are managed by one or more managers who may be quota holders or third parties. A LTDA may not be a public company. The ownership is represented by nominal quotas, which may only be transferred by an assignment agreement. As at 12 October 2018, there were 86 408 LTDAs registered in the Public Registry.

47. Both SAs and LTDAs are required under the Commerce Code to keep a share register that records identity information (i.e. name, nationality and domicile) on all shareholders. Enforcement measures for keeping share registers are provided for in the Commerce Code for SAs, but not for LTDAs (see Phase 2 report, paragraphs 73-74).

48. Foreign companies can operate in Costa Rica without registration but must appoint a local representative (an attorney with an open office in Costa Rica) with a power of attorney registered in the Public Registry (Article 232, Commerce Code); although the resident agent acts as the contact point, it is not required to maintain corporate ownership information. Alternatively, a foreign company can constitute a branch in Costa Rica which must be registered in the Public Registry, with a public deed appointing a proxy for the company's business dealings and must include the purpose of the branch, name of the administrators, and a statement that the representative and branch are subject to the laws and courts of Costa Rica. As of 31 March 2018, there were 423 branches registered in the Public Registry.

49. As indicated in the Phase 2 report (paragraphs 78-85), there are a number of regulated entities that operate in Costa Rica, such as banks and non-banking financial institutions, securities brokers, and fund managers, who must be either registered with GSFÉ or GSS. These regulators collect

and verify comprehensive identity and ownership information on these regulated entities under their supervision. For example, GSFE requires licensed entities to file supporting ownership documents which include: notary certification indicating chain of ownership of all shareholders until a natural person is reached; a list of board directors; certificate of good standing; certificate of capital stock paid and shares; certified bylaws; and audited financial statements. GSFE must verify the identity information for all shareholders owning more than 10% of the entity (Art. 9, GSFE Agreement 12-10 (Regulations for the Compliance with Law 7786)).

50. The following table¹ shows a summary of the legal requirements to maintain legal and beneficial ownership information in respect of companies in Costa Rica.

Type	Company law	Tax law	AML law	BO Register ^a
Joint stock corporations (SAs)	Legal – some Beneficial – none	Legal – some Beneficial – none	Legal – some Beneficial – some	Legal – all Beneficial – all
Limited liability companies (LTDA's)	Legal – some Beneficial – none	Legal – some Beneficial – none	Legal – some Beneficial – some	Legal – all Beneficial – all
Foreign company	Legal – none Beneficial – none	Legal – some Beneficial – none	Legal – some Beneficial – some	Legal – all Beneficial – all

Note: a. The Beneficial Ownership Register is only operational starting 1 September 2019. Information to be provided to the register is to be held by obliged entities and made available on request from January 2017 to August 2019.

Legal ownership

Commercial Registration Process

51. As explained in the 2015 report (paragraphs 51-54), under the Commerce Code all “merchants” must be registered in the Public Registry (which is part of the Ministry of Justice), which covers: (i) any for-profit activity; (ii) EIRLs; (iii) specific statutory entities; and (iv) foreign companies and their regional offices and branches carrying on commercial activities in Costa Rica. In practice, this means that Costa Rica’s *sociedades* must all be registered.

1. The table shows each type of company and whether the various rules applicable require availability of information for “all” such entities, “some” or “none”. “All” in this context means that every company of this type is required to maintain ownership information in line with the standard and that there are sanctions and appropriate retention periods. “Some” in this context means that a company will be required to maintain a portion of this information under applicable law.

52. In order to register with the Public Registry, an entity must submit articles of incorporation that contain:

- name, nationality, profession, and domicile of the founding shareholders who are natural persons
- for founders who are legal entities, the name or business name of the companies comprising the founder, and place of incorporation, if not Costa Rica
- type of company
- capital stock amount
- contribution by each founding shareholder
- the company's domicile (a physical address in Costa Rica)
- names of the administrators (indicating those representing the company and nomination of resident agent, if necessary).

53. The Public Registry must verify that all legal requirements have been fulfilled before validating the registration. Once registered, a company has the status of a legal entity. Changes to the composition of a company's shareholders must be reflected in the company's share registry. Such requirements also apply to foreign companies.

54. Modification, dissolution, merger or other changes (apart from share-holdings) to a company can only take effect by registering the change with the Public Registry and having a public deed published in the official journal. There is no time limit that company changes must be notified, but no legal effect will take place until the change is properly registered.

55. Any entity required to maintain a shareholder or member register must keep it, along with other legal books and accounting records, until five years after the business ceases operations.

Commercial supervision

56. There is no supervision by the Public Registry or other government authority of a *sociedades*' record-keeping obligations under the Commerce Code.

Tax law

57. All legal entities with corporate activity in Costa Rica are required to register with the Tax Administration. Tax registration involves filing a declaration that includes the taxpayer identification number, name of natural or legal persons, domicile address, description of activity to be carried out,

address where business activity will occur, and the name, identity number, address and signature of the legal representative. The Tax Administration no longer authenticates the taxpayers' accounting or shareholders' books, as they are now held in digital form, but the Tax Administration can inquire at any time about the company's ownership information submitted to the National Registry's digital platform.

58. Active companies conduct lucrative activities in Costa Rica (meaning activities for profit) and file tax returns annually. Inactive companies are not considered to be conducting activities for profit in Costa Rica and so do not file income tax returns. However, Law 9635 of 2018 requires that all legal entities register as taxpayers, regardless of whether they perform any profitable activity or not in Costa Rica; this new requirement becomes effective 1 July 2019.

59. During the current review period, the Tax Control Unit performed desk reviews and field visits under internal guidelines DR-DCE-DI-01-2015 and DCTE-DI-005-2017 with the aim of registering non-compliant taxpayers and, in 2017-18, verifying compliance with legal ownership information requirements (shown in the first table). The Tax Audit Unit also verified compliance with legal ownership requirements by carrying out audits, and in most cases requested the taxpayer to provide its shareholder register (shown in the second table).

Compliance programmes of the Tax Control Unit

	2015	2016	2017	2018
Visits to ensure taxpayer registration	1 070	96	506	180
Taxpayers registered as a result of the visits	65	10	53	17
Request to present shareholder register	-	-	81	6
Taxpayers compliant with request for shareholder register	-	-	64	4

Tax Audit Unit

	2015	2016	2017	2018
Total number of audits conducted	633	513	479	277
Number of audits in which taxpayers were requested to provide shareholder register	404	347	358	177
Taxpayers compliant with request to provide shareholder register	394	326	355	168

60. The Tax Administration carries out a more extensive review of large taxpayers (including foreign companies), with 464 large taxpayers (12 of which were foreign companies) as of March 2018. Beginning with the rollout of its large taxpayer audit tool (AMPO) in 2016, the Large Taxpayers Division

examines each large taxpayer every year, including review of legal ownership information and audited financial statements. This annual review is started by the large taxpayer updating information in the AMPO tool, which is then evaluated by directorates to identify criteria for selecting follow-up tax control plans. For tax years 2016 and 2017, all large taxpayers provided the requested legal ownership information; those taxpayers with late submissions were issued a monetary penalty. Approximately 10% of the total of large taxpayers were included in the annual audit plan for the 2016-18 tax years. Three foreign companies were audited in 2018.

61. The Phase 2 report contained a recommendation that Costa Rica put in place effective enforcement provisions to ensure the availability of ownership information of limited liability companies. To address this recommendation, Article 84 bis of the General Tax Code was amended (as part of Law 9416 in 2017) to impose a penalty on any obligated taxpayer or responsible administrator that fails to provide the required information to the centralised register (see discussion beginning at paragraph 98). The penalty is equivalent to 2% of the gross income of the legal entity, with a minimum penalty of three base salaries and a maximum of one hundred base salaries. The proportionality aspect of the penalty ensures that any legal entity not providing the requisite ownership information will pay some pecuniary sanction.

AML framework

62. A number of institutions are obliged under the AML/CFT Law (Law 7786) to conduct anti-money laundering and countering terrorism financing activities. Persons engaged in systematic money exchange and transfer operations, substantial systematic funds transfers, fund management (including *fideicomisos*), and credit card issuers/operators are required to register with the GSFE; in order to legally carry out their business activities, such entities must be subject to supervision and comply with the obligation to obtain and keep client identity information, including conducting customer due diligence measures.

63. Service providers performing financial activities are also covered by Law 7786; this group was expanded in 2017 by Law 9449 to include: casinos; real estate agents; dealers in precious metals and stones; certain non-profit organisations; individuals or legal entities (including lawyers, notaries, and accountants) performing real estate transactions for clients, or managing money, bank accounts, savings, securities, or other assets for their clients, or engaged in managing or selling legal entities or legal arrangements; fiduciary service providers; and pawnshops. These service providers are also subject to registration with and supervision by GSFE on a risk-based approach.

64. Under GSFE Agreement 12-10 (Regulations for the Compliance with Law 7786), applicable CDD measures require AML-obliged entities and persons performing specified services to adopt “know your client” (KYC) procedures to identify and verify clients (Art. 7).

65. When the client is a legal entity or arrangement, the AML-obliged entity or service provider must, at a minimum, request legal ownership and identity information, including beneficial ownership information, of all shareholders or members owning more than 10% of the entity (Art. 9). This provision further focuses only on ownership, and so is deficient in not incorporating control as indicative of constituting a beneficial owner. The definition also does not explicitly cover legal arrangements (like trusts), such that an AML-obliged entity or service provider in Costa Rica is not required to use identification procedures in line with the standard.

66. AML-obliged entities must keep a copy of the evidence used to identify and verify identity for at least five years from the end of the customer relationship, or at least five years from the end of a transaction (Article 16). Client information obtained during the CDD process must be updated at minimum every 3 years (and more frequently if classified as a high or medium-risk customer). AML-obliged entities must verify the accuracy of CDD information using trustworthy measures (Art. 12).

67. Where a financial institution or service provider fails to properly conduct CDD or maintain the customer’s identity information for the proper maintenance period, non-compliance with the AML/CFT law can result in sanctions of a financial penalty from one to two hundred base salaries².

AML supervision

68. GSFE ensures compliance by all licensees of the record-keeping and retention requirements using a risk-based system that carries out both remote and on-site inspections. Each examination results in a report describing the findings and correction plans to remedy any identified weaknesses.

69. As of May 2017, the GSFE can impose a fine from 0.5% to 2.0% of the entity’s capital for financial institutions, or a fine from two to one hundred base salaries for other AML-obliged persons, for failure to keep records in compliance with issued rules, or issue other administrative sanctions. One fine, totalling USD 1.965 million was imposed during the current review period.

2. In Costa Rica, the concept of “base salary” corresponds to the amount of money used in tax legislation to establish the basis of pecuniary sanctions. This amount is updated every year. For 2018, the base salary amount is CRC 431 000 or approximately USD 740.

70. Between 2016 and 2018, GSFE conducted 16 reviews involving AML issues for licensed banks and NBFIs, including 16 on-site inspections. Of the 16 licensees reviewed, none were found to be fully compliant with their AML obligations, with one licensee receiving a fine, and another three licensees with potential administrative sanctions underway for failure to comply with AML/CFT provisions, including KYC policies, source of funds, and client monitoring.

71. Service providers newly covered by the 2017 changes to the AML law are now also subject to GSFE supervision. Between 2016 and 2018, the GSFE conducted 67 on-site inspections on service providers.

Inactive companies

72. The Phase 2 report raised several issues regarding the high number of companies deemed inactive in Costa Rica that impeded the availability of legal ownership information for companies, resulting in several recommendations. Since then, Costa Rica has enacted important legislation affecting the availability of ownership information by implementing an annual tax obligation for all legal entities that imposes critical reporting and registration obligations to deal with the historical problem of a substantial number of inactive companies.

73. As mentioned in paragraphs 71-72 of the Phase 2 report, Costa Rica enacted Law 9024 in 2011, which required all legal persons registered with the Public Registry, or who would thereafter become registered, to pay a tax at the time of filing the deed of incorporation and annually thereafter. Parts of Law 9024 were eventually held unconstitutional by the Costa Rican Supreme Court for violating certain publicity requirements during the legislative process. But importantly, the ruling left in place Article 6 of Law 9024, which allows the Public Registry to take agency action to dissolve any legal entity which has not paid the applicable tax for three consecutive periods.

74. Because Article 6 of Law 9024 remained in force for legal entities notwithstanding other sections of the law having no legal effect, Costa Rica has been able on this basis to take administrative steps to dissolve inactive legal persons as of 21 February 2017. Following the requirements of the law, the Public Registry gave public notice of its intent to dissolve the listed inactive companies and through the process began removing entities from the register. During the review period, a total of 264 109 entities (approximately 40% of entities in the register) have been definitively struck off from the Public Registry. Pursuant to the Commerce Code and General Tax Code, the liquidator is obligated to maintain for five years copies of the relevant books and records entities that are dissolved.

75. In order to remedy the constitutional defects found with Law 9024, the Costa Rica Parliament passed similar legislation, Law 9428, on 21 March 2017. Law 9428 imposes an annual tax on all legal entities registered with the Public Registry on January 1 of each year, or any entity that thereafter registers (using a prorated calculation of the tax for the remainder of the calendar year). The scope of the tax covers corporations, limited liability companies, collective companies, individual limited liability companies, partnerships, and any foreign company or branch representative that is registered with the Public Registry.

76. Certain entities are exempted from the annual legal person tax, including micro and small companies registered as such with the Ministry of Economy, Industry and Commerce (MEIC) and small and medium-sized agricultural producers registered as such with the Ministry of Agriculture (MAG). As of May 2019, there are 7 878 exempt entities.

77. The tax, based on a graduated tax rate structure, applies to all entities, unless otherwise exempted, regardless of profitability and so covers inactive companies. The tax rate ranges from 15% of a monthly base salary for entities with no gross income subject to tax up to 50% of a monthly base salary for entities with an immediate prior income tax declaration of more than 280 base salaries.

78. The failure to pay the tax for one period limits the ability of the entity in requesting legal personality certifications³ and registration of property ownership documents. The Tax Administration is obligated to inform the Public Registry of those entities with three consecutive periods of non-payment, which will give the Public Registry authority to publish a dissolution order in the Official Gazette and then cancel the entity's registration. To date, no entities have dissolved under Law 9428; however the dissolution process has started for those non-compliant entities.

79. The Tax Administration is empowered to collect any unpaid tax amount from either the entity's legal representatives or any shareholder/partner, who all have joint responsibility for payment.

80. A regulation to implement Law 9428 was published in the Official Gazette on 26 May 2017, and the law entered into force on 1 September 2017. Law 9428 repealed application of Law 9024 going forward after the effective date.

81. Law 9485 permits entities dissolved under the provisions of Laws 9024 and 9428 by reason of three years' of tax non-payment but whose

3. These certifications are required for many basic commercial transactions, such as opening bank accounts, participating in public tenders, and requesting commercial approval to operate a business.

registrations were not yet cancelled to have the dissolution process stop and be fully reinstated upon a duly submitted application if a request was made before 15 January 2018. This procedure to cease dissolution and regain active status resulted in 4 082 entities resurrecting their registration in the Public Registry.

82. Regulation 40417-H, implementing Law 9428, creates an obligation for all previously deemed inactive legal persons to register with the Tax Administration for purposes of the legal entities tax. In order to obtain relevant information on these inactive entities, the Tax Administration issued a schedule in DGT-R-51-2017 (Form D-140) which requires the submission of certain general information to the Tax Administration within one month of being registered. Failure to provide the relevant information is sanctioned according to Article 78 of the General Tax Code.

83. With Law 9428 coming into force, the Tax Administration reports total registrations for the annual tax as follows:

	2017	2018
Total entities subject to legal entities tax	317 118	325 600
Entities compliant with filing and payment obligations	237 673	212 158
Compliance percentage	75%	65%

84. As shown in the table, the compliance rate in 2017 was 75%. The Tax Administration notes that the tax first imposed for 2017 only covered one-third (4 months) of the full tax, and so many taxpayers were unprepared when the full tax was imposed in 2018, leading to a lower initial compliance rate in paying the tax of 65%. However, communication with taxpayers by the Tax Administration after several months led to increased collections and higher compliance rates.

Discussion

85. As discussed in the 2015 report (paragraphs 57-87), some initial legal ownership information is available from the Public Registry for SAs and LTDAs as such entities must submit information on legal owners at the time of formation as part of the registration process. However, this information is not required to be updated and does not necessarily apply for foreign companies. Both SAs and LTDAs are required by the Commerce Code to keep an updated share register; however, there is no supervision by the Public Registry or other government authority of SAs' record-keeping obligations. There are no enforcement measures in the Commerce Code for LTDAs; however, Article 84 bis of the General Tax Code was amended to impose a penalty on any legal entity that fails to provide ownership information to the centralised register (see paragraph 61). Further, new obligations under Law 9416 (see Beneficial Ownership Register below) address the concerns raised in the 2015 report.

86. For entities registered as active taxpayers, there is no requirement to provide ownership information under the General Tax Code; however, the Tax Administration can ask the company to provide any information deemed necessary for tax purposes. So in theory the Tax Administration can always ask for legal ownership information to be made available, but real availability in practice is not assured given the limited reach of monitoring in place. As shown in the tables in paragraph 59, the Tax Administration carried out monitoring activities however, only a small number of taxpayers were supervised. The Tax Administration recently put in place a supervisory programme (DCTE-D-009-2019) to monitor compliance with the transitional provisions of Law 9416 (see paragraph 117). The Tax Administration is currently developing a supervisory programme that will be put in place once the Beneficial Ownership Register (discussed below) is operational to ensure that companies are complying with the obligation to provide legal and beneficial ownership information to the Register.

87. Under the AML/CFT Law, companies having relationships with domestic financial institutions or AML-obliged service providers should have legal ownership information collected and verified as part of the CDD process. However, there is no requirement in Costa Rica that all registered companies maintain a local bank account or utilise an AML-obliged service provider, so there is potentially a small gap in the availability of such information if reliance is made on application of the AML framework.

88. For foreign companies, ownership information is not required as part of the commercial registration process. These companies are considered tax-resident in Costa Rica and subject to the General Tax Code, including corresponding registration and annual return filing requirements. However, there is no requirement to provide ownership information under the General Tax Code, although the Tax Administration has the same authority to inquire about the ownership of a foreign company as it does for a domestic one and could inquire about the company's owners. But Law 9416 requires all legal entities, including foreign companies, to submit legal ownership information to a centralised beneficial ownership register (see Beneficial Ownership Register below).

89. The lack of oversight by the Public Registry or Tax Administration of a foreign company's share register led to a Phase 2 recommendation because of the concern regarding availability of identity and ownership information in practice. The inclusion of foreign companies as tax registered entities gives the Tax Administration more explicit authority to conduct supervision measures, but the overall low enforcement to date may not be sufficient to ensure availability in practice.

90. Laws 9024 and 9428 impose critical reporting and registration obligations to deal with the historical problem of the substantial number of

inactive companies (identified in the Phase 2 report). As a result of these new laws, more than 260 000 previously inactive entities were struck off the Public Register in the current review period. Reducing the number of inactive companies on the Public Registry increases the likelihood that the remaining registered entities are complying with their record-keeping obligations.

Peer input

91. Costa Rica received 23 requests for ownership information during the review period, and provided responses in all cases. No peers have provided negative input regarding the availability of ownership information.

Conclusion

92. Legal ownership information for companies may be held by the entity itself or the Public Registry, although accuracy continues to be a potential issue given the low level of oversight mechanisms in place. This information will also be held by financial institutions, to the extent a company has a local bank account, but the KYC procedures apply a threshold of 10% for identifying legal owners (GSFE Agreement 12-10). Requirements for foreign companies have been appropriately strengthened. Reducing the number of inactive companies on the Public Registry increases the likelihood that the remaining registered entities are complying with their record-keeping obligations. However, Costa Rica's enforcement programmes, particularly by the Tax Administration, are insufficient to the size of the taxpayer population (see paragraph 59) and are not targeted to ensure the availability of ownership information, including that of foreign companies.

Beneficial ownership

93. Costa Rica collects some beneficial ownership information through its AML framework, but the main mechanism for ensuring the availability of beneficial ownership information for companies is through the introduction of an identity and beneficial ownership register in Law 9416.

AML framework

94. As explained above, under GSFE Agreement 12-10, applicable CDD measures require AML-obliged entities and persons performing specified services to adopt KYC procedures to identify and verify clients. When the client is a legal entity or arrangement, the AML-obliged entity or service provider must, at a minimum, request legal ownership and identity information, including beneficial ownership information, of all shareholders or members owning more than 10% of the entity (Art. 9).

95. However, the definition of beneficial owner under GSFE Agreement 12-10 – characterised as the “real or final beneficiary” – is described as “any person or group of natural or legal persons who, directly or indirectly, by virtue of contract or agreement, benefit from the transactions or operations carried out by the client through financial institutions” (Art. 2). This definition for CDD thus does not clearly require that the beneficial owner be a natural person. Moreover, it does not align with the FATF definition of beneficial owner as it is not clear that control by other means qualifies a person as a beneficial owner. In the case of reasonable doubt about the actual beneficiaries of an account or transaction, an AML-obliged entity or service provider must request client information to identify the natural persons who indirectly participate in shareholding, regardless of actual ownership percentage (e.g. even if less than 10%). The definition also does not explicitly cover legal arrangements (like trusts), such that an AML-obliged entity or service provider in Costa Rica is not required to use identification procedures in line with the standard.

96. In addition, the Art. 9 KYC obligations to identify the owners of legal entities focuses only on ownership, and so is deficient in not incorporating control as indicative of constituting a beneficial owner.

97. Consequently, the AML regime as currently constituted would not on its own fully capture beneficial ownership information for relevant companies in Costa Rica.

Beneficial Ownership Register

98. Costa Rica enacted Law 9416, which came into force on 30 December 2016, to require that all legal entities fiscally resident in Costa Rica provide to the Central Bank the ownership information of all shareholders and any beneficial owners who have substantive participation in the entity. This information is to be provided at least annually, or on an interim basis if any new natural person passes the threshold for substantive participation in the entity. Under the General Tax Code (Article 5), fiscal residence covers: all legal entities and *fideicomisos* established under Costa Rican laws; branches, agencies, and permanent establishments of foreign companies; and any other legal entity engaged in for-profit activities in Costa Rica.

99. Article 5 of Law 9416 defines a beneficial owner as the natural person who exercises a substantive influence or control, whether direct or indirect, over the legal entity or arrangement. Influence or control includes having sufficient voting rights, power to appoint or dismiss administrators, or statutory power. Where it is not possible to identify a beneficial owner because the domiciled company is substantially owned by foreign entities, Article 5 sets out a presumption that the administrator is the beneficial owner. The administrator is defined in as the natural person who “exercises

the legal representation of a foreign entity”. The legal representative in turn is defined as the natural person who acts as the chairman, general manager or administrator of the company, and in the case of branches of foreign companies, it means the natural person who represents and controls the company. Article 5 also sets a threshold range of substantive participation for shareholding or capital interest of between 15% and 25%, to be finally determined by the Ministry of Finance (which is finally set at 15% by Regulation, see paragraph 108).

100. Under Article 6, legal arrangements (such as *fideicomisos* and foreign trusts) are required to provide the Central Bank with identity information of its contract, settlor, trustees, and beneficiaries. The obligation to provide this information rests on the third-party administrator (i.e. *fiduciario* or trustee). In addition, non-profit organisations carrying out activities outside of Costa Rica or with foreign financial transactions must provide identity information on the Board of Directors, Administrative Council, other management, and identity of the natural persons of donors and beneficiaries whose contributions or payments exceed an annual base salary (USD 740 for 2019).

101. Article 7 of Law 9416 requires that the identification number of all beneficial owners be provided. Ownership information must be kept in Costa Rica on the owners of foreign companies with shareholding or capital interest in a domestic entity. However, entities listed on a Costa Rica or foreign stock exchange need only comply with the applicable ownership reporting regulations of that exchange.

102. The Central Bank is given responsibility for managing the beneficial ownership information required under Law 9416, and must verify the provided identity information against other applicable agency databases (Article 8).

103. The Beneficial Ownership Register information is not covered by bank secrecy and can be accessed upon request by the Ministry of Finance (including the Tax Administration) or the Costa Rican Institution on Drugs (FIU). Information in the Beneficial Ownership Register can only be used for a limited set of purposes; importantly, a permitted purpose is “to exchange information in accordance with the provisions of international instruments” (Art. 9).

104. Beneficial owners listed in the Beneficial Ownership Register are allowed to ensure that the listed information is accurate (Art. 12), and so have the right to submit a request to a judge to have erroneous information corrected.

105. Failure to comply with the beneficial ownership requirements in Law 9416 may result in a financial penalty under Article 84 bis of the General Tax Code of 2% of the entity’s gross income, with a minimum penalty of

3 base salary and maximum of 100 base salary (approximately USD 2 220 to USD 74 000). Further failure to pay any imposed penalty and come into compliance will result in the Public Registry refusing to issue certifications or registration for the non-compliant entity, and public notaries are likewise required to make appropriate notations regarding the company's non-compliant status.

106. Third-party administrators, such as trustees, must provide the required beneficial ownership information on the settlor, trustee and beneficiaries to the Tax Administration (as well as the legal arrangement's accounting and financial records required to be kept under the General Tax Code).

107. Under the transitional provisions of Law 9416, the Beneficial Ownership Register is not required to be operational and able to accept receipt of the required information until 1 January 2019; however this date has been further extended to 1 September 2019 by the Tax Administration, the FIU, and the Central Bank. From the effective date of Law 9416 until 1 September 2019, legal entities obliged to provide beneficial ownership information are required to maintain such information and provide it upon request by the Tax Administration or FIU.

108. The provisions of Law 9416 are further implemented by Tax Administration Regulation No. 41040-H (issued 5 April 2018). Included in the definition section of this Regulation is the definition of “substantive participation” which is equal to or greater than 15% shareholding of the entity's capital. Article 5 of the regulation specifies that the person responsible for providing the required information to the Central Bank is the legal person's representative, trustee, or non-profit president. In providing the required information (Art. 6), responsible persons must: (a) record the necessary beneficial ownership information in the Register; (b) ensure that domestic legal chains of ownership are verified and due diligence records kept; and (c) obtain relevant beneficial ownership information on foreign chains of legal ownership. The information must be preserved for at least five years after the business ceases operations (Article 6 of Law 9416). Article 7 specifically states that a responsible person's obligations under Law 9416 are not considered complete until the beneficial ownership information of the entire ownership chain (if applicable) of the legal entity or arrangement is completed.

109. The Regulation further gives the Tax Administration and FIU authority to establish the requirements for how the beneficial ownership information is to be provided to the Central Bank (Art. 8), as well as to set the date by which compliance must occur (Art. 9). Entities that are formed after the annual compliance date must provide their beneficial ownership information to the Central Bank within 10 business days, and all obliged entities must update any change in substantive participation exceeding the 15% threshold within 15 business days from the change in the shareholding register.

110. Where it is impossible to identify the beneficial owners of a foreign entity holding legal ownership in a domestic company, the presumption is that the administrator is the beneficial owner. The responsible person must submit an affidavit regarding such inability to identify it and include either: (i) a certificate from the foreign jurisdiction's relevant registry that no information is available; (ii) a copy of the foreign company's articles or other formation document establishing that bearer shares are allowed; or (iii) any other certified document issued by a competent authority demonstrating the impossibility of identifying the foreign entity's beneficial owners (Article 10).

111. The Regulation reiterates that beneficial ownership information is necessary for natural persons either having substantive participation or exercising direct or indirect control over the entity, including by means of voting rights, influence over management, or share capital (Article 12).

112. Private and foreign trusts with domestic activities or with a resident trustee must provide identity information on the contract/deed, settlor, trustees and beneficiaries; to the extent that any of these identified persons are themselves legal entities or arrangements, they must be looked through to determine the natural persons meeting the standard for qualifying as a beneficial owner (for more information see discussion under A.1.4. Trusts).

113. Under Article 25, the Public Registry is not permitted to issue any certificates or register documents for a legal entity unless it is determined they are in compliance with the requirements to provide beneficial ownership information in accordance with Law 9416. Notaries public are under a similar obligation to check an entity's compliance with Law 9416 before issuing documents.

Discussion

114. As required under the AML/CFT Law, financial institutions and AML-obliged service providers must conduct customer due diligence that would collect and verify information on the customer's or account-holder's beneficial owners. However, the beneficial owner definition only covers ownership, not control. Further, there is no requirement in Costa Rica for all companies to have a local bank account.

115. All legal persons conducting business activity in Costa Rica – including SAs and LTDAs – are obliged to provide the Beneficial Ownership Register (managed by the Central Bank) with information on the natural persons either having substantive participation (defined in Regulation No. 41040-H as equal to or greater than 15%) or control over the company. This reporting requirement extends to foreign companies.

116. The Beneficial Ownership Register law provides that the administrator should be listed as the beneficial owner in cases in which the beneficial owner cannot be otherwise identified for foreign companies after all relevant efforts have been exhausted. However, Regulation No. 41040-H currently allows the administrator of a foreign legal entity to be identified as its beneficial owner when all efforts to identify the beneficial owner have failed because the company issues bearer shares. This may result in the true beneficial owners of foreign companies remaining unknown.

117. In addition, this law was enacted in 2017 and an implementing regulation issued in 2018, with operation of the register now extended to take effect only at 1 September 2019. Companies are supposed to have kept the information required under Law 9416 themselves and provide it upon request by the Tax Administration or FIU. On 1 April 2019, the Tax Administration published DCTE-DI-009-2019, setting out a supervisory programme to ensure that obliged entities and arrangements were complying with their record keeping obligations under Law 9416 during the transitional phase while the register becomes operational. Following this, the Tax Administration sent out requests for shareholder and beneficial ownership information to 300 entities. Entities were given 10 business days to provide the requested information, and those that requested an extension were given an additional 10 business days. Entities that fail to comply are subject to a sanction under Article 84 bis of the General Tax Code (see paragraph 61). Costa Rica reported that approximately 10% of entities have provided the requested information and the Tax Administration has begun the sanctioning procedure against non-compliant entities.

118. In 2017 and 2018, the Large Taxpayers Division made requests for beneficial ownership in eight audits, all of which were properly provided by the subject taxpayer.

Supervision

119. The Tax Administration very recently implemented a supervision programme targeting enforcement of the transitional provisions. It is developing a supervisory programme that will apply once the beneficial ownership registry becomes operational.

Conclusion

120. Costa Rica's legal framework to ensure the availability of companies' legal owner information has improved from the Phase 2 review by addressing the recommendations made in that report. The legal framework for beneficial ownership information consists of both AML obligations to conduct KYC and the new Beneficial Ownership Register. Both of these have deficiencies regarding the collection of beneficial owner information for companies: the

AML definition only covers ownership, not control. The Regulation to Law 9416 allows for an administrator to be identified as a beneficial owner for foreign-owned companies when all efforts to identify the true beneficial owners have failed because the company issues bearer shares. Thus certain gaps in the legal framework exist for beneficial ownership. More importantly, the limited oversight by the Tax Administration continues to raise concerns regarding the availability of company ownership information – both legal and beneficial – in practice. No peers have provided negative input regarding the availability of ownership information.

Nominees

121. As discussed in the 2015 report (paragraphs 86-87), the concepts of nominee or *mandatario* does not exist in Costa Rica. There have been no changes to the legal framework since that report and no peers have raised any concerns.

A.1.2. Bearer shares

122. As discussed in the 2015 report (paragraphs 88-91), bearer shares were eliminated by law in 1997 and the process for conversion into nominal shares completed in 1999. The 2012 Transparency Law further eliminated a remaining mistaken reference to bearer shares in the Commerce Code. Under the AML/CFT law, regulated entities are forbidden from having clients or conducting transactions for any company that has bearer shares. Therefore in the current review period there is no issue present regarding domestic⁴ bearer shares that would impede the availability of ownership information required under the standard.

A.1.3. Partnerships

123. The 2015 report detailed three types of *sociedades* with characteristics common to partnerships: *sociedad en nombre colectivo* (general partnerships), *sociedad en comandita* (limited partnerships) and *empresa individual de responsabilidad limitada* (individual enterprises of limited liability, or EIRLs) (paragraphs 92-108).

4. Although Costa Rica does not allow bearer shares for domestic entities under its legal framework, it does foresee the possibility of domestic entities not being able to obtain beneficial ownership information regarding foreign owners if such owners have bearer shares that prevent identification of the underlying natural persons. See paragraphs 110, 116 and 120.

124. *Sociedad en nombre colectivo* are most analogous to common law general partnerships and are made up of partners that are jointly and severally liable for any and all actions of the partnership. A general partnership must have an administrator, who does not have to be a partner but who must be authorised in the bylaws; the administrator has power of attorney for the partnership. As at 31 March 2018, there were 46 general partnerships registered in the Public Registry.

125. *Sociedad en comandita* most closely resemble common law limited partnerships as they have partners whose liability is limited to their contribution; however partners may not exercise administrative powers within the partnership. A limited partnership is formed by a managing partner (responsible for administration) and at least one limited partner. As at 31 March 2018, there were 5 limited partnerships registered in the Public Registry.

126. EIRLs are legal entities that limit the liability of the founder (a single natural person) to his/her capital contribution. As at 31 March 2018, there were 2 564 EIRLs registered in the Public Registry.

Identity information on partners

127. Because all general and limited partnerships must register with the Public Registry, identity information of all partners is required to be submitted; this information must be updated. EIRLs also register with the Public Registry, but only the manager needs to be indicated (which may not necessarily be the founder). This led to a recommendation that Costa Rica ensure that ownership information for EIRLs is available. Costa Rica addressed this recommendation through Law 9416, which requires all legal entities, including partnerships and EIRLs, to submit legal ownership information to a centralised beneficial ownership register. As explained in paragraph 107, the register will not be operational until 1 September 2019. However, from the effective date of Law 9416 until 1 September 2019, legal entities obliged to provide beneficial ownership information to the register are required to maintain such information and provide it upon request by the Tax Administration.

128. The Phase 2 report also contained a recommendation that Costa Rica put in place effective enforcement provisions to ensure the availability of ownership information of partnerships. To address this recommendation, Law 9416 amended article 84 bis of the General Tax Code to impose a penalty (see paragraph 61).

129. Like companies, partnerships carrying on business in Costa Rica must register with the Tax Administration. Partnerships with taxable income must file Form D-140 in order to register; partnerships that do not generate taxable income in Costa Rica must also file Form D-140, but the form simply indicates that they do not have any tax liability. The partnership and each

partner must file income tax returns. Although there is no requirement to provide the names of the partnership's owners when registering or filing annual returns, the Tax Administration can inquire at any time about the ownership of the partnership.

130. Based on these legal requirements, ownership information regarding partners is available in Costa Rica for all three kinds of partnerships. These requirements ensure that ownership information regarding a partnership's partners is available under Costa Rica's legal framework.

Beneficial ownership

131. The main mechanism for ensuring the availability of beneficial ownership information in Costa Rica for partnerships is through the introduction Law 9416. As explained above, all legal persons conducting business activity in Costa Rica – including general and limited partnerships and EIRLs – are obliged to provide the Central Bank with information on the natural persons either having substantive participation (defined in Regulation No. 41040-H as having 15% or more share of capital) or control over the partnership.

132. As required under the AML/CFT Law, financial institutions and AML-obliged service providers must conduct customer due diligence that would collect and verify information on the customer's or account-holder's beneficial owners (if owning more than 10%) (GSFE Agreement 12-10). The beneficial owner definition, however, only covers ownership, not control. There is also no requirement that partnerships maintain a local bank account.

Supervision

133. Law 9416 was enacted in 2017 and an implementing regulation issued in 2018, with operation of the register to take effect only at 1 September 2019. Partnerships are supposed to have kept the information required under Law 9416 themselves and provide it upon request by the Tax Administration or FIU. Similar concerns relating to the implementation of the BO Registry described in paragraph 119 apply here.

134. Similar to the problem of inactive companies, the issue of inactive partnerships was referred to in a Phase 2 recommendation. Laws 9024 and 9428 impose critical reporting and registration obligations to deal with the historical problem of the substantial number of inactive partnerships (identified in the Phase 2 report). As a result of these new laws, through the dissolution and cancellation mechanisms, partnerships who remained non-compliant with the tax payment and reporting obligations for more than three years were struck off the Public Registry. Reducing the number of inactive partnerships on the Public Registry increases the likelihood that

the remaining registered entities are complying with their record-keeping obligations.

Conclusion

135. Costa Rica's legal framework ensures the availability of identity information on partners. The legal framework for beneficial ownership information consists of both AML obligations and Law 9416. The AML definition is deficient because it only covers ownership, not control; however, beneficial ownership of partnerships will be available with the beneficial ownership register. Because of the lack of adequate supervision, it is not clear that identity and beneficial ownership information for partnerships is always available in all circumstances in Costa Rica. No peers have provided negative input regarding the availability of ownership information.

A.1.4. Trusts

136. As explained in the 2015 report (paragraphs 109-129), the common law concept of trust does not exist in Costa Rica, nor has it signed The Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition. However, Costa Rica law does permit the formation and operation of *fideicomisos*, which are similar to trusts.

137. A *fideicomiso* can be established by a *fideicomitente* in order to transfer to a *fiduciario* the ownership of goods or rights, which the *fiduciario* is then obligated to use to achieve the legal purpose of the *fideicomiso*. Any individual or company that acts as a *fiduciario* must have articles of incorporation that specifically provide for the company to act as such. *Fideicomisos* are subject to both the Commerce Code and General Tax Code. Although *fideicomisos* must be created by written document, they do not have to be registered anywhere (e.g. Public Registry), so there are no national or public consolidated records concerning the number of *fideicomisos* established in Costa Rica.

138. There is also no prohibition in Costa Rican law for residents to act as trustee of a foreign trust.

139. In practice, a *fiduciario* must know the identities of both the *fideicomisario* (beneficiary) and *fideicomitente* (settlor) because of his/her legal obligations to them. Financial institutions acting as *fiduciarios* or non-financial institutions administering more than two *fideicomisos* a year are also obliged persons under the AML law. Registration with GSFE involves personal identification documents (if an individual) or identification of the entity's legal representative and formation documents. Furthermore, GSFE-registered *fiduciarios* have client identification requirements under the AML/

CFT law, which includes identifying and verifying all beneficial owners, including the *fideicomitente* and *fideicomisario*. *Fideicomisos* engaged in issuing securities must be registered with the GSS and have an obligation to identify all major parties to the arrangement (settlor, trustees, and beneficiaries).

140. However, *fiduciarios* who are not financial institutions and administer two or fewer *fideicomisos* per year do not have a duty to maintain ownership information under the AML laws. Trustees of foreign law trusts resident in Costa Rica are not covered by the AML laws or the Commerce Code. But Article 106 of the General Tax Code (amended by Law 9416 and entered into force on 30 December 2016) requires trustees or administrators of foreign law trusts/*fideicomisos* to annually provide ownership information (including beneficiaries) and financial/accounting records to the Tax Administration.

141. *Fideicomisos* with Costa Rican source income are subject to income tax and thus must register with the Tax Administration following the same rules and procedures applicable to legal entities.

142. As at 31 December 2018, there were 48 third-party resource managers registered with the GSFE, all of whom declared they were acting as *fiduciarios*.

Beneficial ownership

143. The wide reach of Law 9416 also put into place reporting obligations on all *fideicomisos* and trusts, including foreign trusts, to provide information to the Central Bank. Article 6 of Law 9416 mandates that all *fideicomisos*/trusts, other than public trusts, provide (and keep up to date) the Central Bank with information regarding a *fideicomiso*/trust's settlor, trustee(s), and beneficiary(ies). The *fiduciario*/trustee has the responsibility under the law and accompanying regulations to provide this specific information to the Central Bank. Accordingly, Law 9416 resolves the problem issued in the Phase 2 report leading to a recommendation to ensure the availability of identity information of the settlor and beneficiaries for foreign trusts.

144. There is no requirement to specifically identify a protector or any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership). However, if a protector exists for a trust it must be identified in the contract and the Tax Administration has authority to ask the *fiduciario*/trustee to identify a protector.

145. The AML/CFT laws do not specifically require the identification of a trust's settlor, trustee(s), protector (if any), beneficiary(ies), or any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership).

Supervision

146. Law 9416 was enacted in 2017 and an implementing regulation issued in 2018, with operation of the register to take effect only at 1 September 2019. *Fiduciarios* and trustees of foreign trusts are supposed to have kept the information required under Law 9416 themselves and provide it annually or on request to the Tax Administration. Similar concerns relating to the implementation of the BO Registry described in paragraph 119 apply here.

Conclusion

147. Legal and most beneficial ownership information for *fideicomisos* and trustees of foreign trusts should be available in Costa Rica. It is recommended that Costa Rica ensure that all beneficial owners of trusts are identified in line with the standard.

A.1.5. Foundations

148. Jurisdictions that allow for the establishment of foundations should ensure that information is available identifying the founders, members of the foundation council, beneficiaries, as well as any beneficial owners of the foundation or persons with the authority to represent the foundation.

149. As explained in the 2015 report (paragraphs 130-133), Costa Rica allows the creation of foundations, but only as private non-profit entities that must be engaged in activities of an educational, beneficial, scientific, artistic, literary, or social well-being nature.

150. Foundations must be established through public deed or will and must be registered by a resident or non-resident person with the Public Registry. A foundation is considered a separate legal person. The document creating the foundation must include the name, address, and object of the foundation and details on how it will be administered. The creation document must identify the founder(s).

151. The administration and management of a foundation is conducted by an Administrative Board. The founder(s) must designate either one or three persons as directors and must also establish in the Articles of Organisation the way in which members will be substituted. If the founder designates only one director, the Board must have three people; if there are three directors, the Board must have five people. In both instances, one of the Board members will be designated by the Executive Branch and a second member by the municipality of the neighbourhood where the foundation is domiciled. Donations and assets of the foundation are intended to be used for public or charitable purposes, and in no case can they be distributed directly or indirectly to the founders or directors.

152. A foundation must render an annual report of its activities to the Comptroller General. As of 31 March 2018, there were 1 534 foundations registered with the Public Registry.

153. Law 9635 of 2018 requires all legal entities, including foundations, to register as taxpayers with the Tax Administration, even if they do not carry on profitable activity; this new requirement becomes effective 1 July 2019. Consequently, the registration process for foundations will require that general ownership information concerning the foundation be identified; the Tax Administration will also be able to further request any information deemed necessary to carry out its control functions. In addition, since a foundation is considered to be a taxpayer, it will be required to file an annual tax return (even though there may not be any taxable income). Under Law 9416, foundations will also register for purposes of the BO Registry, which includes information on the founder, directors, and beneficiaries. Similar concerns relating to the implementation of the BO Registry described in paragraph 119 apply here.

154. Costa Rica received no EOI requests concerning foundations in the current review period.

Summary

155. Costa Rica has improved its legal framework to make legal ownership information available for relevant entities and arrangements and has put in place a centralised beneficial ownership register; nevertheless, some gaps in the legal framework remain for both legal and beneficial ownership and must be addressed. Furthermore, Costa Rica continues to lack adequate supervisory practices and so should strengthen existing programmes and/or introduce new ones to ensure the availability of ownership information. This report determines that for element A.1 the legal framework is “in place, but certain aspects need improvement” and rated as Partially Compliant.

A.2. Accounting records

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

156. The 2015 Phase 2 report found that Costa Rica’s framework for the maintenance of accounting records, including underlying documentation, for a minimum period of five years was inadequate as the record-keeping requirement did not cover all relevant entities and arrangements (such as foreign trusts) for the proper period, and such requirements were not properly enforced (particularly for inactive entities). Accordingly, element A.2

was determined to be “in place, but certain aspects need improvement” and Partially Compliant.

157. Since the Phase 2 report, Costa Rica has adopted provisions in the tax code that specifically requires trustees to maintain accounting information and other records sufficient to explain all financial transactions. In addition, Costa Rica took action to remove the majority of inactive entities from its commercial registry.

158. Although Costa Rica has taken steps to improve its supervision practices, there are no supervision mechanisms in place to ensure compliance with obligations under the Commerce Code to maintain accounting records. Further, supervision by the Tax Administration is insufficient to ensure that all relevant entities and arrangements are complying with their accounting record obligations. During the period of 2015-18, the Tax Audit Unit only conducted 1 902 taxpayer audits, which included checking the accounting records of each audited taxpayer. This covers a very small portion of the taxpayers registered with the Tax Administration (for instance, in 2017, there were over 317 000 entities subject to the legal entities tax).

159. The updated table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Determination: In place		
Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified in the implementation of EOIR in practice	Costa Rica has improved its current supervision practices but they do not adequately ensure that all relevant entities and arrangements are properly maintaining accounting records and underlying documentation.	Costa Rica should monitor the implementation of the accounting record keeping obligations in respect of all relevant entities and arrangements, including for entities that are struck off the register, and should ensure that its enforcement powers are sufficiently exercised in practice.
Rating: Largely Compliant		

A.2.1. Obligations to maintain accounting records

160. As explained in paragraphs 150-151 of the 2015 report, the Commerce Code contains general accounting requirements for all “merchants” that obliges them to keep business and financial records in line with the standard but no penalties are provided for in the event of non-compliance. The Commerce Code requirements cover all relevant legal entities and arrangements except for trustees of foreign trusts.

161. Generally, Article 109 of the General Tax Code requires all taxpayers (i.e. all legal entities formed in Costa Rica as well as branches, agencies, and other permanent establishments of non-residents in Costa Rica and anyone engaged in for-profit activities in Costa Rica) to keep accounting records, including invoices and contracts, for the monitoring and determination of tax obligations. Such records must be kept for a five-year period. Failure to keep accounting records, maintain them up to date, or show them upon request can result in a penalty of one base salary⁵. Large taxpayers must have their financial statements audited and available upon request (Article 104).

162. In addition, Law 9416 amended Article 106 of the General Tax Code and entered into force on 30 December 2016 to expressly require that third parties, such as the trustees of any trust (whether domestic or foreign), provide information to the Tax Administration on all final beneficiaries and to maintain up to date accounting and financial records. Further, Law 9635 of 2018 requires all legal entities to register as taxpayers with the Tax Administration, even if they do not carry on profitable activity; this requirement becomes effective 1 July 2019. Consequently, registered taxpayers will be subject to Article 109 of the General Tax Code.

163. Concerns expressed in the 2015 report regarding availability of accounting records for inactive entities have been addressed through implementation of Laws 9024 (enacted in 2011) and 9428 (entered into force on 1 September 2017 and repeals the application of Law 9024 going forward after the effective date). Together, these laws have had a significant impact by striking off the majority of inactive entities in Costa Rica, many of which may not have maintained accounting records. Since the 2015 report, more than 264 000 entities have been definitively struck off the Public Registry. The strike-off of these inactive companies addresses the recommendation made in the Phase 2 report not so much by monitoring the risk these companies represent, but by eliminating the risk by dissolving these entities and thereby prohibiting their participation in the economic environment of any country.

5. The base salary for 2018 is CRC 431 000 or approximately USD 740.

164. The broad requirements of the Commerce Code (Articles 234, 270, 271) and General Tax Code (Article 109) thus put in place a strong legal framework for keeping accounting records by relevant legal entities and arrangements in Costa Rica. For entities that are dissolved or liquidated, the liquidator remains obligated to maintain copies of the relevant books and records for five years from the date of liquidation; companies that are struck off the National Registry must themselves subsequently maintain all documents for five years (through an administrator or owner, etc.) from the date of strike-off. In the case of a merger or take-over, the company that has taken over would have the obligations to maintain the accounting records. In practice, Costa Rica has not had issues obtaining accounting information from dissolved companies, and no peer input indicates any issues.

Supervision

165. As noted in the 2015 report, although the Commerce Code places obligations on all “merchants” to keep accounting records documenting their business and financial activities, there is no supervision mechanism in place for these obligations.

166. However, the enactment of Law 9428 now subjects all registered legal entities and arrangements to an annual tax that also brings each one under the ambit of the Tax Code. Therefore, all entities and arrangements in Costa Rica are subject to supervision by the Tax Administration.

167. Pursuant to Internal Guideline 09-2016, all taxpayers under audit have their legal books and accounting records checked by the Tax Audit Unit. Thus, compliance with the requirement to maintain accounting records is checked by the Tax Administration. However, in practice, this supervision is fairly light. As shown in the second table at paragraph 59, during the period of 2015-18, the Tax Audit Unit only conducted 1 902 taxpayer audits, which included checking the accounting records of each audited taxpayer. From this period, 72 taxpayers were found to not be in compliance with obligations to keep appropriate accounting records (3.8%), and all of the non-compliant taxpayers received sanctions.

168. The Large Taxpayers Division also implements the accounting records check requirements of Internal Guideline 09-216 into its supervision programme. As provided in paragraph 60, during the period 2015-18, the Large Taxpayers Division conducted 149 examinations (out of 464 total large taxpayers), including a check of accounting records, and found all selected taxpayers to be in compliance.

A.2.2. Underlying documentation

169. In addition to explaining all transactions, enabling the financial position of an entity to be determined, and allowing for financial statements to be prepared, accounting records should include underlying documentation and should reflect details of all sums of money received and expended, all sales, purchases and other transactions, and the entity's assets and liabilities.

170. As explained in paragraphs 158-159 of the 2015 report, the relevant laws mentioned above generally require that legal entities and arrangements maintain sufficient detail of financial transactions in line with the standard. The requirement for third parties, such as trustees of foreign trusts, to keep accounting and financial records was made explicit through amendment to Article 106.

Conclusion

171. Costa Rica received 42 requests during the review period for accounting information. It was able to provide the requested information in almost all cases. One partner noted that an isolated request for accounting information was not provided as the requested entity no longer existed (having merged with another entity). In another case, accounting information was not exchanged with a partner because it involved tax years preceding the entry into force of the applicable EOI agreement (see element B.1.5 for further discussion), which is not related to the issue of availability.

172. The 2015 report recommended that Costa Rica ensure both that all relevant entities and arrangements maintain accounting records and underlying documentation, and that adequate oversight programmes exist to ensure compliance with these obligations. Costa Rica subsequently strengthened its tax law to ensure that all trusts are required to maintain accounting records. It also took steps to remove a majority of inactive entities from its commercial registry. Costa Rica implemented internal guidelines that incorporate checks of accounting records into its audit procedures. These are important steps toward meeting the standard and the previous recommendations are satisfied, justifying their removal from this report.

173. However, while Costa Rica has not had any practical issue to date in obtaining accounting records concerning the subjects of EOI requests, the lack of strong supervision does not demonstrate that the legal obligations for all taxpayers to maintain necessary accounting records are adhered to. Costa Rica should further strengthen its oversight mechanisms to ensure that all taxpayers are following the obligations to keep accounting records.

A.3. Banking information

Banking information should be available for all account-holders.

174. The Phase 2 report did not raise any concerns with respect to the availability of bank information in Costa Rica. In the report, element A.3 was determined to be “in place” and rated Compliant.

175. Availability of banking information is confirmed in Costa Rica’s EOI practice. During the review period, Costa Rica received 25 requests for banking information and was able to provide complete responses in all but one case.

176. Following the Phase 2 report, Costa Rica identified deficiencies related to the penalty regime applicable to banks and NBFIs that failed to comply with their AML/CFT obligations. A new penalty regime was introduced in May 2017 and has not been fully tested in practice. Since the inclusion in the revised standard for banking information to identify beneficial owners, Costa Rica has several identifiable gaps in the availability of account-holder beneficial ownership information. Thus, the table of determinations and ratings is:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified in the implementation of the legal and regulatory framework	The AML customer due diligence procedure applicable to banks in Costa Rica is inadequate as it only covers instances of ownership, leaving out control over a legal entity or arrangement as applicable criteria for identifying a beneficial owner, and does not specifically require the identification of all of a trust’s beneficial owners.	Costa Rica should ensure that banking information for all legal and beneficial owners of an account-holder is available.
Determination: In Place, but certain aspects need improvement		

Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified in the implementation of EOIR in practice	Prior to 9 May 2017, the penalty regime for banks and NBFIs that failed to comply with their AML/CFT obligations was not effective. The new penalty regime recently came into force and sanctions are now being imposed. However, this regime is relatively new and not yet fully tested in practice.	Costa Rica should monitor the application of the enforcement measures of the new penalty regime to ensure the availability of banking information consistent with the standard.
Rating: Largely Compliant		

A.3.1. Availability of banking information

177. Jurisdictions should ensure that banking information, including beneficial ownership information, is available for all account holders. In Costa Rica, banks and financial institutions are regulated by the General Superintendence of Financial Entities (GSFE). At the end of 2018 there were a total of 50 banks and financial institutions in Costa Rica (as per paragraph 14).

178. Banks are also covered institutions for purposes of the AML/CFT Law (Law 7786)⁶, which sets out obligations to retain records on accounts and transactions. Accordingly, GSFE requires banks to maintain transaction records, customer records, and other relevant documents.

179. GSFE imposes extensive record-keeping requirements on licensees regarding customer identification and due diligence records. Law 7786 requires CDD to be conducted at the start of each new customer relationship or when an occasional transaction is conducted exceeding USD 10 000. The CDD information collected and verified includes identity information of the account-holder as well as beneficial ownership information for legal entities; this CDD information must be updated on a periodic basis (no later than 3 years, or sooner depending on the entity's designated risk profile or if a triggering event occurs). The GSFE Agreement 12-10 (Regulations for the

6. For purposes of previous peer review reports, the AML/CFT Law has been referred to as Law 8204, as this was at the time the last piece of legislation which significantly modified Law 7786. However, Law 7786 was further modified in 2017 by Law 9449, so it is no longer appropriate to refer to Law 8204 as the AML/CFT Law.

Compliance with Law 7786) clarifies what information banks should collect from account-holders and how are to verify the identity of beneficial owners.

180. GSFE licensees must keep completed transaction records for as long as they are relevant for the purposes for which they are made, with a minimum period in all cases of five years from the date when the transaction was completed. CDD records must be kept for at least five years following termination of the customer relationship.

181. Because the CDD procedures in place in Costa Rica only require an AML-obliged entity or service provider to collect information to the extent a natural person has more than a 10% ownership interest (Art. 9, GSFE Agreement 12-10), there is a potential gap regarding the availability of all legal owners of a customer maintained in the banking records. Although perhaps of low materiality in practice, Costa Rica should ensure that all relevant account holder information is held by the bank and available to the competent authority.

182. In addition, the definition of beneficial ownership itself is inadequate as it only covers instances of ownership, leaving out control over a legal entity or arrangement as applicable criteria for identifying a beneficial owner, and does not specifically require the identification of a legal arrangement's settlor, trustees, protectors (if any), beneficiaries, or any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership). This is not in accordance with the standard.

183. GSFE ensures compliance by all banks and NBFIs of the record-keeping and retention requirements using a risk-based system that carries out both remote and on-site inspections. Each examination results in a report describing the findings and correction plans to remedy any identified weaknesses. The GSFE and the supervised licensee must agree upon the correction plan. The entity will usually have no more than a year to implement the measures. The GSFE conducts follow-up supervision to ensure that licensees are addressing the identified deficiencies. If an entity fails to implement any corrective measure, the GSFE would commence an administrative procedure which may result in a fine.

184. Prior to 9 May 2017, the GSFE could impose a fine of either 1% or 2% of the entity's capital for financial institutions. This penalty regime was considered by the GSFE to be too rigid, unproportioned, and not dissuasive. In practice, the regime was difficult to apply. No sanctions were imposed under the old regime during the review period, in fact, only one fine has been imposed in 2009 and an appeal against this fine is still in the courts.

185. Working in co-ordination with GAFILAT, the penalty regime was amended by Law 9449, effective from 9 May 2017. The amendments included changes to the range of penalties which could be imposed by the GSFE. The

GSFE can now impose a fine between 0.5% and 2.0% of the entity's capital for financial institutions or a fine from two to one hundred base salaries for other AML-obliged persons, for failure to keep records in compliance with issued rules. The new regime is less rigid, more proportional, and easier to apply. When determining the amount of a fine to impose, the GSFE will consider the severity of the breach, the consequences of the breach, as well as the entity's previous compliance record. Other administrative sanctions may also be applied.

186. Between 2015 and 2018, the GSFE conducted 16 on-site inspections involving AML issues for banks and NBFIs. During these on-site inspections, the GSFE reviews the entity's policies and interviews employees and management to assess their awareness and compliance with the policies. In addition, a random sample of customer files are reviewed to ensure CDD documentation is available. Each inspection would generally take five to six months to complete.

187. Of the 16 licensees reviewed, none were found to be fully compliant with their AML obligations. All 16 licensees were issued correction plans, which led to the GSFE conducting 26 follow-up examinations and over 75% of corrective measures have been implemented. In addition, under the new penalty regime, one licensee was issued a fine of USD 1.965 million, and another three licensees are under investigation with potential sanctions being applied for failure to comply with AML/CFT provisions, including KYC procedures, source of funds, and client monitoring.

188. Costa Rica currently does not allow banks to rely on a third party's provision of CDD measures. The responsibility for meeting the CDD requirements always remains with the GSFE licensee, never a third party.

189. Over the three-year period under review, Costa Rica received 25 EOI requests concerning banking information. Costa Rica was able to provide complete responses of the requested banking information in all but one case, where it was not exchanged with a partner because it involved tax years preceding the entry into force of the applicable EOI agreement (see element B.1.5 for further discussion), which is not related to the issue of availability. Otherwise, no negative peer input was received.

Conclusion

190. The 2015 report found no issues with the availability of banking information in Costa Rica. However, under the 2016 Terms of Reference, there appears to be identifiable deficiencies in meeting the EOIR standard based on an inadequate definition of beneficial ownership that AML-obliged entities and service providers must follow in collecting customer information.

191. In addition, prior to 9 May 2017, the penalty regime for banks and NBFIs that failed to comply with their AML/CFT obligations was not effective. The new penalty regime recently came into force and sanctions are now being imposed. However, as the regime is relatively new, Costa Rica is recommended to monitor the application of the enforcement measures of the new regime.

192. Accordingly, element A.3 is determined to be “in place, but certain aspects need improvement” and is rated as Largely Compliant.

Part B: Access to information

193. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

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).

194. Government authorities in Costa Rica have broad powers to obtain bank, ownership, identity, and accounting information and to compel the production of such information where needed. Costa Rica's competent authority is empowered to obtain all such information from any person within its jurisdiction who is in possession of the information.

195. Costa Rica's access powers were assessed under the 2010 ToR and found to be generally adequate, although the 2015 report noted deficiencies in its ability to access bank information for civil law matters for tax periods prior to 1 October 2012. Consequently, Costa Rica was recommended to ensure that all relevant bank information can be accessed for EOI purposes. Element B.1 was determined to be "in place" and rated Largely Compliant.

196. Since the Phase 2 report, Costa Rica has implemented new legislation and rules affecting the legal framework of element B.1, particularly with regard to accessing beneficial ownership information, but these provisions are largely untested in practice. Further, in July 2018, Costa Rica published an official position addressing the issue of accessing bank information for civil tax matters prior to 1 October 2012. Costa Rica should monitor to ensure that all relevant bank information may be accessed for EOI purposes, in accordance with the terms of the applicable EOI agreements, to give full effect to all its EOI agreements.

197. The updated table of determinations and ratings is as follows:

Legal and Regulatory Framework
Determination: In Place
Practical Implementation of the standard
Rating: Compliant

198. For most of Costa Rica's EOI agreements, the Director General of Taxation is the listed Competent Authority. For the DTC with Spain and TIEA in-force with the United States, the Minister of Finance is the listed competent authority, but because of confidentiality restrictions imposed on the Minister, his role is delegated to the Director General (see paragraph 184 of the Phase 2 report).

199. Daily operations of the Competent Authority are given to the International Taxation Directorate (ITD), which is in charge of receiving, handling and processing all incoming EOI requests received by the Costa Rica Competent Authority. Three ITD staff comprise the EOI Unit. However, all requests for information from third parties or transmission of documents to treaty partners will be signed by the Competent Authority.

B.1.1. Ownership, identity and bank information

200. Competent authorities should have the power to obtain and provide information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity, including nominees and trustees, as well as information regarding the ownership of active and inactive companies, partnerships, trusts, foundations, and other relevant entities that is held in or under the control of a person in the jurisdiction.

201. For general ownership information and identity information, the Tax Administration can query its own databases to ascertain what information is directly held; where available, it should be collected and produced to the EOI Unit within 5 to 20 working days (see paragraphs 191-192 of the Phase 2 report). Ownership and identity information can also be obtained from other government agencies – such as the Civil Registry, Public Registry, and City Councils – with a request to such institutions prepared in no more than 5 working days and the corresponding agency responding within 10 working days (see paragraphs 193-194 of the Phase 2 report).

202. For beneficial ownership information, the Beneficial Ownership Register will become operational on 1 September 2019. For exchange of information purposes, the Tax Administration is granted direct access to the Register to obtain whatever information is needed regarding a registered person. For beneficial ownership information concerning the period between

January 2017 and 31 August 2019, such information is required to be held by the legal entity or arrangement itself and provided upon request. To date there is limited practical experience by the Competent Authority requesting beneficial ownership information under Law 9416 from an entity or arrangement itself or the newly created Beneficial Ownership Register. However, the Tax Administration has requested beneficial ownership information from large taxpayers under its regular audit scheme, and several peers noted that Costa Rica provided beneficial ownership information when requested to do so.

203. For banking information, the Tax Administration is empowered (pursuant to Article 106 quarter) to directly request information from any financial institution; non-compliance results in a financial sanction of 2% of the institution's gross income.

204. During the review period, Costa Rica received 23 requests for ownership information and 25 requests for banking information. The Competent Authority did not have any problems obtaining the requested ownership and banking information in these cases.

B.1.2. Accounting records

205. The General Tax Code authorises the Tax Administration to request any pertinent information from a taxpayer or third-party relevant for tax purposes, including accounting records. In practice, the Tax Administration includes a detailed review of accounting records as part of its inspection programme under Internal Guideline 09-2016.

206. Costa Rica received 42 requests for accounting information during the review period and was able to provide them in all but one case, which did not involve an issue concerning access by the competent authority (see the discussion in B.1.5 below). Peers did not indicate any other issues in this area during the review period.

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

207. Costa Rica's domestic laws provide the Tax Administration with ample powers to access relevant information for EOI purposes. Article 105 of the General Tax Code gives the Tax Administration explicit authority to obtain information from third parties that is "foreseeably relevant for tax purposes". The 2012 Transparency Law also introduced article 115 bis to the General Tax Code, which overrides other statutory restrictions concerning the Tax Administration's use of information obtained for domestic tax purposes and further extends such use for treaty purposes (paragraphs 198-200 of the Phase 2 report). In addition, the EOI Manual issued by the General Director of the Tax Administration as Guideline No. DGT-D-021-2018 (which

replaces DGT-D-011-2014) provides that the term “foreseeably relevant” included in Costa Rica’s EOI agreements and domestic law is defined in the last paragraph of Article 106 bis of the General Tax Code, which establishes “it is considered as foreseeably relevant for tax purposes, any information required to comply with an application for information, in accordance to an international agreement providing for the exchange of information in tax matters” (Chapter III.3.4).

208. Thus Costa Rica’s competent authority has unambiguous access powers to obtain and provide information in response to an EOI request without being subject to a domestic tax interest requirement. There is no indication from either Costa Rican authorities or peers of any difficulty in obtaining or providing information requested by a foreign competent authority under an EOI agreement.

B.1.4. Effective enforcement provisions to compel the production of information

209. As explained in the 2015 report (paragraphs 201-208), Costa Rica’s Tax Administration has broad powers to compel information. If a taxpayer or third person fails to respond to an information request, the Tax Administration under General Tax Code Article 112 can subpoena such person for personal appearance at a tax office to answer questions and provide documents. Further non-compliance results in imposition of sanctions (Article 83), with successive ranges of penalties applied (beginning with one base salary up to a maximum of one hundred base salaries). The Tax Administration can also inspect a taxpayer’s premises as needed (Article 113) and seize documents after issuance of a court order (Article 114).

210. Financial institutions must comply with the Tax Administration’s request to provide records when accompanied by a legal order or else face a penalty of 2% of gross income (up to a maximum of one hundred base salaries) (Articles 106 quarter and 106 ter).

211. The Public Prosecutor can bring criminal contempt proceedings against information holders that refuse or fail to provide the competent authority with requested information.

212. During the review period, the Competent Authority encountered no cases where a person required to keep information or in possession/control of the requested information challenged the obligation to furnish it or failed to provide it to the Tax Administration.

B.1.5. Secrecy provisions

(a) Bank secrecy

213. Bank secrecy exists in Costa Rica but specific provisions in the Commerce Code and the General Tax Code provide an exception for the Tax Administration to seek foreseeably relevant information for tax purposes from financial institutions (see paragraphs 210-212 of the Phase 2 report).

214. While the Tax Administration was given authority in 2012 to get bank information from financial institutions upon a court order, Law 9296 of 2015 introduced Article 106 quarter, which removed the requirement for prior court authorisation. This allows the Tax Administration to directly ask a bank for information and the bank must respond within 10 working days.

215. However, as explained in the Phase 2 report, the exceptions to obtain bank information which is foreseeably relevant for the investigation of civil matters granted to the Tax Administration only applied to tax periods after 1 October 2012, and the Tax Administration produced an official position interpreting the transparency measures as prohibiting retroactive application (see paragraphs 215-219 of the Phase 2 report). Thus there was a conceptual gap regarding the Tax Administration's access powers to bank information for civil matters prior to that period. For criminal matters, however, the Tax Administration has unrestricted access to bank information concerning taxable periods prior to 1 October 2012, as long as the applicable EOI agreement is in force. The Phase 2 report made a recommendation that Costa Rica ensure that all relevant bank information in connection with civil tax matters is accessible for EOI purposes. In July 2018, the Tax Administration issued a new Official Position No. DGT-CI-04-2018 replacing Official Position No. DGT-CI-002-15. This document has changed the position with regards to the Tax Administration's access powers to bank information for civil matters. According to the new position the Tax Administration has unrestricted access to bank information for civil and criminal matters concerning taxable periods prior to 1 October 2012, as long as the applicable EOI agreement is in force.

216. During the on-site visit, representatives of the banking sector confirmed that financial institutions are well aware of the exception to banking secrecy for EOI requests and have a positive working relationship with the Tax Administration.

(b) Professional privilege

217. The 2016 ToR protects communications which are “produced for the purposes of seeking or providing legal advice”. As mentioned in the 2015 report (paragraphs 233-238), the definition of the attorney-client privilege in Costa Rica might be construed broader in practice than what the ToR

allows as it could cover activity beyond the attorney acting in a role as a legal adviser.

218. The Costa Rican authorities believe that judicial decisions regarding professional secrecy in non-tax cases demonstrate that in fact the privilege is limited in scope to information that professionals obtain through exercise of their professional role that if disclosed would violate fundamental privacy rights under the Constitution. The Tax Administration's Official Position No. DGT-CI-007-2015 confirms that professional secrecy provisions in relation to legal professionals are interpreted and applied in a restrictive manner which would not prevent the tax authorities from accessing financial, economic and property data. It was therefore concluded (at paragraph 238) that the scope of attorney-client privilege provisions was likely to be narrowly interpreted by Costa Rican courts with regard to tax cases and should not affect the effective exchange of information in practice.

219. There have been no issues in practice regarding a claim of privilege to avoid responding to an EOI request during the current review period. There have been no cases in which an EOI request has been denied or in which, as a result of the information provided, an entity or individual has raised an objection founded on professional secrecy. There is therefore no reason to change the conclusion reached in 2015.

Conclusion

220. Costa Rica has adequate powers for the competent authority to obtain necessary records and information subject of EOI requests, and has the enforcement powers to compel such information as needed. The legacy issue of accessing bank information for civil tax matters prior to 1 October 2012 has now been addressed by Costa Rica pursuant to Official Position No. DGT-CI-04-2018 following the Phase 2 report recommendation. Nevertheless, Costa Rica should monitor that this new position is fully implemented in practice and that all relevant bank information may be accessed for EOI purposes, in accordance with the terms of the applicable EOI agreements. Also, access to the Beneficial Ownership Register has not been tested in practice given its recent organisation, so Costa Rica should monitor that it can be accessed in line with the standard. This report determines that the legal framework for this element is "in place" and rated as Compliant.

B.2. Notification requirements, 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.

221. Application of rights and safeguards in Costa Rica does not restrict the scope of information that the tax authorities can obtain. The 2015 Phase 2 report found the notification rules and safeguards in Costa Rica to be in line with the standard. No material changes to the applicable legal framework have occurred over the review period.

222. The updated table of determinations and ratings remains as:

Legal and Regulatory Framework
Determination: In Place
Practical Implementation of the standard
Rating: Compliant

B.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information

223. Rights and safeguards should not unduly prevent or delay effective exchange of information. For instance, notification rules should permit exceptions from prior notification (e.g. in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction) and time specific post exchange notification.

224. As noted in the 2015 report (paragraph 240), there are no notification requirements in Costa Rica which would impede effective EOI. Discussions with the Costa Rican authorities and feedback from peers indicate that applicable rights and safeguards have never caused practical difficulties or undue delay to effective exchange of information.

225. When an EOI request requires obtaining information from a third-party record holder, Costa Rica only provides the minimum information necessary to allow the information holder to provide the required information. No specific template is followed in making an information request as each request is determined based on the particular facts of each case. Information holders do not have the right to appeal an EOI request.

226. Costa Rica reports that the taxpayers who are the subject of the information requests do not have any rights to notice by the third-party record holders that their information is being requested by authorities, although

there is no prohibition either regarding such actions. Also, taxpayers are unable to inspect their files. The 2016 ToR added to the standard an exception from time-specific, post-exchange notification requirement that would allow a requested jurisdiction to not notify the account-holder in cases where notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction. Because Costa Rica does not allow for any notification rights, this part of the standard is not an issue.

227. The report determines that this element's legal framework is "in place" and rated Compliant.

Part C: Exchanging information

228. Sections C.1 to C.5 evaluate the effectiveness of Costa Rica’s EOI in practice by reviewing its network of EOI mechanisms – whether these EOI mechanisms cover all its relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether they respect the rights and safeguards of taxpayers and third parties, and whether Costa Rica could provide the information requested in an effective manner.

C.1. Exchange of information mechanisms

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

229. The 2015 report found that Costa Rica’s exchange of information mechanisms were largely in line with the standard, resulting in a determination of the legal framework as “in place” and a rating for element C.1 as Largely Compliant.

230. Costa Rica’s EOI network now covers 130 jurisdictions, through 24 bilateral agreements (of which 19 are in force) and two multilateral agreements permitting exchange of tax information.

231. Since 2015, Costa Rica signed 4 new bilateral EOI agreements of which one has entered into force; all such new agreements appear in line with the standard. In addition, Costa Rica ratified the multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended, which entered into force on 1 August 2013. Costa Rica is also party to the Central American Integration System’s (SICA) Convention for Mutual Assistance and Technical Co-operation (hereinafter the “Central American Mutual Assistance Convention”), whose other members are Belize, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and the Dominican Republic.

232. Costa Rica began sending financial account information automatically under the Common Reporting Standard in September 2018, and also intends to make automatic exchange with the U.S. of reportable accounts under a FATCA Intergovernmental Agreement.

233. The updated table of determinations and ratings is:

Legal and Regulatory Framework
Determination: In Place
Practical Implementation of the standard
Rating: Compliant

C.1.1. Foreseeably relevant standard

234. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. This concept, as articulated in Article 26 of the OECD Model Tax Convention, is to be interpreted broadly, but does not extend so far as to allow for “fishing expeditions”. The Article 26 commentary recognises that the standard of “foreseeable relevance” can be met when alternative terms are used in an agreement, such as “necessary” or “relevant”. Costa Rica confirmed that it would interpret these terms according to the standard of foreseeable relevance that is consistent with the scope of Article 26(1) of the OECD Model Tax Convention.

235. In the 2015 report, all of Costa Rica’s then-existing EOI agreements were determined to meet the “foreseeably relevant” standard based on the linguistic formulations used or interpretation method employed (see paragraphs 255-261).

236. Since the Phase 2 report, Costa Rica has signed (but not yet ratified) a new DTC with the United Arab Emirates, as well as signed new TIEAs with Italy (not yet in force), Korea (in force), and the United States (not yet in force). Each of these new agreements provide for the exchange of information that is “foreseeably relevant”.

237. During the peer review period, Costa Rica did not refuse to answer any EOI requests on the basis of lack of foreseeable relevance and there were no cases where it requested clarification on belief that the request was overly broad or vague.

238. There is no indication that any of Costa Rica’s EOI agreements contains language prohibiting group requests, and the process for responding to group requests is the same as for any other request for information. Costa Rica does not require any specific information to be provided by the requesting jurisdiction in the case of a group request beyond what is in the model, and would interpret foreseeable relevance in line with the standard with such requests. The competent authority interprets foreseeable relevance with respect to group requests in a similar manner as with regular requests. Over the review period, Costa Rica received three group requests and had no trouble answering them.

C.1.2. Provide for exchange of information in respect of all persons

239. Costa Rica law contains no restrictions on persons in respect of whom information may be exchanged. The 2015 report found that all of Costa Rica's then-existing EOI agreements were consistent with the standard. The new DTC and TIEAs signed by Costa Rica since then contain appropriate provisions allowing for exchange in respect of all persons. No issues regarding jurisdictional scope have been raised by peers in the current review period.

C.1.3. Obligation to exchange all types of information

240. Article 26 of the OECD Model Tax Convention and the OECD Model TIEA both require the exchange of all types of information, including bank information, information held by a fiduciary or nominee, or information concerning ownership interests. As noted in the 2015 report, Costa Rica made amendments to its domestic laws to allow for access to bank information, but interprets these provisions in a manner that limits retrospectivity for taxable periods prior to 1 October 2012 in civil law cases (see paragraphs 210-232, 268).

241. The 2015 report concluded that Costa Rica's legal interpretation regarding access to banking information for periods prior to 1 October 2012 could be problematic with respect to three EOI partners: Spain, Australia, and the United States. It was recommended that Costa Rica ensure that all relevant bank information be accessible for EOI purposes as permitted under its EOI agreements. The Tax Administration issued DGT-CI-04-2018 in July 2018, a new official position replacing DGT-CI-002-15, which has addressed this recommendation. Accordingly, the Tax Administration has unrestricted access to bank information for civil and criminal matters concerning taxable periods prior to 1 October 2012, as long as the applicable EOI agreement is in force. This addresses the issue identified in 2015 with respect to the TIEAs with Spain and Australia. The TIEA with the United States is still not to the standard in this respect because of the requirement to establish tax fraud in order to exchange bank information; but this gap should be resolved by either the United States bringing the multilateral Convention into force on its end or the new TIEA between the parties coming into force.

242. One peer provided input that during the review period Costa Rica did not provide information related to a criminal investigation for a period that preceded the entry into force of the applicable TIEA. The peer did not make a new request under the multilateral Convention or under the applicable TIEA after July 2018 when the new official policy (DGT-CI-04-2018) was published. Costa Rica acknowledges that it has a clear obligation under the multilateral Convention to obtain requested information regarding criminal matters for the three-year period preceding the in force date of the multilateral Convention. Costa Rica deposited its instruments of ratification for the

multilateral Convention in April 2013 and the multilateral Convention came into force for Costa Rica in August 2013; thus, Costa Rica has an obligation to obtain information under the multilateral Convention for taxable years from 2010 forward. Further, following the publication of the new official policy, the Tax Administration has unrestricted access to bank information for criminal matters concerning taxable periods prior to 1 October 2012, as long as the applicable EOI agreement was in force. Costa Rica should communicate with its EOI partners to ensure that partners are aware of the full possibilities of EOI under the various applicable EOI agreements.

C.1.4. Absence of domestic tax interest

243. EOI partners must be able to use their information gathering measures even though invoked solely to obtain and provide information to the requesting jurisdiction. The 2015 report noted that all of the then-existing EOI agreements Costa Rica had with partners either explicitly included language requiring information-gathering measures without regard to a domestic tax interest, or if silent were construed in a manner consistent with the standard (see paragraphs 274-279). The EOI agreements Costa Rica has signed since then likewise all allow for information exchange in the absence of a domestic tax interest. No issues were raised in peer input.

C.1.5. Absence of dual criminality principles

244. All of Costa Rica's EOI agreements require the exchange of information regardless of whether the conduct under investigation, if committed in Costa Rica, would constitute a crime, except for the TIEA with the United States (which limits exchange of bank information to cases involving tax fraud). This one gap should be closed once the multilateral Convention enters into force between them or the newly signed TIEA comes into force. No issues were raised in peer input.

C.1.6. Exchange information relating to both civil and criminal tax matters

245. Most of Costa Rica's EOI agreements provide for exchange of information in both civil and criminal matters. The Central American Mutual Assistance Convention limits exchange of bank information to cases where there is proof of an unlawful act.

246. In practice, during the review period Costa Rica answered all requests except with respect to one peer (see paragraph 242 above), whether they related to civil or criminal tax matters.

C.1.7. Provide information in specific form requested

247. As noted in the 2015 report (paragraphs 290-292), there are no restrictions in Costa Rica's EOI agreements or laws that would prevent it from providing information in a specific form. During the review period, Costa Rica reports that it provides information in the specific form requested by a partner, if so indicated.

C.1.8. Signed agreements should be in force

248. Exchange of information cannot take place unless a jurisdiction has exchange of information arrangements in force. The international standard requires that jurisdictions take all steps necessary to bring exchange of information arrangements that have been signed into force expeditiously.

249. Costa Rica's EOI network currently consists of 24 bilateral agreements, of which 19 are in force. Costa Rica has also ratified the multilateral Convention in April 2013, which entered into force on 1 August 2013. The table below summarises outcomes of the analysis under element C.1 in respect of Costa Rica's bilateral EOI mechanisms.

EOI bilateral mechanisms

			Total bilateral instruments not complemented by the Multilateral Convention ^a
		Total	
A	Total number of DTCs/TIEAS (A=B+C)	24 ^b	
B	Number of DTCs/TIEAs signed (but pending ratification), i.e. not in force (B=D+E)	6	
C	Number of DTCs/TIEAs signed and in force (C=F+G)	19	
D	Number of DTCs/TIEAs signed (but pending ratification) and to the Standard	6 (Faroe Islands, Iceland, Italy, Sint Maarten, United Arab Emirates, United States)	
E	Number of DTCs/TIEAs signed (but pending ratification) and not to the Standard	0	
F	Number of DTCs/TIEAs in force and to the Standard	18	
G	Number of DTCs/TIEAs in force and not to the Standard	1 (United States)	

Notes: a. The Multilateral Convention was signed by Costa Rica in 2012, ratified in 2013; it entered into force in Costa Rica on 1 August 2013.

b. This chart double counts the bilateral relationship Costa Rica has with the United States as one TIEA in-force is not to the standard (reflected in row G) and a recently signed TIEA is not yet in force but is in line with the standard (reflected in row D). The chart also double counts the bilateral relationship Costa Rica has with Mexico as one TIEA and one DTC are to the standard and in force (reflected in row F).

250. Following signature of an EOI agreement between Costa Rica and another party, the agreement is submitted to the Legislative Assembly for ratification. This lengthy process requires: publication of the agreement in the Official Gazette, drafting of a bill for technical opinion by a legislative commission, reporting to lawmakers with two plenary discussions, review by the Constitutional Court, final approval by the Assembly, signature by the President, and final publication in the Official Gazette. During the review period, the average time between the signature of a new EOI instrument and its ratification was over two years in many situations. Several TIEAs signed back in 2011 are still awaiting ratification by Costa Rica, although the partners to these TIEAs are covered by the multilateral Convention and so there is a basis for exchange of information for tax purposes by and with Costa Rica. Costa Rica should ensure communication with partners on the status of actions taken to bring agreements into force.

251. Costa Rica currently has several signed EOI instruments with partners that are not yet in force: TIEAs with Faroe Islands, Iceland, Italy, and Sint Maarten, and a DTC with the United Arab Emirates. An updated TIEA with the United States has also been signed but is not yet in force. Costa Rica should ensure that signed agreements are brought into force expeditiously.

C.1.9. Be given effect through domestic law

252. For information exchange to be effective, the parties to an EOI arrangement must enact any legislation necessary to comply with the terms of the arrangement. As explained in the 2015 report (paragraph 298), Costa Rica has in place the legal and regulatory framework to give effect to its EOI mechanisms.

Conclusion

253. Overall, Costa Rica's information exchange mechanisms are adequate. Costa Rica should continue to ensure that all relevant bank information is exchanged in accordance with the terms of applicable EOI agreements. The report determines that the legal framework for element C.1 is "in place" and rated Compliant.

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

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

254. Costa Rica has continued to expand its network of EOI agreements in place since the 2015 report. Overall, Costa Rica has a network of 24 signed bilateral EOI agreements – with 19 of those agreements in force.

255. Importantly, Costa Rica ratified the multilateral Convention for Mutual Administrative Assistance in Tax Matters on 5 April 2013, which entered into force on 1 August 2013.

256. The 2015 report included a recommendation that Costa Rica continue to develop its EOI network. Since that report, Costa Rica has had discussions with a number of current treaty partners about either updating DTCs (or adopting a protocol) and continued to pursue negotiations with other potential partners not covered by the multilateral Convention.

257. Costa Rica has never refused to enter into an agreement for exchange of information with any potential partner and continues to actively engage in negotiations with prospective treaty partners. Costa Rica is recommended to continue efforts developing its exchange of information network with all relevant partners.

258. The updated table of determinations and ratings is as follows:

Legal and Regulatory Framework
Determination: In place
Practical Implementation of the standard
Rating: Compliant

C.3. Confidentiality

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

259. The 2015 Phase 2 report concluded that the applicable treaty provisions and statutory rules that apply to officials with access to treaty information and the practice in Costa Rica regarding confidentiality were in accordance with the standard.

260. Since the 2015 report, Costa Rica has continued to ensure that its EOI confidentiality practices meet the high requirements of the standard.

261. The updated table of determinations and ratings remains as follows:

Legal and Regulatory Framework
Determination: In Place
Practical Implementation of the standard
Rating: Compliant

C.3.1. Information received: disclosure, use and safeguards

262. The 2015 report stated that all of Costa Rica’s exchange agreements then in effect had confidentiality provisions based on some version of an OECD model tax convention or equivalent (see paragraphs 304-306 of the Phase 2 report). The 8 EOI agreements that have come into force since then with Costa Rica all contain confidentiality provisions consistent with the standard. Pursuant to the confidentiality provisions contained in Costa Rica’s EOI agreements, Costa Rica may disclose EOI information for non-tax purposes only with the express written consent of the other jurisdiction.

263. As explained in the 2015 report (paragraphs 307-319), Costa Rica considers treaty provisions as superseding domestic law and has issued an updated internal guideline explaining the confidentiality and use of information obtained through the EOI process (Official Position No. DGT-CI-03-2018). Moreover, it has strict confidentiality provisions in its domestic legislation that impose strong sanctions on any public official that discloses confidential information, including information arising from or pursuant to an EOI request.

264. All Ministry of Finance personnel undergo training that includes information on applicable confidentiality policies. The Tax Administration also employs a “clean screen and desktop” policy and has extensive security policies for keeping tax information confidential (DGT-D-001-2016).

265. Disclosure of EOI information outside of the ITD, whether to another government agency or to a private third-party, contains a confidentiality notice and is limited to the minimum information necessary to provide a stakeholder with the ability to act on a request. No specific justification is necessary in order to obtain information from the Beneficial Owner Register; the Tax Administration simply certifies to the Central Bank that the request is pursuant to an international information exchange agreement.

266. Access to data received from partners through EOI is limited only to ITD officers. All hard copy information received concerning an EOI request is stamped confidential and kept in folders that are locked in a secure storage room in the ITD offices. The ITD has its own computer equipment on which any electronic EOI requests and related documents are kept. Access

to the network is password protected and each ITD officer has his/her own password protected computer. A high quality copier/scanner/printer is available in the ITD offices, which is also password protected. Documents are disposed of securely in accordance with statutory requirements. ITD officials have received specific training on handling EOI matters; additionally, the Tax Administration has adopted internal manuals on procedures and obligations related to confidentiality (including the Global Forum’s EOI Working Manual and the OECD “Keeping It Safe” Guide). Newly issued Circular 001-2018 ATJSO-GER further emphasises the proper handling of EOI information received from partners.

267. The regional Tax Administration building where ITD is located has restricted vehicular access for authorised users and the public has access only during prescribed hours. The Tax Administration building is guarded by security personnel. All persons entering the building must either show a government badge or a valid I.D. for non-government visitors, and all bags are subject to inspection upon entering and exiting, including a log of electronic equipment.

268. There have been no instances in Costa Rica where information received by the competent authority from an EOI partner has been improperly disclosed.

C.3.2. Confidentiality of other information

269. Confidentiality rules should apply to all types of information exchanged, including information provided by a requesting jurisdiction in a request, information transmitted in response to a request and any background documents to such request. Costa Rica authorities confirm that in practice they consider all types of information relating to an EOI request confidential (including communications between Costa Rica and the requesting jurisdiction).

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

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

270. The international standard allows requested parties to not supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege.

271. The 2015 Phase 2 report concluded that Costa Rica’s legal framework and practices concerning the rights and safeguards of taxpayers and third parties was in line with the standard and element C.4 was determined to be “in place” and Compliant, with no recommendations made. No relevant changes have occurred since the Phase 2 report.

272. The updated table of determinations and ratings remains as follows:

Legal and Regulatory Framework
Determination: In Place
Practical Implementation of the standard
Rating: Compliant

C.4.1. Exceptions to requirement to provide information

273. All of Costa Rica’s EOI mechanisms either contain a provision which ensures that the contracting jurisdictions are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret, trade process or information the disclosure of which would be contrary to public policy, or if silent regarding attorney-client privilege would be interpreted in a manner consistent with the EOIR Standard (see paragraphs 322-323 of the Phase 2 Report for further background).

274. As noted in the Phase 2 Report, the Tax Administration’s Official Position No. DGT-CI-007-2015 clarifies that the professional secrecy provisions regarding legal professionals (contained in Regulation 47 of the Costa Rica Bar Association) are interpreted and applied in a restrictive manner that does not prevent tax authorities from accessing financial, economic and property data of taxpayers. There have been no judicial cases in Costa Rica that would imply any limit on the competent authority to obtain foreseeably relevant information for purposes of information exchange. There were no claims of professional privilege during the review period.

275. Discussions with the Costa Rican authorities and feedback from peers do not indicate any rights or safeguards that have caused practical difficulties or undue delay to effective exchange of information.

C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner.

276. In order for exchange of information to be effective, jurisdictions should request and provide information under its network of EOI mechanisms in an effective manner. In particular:

- *Responding to requests*: Jurisdictions should be able to respond to requests within 90 days of receipt by providing the information requested or provide an update on the status of the request.
- *Organisational processes and resources*: Jurisdictions should have appropriate organisational processes and resources in place to ensure quality of requests and quality and timeliness of responses.
- *Restrictive conditions*: EOI assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions.

277. The 2015 Phase 2 report concluded that Costa Rica had adequate resources and organisational processes in place to handle incoming EOI requests, and in practice handled EOI requests in a timely manner.

278. Costa Rica received 52 requests from treaty partners during the current review period. It provided full responses to partners within 180 days of receipt in only approximately 37% of cases, but gave status updates in most cases. The overall time taken to respond to partners' requests for information has increased substantially from the Phase 2 report. Costa Rica pointed to increasing complexity of requests and the departure of some staff as the reasons why a majority of the requests it received required more than 180 days for a response to the appropriate partner or why status updates were not always provided. During part of the review period, there was only one official processing EOI requests which may have led to the delays. Two peers noted that the length of time it took to receive answers resulted in negative consequences in certain cases.

279. The updated table of determinations and ratings is as follows:

Legal and Regulatory Framework
This element involves issues of practice. Accordingly, no determination has been made.

Practical Implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	Underlying Factor	Recommendations
	Over the review period, Costa Rica was able to fully answer EOI requests in less than 90 days in 12% of all cases, 37% within 180 days, and in 56% of all cases it took almost one year to provide the requested information.	Costa Rica should ensure that its authorities establish appropriate internal procedures to be able to respond to EOI requests in a timely manner.
	During the review period, organisational and resource constraints contributed to timeliness issues.	Costa Rica should monitor that the resources allocated to its competent authority are sufficient to deal with all incoming EOI requests.
Rating: Largely Compliant		

C.5.1. Timeliness of responses to requests for information

280. Over the period under review (1 April 2015 to 31 March 2018), Costa Rica received a total of 52 requests for information. The following table relates to the requests received during the period under review and gives an overview of response times needed by Costa Rica to provide a final response to these requests, together with a summary of other relevant factors impacting the effectiveness of Costa Rica's exchange of information practice during the reviewed period:

		1 April 2015- 31 March 2016		1 April 2016- 31 March 2017		1 April 2017- 31 March 2018		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	25	48	13	25	14	27	52	100
Full response: ≤ 90 days		1	4	4	31	1	7	6	12
≤ 180 days (cumulative)		7	28	8	62	4	29	19	37
≤ 1 year (cumulative)	[A]	25	100	11	85	12	86	48	92
> 1 year	[B]	0	0	1	8	0	0	1	2
Declined for valid reasons		0	0	0	0	0	0	0	0
Outstanding cases after 90 days		24	96	9	69	13	93	46	88
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		24	100	7	78	11	85	42	91
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	[D]	0	0	1	8	2	14	3	6
Requests still pending at date of review	[E]	0	0	0	0	0	0	0	0

- Notes:* a. Costa Rica counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Costa Rica counts that as 1 request. If Costa Rica received a further request for information that relates to a previous request, with the original request still active, Costa Rica will consider it a new request and count it separately.
- b. The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

281. The Phase 2 report had no specific recommendations regarding Costa Rica's timely handling of requests as almost all cases were fully responded to within 180 days at that time and status updates were systematically provided.

282. The EOI procedures adopted by the Tax Administration (and reflected in the EOI Manual) specifically instructs its EOI officers to provide a status update if a complete response to a request cannot be given in 90 days. In practice, status updates were provided in 91% of the cases where the time needed to obtain the requested information exceeded 90 days. Costa Rica pointed to increasing complexity of requests and the departure of some staff as the reasons why status updates were not always provided. As Costa Rica's volume of incoming EOI requests is anticipated to grow in the future, it should continue to ensure in practice that status updates are provided in accordance with the standard.

283. The overall time taken to respond to partners' requests for information has increased substantially from the Phase 2 report, with almost 60% of requests in the current review period taking between 180 days and a year to be provided a response. Two peers noted that the length of time it took to receive answers resulted in negative consequences in certain cases. Costa Rica is not able to point to any systemic reasons for why a majority of the requests it receives require more than 180 days for a response to the appropriate partner.

C.5.2. Organisational processes and resources

(a) Identification of competent authority

284. The competent authority of Costa Rica (delegated to the Director General of the Tax Administration) is clearly identified to partners on the MOF website and in the Global Forum's secure competent authorities database.

(b) Resources and training

285. The Costa Rica competent authority currently comprises five staff that handle all incoming requests. During the review period, some staff left the EOI Unit which left one official handled all EOIR requests, while another official was redirected to AEOI matters (i.e. CRS, FATCA, and CbC). This led to the delays in responding to partners. Notwithstanding these obstacles, Costa Rica still managed to respond to 92% of requests within a year. Three new officials just recently joined the unit to assist in the work and the expectation is that the response time will now improve. All of the staff have attended either multiple Global Forum training events regarding exchange of information and the EOIR Terms of Reference or seminars conducted by partner tax agencies.

286. Funding for handling EOI matters by the International Tax Directorate is provided within the larger budget for the General Directorate of Taxation, which has been sufficient to allow staff to attend EOI seminars and trainings, as well as provide for technology needs (such as IT security, physical safeguards, and computer equipment).

287. The Tax Administration has an EOI Work Manual and an Internal Procedure for the EOI Unit, both based on the Global Forum's model manual. The manual is an invaluable tool to the EOI Unit, setting out the proper procedures for handling requests, providing template forms for requesting information to fulfil a partner's request, and information on confidentiality. Costa Rica should, where appropriate, update the manual, including information on group requests.

(c) Incoming requests

288. All incoming mail from a foreign address addressed to the competent authority is sent to the International Tax Directorate and opened by an official in the EOI Unit. Upon opening, a request is stamped by the EOI Unit with a confidentiality stamp and is kept in a separate folder archived in the locked ITD storage room. EOIR officials use password-protected software to log each EOI request, which receives a unique reference number.

289. The EOI Unit checks the authenticity of the request against its internal database (as well as the Global Forum competent authorities' database), and then examines whether the request complies with the in-force EOI agreement mechanism and meets the EOIR standard. The EOI Unit acknowledges receipt of an EOI request within 7 days and will request any clarifications at that time. During the review period, Costa Rica did not send any requests for clarification.

290. The EOI official handling a request must review internal systems within 3 days of receipt in order to determine what information is already available or whether a further request must be made to other government agencies or third parties. Requested information held by the Tax Administration must be collected within 10 days of receipt of a request (or 20 days if held by a regional tax office). Information held by another government agency or third party will be requested by letter from the Director General with a turnaround time of 10 days permitted. Information received from an outside source is checked by the EOI official to determine its relevance to the request.

291. Each EOIR official reviews the EOIR tracking spreadsheet on a daily basis to assess the progress of the case. The official also prepares for the Director General a monthly working report of all processing actions executed for each outstanding request. Once all of the requested information has been received by the EOI Unit, the official prepares a response letter to the requesting jurisdiction, which is reviewed and signed by the Director General. In most cases, the responses are transmitted by certified mail to the partner competent authority; recently, Costa Rica has been piloting secure electronic transmission of responses with several jurisdictions.

(d) Outgoing requests

292. The 2016 ToR also addresses the quality of requests made by the assessed jurisdiction. Jurisdictions should have in place organisational processes and resources to ensure the quality of outgoing EOI requests.

293. Costa Rica made nine outgoing requests during the review period. Outgoing requests are sent by either certified postal mail or by electronic transmission with agreed partners. Requests are first drafted by auditors but reviewed by the EOI Unit for consistency with the EOIR Standard before being sent to the Director General for signature and transmission. The International Tax Directorate has several official documents that provide guidance on the procedures and process for creating and sending EOI requests to exchange partners.

294. Four out of the nine outgoing EOI requests were the subject of clarification requests by partners. The requests for clarification did not relate to any particular issues or the lack of foreseeable relevance. Costa Rica is recommended to continue ensuring that its outgoing EOI requests are thoroughly prepared.

C.5.3. Unreasonable, disproportionate or unduly restrictive conditions for EOI

295. Exchange of information should not be subject to unreasonable, disproportionate or unduly restrictive conditions. There are no factors or issues identified in Costa Rica's laws that could unreasonably, disproportionately or unduly restrict effective EOI.

Conclusion

296. During the current review period, Costa Rica has displayed difficulty in responding to EOI requests in a timely manner, which has been verified by peer input. Although Costa Rica has put in place EOI organisational processes and recently added staff to the EOI Unit, in practice the lack of timeliness was an issue during the review period. Nevertheless, Costa Rica still managed to respond to 92% of requests within a year. Based on a holistic horizontal analysis of Costa Rica's EOI practices, this element is rated as Largely Compliant.

Annex 1: List of in-text recommendations

Issues may have arisen that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, there may be a concern that the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, such recommendations should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be mentioned in the text of the report. However, in order to ensure that the Global Forum does not lose sight of these “in text” recommendations, they should be listed in an annex to the EOIR report for ease of reference.

- **Element A.3:** Because the CDD procedures in place in Costa Rica only require an AML-obliged entity or service provider to collect information to the extent a natural person has more than a 10% ownership interest, there is a potential gap regarding the availability of all legal owners of a customer maintained in the banking records. Although perhaps of low materiality in practice, Costa Rica should ensure that all relevant account holder information is held by the bank and available to the competent authority.
- **Element B.1:** Costa Rica should monitor implementation of the new provisions to ensure the competent authority’s access to beneficial ownership information held by the Register.
- **Element B.1:** Costa Rica should monitor that this new position is fully implemented in practice and that all relevant bank information may be accessed for EOI purposes, in accordance with the terms of the applicable EOI agreements.
- **Element C.1:** Costa Rica should communicate with its EOI partners to ensure that partners are aware of the full possibilities of EOI under the various applicable EOI agreements.
- **Element C.1:** Costa Rica should ensure communication with partners on the status of actions taken to bring agreements into force.

- **Element C.1:** Costa Rica should ensure that signed agreements are brought into force expeditiously.
- **Element C.2:** Costa Rica is recommended to continue efforts developing its exchange of information network with all relevant partners.
- **Element C.5:** As Costa Rica's volume of incoming EOI requests is anticipated to grow in the future, it should continue to ensure in practice that status updates are provided in accordance with the standard.
- **Element C.5:** Costa Rica should, where appropriate, update the manual, including information on group requests.
- **Element C.5:** Costa Rica is recommended to continue ensuring that its outgoing EOI requests are thoroughly prepared.

Annex 2: List of Costa Rica's EOI mechanisms

1. Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Argentina	TIEA	23-Nov-2009	12-July-2012
2	Australia	TIEA	1-July-2011	4-Feb-2013
3	Canada	TIEA	1-Aug-2011	14-Aug-2012
4	Denmark	TIEA	29-Jun-2011	5-Mar-2014
5	Ecuador	TIEA	4-Jun-2013	17-Sep-2016
6	Faroe Islands	TIEA	29-Jun-2011	Not in force
7	Finland	TIEA	29-Jun-2011	1-Jan-2015
8	France	TIEA	16-Dec-2010	14-Dec-2011
9	Germany	DTC	13-Feb-2014	1-Jan-2017
10	Greenland	TIEA	29-Jun-2011	15-Mar-2015
11	Guernsey	TIEA	5-Mar-2014	15-Dec-2018
12	Iceland	TIEA	29-Jun-2011	Not in force
13	Italy	TIEA	12-Oct-2016	Not in force
14	Korea	TIEA	27-May-2016	13-Nov-2018
15	Mexico	TIEA DTC	25-Apr-2011 4-Dec-2014	26-Jun-2012 21-Apr-2019
16	Netherlands	TIEA	29-Mar-2011	1-July-2012
17	Norway	TIEA	29-Jun-2011	13-Apr-2014
18	Sint Maarten	TIEA	27-Oct-2012	Not in force
19	South Africa	TIEA	27-Oct-2012	8-Feb-2017
20	Spain	DTC	4-Mar-2004	1-Jan-2011
21	Sweden	TIEA	29-Jun-2011	8-July-2015
22	United Arab Emirates	DTC	10-Mar-2017	Not in force
23	United States	TIEA TIEA	15-Mar-1989 17-Apr-2018	12-Feb-1991 Not in force

2. Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).⁷ The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

Costa Rica signed the amended Convention on 1 March 2012 and ratified it on 5 April 2013; it entered into force on 1 August 2013.

As of 30 April 2019, the Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus⁸, Czech Republic,

7. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.
8. Note 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 the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European 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.

Denmark, El Salvador, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay, and Vanuatu.

In addition, the Multilateral Convention was signed by, or its territorial application extended to, the following jurisdictions, where it is not yet in force⁹: Armenia, Brunei Darussalam (enters into force on 1 July 2019), Burkina Faso, Dominica (enters into force on 1 August 2019), Dominican Republic, Ecuador, Gabon, Kenya, Liberia, Mauritania, Morocco (enters into force on 1 September 2019), North Macedonia, Paraguay, Philippines, and the United States (the original 1988 Convention in force on 1 April 1995, the amending Protocol signed on 27 April 2010).

9. Note: While the last date on which the changes to the legal and regulatory framework can be considered was 26 April 2019, changes to the treaty network that occur after that date are reflected in this Annex.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference, conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and the 2016-21 Schedule of Reviews.

This evaluation is based on the 2016 ToR, and has been prepared using the 2016 Methodology. The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 30 April 2019, Costa Rica's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2015 to 31 March 2018, Costa Rica's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Costa Rica's authorities during the on-site visit that took place from 13-15 November 2018 in San Jose, Costa Rica.

List of laws, regulations and other materials received

Commercial laws

Regulatory and anti-money laundering/anti-terrorist financing laws

Tax laws

Authorities interviewed during on-site visit

Attorney General's Office

Financial Intelligence Unit

Tax Administration

- Tax Collections Unit
- Tax Control Unit
- Tax Audit Unit
- Large Taxpayers Division
- International Tax Unit

Central Bank of Costa Rica
 General Superintendence of Financial Entities
 General Superintendence of Securities

Current and previous reviews

This report is the fifth review of Costa Rica conducted by the Global Forum. Costa Rica previously underwent reviews of its legal and regulatory framework (Phase 1 in 2012 and Phase 1 Supplementary in 2013) and the implementation of that framework in practice (Phase 2) in 2015. The 2015 Report containing the conclusions of the first review was first published in October 2015 (reflecting the legal and regulatory framework in place as of July 2015). Costa Rica underwent additional review under the Fast-Track Procedure in 2017.

The Phase 1, Phase 1 Supplementary, and Phase 2 reviews were conducted according to the terms of reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews. The Fast-Track review was conducted according to 2010 TOR and the Methodology set out in CTPA/GFTEI(2016)49.

Summary of reviews

Review	Assessment team	Period under review	Legal Framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Mr Wayne Brown of Bermuda; Mr Fabio Seragusa of Italy; and Ms Amy O'Donnell, Ms Renata Fontana and Mr Bhaskar Goswami of the Global Forum Secretariat.	n.a.	January 2012	March 2012
Round 1 Phase 1 Supplementary	Mr Wayne Brown of Bermuda; Mr Fabio Seragusa of Italy; and Ms Amy O'Donnell, Ms Renata Fontana and Mr Bhaskar Goswami of the Global Forum Secretariat.	n.a.	January 2013	March 2013
Round 1 Phase 2	Mr Wayne Brown of Bermuda; Mr Stefano Gesuelli of Italy; and Ms Renata Fontana of the Global Forum Secretariat.	1 July 2011 to 30 June 2014	July 2015	October 2015
Round 1 Fast-Track	n.a.		April 2017	June 2017
Round 2	Mr Paul Metcalfe of the United Kingdom; Mr Martin Barreiros Cavaco of Argentina; and Mr Jeremiah Coder and Ms Kaelen Onusko of the Global Forum Secretariat.	1 April 2015 to 31 March 2018	April 2019	July 2019

Annex 4: Costa Rica’s response to the review report

Since 2009, Costa Rica has been committed to complying with the international standards on transparency and exchange of information, to assist in the global fight against tax and financial crimes and against the mechanisms that generate the erosion of tax bases.

The process of implementing these commitments has been long. However, significant progress and improvements have been made, as demonstrated in this Second Round of the Peer Review for the Exchange of Information on Request – EOIR.

As a result of the recommendations made by the Peer Review Group to the Costa Rica Report, I am pleased to share with you the actions that will be taken for each recommendation:

A.1: To strengthen the legal framework, the Tax Administration and the Financial Intelligence Unit will publish a new version of the joint resolution to clarify that the identification of any other person exercising control over the trust is required for all trusts. Also, article 10 of the Regulation of the law 9416 will be modified to establish the obligation to identify the final beneficiaries of a foreign company, even in the case of bearer shares. Mere proof that the home country of a foreign entity allows bearer shares will no longer suffice to identify the administrator as a last-resort beneficiary: the beneficial owners will still need to be identified.

On implementation, the Tax Administration is currently carrying out a Plan for the Verification of Shareholders and Final Beneficiaries by following the DCTE-DI-009-2019 Guideline. This Plan started on April 8 and included a request of information made to 300 companies. The Tax Administration will also launch, in August 2019, a Plan for the Verification of Registration of inactive companies, foundations, and foreign companies. Additionally, once the first list of non-compliers from the Registry of Transparency and Final Beneficiaries is available in January 2020, the Tax Administration will verify the maintenance of the information in the registry. This verification will be carried out through tax inspections, that will be conducted by the audit officials and the National Large Taxpayers Directorate, and by formally assigning for the analysis of each case a specific official. Sanctions will be applied where appropriate, in accordance with Law 9416.

A.2: Audit actions will continue in order to verify compliance with tax related obligations, including the keeping of accounting and financial records. In case of non-compliance with such obligations, the sanctioning process will be applied.

The companies that have been dissolved since 2016 will be included in a Risk Management Plan. The implementation of this Plan will begin in August 2019 and will remain until August 2021. It will consider the review of 210 companies for 2019, 500 companies for 2020 and 290 for 2021. Sanctions will be applied to companies that do not comply with providing and/or keeping the accounting and financial information.

A.3: The General Superintendence of Financial Entities (SUGEF, by its acronym in Spanish) is committed to carrying out the following actions:

a) Strengthening the legal framework: Amendments to SUGEF's Agreement 12-10.

SUGEF's Agreement 12-10 will be amended in line with criterion 24.6 point (c) of the technical evaluation of compliance with FATF's recommendation 24 "Transparency and beneficial ownership of legal persons", which entrusts to the countries the use of several mechanisms to guarantee obtaining information on the beneficial owner of the legal entity. In addition, the revisions to Agreement 12-10 will consider the evaluation conducted by the Global Forum (GF) recently, which determined that the current anti-money laundering procedure regarding the due diligence of the client is inadequate, since it only considers as beneficial owners the legal owners (shareholders) of the companies and legal entities, without regards to other types of effective control. Therefore, current regulations will be modified so that the subjects under supervision can establish and apply policies for the correct identification of their beneficial owner, including not only shareholders, but the person exercising the ultimate effective control over the legal entity or other similar legal structure or arrangement, including trusts.

To comply with the above, the concept of "Beneficial owner" contained in the glossary of "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation" (FATF Recommendations) will be included in Article 2 "Definitions" of SUGEF Agreement 12-10 "Regulations for compliance with Act 8204 (7786)". This definition will be included as follows: any individual who finally owns or controls a client and/or the individual in whose name a transaction is made. It also includes the persons who exercise final effective control over a legal entity or other legal structure or arrangement, including trusts.

Similarly, articles 8 and 9 of the current regulation, related to the minimum information on the files of individuals or legal entities, will be amended to set forth as an obligation of the supervised parties, the establishment of policies

and procedures approved by their governing body, to properly identify the existence of a beneficial owner different from the client, but exercising effective control in the entity. In such cases, the documents demonstrating the relationship between the beneficial owner and the client will be required and, based on risk, used to determine the convenience of keeping the commercial relationship in the same conditions. Said policies and procedures must be applied during the term of the commercial relationship. In the case of trusts, the obliged party must obtain sufficient information on the purpose of the trust, its property, the origin of funds and the identity of the settlors, trustees, beneficiaries, and any other beneficial owners who exert effective control over the trust.

b) Actions to strengthen the implementation of the AML regime in accordance with the recommendations issued on element A3.

SUGEF will continue applying a risk-based supervision approach, including the imposition of sanctions to those institutions failing to comply with their obligations to identify customers, beneficial owners and bank availability, among others.

B.1: For this recommendation, the Tax Administration is committed to complying with the DGT-CI-04-2018 Guideline, when receiving a bank information request.

C.1: For these recommendations, the Tax Administration will maintain close communications and collaboration with its partners to ensure the effective exchange of information, and will strengthen the internal procedures to achieve, in an expeditious manner, the approval, ratification and enforcement of the signed Agreements.

C.2: For this recommendation, the necessary actions will be taken to increase the International Agreements Network.

C.5: The Tax Administration is committed to improving the timeliness of responses and continue sending updates on information requests, as well as ensuring the adequate human resources in order to attend such cases.

On behalf of the Costa Rican delegation, I would like to express our gratitude for the help and support of the Peer Review Group and the Secretariat. Our special thanks to the evaluators assigned, for their dedication and work; and to the Representatives of the Jurisdictions that comprise the Review Group, for their valuable inputs and recommendations and the assigned rating. I reiterate the commitments acquired by the country, as well as the willingness of the Costa Rican public sector to participate and assist in this Peer Review process, and to continue providing relevant information to the Jurisdictions, for review, while working together to strengthen the tax determination processes and to promote international transparency.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request COSTA RICA 2019 (Second Round)

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 150 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This report contains the 2019 Peer Review Report on the Exchange of Information on Request of Costa Rica.

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