GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

LIECHTENSTEIN

2019 (Second Round)

OECD

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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

March 2019
(reflecting the legal and regulatory framework as at December 2018)

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral 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

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
Art. 180a Act	Act on the Supervision of Persons under Article 180a PGR
CDD	Customer Due Diligence
DDA	Law on Professional Due Diligence to Combat Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Act)
DDO	Ordinance on Professional Due Diligence to Combat Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Ordinance)
DTC	Double Tax Convention
EOI	Exchange of information
EOI Act	Law on International Administrative Assistance in Tax Matters
EOIR	Exchange of information on request
FATF	Financial Action Task Force
4th EU AML Directive	Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing
FMA	Financial Market Authority of Liechtenstein
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
KYC	Know Your Customer

Model DTC	OECD Model Tax Convention on Income and on Capital
Model TIEA	OECD Model Agreement on Exchange of Information on Tax Matters
Multilateral Convention	The Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended
PAS	Private Asset Structure
PGR	Law on Persons and Companies (*Personen- und Gesellschaftsrecht*)
PRG	Peer Review Group of the Global Forum
Standard	International standard on transparency and exchange of information for tax purposes, as set out in the 2016 Terms of Reference
Tax Act	Law of 23 September 2010 on National and Municipal Taxes
TIEA	Tax Information Exchange Agreement
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 (ToR)	Terms of Reference related to Exchange of Information on Request (EOIR), as approved by the Global Forum on 29-30 October 2015.

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Liechtenstein. It assesses both the legal and regulatory framework as at 14 December 2018 and its operation in practice, in particular in respect of EOI requests received and sent during the review period from 1 October 2014 to 30 September 2017. This second round EOIR peer review report concludes that Liechtenstein remains rated overall **Largely Compliant** with the international standard.

2. During the first round of EOIR peer reviews, Liechtenstein's legal and regulatory framework was first evaluated in 2011 where it was concluded that essential elements of the 2010 ToR concerning the availability of ownership and accounting information were not in place and Liechtenstein's moving to the second phase of the first round review was conditioned by Liechtenstein addressing them. Liechtenstein took measures to address the recommendations promptly as was acknowledged in the 2012 supplementary report. The second phase of Liechtenstein's first round review was carried out in 2015 and evaluated also Liechtenstein's implementation of the legal and regulatory framework in practice. The review concluded with the overall rating of Largely Compliant (see also Annex 3).

3. The following table compares the results from the first and second round reviews of Liechtenstein's implementation of the EOIR standard.

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

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

Progress made since previous review

4. Since the 2015 report, improvements have been achieved in areas where issues were identified in the 2015 report. The main issues related to the application of the foreseeable relevance criteria in exchange of information practice and the concept of *ordre public* in respect of EOI requests based on information obtained by an act that is judicially punishable in Liechtenstein ("stolen data").

5. Concerning the application of the foreseeable relevance criteria, Liechtenstein has amended its law to broaden the possibility to provide foreseeably relevant information. The amendment seems to be in line with the standard on group requests. However, it remains untested in practice and it is unclear to what extent it broadens the possibility to provide all foreseeably relevant information in cases where the person subject of the request does not have any direct relation to the legal entity or arrangement in Liechtenstein. Nevertheless it is noted that peers were generally satisfied with assistance provided by Liechtenstein over the review period. With regard to the concept of *ordre public*, Liechtenstein was able to process the majority of requests initially identified as based on stolen data, which represents improvement since the 2015 report. Nevertheless, some of these were not processed and it is not clear how larger volumes of such requests would be efficiently handled, in particular if challenged in court.

6. Liechtenstein has also made improvements regarding issues identified in respect of the availability of ownership information and concerning notification of persons concerned by an EOI request.

7. To sum up, Liechtenstein has made improvements in the two key areas where recommendations were made in the 2015 report. Nevertheless, some of the concerns from the 2015 report remain. However, their impact on exchange of information practice over the reviewed period has been limited and seems low.

Key recommendation(s)

8. The key issues raised by this report follow-up on the progress made since the 2015 report. As described above, these concerns related to the application of the foreseeable relevance criteria in exchange of information practice and the concept of *ordre public* in respect of EOI requests based on stolen data. In both cases Liechtenstein is recommended to monitor recent improvements in exchange of information practice and take further measures if necessary.

9. Another important area where improvement is recommended relates to the disclosure of information obtained from the jurisdiction requesting

assistance from Liechtenstein. The scope of persons, who can inspect the EOI file and are notified of an EOI request is rather broad and goes beyond what is necessary to obtain the requested information.

10. Finally, room for improvement is identified concerning timeliness of responses to EOI requests and in respect of supervision of accounting obligations of entities and arrangements that do not carry out commercial activities such as foundations or trusts.

Overall rating

11. Liechtenstein legal and regulatory framework and its implementation in practice ensure that relevant ownership, accounting and banking information is generally available in line with the standard. This is the case also for beneficial ownership information which is newly covered in the second round of EOIR reviews. Liechtenstein has in place broad access powers for exchange of information purposes which allow obtaining all types of relevant information in line with the standard. Liechtenstein's legal framework provides for robust taxpayers' rights and safeguards but they seem compatible with effective exchange of information. Liechtenstein is a Party to the Multilateral Convention and its treaty network is broad providing for exchange of information in line with the standard. Liechtenstein is an important and reliable exchange of information partner. Over the reviewed period Liechtenstein received 275 requests of which 31% were responded to within 90 days. General efficiency of Liechtenstein's exchange of information practice was confirmed by its peers who are overall satisfied with assistance provided by Liechtenstein over the review period.

12. As described above, improvement is recommended in respect of certain areas covered under elements A.2 (availability of accounting information), C.1 (exchange of information mechanism), C.3 (confidentiality), C.4 (rights and safeguards) and C.5 (exchange of information practice) which are rated Largely Compliant. All other elements are rated Compliant.

13. In view of the above, Liechtenstein is overall rated as Largely Compliant with the international standard of exchange of information on request.

14. This report was approved at the PRG meeting on 13 February 2019 and was adopted by the Global Forum on 15 March 2019. A follow-up report on the steps undertaken by Liechtenstein to address the recommendations made in this report should be sent 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 *(ToR A.1)*		
The legal and regulatory framework is in place.	A small number of entities or arrangements carrying out domestic business are exempt from the general obligation to have a licensed director or member of the board covered under AML law and in some cases may not engage an AML obliged service provider in Liechtenstein. Consequently, beneficial ownership in respect of these entities or arrangements may not be available in all cases.	Liechtenstein should further strengthen its measures to ensure that beneficial ownership information is available in respect of all relevant entities and arrangements as required under the standard.
EOIR rating: Compliant		
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place.		
EOIR rating: Largely Compliant	Practical availability of accounting information of entities and arrangements which do not carry out commercial activities and qualify as special asset dedications or entities subject to Private Asset Structure regime relies on AML supervision. Although AML supervision in Liechtenstein is adequate, concerns arise regarding the scope of accounting information checked during AML inspections.	Liechtenstein should strengthen supervision of entities and arrangements that qualify as special asset dedications or are subject to Private Asset Structure regime so that it is ensured that all accounting records as defined under the standard are available.

Determination	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
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) *(ToR B.1)*		
The legal and regulatory framework is in place.		
EOIR rating: 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 *(ToR B.2)*		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place.		
EOIR rating: Largely Compliant	Liechtenstein has amended its law to broaden the possibility to provide foreseeably relevant information. However, the amendment remains untested in practice and it is unclear to what extent it broadens the possibility to provide all foreseeably relevant information in cases where the person subject of the request does not have any direct relation to the legal entity or arrangement in Liechtenstein.	Liechtenstein should monitor the application of the foreseeable relevance standard and, if necessary, take further measures to ensure that all foreseeably relevant information is provided as required under the standard in all cases.

Determination	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place.		
EOIR rating: Largely Compliant	Persons, who can inspect the EOI file and are notified of an EOI request, include clients of the information holder or third parties whose information is relevant to the request. Liechtenstein indicates that in practice, these persons are typically the information holder and persons named in the exchanged information (which is normally the taxpayer subject of the request). Nevertheless the broad scope of these persons goes beyond what is necessary to obtain the requested information.	Liechtenstein should ensure that information necessary to obtain the requested information is disclosed only to persons concerned with the assessment or collection of, the enforcement or prosecution in respect of the taxes covered by the exchange of information agreement.
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place.		
EOIR rating: Largely Compliant	Liechtenstein was able to process the majority of requests initially identified as based on stolen data. However, some of them have not been processed and it is not clear how larger volumes of such requests would be efficiently handled, in particular if challenged in court.	Liechtenstein should monitor that the application of the concept of *ordre public* does not prevent effective exchange of information and, if necessary, take measures to correct it.

Determination	Factors underlying recommendations	Recommendations
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	**This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.**	
EOIR rating: Largely Compliant	Although it is acknowledged that the provision of requested information may be delayed in some cases due to valid reasons, the proportion of requests responded within 90 days and within 180 days does not fully correspond with effective exchange of information.	Liechtenstein should continue its efforts to ensure timeliness in the provision of requested information.

Overview of Liechtenstein

15. This overview provides some basic information about Liechtenstein that serves as context for understanding the analysis in the main body of the report. This is not intended to be a comprehensive overview of Liechtenstein's legal, commercial or regulatory systems.

Legal system

16. Liechtenstein is a state in Europe situated between Austria and Switzerland. Liechtenstein is a constitutional hereditary monarchy with a democratic parliamentary system.

17. The Prince is the head of state and represents Liechtenstein in its international relations. The Prince may veto laws adopted by Parliament (including international treaties) and can call referendums, propose new legislation and dissolve Parliament. Executive authority is vested in a collegiate government comprising the head of government (Prime Minister) and four government councillors (Ministers). The head of government and the other Ministers are appointed by the Prince upon the proposal and concurrence of Parliament. Legislative authority is vested in the unicameral Parliament, made up of 25 members elected for four-year terms according to a proportional representation formula. Jurisdiction in civil and criminal matters is exercised in the first instance by the Court of Justice, in the second instance by the Court of Appeal, and in the third and last instance by the Supreme Court. The Administrative Court and the Constitutional Court are courts of public law. The National Tax Commission is the first appellate body for tax matters. Appeals against the decisions of the National Tax Commission are heard by the Administrative Court.

18. The Liechtenstein legal system is based on civil law and on a monistic approach to the relationship between international and national law, i.e. international treaties are directly applicable upon their entry into force. International treaties consented upon by the Parliament are generally situated at least at the same level as domestic legal acts. The interpretation of domestic laws in conformity with international treaties is constant court practice.

Tax system

19. Liechtenstein tax system comprises several types of direct and indirect taxes levied at the national and municipal level. Main tax revenue is generated by corporate and individual income taxes and VAT. Other taxes include wealth tax, excise taxes or stamp duty tax. Liechtenstein preserves an attractive tax environment with internationally competitive tax rates.

20. Individuals are regarded as resident in Liechtenstein if they reside in Liechtenstein with the intention of staying there permanently. Individuals staying temporarily for a period longer than 6 months are also regarded residents. Individuals resident in Liechtenstein are subject to income tax on their worldwide income and wealth. Non-resident individuals are subject to tax on Liechtenstein sourced income. Taxable income is subject to tax at progressive rates up to 28%.

21. Legal entities subject to corporate income tax are corporate bodies, e.g. stock company (*Aktiengesellschaft*, AG), the *Anstalt* (establishment) and foundations; investment enterprises as provided by the law; and trust enterprises having legal personality. The corporate income tax rate is 12.5%. General and limited partnerships have no legal personality and are transparent for tax purposes. The partners are taxed individually on their share of profits.

22. An entity is resident if its legal seat (as provided for in its statutes, articles of associations, etc.) or place of effective management is in Liechtenstein (Art. 44 of the Tax Act). Resident legal entities are subject to worldwide taxation. Non-resident taxpayers are subject to corporate income tax on income derived through a permanent establishment or from immovable property located in Liechtenstein.

23. The Tax Act provides for a "Private Asset Structure" (PAS) regime which can be applied for by legal persons which are allowed to acquire, hold, administer or sell any kind of asset but must not engage in economic activities or have a direct or indirect influence on the management of companies. PAS are subject to the minimum corporate income tax of CHF 1 800 (EUR 1 506) and not subject to tax assessment (Art. 65 of the Tax Act).

24. Trusts are the endorsements of assets without legal personality. They are subject to the minimum corporate income tax and are not subject to assessment. However, they are subject to corporate taxation for their domestic income.

25. The administration of taxes is the responsibility of the Fiscal Authority (*Steuerverwaltung*). The Fiscal Authority is subordinated to the Ministry for General Government Affairs and Finance. In addition to administering collection of national and municipal taxes, the Fiscal Authority is responsible for exchanging information for tax purposes under Liechtenstein's EOI instruments and negotiating of DTCs and TIEAs.

Financial services sector

26. The financial services sector represents a very important part of Liechtenstein's economy. About 25% of gross added value generated in Liechtenstein comes from the financial services sector. The financial sector also significantly contributes to Liechtenstein's total fiscal revenue with about 50% of revenue coming from collection of taxes connected to the activities of the financial sector. The business model of Liechtenstein's financial sector focuses on private banking and wealth management. The majority of these activities is constituted by non-resident business.

27. The financial sector in Liechtenstein comprises mainly banks and finance companies, insurance and asset management companies, investment companies, trustees, lawyers and accountants. As of June 2018, 14 banks were licensed in Liechtenstein; of these, five are affiliates of Swiss, Austrian or Luxembourg institutions. Liechtenstein banks managed in Liechtenstein client assets in the amount of CHF 163 billion (EUR 146 billion); including their foreign group companies, the managed client assets amounted to CHF 294 billion (EUR 254.08 billion).

28. As of June 2018, 109 asset management companies were licensed in Liechtenstein. Assets under management by these companies amounted to CHF 40.25 billion (EUR 34.78 billion). At the same time, 475 Liechtenstein funds have been managed by 16 fund management companies (of which two fund management companies accept direct fund unit subscriptions). As of June 2018, assets under management amounted to CHF 53.41 billion (EUR 45.8 billion). Premium income from insurance operated by insurances business in Liechtenstein amounted in June 2018 to CHF 3.36 billion (EUR 2.9 billion). In addition, as of June 2018, there were 19 pension schemes and four pension funds under the supervision of the Financial Market Authority (FMA).

29. Other businesses and professions that are most relevant to EOIR are trust and company service providers. This category comprises professional trustees and persons licensed under the Law on the supervision of persons under Art. 180a Persons and Companies Act ("180a Act"). As of June 2018, there were 401 persons with a licence under the Professional Trustees Act (139 professional trustees and 257 trust companies) and 211 persons with licence under 180a Act (180a Directors). The activities of professional trustees include in particular the formation of legal persons, companies, and trusts, the assumption of board and management mandates under article 180a of the Law on Persons and Companies (PGR), the assumption of trust mandates, accounting and reviews, as well as financial, economic, and tax advice. The activities of persons licensed under the "180a Act" are limited to the assumption of board and management mandates under PGR.

30. Lawyers work in the area of professional legal advice and representation of parties. As of August2017, there were 51 lawyers and law firms and 77 auditors and audit firms subject to the Due Diligence Act and thus subject to the FMA's AML/CFT supervision.

31. Prudential as well as AML/CFT supervision of financial institutions and certain Designated Non-Financial Businesses and Professions (DNFBPs), such as professional trustees and persons licensed und the "180a Act", is the responsibility of the FMA. The FMA is an independent, integrated financial market supervisory authority. The FMA is also responsible for applying sanctions for non-compliance with AML/CFT requirements. As of 1 September 2017 the responsibility for the AML/CFT supervision of lawyers and law firms has been assigned to the Bar Association. The responsibility to apply sanctions for non-compliance also rests with the Bar Association. Since 1 September 2017 auditors and audit firms fall under the scope of the Due Diligence Act, if they act as member of a tax consultancy profession according to Art. 3 (1) n) DDA in conjunction with Art. 2 (1) w) DDA or as an external bookkeeper according to Art. 3 (1) n) DDA in conjunction with Art. 2 (1) x) DDA.

32. The compliance of the Liechtenstein AML/CFT framework with the FATF Recommendations is regularly assessed by the International Monetary Fund in co-operation with experts from MONEYVAL. The latest mutual evaluation report on Liechtenstein was based on regulations and measures in place as of June 2013. Since then Liechtenstein took several steps to further improve its AML/CFT framework and its implementation in practice, notably in connection with implementation of the 4th EU AML Directive (see below).

Recent developments

33. Since the 2015 Report, Liechtenstein has strengthened its regulatory AML framework. The preventive measures set out in the 4th EU AML Directive (except for the requirement to establish beneficial ownership registers) have been implemented into Liechtenstein law. The relevant provisions are contained in the Law on Professional Due Diligence to Combat Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Act; DDA) and the associated Due Diligence Ordinance (DDO). Liechtenstein also took the opportunity of the implementation of the EU directive into national law to address the recommendations made following the most recent assessment of Liechtenstein's compliance with the FATF Recommendations conducted by the IMF and MONEYVAL in 2013. The revised rules came into effect on 1 September 2017. The main changes include strengthening of the risk based approach to CDD and supervision, adjustment of the beneficial ownership definition, tightening the rules on third party reliance and

extension and increase of applicable supervisory measures including fines (see section A.1).

34. Further changes to implement the 4th EU AML Directive into the domestic law were passed by Liechtenstein`s parliament in December 2018. However, the law is not in force at the cut-off date of the report and therefore is not analysed in the report. In line with the requirements set out in the 4th EU Anti Money Laundering Directive the draft law states that beneficial ownership information in relation to all legal entities incorporated in Liechtenstein as well as Liechtenstein trusts and foundations needs to be held within a central register administered by the Office of Justice. The registered information will be accessible without limits to the Financial Intelligence Unit, the Public Prosecutor and the Financial Market Authority for the purpose of combating money laundering, predicate offences of money laundering and terrorist financing. The Fiscal Authority has not yet access to the registered information through the register. However, the Fiscal Authority has full access through its information collection powers.

35. In August 2016, Liechtenstein deposited the instrument of ratification of the multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2008 Protocol (the Multilateral Convention). The Multilateral Convention entered into force in Liechtenstein on 1 December 2016.

36. Apart from the EOIR, Liechtenstein engages in the Automatic Exchange of Information (AEOI). Being a member of the "Early Adopters Group", the Common Reporting Standard (CRS) implementing legislation came in force in Liechtenstein on 1 January 2016. With the EU member states, the first exchange of data has taken place in autumn 2017 on the basis of a specific agreement which entered into force on 1 January 2016. On the additional basis of the Multilateral Competent Authority Agreement (MCAA) Liechtenstein has, as of 1 December 2018, more than 100 partner jurisdictions with which it already exchanges or will exchange data. Liechtenstein also engages in exchange of information pursuant to the Foreign Account Tax Compliance Act (FATCA), Country-by-Country Reporting requirements (CbCR) and spontaneous exchange of information (including on tax rulings) and is a member of the OECD BEPS Inclusive framework.

37. Liechtenstein has introduced legislation to expand mutual legal assistance in tax matters in accordance with the FATF/EU standards as of 1 January 2016.

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. The 2015 report concluded that Liechtenstein's legal and regulatory framework and its implementation in practice ensured the availability of legal ownership information to a large extent. Nevertheless it identified three areas where recommendations were made.

40. Firstly, at the time of the 2015 report, information on beneficiaries with less than a 25% interest in trusts was not required to be maintained and Liechtenstein was recommended to address this concern. Since then, Liechtenstein has adjusted the definition of the beneficial owner, which brought it in line with the standard. Pursuant to the new definition and resulting identification requirements, the AML obliged person is required to identify all founders, beneficiaries and trustees of the trust regardless of their control over the trust or any interest threshold and, if founders and beneficiaries are not individuals, to look through their chain of control and ownership to identify the individual person standing behind each founder and beneficiary.

41. Secondly, the rules providing for identification of holders of bearer shares and provisions on oversight and enforcement of obligations to maintain registers of shareholders were recent and therefore not sufficiently tested in practice; thus Liechtenstein was recommended to monitor their implementation. Since then, Liechtenstein has continued supervision of the relevant rules and taken enforcement actions where deficiencies were identified. Compliance with the duties of custodians is examined as part of the mandatory annual audit. Deficiencies are notified to the Office of Justice and if

deficiencies are not remedied, the Office of Justice reports the case to the Court of Justice. During the peer review period, the Office of Justice sent reminders to companies to comply with their obligations and imposed fines in 24 cases. Consequently, it is concluded that the measures in place ensure that information on holders of bearer shares is available as required under the standard.

42. Thirdly, the 2015 report concluded that ownership information may, under certain circumstances, not be available for foreign companies that are resident for tax purposes in Liechtenstein. The 2015 report noted that foreign companies, other than those having applied for the PAS regime, are obliged to submit annual tax returns with specified accompanying documents, which contain information on owners resident in Liechtenstein, and that certain ownership information will be available with AML obliged service providers when engaged by the company. Since then measures have been taken to further strengthen the availability of legal ownership information of foreign companies through broadening obligations of the management in Liechtenstein. Consequently, the recommendation included in the 2015 report is considered addressed.

43. Availability of legal ownership information in practice continues to be adequately ensured through the combination of supervisory and enforcement measures taken by the Commercial Register, FMA and the Fiscal Authority.

44. Under the 2016 ToR, beneficial ownership of relevant entities and arrangements is required to be available. The main requirements ensuring availability of beneficial ownership information are contained in the AML law. Legal entities (including foundations) are required to have at least one director (or member of board) who is a licensed trustee or a person authorised under the Act on the Supervision of persons under Article 180a PGR (Art. 180a Act). These persons are licensed and supervised by the FMA and are subject to the CDD requirements under the AML/CFT Law which require identification of the beneficial owners in line with the standard. About 19% of domestic entities are exempted from the requirement to have their directors covered under AML obligations. These exempted entities are mainly entities licensed by the FMA to provide certain regulated activities (e.g. financial institutions) which are subject to comprehensive beneficial ownership disclosure requirements with the FMA and entities which obtained a trade licence from the Trade Office to carry out business in Liechtenstein. Additional source of beneficial ownership information are AML service providers, if engaged by the entity or arrangement. Although such engagement is not required, the scope of AML obliged persons is broad, covering financial institutions and professionals likely to be engaged by entities or arrangements not required to have a licensed director or member of board. Nevertheless,

given that a minor gap exists in respect of domestic companies, domestic and foreign partnerships and establishments carrying out domestic business which are exempt from the obligation to have a licensed director or member of the board covered under AML law and which may have not engaged an AML obliged service provider in Liechtenstein, it is recommended that Liechtenstein further strengthen its measures to ensure that beneficial ownership information is available in respect of all relevant entities and arrangements. It is noted that the small group of entities and arrangements is likely not relevant for exchange of information purposes because they carry out domestic business in Liechtenstein, are subject to various filing and disclosure requirements therein and are not involved in asset management structures, as was also confirmed in exchange of information practice.

45. Practical availability of identification of beneficial owners is adequately ensured through implementation of AML obligations of covered service providers. All AML obliged service providers are supervised by the FMA for compliance with their DDA requirements, including CDD measures and record-keeping requirements. The supervisory regime includes combination of off-site reporting and on-site inspections as well desk based analysis of inspection findings and overall risks faced by the regulated sectors. Every AML obliged professional is inspected every three years and every financial institution annually. During each on-site inspection, the auditors among other review sample files of client relationships which entails checking of identification of beneficial owners and their proper documentation. Where shortcomings are identified, they are generally addressed satisfactorily in due time. In a few cases where shortcomings have not been addressed promptly, the FMA has imposed monetary sanctions.

46. The overall availability of ownership information in Liechtenstein was confirmed in the exchange of information practice. During the review period, Liechtenstein received 201 requests that included a request for ownership information of one or more entities or arrangements. Of these requests, 131 related to foundations, 85 to companies, 41 to establishments and 12 to trusts. A few requests received over the review period related to trust enterprises, however, the exact figure is not available. No request received over the review period related to partnerships. Typically, requests related to beneficial ownership information. According to Liechtenstein, there was no case over the reviewed period where it failed to provide the requested information pursuant to a valid EOI request. No concerns in respect of the availability of ownership information in Liechtenstein were reported by peers either (see section C.5).

47. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
	A small number of entities or arrangements carrying out domestic business are exempt from the obligation to have a licensed director or member of the board covered under AML law and in some cases may not engage an AML obliged service provider in Liechtenstein. Consequently, beneficial ownership in respect of these entities or arrangements may not be available in all cases.	Liechtenstein should further strengthen its measures to ensure that beneficial ownership information is available in respect of all relevant entities and arrangements as required under the standard.
Determination: In place		
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
Rating: Compliant		

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

48. As described in the 2015 report, Liechtenstein's law provides for the creation of seven main types of companies, i.e. joint stock companies (*Aktiengesellschaft*; AG), limited liability companies (*Gesellschaft mit beschränkter Haftung*; GmbH); associations (*Verein*), limited partnerships with share capital (*Kommanditaktiengesellschaft*; K-AG), co-operatives (*Genossenschaft*), European companies (*Europäische Aktiengesellschaft* (SE)) and European co-operatives (*Europäische Genossenschaft*; SCE).

49. The most common form of companies is a joint stock company, followed by associations and limited liability companies. As of September 2018, there were 5 081 joint stock companies registered in Liechtenstein, 331 associations, 453 limited liability companies, 21 co-operatives, 12 SEs, 5 European co-operatives, 1 limited partnership with share capital.

50. All types of companies are legal entities under Liechtenstein's law. Companies' members or shareholders are generally not personally liable for the company's debts. Companies are established to carry out commercial activities with the exception of associations which are typically created for political, religious, scientific, artistic, charitable, social or other non-economic purposes. Co-operatives are entities created by their members for the purpose of promotion or protection of certain economic interests of members through mutual self-help. Co-operatives operate domestically in sectors such as agriculture, water distribution or housing.

51. The 2015 report concluded that legal ownership information in respect of domestic companies is required to be available in line with the standard and that these rules are properly implemented to ensure availability of ownership information in practice. This continues to be the case as was also confirmed in exchange of information practice. A limited legal gap identified in the 2015 report concerning legal ownership of foreign companies has been since then addressed.

52. The main sources of beneficial ownership information on companies are AML obliged persons who are typically companies' directors regulated under Article 180a of the PGR. Obliged persons must identify beneficial owners of companies in line with the standard as part of their CDD obligations. These obligations are also well implemented in practice.

53. The following table[1] shows a summary of the legal requirements to maintain legal and beneficial ownership information in respect of companies:

Type	Company law	Tax law	AML law
Joint stock company	Legal – all Beneficial – all	Legal – some Beneficial – none	Legal – some Beneficial – some
Limited liability company	Legal – all Beneficial – all	Legal – some Beneficial – none	Legal – some Beneficial – some
Other companies	Legal – all Beneficial – all	Legal – some Beneficial – none	Legal – some Beneficial – some
Foreign companies	Legal – none Beneficial – none	Legal – some Beneficial – none	Legal – all Beneficial – all

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.

Legal ownership and identity information requirements

54. As described in the 2015 report, all domestic companies are required to maintain information on their owners, and/or submit this information to government authorities. Joint stock companies, limited liability companies, limited partnerships with share capital, associations and SEs domiciled in Liechtenstein are obliged to keep registers of shareholders/members. In addition, limited liability companies, co-operatives and European co-operatives must file their updated ownership information with the Commercial Register. In case of failure to keep and provide the required information administrative fines and in severe cases further penalties are available under the PGR and the criminal law. There has been no change in the relevant rules since the 2015 review.

55. The 2015 report identified a limited legal gap in respect of the availability of information on legal owners of foreign companies with place of effective management in Liechtenstein. Legal persons having their effective place of management in Liechtenstein are subject to unrestricted corporate income tax liability in Liechtenstein, meaning they are considered to be tax resident (Art. 44 Tax Act). Foreign companies, other than those having applied for the PAS regime, are obliged to complete and submit annual tax returns along with specified accompanying documents, which contain information on owners taxable in Liechtenstein (Art. 94(2)). Consequently, identification of owners who are not residents in Liechtenstein will not be filed. Foreign companies which set up a branch in Liechtenstein must register with the Commercial Register and provide information among other on its representatives. However, this information does not have to include identification of all their legal owners. Finally, certain ownership information will be available with AML obliged service providers when engaged by the company.

56. Since then, measures have been taken to further strengthen the availability of ownership information of foreign companies. Following the 2015 report, Liechtenstein introduced Article 11a DDO. In order to comply with the new provision and Article 7(2) DDA, AML obliged persons are required to keep and provide records that demonstrate that they have identified direct legal owners of engaged entities (as well as any further layers of indirect legal ownership). Further, in August 2016 the EFTA Court confirmed that persons managing a foreign company on a professional basis are subject to the same duties under the AML law as persons administering domestic companies and ruled that to trigger due diligence obligations it suffices that telephone calls are made, resolutions are signed or other administrative activities are carried out on behalf of the foreign legal entities. Consequently, foreign companies effectively managed in Liechtenstein must have a management based in Liechtenstein which is provided by licensed Liechtenstein trustees or Art. 180a-licensees subject to AML/CFT obligations, who are required

to identify legal and beneficial ownership of the managed foreign company. Certain concerns remain in respect of cases where having a place of effective management in Liechtenstein does not trigger AML/CFT obligations therein (e.g. in cases where the foreign company is managed in Liechtenstein by the owner himself/herself or by a third party acting on a non-professional basis) and there are no other sources of ownership information available. Liechtenstein should therefore monitor that legal ownership information in respect of all foreign companies with sufficient nexus with Liechtenstein is available in line with the standard. It is nevertheless noted that based on the information contained in the tax register, there are about 1 740 foreign entities and arrangements having their place of effective management in Liechtenstein (which are therefore tax resident therein) and out of these all are managed by an AML obligated person. Therefore cases where a place of effective management in Liechtenstein does not lead to AML/CFT obligations therein appear to be very rare in practice. Further, the availability of ownership information on foreign companies was confirmed in exchange of information practice over the reviewed period as in all cases the requested ownership information on foreign companies was provided.

57. Information filed with the Commercial Register (including on legal ownership of registered entities) must be kept for at least 30 years from removal of the entity from the Register (Art. 20 Commercial Register Ordinance). As limited liability companies, co-operatives and European co-operatives must file their updated ownership information with the Commercial Register, this rule ensures that ownership information on these entities must be retained for at least five years since the period to which it relates and regardless whether these entities ceased to exist as it is required under the standard. Further, the Commercial Register must contain identification of founders of other types of companies. This information may however not contain identification of current owners of the company as the ownership information is not required to be updated subsequent to the company's incorporation.

58. In addition to ownership information available with the Commercial Register, companies themselves are required to keep registers of their owners. The governing board of the entity must ensure that the account books, records and documents (including the register of owners) must be available at the registered office of the legal entity within a reasonable period of time (i.e. within 30 days) (Art. 182(2) PGR). Further, these records must be kept for a period of 10 years. The retention period commences upon the end of the business year in which the last entries were made, account records were created, and business papers were received or sent (Art. 142 and 1059 PGR). According to Liechtenstein authorities the 10 year retention period runs irrespective of whether an entity ceased to exist as the law specifies that the period runs from the end of the business year in which the last entries were

made and it is the obligation of the former representatives of the entity to ensure compliance with their obligation. In addition, where a company is liquidated, the business records and business papers (including the register of owners) of a company and any similar entity which has been wound up must be deposited upon the liquidators' application for safe keeping in a place to be determined by the Register Authority for a period of ten years and after the expiration of this period shall be retained at the discretion of the Register Authority (Art. 142(1) PGR). The requirement to keep the ownership records regardless whether the entity ceased to exist is also confirmed in practice as it is expected by the supervisory authorities that these records remain available with the governing board of the entity and/or the liquidator and sanctions are to be applied if it would not be the case. It is also noted that there was no case during the period under review where the requested ownership information would not be available in respect of an entity which ceased to exist.

59. Sanctions for failure to retain the required documents include an administrative fine of up to CHF 5 000 (EUR 4 300). The administrative fine may be repeatedly imposed until the duties are fulfilled. If the duties are not fulfilled, the penal provisions apply in respect of the directors, authorised agents, liquidators, or members of administrative bodies, who have failed to fulfil the duty (Para 66 Final part of PGR (SchlTPGR)).

Implementation of obligations to keep legal ownership information in practice

60. The 2015 report concluded that relevant legal requirements as they applied to companies were properly implemented in practice and consequently no recommendation was given. There have been no significant changes made in the supervisory and enforcement practice.

61. The main source of legal ownership information in practice is the information filed with the Commercial Register and the entities themselves.

Practical availability of information with the Commercial Register

62. Legal entities (including companies), which are required to register, obtain legal personality only upon their registration with the Commercial Register. Without registration such entities are legally not existing and cannot operate (e.g. conclude contracts, open a bank account or obtain ownership rights). Any changes in the information provided to the Commercial Register must be reported. In practice a delay of 30 days is considered as unreasonable. The Register receives about 25 000 reports or notifications per year in respect of about 28 000 of all registered entities. These reports and notifications include applications for registration of amendments to the entity's articles, changes in other information entered in the Commercial Register

or applications for registration of a new entity. Reports or notifications are normally filed within a week after the respective resolution or change. All of these reports or notifications are reviewed. The Office of Justice performs ongoing monitoring to identify entries which are no longer in accordance with the facts. This is carried out mainly through crosschecking of information contained in the Commercial Register and through third party reporting. Incorrect entries are typically detected during sample inspection of files, application for registration or application for registration of amendments, issuance of extracts from the register or based on third party information. The Office of Justice receives about four third party reports of inaccurate information contained in the Register per year. All judicial, administrative and police authorities have a duty to assist the Office of Justice in this task. Most of the third party reports come from the entity's business partners, fiscal authority and the Trade Office. If an entry in the Commercial Register is no longer in accordance with the facts, the Office of Justice issues a letter calling upon the party to remedy the deficiency within 14 days. If the breach is not remedied in time, administrative fines apply until the deficiency is addressed. This happens in about two cases per year.

63. An entity must be dissolved or liquidated ex officio in cases provided for by law, e.g. in case of organisational deficiencies or non-payment of taxes. In these cases the Office of Justice must, by registered letter or official service, demand the legal person to restore a lawful state of affairs within a deadline of at least two months. If this request is not complied with, or if no objection under public law is lodged, the Office of Justice must decree dissolution and liquidation of the entity (Art. 971 PGR; Art. 114 ff PGR). The majority of entities restore the lawful state of affairs upon the first request by the Office of Justice. Out of 300 cases in the year 2017, 250 restored the lawful state of affairs upon the first request by the Office of Justice. In 50 cases (representing about 0.2% of all registered entities) the Office of Justice had to decree dissolution and subsequent liquidation of the entity. A liquidated entity can be restored only in a specific scenario where bankruptcy proceedings had been rejected by the court for lack of sufficient assets but later it was established that the entity actually had assets at the time of the bankruptcy proceedings. In this scenario an entity can be re-entered in the register upon complying with all its legal obligations including the payment of taxes due.

64. In general, Liechtenstein authorities report that, as legal entities have a strong interest in keeping the entry in the Commercial Register updated, breaches of filing obligations are rare.

Practical availability of information required to be kept by companies

65. Availability of ownership information with companies in practice is mainly ensured through registration and filing requirements with the Commercial Register, supervision by the FMA and indirectly through filing requirements with the Fiscal Authority.

66. As described above, entities have vested interests to keep the required information up to date for legal as well as practical reasons. Where a company would not keep appropriate register of owners it would not be able to substantiate legal claims of its members and third parties and comply with all its filing requirements. All entities (with certain limited exceptions) are required to have their directors licensed under "180a Act" or to be licensed trustees. Their supervision is carried out by the FMA. FMA's supervision is frequent and sufficiently rigorous to ensure that the relevant information is available (see section on Implementation of obligations to keep beneficial ownership information in practice). Finally, all companies that are subject to income tax are assessed annually (except those subject to PAS regime). For this purpose, they have to submit a tax return together with their annual accounts which include certain ownership information. All taxpayers, which do not comply with the reporting requirements are reminded, fined and assessed by the Fiscal Authority.

Beneficial ownership information

67. Under the 2016 ToR, beneficial ownership on companies should be available. The following sections of the report deal with the requirements to identify beneficial owners of companies and their implementation in practice.

Requirements to identify beneficial owners of companies

68. The sources of beneficial ownership information on companies are AML obligations of companies' directors and, if engaged by a company, of other AML obliged services providers in Liechtenstein.

Identification of beneficial owners by companies' directors

69. Pursuant to Art. 180a PGR legal entities (including companies) are required to have at least one director who is a licensed trustee or a person specifically authorised under the Art. 180a Act. These persons are licensed and supervised by the FMA and are subject to the CDD requirements under the AML/CFT Law, including the requirement to identify the customer and its beneficial owner (Art. 3(1)k) DDA).

70. Certain number of entities are exempted from the requirement to have their directors covered under AML obligations if they meet the legal requirements. These exempted entities are (i) entities which obtained a trade licence from the Trade Office to carry out business activities in Liechtenstein, (ii) entities licensed by the FMA (e.g. financial institutions such as banks, trust and companies service providers or insurance companies) and (iii) entities licensed under other special legislation (e.g. professionals under the Public Health Act, in education, agriculture, forestry or fishing sector). In terms of numbers, 4 710 entities exempted from the obligation to have a director covered under AML obligations in Liechtenstein represent about 19% of domestic entities. Out of the exempted entities, 3 381 are entities authorised by the Trade Office, 703 are financial institutions licensed by the FMA and 626 are entities licensed under special legislation.

71. Entities holding a licence by the Trade Office are local businesses carrying out their activities in Liechtenstein. These entities must meet prescribed criteria to be granted the trade licence and are vetted by the Trade Office. These requirements include disclosure of the entity's control structure and meeting the requirements to actually carry out the declared activity in Liechtenstein. Meeting of these criteria is reviewed on continuous basis by the Trade Office. Although the exact figures are not available, based on the information with the Commercial Register and the Trade Office, these entities are typically owned by resident individuals. If they are owned by a domestic entity, the entity is subject to obligation to have a licensed director under Art. 180a PGR described above, unless the exemption from such obligation would apply. Further, based on the inquiry to one of the local banks, 90% of entities with a trade licence in Liechtenstein have a bank account with that bank. It can be presumed that the total proportion of entities with a trade licence and having a bank account in Liechtenstein is higher than 90% as they may have a bank account with other banks in Liechtenstein. As these entities must carry out local business, they are very likely to engage also other service providers in Liechtenstein such as accountants.

72. Financial institutions licensed by the FMA are subject to comprehensive beneficial ownership disclosure requirements pursuant to sectorial laws (see for instance Art. 17(5) Banking ACT (BA) and Art. 26a BA in combination with Art. 27a and the Annex 8 to the Banking Ordinance (BO)). Pursuant to these rules, any shareholder directly or indirectly holding voting rights or capital of a financial institution of 10% or more, or who has a significant control power over the financial institution, must be reported to the FMA as these shareholders must meet fit and proper requirements as laid out in the sectorial laws. Any intended change in ownership also has to be reported to the FMA (Art. 26a BA in conjunction with Art. 27a BO in conjunction with Annex 8 BO). Entities licensed under special legislation are subject to strict regulation, including regarding their ownership and control structure

(e.g. association of physicians can only be in the form of a stock company or a limited liability company and members of the company can only be individuals (i.e. physicians) licensed according to the Law on Physicians).

73. Directors licensed either as a trustee or under Art. 180a Act (180a Director) are classified as trust and company service providers under Article 3(1)k) of the DDA. These service providers have to be residents in a European Economic Area Member State,[2] have to be in an employment relationship with an employer resident in Liechtenstein and have to have Liechtenstein as their place of duty. In addition, the due diligence files and transaction records they are obliged to maintain must be stored in a location in Liechtenstein that is accessible at any time (Art. 28(5) DDO). As of June 2018, out of 211 persons licensed as 180a Directors, 27 were residents in another EEA member state.

74. As AML obliged persons, licensed directors have to identify and verify beneficial owners of entities for which they act as directors. Beneficial owners of corporate bodies are:

- natural persons, who ultimately directly or indirectly:
  - hold or control a share or voting right amounting to 25% or more in such legal entities
  - have a share of 25% or more in the profits of such legal entities; or
  - exercise control over the management of such legal entities in another way
- natural persons, who are members of the executive body if, after exhausting all alternatives and provided there are no grounds for suspicion, no such person as referred above can be identified (Art. 3(1) a) DDO).

75. In order to establish and verify the identity of the beneficial owner, the obliged persons must obtain and record name, forename, date of birth, residential address, state of residence and nationality of the beneficial owner (Arts. 6(1)a) and 11(1) DDO). The accuracy of these particulars must be confirmed by the customer (either natural person or entity) or a person authorised by the customer by means of a signature (Art. 11(2) DDO). Further, the obliged persons must verify the identity of the beneficial owner by means of risk-based and adequate measures, so that they are satisfied that the person in question is actually the beneficial owner. In the case of a legal entity, this includes understanding of the ownership and control structure of the entity (Art. 7(2) DDA). In order to meet this obligation, the obliged persons should

2. EEA member states are EU member states and Iceland, Liechtenstein and Norway.

not rely exclusively on the information contained in registers with particulars concerning beneficial owners (Art. 11(3) DDO).

76. If the due diligence duties, including identification of the beneficial owner, cannot be satisfactorily performed, the obliged person cannot establish or must discontinue the business relationship and must consider filing a report to the FIU (Art. 5(3) DDA).

77. The obliged persons must monitor their business relationships, including the transactions performed in the course of the relevant business relationship, in a timely manner, at a level that is commensurate with the risks involved, to ensure that they are consistent with the business profile. They must carry out investigations when circumstances arise or transactions take place that deviate from the business profile (Art. 9 DDA). They must ensure that the data and information in the business profile is up to date, by running checks at intervals appropriate to the risk involved, in order to establish whether the information and data contained in the business profile (including identification of the beneficial owner) is still current (Art. 8(2) DDA) (see also section A.3).

78. The obliged persons must retain CDD files and other client-related documents such as business correspondence and transactional records for ten years from the end of the business relationship (Art 20(1) DDA).

79. Non-compliance with CDD requirements, including a failure to identify and verify beneficial ownership, is subject to administrative and ultimately criminal sanctions. Pursuant to Art. 31(1) DDA, the supervisory authority can impose fines of up to CHF 200 000 (EUR 172 355) on any person committing an administrative offence under the law, including a violation of the requirements related to CDD, monitoring and record keeping obligations. Trust and company service providers that violate due diligence obligations in a serious, repeated, or systematic manner may be fined up to CHF 1 million (EUR 0.8 million) or up to twice the amount of profits achieved as a result of the administrative offence (insofar as this figure can be determined and exceeds CHF 1 million).

80. The above requirements generally ensure identification of beneficial owners of companies in line with the standard. The obliged persons are required to identify beneficial owners as defined under the standard, the information must be adequate, accurate and kept up to date and kept for at least ten years. Sanctions apply in case of failures. Certain proportion of domestic companies is not required to have a licensed director covered under the AML obligations. However, they carry out business in Liechtenstein. Therefore these entities are likely to engage a service provider there or their ownership information is available pursuant to special laws (see section on identification of beneficial owners by other service providers below).

Identification of beneficial owners by other AML obliged service providers

81. Liechtenstein's AML/CFT law has broad scope covering financial institutions as well as relevant non-financial businesses and professions. The covered service providers are listed in DDA and include:

- banks and investment firms
- asset management companies
- service providers for legal entities that provide one of the following services on a professional basis:
  - establishment of companies or other legal entities
  - performance of the management or executive function of a company, the function of partner in a partnership or a comparable function in another legal person or appointment of another person for the afore-mentioned functions
  - provision of a head office, a business, postal or administrative address and other related services for a legal entity
  - performance of the function of a member of a foundation board of a foundation, trustees of a trust or a similar legal entity or appointment of another person for the afore-mentioned functions
  - performance of the function of nominee shareholder for another person, where the company concerned is not listed on a regulated market and subject to the disclosure requirements in conformity with EEA law or similar international standards, or appointment of another person for the afore-mentioned functions.
- lawyers and law firms with an authorisation under the Lawyers Act, insofar as they provide tax advice to their clients or assist in the planning and execution of financial or real estate transactions concerning the following:
  - buying and selling of undertakings or real estate
  - management of client funds, securities or other assets of the client
  - opening or management of accounts, custody accounts or safe deposit boxes
  - procurement of contributions necessary for the creation, operation or management of legal entities; or the management of trusts, companies, foundations or similar legal entities.

- members of tax consultancy professions and external bookkeepers, insofar as they assist their clients in the planning and execution of financial and real estate transactions concerning the operations referred to above (Art. 3(1) DDA).

82. Where a company engages an AML obliged service provider, the service provider must carry out CDD measures and identify beneficial owners of the company. The service provider must apply the same measures as described above in respect of company directors in order to identify the beneficial owners and keep the information adequate, accurate and up to date.

83. The same CDD obligations apply in respect of domestic as well as foreign companies where they engage an AML service provider in Liechtenstein.

84. As already concluded above, Liechtenstein AML law requires that beneficial ownership information is available in line with the standard if the AML obliged service provider is engaged by the company (either domestic or foreign). In addition to the obligation to have a licensed director covered by AML obligations, companies may purchase services of Liechtenstein service provider (e.g. to open a bank account) in particular if they carry out business activities in Liechtenstein. Some companies are exempted from the obligation to have a licensed director. These are mainly companies authorised by the Trade Office to carry out businesses activities in Liechtenstein. Considering that companies with trade licence must carry out business activities in Liechtenstein and their customers are typically in Liechtenstein, it is very likely that every exempted entity has a bank account in Liechtenstein. Furthermore, all these entities have to file tax returns in Liechtenstein regardless of any income threshold or other conditions. The binding instructions issued by the Liechtenstein Fiscal Authority for filing tax returns explicitly require that every taxpayer (individual or entity/arrangement) must always declare a bank account either in Liechtenstein or Switzerland. The compliance with this requirement is reported as very high, i.e. Liechtenstein authorities are not aware of any cases where a filed tax return would not contain a bank account as required. Despite it is very likely that all exempted entities do engage an AML obliged person in Liechtenstein, the laws (or applicable regulations) do not require them to necessarily do so. Therefore a limited gap remains in respect of domestic companies exempted from the obligation to have a licensed director which do not engage an AML service provider in Liechtenstein and beneficial ownership information is not available otherwise. Accordingly, Liechtenstein is recommended to address this gap.

Implementation of obligations to keep beneficial ownership information in practice

85. Practical availability of identification of beneficial owners is ensured through implementation of AML obligations of covered service providers. All AML obliged service providers are supervised by the FMA for compliance with their DDA requirements, including CDD measures and record-keeping requirements. The same supervisory measures are applied in respect of the availability of ownership information on domestic and foreign entities. The supervisory regime includes combination of off-site reporting and on-site inspections as well as desk based analysis of inspection findings and overall risks faced by the regulated sectors.

86. Liechtenstein applies a two-tier system of supervision. Every year, the FMA conducts several on-site inspections at financial institutions and AML obliged professionals in order to examine their compliance with AML/CFT requirements. These inspections are conducted separately from reviews of prudential requirements (such as capital adequacy, liquidity requirements and others). These AML inspections are conducted following a risk-based approach, taking into account (inter alia) the geographical origin of the customer base, products and services offered, results of previous inspection reports, adverse media reports, size of the institution or outcomes of management meetings. The sample testing of CDD files constitutes a central element of these onsite inspections.

87. In addition, the FMA contracts audit companies to carry out specific AML/CFT on-site inspections on behalf of the FMA. As a result, every AML obliged professional is inspected every three years and every financial institution annually on a full scope basis. Only audit companies licensed by the FMA can be contracted by the supervised service providers for AML/CFT inspections. Currently, the FMA contracted five audit firms for AML audits on banks and 18 audit firms and 27 auditors for AML audits on trustees and 180a licensed directors. All licensed auditors must comply with FMA's licensing requirements on continuous basis. The costs of an AML inspection are borne by the auditee. The AML inspections are carried out on the basis of a comprehensive inspection plan (sample inspection report) issued by the FMA. In addition, the detailed modalities of the onsite inspections are set out in the FMA Guideline ("Due diligence inspections by mandated due diligence auditors"). As in the case of inspection carried out directly by the FMA, the sample testing of CDD files is an essential element of these inspections. All inspection reports drafted by the contracted auditors are analysed by the FMA and follow-up measures are applied by the FMA where necessary.

88. The following table provides an overview of the number of on-site inspections carried out by the FMA and contracted auditors over the last three years for which the figures are available:

	Number of persons in 2017	2015		2016		2017	
		On-site inspections		On-site inspections		On-site inspections	
		by auditors	by FMA	by auditors	by FMA	by auditors	by FMA
Persons licensed under 180a PGR	215	48	12	50	7	62	8
Trustees and trust companies	396	91	25	84	18	161	14
Auditors and auditing companies	78	38	4	21	5	21	0
Lawyers and law firms	51	35	7	25	3	47	4
Banks	15	16	6	15	4	15	5
Asset management companies	109	105	30	126	5	109	0

89. As the above table shows, the frequency of on-site inspections is robust. About 29% of 180a Directors, 33% of trustees, 38% of auditors and 79% of lawyers is inspected annually. Financial institutions are subject to even higher frequency of inspections where each financial institution is inspected at least once every year.

90. Inspection of sample CDD files including the way how beneficial owners are identified and documented forms compulsory part of each on-site inspection. All inspections follow procedures prepared by the FMA. For that purpose FMA issued detailed instructions, checklist, questionnaire on how to audit the organisation of a company following the DDA or a questionnaire on how to audit sample Due Diligence documentation of client relationships (KYC-sample).

91. During each inspection, the auditors must review and document formal systems and procedures put in place by the obliged person such as organisational setup, internal AML controls, internal regulations, formal rules/processes for the identification and verification of the beneficial owners, guidelines for education and training or rules for storage of the relevant information. Further, all inspections include testing of sample client relationships. This entails requesting a complete CDD file for representative subset of clients. The proportion of sampled files varies based on clients' risk. The review of each file follows FMA checklist starting with identification of the client risk classification, legal form of the engagement (e.g. corporation, foundation, trust), classification of the beneficial owner (e.g. natural person holding more than 25%, natural person controlling the legal entity), identification of the beneficial owner (name, nationality, address, date of birth), confirmation of the beneficial owner by the customer (signature), date of the completed beneficial ownership form, performed verification checks, information from the transaction testing and testing of the business profile (e.g. information on source of wealth/source of funds.

92. The instances where the FMA or contracted auditors identified shortcomings in the implementation of AML/CFT obligations rather related

to shortcomings in establishing a comprehensive and meaningful business and risk profile than to weaknesses in the identification and verification of the identity of the customer or the beneficial owner. Where shortcomings were identified, financial institutions and AML covered professionals demonstrated that they are able to address them satisfactorily in due time. Accordingly, there have been only very few cases where the FMA imposed fines for non-compliance.

93. The FMA unit that is responsible for the AML/CFT supervision of trust and company service providers conducts an annual analysis of shortcomings identified by the commissioned AML/CFT audit firms. In 2015, about 4% of reviewed client files exhibited shortcomings with respect to the beneficial owner identification and verification requirements. These shortcomings were of formal nature, i.e. the beneficial owner was identified, nevertheless certain procedural rules were not properly followed. In 2016, the number of client files which exhibited formal shortcomings related to the beneficial owner identification and verification was 2%. In 2017, approximately 3% of reviewed client files exhibited shortcomings with respect to the beneficial owner identification and verification requirements. These shortcomings were partly based on incorrect implementations of the new definition of beneficial ownership pursuant to Art. 3 (1) DDO (see section A.1.4). For the purpose of consistent application of these new CDD measures across all financial intermediaries, the FMA issued the FMA Communication 2015/7, which sets out in detail the FMA's interpretation of the revised rules related to the identification of the beneficial owner.

94. Supervisory activities carried out by Liechtenstein are adequate to ensure the availability of beneficial ownership in line with the standard. Based on analysis of inspections findings and FMA's interactions with the regulated sectors, financial institutions and AML obliged professionals are knowledgeable in identifying their customers as well as the relevant beneficial owners and in verifying the identity of these persons by obtaining relevant verification documents. Account-holding structures are usually set up by domestic trust and company service providers, which facilitates the understanding of the ownership and control structure of the customer and ultimately the identification and verification of the beneficial owner.

ToR A.1.2. Bearer shares

95. In Liechtenstein bearer shares can be issued by joint stock companies, limited partnerships with share capital and SEs. There has been no change in the relevant rules since the 2015 report.

96. Companies can issue bearer shares only if provided for in the company's articles of association which must be registered in the Commercial

Register. Bearer shares issued by the company must be deposited with its custodian who must maintain a register of bearer shares. The company's custodian must be identified in the Commercial Register (Art. 326b) and the Fiscal Authority can request any information from custodians in Liechtenstein for exchange of information purposes. The register must contain the following information for each bearer share: the shareholder's name, birth date, nationality and residence or legal business name and domicile; the date of deposit. The register is required to be kept at the company's place of business (Art. 326c) and can be accessed by the Fiscal Authority.

97. The custodian must fulfil at least one of the three following requirements:

- be subject to DDA or any foreign rule or supervision which is equivalent to Directive 2005/60/EC
- fulfil the prerequisites under Art. 180.a; or
- have its residence or place of business in Liechtenstein and have an account in Liechtenstein or other EEA member state in the name of the shareholder.

98. The shareholder's rights arising from a bearer share may only be claimed if the share has been deposited with the custodian and all information on the bearer shareholder has been registered (Art. 326f PGR). The transfer of a bearer share becomes effective only after the transferee is registered in the register maintained by the custodian. Identification information on the transferee must be provided by the shareholder who intends to transfer bearer shares (Art. 326h PGR).

99. These obligations do not apply to bearer shares of companies listed on stock exchange and bearer shares of undertakings for collective investments in securities as well as investment funds and investment companies (Art. 326a PGR). Nevertheless, there are other mechanisms to identify owners of bearer shares issued by these entities.

100. At the time of the 2015 report the above rules were recent and Liechtenstein was therefore recommended to monitor their implementation. Since then Liechtenstein has continued supervision of the relevant rules and taken enforcement actions where deficiencies were identified.

101. Compliance with the duties as a custodian is examined as part of the annual statutory audit performed by an auditor and confirmed by the person who performed the audit (Art. 1058 ff PGR). The auditor requires the custodian to annually confirm in writing (among other) that a share register is maintained in accordance with the PGR and that shareholder rights are only claimed in respect of shares kept by the custodian and only once all information about the holder of the bearer share(s) is registered in the share

register. The accuracy of these statements is verified by the auditor through sample testing. Identified deficiencies are notified by the auditor to the Office of Justice and if deficiencies are not remedied by the custodian, the Office of Justice reports the case to the Court of Justice (see below). Further, as described in section A.1.1., companies must appoint a licensed director subject to the requirements set out in the AML law (most importantly the resident directors licensed under the Art. 180a-Act) who has to carry out CDD and identify beneficial owners of the company. Thus, they have to identify the natural persons, who ultimately directly or indirectly (including through bearer shares) control the company. If they would not be able to appropriately understand ownership and control structure of the company in order to do that they are prohibited to act as the director of the company (Art. 5(3) DDA).

102. Total number of companies with bearer shares in September 2018 was 2 632 joint stock companies and 5 SEs, representing about half of all joint stock companies registered in Liechtenstein.

103. If a company with bearer shares fails to register a custodian in the Commercial Register, the Office of Justice sends a written reminder informing the company of the obligation to register a custodian. If the company does not apply for a custodian to be entered in the Commercial Register within a month, the Office of Justice sends the company a second reminder, giving the company another two weeks to register a custodian. After the expiry of the second time limit the Office of Justice imposes a fine of CHF 500 (EUR 430) and sets another deadline for the registration of a custodian. If this deadline also passes fruitlessly, the Office of Justice imposes a fine of CHF 800 (EUR 690).

104. During the peer review period the Office of Justice sent 67 first reminders and 32 second reminders. It imposed 18 fines of CHF 500 and 6 fines of CHF 800. In two cases the Office of Justice gained knowledge of the fact that a custodian had handed over bearer shares in breach of the law and reported it to the Court of Justice. In both cases the Court of Justice imposed a fine of CHF 1 000 (EUR 862) on the custodian and the deficiencies were remedied. If the lawful condition is not restored by the custodian, the Court of Justice may impose a fine of up to CHF 10 000 (EUR 9 700) repeatedly until the deficiency is remedied. These sanctions are applicable regardless of the residency of the custodian. Based on the information from the Office of Justice cases where a custodian is located abroad are very rare and non-resident custodians are typically Swiss residents.

105. The measures in place ensure that information on holders of bearer shares is available as required under the standard. These measures combine legal mechanisms and safeguards as well as supervisory and enforcement measures. The availability of information on holders of bearer shares was confirmed in exchange of information practice. Liechtenstein received a few

requests for such information over the reviewed period and the information was provided in all cases. Nevertheless, it is noted that the proportion of companies which issued bearer shares is significant and it should be ensured that applied enforcement measures are commensurate to the severity of the breach and deterrent enough.

ToR A.1.3. Partnerships

106. Liechtenstein law provides for six types of partnerships: general partnerships (*Einfache Gesellschaft*), unlimited partnerships (*Kollektivgesellschaft*), limited partnerships (*Kommanditgesellschaft*), particular purpose partnerships (*Gelegenheitsgesellschaft*), silent partnerships (*Stille Gesellschaft*) and special family partnerships (*Gemeinderschaft*) (Arts. 779-793 PGR).

107. Partnerships have no legal personality under Liechtenstein law (Art. 649 PGR). Limited and unlimited partnerships and family partnerships are subject to registration requirements (Arts. 689, 733 and 792 PGR), whether or not they carry on commercial activities. As of September 2018, 20 unlimited partnerships, 25 limited partnerships and no family partnership were registered in Liechtenstein. The number of other types of partnerships is estimated by Liechtenstein authorities to be low as well.

Identity of partner information requirements

108. The 2015 report concluded that ownership information on partnerships is generally available in line with the standard. There has been no change in the relevant rules since then.

109. The main sources of ownership information in respect of partnerships are filing requirements with the Commercial Register and with the Fiscal Authority. Unlimited and limited partnerships and family partnerships must register with the Commercial Register in order to obtain their legal status (Arts. 689(1), 733(1) and 792 PGR) and must provide the identity of all their partners to the Register (Arts. 690, 734 and 792 PGR). The provided information must be kept up to date (Arts. 735 and 792(4) PGR). All partnerships are treated as transparent for tax purposes and are taxed at the level of partners. No tax returns are required to be filed by Liechtenstein partnerships. However, partners with income sourced in Liechtenstein (including through business carried out by a foreign partnership in Liechtenstein) must file their tax returns detailing the source of their income. These returns do not need to indicate the names of the other partners in the partnership, which means that the tax authority has information on all partners who have earned income in Liechtenstein during the year but not on the non-resident partners who have not earned income sourced in Liechtenstein.

110. The 2015 report identified a limited gap concerning domestic partnerships with non-resident partners with no income sourced in Liechtenstein. Nevertheless, identification of resident and non-resident partners in limited and unlimited partnerships is available in the Commercial Register regardless of whether they carry out business in Liechtenstein and partnerships without legal personality which do not carry on business in Liechtenstein do not have any Liechtenstein sourced income and therefore are not covered by the standard on the availability of information. Therefore the identified concern is of very limited nature and does not seem to have negative impact on the availability of ownership information under the standard. It is also noted that the concern did not have any impact on EOI practice as requests related to partnerships are very rare (none during the current period under review) and there was no case related to partnerships where Liechtenstein failed to provide the information.

111. As concluded in the 2015 report, silent partnerships do not have any legal status and cannot hold real estate or own assets. They have no income or credits for tax purposes, do not carry on business and cannot be compared to a limited partnership. Therefore, these arrangements are not under the scope of the standard. Such partnerships can be characterised as a contract. Assets invested in a legal entity by means of a silent partnership between the silent partner and the owner of the company would normally be treated as long-term borrow capital. Detailed information about the silent partner would be contained in the financial statements and accounting records of the company. From an AML perspective the silent partner is treated like any other debt interest holder and should be identified in the due diligence process (e.g. as exercising control through other means).

112. Identification of partners other than in a silent partnership is available based on filing requirements with the Commercial Register and with the Fiscal Authority. In both cases the filed information is kept for more than five years since the period to which the information relates and regardless whether the partnership ceases to exist. Further, retention requirements under the PGR as described in respect of companies apply (see section A.1.1).

113. As described in the 2015 report, sanctions are applicable in case of non-compliance under the PGR and the tax law.

Implementation of obligations to keep partner information in practice

114. The 2015 report did not identify an issue in respect of implementation of the relevant rules in practice and concluded that they are properly implemented to ensure availability of the relevant information in practice. There has been no relevant change in Liechtenstein's practice in this respect.

115. The same measures are applied as in case of other entities required to register and file information with the Commercial Register or the Fiscal Authority. The Office of Justice performs ongoing monitoring of registry entries based on the information already contained in the Commercial Register and third party reporting. If the discrepancies are not remedied within 14 days the sanctions apply (see section A.1.1). All tax returns are audited by the Fiscal Authority and additional documents and information are requested, if needed. Where tax returns are not filed in time or discrepancies are identified, follow-up actions including application of fines under Article 135 of Tax Act are taken. The reported tax compliance rate of individuals in Liechtenstein is high.

Beneficial ownership information

116. The main source of beneficial ownership information on partnerships is requirements of service providers under the AML law.

117. Where a partnership engages an AML obliged service provider, the service provider must carry out CDD measures and identify beneficial owners of the partnership. The service provider must apply the same measures as licensed directors to identify the beneficial owners and keep the information adequate, accurate and up to date.

118. The same CDD obligations apply in respect of domestic as well as foreign partnerships where they engage an AML service provider in Liechtenstein.

119. As already concluded in section A.1.1, Liechtenstein AML law requires that beneficial ownership information is available in line with the standard if the AML obliged service provider is engaged by the partnership. Nevertheless, domestic partnerships and foreign partnerships carrying out business in Liechtenstein or having taxable income therein are not required to engage an AML obliged person and therefore their beneficial owners may not be identified. It is understood that (i) these partnerships are very likely to engage a service provider in Liechtenstein (e.g. to open a bank account) as they carry out business activities therein, (ii) 47% of partnerships have only individual partners and (iii) the number of partnerships in Liechtenstein is small representing about 0.5% of all entities and arrangements. Nevertheless as all partnerships are not required to engage an AML obliged person, their beneficial owners do not have to be identified in all cases as required under the standard. Liechtenstein is therefore recommended to address this gap.

Implementation of obligations to keep beneficial ownership information in practice

120. Implementation of the rules concerning availability of beneficial ownership information is supervised in the same way as in the case of companies.

121. As discussed in section A.1.1, appropriate measures are being undertaken to ensure practical availability of the beneficial ownership information through AML supervision. All AML obliged service providers are supervised by the FMA for compliance with their DDA requirements, including CDD measures and record-keeping requirements. The supervisory regime includes combination of off-site and on-site inspections as well desk based analysis of inspection findings and overall risks faced by the regulated sectors. Each AML obliged professional (including 180a Directors) is subject to on-site inspection every three years and each financial institution annually. During each on-site inspection, the auditors among other review sample files of client relationships which entails checking of identification of beneficial owners and their proper documentation. Where shortcomings are identified, they are generally addressed satisfactorily in due time. In a few cases where shortcomings are not promptly addressed the FMA imposes monetary sanctions.

ToR A.1.4. Trusts

122. Trusts can be created under Liechtenstein's law. Liechtenstein is also a party to the Hague Convention on the Recognition of Trusts.

123. Domestic law provisions relevant to trusts are contained in the PGR and the Act on Trustees. There has been no change in the relevant provisions of these laws since then. As of September 2018, there were 1 872 domestic trusts registered in Liechtenstein and 291 foreign trusts administered by trustees resident in Liechtenstein.

Beneficial ownership information requirements

124. The main source of beneficial ownership information on trusts are AML obligations of trustees. Only persons holding a licence pursuant the Act on Professional Trustees are entitled to assume trusteeships on a professional basis (Art. 7(1)b) Act on Professional Trustees). This applies for trusteeships assumed for trusts governed by Liechtenstein trust law as well as trusteeships assumed for trusts governed by foreign trust law.

125. Further, beneficial ownership information on trusts must be available with AML obliged persons engaged by a trust in Liechtenstein. This will typically be a bank or a financial intermediary. However, there is no requirement

for a trust created under Liechtenstein law or foreign trusts administered in Liechtenstein to engage a third party service provided in Liechtenstein.

126. An AML obliged person (i.e. either a trustee or a third party service provider) has to identify and verify beneficial owners of trusts for which they act as a trustee or which are their customers. Beneficial owners for trusts, foundations and arrangements or entities with a structure similar to that of a foundation or trust:

- natural persons, who are effective, non-fiduciary sponsors, founders or settlors, irrespective of whether they exercise control over the legal entity or arrangement after its foundation
- natural or legal persons who are members of the foundation board or board of directors or of the trustee
- any natural persons who are protectors or persons in similar or equivalent functions
- natural persons who are beneficiaries
- if the beneficiaries have yet to be determined, the group of persons, in whose interests the legal entity is primarily established or operated
- in addition to the above, the natural persons who ultimately control the legal entity through direct or indirect ownership rights or in any other way (Art. 3(1)b) DDO).

127. At the time of the 2015 report, information on beneficiaries with less than a 25% interest in trusts was not required to be maintained and Liechtenstein was recommended to address this concern. Since then Liechtenstein has taken measures to address the gap. The definition of the beneficial owner was reworked to be in compliance with the 2012 FATF standard, Common Reporting Standard and to implement the 4th EU AML directive. Pursuant to the new definition and resulting identification requirements, the AML obliged person is required to identify all settlors, beneficiaries and trustees of the trust regardless of their control over the trust or any interest threshold and, if settlors and beneficiaries are not individuals, to look through their chain of control and ownership to identify the individual person standing behind each settlor and beneficiary (Art. 3(1)b DDO and FMA Communication 2015/7).

128. The new requirements came into force in January 2016 and apply to new as well as pre-existing business relationships. Identification of beneficial owners for relationships existing prior to January 2016 must be updated by January 2019 in case of high risk relationship (e.g. relationships with Politically Exposed Persons, complex structures or FATF-listed countries) and by January 2021 in case of all other pre-existing relationships. The new

rules apply for all relationships established after January 2016. As these rules require adjustments in CDD processes and are not yet fully implemented, Liechtenstein should monitor their effective implementation. It is nevertheless noted that the AML framework required identification of beneficial owners of trusts and that the new definition further strengthens already implemented CDD requirements.

129. In order to establish and verify the identity of the beneficial owners, the obliged persons must obtain and record name, forename, date of birth, residential address, state of residence and nationality of the beneficial owner (Arts. 6(1)a) and 11(1) DDO). The accuracy of these particulars must be confirmed by the entity or a person authorised by that entity by means of a signature (Art. 11(2) DDO). The obliged persons must retain information obtained pursuant to CDD requirements for ten years from the end of the business relationship (Art 20(1) DDA). Non-compliance with these requirements is subject to administrative fines and in severe cases criminal penalties (see section A.1.1)

130. The 2015 report identified a potential narrow gap concerning trusts which have a non-professional trustee and do not engage an AML obliged person in Liechtenstein and recommended Liechtenstein to monitor it. Whether services are provided on a professional basis is assessed by the FMA on a case-by-case basis and there are no quantitative thresholds. The scope of the term "on a professional basis" is however interpreted by Liechtenstein's courts in a wide sense and includes all situations in which a person acts for or intends to make a profit or gain any other economic benefit and carries out activities on a regular and independent basis. Therefore situations where a non-professional trustee can be in place are normally where a private individual manages a family trust. Cases where a trust is managed on a non-professional basis are rare as the settlor prefers legal certainty and quality of services provided by a professional trustee. This was confirmed also in exchange of information practice over the reviewed period as there was no request related to a trust managed by a non-professional trustee. Every year, the FMA receives approximately five requests for determination as to whether a person is acting on a private or professional basis. In about four out of those five cases, the FMA determined that an activity was carried out on a professional basis and that a licence pursuant to the Act on Professional Trustees was required. Further, the FMA receive reports from third parties (such as service providers) which would indicate if a person is acting as a trustee and the FMA would act to determine if the person is acting by way of business or not. Information on the trustee and resident beneficiaries of a trust managed by a non-professional trustee is also available pursuant to tax filing obligations if the trust is managed in Liechtenstein and beneficiaries resident in Liechtenstein realise taxable income from the trust.

131. To conclude, identification of beneficial owners of domestic and foreign trusts administered in Liechtenstein is available in line with the standard. The relevant information must be adequate, accurate and up to date, kept for at least ten years and sanctions apply in cases of failures.

Implementation of obligations to keep beneficial ownership information in practice

132. Implementation of the rules concerning availability of beneficial ownership information is supervised in the same way as in the case of entities or arrangements.

133. As discussed in section A.1.1, appropriate measures are being undertaken to ensure practical availability of the beneficial ownership information through AML supervision. The supervisory regime includes combination of off-site reporting and on-site inspections as well desk based analysis of inspection findings and overall risks faced by the regulated sectors. Where shortcomings are identified, they are promptly addressed or sanctions are applied. Availability of ownership information in respect of trusts was also confirmed in exchange of information practice over the reviewed period.

134. As of June 2018, there were 401 persons with a licence under the Professional Trustees Act (153 professional trustees and 248 trust companies). Professional trustees primarily act as members of the foundation board of foundations and as directors of other legal persons. The assumption of trusteeships in trusts typically represents minor part of their activities.

ToR A.1.5. Foundations

135. Liechtenstein's law provides for creation of foundations. A foundation (*Stiftung*) is a legal entity which is used as a legally and economically independent special-purpose fund, formed through a declaration of will of the founders. Commercial activities are generally not permitted to be conducted by foundations, except in pursuit of non-commercial or other defined purposes. Liechtenstein foundations are commonly used for private wealth management of individuals and families.

136. Under Liechtenstein law, foundations can be created for private or public benefit purposes. As of September 2018, there were 12 285 foundations registered in Liechtenstein. Out of these, 10 467 are private foundations and 1 818 are public benefit foundations.

Ownership information requirements

137. The 2015 report concluded that ownership information on foundations is available in line with the standard. The 2016 ToR require also availability of beneficial ownership information which was not assessed in the 2015 review.

138. As described in the 2015 report, public as well as private benefit foundations must be entered in the Commercial Register. This can be through registration or deposit of the foundation deed. In all cases (i.e. for registration as well as deposit) the application to the Commercial Register must be submitted in writing by the foundation council and the accuracy of the information must be certified in writing by attorney at law admitted in Liechtenstein, trustee or holder of an entitlement in accordance with Art. 180a PGR. (Art. 552(19) PGR). The foundation deed must include (i) the purpose of the foundation, including the designation of tangible beneficiaries, beneficiaries identifiable on the basis of objective criteria, or of the category of beneficiaries, (ii) information on the founder and foundation council, and (if any) (iii) the reservation of the right of revocation of the foundation or amendment of the foundation documents by the founder (Art. 552(16) PGR).

139. Records of the vast majority of foundations are not registered (i.e. publicly available) but deposited in the Commercial Register and therefore available therein.

140. Public benefit foundations are in addition registered with the Foundations Supervisory Authority and subject to its supervision.

141. The main source of information on the identity of the founders, members of the foundation council, beneficiaries, as well as any other beneficial owners of foundations are AML obliged persons. Foundations are required to have a professional trustee or a 180a Director who acts as a member of the foundation board (Art. 180a PGR). Both types of persons are licensed by the FMA and subject to the CDD requirements under the AML/CFT law (Art. 3(1)k) DDA). Unlike companies or partnerships, foundation's activities are restricted by their purpose and therefore generally do not carry out commercial activities except in pursuit of non-commercial purposes. Therefore the exemption from the obligation to have an 180a Director or a professional trustee described in respect of other entities generally does not apply for foundations. Limited number of foundations that have a licenced director according to the Trade Law or another special law or are supervised by the Government, a Municipality or the land registry or another government authority may not have a professional trustee or a 180a Director in the foundation board. Nevertheless, beneficial ownership of these foundations is available mainly pursuant to Liechtenstein's regulations on land

property[3] and through service providers in Liechtenstein, as confirmed by Liechtenstein authorities. Accordingly, in practice, there is no foundation which would not have a professional trustee or a person licensed as 180a Director in the foundation board or whose beneficial ownership would not be available in Liechtenstein based on other requirements.

142. A 180a Director or professional trustee has to identify and verify beneficial owners of the foundation. This includes identification of the founders, members of the foundation council, and beneficiaries, as well any other natural persons who ultimately control the foundation (Art. 3(1)b) DDO). Further, if founders and beneficiaries are not individuals, the licensed director or trustee must look through the chain of control and ownership to identify the individual persons standing behind each founder and beneficiary (see sections A.1.1 and A.1.4).

143. Ownership information on foundations must be also available with other AML obliged service providers if engaged in Liechtenstein. These will be typically banks or financial intermediaries. The service provider must apply the same measures as licensed directors to identify the beneficial owners and keep the information adequate, accurate and up to date.

144. As already discussed in section A.1.4, the above requirements to identify beneficial owners of foundations were adjusted in January 2016 and apply to new as well as pre-existing business relationships. As these rules impact CDD processes and are not yet fully implemented, Liechtenstein should monitor their effective implementation.

145. Finally, all foundations are required to register with the Fiscal Authority. Private benefit foundations not carrying out any economic activity may qualify for the PAS regime. Consequently, they are subject to a minimum tax of CHF 1 800 (EUR 1 506) and do not file annual tax returns. Nevertheless, they must issue certificates of payments to resident beneficiaries under Article 99 of the Tax Act.

146. To sum up, Liechtenstein's law ensures that information on the identity of the founders, members of the foundation council, beneficiaries, as well as any other beneficial owners of foundations is required to be available in line with the standard. The main source of the relevant information are Liechtenstein's service providers, e.g. a professional trustee who acts as a

3. Any transfer of land property in Liechtenstein has to be approved by the land registry authority which is at the Office of Justice. In a foundation all beneficial ownership needs to be disclosed to the land registry authority and needs to be kept up to date and any right in a land property needs to be assigned to one individual who has to be resident in Liechtenstein.

member of the foundation council or the foundation's 180a Director who are embedded within the foundation and subject to AML obligations.

Implementation of obligations to keep ownership information in practice

147. The 2015 report did not identify an issue in respect of implementation of the relevant rules in practice and concluded that they are properly implemented to ensure availability of the legal ownership information in practice. There has been no relevant change in Liechtenstein's practice in this respect.

148. The same measures are applied as in case of other entities required to register and file information with the Commercial Register. The Office of Justice performs ongoing monitoring of registry entries and if the discrepancies are not promptly remedied, sanctions apply (see section A.1.1).

149. As discussed in previous sections of the report, appropriate measures are being undertaken to ensure practical availability of the beneficial ownership information through AML supervision. The supervisory regime includes combination of off-site reporting and on-site inspections as well desk based analysis of inspection findings and overall risks faced by the regulated sectors. Where shortcomings are identified, they are promptly addressed or sanctions are applied (see section A.1.1).

150. Substantive proportion of Liechtenstein's exchange of information practice relates to information on foundations and to foundations' beneficial ownership in particular. Over the reviewed period Liechtenstein received 131 requests concerning foundations. There has been no case where the requested information was not available. Availability of ownership information on foundations was also confirmed by peers.

Other relevant entities and arrangements

151. Liechtenstein's law provides for creation of establishments and trust enterprises which are both considered relevant entities for the evaluation of the standard.

Establishment (anstalt)

152. Establishments are legal entities regulated under Articles 534 through 551 of the PGR. These entities have no members or shareholders and are generally used as a legal form for a business enterprise or as a holding company for intangible assets or estate assets. Depending on the Article of Association, an establishment can have legal characteristics similar to foundations (i.e. where the founder does not have right to revise or alter the

foundation deed) or to companies (i.e. where the founder does have such right and therefore acts as an owner of the establishment). Establishments can engage in both commercial and non-commercial activities. As of September 2018, there were 5 789 establishments registered in Liechtenstein.

Ownership information requirements

153. The 2015 report concluded that ownership information on establishments is available in line with the standard. There have been no changes in the relevant provisions since then.

154. The main source of basic ownership information is information filed with the Commercial Register and available with the establishment board. Establishments acquire legal personality upon entry in the Commercial Register. The application must include a certified copy of the articles of association and a formation deed, if that is not already included in the articles of association, the amount of establishment's assets and a list of the members of the board of directors (giving the name and place of residence or name of the firm and registered office of the members). The provided information must be kept updated. Further, the supreme body or the board of directors must keep the articles of association and the formation deed. Articles of Association contain identification of administrative bodies of the establishment and detail the beneficiaries of the establishment. The formation deed contains identification of the founders and their signatures (Arts. 536 and 545 PGR).

155. Further information including identification of beneficial owners of an establishment is required to be available with licensed directors and other service providers under the AML law. As in case of other entities, establishments are required to have at least one director who is a licensed trustee or a person specifically authorised under Art. 180a Act (Art. 180a PGR). These persons are licensed and supervised by the FMA and are subject to the CDD requirements under the AML/CFT Law, including the requirement to identify the beneficial owner(s) of the partnership (Art. 3(1)k) DDA). However, as in the case of other entities, establishments can be exempted from such requirement if the establishment is licensed by the FMA to provide certain regulated activities or if it obtained a trade licence from the Trade Office to carry out business activities in Liechtenstein or according to a special law (see section A.1.1). In addition, beneficial ownership information on establishments must be available with AML obliged service provider if engaged by the establishment.

156. As already concluded in previous sections, Liechtenstein AML law requires that beneficial ownership information is available in line with the standard if the AML obliged service provider is engaged by the entity. Nevertheless, as in the case of companies, not all establishments have to

have a licensed director and therefore in such situations the availability of beneficial ownership information will depend on the engagement of an AML obliged person in Liechtenstein. Establishments are typically used for carrying out business domestically as they are a unique historic form not provided for by other jurisdictions' laws. Therefore, it is more likely than in case of companies that they hold a trade licence from the Trade Office and thus will be exempted from the obligation to have a licensed director. On the other hand, given their local nature and their commercial activities they are likely to have a bank account in Liechtenstein or to engage other service providers therein who are subject to the AML obligations and therefore required to collect and record beneficial ownership information. Nevertheless considering that it is possible to establish and operate an establishment without engaging an AML obliged person, beneficial owners of all establishments do not have to be identified as required under the standard. Liechtenstein is therefore recommended to address this gap.

Implementation of obligations to keep ownership information in practice

157. The 2015 report did not identify an issue in respect of implementation of the relevant rules in practice and concluded that they are properly implemented to ensure availability of the relevant information in practice. There has been no relevant change in Liechtenstein's practice in this respect.

158. The same measures as described under section A.1.1 and A.1.3 are applied by the Office of Justice and the FMA. These measures are adequate to ensure that the required information is available in practice in line with the standard as was also confirmed in exchange of information practice over the reviewed period.

Trust enterprise (treuunternehmen)

159. Trust enterprises (also known as business trusts) can be legal arrangements or legal entities. A trust enterprise is a legal entity if its statutes declare so. Trust enterprises can be set up as vehicles for holding assets or for conducting commercial activities. As of September 2018, there were 786 trust enterprises registered in Liechtenstein, out of which four were legal arrangements.

Ownership information requirements

160. The 2015 report concluded that ownership information on trust enterprises is available in line with the standard. There have been no changes in the relevant provisions since then.

161. A trust enterprise gains its legal status upon entry in the Commercial Register (Art. 932a PGR). All trust enterprises must provide to the Register a copy or a certified extract of the trust articles. The trust enterprise's articles contain detailed regulation of the beneficial interest and identification of the settlor. The entry in the Commercial Register also contains information on, amongst other things, the names, professions and places of residence, or the company names and domiciles, of the trustees of the trust enterprise. The provided information must be kept updated. Further identification of beneficiaries is available in the by-laws or register of beneficiaries which are maintained by the trust enterprise (Art. 932a(102) PGR).

162. Further information including identification of beneficial owners of a trust enterprise is required to be available with trust enterprise's 180a Directors, trustees and other service providers under the AML law. This information includes identification of all of the settlors, trustees and beneficiaries and identification of any other individual exercising ultimate effective control over the trust (Art. 3(1)b) DDO) (see section A.1.4).

163. Beneficial ownership information in respect of trust enterprises is generally available in line with the standard. Unlike in case of other entities, the rules of Art. 180a PGR are applied to trust enterprises in all cases (irrespective whether they have legal personality or not). Trust and company service providers are frequently organised in the form of a trust enterprise and therefore these trust enterprises are required to have a licence by the FMA. A few trust enterprises have a trade licence and therefore are exempted from the obligation to have a licensed director under Art. 180a PGR. However as they carry out business locally, they are very likely to engage an AML obligated person in Liechtenstein. Consequently, beneficial ownership information in respect of trust enterprises is available mainly based on requirements to have a director under 180a PGR or through disclosure requirements with the FMA. Nevertheless, as some trust enterprises are exempted from the obligation under Art. 180a PGR and in a few cases beneficial ownership may not be available from other sources, Liechtenstein should ensure that beneficial ownership is available in respect of all trust enterprises as required under the standard.

Implementation of obligations to keep ownership information in practice

164. The 2015 report did not identify an issue in respect of implementation of the relevant rules in practice and concluded that they are properly implemented to ensure availability of the relevant information. There has been no relevant change in Liechtenstein's practice in this respect.

165. The same measures as described under section A.1.1 and A.1.4 are applied by the Office of Justice and the FMA. These measures are adequate to ensure that the required information is available in practice in line with the standard.

A.2. Accounting records

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

166. The 2015 report concluded that the legal and regulatory framework and its implementation in practice generally ensure the availability of accounting information in line with the standard. Nevertheless, as obligations introduced under Article 1045(3) PGR were recent and therefore remained to be sufficiently tested, Liechtenstein was recommended to monitor their implementation especially in respect of entities and arrangements covered by PAS regime.

167. The implementation of accounting rules under Article 1045(3) PGR relies heavily on AML supervision. Although AML supervision in Liechtenstein is adequate, concerns arise regarding the scope of accounting information checked during AML inspections. It is therefore recommended that Liechtenstein strengthens supervision of entities and arrangements that qualify as special asset dedications or are subject to PAS regime so that it is ensured that all accounting records as defined under the standard are available in respect of these entities and arrangements.

168. As described in the 2015 report, the main source of accounting obligations in Liechtenstein is the PGR. Further, accounting obligations are provided for under the tax and to certain extent under the AML law. Articles 1045 to 1062a of the PGR prescribe general rules of accounting in Liechtenstein which directly or indirectly cover all relevant entities and arrangements. Accounting records are required to be kept for a period of 10 years from the end of the business year during which the last entries were made irrespective of whether an entity ceased to exist. Sanctions are applicable in case of failure to comply with the relevant rules. These rules are adequate and require availability of accounting information in line with the standard.

169. Practical availability of accounting records of entities and arrangements that carry out commercial activities is adequately ensured through the combination of filing requirements with the Commercial Register and the Fiscal Authority which are supported by follow up actions in cases of non-compliance. As noted above practical availability of accounting information of entities and arrangements which do not carry out commercial activities and qualify as special asset dedications or entities subject to PAS regime (which is

about one third of entities and arrangements in Liechtenstein) relies on AML supervision and should be strengthened.

170. During the review period, Liechtenstein received 100 requests that asked for accounting information. The majority of these requests related to information on foundations, companies, establishments and trusts. In a few of these cases the relevant entity was liquidated. Nevertheless, according to Liechtenstein, there was no case over the reviewed period where it failed to provide the requested information pursuant to a valid EOI request. No concerns in respect of the availability of accounting information were reported by peers either (see section C.5).

171. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In place		
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
	Practical availability of accounting information of entities and arrangements which do not carry out commercial activities and qualify as special asset dedications or entities subject to Private Asset Structure regime relies on AML supervision. Although AML supervision in Liechtenstein is adequate, concerns arise regarding the scope of accounting information checked during AML inspections.	Liechtenstein should strengthen supervision of entities and arrangements that qualify as special asset dedications or are subject to Private Asset Structure regime so that it is ensured that all accounting records as defined under the standard are available.
Rating: Largely Compliant		

ToR A.2.1. General requirements and A.2.2 Underlying documentation

172. The 2015 report concluded that Liechtenstein's legal and regulatory framework requires the availability of accounting information in line with the standard. There has been no change in the relevant rules since then.

173. The main source of accounting obligations in Liechtenstein is the PGR. Further, accounting obligations are under the tax and to certain extent under the AML law.

174. As described in the 2015 report, Articles 1045 to 1062a of the PGR prescribe general rules of accounting in Liechtenstein. Article 1045 concerns financial accountability and is the central obligation regarding the maintenance of accounting records. Paragraphs 1 and 2 of the Article provides that all legal entities obliged to register in the Commercial Register (Art 945) and which operate according to commercial principles (Art 107) as well as all joint stock companies, limited partnerships with share capital, companies with limited liability, unlimited partnerships and limited partnerships which have companies as limited partners must keep proper accounting, regardless of whether they undertake commercial activities. Finally, paragraph 3 of Article 1045 provides accounting obligations for legal entities not covered under paragraphs 1 and 2. It requires them to take into consideration the principles of proper accounting and keep appropriate records and retain necessary documents, which are reasonable in the financial circumstances, through which the course of business and the development of the assets can be reconstructed.

175. All persons covered by Article 1045 are subject to obligations concerning Business Books (Article 1046), requirement to prepare financial statements (Arts. 1048 to 1058) and duty of keeping and retaining business records (including accounting documents) for 10 years (Art. 1059). It is the responsibility of members of the administration to ensure that the account books (Article 1046) or records and documents (Article 552(26), Article 1045(3)) are available at the registered office of the obliged person within a reasonable period of time (Art. 182a PGR). Legal entities not operating according to commercial principles (such as foundations and other entities qualifying for PAS regime) must submit a declaration to the Office of Justice that records and documents required by Article 1045(3) are available and that the entity has not carried out commercial activities (Art. 182b PGR).

176. Trusts accounting obligation under the PGR are further provided in Article 923 stipulating that a trustee must maintain a list of assets relating to the trust property, unless this is already in place, pursuant to Article 1045(3) and must adjust entries on an annual basis. Accounting obligations of trust enterprises follow that of trusts and entities under Article 1045(3) PGR if they do not carry out commercial activities. If they carry out commercial activities, they follow Article 1045(1) PGR.

177. Further accounting obligations exist under the tax law. Tax Act stipulates that corporate income tax base must be determined based on annual accounts prepared in accordance with the PGR. Tax accounting obligations cover also partners in a partnership so that they are able to substantiate their tax base in relation to the partnership's activities. The partners must submit complete financial statements (balance sheet and profit and loss statement) of the partnership together with their tax return. Detailed documentation requirements are contained in Articles 21(2) and 21(3) of the Tax Ordinance. However, tax accounting rules are of limited relevance for entities subject to PAS regime (i.e. entities not engaged in economic activities such as foundations) or special asset dedications without legal personality (i.e. trusts and trust enterprises) as they pay a minimum tax fee of CHF 1 800 (EUR 1 506) and are not subject to tax assessment or tax filing requirements. Nevertheless, they remain covered by obligations under Article 1045(3) and Article 1045(2) of the PGR.

178. Finally, certain accounting documents are required to be kept by AML obliged persons. Pursuant to DDO, AML obliged persons must keep due diligence files which inter alia must contain the documents and records concerning their clients' transactions and asset balances (Art. 27(1)(d) DDO). Further, clients' business profiles must include the client's economic background and origin of the assets deposited, the profession and business activity of the effective depositor of the assets, and the intended use of the assets (Art. 20 DDO).

179. Retention period for accounting records is contained in Article 1059 PGR. It provides that any person who has a duty to proper accounting must keep and retain the accounting records, journal vouchers and business correspondence for a period of 10 years since the end of the business year in which the last entries were made, account records were created, and business papers were received or sent (Art. 142 and 1059 PGR). According to Liechtenstein authorities the 10 year retention period runs irrespective of whether an entity ceased to exist as the law specifies that the period runs from the end of the business year in which the last entries were made and it is the obligation of the former representatives of the entity to ensure compliance with their obligation. This interpretation is also confirmed in practice (see section A.1.1). The obligation covers all entities and arrangements to which art. 1045 PGR applies (para. 1 and 2 as well as para. 3). Furthermore, Article 923(1) PGR explicitly refers to Article 1059 PGR, which means that the retention period therein also concerns trusts. Thus, Article 1059 equally applies to all legal entities and arrangements.

180. In addition, joint stock companies, private limited liability companies, limited partnerships and SEs carrying out commercial activities are obliged to file their annual financial statements with the Commercial Register (Arts. 1063 and 1122 PGR). Information filed with the Commercial

Register must be kept for at least 30 years since removal of the entity from the Register. Finally, entities and arrangements which are not special asset dedications or subject to PAS regime are required to maintain records substantiating their tax base for at least 10 years from the end of the tax period to which they relate. Accounting information filed with the Fiscal Authority is also generally kept for at least 10 years (Art. 121(3) Tax Act).

181. As described in the 2015 report, failure to maintain accounting records is sanctioned by the Court of Justice with a fine of up to CHF 10 000 upon application or ex officio in non-contentious proceedings (section 66 of the Final Part of the PGR). The fine can be imposed repeatedly until the deficiency is remedied. Failure to disclose accounting records in compliance with Article 1122 PGR is subject to a fine that can be imposed by the Office of Justice; the total amount of the fine should not exceed CHF 1 000. Sanctions are also applicable under the tax law for failure to file a tax return (including the annual financial statements) or failure to substantiate the tax base.

Implementation of accounting requirements in practice

182. The 2015 report did not identify any issue concerning the implementation of accounting requirements in practice. Nevertheless, as obligations introduced under Article 1045(3) PGR were recent and therefore remained to be sufficiently tested, Liechtenstein was recommended to monitor their implementation especially in respect of trusts, foundations and establishments covered by PAS regime.

183. As described above, persons covered under 1045(3) PGR do not carry out commercial activities and therefore qualify for PAS regime and, if the PAS is granted, are not required to file annual accounting records with the Commercial Register. Consequently, availability of accounting information in respect of these persons is not supervised by the Fiscal Authority or the Commercial Register but relies on supervision carried out under the auspices of the FMA. As described in section A.1, FMA's supervisory regime is primarily focused on compliance with AML/CFT obligations. As all legal entities which do not carry out commercial activities must have an 180a Director or a professional trustee covered by AML obligations, it is ensured that all entities subject to Article 1045(3) PGR are also subject to AML supervision. This is the case also for foreign companies effectively managed in Liechtenstein. AML supervision in Liechtenstein is adequate and ensures that information required for CDD purposes is available in practice (see section A.1.1). However, concerns arise regarding the scope of accounting information checked during these inspections as keeping full accounting records as defined under the standard is generally not necessary to comply with AML requirements. This is a concern in particular with respect to underlying documentation where AML risk is low.

184. Nevertheless, it is noted that business profile must include the entity's economic background and origin of the assets and that 180a Directors and trustees are embedded within the entity or arrangement and therefore well positioned to keep all the necessary transaction records (unlike registered agents or other third party service providers). Each transaction has to be monitored on a risk-appropriate basis and has to be checked against the business profile to determine conformity with the profile. The level of detail of underlying documentation, such as agreements, contracts, etc. depends on the risk. Further Liechtenstein authorities explain that transactions on behalf of the entity are carried out with the approval of the 180a Director or a trustee, who are directly liable for his/her activities in his/her role as company director, and therefore there is an incentive for them to not approve any transactions without the underlying documentation, such as agreements or contracts.

185. Although AML requirements to keep a business profile and monitor performed transactions appear to ensure that accounting information should normally be available to a large extent in line with the standard, concerns remain regarding the scope of accounting supervision carried out in the AML context as full accounting records as defined under the standard are generally not necessary to comply with AML requirements. Therefore, Liechtenstein is recommended to strengthen supervision of entities and arrangements that qualify as special asset dedications and entities subject to PAS regime.

186. The availability of accounting records of entities and arrangements carrying out commercial activity is primarily supervised through filing requirements with the Commercial Register and with the Fiscal Authority. As already noted above joint stock companies, private limited liability companies, limited partnerships and SEs carrying out commercial activities are obliged to file their annual financial statements with the Commercial Register. Similar to other filing obligations with the Commercial Register, it is rare that the required information is not provided as information contained in the Register is relied upon by third parties, including business partners of the legal entity and it is subject to their reporting. Out of about 5 500 entities required to file their annual financial statements with the Register about 100 (1.8%) needed to be reminded of their obligation annually. In all cases, the missing documentation was provided; therefore, no sanctions were applied. Accounting information in respect of entities or arrangements which ceased to exist remains available with the Commercial Register and/or the Fiscal Authority pursuant to their filing obligations. Further accounting records remain available with the former directors or the liquidator for inspection by persons with legitimate interest (e.g. former shareholders, business partners or the Fiscal Authority).

187. All domestic and foreign legal entities and arrangements assessed by the Fiscal Authority (i.e. excluding special asset dedications and entities

subject to PAS regime) have to submit their financial statements together with their tax returns. The financial statements must be prepared in accordance with the provisions of the PGR. All tax returns are audited by the Fiscal Authority to crosscheck the provided information and ensure that all documentation is provided including financial statements. The scope of the audit depends on the size and complexity of the business of the person assessed and ranges from analytical audit procedures to detailed accounting audits including review of underlying documentation. If the required information is missing or found inaccurate, the Fiscal Authority requests its submission and/or explanation supported by additional documents where appropriate. In majority of cases income tax returns are found accurate and complete and no action from the Fiscal Authority is needed. In all cases over the reviewed period where the missing or incomplete documentation information was requested it was subsequently provided by the taxpayer to the Fiscal Authority. The compliance rate with tax return filing obligations is steadily over 90%. Where tax return is not filed within the default deadline (in about 15% of obliged taxpayers), fines for later filing apply and the taxpayer is reminded to submit the return within a new prescribed deadline.

188. To sum up, as concluded in the 2015 report, supervision of the availability of accounting records of entities and arrangements that carry out commercial activities is adequately ensured through the combination of filing requirements with the Commercial Register and the Fiscal Authority which are supported by follow up actions in cases of non-compliance. Practical availability of accounting information of entities and arrangements which do not carry out commercial activities and qualify as special asset dedications or entities subject to PAS regime (which is the majority of entities and arrangements in Liechtenstein) relies on AML supervision. Although AML supervision in Liechtenstein is adequate, concerns arise regarding the scope of accounting information checked during AML inspections. It is therefore recommended that Liechtenstein strengthens supervision of entities and arrangements that qualify as special asset dedications or are subject to PAS regime so that it is ensured that all accounting records as defined under the standard are available in respect of these entities and arrangements.

A.3. Banking information

Banking information and beneficial ownership information should be available for all account-holders.

189. In terms of banking information, the 2015 report concluded that banks' record keeping requirements and their implementation in practice were in line with the standard. This continues to be the case.

190. The 2015 report recommended Liechtenstein to strengthen the implementation of its measures to ensure that information on the holders of all bearer passbooks is available. Since then Liechtenstein has amended its CDD rules which address the concern. In September 2017, a new provision of the DDO entered into force which eliminated any threshold for identification of existing anonymous bearer passbooks. Hence, CDD measures (including identification of the holder of the account) have to be fulfilled irrespective of any threshold whenever a person checks the deposit or wants to order a transfer.

191. All banks in Liechtenstein are financial institutions covered by AML obligations and required to carry out CDD measures which include identification and verification of beneficial owners of account-holders in line with the standard. Pursuant to these requirements, banks are required to identify (among others) all founders, beneficiaries and trustees of a trusts, foundations or similar arrangements or entities regardless of their control over the arrangement or entity or any interest threshold and, if founders and beneficiaries are not individuals, to look through the chain of control and ownership to identify the individual person standing behind each founder and beneficiary. The obtained CDD information must be kept for ten years from the end of the business relationship and non-compliance is subject to administrative fines and in severe cases criminal penalties.

192. Supervisory activities carried out by Liechtenstein are adequate to ensure practical availability of beneficial ownership in line with the standard. Banks' compliance with the AML/CFT record keeping obligations is primarily supervised by the FMA. The supervisory regime includes a combination of off-site reporting and on-site inspections as well as desk based analysis of inspection findings and overall risks faced by the regulated sector. The frequency of on-site inspections is robust as each bank is subject to on-site inspection at least annually regardless of its risk profile. Inspection of sample CDD files including the way how beneficial owners are identified and documented forms compulsory part of each on-site inspection. The instances where shortcomings are identified typically relate to establishing a comprehensive and meaningful business and risk profile of the customer rather than to weaknesses in the identification and verification of the identity of the customer or the beneficial owner.

193. Availability of banking information in Liechtenstein was also confirmed in EOI practice. During the review period, Liechtenstein received 142 requests related to banking information. These requests frequently included requests for beneficial ownership information on account-holders. There was no case where the information was not provided because the information was not available with the bank. No concerns in this respect were reported by peers either.

194. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In Place		
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

ToR A.3.1. Record-keeping requirements

195. The 2015 report concluded that banks' record keeping requirements and their implementation in practice are in line with the standard.

196. The main record keeping requirements are contained in the AML law and associated regulations. The DDA prohibits keeping passbooks, accounts, or custody accounts payable to bearer only and keeping anonymous accounts, savings books, or custody accounts or accounts, savings books, or custody accounts in fictitious names (Art. 13 DDA). Further, banks must monitor transactions on their accounts and keep transaction-related documents which include all documents that make it possible to reconstruct individual transactions, including the amount and currency (Art. 2(1)q) DDA). Non-compliance with CDD requirements, including a failure to keep appropriate transactional records, is subject to administrative and ultimately criminal sanctions. Pursuant to Art. 31(1) DDA, the supervisory authority shall impose fines of up to CHF 200 000 (EUR 172 355) on any person committing an administrative offence under the law, including inter alia a violation of the requirements related to CDD, monitoring and record keeping obligations. Financial institutions that violate certain due diligence obligations (including requirements related to CDD, record keeping and third party reliance) in a serious, repeated, or systematic manner may be fined up to CHF 5 million (EUR 4.3 million) or up to 10% of total annual turnover.

197. Requirements under the AML law are further supported by documentation requirements under the PGR and Banking Act. Banks and other financial institutions are required to keep and retain accounting records and business papers, similar to other entities obliged to undertake proper accounting (Art. 1059 (1) PGR). Article 8f of the Banking Act requires banks to

record the orders received and the transactions made on and outside regulated markets for all financial instruments.

198. The 2015 report noted that although opening of bearer passbooks was prohibited in 2001, some pre-existing passbooks were still in existence and identity information on their holders was not available unless a transaction took place. Consequently, Liechtenstein was recommended to strengthen the implementation of its measures to ensure that information on the holders of bearer passbooks is available. Since then Liechtenstein has amended its CDD rules to address the concern. In September 2017, a new provision of the transitional rules of the DDA entered into force, which eliminated the CHF 25 000 (EUR 21 565) threshold for identification of existing anonymous bearer passbooks. Hence, CDD measures (including identification of the holder of the account) have to be fulfilled irrespective of any threshold whenever a person checks the deposit or wants to order a transfer. As of December 2014, there were 229 bearer passbooks left. The related assets amounted to CHF 4.2 million (EUR 4.1 million). The average amount per passbook was CHF 18 340 (EUR 17 720). Since then, the number of unclaimed bearer passbooks and the amount of deposits further declined. As of December 2017, there were two banks that still have unclaimed bearer passbooks in circulation. In total, there were 148 passbooks which amounted to CHF 3.68 million (EUR 3.26 million) deposits. According to the Liechtenstein authorities bearer passbooks are typically in possession of old pensioners whose mobility is restricted or were held by already deceased persons. It is also noted that no EOI request related to any bank account with a bearer passbook during the current or preceding period under review. Liechtenstein has taken adequate measures to ensure that all holders of bearer passbooks are identified as demonstrated in the limited number of remaining bearer passbooks. Nevertheless, as small number of bearer passbooks still remains in circulation and the new provision is relatively recent, Liechtenstein should monitor the identification of all remaining holders of bearer passbooks so that all bank accounts are properly identified.

199. Implementation of record-keeping requirements is supervised by the FMA together with obligations to identify beneficial owners described below.

ToR A.3.1. Beneficial ownership information on account-holders

200. All banks in Liechtenstein are financial institutions covered by AML obligations and required to carry out CDD measures which include identification and verification of the beneficial owners of account-holders (Arts. 3(1)a) and 5 DDA).

201. As described in section A.1, beneficial owners of corporate bodies are:

- natural persons, who ultimately directly or indirectly:
  - hold or control a share or voting right amounting to 25% or more in such legal entities
  - have a share of 25% or more in the profits of such legal entities; or
  - exercise control over the management of such legal entities in another way
- Natural persons, who are members of the executive body if, after exhausting all alternatives and provided there are no grounds for suspicion, no such person as referred above can be identified (Art. 3(1) a) DDO).

202. Beneficial owners for trusts, foundations and arrangements or entities with a structure similar to that of a foundation or trust are:

- natural persons, who are effective, non-fiduciary sponsors, founders or settlors, irrespective of whether they exercise control over the legal entity or arrangement after its foundation
- natural or legal persons who are members of the foundation board or board of directors or of the trustee
- any natural persons who are protectors or persons in similar or equivalent functions
- natural persons who are beneficiaries
- if the beneficiaries have yet to be determined, the group of persons, in whose interests the legal entity is primarily established or operated
- in addition to the above, the natural persons who ultimately control the legal entity through direct or indirect ownership rights or in any other way (Art. 3(1)b) DDO).

203. The definitions above are in line with the standard as they cover all aspects of beneficial ownership as understood under the standard (i.e. controlling ownership interest, control through other means and senior management which do not represent alternative options). Pursuant to the definition of beneficial owner and resulting identification requirements, banks are required to identify all founders, beneficiaries and trustees of a trusts, foundations or a similar arrangements or entities regardless of their control over the arrangement or entity or any interest threshold and, if founders and beneficiaries are not individuals, to look through chain of control and ownership to identify the individual person standing behind each founder and beneficiary.

204. The above requirements brought an adjustment into the identification of beneficial owners of trusts, foundations and similar entities and arrangements, mainly they require identification of founders, settlors and beneficiaries regardless of any threshold. The requirements came into force in January 2016 and apply to new as well as pre-existing business relationships. Identification of beneficial owners for relationships existing prior to January 2016 must be updated by January 2019 in case of high risk relationship (e.g. relationships with Politically Exposed Persons, complex structures or FATF-listed countries) and by January 2021 in case of all other pre-existing relationships. The new rules apply for all relationships established after January 2016. As these rules require adjustments in CDD processes and are not yet fully implemented, Liechtenstein should monitor their effective implementation. It is nevertheless noted that the AML framework required identification of beneficial owners of trusts, foundations and similar entities and arrangements and that the new definition further strengthens already implemented CDD requirements.

205. In order to establish and verify the identity of the beneficial owner, the persons subject to due diligence obligations must obtain and record name, forename, date of birth, residential address, state of residence and nationality of the beneficial owner (Arts. 6(1)a) and 11(1) DDO). The accuracy of these particulars must be confirmed by the entity or a person authorised by that entity by means of a signature (Art. 11(2) DDO).

206. If the due diligence duties, including identification of the beneficial owner, cannot be satisfactorily performed, the bank cannot establish or must discontinue the business relationship and must consider filing a report to the FIU (Art. 5(3) DDA).

207. Identification of beneficial owners of the account-holder must be part of a profile of the business relationship ("business profile") (Art. 8(1) DDA and Art. 20(1)(a) DDO). Pursuant to Article 8(2) DDA obliged persons are required to ensure that the data and information in the business profile is up to date, by running checks at intervals appropriate to the risk involved, in order to establish whether the information and data (including beneficial owner information) contained in the business profile is still current. For higher risk business relationships this review has to be undertaken at least every two years and every three to five years for business relationships with a regular risk profile (FMA Guidelines 2013/1 on the risk based approach). The update frequency for low risk customers is not predefined but must be defined by the AML obliged person. According to the FMA guidance based on guidance issued by the European Supervisory Authorities only retail banking customers can be regarded as low risk customers, provided that (amongst others) the asset and transaction volume is low. This category mainly involves natural persons and small local businesses and is only

relevant for the banking sector but not for the TCSP sector. The guidance expressly sets out that wealth management customers and commercial business customers with larger transaction volumes can never be regarded as low risk. The guidance also emphasises that tax transparency levels must be considered when assessing the risk involved. For instance, the risk assessment must also take into account, whether all relevant beneficial owners have been disclosed under the CRS to their relevant tax authority.

208. The extent of verification measures taken to ensure appropriate identification of beneficial owners should be commensurate to identified risks posed by the business relationship. Therefore if, after conducting an appropriate risk assessment, there is only a minor AML/CFT risk, banks may apply simplified CDD measures. The risk analysis impacts the extent of the verification and frequency of monitoring but not the requirement to identify the beneficial owners of account-holders. Risk factors which should be taken into account when considering simplified CDD are specified in Annex 1 of DDA. In cases of simplified due diligence, the bank must record the reason for its application in the due diligence files (Art. 19(2) DDA).

209. In certain cases AML obliged persons (including banks) can rely on identification of the beneficial owner performed by a third party. Nevertheless, the relying party remains ultimately responsible for compliance with due diligence requirements under Liechtenstein law (Art. 14(2) DDA). Further, the relying person must ensure that the third party obtains or issues the documents and information in accordance with the provisions of the DDA and DDO, and transmits them immediately to the relying person in Liechtenstein, together with a note on the identity of the person conducting the identification and verification (Art. 24(1)a) DDO). Finally, reliance can be placed only on other persons that are subject to AML/CFT requirements and supervision consistent with the 4th EU AML Directive and the third party may not be domiciled in a state with strategic AML/CFT deficiencies (i.e. high-risk and non-co-operative jurisdictions identified by the FATF) (Art. 14(1) DDA). According to Liechtenstein authorities, third party reliance is hardly used in practice due to the strict regulation in Liechtenstein which requires (inter alia) that relying person always immediately obtains copies of all verification documents (not only upon request).

210. Banks must retain information obtained pursuant to CDD requirements for ten years from the end of the business relationship (Art 20(1) DDA). Non-compliance with these requirements is subject to administrative fines and in severe cases criminal penalties (see further above and section A.1.1).

Implementation of obligations to keep beneficial ownership information in practice

211. Banks' compliance with the AML/CFT record keeping obligations is supervised by the FMA. The supervisory regime includes combination of off-site reporting and on-site inspections as well as desk based analysis of inspection findings and overall risks faced by the regulated sectors. About 10 persons are devoted to AML supervision in the FMA.

212. Banks must provide annually comprehensive report on their size (i.e. number of business relationships, volume of assets), customer portfolio, products and services and corporate AML/CFT governance arrangements and structures. This includes detailing internal audit and compliance functions, organisational structure and resources of the AML compliance unit, the risk-adequate monitoring system and compliance history with AML legal and regulatory requirements.

213. As described in section A.1.1, every year, the FMA conducts several on-site inspections at financial institutions in order to examine their compliance with AML/CFT requirements. These AML inspections are conducted following a risk-based approach. The sample testing of CDD files constitutes a central element of these onsite inspections.

214. In addition, the FMA contracts audit companies to carry out specific AML/CFT on-site inspections on behalf of the FMA. Currently there are about 20 audit companies contracted by the FMA. The AML inspections by contracted auditors are carried out on the basis of a comprehensive inspection plan (sample inspection report) and mandatory inspection documents issued by the FMA. In addition, the detailed modalities of the onsite inspections are set out in the FMA Guideline ("Due diligence inspections by mandated due diligence auditors"). As in the case of inspection carried out directly by the FMA, the sample testing of CDD files is an essential element of these inspections. All inspection reports drafted by the contracted auditors are analysed by the FMA and follow-up measures are applied by the FMA where necessary.

215. The frequency of on-site inspections is robust as each of 15 banks is inspected at least annually regardless of its risk profile.

216. Inspection of sample CDD files including the way how beneficial owners are identified and documented forms compulsory part of each on-site inspection. All inspections follow procedures prepared by the FMA. During each inspection, the auditors review and document formal systems and procedures put in place by the obliged person. Further, all inspections include testing of sample client relationships. This entails requesting a complete CDD file for representative subset of clients. The proportion of sampled files varies based on clients' risk. Review of each file follows FMA checklist starting with identification of the client risk classification, legal form of the

engagement (e.g. corporation, foundation, trust), classification of the beneficial owner (e.g. natural person holding more than 25%, natural person controlling the legal entity), identification of the beneficial owner (name, nationality, address, date of birth), confirmation of the beneficial owner by the customer (signature), date of the completed beneficial ownership form, performed verification checks, information from the transaction testing and testing of the business profile (e.g. information on source of wealth/source of funds).

217. The instances where the FMA or contracted auditors identified shortcomings in the implementation of AML/CFT obligations rather related to shortcomings in establishing a comprehensive and meaningful business and risk profile than to weaknesses in the identification and verification of the identity of the customer or the beneficial owner. Where shortcomings were identified, financial institutions demonstrated that they are able to address them satisfactorily in due time. Accordingly, there have been only very few cases where the FMA imposed (monetary) fines for non-compliance.

218. In 2015, none of the files reviewed for AML/CFT compliance exhibited shortcomings with respect to the beneficial owner identification and verification requirements. In 2016, the number of client files which exhibited shortcomings with respect to the beneficial owner identification and verification requirements represented 0.65% of reviewed account-holders' files. In 2017, the number of client files which exhibited shortcomings with respect to the beneficial owner identification and verification requirements was 0.87% of reviewed account-holders' files. The identified shortcomings were partly based on incorrect implementations of the new definition of beneficial ownership pursuant to Art. 3 (1) DDO (see section A.1.4 and above). For the purpose of consistent application of these new CDD measures across all financial intermediaries, the FMA issued the FMA Communication 2015/7, which sets out in detail the FMA's interpretation of the revised rules related to the identification of the beneficial owner.

219. Supervisory activities carried out by Liechtenstein are adequate to ensure the availability of beneficial ownership in line with the standard. Based on analysis of inspections findings and FMA's interactions with the regulated sectors, banks' compliance with their obligations to maintain adequate, accurate and up to date beneficial ownership information on account-holders is good and ensures the availability of beneficial ownership information as required under the standard.

Part B: Access to information

220. 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).

221. As concluded in the 2015 report, the Competent Authority has broad access powers to obtain all types of relevant information including ownership, accounting and banking information from any person in order to comply with obligations under Liechtenstein's EOI instruments. These access powers can be used regardless of domestic tax interest and also in cases where information is requested for criminal tax purposes. In the case of failure to provide the requested information, the Competent Authority has adequate powers to compel the production of information. Finally, secrecy provisions contained in Liechtenstein law are compatible with effective exchange of information.

222. The Competent Authority's access powers are also effectively used in practice. In most cases the requested information is not in the hands of the Liechtenstein authorities and has to be gathered through use of access powers. The requested information is typically obtained from the information holder who is a corporate service provider (e.g. 180a Director) or a bank. During the current period under review there was no case reported where the requested information would not be provided due to lack of scope of access powers. No concerns in this respect were indicated by peers either.

223. The table of determinations and ratings therefore remains unchanged as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In place		
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
Rating: Compliant		

ToR B.1.1. Ownership, identity and bank information and ToR B.1.2. Accounting records

224. The tax administration has broad access powers to obtain all types of relevant information including ownership, accounting and banking information from any person within Liechtenstein jurisdiction pursuant to a valid EOI request.

225. The 2015 report concluded that appropriate access powers are in place for EOI purposes. There has been no change in the relevant rules since then.

226. The Competent Authority's access powers for exchange of information purposes are mainly provided in the Law on International Administrative Assistance in Tax Matters (EOI Act). The EOI Act is applicable to all Liechtenstein's EOI instruments including the Multilateral Convention, except those with the United States and the United Kingdom, for which separate implementing laws were enacted. The implementing legislation for the TIEAs with the United States and the United Kingdom is materially the same as for other Liechtenstein's EOI instruments, except as discussed in this report.

227. The Competent Authority's access powers allow for gathering of any relevant information from persons who hold the information which is the subject of a request (Arts. 10 to 16 EOI Act). These powers explicitly provide the ability to obtain information held by banks, other financial institutions and persons, including nominees and trustees, acting in an agency or fiduciary capacity (Art. 13 EOI Act). The holder of the information is defined as any person with the information at his/her disposal (Art. 3(1)c) EOI Act).

228. The Competent Authority is empowered to "demand" that the holder of the information provides it to the Competent Authority within 14 days which time can be extended in exceptional cases (Art. 10(1) EOI Act).

229. The use of access powers is conditioned by the receipt of a valid EOI request. The EOI Act specifies that assistance is to be provided with respect to information which is foreseeably relevant to the determination, assessment, enforcement or collection of taxes with respect to persons subject to such taxes, or the investigation or prosecution of criminal tax matters. An EOI request must be framed with the greatest degree of specificity possible and must contain information akin to Model TIEA Article 5(5) (Art. 7 EOI Act). The Competent Authority must verify whether a request meets the requirements of Article 7 of the EOI Act or whether there are grounds for declining a request under Article 8 of the EOI Act. A request may be declined if (i) it is not made in conformity with the EOI Act and, in particular, where the requirements of Article 7 are not met; (ii) the sovereignty, security, or public policy of the Principality of Liechtenstein would be compromised; or (iii) the statute of limitations pertaining to the object of the request has expired pursuant to the laws of the requesting State (Art. 8 EOI Act). A request constituting fishing expedition does not meet the requirements of Article 7 (see section C.1.1). The Competent Authority's access powers are applicable to all jurisdictions with which Liechtenstein concluded an EOI treaty, as determined in the first round reports.

230. Since the 2015 report Liechtenstein enacted exceptional procedure for obtaining and providing the requested information which does not require notification of the concerned persons prior to exchange of information. Access powers available to gather information during exceptional procedure are the same as during regular procedure (Art. 28b EOI Act). However, unlike in the regular procedure exchange of obtained information to the requesting jurisdiction is subject to approval by the Administrative Court (see section B.2).

Access to information in practice

231. In practice, the main sources of information for the Competent Authority are:

- Service providers – for most requests, information would be obtained from service providers. The Competent Authority sends a registered letter requesting for the information to be provided within 14 days upon deliverance of the letter. In the letter attention is drawn to the consequences (coercive measures), should the information not be provided within the deadline.
- Banks in respect of banking information – banks submit the requested information upon a request of the Competent Authority. The Competent Authority sends a registered letter to the bank requesting for the

information to be provided within 14 days upon deliverance of the letter as in the case of other types of information. No specific identifiers are required to be provided to banks as long as they uniquely identify the person whose banking information is requested. This can be done also through the provision of the bank account number.

- The tax database ("INES") – the IT system of the Fiscal Authority. It contains basic information that can be used for the identification of taxpayers and to gather information regarding their addresses, residency, TIN, etc.
- The taxpayer's file at the Fiscal Authority – the file contains basic accounting information regarding entities and arrangements filing their tax returns.
- Information held by other Liechtenstein governmental authorities – when the information is in the hands of another governmental authority (e.g. the Commercial Register), a representative of this authority is asked by e-mail to provide the requested information. Receipt by the EOI Unit usually takes two or three days.

232. EOI requests typically relate to a taxpayer that is resident in the requesting jurisdiction and that has presence in Liechtenstein through a Liechtenstein entity or has a bank account in Liechtenstein. Although most of these entities are liable to tax in Liechtenstein, the tax returns of these entities would not contain the (beneficial) ownership information regarding the foreign taxpayer that is typically asked for. Nevertheless, the requested information is available with other sources within Liechtenstein, typically the information is with a service provider or a bank as part of their AML/KYC documentation. Therefore, in most cases the requested information is not in the hands of the Liechtenstein authorities and has to be gathered through use of access powers described above.

233. The procedure for obtaining information remains the same regardless of whether the information is requested in criminal or civil tax matters.

234. Effectiveness of access powers was confirmed also during the current period under review as there was no case reported where the requested information would not be provided due to lack of scope of access powers. No concerns in this respect were indicated by peers either.

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

235. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes.

236. The 2015 report concluded that the Competent Authority can use its access powers regardless of domestic interest. There has been no change in the applicable rules since the first round review. The EOI Act containing the Competent Authority's access powers was specially enacted to implement the obligations to obtain and provide information under Liechtenstein's EOI instruments and does not condition use of access powers by the existence of a domestic tax interest. The Competent Authority's access powers can also be used regardless of lapse of the statute of limitation in respect of the particular tax period in Liechtenstein.

237. The majority of EOI requests received by Liechtenstein request information relating to a person that is not a Liechtenstein taxpayer and in which Liechtenstein has no domestic tax interest. Liechtenstein's ability to provide information regardless of domestic tax interest has been confirmed over the current review period as there was no case where the domestic tax interest would prevent accessing and providing the requested information. This was also confirmed by peers.

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

238. Jurisdictions should have in place effective enforcement provisions to compel the production of information.

239. As concluded in the 2015 report, Liechtenstein has in place effective enforcement provisions to compel the production of information and these provisions are adequately applied in practice. There has been no change in these provisions or the Competent Authority practice since then.

240. The EOI Act provides for coercive measures consisting of searches of homes and persons (§ 92 CPC); seizure (§96 to 98 CPC); and coercive and contempt measures against witnesses (§ 113 to 114 CPC) (Arts. 14 and 15 EOI Act). These coercive measures are executed by the Competent Authority with the assistance of the National Police (Art. 16 EOI Act). Use of coercive measures is subject to a judicial approval by the Administrative Court.

241. Further, Liechtenstein's Criminal Code prescribes various sanctions applicable in cases where someone tampers, alters, damages or destroys the requested information or refuses to comply with the coercive powers exercised by the Competent Authority (Arts.15 and 28 LIAATM).

242. In practice, if the information holder does not provide the information requested under Article 10 EOI Act within the stipulated time, he/she is asked for a second time to provide the information usually with a one week deadline. If the information is not provided after the second request, the Competent Authority applies for the use of appropriate coercive measure,

typically search of homes and persons. Even when a third party would be in possession of information that he or she is not legally required to keep, that information would have to be provided to the Competent Authority and refusal to provide it will lead to coercive measures.

243. During the period under review, there has been no case where a record keeper disputed the obligation to keep certain information. In practice, even if the information holder does not agree with the request (or its part), the information holder would have to provide the requested information. Over the reviewed period, the Competent Authority used coercive measures twice. Despite a reminder that was issued to the information holder, the information holder initially did not provide the Competent Authority with all the requested information but only parts of it. In both cases the information was ultimately provided.

ToR B.1.5. Secrecy provisions

244. The 2015 report concluded that secrecy provisions contained in Liechtenstein's law are in line with the standard. There has been no change in these rules since then.

245. Liechtenstein law contains a number of secrecy provisions in various pieces of legislation, primarily in the Banking Law 2001, laws governing other financial institutions, the DDA and the Law Governing Legal Assistance in Criminal Matters 2000. Nevertheless, for the purposes of exchange of information in tax matters, these secrecy rules are overridden by provisions of Article 12 of the EOI Act. Article 12 of the EOI Act provides that:

- Legal provisions concerning professional or business secrecy shall not prevent the information from being obtained, except for the cases in the two points below.
- A lawyer subject to legal privilege is not required to divulge to the Fiscal Authority information that has been entrusted to him/her in his/her capacity as a lawyer for the purpose of legal advice or for the purpose of use in existing or contemplated legal proceedings. The lawyer must disclose any other information to the Fiscal Authority.
- The holder of information is not required to disclose trade, business, industrial, commercial, or professional secrets or trade processes; but information shall not be deemed worthy of protection solely because it is in the possession of banks, other financial institutions, or persons acting as representatives or in a fiduciary capacity.

246. These provisions substantially mirror wording of Model DTC Article 26(3) and 26(5) and of Model TIEA Article 7(3) and, as was already concluded in the 2015 report, allow for exchange of information in line with the standard. This was also confirmed during the current period under review

as there was no case where banking, professional or other secrecy would prevent obtaining the requested information. Accordingly, no concerns in this respect were reported by peers either (see also section C.4).

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.

247. Rights and safeguards contained in Liechtenstein's law remain compatible with effective exchange of information and their application in practice does not unduly prevent or delay exchange of information.

248. As described in the 2015 report, Liechtenstein law contains prior notification requirements which allow for exceptions in line with the standard. However, as the rules for exception were enacted only in August 2015 and therefore were recent, Liechtenstein was recommended to monitor their application in practice. Since then, Liechtenstein received 57 requests from EOI partners for the application of the exception. The exceptional procedure was not granted only in cases where the requesting jurisdiction did not provide a reasoning to avoid notification explaining why in that case one of the conditions apply. Compatibility of Liechtenstein's practice with effective exchange of information was also confirmed by peers as no negative input concerning these rules or their application was received.

249. Under Liechtenstein's law, the information holder and other affected parties have the right to participate in the domestic procedure and to appeal the final decree to exchange the requested information in the Administrative Court. Despite the broad scope of persons allowed to participate in the procedure and their strong procedural position, only a small proportion of requests was subject to an appeal. Further, even if appealed, requests were processed without undue delays. It can be therefore concluded that appeal rights under Liechtenstein's law and their exercise in practice are in line with the standard. No concerns were also reported by peers.

250. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In place		

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	Underlying Factor	Recommendation
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	Underlying Factor	Recommendation
Rating: Compliant		

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

251. The rights and safeguards that apply to persons in the requested jurisdiction should be compatible with effective EOI. The standard foresees two main areas of rights and safeguard impacting exchange of information and these are notification requirements and appeal rights.

Notification requirements

252. As described in the 2015 report, Liechtenstein law contains prior notification requirements which allow for certain exceptions. Pursuant to Article 10 of the EOI Act, the Competent Authority must:

- notify the information holder about the receipt of the request and the information requested in it and at the same time instruct him/her to provide the requested information within 14 days
- mandate the information holder (i) to advise any persons concerned who are resident or domiciled abroad of receipt of the request, the information requested in it and of the domestic procedure that has been initiated, and (ii) to inform these persons that they have the right to participate in the domestic procedure and in such case to designate a domestic agent for service of communications.
- inform any persons concerned who are resident or domiciled in Liechtenstein and are known to the Fiscal Authority, of its receipt of the request, the information requested in it and of the domestic procedure that has been initiated, and also to inform these persons to the effect that they have the right to participate in the domestic procedure (Art. 10(1) EOI Act).

253. Persons concerned are defined as (i) the client of an information holder; (ii) the person whose tax or criminal tax liability is affected by a request; or (iii) a person who is personally and directly affected by the request (Art. 3(1) EOI Act). The scope of persons to be notified is relatively broad and generally defined. In most cases, the persons concerned are not resident or domiciled in Liechtenstein and therefore the scope of persons who receive the notification depends on the discretion of the information holder. Given that the content of the notification includes information related to the particular EOI request and therefore subject to confidentiality rules (e.g. the identity of the person subject of the request, the description of the requested information and a summary of the relevant background but not the EOI request letter) and considering the procedural rights of the persons concerned during obtaining and providing the information, the broad scope of persons which can be potentially notified poses a risk to effective exchange of information and its confidentiality. There are no specific checks by the Fiscal Authority to ensure that only the authorised persons are notified but the Fiscal Authority monitors whether any non-concerned person is applying for access to the EOI file or whether any non-concerned person is trying to participate in the proceeding, which would suggest that this person has been notified. Considering the above concerns Liechtenstein should clarify the scope of persons to be notified. Nevertheless it should be noted that in practice the notified person is only the information holder and the persons in respect of whom the information is to be exchanged. This was also confirmed in discussions with Liechtenstein authorities and representatives of information holders. Accordingly, no peer reported a concern in this respect (see section C.3).

254. In August 2015 (i.e. shortly before the cut-off date of the 2015 report), Liechtenstein brought into force amendments allowing for exceptions from the prior notification requirement. Exceptional procedure with subsequent notification is to be carried out if the foreign competent authority: (i) requires the Fiscal Authority to keep facts or transactions connected with the request secret from persons affected by the request; and (ii) provides credible evidence ("glaubhaft darlegt") that the notification of any persons concerned would impede the success of the foreign investigation procedure (Art. 28a(1) EOI Act). Liechtenstein authorities explain that the requesting competent authority is expected to provide reasoned explanation why the notification of persons concerned would impede the success of the investigation procedure. Liechtenstein courts have in their jurisprudence confirmed that Liechtenstein Fiscal Authority can rely on the trueness of the statements by the requesting authority under the principle of trust in international law. Where these conditions are met the notification is deferred for 12 months after the issuance of notice to the information holder requesting provision of information (Art. 28f(2) EOI Act). The deferral can be extended once for another 12 months if conditions for the exception continue to apply

(Art. 28g EOI Act). Before expiry of the first 12 month period the requesting jurisdiction is informed by the Competent Authority that the period is about to expire and that it can be extended for another 12 months if the conditions are met. The exception from notification is supported by anti-tipping off provision prohibiting the information holder to inform persons concerned about the request (Art. 28b EOI Act). The application of this exceptional procedure is subject to approval by the Administrative Court (Art. 28c EOI Act). The judge must decide within five working days whether the criteria for an exceptional procedure have been met. Entitled parties cannot contest the decision of the Administrative Court or reverse the transfer of the information that has taken place (Arts. 28i – 28k EOI Act).

255. The 2015 report concluded that the rules for exceptions from prior notification are in line with the standard. However, as the rules were recent Liechtenstein was recommended to monitor their application in practice.

256. Since the entry into force in August 2015 until September 2017, the Competent Authority received 57 requests to refrain from notifying the taxpayer or any other concerned person. In six cases the conditions for the exception were met. In four of these six cases the initial requests already contained sufficient reasons to proceed under the exceptional procedure and in the remaining two cases the appropriate reasoning was provided upon request by the Liechtenstein Competent Authority.

257. In the other 51 cases the foreign competent authority did not give any or sufficient explanations why the requests should be treated under the exceptional procedure. In all cases the Competent Authority asked the requesting jurisdiction to either provide more detailed reasons for processing the requests under the exceptional procedure or to allow the regular procedure including notification. In these cases, the requesting jurisdiction did not provide further reasons for the non-notification procedure and agreed to proceed with the request under the regular procedure. The majority of these requests were made by one of Liechtenstein's major EOI partners. Liechtenstein clarified the exceptional procedure and condition for its application with the EOI partner during a bilateral meeting to avoid such situation in the future. No negative input regarding the procedure was provided by the peer.

258. In four of the six cases where the exceptional procedure was granted the requesting jurisdiction applied for an extension of the ban on notification for further twelve months and this was granted in all four cases. In none of these cases inspection of the files was requested by the information holder or any other affected persons after the ban from informing the taxpayer was lifted. The total processing time (excluding the time taken by the requesting jurisdiction to provide the clarification) of the cases handled under the exceptional procedure, was in two cases within 90 days and in three cases

within 110 days. One case is pending for reasons unrelated to the exceptional procedure.

259. Liechtenstein's practice to grant exceptional procedure in cases where the requesting jurisdiction provides reasons for non-notification is in line with the standard. The standard requires exceptions from prior notification 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. It is therefore expected that the requesting jurisdiction should be able to demonstrate that the condition for the exception apply in the particular case. Compatibility of the application of the exception was also confirmed by peers as no input concerning these rules or their application was received.

260. The exceptional procedure results in post-exchange notification. The 2016 ToR requires that jurisdictions should provide for exceptions from time-specific post-exchange notification. In the case of Liechtenstein, the notification is delayed upon request by the requesting jurisdiction for up to two years. Although it is acknowledged that after lapse of this period the notification must be carried out, the length of the delay period appears to ensure that the notification is not likely to undermine the chance of success of the investigation in the requesting jurisdiction. Accordingly, no concerns in this respect were raised by peers.

Appeal rights and other safeguards

261. The 2015 report concluded that appeal rights and other safeguards contained in Liechtenstein law are generally in line with the standard and do not unduly hinder effective exchange of information. There has been no change in the relevant rules since then.

262. The information holder and other affected party have the right to participate in the domestic procedure during the gathering of the requested information to represent their legitimate interests. However, participation in the procedure and access to procedural records may be denied (i) in the interest of the foreign procedure; (ii) for the protection of an essential interest, if the foreign competent authority so requests; (iii) in light of the nature or urgency of the act of administrative assistance to be performed; (iv) for the protection of essential private interests; or (v) in the interest of a Liechtenstein procedure (Art. 24(2) EOI Act).

263. After collecting the requested information, the Competent Authority issues a final decree concerning the information to be transmitted to the foreign competent authority (Art. 21 EOI Act). The holder of the information and affected parties have a right to appeal this final decree by means of a complaint made to the Administrative Court within 14 days of the final decree

(Art. 26). Unless the information holder and other affected parties give consent in writing to transmit the obtained information, the Competent Authority cannot exchange the obtained information before lapse of the 14 day period. If no appeal is received within the 14 day period, the Competent Authority without delay sends the response to the requesting authority. If an appeal is lodged, the requested information can be transmitted only after the appeal has been decided.

264. During the period under review, out of 275 requests received by Liechtenstein, appeals to the Administrative Court were made in 13 cases, representing 4.7% of all received requests. Eleven out of the 13 appeals were rejected by the Administrative Court. Seven of these 11 cases were appealed to the Constitutional Court hereafter. Six of these seven appeals have been rejected by the Constitutional Court and one case was referred back to the Fiscal Authority for further clarification and is currently pending. Consequently, the requested information could not be provided following an appeal in two cases during the reviewed period, representing less than 1% of all requests received over that period (see section C.1.1). When appealed, the average response time was 175 days over the reviewed period. In the two declined cases Liechtenstein authorities did not appeal against an adverse decision of the Administrative Court. The concerned requesting authorities were informed about the decisions and no concerns were expressed by the peers (see also section C.1).

265. Considering the small proportion of requests subject to an appeal and on average relatively short process times by courts, appeals of the final decree did not seem to unduly prevent or delay effective information. Nevertheless, as already concluded in the 2015 report, the strong procedural position of the information holder and other affected parties in the process of obtaining and transmitting the requested information adds complexity to the process and requires additional time and resources on the side of the Competent Authority (see also section C.5). It is therefore important that the use of these rights does not lead to undue delays in exchange of information. It is nevertheless noted that the procedure seems to be efficient in limiting need for appeals to the Administrative Court and therefore limits potential delay in some cases.

Part C: Exchanging information

266. Sections C.1 to C.5 evaluate the effectiveness of Liechtenstein'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 it respects the rights and safeguards of taxpayers and third parties and whether Liechtenstein 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.

267. The 2015 report concluded that Liechtenstein's network of EOI relationships was in line with the standard and provided for effective exchange of information.

268. Liechtenstein has a broad network of 125 EOI relationships which are all in line with the standard and in force in Liechtenstein.

269. Concerning Liechtenstein's practical application of its EOI instruments, the 2015 report recommended Liechtenstein to correct its interpretation of the foreseeably relevant standard to ensure that it does not impede the effective exchange of information. Since then Liechtenstein has amended its law to broaden the possibility to provide foreseeably relevant information. The amendment seems to be in line with the standard. However, it remains untested in practice and it is unclear to what extent it broadens the possibility to provide all foreseeably relevant information in cases where the person subject of the request does not have any direct relation to a legal entity or arrangement in Liechtenstein. Liechtenstein is therefore recommended to monitor the application of the foreseeable relevance standard and, if necessary, take further measures to ensure that all foreseeably relevant information is provided as required under the standard in all cases.

270. Peers were generally satisfied with Liechtenstein's application of its EOI instruments over the reviewed period. Except for some cases described in section C.1.1 and C.5 where not all requested information was provided or which were pending, no specific concerns were reported.

271. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In place		
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
	Liechtenstein has amended its law to broaden the possibility to provide foreseeably relevant information. However, the amendment remains untested in practice and it is unclear to what extent it broadens the possibility to provide all foreseeably relevant information in cases where the person subject of the request does not have any direct relation to the legal entity or arrangement in Liechtenstein.	Liechtenstein should monitor the application of the foreseeable relevance standard and, if necessary, take further measures to ensure that all foreseeably relevant information is provided as required under the standard in all cases.
Rating: Largely Compliant		

ToR C.1.1. Foreseeably relevant standard

272. Exchange of information mechanisms should allow for EOI on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. The 2015 report indicated that all of Liechtenstein's EOI relationships allow for exchange of information in line with the standard of foreseeable relevance. This continues to be the case. The four DTCs signed by Liechtenstein since the 2015 report contain Model DTC wording of Article 26.[4]

4. These four DTCs are with Andorra (signed in September 2015), Iceland (signed in June 2016), Monaco (signed in June 2017) and United Arab Emirates (signed in October 2015).

273. The criteria for admissibility of requests under Liechtenstein domestic law is contained in Article 7(2) of the EOI Act. The criteria generally mirror the list of information to be included in EOI requests contained in Model TIEA Article 5(5).[5] Unlike paragraph 57 of the Commentary to Model Article 5(5) which states that requirements of Article 5(5) need to be interpreted liberally in order not to frustrate effective exchange of information, the EOI Act specifies that an EOI request must be framed with the greatest degree of specificity possible and should be declined if it does not specifically satisfy requirements of Article 7 of the EOI Act (Art. 7(2) and 8(1)b) EOI Act). Nevertheless, as already noted in the 2015 report, the EOI Act states that differing provisions of the agreement applicable in individual cases remain reserved (Art. 1(2) EOI Act).

274. Concerning the practical application of the foreseeable relevance standard, the 2015 report concluded that (i) Liechtenstein applies a restrictive interpretation of the foreseeable relevant standard when asked for ownership and identity information of foundations and other entities (i.e. where a taxpayer is not identified individually but based on participation in an entity, arrangement or through other means), and (ii) when assessing the relevance of the information obtained from information holders, Liechtenstein applies a restrictive interpretation of its relevance to requests. Consequently, Liechtenstein was recommended to correct its interpretation of the foreseeably relevant standard to ensure that it does not impede the effective exchange of information.

275. Since then, Liechtenstein amended the EOI Act to broaden the possibilities how the taxpayer whose tax liability is affected can be identified. A new paragraph was introduced in Article 7 of the EOI Act providing for

5. Criteria listed in Article 7(2) of the EOI Act are as follows: a) the identity of the individual taxpayer whose tax or criminal tax liability is affected; b) the period of time for which the information is being requested; c) the nature of the information requested and the form in which the competent foreign authority would prefer to receive it; d) the matter according to the tax law of the competent foreign authority in relation to which information is being requested; e) the reasons for believing that the requested information is foreseeably relevant for the application and enforcement of tax liability of the competent foreign authority in respect of the person designated in a); f) the grounds for presuming that the information being requested is held by the Fiscal Authority or is in the possession of or under the control of a person within the Principality of Liechtenstein; g) where known, the name and address of each person of whom it is assumed that the requested information is in their possession or under their control; h) a declaration that the competent foreign authority is in a position to gather and provide the requested information if a similar request was made by the Fiscal Authority; and i) a declaration that the competent foreign authority has exhausted all appropriate means at its disposal within its jurisdiction to gather the information, except where this would give rise to disproportionate difficulty.

identification of an individual taxpayer through belonging to a defined group. A request that concerns a group of taxpayers who are not identified by name (i.e. a group request) is permissible if it contains the following information to identify the taxpayers:

- a detailed description of the group, the behaviour pattern, and the facts of the case which have led to the inquiry being made
- clear, fact-based grounds for believing that the taxpayers in the group have infringed the tax laws, including an explanation of the applicable provisions
- the grounds for believing that the information requested is foreseeably relevant for the assessment of the tax compliance of the taxpayers belonging to the group
- a declaration that the request complies with the legal and regulatory requirements and administrative practice of the requesting state, so that the requesting authority could receive this information if it were in their own jurisdiction, when applying their own law or in the ordinary course of their administrative practice (Art. 7(3) EOI Act).

276. These requirements for identification of a taxpayer through belonging to a group seem to be in line with paragraph 5.2 of the Commentary to Model DTC Article 26. Nevertheless the wording of the EOI Act does not exactly mirror the wording of the Commentary and provides more specificity how the group should be identified to demonstrate the foreseeable relevance of the request (e.g. a requirement to state a behaviour pattern or clear, fact-based grounds for believing that the taxpayers in the group have infringed the tax laws). Liechtenstein authorities confirmed that the new provision is to be interpreted in line with the standard as contained in the Commentary. This is also confirmed in the Report to Parliament introducing the change with the purpose to implement the 2012 amendment of the Commentary to Model DTC Article 26 (Report and Motion 72/2015). Nevertheless, Liechtenstein has not yet received a group request under the revised EOI Act to confirm the interpretation of these rules in practice. The EOI Act rules (including the new provision) are applicable to all jurisdictions with which Liechtenstein concluded an EOI treaty.

277. The amendment came into force in November 2015 and applies to tax years which started after 31 December 2015. Where group request is received the Competent Authority will proceed as in case of other requests. This will be typically requesting the information from the information holder who will be tasked to identify the relevant taxpayers, notify them of the request and provide the requested information to the Competent Authority. The rules governing notification, participation in the EOI proceeding or inspection of files apply as in other cases (see sections B.2 and C.3).

278. According to the Government's Response Nr. 106/2015 to the questions raised in the first reading of the Report and Motion Nr. 72/2015 and as confirmed by the Liechtenstein authorities, the above change allows Liechtenstein to provide information also in cases similar to the cases discussed in the 2015 report (i.e. where a taxpayer is not identified individually but based on participation in an entity, arrangement or through other means).

279. During the current period under review, Liechtenstein requested clarifications in 80 cases, i.e. concerning 29% of received requests. In 10 of these cases a clarification was requested because of the relevant background described in the request was not clear and in four cases the foreseeable relevance of the requested information could not be understood in the context of the background information provided in the request. In a few cases clarifications were made as the requested information was not clear or the identification of the taxpayer was not unequivocal. Nevertheless, the majority of clarifications was requested in relation to the application of exception from prior notification (see section B.2).

280. Requests for clarification and for further background information lead to a positive result in most of the cases and Liechtenstein subsequently was able to provide the requested information. In seven cases the request had to be declined, in two cases the request was withdrawn and nine cases are still being processed (see section C.5). Out of the seven declined cases only one was declined due to lack of foreseeable relevance.

281. In the case where a request was declined, the Administrative Court ruled that neither based on the information in the initial request nor based on the additional information provided by the requesting authority, there could be found reasons for the foreseeable relevance of the requested information for the taxation of the individual and the company subject of the request in the requesting jurisdiction. The Court did not find a link between the individual's or the company's taxable income in the requesting jurisdiction and entities in Liechtenstein on which the information was requested. The requesting authority has been informed in detail by Liechtenstein about the considerations of the Administrative Court. Excerpts of the Court's decision have been provided to the requesting authority. The requesting authority did not follow-up on this case hereafter and no peer input has been submitted by the respective requesting jurisdiction. Nevertheless, Liechtenstein authorities confirmed that if the requesting jurisdiction provides further information/background to explain the foreseeable relevance of the information requested, the Fiscal Authority will continue to act on the case.

282. Peers are generally satisfied with Liechtenstein's application of the foreseeable relevance standard. However, two peers reported cases where not all requested information considered relevant for the case by the requesting jurisdiction was exchanged. One of the peers referred to several requests

aiming at identification of unknown persons resident in the requesting jurisdiction who were involved in an identified Liechtenstein foundation. A majority of these requests were responded stating that the documents available to the Liechtenstein tax administration did not establish links to any persons resident in the requesting jurisdiction. The other peer referred to one case where some information about the beneficiaries of a Liechtenstein foundation was redacted without stating a reason why part of the information was not provided. The peer was then not able to ascertain whether the redacted information could have been of relevance to its investigation or not. Liechtenstein authorities explained that after having been asked by the requesting jurisdiction, Liechtenstein provided the reasons for the redactions (i.e. change in beneficial ownership from the taxpayer subject to the investigation to another individuals not covered by the request). The peer considered the provided information helpful and was able to proceed further with its investigation.

283. Out of the 70 requests declined over the review period, the vast majority related to tax periods pre-dating coming into force of the EOI instrument under which they were made. One of these cases was declined pursuant to a decision by the Administrative Court. In that case the Court ruled that as the request related to income generated in and subject to tax in a time period not covered by the TIEA, providing information would have constituted unlawful retroactivity.

284. Several peers reported cases where requests where declined due to lack of relevance to a tax period covered by the EOI agreement. As already concluded in the Phase 1 Supplementary report (and confirmed by the Administrative Court), Liechtenstein will provide information that is pre-dating coming into force of an EOI instrument if it relates to the tax period covered under the treaty. However, in these requests this condition was not met as was also confirmed by the affected peers who did not raise specific concerns. Most of these requests related to liquidated entities or events which pre-dated the beginning of the tax period covered by the particular EOI instrument. Liechtenstein explains that in these cases requests did not sufficiently demonstrate that the requested information was foreseeably relevant for the covered tax period. Nevertheless, where the request in relation to events which pre-date the beginning of the tax period covered by the particular EOI instrument would be formulated in a different way clearly establishing the relevance of the requested information and describing the requested information accordingly, the information would be provided.

285. To sum up, Liechtenstein has amended its law to broaden the possibility to provide all foreseeably relevant information also pursuant to group requests. The amendment seems to be in line with the standard. However, it remains untested in practice. Further, the change seems to also partially address the issue identified in the 2015 report concerning provision of information in respect of taxpayers not individually identified such as in the case of

beneficiaries of a foundation who were previously unknown to the requesting jurisdiction. Nevertheless, the extent to which the amendment allows provision of all foreseeably relevant information is unclear. This is of particular concern in situations where information is requested as part of a broad investigation covering several persons and network of entities and arrangements where the person subject of the request (i.e. under investigation in the requesting jurisdiction) may not be the person who has any direct relation to the legal entity or arrangement in Liechtenstein (e.g. such as the founder or beneficiary of a foundation). These concerns impact also the redaction policy and extent of information provided by Liechtenstein in response to an EOI request considered valid by Liechtenstein. It is therefore recommended that Liechtenstein monitors application of the foreseeable relevance standard and, if necessary, takes further measures to ensure that all foreseeably relevant information is provided as required under the standard in all cases.

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

286. All of Liechtenstein's EOI relationships allow for EOI with respect to all persons. There is no change in this respect since the 2015 report.

287. In practice, except from the issues discussed in section C.1.1, no other issues restricting exchange of information in respect of the residence or nationality of the person to whom the information relates or of the holder of the information has been indicated by the Liechtenstein authorities or their peers.

ToR C.1.3. Obligation to exchange all types of information

288. The Model DTC Article 26(5) and the Model TIEA Article 5(4), stipulate that bank secrecy cannot form the basis for declining a request to provide information and that a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

289. As concluded in the 2015 report, all of Liechtenstein's TIEAs and DTCs that allow for exchange of information contain provisions mirroring Model DTC Article 26(5) and the Model TIEA Article 5(4) and therefore provide for exchange of all types of information as required under the standard. This is the case also for the Multilateral Convention and DTCs signed by Liechtenstein since the 2015 report.

290. Liechtenstein's ability to provide all types of information in line with the standard was also confirmed in practice. Over the reviewed period, Liechtenstein did not decline a request because the information was held by a bank, other financial institution, nominees or persons acting in an agency or

fiduciary capacity or because the information related to an ownership interest as was also confirmed by peers.

ToR C.1.4. Absence of domestic tax interest

291. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party. Such obligation is explicitly contained in the OECD Model Tax Convention Article 26(4) and the Model TIEA Article 5(2).

292. All of Liechtenstein's EOI instruments contain explicit provisions obliging the contracting parties to exchange information regardless whether the requested party needs such information for its own tax purposes which mirror Model DTC Article 26(4) or Model TIEA Article 5(2).

293. In practice, most of requests Liechtenstein receives relate to foreign persons. Nevertheless, no issues or difficulties were reported by Liechtenstein or peers regarding the application of access powers employed solely for EOI purposes.

ToR C.1.5. Absence of dual criminality principles

294. None of Liechtenstein's EOI instruments contains restrictions limiting EOI based on dual criminality principle.

295. Furthermore, during the period reviewed there were no cases where Liechtenstein declined a request because of a dual criminality requirement as has been confirmed by peers.

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

296. All of Liechtenstein's EOI instruments provide for exchange of information in both civil and criminal tax matters.

297. In practice, there has been no case where Liechtenstein declined a request because it related to a criminal tax matter, and no peers have raised any issues in this regard. The same procedure applies regardless whether the information is requested for civil or criminal tax purposes.

ToR C.1.7. Provide information in specific form requested

298. As concluded in the 2015 report, there are no restrictions in Liechtenstein's EOI instruments that would prevent Liechtenstein from providing information in a specific form, as long as this is consistent with Liechtenstein's domestic law and its administrative practices.

299. In practice, Liechtenstein provides information in the requested form in line with the standard. This was also confirmed by peers as they were satisfied with the form and quality of information provided by Liechtenstein during the reviewed period.

ToR C.1.8. Signed agreements should be in force

300. Liechtenstein has a broad EOI network covering 125 jurisdictions through 45 bilateral agreements and the Multilateral Convention. All of these EOI instruments are in force in Liechtenstein.

301. The 2015 report recommended Liechtenstein to ratify the Multilateral Convention expeditiously. Since then Liechtenstein has made the necessary changes in its domestic legislation and the Multilateral Convention entered into force in respect of Liechtenstein on 1 December 2016.

302. Liechtenstein does not have an alternative EOI instrument with 15 jurisdictions which are signatories to the Multilateral Convention but which have not yet brought the Convention into force.[6] Consequently, Liechtenstein is not able to exchange information with these jurisdictions until they bring the Multilateral Convention into force.

303. The following table summarises outcomes of the analysis under element C.1 in respect of Liechtenstein's bilateral EOI mechanisms (i.e. regardless of whether Liechtenstein can exchange information with the particular treaty partner also under a multilateral instrument):

Bilateral EOI mechanisms

A	Total Number of DTCs/TIEAs	A = B + C	45
B	Number of DTCs/TIEAs signed but not in force	B = D + E	0
C	Number of DTCs/TIEAs signed and in force	C = F + G	45
D	Number of DTCs/TIEAs signed (but not in force) and to the Standard	D	0
E	Number of DTCs/TIEAs signed (but not in force) and not to the Standard	E	0
F	Number of DTCs/TIEAs in force and to the Standard	F	45
G	Number of DTCs/TIEAs in force and not to the Standard	G	0

ToR C.1.9. Be given effect through domestic law

304. Liechtenstein has in place domestic legislation necessary to comply with the terms of its EOI instruments (including the Multilateral Convention).

6. These 15 jurisdictions are Armenia, Brunei Darussalam, Burkina Faso, Dominican Republic, Ecuador, El Salvador, Gabon, Jamaica, Kenya, Liberia, Morocco, Republic of North Macedonia, Paraguay, Philippines and Qatar.

305. As described in the 2015 report, Liechtenstein's EOI agreements become part of domestic law after they are ratified by the Parliament. According to the jurisprudence of the Constitutional Court, ratified international agreements enjoy at least the same legal power as domestic laws. In addition, the EOI Act specifies that rules stipulated under a particular EOI Agreement remain directly applicable in respect of exchange of information under the agreement (as long as its provisions are sufficiently specific).

306. Effective implementation of EOI agreements in domestic law has been confirmed in practice as there was no case encountered where Liechtenstein was not able to obtain and provide the requested information due to unclear or limited effect of an EOI agreement in Liechtenstein's law. Also, no issue in this regard was reported by peers.

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

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

307. Liechtenstein has an extensive EOI network covering a total of 125 jurisdictions through 27 TIEAs, 18 DTCs and the Multilateral Convention. Liechtenstein's EOI network encompasses a wide range of counterparties, including all of its major trading partners, all the G20 members and all OECD members.

308. The 2015 report did not identify any issue in respect of the scope of Liechtenstein's EOI network or its negotiation policy.

309. Since the 2015 report, Liechtenstein's treaty network has been broadened from 89 jurisdictions to 125. This is mainly through the significant increase in the number of the Multilateral Convention Parties. In addition, Liechtenstein has signed four new DTCs, one of them with a partner previously without bilateral EOI relationship.[7]

310. Liechtenstein has in place a negotiation programme which includes renegotiating of existing DTCs and TIEAs to ensure that that they are up to date and in line with international standards and expanding of the treaty network so that all relevant partners are covered. As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such a relationship Liechtenstein is recommended to maintain its negotiation programme so that its EOI network continues to cover all relevant partners.

311. Liechtenstein's willingness to enter into EOI agreements without insisting on additional conditions was confirmed by peers as no jurisdiction

7. These four DTCs are with Andorra, Iceland, Monaco and United Arab Emirates.

has indicated that Liechtenstein had refused to enter into or delayed negotiations of an EOI agreement.

312. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In place		
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
Rating: Compliant		

C.3. Confidentiality

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

313. The 2015 report concluded that all of Liechtenstein's EOI agreements have confidentiality provisions in line with the standard. This is also the case for all of Liechtenstein's EOI agreements signed since then.

314. There are adequate confidentiality provisions protecting tax information in Liechtenstein's domestic tax law. These provisions also apply to information exchanged under Liechtenstein's EOI instruments unless the respective EOI instrument stipulates different rules.

315. While gathering the information, the Competent Authority's notices to information holders do not contain information going beyond the information necessary to obtain the information.

316. Entitled parties may participate in the procedure of gathering and transmitting the information. This entails a right to inspect the EOI file containing information received from the requesting jurisdiction. However, the right to inspect EOI file is subject to exceptions. One of these exceptions ensures that only extracts of the request which are decision relevant (but not the letter itself) can be disclosed. Nevertheless, certain concerns arise in respect of persons, who can inspect the EOI file and are notified of an EOI request. These persons include not only the taxpayer under investigation but also other clients of the information holder or third parties whose information is relevant to the

request. It is therefore recommended that Liechtenstein ensures that information necessary to obtain the requested information is disclosed only to persons concerned with the assessment or collection of, the enforcement or prosecution in respect of the taxes covered by the exchange of information agreement.

317. Where final decree of the Competent Authority is appealed to the Administrative Court, parties of the court proceeding are entitled to inspect information relevant to the case. However, as confirmed by Liechtenstein authorities, this information does not include the EOI request letter in line with Article 24(2) of the EOI Act.

318. Liechtenstein has implemented a number of practical measures which ensure confidentiality of exchanged information. These include general information security management and practical measures at the level of the Competent Authority such as keeping all received confidential information in a locked cabinet and in a separate electronic folder, to which only the authorised personnel involved in EOI has access on a need-to-know basis. Accordingly, no case of breach of confidentiality has been encountered in the EOI context and no such case or concerns have been reported by peers either.

319. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In place		
Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
	Persons, who can inspect the EOI file and are notified of an EOI request, include clients of the information holder or third parties whose information is relevant to the request. Liechtenstein indicates that in practice, these persons are typically the information holder and persons named in the exchanged information (which is normally the taxpayer subject of the request). Nevertheless the broad scope of these persons goes beyond what is necessary to obtain the requested information.	Liechtenstein should ensure that information necessary to obtain the requested information is disclosed only to persons concerned with the assessment or collection of, the enforcement or prosecution in respect of the taxes covered by the exchange of information agreement.
Rating: Largely Compliant		

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

320. The 2015 report concluded that Liechtenstein's EOI instruments have confidentiality provisions in line with Article 26(2) of the OECD Model Tax Convention. All of Liechtenstein's EOI agreements signed since the first round review contain wording akin to Article 26(2) of the Model DTC as well and therefore ensure confidentiality of exchanged information in line with the standard.

321. The 2016 Terms of Reference clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides for the authority supplying the information to authorise the use of information for purposes other than tax purposes in accordance with their respective domestic laws (see further para 12.3 of the 2012 update to OECD Commentary to Model DTC). Liechtenstein's EOI treaties generally do not include language allowing use of the exchanged information for other than tax purposes. Such wording is contained in the Multilateral Convention to which Liechtenstein is a Party.

322. As concluded in the 2015 report, there are adequate confidentiality provisions protecting tax information contained in Liechtenstein's domestic laws which are supported by administrative and criminal sanctions applicable in the case of breach of these obligations. There has been no change in these rules since then. All the staff members of the Fiscal Authority, including the persons in charge of EOI, are subject to the professional secrecy (tax secrecy) embodied in Article 83 of the Tax Act. The confidentiality rules are further provided in Article 22 of the EOI Act.

323. While gathering the information, the Competent Authority must notify the information holder about the receipt of the request and the information requested in it. Further, the Competent Authority must mandate the information holder to advise any persons concerned who are resident or domiciled abroad of its receipt of the request, the information requested in it and of the domestic procedure that has been initiated in Liechtenstein, and also to inform these persons that they have the right to participate in the domestic procedure and in such case to designate a domestic agent for service of communications (Art. 10(1) EOI Act) (see also section B.2). Based on the confirmation by Liechtenstein authorities, it is understood that the notice to the information holder does not contain reference to the exchanged information going beyond the information necessary to obtain the information (e.g. it does not contain reference to the tax procedure in the requesting jurisdiction or identification of the person subject of the request except to the extent necessary to describe the requested information).

324. As described in the 2015 report, entitled parties may participate in the procedure of gathering and transmitting the information and assert their rights where this is necessary for safeguarding their legitimate interests.

Entitled parties may inspect the extracts of the request, which are decision relevant, however, not the request itself. Further, inspection of case documents or participation in the procedure may be restricted and denied for case documents and procedural actions:

- in the interests of the foreign procedure
- to protect an essential interest, where the competent foreign authority so requests
- due to the nature or urgency of the administrative assistance action to be performed
- to protect essential private interests; or
- in the interests of a procedure in Liechtenstein (Art. 24 EOI Act).

325. Entitled parties are the information holder and persons concerned. Persons concerned are:

- the client of an information holder
- the person whose tax or criminal tax liability is affected by a request; or
- a person who is personally and directly affected by the request or by the spontaneous exchange of information (Art. 3(1)d) EOI Act).

326. Where exceptional procedure is granted, the entitled parties cannot participate in the procedure (including inspection of the file) until the prohibition of the disclosure is waived, i.e. after 12 or 24 months from the service of the notice to the information holder (Art. 28e EOI Act) (see section B.2).

327. The above rules appear to be in line with the standard in respect of the information which can be disclosed during the tax proceedings as was also concluded in the 2015 report. However, as the amendment limiting access to certain EOI information was recent, Liechtenstein was recommended to monitor their practical application.

328. In practice, access to information in the EOI file is limited to the information contained in the letter of notice to the information holder, which can be understood as the information needed to collect the information that is requested. The EOI request letter is not disclosed and the disclosed extracts are only those relevant to the decision to exchange the requested information pursuant to the final decree (i.e. the description of the requested information and the necessary background to identify it). The person concerned can inspect a summary of the gathered information directly related to him/her and affecting his/her rights before it is submitted to the requesting jurisdiction and can provide his/her comments, which is however not frequent in practice.

329. Certain concerns arise in respect of the scope of persons who can inspect the EOI file. The entitled persons potentially cover not only the taxpayer under investigation but also other clients of the information holder or third parties whose information is relevant to the request (as described above). Liechtenstein explains that in practice, persons inspecting the file are typically the information holder and persons named in the exchanged information (which is normally the taxpayer subject of the request). Nevertheless, the broad scope of persons who can inspect information received from the requesting jurisdiction may go beyond what is necessary to obtain the requested information. The concern also applies in respect of the scope of persons who may be notified (see section B.2). Although unlike in the case of the notification process, it is the Competent Authority that decides who is entitled to inspect the file. Liechtenstein is therefore recommended to ensure that the information necessary to obtain the requested information is disclosed only to persons concerned with the assessment or collection of, the enforcement or prosecution in respect of the taxes covered by the exchange of information agreement.

330. As described in section B.2, final decree of the Competent Authority can be appealed to the Administrative Court. Parties to the court procedure are entitled to inspect information relevant to the case. As confirmed by Liechtenstein authorities, this information does not include the EOI request letter itself, as provided in Article 24(2) of the EOI Act. The EOI request letter is disclosed only to the Court, if relevant. In practice, information disclosed during court proceeding typically does not go beyond information which can be inspected during EOI proceedings described above.

Practical measures to ensure confidentiality of the information received

331. As concluded in the 2015 report, the Fiscal Authority has in place appropriate policies and procedures to ensure confidentiality of the exchanged information.

332. Liechtenstein has implemented a number of practical measures to ensure confidentiality of exchanged information. When an EOI request is received, it is registered and filed in a locked cabinet within the Competent Authority offices. Received documents have their own reference numbers and are kept separate from other tax files. EOI hardcopies are marked with a reference to confidentiality and that the information is furnished under the provisions of a tax treaty and its use and disclosure are governed by the provisions of such treaty. The EOI request letter and supporting documents are kept only in the EOI Unit and are not shared outside of the Unit. Access to the premises of the Fiscal Authority is secured by electronic badge. Confidential information is transmitted to the requesting jurisdiction by registered mail/package with a tracking number. E-mail is typically used only for other, non-confidential, correspondence, except for a few cases where encrypted e-mail is used (see also section C.5).

333. Electronic documents and emails are stored in a separate electronic folder, to which only the personnel involved in EOI has access on a need-to-know basis in order to keep the number of authorised users low. Each user access to the relevant systems is recorded through log-files. The log-files are reviewed by the IT Security Officer and (if related to AEOI) the Head of International Data Exchange (IDE).

334. The security of information received by the Fiscal Authority is monitored by the Office of Information Technology of the Government of Liechtenstein. The Office of Information Technology regularly performs risk assessments to identify potential risks of unauthorised access. The IT security risk management is currently based on ISO 27005 standard and is in place. Liechtenstein's servers are SSL-secured, firewalled and protected by anti-virus programmes.

335. The introduction programme for new staff specifically addresses issues of data security and confidentiality. When an employee is leaving the Fiscal Authority, the Human Resource Department informs all relevant departments and offices and instructs them to take the necessary steps.

336. No case of breach of the confidentiality obligation in respect of the exchanged information has been encountered by Liechtenstein authorities and no such case or concern in this respect has been indicated by peers.

ToR C.3.2. Confidentiality of other information

337. The confidentiality provisions in Liechtenstein EOI agreements and domestic law do not draw a distinction between information received in response to requests and information forming part of the requests themselves. As such, these provisions apply equally to all requests for information, background documents to such requests, and any other documents reflecting such information, including communications between the requesting and requested jurisdictions and communications relating to the request that occur within the tax authorities of either jurisdiction.

338. In practice, the Competent Authority maintains confidentiality with respect to all communications with other competent authorities. This confidentiality is observed without regard to whether the information is in written form or communicated orally.

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.

339. All of Liechtenstein's EOI agreements contain provisions on the rights and safeguards of taxpayers and third parties in line with the standard. As

discussed in section B.1.5, the scope of protection of information covered by these exceptions in Liechtenstein's domestic law is consistent with the standard.

340. Liechtenstein did not decline to provide any requested information during the period under review because it was covered by legal professional privilege or any other secrecy and no peer indicated any issue in this respect.

341. The 2015 report noted that TIEAs with Antigua and Barbuda and Andorra require the taxpayer to be informed about the intention to make a request for information without appropriate exceptions. Since then Liechtenstein concluded new DTC with Andorra that supersedes the TIEA in exchange of information matters (Art. 4(1) Protocol to the DTC) and contacted Antigua and Barbuda through diplomatic channels to review the treaty. However, the peer was of the view that it does not consider it necessary to amend it. In addition, Antigua and Barbuda and Andorra are now signatories of the Multilateral Convention.

342. The 2015 report concluded that Liechtenstein's approach regarding the application of the concept of *ordre public* has had a significant impact on EOI in practice and Liechtenstein was recommended to modify it. Since then, Liechtenstein processed the majority of requests initially identified as based on stolen data demonstrating that in practice jurisdictions are able to substantiate their requests in a way which allows their processing by Liechtenstein. However, some of such requests were not processed and it is not clear how larger volumes of such requests would be efficiently handled, in particular if challenged in court. Liechtenstein is therefore recommended to monitor the application of the concept of *ordre public* so that it does not prevent effective exchange of information and, if necessary, take measures to correct it.

343. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Deficiencies identified in the implementation of the legal and regulatory framework	**Underlying Factor**	**Recommendation**
Determination: In place		

Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
	Liechtenstein was able to process the majority of requests initially identified as based on stolen data. However, some of them have not been processed and it is not clear how larger volumes of such requests would be efficiently handled, in particular if challenged in court.	Liechtenstein should monitor that the application of the concept of *ordre public* does not prevent effective exchange of information and, if necessary, take measures to correct it.
Rating: Largely Compliant		

ToR C.4.1. Exceptions to requirement to provide information

344. The rights and safeguards of taxpayers and third parties under Liechtenstein's EOI instruments can be broadly divided into general rights and safeguards of taxpayers and third parties (including secrecy protection and professional privileges) and exception from the obligation to provide information based on the application of the concept of *ordre public*.

General rights and safeguards of taxpayers and third parties

345. As concluded in the 2015 report, all of the agreements concluded by Liechtenstein incorporate wording modelled on Article 26(3) of the OECD Model Tax Convention or Article 8 of the OECD Model TIEA, providing that requested jurisdictions are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information which is the subject of attorney-client privilege/legal privilege or information the disclosure of which would be contrary to public policy. This is the case also for all Liechtenstein's EOI instruments concluded after the 2015 report.

346. Since these concepts are not defined in Liechtenstein's treaties they derive their meaning from the domestic laws of Liechtenstein. As discussed in section B.1.5, the scope of protection of information covered by these exceptions in Liechtenstein's domestic law is consistent with the standard.

347. The 2015 report noted that the wording in the protocol to the TIEA with Antigua and Barbuda reads: "unless subject to criminal investigations,

taxpayer is to be informed about the intention to make a request for information" and that the TIEA with Andorra requires the taxpayer to be informed about the intention to make a request for information. The report concluded that these agreements oblige the requesting jurisdiction to inform the taxpayer of its intention to make a request without appropriate exceptions. Since then Liechtenstein concluded new DTC with Andorra which does not contain the notification requirement and for exchange of information purposes supersedes the original TIEA. In addition, Liechtenstein can exchange information with Andorra under the Multilateral Convention. Liechtenstein contacted Antigua and Barbuda through diplomatic notes to amend the TIEA Protocol. However, the reported position of Antigua and Barbuda was that it does not consider necessary to amend the Protocol. The referred notification requirements seem to be of limited relevance as they did not have any impact in practice during the period under review because no request was made or received by Liechtenstein in respect of the two jurisdictions. Finally, Liechtenstein will be able to exchange information with Antigua and Barbuda under the Multilateral Convention once it comes into force in Antigua and Barbuda.

348. During the period under review there was no case where banking, professional or other secrecy would prevent obtaining the requested information. There was also no case where Liechtenstein would decline to provide any requested information during the period under review because it was covered by legal professional privilege or any other secrecy. Accordingly, no concerns in this respect were reported by peers either.

Ordre public

349. The 2015 report concluded that Liechtenstein's approach regarding the application of the concept of *ordre public* has had a significant impact on EOI in practice and Liechtenstein was recommended to modify its law and/or practice to ensure that it can give effect to the obligations under its EOI mechanisms. The *ordre public* exception came up only in relation to the issue of stolen data. In all cases where the issue of stolen data had been raised, no exchange of information had occurred at the time of the 2015 report.

350. As described in the 2015 report, Liechtenstein's authorities position is that an EOI request will be processed if, besides the mere existence of a piece of stolen information, the requesting Competent Authority has demonstrated that it had conducted its own independent investigations (*eigenständige Ermittlungen*), i.e. that it had pursued all means available to it, in order to establish the basis for the request independent from the stolen data. According to Liechtenstein this means that a request will be denied only in cases where the request "is solely based on stolen data" and that information will be exchanged in all other cases including when "independent

investigations" have been demonstrated (presuming that the general EOI requirements are met). Further, the mere fact that a person was part of a dataset that was stolen does not constitute sufficient grounds for Liechtenstein to decline a request. On the other hand, the criteria whether a request can be processed do not take into account the circumstances in which the requesting jurisdiction came into possession of the information (e.g. if it received the information in good faith).

351. During the review period of the 2015 report, Liechtenstein received 61 requests based on elements of stolen data. Two of these requests were declined by Liechtenstein in October 2012 and May 2015 respectively. In both cases the Competent Authorities thoroughly discussed the case and how to proceed in order to process the request. However, in both cases the requesting jurisdiction was not in a position to provide additional information, for example based on own investigations on which the request could be based. In 16 cases, the requesting jurisdiction withdrew its request after consultation with Liechtenstein's Competent Authority because the Liechtenstein entity was liquidated prior to the entry into force of the TIEA. Out of the remaining 43 requests, 41 were processed and responded by Liechtenstein after the requesting jurisdiction provided additional information based on its own investigations allowing to process these requests. One of the processed cases was unsuccessfully challenged in court which confirmed the tax authority's position. In two cases the requests had to be declined because information was sought from a Liechtenstein non-resident company without any further details (such as a Liechtenstein address or service provider) that allows the information holder to be identified.

352. During the current review period, Liechtenstein received one request which was identified as based on stolen data. Liechtenstein informed the requesting Competent Authority accordingly and asked it to provide additional information based on own investigations in order to process the request. After a consultation, the peer withdrew the request pending completion of its internal investigations.

353. Since the 2015 report there has been no change in Liechtenstein's legal framework concerning admissibility of requests based on stolen data. Nevertheless, the successful processing of the majority of requests initially identified as based on stolen data proves that the interpretation of the concept of *ordre public* in respect of these requests does not represent a blanket ban and in practice jurisdictions are able to substantiate their requests in a way which allows their processing by Liechtenstein. However, despite responding to the majority of concerned requests, some of them were not processed. Also, it is not clear how such requests would be efficiently handled by Liechtenstein and the requesting jurisdiction if larger volumes of requests utilising stolen or leaked information were received by Liechtenstein and what

would be the impact of this policy on the overall workload and performance of Liechtenstein and of the requesting Competent Authority, in particular if challenged in court. In view of the above, Liechtenstein is recommended to monitor that the application of the concept of *ordre public* does not prevent effective exchange of information and, if necessary, to take measures to correct it.

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.

354. In order for EOI to be effective, jurisdictions should request and provide information under their networks 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 providing an update on the status of the request.
- *Organisational processes and resources*: Jurisdictions should have appropriate organisational processes and resources in place to ensure the quality of requests and quality and timeliness of responses.
- *Restrictive conditions*: EOI assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions.

355. The 2015 report concluded that Liechtenstein provided the requested information to a large extent in a timely manner and that processes and resources are generally in place to ensure effective exchange of information. However, it identified room for improvement, mainly in relation to the establishment and monitoring of deadlines and the workload of the EOI Unit, and consequently, Liechtenstein was recommended to improve its resources and streamline its processes for handling EOI requests to ensure that all requests are responded in a timely manner.

356. Since then, the number of employees working in the unit "Exchange of Information upon Request" (EOI Unit) has been increased from one to three persons and the process of handling EOI requests has improved through daily monitoring of deadlines throughout the process and co-ordination within the EOI Unit to ensure smooth workflow.

357. Changes implemented since the 2015 report made improvement in the areas subject of the recommendation. Nevertheless, challenges remain mainly in terms of the timeliness of responses which is impacted by various factors including the complexity of the EOI process in Liechtenstein as

described mainly under elements B.2 and C.3. Although it is acknowledged that the provision of requested information may be delayed in some cases due to valid reasons (such as complexity of the requested information), the proportion of requests responded within 90 days and within 180 days does not fully correspond with effective exchange of information. Liechtenstein is therefore recommended to continue in its efforts to ensure timeliness in the provision of requested information.

358. The new table of determinations and ratings is as follows:

Determination: This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.		
Deficiencies identified in the implementation of EOIR in practice	**Underlying Factor**	**Recommendation**
	Although it is acknowledged that the provision of requested information may be delayed in some cases due to valid reasons, the proportion of requests responded within 90 days and within 180 days does not fully correspond with effective exchange of information.	Liechtenstein should continue its efforts to ensure timeliness in the provision of requested information.
Rating: Largely Compliant		

ToR C.5.1. Timeliness of responses to requests for information

359. Over the period under review (1 October 2014 to 30 September 2017), Liechtenstein received a total of 275 requests for information. The table below relates to the requests received during the period under review and gives an overview of response times of Liechtenstein in providing a final response to these requests, together with a summary of other relevant factors impacting the effectiveness of Liechtenstein's exchange of information practice during the reviewed period.

	Oct-Dec 2014		2015		2016		Jan-Sep 2017		Total	
	Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received [a]	11	100	127	100	84	100	53	100	275	100
Full response: ≤ 90 days [b]	5	45.4	12	9.4	40	47.6	28	52.8	85	30.9
(cumulative) ≤ 180 days	8	72.7	35	27.6	50	59.5	41	77.4	134	48.7
(cumulative) ≤ 1 year	9	81.2	75	59	57	67.8	43	81.1	184	66.9
> 1 year	1	9	6	4.7	2	2.4	0	0	9	3.3
Declined for valid reasons	0	0	43	33.9	22	26.2	5	9.4	70	25.4
Status update provided within 90 days (for responses sent after 90 days)	5	83.3	65	90	19	86	15	75	104	87
Requests withdrawn by requesting jurisdiction	1	9	1	0.8	0	0	0	0	2	0.7
Failure to obtain and provide information requested	0	0	0	0	0	0	0	0	0	0
Requests still pending at date of review	0	0	2	1.6	3	3.6	5	9.5	10	3.6

Notes: a. Requests are counted as per the number of request letters, i.e. an incoming request is counted as one even if it seeks information relating to multiple taxpayers, seeks different types of information or requires that information be obtained from multiple sources.

b. The time periods in t0his table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

360. The average response times remain generally the same as at the time of the 2015 report with 31% of requests responded to within 90 days. The proportion of requests responded to within 180 days has slightly improved from 43% in the 2015 report to 49% in the current review period. The timeliness of responses also slightly improved during the current period under review from 45% responded within 90 days during the first half year under the review to 53% during the last half year. The timeliness of responses remains stable despite a significant increase in the number of received request from 155 received in the previous review period to 275 in the current period (i.e. increase of 78%). The statistics do not take into account timeliness of Liechtenstein's responses where requests were declined or withdrawn.

361. Cases where a substantive response could not be provided within 90 days were not related to a particular type of information, but rather to the complexity of the requested information (for instance cases involving multiple information holders such as banks and entities), whether clarification had to be sought from the requesting EOI partner and whether the Competent Authority's decision to obtain and transmit the information was disputed and appealed in court. In these cases typically an examination of the case file was requested by the affected persons or additional investigations had to be made by the Competent Authority triggered by written observations of affected

persons or their representatives. The timeliness of responses to requests received in 2015 was negatively impacted by complex requests involving a large number of taxpayers received before the period under review. Processing of these requests created a temporary backlog and pressure on the Competent Authority's resources.

362. Although it is acknowledged that the provision of the requested information may be delayed due to valid reasons such as complexity of the case, the proportion of requests responded within 90 days and 180 days does not fully correspond with effective exchange of information and should be further improved to ensure that the requested information is provided in a timely manner in all cases. Liechtenstein should therefore continue its efforts to ensure timeliness in the provision of requested information.

363. Over the reviewed period Liechtenstein declined 70 requests. The vast majority of these requests related to tax periods pre-dating the coming into force of the EOI instrument under which they were made and therefore the tax period to which they related was not covered by the treaty. This was frequently the case where the entity about which information was sought was liquidated before the treaty was in force. As already concluded in the Phase 1 Supplementary report, Liechtenstein will provide information that is pre-dating coming into force of an EOI instrument if it relates to the tax period covered under the treaty. However, in these requests this condition was not met as was also confirmed by the affected peers. In some other cases information was sought about companies that were not registered in Liechtenstein. As the request provided only the company's name but no other details (e.g. address or name of a Liechtenstein service provider), Liechtenstein could not gather the information from the information holder as the information holder was unknown. Finally, one case was declined due to lack of foreseeable relevance (see section C.1.1)

364. During the period under review Liechtenstein provided status updates in the vast majority of cases where required under the standard and in some cases also repeatedly. However, the percentage of status updates sent in line with the standard decreased over the review period from 83% in the first half-year to 75% in the last half-year. Provision of status updates is generally based on requirements of Article 19 of the EOI Act and well established in practice. The 90 day deadline is monitored daily by officers of the Competent Authority in the EOI database and through automatic reminders generated by the e-calendar. If the deadline is approaching, a letter or e-mail explaining the status of the request and the further steps to be taken is normally send to the requesting state. However, in a few cases over the reviewed period status update was not provided as it should have been as was also confirmed by peers. The failure to provide status updates was most likely caused by omission which can be attributed to the workload of the Competent

Authority. Liechtenstein should therefore ensure that status updates are provided in all cases where required under the standard.

365. During the current review period, Liechtenstein received two requests which were subsequently withdrawn by the requesting jurisdiction. In one case Liechtenstein informed the requesting Competent Authority that the request was identified as based on stolen data and asked it to provide additional information. After a consultation, the peer withdrew the request pending completion of their internal investigations (see section C.4). In the other case the requesting jurisdiction informed Liechtenstein that the requested information was not needed anymore.

366. According to Liechtenstein, there was no case over the reviewed period where it failed to provide the requested information pursuant to a valid EOI request.

367. Ten requests received over the reviewed period are still open. Seven of these requests are pending clarification from requesting jurisdictions and three cases are processed by the Competent Authority. However, a final decree is expected to be issued soon.

ToR C.5.2. Organisational processes and resources

368. The 2015 report concluded that Liechtenstein's processes and resources are generally in place to ensure effective exchange of information. However, it identified room for improvement mainly in relation to establishment and monitoring of deadlines and the workload of the EOI Unit, and consequently, Liechtenstein was recommended to improve its resources and streamline its processes for handling EOI requests.

369. Since then, Liechtenstein has taken measures to address the recommendation:

- The number of employees working in the EOI Unit has been increased from one to three persons. This allows the EOIR Unit to handle the increased number of EOI requests and limits previous delays where an EOI officer was out of the office.
- The process of handling EOI requests is daily monitored by all employees in the EOI unit and periodic meetings are organised to discuss all outstanding cases. The EOI Unit keeps a database of EOI requests containing, among others, deadlines throughout the process of handling an EOI request. In addition to daily handling of the database, where important deadlines are approaching reminders are set to automatically inform the EOI officer.

370. Changes implemented since the 2015 report made improvement in the areas subject of the recommendation and are substantively addressing the identified concern. Although the number of received EOI requests significantly increased, the timeliness of responses has slightly improved. Therefore it can be concluded that Liechtenstein's processes and resources are generally adequate. Nevertheless, challenges remain mainly in terms of the timeliness of responses in some cases (see above). It is noted that timeliness of responses is impacted by various factors some of which are either not under control of the Liechtenstein's Competent Authority (such as complexity of received requests or time taken by a requesting jurisdiction to respond to clarification) or relate to the complexity of the EOI process as described mainly under elements B.2 and C.3.

Incoming requests

371. As described in the 2015 report, Article 4 of the EOI Act provides that the Fiscal Authority (FA) is the competent authority for international administrative assistance. Contact information for Liechtenstein's Competent Authority is contained in the Global Forum's Competent Authority database, as well as on the FA's public website.

372. Within the FA, the International Division has the overall responsibility for exchange of information. Within the International Division, the Unit Exchange of Information upon Request (EOI Unit) is handling all EOI requests. The unit is currently staffed with three persons. One of these officials has a joint signatory authority with the head of the international division, and in her absence with the deputy head. The EOI Unit consists of a senior official with a degree in law and practical experience in EOI over 8 years and two legal officers with each two year experience in EOI. All Unit members have attended Global Forum assessor training courses and two of them have acted as an assessor in a Global Forum peer review.

373. The procedural steps for handling incoming EOI requests remain the same as described in the 2015 report. All steps in handling EOI requests are carried out by officers of the EOI Unit, including obtaining and providing the requested information. In a limited number of cases where the requested information is filed with the Fiscal Authority, the EOI officer will request assistance of the local tax office which will consult the file of the particular taxpayer (see also section B.1.1).

Outgoing requests

374. The 2016 ToR cover also requirements to ensure the quality of requests made by the assessed jurisdiction. During the review period, Liechtenstein did not send any EOI request to another jurisdiction but processes and resources are generally in place to do so.

375. Outgoing requests are handled by the EOI Unit, i.e. the same staff is responsible for sending outgoing EOI requests as well as handling incoming requests. The EOI Unit team is well trained and appropriately educated.

376. Requests for information could be triggered by divisions of the FA dealing with the assessment or audit of taxpayers (e.g. the Division for Individuals or the Division for Corporates). Those divisions have to provide the necessary information for sending a request to the EOI Unit. The EOI unit uses the standard OECD form for sending EOI requests. It checks whether all necessary information has been provided and whether the conditions for sending a request are met following the procedures in the OECD/GF EOI Manual. Requests are sent via postal mail and, if necessary, also via encrypted email.

377. Given the limited practical need, the FA currently does not have instruction manuals or other written guidance for processing outgoing requests for information. As Liechtenstein tax system comprises several types of direct taxes and Liechtenstein residents are taxed on worldwide income bases, it is likely that Liechtenstein will send requests in the future. In view of the above, Liechtenstein should monitor that it can make EOI requests in an effective manner.

Communication

378. Liechtenstein processes requests received in German or English. If the request is not in one of these languages, the requesting competent authority will be asked to translate the request.

379. During the review period, Liechtenstein generally sent responses to EOIR requests through postal mail. Encrypted email was used only in a few cases where requested by the EOI partner, in addition to communication of the response through post. This was also confirmed by peers. Nevertheless, a few peers expressed preference to communicate through electronic means to ensure timely and secure communication. Liechtenstein's legal and regulatory framework allows official EOI communication to be carried out by electronic means as long as it is in writing. Liechtenstein should endeavour to further broaden the use of electronic means to facilitate effective communication.

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

380. There are no factors or issues identified that could unreasonably, disproportionately or unduly restrict effective EOI in Liechtenstein.

Annex 1: List of in-text recommendations

The assessment team or the PRG may identify issues 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. A list of such recommendations is presented below.

- Section A.1.1: Liechtenstein should monitor that legal ownership information in respect of all foreign companies with sufficient nexus with Liechtenstein is available in line with the standard.
- Section A.1.2: Liechtenstein should ensure that the enforcement measures applied in case of breach of the rules on the identification of holders of bearer shares are commensurate to the severity of the breach and deterrent enough.
- Sections A.1.4 and A.1.5: Liechtenstein should monitor effective implementation of the new definition of beneficial owners of trusts and foundations.
- Section A.1: Liechtenstein should ensure that beneficial ownership is available in respect of all trust enterprises as required under the standard.
- Section A.3.1: Liechtenstein should monitor the identification of all remaining holders of bearer passbooks so that all bank accounts are properly identified.
- Section A.3.2: Liechtenstein should monitor effective implementation of recent rules concerning identification of beneficial owners of trusts, foundations and similar entities and arrangements.
- Section B.2: Liechtenstein should clarify the scope of persons to be notified.

- Section C.2: Liechtenstein should maintain its negotiation programme so that its EOI network continues to cover all relevant partners.
- Section C.5.1: Liechtenstein should ensure that status updates are provided in all cases where required under the standard.
- Section C.5.2: Liechtenstein should monitor that it can make EOI requests in an effective manner.
- Section C.5.2: Liechtenstein should endeavour to further broaden the use of electronic means to facilitate effective communication.

Annex 2: List of Liechtenstein's EOI mechanisms

1. Bilateral international agreements for the exchange of information

EOI partner	Type of agreement	Date signed	Date entered into force
Andorra	TIEA	18-Sep-09	10-Jan-11
	DTA	30-Sep-15	21-Nov-16
Antigua and Barbuda	TIEA	24-Nov-09	16-Jan11
Australia	TIEA	21-Jun-11	21-Jun-12
Austria	DTA	05-Nov-69	28-Jan-71
Belgium	TIEA	10-Nov-09	12-Jun-14
Canada	TIEA	31-Jan-13	26-Jan-14
China	TIEA	27-Jan-14	3-Aug-14
Czech Republic	DTA	25-Sep-14	22-Dec-15
Denmark	TIEA	17-Dec-10	07-Apr-12
Faroe Island	TIEA	17-Dec-10	03-Apr-12
Finland	TIEA	17-Dec-10	04-Apr-12
France	TIEA	22-Sep-09	19-Aug-10
Georgia	DTA	13-May-15	21-Dec-16
Germany	TIEA	02-Sep-09	28-Oct-10
	DTA	17-Nov-11	19-Dec-12
Greenland	TIEA	17-Dec-10	13-Apr-12
Guernsey	DTA	11-Jun-14	30-Apr-15
Hong Kong (China)	DTA	12-Aug-10	08-Jul-11
Hungary	DTA	29-Jun-15	24-Dec-15
Iceland	TIEA	17-Dec-10	31-Mar-12
	DTA	27-Jun-16	14-Dec-16

EOI partner	Type of agreement	Date signed	Date entered into force
India	TIEA	28-Mar-13	20-Jan-14
Ireland	TIEA	13-Oct-09	30-Jun-10
Italy	TIEA	26-Feb-15	20-Dec-16
Japan	TIEA	05-Jul-12	29-Dec-12
Luxembourg	DTA	26-Aug-09	17-Dec-10
Malta	DTA	27-Sep-13	01-Jul-14
Mexico	TIEA	20-Apr-13	24-Jul-14
Monaco	TIEA	21-Sep-09	14-Jul-10
	DTA	28-Jun-17	21-Dec-17
Netherlands	TIEA	10-Nov-09	01-Dec-10
Norway	TIEA	17-Dec-10	31-Mar-12
San Marino	DTA	23-Sep-09	19-Jan-11
Singapore	DTA	27-Jun-13	25-Jul-14
South Africa	TIEA	29-Nov-13	23-May-15
St. Kitts and Nevis	TIEA	11-Dec-09	14-Feb-11
St. Vincent and Grenadines	TIEA	02-Oct-09	16-May-11
Sweden	TIEA	17-Dec-10	08-Apr-12
Switzerland	DTA	10-Jul-15	22-Dec-16
United Arab Emirates	DTA	01-Oct-15	24-Feb-17
United Kingdom	TIEA	11-Aug-09	02-Dec-10
	DTA	11-Jun-12	19-Dec-12
United States	TIEA	08-Dec-08	04-Dec-09
Uruguay	DTA	18-Oct-10	03-Sep-12

2. Convention on Mutual Administrative Assistance in Tax Matters (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)[8]. The Multilateral Convention

8. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.

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 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.

The amended Convention was signed by Liechtenstein in November 2013 and entered into force on 1 December 2016 in Liechtenstein. Liechtenstein can exchange information with all other Parties to the Multilateral Convention.

As of 14 December 2018, the amended Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), 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), Cyprus,[9] Czech Republic, Denmark, 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 the People's Republic of China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by the People's Republic of China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova,

9. 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.

Monaco, Montserrat (extension by the United Kingdom), Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Peru, Poland, Portugal, 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 following are the jurisdictions that have signed the Multilateral Convention, but where it is not yet in force: Antigua and Barbuda (entry into force on 1 February 2019), Armenia, Brunei Darussalam, Burkina Faso, Dominican Republic, Ecuador, El Salvador, Gabon, Jamaica (entry into force on 1 March 2019), Kenya, Liberia, Morocco, Republic of North Macedonia,[10] Paraguay, Philippines, Qatar (entry into force on 1 January 2019) and United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

10. The Republic of North Macedonia, previously known as the Former Yugoslav Republic of Macedonia, has informed the United Nations and the OECD of its new official name. The change is effective as of 14 February 2019.

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 14 December 2018, Liechtenstein's EOIR practice in respect of EOI requests made and received during the three year period from 1 October 2014 until 30 September 2017, Liechtenstein's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Liechtenstein during the on-site visit that took place from 25 to 28 June 2018 in Vaduz, Liechtenstein.

List of laws, regulations and other materials received

Corporate laws

Law of 20 January 1926 on Persons and Companies

Ordinance of 19 December 2003 on the Law on persons and Companies

Ordinance of 8 April 2003 on the Performance of Activities under Article 180a of the Law on Persons and Companies

Law of 9 December 1992 on Trustees.

Foundation Decree of 27 March 2009

Trust Enterprise Act

Ordinance on the Commercial Register

Regulatory laws

Law of 21 October 1992 on Banks and Investment Firms (Banking Act) Law of 6 December 1995 on the Supervision of Insurance Undertakings (Insurance Supervision Act; ISA)

Financial Market Authority Act

Taxation laws

law of 23 September 2010 on National and Municipal Taxes

Ordinance of 21 December 2010 on National and Municipal Taxes

Anti-money laundering/counter-terrorism financing laws

due Diligence Act, 1996

Due Diligence Ordinance, 2005

Law of 11 December 2008 on Professional Due Diligence to Combat Money Laundering, Organised Crime, and the Terrorist Financing (Due Diligence Act; DDA)

Ordinance of 17 February 2009 on Professional Due Diligence to combat money Laundering, Organised Crime, and Terrorist Financing (Due Diligence Ordinance; DO)

Information exchange for tax purposes laws

law of 30 June 2010 on Administrative Assistance in Tax Matters

Law of 30 June 2010 on Administrative Assistance in Tax Matters with the United Kingdom of Great Britain and Northern Island (UK TIEA Act)

Law of 16 September 2009 on Administrative Assistance in Tax Matters with the United States of America

UK-TIEA Ordinance of 31 August 2010

Other laws

law of 9 December 1992 on Auditors and Audit Companies

Law of 9 December 1992 on Lawyers

Ordinance of 17 December 1996 on the Laws on Supervision of Insurance Undertakings (Insurance Supervision Ordinance; SO)

Criminal Procedure Code

Authorities interviewed during on-site visit

Banker's Association

Bar association

Commercial Register

Chamber of Auditors

Economic Crime Unit of the National Police

Financial Market Authority of Liechtenstein

Financial Intelligence Unit

Fiscal Authority

Office for International Financial Affairs

Office of Justice

Trustees Association

Current and previous reviews

This report provides the outcomes of the fourth peer review of Liechtenstein's implementation of the EOIR standard conducted by the Global Forum. Liechtenstein previously underwent EOIR peer reviews in 2011, 2012 and 2015 conducted according to the ToR approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews. The 2011 report evaluated Liechtenstein's legal and regulatory framework and concluded that elements crucial for the availability of ownership and accounting information were not in place. Liechtenstein took measures to address the 2011 report recommendations which were reviewed in the 2012 supplementary review. Finally, the 2015 report evaluated Liechtenstein's legal and regulatory framework as well as its implementation in practice.

Information on each of Liechtenstein's reviews is provided in the table below.

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
2011 report	Ms Sarita de Geus, Directorate-General for the Tax and Customs Administration of the Netherlands Ministry of Finance; Mr Mustupha Mosafeer, Revenue Authority, Mauritius; and Mr Sanjeev Sharma from the Global Forum Secretariat	n.a.	May 2011	August 2011
2012 report	Ms Sarita de Geus, Directorate-General for the Tax and Customs Administration of the Netherlands Ministry of Finance; Mr Mustupha Mosafeer, Revenue Authority, Mauritius; and Mr Sanjeev Sharma and Mr Radovan Zídek from the Global Forum Secretariat	n.a.	July 2012	October 2012
2015 report	Ms Jolanda Roelofs, Tax and Customs Administration, the Netherlands; Mr Mustupha Mosafeer, Revenue Authority, Mauritius; Mr Boudewijn van Looij and Mr Radovan Zídek from the Global Forum Secretariat	1 January 2011 to 31 December 2013	August 2015	October 2015
2019 report	Ms Pille Lepik, Tax and Customs Board, Estonia; Mr Navneet Manohar, CBDT, Ministry of Finance, India; and Mr Radovan Zídek from the Global Forum Secretariat	1 October 2014 to 30 September 2017	December 2018	15 March 2019

Annex 4. Liechtenstein's response to the review report[11]

Liechtenstein wishes to thank the Assessment Team, the Global Forum Secretariat and the Peer Review Group for their work in developing Liechtenstein's report. Liechtenstein's Peer Review Report has been handled in a fair and objective process. Liechtenstein takes note with satisfaction that the progress made since the last review in 2015 has been positively reflected in the report and that Liechtenstein has been assessed to have achieved a high level of compliance with the OECD EOI standards. Liechtenstein agrees with the findings of the report and accepts the recommendations contained therein. The Liechtenstein Government confirms its readiness to address the recommendations appropriately, with the aim to further improve its EOI framework in practice.

Liechtenstein values the bilateral cooperation with its exchange partners and has established a relationship built on agreements, day-by-day cooperation and most importantly governed by the principle of trust. As the Peer inputs received clearly show, Liechtenstein is considered to be a very reliable exchange partner. Liechtenstein reaffirms its commitment to effective and efficient cooperation with all its partners based on the applicable agreements.

Liechtenstein is aware that it is one of few countries granting, based on its constitutional framework, appeal and inspection of file rights to relevant taxpayers and other affected persons. This is an important aspect of the rights provided under domestic law as explicitly permitted in the Commentary to Art 26 of the Model Tax Convention. Liechtenstein recognizes that the balance between these rights and the ability to exchange information effectively according to the standard is delicate. However, Liechtenstein believes that the international standard calls for due protection of taxpayers' rights and safeguards. Liechtenstein has demonstrated that these procedures do not prevent or unduly delay effective exchange of information and will continue to apply a consistent and appropriate practice in accordance with the standard.

11. This Annex presents the Jurisdiction's response to the review report and shall not be deemed to represent the Global Forum's views.

Being one of the founding members of the Global Forum in 2009, Liechtenstein's relationship with the Global Forum has been and will remain one of the strongest pillars in Liechtenstein's international cooperation. Liechtenstein appreciates the recognition it receives for the work in the Global Forum and is convinced that this recognition is well deserved also for the work Liechtenstein has done in implementing international standards domestically. Today, Liechtenstein considers compliance with international standards not only as a need but as part of active policy-making which is key for Liechtenstein with its highly diversified economy with a strong financial sector and an even stronger industrial and manufacturing sector.

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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 LIECHTENSTEIN 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 Liechtenstein.

Consult this publication on line at ***https://doi.org/10.1787/299793c5-en***.

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