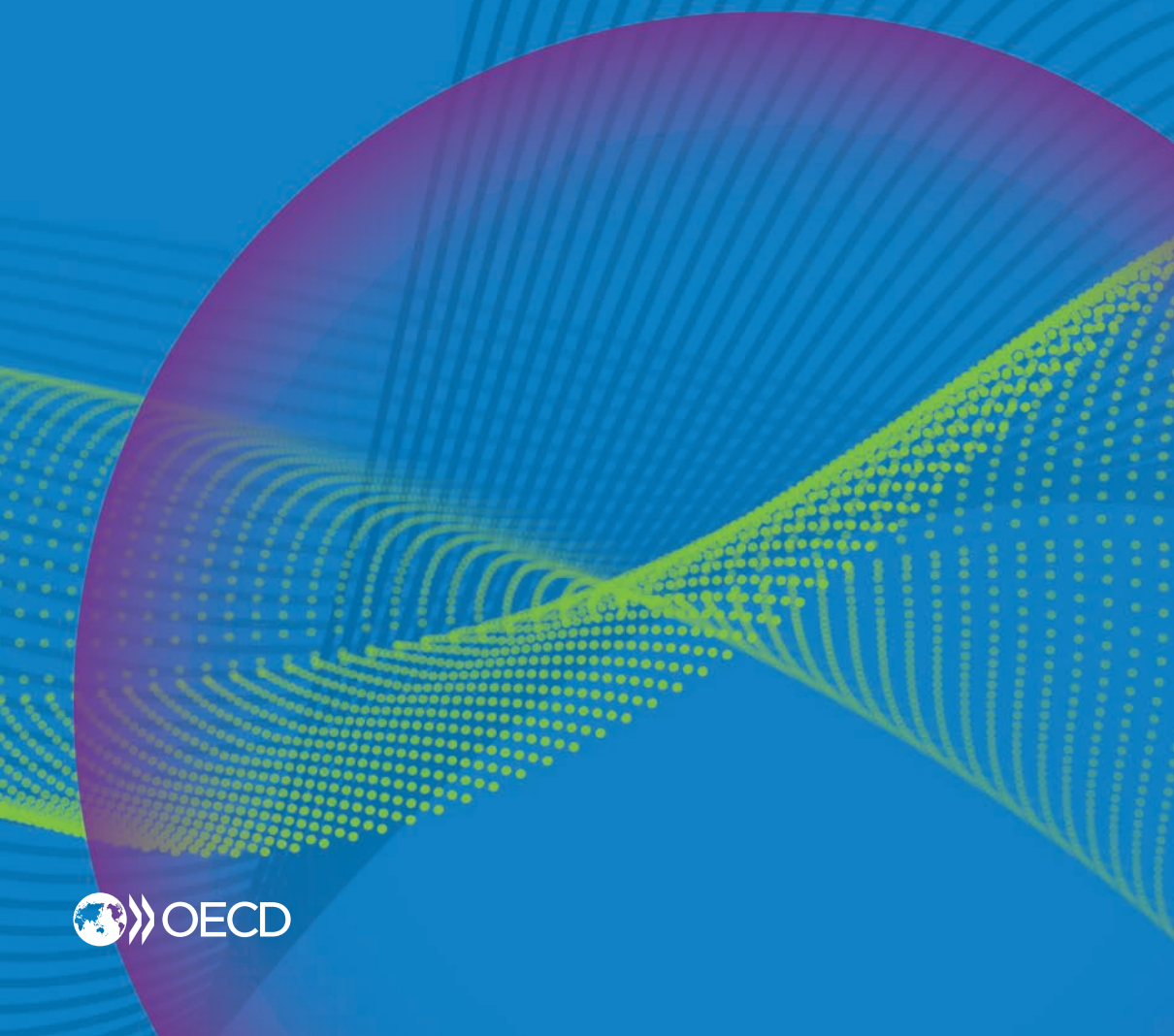
GLOBAL FORUM ON

TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

MOLDOVA

2021 (Second Round, Phase 1)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Moldova 2021 (Second Round, Phase 1)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST



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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 160 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

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CDD	Customer Due Diligence
DTC	Double Taxation Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
FATF	Financial Action Task Force
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IDNO	State Identification Number of Organisation
IDNP	Personal Identification Number
JSC	Joint Stock Company
LLC	Limited Liability Company
MDL	Moldovan Leu
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NBM	National Bank of Moldova
NBS	National Bureau of Statistics
NCFM	National Commission for Financial Market

OPFML	Office for Prevention and Fight against Money Laundering
PSA	Public Service Agency
STS	State Tax Service
TIEA	Tax Information Exchange Agreement

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Republic of Moldova (Moldova) on the second round of reviews conducted by the Global Forum. Because of the COVID-19 pandemic, the onsite visit cannot be scheduled. The present report therefore assesses the legal and regulatory framework in force as at 30 August 2021 against the 2016 Terms of Reference (Phase 1). The assessment of the practical implementation of the legal framework will take place separately at a later time (Phase 2 review) as the pandemic of COVID-19 prevented the onsite visit to take place. Moldova joined the Global Forum in 2016. Hence, the current report is the first assessment of the legal and regulatory framework for transparency and exchange of information on request in Moldova (see Annex 3).

2. This report concludes that Moldova has a legal and regulatory framework that broadly ensures the availability of, access to and exchange of relevant information for tax purposes, but that this framework requires improvement in several areas.

Summary table of determinations on the legal and regulatory framework of Moldova

Element		Determination
A.1	Availability of ownership and identity information	Needs improvement
A.2	Availability of accounting information	Needs improvement
A.3	Availability of banking information	Needs improvement
B.1	Access to information	In place
B.2	Rights and Safeguards	In place
C.1	EOIR Mechanisms	In place
C.2	Network of EOIR Mechanisms	In place
C.3	Confidentiality	In place
C.4	Rights and safeguards	In place
C.5	Quality and timeliness of responses	Not applicable
	Overall rating	Not applicable

Note: The three-scale determinations for the legal and regulatory framework are In place, In place but certain aspects of the legal implementation of the element need improvement (needs improvement), and Not in place.

Transparency framework

3. Since joining the Global Forum in 2016, Moldova has made efforts to put in place the necessary legal and regulatory framework to comply with the standard, including to ensure the availability of information on the ownership and beneficial owners of legal entities and arrangements. Moldova's company laws provide for legal requirements to ensure the availability of legal ownership information. These requirements are further supplemented by the Law on State Registration of Legal Entities and Individual Entrepreneurs, which specifies the detailed requirements for legal entities to register with the Public Service Agency (PSA), i.e. the State Register of Legal Entities of Moldova.

4. In Moldova, the Law on Prevention and Combating Money Laundering and Terrorism Financing (the AML Law) provides for the requirements of maintaining up-to-date beneficial ownership information by the companies and partnerships themselves as well as by a wide range of AML-obliged persons. Through these measures, it is expected that beneficial ownership information on many entities and arrangements in Moldova would be readily available though some deficiencies have been identified.

5. Moldova's Law on Accounting and Financial Reporting places the necessary requirements of maintaining reliable accounting records with underlying documentation on all Moldovan legal entities and foreign entities carrying out entrepreneurial activities in Moldova. Also, under the Tax Code, taxpayers are required to keep records including accounting documents to substantiate their tax obligations. However, a gap exists in respect of the requirement to keep accounting records and underlying documentation for fiducia and foreign trusts operated by Moldovan resident trustees.

6. Banking information would generally be available in Moldova in line with the standard though the definition of beneficial ownership of legal arrangements needs to be improved and clarified.

Key recommendations

7. The key issues raised by this report relate to several gaps identified regarding the availability of beneficial ownership information (elements A.1 and A.3) and the availability of accounting information (element A.2).

8. Moldova has in place legal and regulatory framework to ensure the availability of ownership and identity information of relevant entities and arrangements, mainly through the state registration laws, and the AML laws for most entities. However, requirements in this framework are not sufficient to ensure the availability of full ownership and identity information for all relevant entities and arrangements. Key recommendations refer to the

alignment to the standard of the definition of beneficial owners in the AML laws, particularly in relation to partnerships and fiducia. Recommendations have also been made to ensure that ownership and identity information of foreign companies, foreign partnerships and co-operatives is always available in Moldova.

9. In respect of maintenance of accounting records with underlying documentation, Moldova is recommended to ensure that reliable accounting records and underlying documentation for fiducia and foreign trusts which have Moldovan resident trustees or are administered in Moldova are kept in all cases.

Exchange of information on request

10. Moldova can exchange information on request with 148 partners, through 47 double taxation conventions (DTCs) and the Multilateral Convention. Moldova has in place an EOI mechanism with no material deficiencies so no in-box recommendation has been made on the EOI framework. Over the last few years, Moldova received 38 EOI requests and sent 33 requests per year on average, mainly from/to jurisdictions with which Moldova has most of its economic and financial relations in the region (e.g. Belarus, Russia, Ukraine and Romania) but also some EU member countries (e.g. Belgium). The comments received from peers for this review indicate general satisfaction with the information provided by Moldova. The assessment of EOI in practice is not covered by this report and will be subject to a future Phase 2 review, to be organised as soon as travel conditions allow the assessment team to conduct the on-site visit to Moldova.

Next steps

11. This report only assesses Moldova's legal and regulatory framework for transparency and exchange of information for tax purposes. Moldova receives an "in place" determination for elements B.1, B.2, C.1, C.2, C.3 and C.4, an "in place but needs improvement" determination for elements A.1, A.2 and A.3. The rating for each element and the overall rating will be issued at the conclusion of the Phase 2 review.

12. This report was approved at the Peer Review Group of the Global Forum on 27 October 2021 and was adopted by the Global Forum on 18 November 2021. A follow-up report on the measures taken by Moldova to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2022, and thereafter annually in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations	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 but needs improvement	Foreign companies and partnerships having sufficient nexus to Moldova are not required to maintain ownership and identity information in all circumstances.	Moldova is recommended to ensure that ownership and identity information of relevant foreign companies and foreign partnerships including foreign companies and foreign partnership that ceased to exist is always available in line with the standard.
	Companies in Moldova are required to register their beneficial ownership information with the State Register, and such information of companies, shares of which are held by nominees are also required to be available. However there are no legal obligations for the nominees to disclose their nominee status and the nominators' information. Without such requirements, the implementation of registering beneficial ownership information of companies that contain nominee arrangements might be difficult.	Moldova is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other persons.

Determinations	Factors underlying recommendations	Recommendations
The legal and regulatory framework is in place but needs improvement *(continued)*	The determination of beneficial ownership in respect of general and limited partnerships in Moldova follows the approach for companies, including taking a 25% ownership threshold as a starting point. This is not in accordance with the form and structure of the partnerships in Moldova.	Moldova is recommended to amend the definition of beneficial owners for partnerships and ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership, so that correct beneficial ownership information is available for all partnerships in line with the standard.
	There is a lack of clarity on the trustee's obligation to keep the identity information of the settlors, beneficiaries and trustees of the fiducia (arrangements similar to trusts), and the definition of the beneficial owners of the fiducia is not in line with the standard. Moldovan residents acting as the trustees of foreign trusts are not required to maintain the identity and beneficial ownership information of the foreign trusts, unless they are reporting entities under the AML Law. In addition, there is no obligation for all foreign trusts to engage with a reporting entity in Moldova.	Moldova is recommended to ensure that the definition of beneficial owners for the fiducia is in line with the standard, and identity and beneficial ownership information of the fiducia and foreign trusts that have Moldovan resident trustees or are administered in Moldova is always available.
	There is a lack of clarity on the direct obligations for production co-operatives to maintain the identity and ownership information, and a lack of requirements on the retention period of such information for all types of co-operatives.	Moldova is recommended to ensure that identity and ownership information of all co-operatives, including co-operatives that ceased to exist, is always required to be available in line with the standard.

Determinations	Factors underlying recommendations	Recommendations
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 but needs improvement	Moldovan legislation does not clearly ensure that reliable accounting records and underlying documentation are kept for fiducia and foreign trusts which have Moldovan resident trustees or are administered in Moldova in all cases.	Moldova is recommended to ensure that reliable accounting records and underlying documentation for fiducia and foreign trusts which have Moldovan resident trustees or are administered in Moldova are kept in all cases for at least five years in line with the standard.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place but needs improvement	Beneficial ownership information of bank account holders in Moldova is available through the Customer Due Diligence procedures under the AML law, and banks are allowed to rely on Customer Due Diligence information held by third parties. However, the AML law only requires the banks to have the possibility to obtain necessary Customer Due Diligence information from third parties, rather than requiring them to obtain the information from third parties immediately as provided in the standard.	Moldova is recommended to ensure that its procedure for obtain ownership information held by third parties is compatible with the standard.
	There is a lack of clarity on whether only natural persons can be identified as beneficial owners of legal arrangements, including trusts.	Moldova is recommended to ensure that the definition of beneficial owners of legal arrangements is in line with the standard.

Determinations	Factors underlying recommendations	Recommendations
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	Although Moldova informed that legal professional privilege has never been an impediment in obtaining the information, Moldova's legal professional privilege is broadly defined compared to the standard as it covers all information obtained by a lawyer for the purpose of providing legal assistance or notary acting in his/her professional capacity, rather than being restricted to communications produced for the purposes of seeking or providing legal advice or use in existing or contemplated proceedings and there are no express exceptions in the case of requests made under an EOI agreement.	Moldova is recommended to ensure that the scope of legal professional privilege is in line with the standard.
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		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		

Determinations	Factors underlying recommendations	Recommendations
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		
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	Although Moldova informed that legal professional privilege has never been an impediment in obtaining the information, the information held by lawyers and notaries subject to legal professional privilege is wider than the scope accepted under the standard.	Moldova is recommended to ensure that the scope of legal professional privilege is in line with the standard.
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.	

Overview of Moldova

13. This overview provides some basic information about Moldova that serves as context for understanding the analysis in the main body of the report.

14. Moldova (officially the Republic of Moldova) is situated in Eastern Europe, bordered by Romania and Ukraine. Moldova covers 33 846 km^2, and has a population of about 2.64 million (January 2020). Its capital city is Chisinau, which is also the largest city in Moldova. The official language of Moldova is Romanian and the official currency is Moldovan Leu (MDL).[1]

15. Moldova's GDP is USD 11.9 billion (EUR 9.91 billion) (the latest figure for 2020). Main trading partners of Moldova include Romania, Russia, Ukraine, and Germany.

Legal system

16. Moldova is a parliamentary democracy with multi-party elections. The Constitution of Moldova provides for a clear separation of legislative powers, executive powers and judicial powers. The legislative authority is vested in a unicameral Parliament with members elected by popular vote on party lists every four years. The executive branch is headed by the Prime Minister, who is appointed by the President, the head of the state. A cabinet of ministers is assembled by the Prime Minister. Appointment of the Prime Minister and the assembly of the cabinet have to be approved by the Parliament.

17. The juridical branch entails the Supreme Court of Justice, Court of Appeal, and courts of law. There are also specified courts that deal with related specific cases under the laws. For instance, disputes between the taxpayers and the tax authorities are within the jurisdiction of special courts that deal with administrative litigations. The Supreme Court of Justice is the highest court that ensures the correct and unified application of the legislation in all courts of law. The Court of Appeal is the highest instance with regards to the examination of appealed cases, including criminal and civil cases.

1. Exchange rate: approx. EUR 1 = MDL 21.

18. Moldova is a unitary state divided into villages, towns, districts and the autonomous territorial unit of Gagauzia.[2] Certain towns are declared as municipalities under relevant laws. Moldova is a civil law jurisdiction with mixed Germanic features, and it was influenced by the Soviet Union's norms during the Soviet times. Since the 1990s, the legal system of Moldova has been reformed to harmonise its legal traditions and the European legal models. Laws in Moldova are structured hierarchically, under the Constitution, there are codes passed by the Parliament, and then regulations and other executive laws issued by the government. According to Article 4 of the Tax Code, where an international treaty which Moldova is a party to stipulates other rules and provisions than those in the domestic tax legislations, the related rules and provisions in the treaty shall prevail.

Tax system

19. The main sources of tax legislations in Moldova are the Tax Code, Laws on the implementation of the Tax Code titles, and the complementary tax norms of other acts. Taxes levied in Moldova mainly include income tax (including corporate income tax and individual income tax), value added tax (VAT), excise duties, wealth tax,[3] and private tax[4] at the national level, and real estate tax, natural resources tax and other local taxes at the local government level. An individual is deemed to be a Moldovan tax resident if the individual has a permanent domicile in Moldova or spends more than 183 days in Moldova in the fiscal year concerned. A legal person is resident in Moldova if it is established or managed in Moldova. Tax residents in Moldova are taxed on their worldwide income.

20. The corporate income tax is based on the profit of the accounting period calculated in the financial records, and the income tax adjustments of the incomes and expenses for fiscal purposes. The corporate income tax rate is 12%. Income tax paid by Moldovan residents in a foreign jurisdiction on foreign sourced incomes may be credited against the amount of income tax assessed in Moldova. The individual income tax is levied at a flat rate of 12%

2. Company laws and AML laws are equally applicable in Gagauzia. General tax rules in the Tax Code apply in Gagauzia, except for certain taxes set at a fixed account, e.g. land tax, real estate tax, in which case, the Local Law of the People's Assembly of Gagauzia on Fixed Taxation (No. 46 XX/II of 17 July 2001) will apply.
3. Wealth tax is applied to the taxpayer's properties in the form of residential real estate, including holiday homes (excluding lands), if they meet the conditions specified in the law.
4. Private tax is levy imposed on transactions with public properties (including shares) in the course of privatisation. It is paid before the signing of the sales contracts.

with a yearly updated personal allowance. Dividends paid to a non-resident are subject to a 6% withholding tax, and interest and royalties paid to non-residents are subject to 12% withholding tax, unless the rates are reduced under an applicable treaty. There is no specific transfer pricing legislation in Moldova, although the Tax Code provides that the arm's length principle should be applied to transactions with related parties. VAT is imposed on sales on supply of goods, the provision of services and the import of goods and services into Moldova. The standard VAT rate is 20% with a reduced rate to 8%. Registration for VAT purposes is mandatory for businesses carrying out taxable supplies and imports VAT taxable services in excess of MDL 1.2 million (EUR 47 856) during a consecutive 12 months.

21. The Tax Administration – the State Tax Service (STS) – is an administrative organisation within the competency of the Ministry of Finance. Its main responsibility is to administer taxes, fees and other payments under the laws of Moldova. It also includes the delegated and operational competent authority in charge of exchanging information for tax purposes. The unit responsible for the exchange of information is the International Cooperation and Exchange of Information Unit within the Cooperation and Exchange of Information Department of the STS. Moldova has signed 47 double taxation conventions and the Multilateral Convention that allow it to exchange information on request for tax purposes. Over the last few years, Moldova received 38 EOI requests and sent 33 requests per year on average, mainly from/to jurisdictions with which Moldova has most of its economic and financial relations in the region (e.g. Belarus, Russia, Ukraine and Romania) but also some EU member countries (e.g. Belgium).

Financial services sector

22. Moldova's financial market is under development and its integration to the global financial market is limited. There is no international financial sector in Moldova. Moldova's financial sector comprises currency and payment systems, financial markets, financial institutions and the related regulators. Banking sector dominates the financial sector, with a share of 86.7% of the total assets held by all financial institutions in Moldova. As of December 2020, the total banking assets amounted to MDL 103.8 billion (EUR 5.26 billion), 50% of Moldova's GDP in 2020. There were 11 banks, 1 payment institution, 1 postal operator that provides payment services and 5 electronic money institutions. The regulator of the banking sector is the National Bank of Moldova (NBM), which regulates, licenses and supervises the activities of the banking institutions.[5] As of 30 June 2020, there were also

5. Law no. 548/1995 on the National Bank of Moldova and the Law no. 202/2017 on the Activity of Banks.

372 foreign exchange offices (including their 71 branches), 9 hotels, that are licensed by the NBM for carrying out currency exchange activity in cash with individuals, and 713 licensed bank foreign exchange bureaus. The NBM supervises the foreign exchange entities on their compliance with the foreign exchange regulations.

23. The non-banking sector of financial institutions in Moldova comprises (as of December 2020), 1 market operator, 15 investment companies, 8 registry companies, 5 persons authorities in the field of stock valuation, 166 non-banking financial institutions, 1 central national association of savings and loan association, 228 savings and loan associations, 11 insurance/reinsurance companies 41 insurance or reinsurance intermediaries, and 3 credit history offices. Those financial institutions in the non-banking sector are all regulated and supervised by the National Commission for Financial Market (NCFM), an autonomous public authority, accountable to the Parliament.[6] As of December 2020, the total assets in the non-banking sector accounted to 7.2% of the GDP in Moldova.

24. There was a fraud scandal in the banking sector of Moldova in 2014, which indicated that between 2012 and 2014, funds worth USD 1 billion (EUR 821 millions) were stolen due to money laundering schemes. Total loss of such schemes was equivalent to 12% of Moldova's GDP. Following the fraud scandal, Moldova has taken actions to strengthen its regulations to banking activities, including amendment to its AML legislations, which has been considered in this report.

Anti-Money Laundering Framework

25. The AML legal framework in Moldova comprises primarily Law no. 308/2017 on Prevention and Combating Money Laundering and Terrorism Financing (AML Law), complemented by regulations, recommendations, government decisions and orders. The Office for Prevention and Fight against Money Laundering (OPFML), which is the specialised AML authority with Financial Intelligence Unit functions, has also published official guidelines on the implementation of the AML laws and regulations in Moldova, including the binding Guidance on Identification of the Beneficial Owners (Order No. 36 of 23 August 2018) (BO Guidance).

26. The fifth round mutual evaluation of Moldova's compliance with the international AML/CFT standard was conducted by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) in October 2018. In the report published by the

6. Law no. 192/1998 on the National Commission for the Financial Market. The competence will move to the NBM from 2023.

MONEYVAL in July 2019,[7] Moldova received the rating of "Compliant" on the Financial Action Task Force (FATF) Recommendation 10 on customer due diligence (CDD) of financial institutions and "Largely Compliant" on the FATF Recommendation 22 for CDD of non-financial businesses and professions. Recommendation 11 for record keeping and Recommendation 17 for reliance on third parties are rated "Largely Compliant". Recommendation 24 for transparency and beneficial ownership of legal persons and Recommendation 25 for transparency and beneficial ownership of legal arrangements were rated "Partially Compliant" as there was a material deficiency identified. Under Recommendation 24, it is unclear what mechanisms are used in Moldova to prevent the misuse of nominee directors, and the Public Service Agency (PSA) which is the registrar in Moldova in charge of the registration of beneficial ownership information of legal persons does not have sanctions power for violations. As for Recommendation 25, the highlighted gap is that even though Moldova's legal framework does not recognise express trusts or similar legal arrangements, there is no legal prohibition on resident persons to act as trustees of trusts established under foreign laws, and there is no obligation on trustees to disclose their status to the AML obliged persons.

27. Following the fifth round of MONEYVAL evaluation, Moldova has taken actions to address the gaps identified. Moldova has approved the National Strategy for prevention and combating money laundering and financing of terrorism for the years 2020-25 and the Action Plan for its implementation (the Parliament Decision no. 239/2020). Moldova has also drafted the law to amend the AML/CFT Law and published the amended Regulation on Requirements for Prevention and Combating Money Laundering and Terrorist Financing in the Activity of Banks (No. 200 of 9 August 2018) (AML Regulation for Banks). Moldova is now under the follow-up review of the MONEYVAL.

7. The report is available at www.fatf-gafi.org/countries/#Moldova.

Part A: Availability of information

28. 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 banking 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.

29. The Moldovan legal and regulatory framework ensures that legal ownership information of relevant entities and arrangements is available in accordance with the standard, mainly through the state registration laws, and the AML laws. However, there are certain aspects that need improvement, including the lack of legal requirements for the availability of the legal ownership information of foreign companies and partnerships that have a nexus in Moldova, and the lack of legal requirements for Moldovan residents that act as the trustees of foreign trusts to identify and maintain the identity information of the trusts. There is also a concern on the retention period for keeping the identity and ownership information of co-operatives in Moldova.

30. With regards to the beneficial ownership information of relevant entities and arrangements, Moldova ensures its availability through the AML Law, which requires 1) the reporting entities to identify and maintain the beneficial ownership information of their customers; and 2) all legal entities (including companies, partnerships, foundations and co-operatives) to maintain accurate, adequate and up-to-date beneficial ownership information. However, there are concerns on the definition of beneficial ownership for partnerships and the fiducia in Moldova, and on the availability of beneficial ownership information of companies having a nominee arrangement. There is also a legal gap that Moldovan resident trustees of the fiducia and foreign trusts are not required to identify and maintain the beneficial ownership information of the trusts, unless they are reporting entities under the AML Law.

31. The conclusions are as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/ Underlying factor	Recommendations
Foreign companies and partnerships having sufficient nexus to Moldova are not required to maintain ownership and identity information in all circumstances.	Moldova is recommended to ensure that ownership and identity information of relevant foreign companies and foreign partnerships including foreign companies and foreign partnership that ceased to exist is always available in line with the standard.
Companies in Moldova are required to register their beneficial ownership information with the State Register, and such information of companies, shares of which are held by nominees are also required to be available. However there are no legal obligations for the nominees to disclose their nominee status and the nominators' information. Without such requirements, the implementation of registering beneficial ownership information of companies that contain nominee arrangements might be difficult.	Moldova is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other persons.
The determination of beneficial ownership in respect of general and limited partnerships in Moldova follows the approach for companies, including taking a 25% ownership threshold as a starting point. This is not in accordance with the form and structure of the partnerships in Moldova.	Moldova is recommended to amend the definition of beneficial owners for partnerships and ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership, so that correct beneficial ownership information is also available for all partnerships in line with the standard.

Deficiencies identified/ Underlying factor	Recommendations
There is a lack of clarity on the trustee's obligation to keep the identity information of the settlors, beneficiaries and trustees of the fiducia (arrangements similar to trusts), and the definition of the beneficial owners of the fiducia is not in line with the standard. Moldovan residents acting as the trustees of foreign trusts are not required to maintain the identity and beneficial ownership information of the foreign trusts, unless they are reporting entities under the AML Law. In addition, there is no obligations for all foreign trusts to engage with a reporting entity in Moldova.	Moldova is recommended to ensure that the definition of beneficial owners for the fiducia is in line with the standard, and identity and beneficial ownership information of the fiducia and foreign trusts that have Moldovan resident trustees or are administered in Moldova is always available.
There is a lack of clarity on the direct obligations for production co-operatives to maintain the identity and ownership information, and a lack of requirements on the retention period of such information for all types of co-operatives.	Moldova is recommended to ensure that identity and ownership information of all co-operatives, including co-operatives that ceased to exist, is always required to be available in line with the standard.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

32. Moldovan law provides for the creation of two types of companies: joint stock companies (JSC) and limited liability companies (LLC). JSCs may issue securities according to regulations under the Capital Market Law and are regulated by the National Commission for the Financial Market (NCFM), but this is not allowed for the LLCs. There is no limit on the shareholders of a joint stock company, but total number of shareholders of a LLC should not exceed 50. LLC is the most popular business form in Moldova, but unlike JSCs, their shares cannot be traded in a stock exchange. As of 30 June 2020, there were 3 947 JSCs and 98 387 LLCs registered in Moldova.

33. Foreign companies established under the laws of another jurisdiction may conduct business in Moldova through branches, representative offices or other types of permanent establishments. There were 10 454 foreign companies registered in Moldova as of 30 June 2020.

Legal Ownership and Identity Information Requirements

34. The legal ownership and identity information requirements for companies are mainly found in the company law, including the Law on JSCs, the Law on LLCs as well as relevant provisions in the Civil Code, which impose obligations on JSCs and LLCs to keep their legal ownership and identity information. Those obligations are further supplemented by the Law on State Registration of Legal Entities and Individual Entrepreneurs (Law No. 220 of 19 October 2007) (Law on Registration of Legal Entities), which specifies the detailed requirements for legal entities (including companies) to register with the Public Service Agency (PSA), i.e. the State Register of Legal Entities of Moldova. The AML law is an additional source of legal ownership and identity information in Moldova under which the AML obliged persons would keep such information of companies where they are engaged. However, Moldova confirmed that the tax registration and tax returns submitted to the State Tax Service (STS) do not contain the legal ownership information of companies, therefore the STS does not hold the legal ownership information of companies in Moldova.

35. The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies:

Companies covered by legislation regulating legal ownership information[8]

Type	Company Law	Tax Law	AML Law
Joint stock company	All	None	Some
LLC	All	None	Some
Foreign companies (tax resident)	Some	None	Some

8. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that every entity of this type contains requirements on the availability of ownership information), whether or not the legislation meets the standard. "Some" means that an entity covered by these requirements if certain conditions are met.

Information held by the State Register

36. All companies, including both JSCs and LLCs in Moldova are required to register with the PSA, which is the State Register of legal entities in Moldova, to obtain the legal personality, as provided under Article 179 of the Civil Code. Information of the founders (initial shareholders) must be provided to the State Register in accordance with the Law on Registration of Legal Entities. This information includes, for natural persons, the founders' name, personal identification number (IDNP), residence address, and telephone number; and for non-natural persons, the founders' state identification number (IDNO), date of registration, postal address, telephone, fax and email-address where they are legal entities (Article 33(i) of the Law on Registration of Legal Entities). Upon registration with the State Register, the company will be issued with a state identification number (IDNO), which will serve for the identification of the company in the information system of Moldovan government.

37. When a JSC has issued securities, its shares must be registered in the Register of Security Issuers maintained by the NCFM, and be entered in the accounts opened at the Single Central Depositary of Securities (Article 12(3) of the Law on Joint Stock Companies). This shareholder information should be kept by the Single Central Depositary for a period of 10 years. As of August 2021, the Single Central Depositary of Securities keeps records of shareholders of 194 JSCs. Register companies authorised by the NCFM to provide record-keeping services keep records of JSCs including register of shareholders established before the creation of the Single Central Depository of Securities in 2018, and as of August 2021, there are about 1 600 registers of shareholders held by the register companies. Records including register of shareholders should be kept by the register companies for at least seven years (Article 149 of the Regulation on Licensing and Authorisation on Capital Market). For JSCs that have not issued securities, there will not be a register of shareholders at the Single Central Depositary of Securities or an independent register company. Since they have not completed the full registration procedures are required for JSCs, they are not active companies and are classified as non-functional companies. Thus their legal ownership information (on founders) will only be registered with the State Register as above discussed. For JSCs that have issued securities, the details on each shareholder, when changing (e.g. change of residential address), will not be notified to the NCFM, nor the Single Central Depositary of Securities or register companies, unless it is linked to an increase or decrease in share capital. In Moldova, there are no requirements for companies to file annual returns to the State Register once registered.

38. For LLCs, where there are changes to the incorporation deed, including change of the shareholders or addition of new shareholders, the legal entity is required to submit to the State Register the amended incorporation

deed within 30 days after the adoption of the decision to amend it (Article 16 of the Law on Registration of Legal Entities). However the law does not require the notification to the State Register where there is a change to the shareholder's information other than the removal or addition of shareholders, e.g. the change of a shareholder's residence address. Moldova should ensure the legal ownership information of companies maintained by the State Register and the legal ownership information of JSCs maintained by the Single Central Depositary of Securities or the register companies are always up to date (see Annex 1).

39. Branches or representative offices of foreign companies must be registered with the State Register.[9] No ownership information of the foreign companies are required to be provided to the State Register (except for identity of founders in case it is part of the provided deed of incorporation), but identity information is provided on the person exercising management functions of the branch (Article 12(3) of the Law on Registration of Legal Entities).

40. A company ceases to exist (on its legal personality) after it has been removed from the State Register as per deregistration rules set out in Chapter V of the Law on Registration of Legal Entities.

41. A company can be deregistered as a result of reorganisation or liquidation (e.g. decisions by the shareholders or the court). A company will be treated as an inactive legal entity if: 1) within 12 months from the date of registration or during the last three years, it has not submitted the tax returns provided by law, and has not carried out operations on any bank account; 2) it is not a founder of another legal entity or has no subsidiaries; 3) has no debts to the national public budget; 4) has not been registered as a VAT taxpayer; and 5) does not have cash registers with fiscal memory registered with the STS. According to Article 26 of the Law on Registration of Legal Entities, an inactive legal entity is considered to have ceased its activities and thus should be deregistered from the State Register. Every quarter, the Main State Tax Inspectorate of the STS will send the related data about inactive legal entities, and their status of debts to the national public budget (e.g. taxes and levies) to the PSA so as to decide on their deregistration from State Register. Once deregistered as per procedures set out in Article 26 of the Law on

9. Documents that need to be submitted to the State Register for registration include: 1) the application for registration; 2) decision of the company to create the representative office or branch; 3) the regulation of the representative office or branch including a statement on the legislation of the state under which the foreign company was created, an extract from the foreign public register and registration number; 4) confirmation on payment of the registration fee (Article 12(3) of the Law on Registration of Legal Entities).

Registration of Legal Entities, the company will lose its legal personality and it cannot revert back to an active company.

42. Information about companies held by the State Register is kept permanently (Article 36 of the Law on Registration of Legal Entities). For legal entities, including companies that are liquidated, the State Register will transfer the data to the archive and related information is also kept permanently.

43. Non-compliance with the registration provisions under the Law on Registration of Legal Entities will be subject to penalties as provided in the Contravention Code. Legal entities, including companies carrying out business activities, that have not registered with the State Register or any other authorities as required by law will be sanctioned with a fine from MDL 1 500 to MDL 4 500 (EUR 69 to EUR 208). Legal entities, including companies that have failed to register any change of information, e.g. change of incorporation documents or premises, will be sanctioned with a fine from MDL 150 to MDL 450 (EUR 7 to EUR 21).

Information held by the tax authority

44. Information on companies in Moldova including their founders' information, is transmitted in electronic format by the State Register to the STS automatically in accordance with the Law on Registration of Legal Entities. The company's state identification number (INDO) issued by the PSA upon registration will serve as the tax identification number of the registered entity (Article 11(2) of the Law on Registration of Legal Entities). Therefore, all companies registered with the State Register will be registered for tax purposes with the STS. There is a State Tax Register administered by the STS, which maintains the tax identification numbers and other information including those of the founders of companies according to the Tax Code.

45. Legal entities including companies resident in Moldova or the permanent establishment of foreign companies are required to submit the annual income tax returns to the STS, regardless of their tax liabilities in Moldova (Article 54^{9}((4) and Article 83(2) (c) and (e) of the Tax Code). However, legal ownership information of companies is not included in the annual tax returns submitted to the STS. Updated information submitted to the State Register where there is a change to the business address or the incorporation documents is not shared with the STS.

Information held by companies themselves

46. According to Article 10 of the Law on LLCs, LLCs must keep the incorporation documents, which include the identity information of their founders. Where there is a change to the incorporation document, the updated information on the shareholders will also be kept by the LLC. But it is not

clear what identity information of the shareholders of the LLCs should be kept. In case of the liquidation of a company, the liquidator or the managing director of the company must transmit this information and documents to the State Archive before the company is removed from the State Register. The State Archive will keep this information permanently.

47. For the LLCs, they should keep the register of the shareholders and the annual or quarter financial reports for ten years at their headquarters under the Order of the State Archive Service, No. 57 of 27 July 2016 (the Order of the State Archive). JSCs are not required to keep records of their legal ownership information, and such information is maintained by the Single Central Depository of Securities as discussed above.

48. There are sanction rules under the Order of the State Archive Service in cases of destruction or damage of the related documents, but there are no legal provisions regarding what sanctions will be applied to LLCs that fail to keep the register of the shareholders as required. Moldova should clarify what identity information of the shareholders should be kept by the LLCs, and put in place effective compliance measures for LLCs that fail to keep the identity and ownership information (see Annex 1).

Information held by AML reporting entities

49. Legal ownership information of companies is also available with the reporting entities (AML obliged persons) in Moldova, if companies are engaged with any of the reporting entities. As there is no obligation for companies to always have a business relationship with a reporting entity, the information will be available only to the extent such a relationship exists.

50. According to Article 5(2) of the AML Law, reporting entities[10] such as banks, lawyers, notaries, payment service providers or audit firms are required to conduct Customer Due Diligence (CDD) to identify and verify

10. According to Article 4 of the AML Law of Moldova, reporting entities refer to 1) banks; 2) foreign exchange units/offices; 3) registry societies, investment companies, sole central depository, market operators, system operators, insurers (reinsurers), intermediaries in insurance and/or reinsurance of legal entities, National Bureau of Vehicles Insurers, non-state pension funds, microfinance organisations, savings and loan associations, central associations of savings and loan associations; 4) organisers of gambling; 5) real estate agents; 6) natural and legal persons practicing activities with precious metals and stones; 7) lawyers, notaries and other designated non-financial businesses and professions (including accountants); 8) lessors under financial leasing; 9) payment service providers; 10) audit firms; and 11) any other natural or legal persons who sell goods in the amount of more than MDL 200 000 (EUR 9 250) in cash payments.

the identity of the customers when establishing the business relations, including obtaining and verifying relevant identity information to understand the control structure of the customers. The BO Guidance further requires that for customers that are legal entities, the reporting entities should obtain the authenticated copy of the constituent documents (as subsequently amended and supplemented if applicable) that contain shareholder information, and the identity information of the persons invested in the legal entity and have the right to lead or represent the legal entity (Article 14(b) of the BO Guidance).

51. The reporting entities must conduct on-going monitoring of the documents and information obtained during the CDD and keep them updated (Article 5(2)(d) of the AML Law). For reporting entities that are banks and non-bank payment service providers regulated by the NBM, they are required to update the information whenever they deem necessary, but at least annually for high-risk customers, every two years for medium-risk customers, and every three years for low-risk customers (Article 39 of the AML Regulations for Banks). Whilst for reporting entities that are non-banking entities regulated by the NCFM, the information must be updated whenever necessary, but at least annually for high-risk customers and every three years for low-risk customers (Paragraph 21 of the NCFM Regulation No. 38/1/2018 on preventing and combatting money laundering and terrorist financing on the non-banking financial market). For reporting entities that are not regulated by the NBM and NCFM, there are not similar frequency rules to update the CDD information.

52. All documents and information including legal ownership information of the customers must be kept by the reporting entities during the active period of the business relationship and for a period of five years in paper format after its termination, and another five years in electronic format (Article 9(2) and (6) of the AML Law).

53. Reporting entities that fail to comply with the record keeping rules under the AML Law may be subject to sanctions, including public statement in mass media, warning, withdrawal or suspension of authorisation or licence, temporary ban to hold management positions in the reporting entities (to individuals), and pecuniary sanctions in the form of fine up to the equivalent in MDL of the sum of EUR 1 000 000 for reporting entities; or the equivalent in MDL of the sum of EUR 5 000 000 or 10% of the previous year's turnover for reporting entities like banks and saving and loan associations (Article 35(2) of the AML Law and the Law on AML/TF Infringements Detection Procedure and Means of Sanctions Application no. 75/2020).

Conclusions

54. Moldova has a legal and regulatory framework in place to ensure that legal ownership information of companies is available. All LLCs in Moldova are required to register with the State Register and submit the founders' information, thus such information is available by the State Register. LLCs are also required to keep the ownership information by themselves, but it is not clear what identity and legal ownership information should be kept.

55. Being different from the LLCs, the legal ownership information of the JSCs is registered and maintained by the Single Central Security Depository, or the register companies authorised by the NCFM to provide record-keeping services, for the JSCs established before the creation of the Single Central Securities Depository in 2018.

56. Legal ownership information of both LLCs and JSCs may also be available with the AML obliged persons, but only when they engage with AML obliged persons.

57. Foreign companies in Moldova are required to register with the State Register, but their legal ownership information is not required to be submitted. **Moldova is recommended to ensure that ownership and identity information of relevant foreign companies, including foreign companies that ceased to exist, is always available in line with the standard**.

58. Moldova's legal and regulatory framework provides for the related sanction rules to non-compliance with the requirements for companies to register the legal ownership information with the State Register and for AML obliged persons to keep the legal ownership information of their customers. The effectiveness of the sanction provisions will be assessed in the Phase 2 review of Moldova covering also the practical aspects of the implementation of its legal and regulatory framework.

Availability of beneficial ownership information

59. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In Moldova, this aspect of the standard is met through the AML framework with the Law on Prevention and Combating Money Laundering and Terrorism Financing (No. 308 of 27 December 2017) (the AML Law). Firstly, the AML obliged persons must obtain and maintain beneficial ownership information on their clients; and secondly, the AML Law provides for transparency rules requiring all legal entities to obtain and hold adequate, accurate and up-to-date information on their beneficial owners, and register such information with the State Register.

Companies covered by legislation regulating beneficial ownership information

Type	Company Law	Tax Law	AML Law/companies	AML Law/CDD
Limited liability company	None	None	All	Some
Joint stock company	None	None	All	Some
Foreign companies (tax resident)[11]	None	None	Some	All

Definition of beneficial owner

60. The definition of beneficial owner in the AML law applies to both AML reporting entities and to companies themselves. A beneficial owner is:

> "a natural person that ultimately owns or controls a natural or legal person or beneficiary of an investment company or manager[12] of the investment company, or a person in whose name an activity is carried out or a transaction is performed and/or who owns, directly or indirectly, the right of ownership or control of at least 25% of the shares or of the voting rights of the legal person or of the goods under fiduciary administration." (Article 3 of the AML Law)

61. The provision on CDD further indicates:

> In the case in which, after the exhaustion of all possible means and provided that there are no grounds for suspicion, no person shall be identified as the beneficial owner, the natural person that holds the position of administrator[13] of the customer shall be considered as beneficial owner." (Article 5(15) of the AML Law).

62. The definition of beneficial owner under the AML Law includes the natural person that ultimately owns or controls (directly or indirectly) an individual or a legal person. If no such person is identified, the persons that hold the position of administrators, i.e. natural persons who are strategic decision-makers and act on the company's behalf in relationships with third parties according to Article 61(1)(2) of the Civil Code, are then identified as default

11. Where a foreign company has a sufficient nexus to the assessed jurisdiction, then the availability of beneficial ownership information is required to the extent the company has a relationship with an AML-obligated service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).
12. "Managers" refers to natural persons who hold leading positions in an investment company and may influence its decision-making (Article 6 of the Law on Capital Market).
13. Under the Civil Code, administrators are defined as natural person(s) who are strategic decision-makers in a legal person and act on its behalf in relationships with third parties (Article 61(1)(2) of the Civil Code).

beneficial owners. Moldova confirmed that the administrators are considered as the natural persons who hold the position of senior manager roles under the standard in Moldova, but this will be followed up and considered in Phase 2 review (see Annex 1). Beneficial owner is also a defined term under Article 4 of the BO Guidance, which contains the same wordings as Article 3 and Article 5(15) of the AML Law.

63. Article 3 of the AML Law refers to "control" but does not refer to the element of "control through means other than ownership" specifically as required under the standard, e.g. finance or personnel means, in the definition. However, this definition is supplemented by the binding BO Guidance issued by the OPFML. According to Section 12 of the BO Guidance, in identifying the beneficial ownership of a company through "the right of ownership or control", the reporting entities should also consider "other means of control". The element of "control through other means" and the details on identifying senior management roles are also specified in the AML Regulation for Banks, that applies to reporting entities that are banks and non-bank payment service providers regulated by the NBM.

AML law requirements of reporting entities

64. In Moldova, it is not mandatory for companies to engage an AML obliged person, even though in practice the companies usually hold bank accounts with the banks in Moldova. This means that the beneficial ownership information of all companies may not always be available with the reporting entities. This however is supplemented by the rules requiring all companies to register the beneficial ownership information with the State Register (see below discussion under "state registration requirements").

65. Under the AML Law of Moldova, a reporting entity (such as a bank, lawyer, notary, payment service provider or audit firm) is required to identify the beneficial owners of the client in the CDD procedure before establishing the business relationship (Article 5(2)(b) of the AML Law). As part of the CDD procedures, the reporting entities must identify the client's beneficial owners and apply appropriate and risk-based measures to verify the beneficial owners, including by understanding the structure of the property and the control structure of the customer. The BO Guidance also sets out rules to help the reporting entities to establish procedures for identifying, documenting, verifying, analysing and updating the beneficial ownership information as required under the AML Law.

66. In the process of identifying the beneficial owners, the reporting entities are required to collect the following information from their clients (Section 14 of the BO Guidance):

- for clients that are natural persons: 1) name; 2) date and place of birth; 3) citizenship; 4) identity card data including the state identification number (tax code); and 5) address
- for clients that are legal entities: 1) name and legal form; 2) headquarters and mailing address; 3) state registration information including state identification (tax code) and date of state registration; 4) constituent documents; 5) telephone number, fax and email; and 6) the nature and purpose of the activities.

67. After the beneficial owners are identified, the reporting entities are required to verify the identity of the beneficial owners, including using additional information from other credible and independent public and private sources, e.g. the register of beneficial owners of legal entities kept by the state registration authority, database of relevant supervisory bodies and competent authorities or other public and private sources available in public access (Section 19 of the BO Guidance). Where it is not possible to identify and verify the beneficial owners, the reporting entities should not establish any business relationship or should terminate any existing business relationship.

68. In accordance with Article 7 of the AML Law, the reporting entities may apply a simplified CDD if by nature the customers have a low risk of money laundering or terrorism financing.[14] Simplified CDD includes: 1) verification of the identity of the customer and of beneficial owner after the establishment of business relationship (but there is no time limit for such verifications to be completed); 2) reduction of the frequency to update the identification data; 3) reduction of the level of on-going monitoring of transaction or business relationship; and 4) limitation in obtaining the information regarding the purpose and nature of the business relationship.

69. Beneficial ownership information must be kept by the reporting entities for a period of five years in paper format after the termination of the business relationship with the clients, and subsequently for another five years in electronic format (Article 9(2) and (6) of the AML Law). Reporting entities should update as necessary the information and data on the beneficial owners of their clients based on their risk profiles, but updates must be done not less

14. The reporting entities should on the basis of their own assessment, determine the factors generating the low risk of money laundering and terrorism financing and to determine the necessity of application of simplified CDD measures. Examples of the factors to consider include if 1) the customer is a public authority or state enterprise; 2) the customer is a company listed in a regulated market; 3) the customer is resident in a jurisdiction that meet the international standard on AML; (…) 6) the financial products and services are limited and well defined for a circle of customers, with the aim to increase the financial inclusion and etc. (Article 7(3) of the AML Law).

than once a year (for all risk categories) (Article 20 of the BO Guidance), being different from the requirements to update the general CDD information including legal ownership information as discussed in the above.

70. Reporting entities are allowed to rely on information identified and held by third parties in order to comply with the CDD requirements (Article 10 of the AML Law). However there are certain conditions to be met, including 1) the reporting entities have the possibility to obtain immediately necessary CDD information owned by third parties; 2) reporting entities must adopt and implement efficient procedures regarding the rapid access to copies of identification information and other documents related to the CDD measures as owned by third parties; 3) third parties are adequately supervised and meet requirements similar to the provisions of the AML Law in Moldova; and 4) third parties are not resident in high risk jurisdictions.[15] The final responsibility for the implementation of the CDD measures still rests with the reporting entities in Moldova. Moldovan law only requires the reporting entities to have possibility to obtain immediately necessary CDD information from third parties, rather than requiring them to obtain the CDD information from third parties. Moldova should ensure that its procedure for reporting entities accessing ownership information held by third parties is compatible with the standard (see Annex 1).

71. A reporting entity that fails to comply with the AML Law is subject to fines, disciplinary, pecuniary, criminal or other types of liabilities, including public statement in mass media, warning, withdrawal or suspension of authorisation or licence, temporary ban to hold management positions (to individuals) in the reporting entities. The fine will be in twice amount of the value of the benefit derived from the breach of the obligations imposed under the AML Law (where the respective benefit can be determined) or in the amount of the equivalent in MDL of the sum of EUR 1 000 000. For banks, savings and loan associations, payment service providers or e-money issuers that are reporting entities, the fine would be in the amount up to the equivalent in MDL of the sum of EUR 5 000 000 or 10% of the turnover for the previous year (Article 35 of the AML Law).

Obligations on companies to keep beneficial ownership information and provide it for State registration

72. According to Article 14 (Rules of transparency) of the AML Law enacted in 2017, legal persons including companies should obtain and hold adequate, accurate and up-to-date beneficial ownership information of themselves, and submit it to the State Register. This also applies to foreign companies,

15. The OPFML maintains a list of the high risk countries, which is published on its website: http://spcsb.cna.md/en/page/watchlist.

but only limited to those that have branches in Moldova. They must also report immediately changes to their data. The State Register should verify, and register the beneficial ownership information at the registration of the legal entities. Legal entities are also required to immediately inform the registration authority of any changes of the information submitted (Article 14(1) and (2) of the AML Law). However, it is not clear how the State Register should validate the information submitted, and there are no guidance on how the legal entities would identify such changes, especially when the legal owners do not change, as there is no obligation on the beneficial owners themselves to keep the company informed of their status. Moldova should put in place related procedures to validate the beneficial ownership information submitted to the State Register by the companies (see Annex 1).

73. As for the definition of beneficial owner applied to the companies when identifying such information under Article 14 of the AML Law, provisions under Article 3 of the AML Law regarding the "first criteria of the overall cascading approach" should be applied. But as discussed above, the "second criteria", i.e. "control through other means" are not included in the definition under Article 3, but supplemented by the binding BO Guidance. In addition, the "third criteria" specified in the CDD provisions under Article 5(15) of the AML Law only applies to AML reporting entities, but not a company that is required to identify its beneficial owners as per Article 14 of the AML Law. Moldova confirmed that in the binding BO Guidance, the term of beneficial owner contains all three criteria of the overall cascading approaches, and it should be applicable to companies for purpose of Article 14 of the AML Law, but it is not clear in the AML Law or in the BO Guidance. This may cause doubt whether the companies will take the "second criteria", and the "third criteria" into account when identifying their beneficial owners, even though Moldova confirmed that the BO Guidance equally applies to the companies. However, regarding the "third criteria", the information of the natural person holding the position of administrator is part of the information submitted by companies (except foreign companies) to the State Register of Legal Entities (Article 33(1)(i) of the Law on Registration of Legal Entities) upon registration and then, is available for the State Register, but there are no provisions requiring the information to be updated within a specified timeline where there is a change.

74. In order to implement the requirement of Article 14 of the AML Law, the State Register issued binding Instructions on collecting, checking and recording data on the beneficial owners in the State Register of Legal Persons and Individual Entrepreneurs (Order no. 05/01-281 i of 9 August 2018) (Instructions on BO registration of legal entities). The Instructions set out the procedures and format for the founders of legal entities, including companies, to submit the beneficial ownership information when registering with the State Register. Information of the beneficial owners that need to be

submitted includes the name, date of birth, personal ID number, passport number, country of origin, address and where the beneficial owners control the company through ownership interest, the percentage of the shareholding in the company.

75. Without the beneficial ownership information or if the information is incomplete, a company's application to register with the State Register will not be accepted. However, there are no legal provisions regarding what sanctions will be applied to the companies if the obligations to report up-to-date beneficial ownership information to the State Register are breached. Moldova should put in place effective compliance measures for breach of the obligations for companies to maintain the beneficial ownership information up to date (see Annex 1).

Conclusions

76. Under the AML law in Moldova, reporting entities must conduct CDD and collect the beneficial ownership information of their customers. Companies are also required to register their beneficial ownership information with the State Register and notify the State Register immediately when there is a change of the beneficial ownership information. The definition of beneficial owners in the AML lacks clarity on the element of control "through other means", but this is supplemented by the binding guidance of the OPFML to interpret this definition (Article 12 of the BO Guidance), and the further provisions in the regulations issued by the NBM (the second point under the section on recommendations on the criteria for identifying the beneficial owner of the AML Regulations for Banks). It is not clear though if the rules in the BO Guidance also apply to companies (not only to reporting entities) that are subject to the obligations for maintaining the beneficial ownership information under Article 14 of the AML Law. Although the information resulting from the "third criteria of the overall cascading approach" is otherwise available in the State Register of Legal Entities, this may cause doubt if the companies will take the "second criterial of the overall cascading approach" into account when identifying their beneficial owners, even though Moldova confirmed that the BO Guidance equally applies to the companies. Moldova should clarify in its AML legal framework that all elements in the definition of the beneficial owners are always applied for both reporting entities and companies in the identification of beneficial owners as required by the AML Law (see Annex 1).

77. The existence of appropriate penalties for non-compliance with key obligations requiring availability of beneficial ownership information is an important tool for Moldova to effectively enforce the obligations to retain such information. The practical implementation of the legal obligations and the effectiveness of the enforcement provisions will be further considered in Moldova's Phase 2 review.

Nominees

78. In Moldova, regulated custodians, e.g. investment firms licensed by the NCFM, can act as the nominee of shareholders of JSCs. In such case, the investment firms as the reporting entities under the AML Law are required to identify the beneficial owners of their clients, i.e. the nominators in the nominee arrangements. The Moldovan law is not clear on whether other non-regulated entities or individuals can act as nominees in a company (e.g. as silent partners), but Moldova confirms that there are no prohibitions on this. Both JSCs and LLCs are subject to the transparency rules of Article 14 of the AML Law, and need to submit their beneficial ownership information to the State Register. Therefore, beneficial ownership information of companies, shares of which are held by nominees, are also required to be available. However, the implementation for this obligation might be difficult in practice as nominees do not have an obligation to disclose their nominee status and nominator's information under the Moldovan law. **Moldova is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other persons.** The practical aspects of the implementation of Moldova's legal and regulatory framework as it relates to nominees will be further assessed in the Phase 2 review.

A.1.2. Bearer shares

79. The Moldovan laws do not allow the issuance of bearer shares or bearer share warrants. Even though bearer shares were allowed before 2007, Moldova confirmed that legal entities registered in Moldova had never issued bearer shares or bearer share warrants.

A.1.3. Partnerships

80. Jurisdictions should ensure that information is available to their competent authorities that identifies the partners in, and the beneficial owners of, any partnership that (i) has income, deductions or credits for tax purposes in the jurisdiction, (ii) carries on business in the jurisdiction or (iii) is a limited partnership formed under the laws of that jurisdiction.

81. The Moldovan law provides for the creation of two types of partnerships, both of which are legal persons with legal personality: a general partnership and a limited partnership.

82. A general partnership is a commercial entity whose partners conduct business activities on behalf of the entity in accordance with the partnership agreement, and the partners bear joint and unlimited liability for the partnership's obligations (Article 256 of the Civil Code). The number of partners in a general partnership is limited to 2 to 20 (natural or legal persons). The general

partnership is managed by all partners in accordance with the partnership agreement, and decisions are made with a majority vote of the partners.

83. A limited partnership is a commercial entity in which, together with the partners who conduct business activities on behalf of the entity and bear unlimited joint and respective liability for their obligations (general partners), there are one or more contributing partners who do not participate in the business activities of the entity and bear the obligations of the entity within the limit of their contribution (limited partners) (Article 271 of the Civil Code). The management of the limited partnership is exercised by the general partner, and the limited partners do not have the right to participate in management and administration of the limited partnership except for significant matters as specified in the partnership agreement, for which the agreement of all partners would be required (Article 273 of the Civil Code).

84. As of 30 June 2020, there were 75 general partnerships, and 14 limited partnerships registered in Moldova, including two foreign partnerships.

Identity information

85. As partnerships fall within the scope of the legal entities, they are subject to registration requirements under the Law on Registration of Legal Entities, as that of companies. Similar to companies, a partnership obtains legal personality upon registration with the State Register. Partnerships are required to submit the partnership agreement and the related identity information of partners (including the name, personal identification number, address and telephone number for natural persons and identification number, registration date, address and etc. for legal entities) to the State Register for registration (Article 33 of the Law on Registration of Legal Entities). Where there is a change to the partnership agreement including change of the partners, partnerships are required to submit the updated information to the State Register within 30 days after the change to the agreement (Article 16 of the Law on Registration of Legal Entities). Information maintained by the State Register is kept permanently in Moldova.

86. In relation to foreign partnerships, similar to foreign companies, they have to register their branches in Moldova with the State Register and the same procedures are applied to branches of domestic partnership. However, identity information of the partners of the foreign partnership is not required to be provided.

87. Partnerships cease to exist after being removed from the State Register as per deregistration rules under the Law on Registration of Legal Entities. For liquidated partnerships or partnerships deregistered other than by way of liquidation, their information will be transferred to the archive and kept permanently by the State Register.

88. Similar to companies, upon their registration with the State Register, information will be transmitted to the STS automatically and registered in the State Tax Register. The State Tax Register holds the information of partnerships permanently. Partnerships including foreign partnerships that have a branch or permanent establishment in Moldova are required to submit the annual income tax returns to the STS, regardless of their tax liabilities in Moldova. However, identity information on partners in a partnership is not required to be submitted in the tax returns to the STS.

89. Where partnerships engage with reporting entities in Moldova, e.g. banks or accountants, identity information of the partners will also be available with the reporting entities through the CDD procedure as required under the AML Law. This is the same as that has been discussed in A1.1 for companies.

90. To conclude, the Moldovan legal and regulatory framework includes requirements to ensure the availability of identity information of partners in a partnership in Moldova. However, for foreign partnerships that have income, deductions or credits for tax purposes, or carry out business in Moldova, their partners' identity information is not required to be submitted to the State Register at the registration. **Thus Moldova is recommended to ensure that ownership and identity information of relevant foreign partnerships, including foreign partnerships that ceased to exist, is always available in line with the standard**.

Beneficial ownership information

91. Similar to companies, beneficial ownership information of partnerships is available under the AML Law and the state registration requirements. Under the AML Law, where the partnerships engage with reporting entities, e.g. banks or accountants, the reporting entities are required to conduct CDD and identify the beneficial owners of the partnerships. In addition, partnerships as legal entities in Moldova should keep adequate, accurate and up-to-date beneficial ownership information and submit such information to the State Register at the time of registration. Any changes to the beneficial ownership information submitted should be notified to the State Register immediately.

92. The retention period for the reporting entities and the State Register to keep the beneficial ownership information is the same as that discussed in A.1.1 for companies, i.e. five years in paper format and another five years in electronic format for information kept by the reporting entities, and permanently for the information kept by the State Register.

93. In terms of the definition of beneficial owners for partnerships, the definition of beneficial owners for companies as discussed in A.1.1 is equally applied to partnerships (as legal persons). However, limited partnerships and

general partnerships operate differently to companies, especially as concerns control, and the decision-making in companies is linked to capital contribution, while in partnerships it follows the partnership agreements. In a limited partnership in Moldova, a limited partner's capital contribution may be more than 25% as set out in the definition of beneficial owners in the AML Law, but it may not participate in the decision making process of the operation of the partnership (Article 273 of the Civil Code), thus would not be a beneficial owner. Therefore, beneficial owners of partnerships would not always be identified by simply applying the definition of the beneficial owners under the AML Law.

94. Partnerships should maintain accurate, adequate and up-to-date beneficial ownership information, and provide it to the State Register at the time of registration, in accordance with Article 14 of the AML Law. The definition applied in the Instructions on BO Registration for Legal Entities is the same as that under the AML Law, therefore the same concern on the definition of beneficial owners as above applies. Also as the case for companies, there are no legal provisions regarding what sanctions will be applied to the partnerships if the obligations to maintain beneficial ownership information by themselves are breached. Moldova should put in place effective compliance measures for breach of the obligations for partnerships to maintain the beneficial ownership information (see Annex 1).

95. Beneficial ownership information of foreign partnerships that have a sufficient nexus in Moldova may be available with the reporting entities where they are engaged. Similar to domestic partnerships, foreign partnerships should also register their beneficial ownership information with the State Register, but only in the case where they have branches in Moldova.

96. In summary, there are legal and regulatory framework in place to ensure the availability of beneficial ownership information of partnerships in Moldova. However, there are concerns on the definition of the beneficial owners for partnerships in the AML Law. **Moldova is recommended to amend the definition of beneficial owners for partnerships and ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership, so that correct beneficial ownership information is available for all partnerships in line with the standard**.

A.1.4. Trusts and similar arrangements

97. Jurisdictions should take all reasonable measures to ensure that beneficial ownership information is available to their competent authorities in respect of express trusts (i) governed by the laws of that jurisdiction, (ii) administered in that jurisdiction, or (iii) in respect of which a trustee is resident in that jurisdiction.

98. Moldovan legislation does not provide for the creation, operation and management of trusts, and Moldova is not a signatory to the Hague Convention on the Law Applicable to Trusts and their Recognition. There might nonetheless be foreign trusts administered in Moldova (see below). Moldovan *fiducia* have some features of a trusts and are analysed below.

Moldovan fiducia

99. The Civil Code provides the notion of "*fiducia*" in Moldova. A *fiducia* is a legal relationship in which a party (fiduciary/trustee) is obliged to become the owner of the assets (fiduciary patrimonial mass), and manages the assets in accordance with the conditions governing the legal relationship (trust conditions), for the benefit of a beneficiary or to promote a public utility purpose (Article 2055 of the Civil Code). The *fiducia* is not a legal arrangement in the sense of the common law concept for a trust, but it has a very similar structure to an express trust. Parties to a fiducia include the settlor, the trustee, the beneficiary and the assistant[16] of the *fiducia*. A settlor of a *fiducia* can also be a trustee and/or beneficiary of the *fiducia*, and a trustee can also be a beneficiary, subject to the provisions in the *fiducia* agreement, a will, an administrative act or a court decision.

100. A *fiducia* does not fall into the scope of legal entities under the Law on Registration of Legal Entities, so the identity information of the settlor, trustee, beneficiary and assistance are not registered with the State Register. An identification number for legal entities (IDNO) is not assigned to the *fiducia*. A fiducia is also not registered with the STS for tax purposes, as it is not recognised as a taxpayer under the Tax Code. Moldova confirms that as fiducia is not recognised as a legal entity, it cannot itself establish any business relationships with other legal persons, e.g. opening a bank account. It is also not allowed to use names that may create confusion that the *fiducia* is a legal entity (Article 2080(2) of the Civil Code). In practice, the *fiducia* is mainly used for investment purposes in the capital market or any other public utility purposes.

101. The trustee of a fiducia has the obligation to keep records for the fiducia, i.e. the fiducia records. (Articles 2104 and 2105 of the Civil Code).The fiducia records would include the fiducia agreement or any other document on the creation of the fiducia (e.g. the wills or the court decisions) that contain the identity information of the beneficiaries and trustees (Article 2075 of the

16. The assistant is the person who, according to the conditions of the *fiducia*, has the right to appoint or revoke the trustee or to give his/her consent to the resignation of the trustee, as well as other discretions and empowerments expressly provided (Article 2056(4) of the Civil Code).

Civil Code). It is not clear what identity information should be kept by the trustee and how long it should be kept.

102. With regard to beneficial ownership information, the beneficial owners of a fiducia would be the person who owns directly or indirectly the ownership or control of at least 25% of the goods (assets) under fiducia administration as specified in Article 3 of the AML Law. This definition is not in line with the standard in terms of the beneficial owners for arrangements that are similar to trusts. It is also not clear if the trustee should keep the beneficial ownership information of a fiducia.

103. In summary, due to the lack of clarity on the trustee's obligation to keep the identity information of the settlors, beneficiaries and trustees of the fiducia, and there is a concern on the definition of the beneficial owners of the fiducia, **Moldova is recommended to ensure that the definition of beneficial owners for the fiducia is in line with the standard, and identity and beneficial ownership information of the fiducia is always available**.

Foreign trusts

104. In Moldova there are no restrictions that prevent a Moldovan resident from acting as a trustee, protector or administrator of a trust formed under foreign law. The Moldovan legislation does not require registration or disclosure of information regarding settlors, trustees, protectors and beneficiaries of trusts to government authorities, neither regarding any other natural person exercising ultimate effective control over the trust.

105. Under the tax law, there are no specific provisions on the taxation of a foreign trust and the trust's income may only be relevant to the settlors or beneficiaries, who need file tax returns in Moldova if they are liable to taxes in Moldova (e.g. Article 106, Article 117(8)).

106. Under the AML Law, trustees of foreign trusts are not listed as reporting entities. They do not have obligations to conduct CDD and identify the beneficial owners of their clients (in a trust arrangement), unless they are otherwise reporting entities like lawyers, or investment companies regulated by NCFM (Article 4(1) of the AML Law). Where the banks or the non-banking payment service providers are engaged, e.g. a bank account is opened by the foreign trust in Moldova, the banks are required to identify the founder (settlor), the administrator (trustee), the protector (if any), the beneficiaries or classes of beneficiaries, and any other persons who ultimately exercise effective control over the trust (Article 26(3) of the AML Regulation for Banks). However it is not clear if "any other persons" only refers to natural persons (see A.3).

107. Professional trustees that are AML obliged persons under the AML Law, and other reporting entities that have a business relationship with trusts

(e.g. a notary) are required to identify and maintain the identity and beneficial ownership information of their clients. But unlike the case of banks or non-banking service providers that are subject to the AML Regulation for Banks, it is not clear under the AML Law whether such information in the context of trusts would include the identity of the trust settlors and beneficiaries. It is also not clear how AML obliged professional trustees would identify the beneficial owners of the trusts, as there is no definition of beneficial owners for trusts or similar legal arrangements in Moldova. Article 3 of the AML law defines the beneficial owner as "a natural person that ultimately owns or controls a natural or legal person", which does not include the case of the natural person ultimately owning or controlling a legal arrangement (e.g. a trust).

108. Although in practice it may not be common for a Moldovan resident to act as the trustee of a foreign trust, the definition of beneficial owners in the AML law needs to be suitably established in the context of trusts. **Moldova is therefore recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all foreign trusts that have Moldovan resident trustees or are administered in Moldova**.

A.1.5. Foundations

109. In Moldova, foundations are non-profit organisations. They must pursue non-commercial purposes, e.g. for the development and support of democracy and human rights, science, culture and art (Article 21 of Law no. 86 of 11 June 2020 on Non-profit Organisations (Law on Non-profit Organisations)). The Moldovan law does not make a distinction of different types of foundations, e.g. private foundations or public foundations. All foundations are subject to the same rules under the Law on Non-profit Organisations. As of 30 June 2021, there were 458 foundations registered in Moldova.

110. Foundations in Moldova can benefit from an income tax exemption if certain conditions are met (Article 52(1) and (2) of the Tax Code). Profits of foundations cannot be distributed among the members and founders of the foundations or any other people (e.g. administrative staff of the foundation). Upon liquidation of the foundations, the remaining assets of the foundation must be transferred to other non-profit organisations that have similar statutory objectives in accordance with relevant laws or as set out by the council of the foundation, or as designated by the court (Article 8(3) and (4) of the Law on Non-profit Organisations).

111. Considering the above features of the foundations in Moldova, they are not relevant for the purpose of the review and only a brief overview of their legal structure and ownership and identity information requirements is given here in this section of the report.

112. Foundations in Moldova must be registered with the State Register and will obtain legal personality upon registration. To register a foundation, various information should be submitted, including the identity information of all founders of the foundation. This information includes name, personal identification number (IDNP), date of birth, address and nationality in the case where the founder is a natural person; and name, registered office address, the number of state identification (IDNO), and the document confirming the representatives' power of representations in the case where the founder is a legal entity (Article 13(6)(e) of the Law on Non-profit Organisations). In addition, similar to the case of the companies and partnerships, as legal persons, foundations are also subject to the transparency rules as provided in Article 14 of the AML Law, including keeping adequate, accurate and up-to-date beneficial ownership information and registering that information with the State Register. The same definition of beneficial owners for companies applies to the foundations in Moldova, as discussed under A.1.1.

Other relevant entities and arrangements

Co-operatives

113. The Moldovan law provides for the creation of three types of co-operatives: production co-operatives (under the Law on Production Co-operatives, no. 1007/2002), consumer co-operatives (under the Law on Consumer Co-operatives, no. 1252/2000), and entrepreneurial co-operatives (under the Law on Entrepreneurial Co-operatives, no. 73-XV of 12 April 2001). As of 30 June 2020, there were 3 340 co-operatives registered in Moldova.

114. A production co-operative is an enterprise set up by five or more natural persons for the purposes of jointly carrying out the production activities or other related economic activities, mainly based on the individual members' work and their contributed shares of capital (Article 1(1) of the Law on Production Co-operatives). Production co-operatives are required to keep a register of their members and the members are required to notify the co-operative where there is a change to its personal information, but it is not clear what identity information should be kept in such register and how long it should be kept.

115. Similar to a production co-operation, a consumer co-operative is an autonomous and independent association of natural persons, created through the co-operation of its members to carry out economic activities to satisfy their interests and their need for consumption (Article 1 of the Law on Consumer Co-operative). Consumer co-operatives should maintain a register of their co-operative members, which includes the information of co-operative member's name, address, subscribed shares, date of registration, and the members are required to notify the co-operative where there is a change to its personal information, but it is not clear how long this information should be kept.

116. Being different from a production co-operation and a consumer co-operative, an entrepreneurial co-operative is a commercial organisation with a legal person status, whose members can either be legal or natural persons that conduct business activities (Article 5(1) of the Law on Entrepreneurial Co-operatives). According to Article 79 of the Law on Entrepreneurial Co-operatives, the entrepreneurial co-operatives should keep a register of their co-operative members. The register contains the information of the member, including the name of its headquarter, registration number and tax identification number in the case of a legal person; and its name, identification number, nationality, residence address and tax identification number in the case of a natural person. The members are required to notify the co-operative where there is a change to identity information. Similar to the other two types of co-operatives, it is not clear how long the identity information of members should be kept by the co-operatives.

117. In Moldova a co-operative is treated as a legal person, and it has a general assembly as the supreme body, and also an executive body to exercise the daily administration and operation of the co-operative. Therefore, the definition of the beneficial owners as discussed for companies in element A.1.1 also apply to co-operatives. Thus the concerns as identified with respect to the definition of beneficial owners also exist for co-operatives. As legal persons, co-operatives are also subject to the requirements to maintain adequate, accurate and up-to-date beneficial ownership information and register the information with the State Register in accordance with Article 14 of the AML Law. However, similar to the case of companies, Moldova should clarify in its AML legal framework that all elements in the definition of the beneficial owners are always applied for both reporting entities and co-operatives in the identification of beneficial owners as required by the AML Law (see Annex 1). Similar to the case of companies and partnerships, Moldova should put in place effective compliance measures for breach of the obligations for co-operatives to maintain the beneficial ownership information (see Annex 1). In addition, beneficial ownership information of co-operatives may also be available with the AML obliged persons e.g. the banks where they are engaged.

118. In conclusion, the identity and ownership information of co-operatives are mainly held by the co-operatives themselves. However, there is a lack of clarity on the direct obligations for production co-operatives to maintain the identity and ownership information, and there is a lack of requirements for the retention period for such information of all types of co-operatives. **Moldova is recommended to ensure that identity and ownership information of all co-operatives, including co-operatives that ceased to exist, is always required to be available in line with the standard**.

A.2. Accounting records

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

119. The Terms of Reference set out the standards for the maintenance of reliable accounting records and the necessary accounting record retention period. They provide that reliable accounting records should be kept for all relevant entities and arrangements. To be reliable, accounting records should: (i) correctly explain all transactions; (ii) enable the financial position of the entity or arrangement to be determined with reasonable accuracy at any time; and (iii) allow financial statements to be prepared. Accounting records should further include underlying documentation, such as invoices, contracts, etc. Accounting records need to be kept for a minimum of five years.

120. Moldova's Law on Accounting and Financial Reporting No. 287/2017 (Law on Accounting) places the necessary requirements of maintaining reliable accounting records with underlying documentation on all Moldovan legal entities and foreign entities carrying out entrepreneurial activities in Moldova. Under the Tax Code, taxpayers are required to keep records including accounting documents stipulated in the Law on Accounting to substantiate their tax obligations. However, a gap exists in respect of the requirement to keep accounting records and underlying documentation for fiducia and foreign trusts operated by Moldovan resident trustees.

121. Accounting records including underlying documentation are required to be kept for at least five years according to the Order of the State Archive Service, which is in line with the standard. Penal sanctions are provided for non-compliance of obligation to keep accounting records under the Tax Code and the Contravention Code.

122. The conclusions are as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/ Underlying factor	Recommendations
Moldovan legislation does not clearly ensure that reliable accounting records and underlying documentation are kept for fiducia and foreign trusts, which have Moldovan resident trustees or are administered in Moldova in all cases.	Moldova is recommended to ensure that reliable accounting records and underlying documentation for fiducia and foreign trusts which have Moldovan resident trustees or are administered in Moldova are kept in all cases for at least five years in line with the standard.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

123. Accounting obligations of the relevant entities are mainly contained in the Law on Accounting, supplemented by the Tax Code. The relevant legal requirements are described below.

Law on Accounting

124. The Law on Accounting covers all legal entities established in accordance with Moldovan laws irrespective of their legal forms (including companies, partnerships, co-operatives and foundations that are non-commercial organisations in Moldova) as well as all branches located outside Moldova and branches of foreign entities operating in Moldova (Articles 2 and 20 of the Law on Accounting). Entities are required to keep accounting documents that include underlying documentation, accounting registers, financial statements and other relevant documents in the premises of the entities on paper, or electronically under condition that they can be accessed at any time upon request of the bodies empowered by the legislation (Article 17(1) and (2) of the Law on Accounting). The entities are also obliged to ensure that accounting documents are protected from unauthorised modifications (Article 17(3) of the Law on Accounting).

125. Accounting documents have to include primary documents justifying the occurrence of economic facts representing a transaction, operation or event that modified or may modify assets, equity, liabilities, revenue, cost and/or expense of the entity (Article 3 of the Law on Accounting). The accounting documents must include the following:

- name and date of issuance of the document
- name, address, state identification number (IDNO) of the entity for which the document is issued
- name, address, IDNO of the beneficiary of the document, and for natural persons – personal identification number
- content, volume and value of the documented economic facts
- titles, first and last names and signatures of persons responsible for the occurrence of economic facts (Article 11(7)).

126. Documents justifying the occurrence of economic facts that should be kept in the entities include underlying documentation such as invoices and contracts.

127. Information contained in accounting documents must be registered on the accounts of the synthetic accounting registers based on the double entry system. Accounting registers should be clearly organised, reflect chronological and/or systematic order of recorded economic facts and should include identification of persons responsible for keeping the register (Article 15 of the Law on Accounting).

128. Entities are required to prepare financial reporting based on the accounting data contained in the accounting registers. Financial reporting should include the balance sheet, the profit and loss account, the cash flow statement, the statement on changes in equity and the explanatory note.

129. Small businesses, which do not exceed the certain criteria at the reporting date: total assets MDL 63 600 600 (EUR 2 973 328), sales revenues MDL 11 200 000 (EUR 523 600), and average number of employees in the reporting period 10, can draw up simplified financial statements consisting of the balance sheet, the profit and loss account and the explanatory note in accordance with the National Accounting Standards (Articles 4, 5, 18 and 21 of the Law on Accounting), while they are required to keep accounting records including underlying documentation that correctly explain the entity's transactions, enabling it to determine the entity's financial position with reasonable accuracy at any time.

130. Further details concerning the principles and methods for keeping accounting records and preparing financial reporting are contained in the National Accounting Standards based on the International Accounting Standards and International Financial Reporting Standards (IFRS). Entities can choose to follow only the IFRS however, a public interest entity defined as an entity whose securities are admitted for trading on a regulated market; bank; insurer (re-insurer)/insurance company; undertaking for collective investment in securities with legal personality; large entity which is a state-owned enterprise or a JSC where the share of the state is higher than 50% of the share capital is obliged to prepare their financial reporting based on the IFRS (Article 5 of the Law on Accounting).

131. All entities are obliged to submit their financial statements to the National Bureau of Statistics (NBS), which manages the Public Depository of Financial Statements, by paper, email or uploading them in the system of the registrar annually (Article 33 of the Law on Accounting). The data of financial statements submitted to the NBS are not provided to the State Register. Medium and large-sized entities, public joint-stock companies, banks, insurance companies, as well as certain companies engaged in specifically listed business activities are obliged to publish their annual financial reports that

have undergone mandatory audit together with the auditor's report on their websites (Articles 32 and 33 of the Law on Accounting).

Tax Law

132. Accounting obligations under the Law on Accounting are supplemented by obligations under the tax law. Taxpayers are required to keep accounting records including underlying documentations stipulated in the Law on Accounting, substantiating their tax obligation in the form and manner established by law and are obliged to provide reliable information on the income derived from any type of entrepreneurial activity (Article 8(2) c) d) and 129 10) of the Tax Code). Although Moldovan laws do not explicitly stipulate the place where records should be kept, accounting documents and other information on business activity should be available to tax authorities' officials upon request (Article 8(2) f) of the Tax Code).

133. As stated in A.1.1, legal entities resident in Moldova or the permanent establishment of foreign companies that are not resident in Moldova are required to submit the annual income tax returns to the STS regardless of their tax liabilities in Moldova (Article 83(2) c) and e) of the Tax Code).

Retention period

134. There is no explicit retention period for keeping the accounting records including underlying documentation under the Tax Code and Law on Accounting. Retention requirements follow from the Order of the State Archive Service, which provides an Indicator of standard documents created during the activities of public administration authorities, institutions, organisations and companies. The Indicator specifies the terms of storing documents, which must be applied by all relevant legal entities. In accordance with the Indicator, accounting records and underlying documentation should be kept for at least five years in line with the standard. Annual financial statements are required to be kept for 10 years and underlying documentation including invoices and contracts is required to be kept for 5 years.

Anti-Money Laundering Law

135. The AML Law requires the AML obliged person to keep all documents and underlying documentation obtained from customers. AML obliged persons are required to keep all data related to national and international activities and transactions to the extent that they can respond promptly to requests of OPFML, authorities with supervision functions of the reporting entities and law enforcement agencies for a period of five years after the termination of business relationship. The data must be sufficient to allow the reconstitution of each activity or transaction in the manner in which it is

necessary to serve as evidence in criminal proceedings, contraventions and any other legal proceedings. AML obliged persons are also required to keep all documents and information about the customers and beneficial owners obtained during CDD including accounting documents for five years after its termination or after the date of the transactions (Article 9 of the AML Law). These documents cover transactions involving the AML obliged person and would not cover the transactions carried out by the entities without the involvement of the AML obliged person, but could nonetheless be useful as a secondary source of (partial) information, in case an entity failed to keep the requested information.

Moldovan fiducia

136. The Civil Code provides for the possibility to set up fiducia arrangements as described in section A1.4. The Law on Accounting does not expressly regulate fiduciary operations. Under the Civil Code, a trustee of a fiducia has the obligation to keep records for the fiducia which would include the fiducia agreement (Article 2104 and 2105 of the Civil Code). The trustee is also obliged to provide information upon request of other parts of the fiducia at least once a year on the status of the fiducia including its debts and revenues obtained (Article 2103 of the Civil Code). However, it is not clear whether accounting records and underlying documentation for fiducia should be kept by trustees in all cases and how long they should be kept.

Foreign trusts

137. Accounting obligations of a Moldovan resident person acting as a trustee of a foreign trust are not clearly provided. Although Moldovan legislation does not provide for the creation, operation and management of trusts or similar legal arrangements, there is no prohibition or licensing requirements on resident person in Moldova to act as a trustee of express trusts formed under foreign law. Under the Law on Accounting, if the trustee is a legal person, it will be required to keep proper accounting records and documents in accordance with the National Accounting Standards or the international accounting standards, which appear to ensure that the trustee is required to keep separate accounting records and documents for all operations of the trust and not simply for his/her own income derived from the trust, in a manner which allows identification of these operations as operations under the trust contract.

138. However if the trustee is an individual, he/she will be subject to simple-entry accounting based on cash accounting and they are not required to prepare financial statements (Article 5(6) of the Law on Accounting). It may not ensure that such accounting records and documents are kept for the trust itself and are not confined to the business of the trustee in all cases. Obligations under accounting law are not clearly supported by the Tax Code

since the Tax Code does not recognise the trust concept as relevant for taxation (see A.1.4). Further, a trustee other than AML obliged persons such as lawyers who must conduct CDD will not be subject to AML obligations including keeping accounting records.

139. As the above requirements do not ensure that accounting records in respect of fiducia and foreign trusts operated by Moldovan resident trustees are kept in all cases, **Moldova is recommended to ensure that reliable accounting records and underlying documentation for fiducia and foreign trusts which have Moldovan resident trustees or are administered in Moldova are kept in all cases for at least five years in line with the standard**.

Companies that ceased to exist and retention period

140. If an entity ceases its activity, the accounting documents including underlying documentation are transmitted to the state archives (Article 17(5) of the Law on Accounting). It would also apply to foreign entities ceasing operations in Moldova. In case of company's liquidation, the liquidator or the administrator is obliged to transmit the company's accounting documents to the state archives before deletion of the company from the State Register of Legal Entities. In case of companies deregistered other than by liquidation, the documents would be lodged with the state archives by the managing director. The state archives will keep these documents for at least five years (Article 226 of the Order of the State Archive Service and Article 25 of the Law no. 880-XII of 22 January 1992 on Archival Fund). Moldova's legislation does not provide a provision that allows Moldovan entities to redomicile in a foreign county.

141. Entities that violate the provisions of the Law on Accounting will bear disciplinary, civil, administrative and/or criminal liability (Article 34 of the Law on Accounting). The Tax Code provides for penalties consisting of fines from MDL 40 000 (EUR 1 870) to MDL 60 000 (EUR 2 805) in case of non-compliance with the accounting record keeping obligations (Articles 189(2) and 257 of the Tax Code). The Contravention Code provides several sanctions for failure to keep accounting information. For example, a failure to drawing up documents justifying the occurrence of transaction that modified or may modify the assets, equity, liabilities, revenues, costs and/or expenses of the entity, incomplete or inadequate preparation of these documents and late submission of documents are sanctioned with a fine from MDL 600 (EUR 28) to MDL 2 250 (EUR 105) to the person responsible for drawing up, signing and presenting these documents (Article 295 of the Contravention Code).

142. According to the Law on Accounting, the NBS ensures necessary conditions for entities to submit financial statements on line or on paper and verifies compliance with the completeness of financial statements through

the Public Depository of Financial Statements (Article 8 of the Law on Accounting). The NBS is also obliged to make sure that the financial statements are drawn up, submitted and published in accordance with accounting law and accounting standards (Article 33(7) of the Law on Accounting).

143. The NBM is responsible for overseeing the compliance of the Single Central Security Depository with the regulation on accounting information for securities issued by JSCs and the implementation of record keeping requirements to commercial banks, listed companies, publicly interest entities, state-owned JSCs and newly created companies under the Law on the Single Central Depository of Securities no. 234/2016.

144. The tax administration supervises whether a taxpayer complies with the obligation to keep accounting records stipulated in the Tax Code (Article 8(2)c) during the tax audit.

145. The oversight and enforcement measures in practice will be assessed in the Phase 2 review.

A.3. Banking information

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

146. The legal and regulatory framework in Moldova requires the availability of banking information to the standard, but certain elements need improvement. Identity information including beneficial ownership information on all account holders and transaction records are required to be available under the AML Laws and the AML Regulation for Banks. The information and records are required to be kept by the banks for a period of five years and another five years in electronic format. Identification information and records including beneficial ownership information of account holders are required to be reviewed and updated by the banks annually for high risk customers and every three years for low and medium risk customers. There are also in place related enforcement rules for sanctioning the non-compliance of reporting entities including banks.

147. Moldova does not require the banks to obtain the information from third parties immediately as required by the standard, where ownership information held by third parties is relied upon for CDD procedures, and there is a lack of clarity on whether only natural persons can be identified as beneficial owners of legal arrangements including trusts. Moldova is recommended to ensure that its procedures for accessing third party information, and the definition of beneficial owners of legal arrangements are in line with the standard.

148. The conclusions are as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/ Underlying factor	Recommendations
Beneficial ownership information of bank account holders in Moldova is available through the Customer Due Diligence procedures under the AML law, and banks are allowed to rely on Customer Due Diligence information held by third parties. However, the AML law only requires the banks to have the possibility to obtain necessary Customer Due Diligence information from third parties, rather than requiring them to obtain the information from third parties immediately as provided in the standard.	Moldova is recommended to ensure that its procedure for obtaining ownership information held by third parties is compatible with the standard.
There is a lack of clarity on whether only natural persons can be identified as beneficial owners of legal arrangements, including trusts.	Moldova is recommended to ensure that the definition of beneficial owners of legal arrangements is in line with the standard.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

A.3.1. Record-keeping requirements

149. All banks in Moldova are required to be registered and licensed by the National Bank of Moldova (NBM), and they are also supervised by the NBM under the AML legal framework. As of end of 2020, there were 11 banks licensed by the NBM in Moldova.

150. Banks are not allowed to open and maintain anonymous accounts, fictitious accounts, anonymous savings books, or to establish or continue business relationships with banks that conduct such business (Article 5(3) of the AML Law).

151. In Moldova, banks are reporting entities (AML obliged persons) and are required to conduct CDD of their clients and maintain the related records and transactions (Article 9 of the AML Law). According to Article 87 under Chapter X of the AML Regulation for Banks, banks must retain all records and information on customers and beneficial owners, collected for CDD purposes. Those records and information include copies of identification documents, archived accounts and primary documents, business correspondence, the

results of researches conducted to identify any complex or unusual transactions, throughout the entire period of the business relationship with a customer. The banks should keep those records and information during their business relationship with a customer and for a period of five years after termination of the business relationship, or after the date of each occasional transaction and transfer of funds, and another five years in electronic format. As per the request of the competent authorities (e.g. OPFML), retention period for the related records and information may be extended for a period specified in the request but not more than five years (Article 89 of the AML Regulation for Banks). In addition, Article 9 of the AML Law requires banks to keep all records on transactions to the extent that they can respond promptly to requests of the OPFML or other supervision or law enforcement agencies. The maintained records should be sufficient to allow the reconstruction of each activity or transaction in the manner in which it is necessary to serve as evidence in criminal proceedings, contraventions and any other legal proceedings.

152. Where banks are not able to comply with the CDD requirements as required by the AML rules, they are not allowed to open the account, to establish business relationships, nor to carry out transactions with the customer. In case of an existing business relationship, the banks must terminate the business relationship if they find that the information they obtained from the customer is unauthentic (Article 5(2) and (3) of the AML Law).

153. As required by the AML Regulation for Banks, the bank must review and update the identification information for customers and their beneficial owners, depending on the associated risks. Banks can update the information (including beneficial ownership information) whenever it deems necessary, but at least annually for high risk customers, every two years for medium-risk customers, and every three years for low-risk customers (Article 39 of the AML Regulation for Banks).

154. In Moldova, banks are allowed to rely on CDD held by third parties in order to comply with the CDD requirements (Article 10 of the AML Law). However there are certain conditions to be met, including 1) the banks (as reporting entities) dispose of the possibility to obtain immediately necessary CDD information owned by third parties; 2) banks adopt and implement efficient procedures regarding the rapid access to copies of identification information and other documents related to the CDD measures as owned by third parties; 3) third parties are adequately supervised and meet requirements similar to the provisions of the AML Law in Moldova; and 4) third parties are not resident in high risk jurisdictions.[17] The final responsibility for the implementation of the CDD measures still rests with the banks in

17. List of high risk jurisdictions is elaborated, updated and published by the OPFML on its official website in accordance with Article 10(6) of the AML Law: http://spcsb.gov.md/en/page/watchlist.

Moldova. However, Moldovan law only requires the reporting entities to have possibility to obtain immediately necessary CDD information from third parties, rather than requiring them to obtain the CDD information from third parties as provided in the standard. **Moldova is recommended to ensure that its procedure for obtaining ownership information held by third parties is compatible with the standard**.

155. As analysed under element A.1, the definition of beneficial owner is specified in the AML Law. According to Article 3 of the AML Law, a beneficial owner is a natural person that ultimately owns or controls a natural or legal persons or beneficiary of an investment company or manager of the investment company, or a person in whose name an activity is carried out or a transaction is performed and/or who owns, directly or indirectly, the right of ownership or control of at least 25% of the shares or of the voting rights of the legal person or of the goods under fiduciary management. Where no natural person who either ultimately owns or controls a legal person is identified as the beneficial owner, after exhausting all possible means and provided there are no grounds for suspicion, the banks (as reporting entities) may consider a natural person who holds the position of an administrator as the beneficial owner (Article 5(15) of the AML Law). Moldova confirmed that the administrators are considered as the natural persons who hold the position of senior manager roles under the standard in Moldova. This definition does not contain the requirement to identify beneficial owners that ultimately control the legal persons through other means. However, the AML Regulation for Banks has provided further rules on the criteria for identifying the beneficial owners, including situations that banks should consider when identifying the natural persons exercising ultimate and effective control through other means and the senior management roles.[18] Therefore, the definition of beneficial owner for legal persons is considered to be in line with the standard.

156. In regard to the definition of beneficial owners for legal arrangements, including trusts, the AML Law is less clear than that for legal persons. Under Article 5(13) of the AML Law, in the case of beneficiaries of goods under any form of fiduciary management, which are designated depending on particular characteristics or category, the reporting entities (including banks) should obtain sufficient information on beneficiary so as to identify the beneficiary at the time of payment or when the beneficiaries exercise their vested rights. In addition, the AML Regulation for Banks further provide that for

18. According to the attachment to the AML Regulations for banks, the Bank shall consider situations where the chief executive officer (CEO), chief financial officer (CFO), managing or executive director, or president may play an active role in exercising control over the business of the legal person, or the individual(s) have significant authority over financial relationships, including financial institutions (banks) and the ongoing financial affairs of the legal person.

customers that are legal entities or individuals providing fiduciary asset management (e.g. trusts, investment funds), the banks should identify the founder, the administrator, the protector (if any), the beneficiaries or classes of beneficiaries, and any other persons who ultimately exercise effective control over the entity. (Article 26(3) of the AML Regulation for Banks). Article 26(3) of the AML Regulation for Banks specified that banks should identify "any other person who ultimately exercises effective control over the entity", but it is not clear if "any other person" here only refers to natural persons, as it may be interpreted as both natural persons and non-natural persons. **Moldova is recommended to ensure that the definition of beneficial owners of legal arrangements is in line with the standard**.

157. Banks as reporting entities that fail to comply with the AML Law and the AML Regulations for Banks may be subject to sanctions, including public statement in mass media, warning (prescription), withdrawal or suspension of authorisation or license, temporary ban to hold management positions in the reporting entities, and pecuniary sanctions in the form of fine (Article 36(2) of the AML Law).

158. Details of sanctions to non-compliance are provided in the Law on AML/TF Infringements Detection Procedure and Means of Sanctions Application no. 75/2020. Under Article 48 and Article 49 of this law, reporting entities including banks that fail to keep banking information and related records as required by the AML Law, shall be sanctioned by a prescript or fine from MDL 50 000 (EUR 2 350) to MDL 5 000 000 (EUR 235 079); or by a fine from MDL 5 000 000 (EUR 235 079) to the equivalent in MDL of the amount of EUR 5 000 000 or up to 10% of the total annual revenue, but not more than EUR 5 000 000 if there is a serious infringement. The effectiveness of the sanctions and measures to enforce availability of banking information will be considered in Moldova's Phase 2 review covering the practical aspects of implementation of its legal framework.

Part B: Access to information

159. 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).

160. The delegated and operational competent authority in Moldova for EOI purposes is within the State Tax Service (STS). The STS has wide powers to obtain information requested under the EOI instruments, including banking information. These powers are supported by possible application of coercive measures and enforcement provisions as specified in the Tax Code and the Contravention Code.

161. A recommendation has been issued due to the scope of legal professional privilege in Moldova being broader than the standard though impact of this gap would be limited for the exchange of information.

162. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/Underlying factor	Recommendations
Although Moldova informed that legal professional privilege has never been an impediment in obtaining information, Moldova's legal professional privilege is broadly defined compared to the standard as it covers all information obtained by a lawyer for the purpose of providing legal assistance or notary acting in his/her professional capacity, rather than being restricted to communications produced for the purposes of seeking or providing legal advice or use in existing or contemplated proceedings and there are no express exceptions in the case of requests made under an EOI agreement.	Moldova is recommended to ensure that the scope of legal professional privilege is in line with the standard.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

B.1.1. Ownership, identity and banking information and B.1.2. Accounting information

163. The Competent Authority in Moldova for EOI purposes is within the State Tax Service (STS) being the authority responsible for tax administration. In the STS, the International Cooperation and Exchange of Information Unit within the Cooperation and Exchange of Information Department carries out the related EOI functions. The STS has wide information gathering powers including the power to obtain information directly from taxpayers, third parties, and other government authorities (e.g. NBM or the OPFML). These powers can be used also for EOI purposes.

164. Where there is an EOI request regarding ownership (including beneficial ownership), identity and accounting information, the competent authority would firstly use the data from the Information System of the STS, which is the system maintained by the STS that permanently keeps the taxpayer's information for tax administration purposes. Where STS does not have the information in the STS's system, it would request other authorities with which the STS has concluded agreements for EOI purposes: the PSA, NBS, Border Police, National Social Insurance House and National Anticorruption Centre, etc. These agreements enable the STS to access

several public registers including the Real Estate Cadastre, State Register of Transport, State Register of Legal Entities and State Register of the population. The main sources of information that the STS relies upon for EOI include the State Register of Legal Entities, Real Estate Cadastre, State Register of Transport, State Tax Register, as well as annual statements or financial reports submitted to the STS or NBS.

165. Article 134 of the Tax Code provides for the general access powers of the STS to obtain information held by any person. The STS has the power to summon any persons to give evidence or submit documents that are relevant for the tax administration, as well as to achieve the purpose of international treaties as per Article 226(1) of the Tax Code. The STS can also request financial institutions (including their branches or subsidiaries) to provide their client's information.

166. There are no limitations such as domestic tax interest, limitation to criminal tax matters, *de minimis* threshold, existence or not of an ongoing examination, on the STS' powers to access information, except for the information or records that are deemed to be state secrets under the current laws in Moldova. The state secret represents the information protected by the state in the field of national defence, economy, science and technology, foreign relations, state security, law enforcement and the activity of public authorities when the unauthorised disclosure of those information is likely to harm the interests and/or security of Moldova (Article 1 of the Law No. 245 of 27 November 2008 on State Secret). The definition of the state secret appears compatible with the standard. Moldova has informed that the state secret has never been applied for EOI purposes.

167. In regard to banking information, under Article 134(16) of the Tax Code, financial institutions, including banks, are obliged to submit information requested by the STS in order to perform its duties, including exchange of information with tax administrations of other states or international organisations (Article 133(1)23) of the Tax Code). The Moldovan authorities indicate that the word "state" captures both countries and jurisdictions. In case of refusal to provide the information, the STS may audit the financial institutions to obtain information for EOIR purposes. On the other hand, according to Article 226(5) of the Tax Code, the STS may issue bank summons to the financial institutions to submit the documents or information that are relevant for the tax administration. Within three working days of the receipt of the summons, the financial institutions must ensure the collection of all documents they hold for the taxpayer's bank account and operations carried in that account for the period(s) subject to examination and submit them to the STS. This is done through an Automated Information System for Creating and Circulating Electronic Documents (AIS CCED) among the STS, the NBM, payment service providers and other law enforcement agencies (Order no. 582 of 24 November 2020 (in force since 1 January 2021)). The STS also maintains a register for payments

and bank accounts of individuals and legal entities and has information on all bank and/or payment accounts held by the taxpayer. The STS can access the information on bank/payment accounts of foreign individuals and legal entities, which do not have tax liabilities in Moldova and are not included in the STS's register, through the AIS CCED. Banks are obliged to inform on the same day the STS of the opening of bank accounts and/or payments accounts through the automated system of AIS CCED (Article 167 of the Tax Code). This allows the competent authority to know which bank to approach when it receives a request for banking information even where the request does not indicate the name of the bank or indicates only the bank account number.

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

168. 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. The STS's access powers stipulated in the Tax Code (Article 134(1)) may be used for EOI purposes regardless of domestic tax interest as obligations under international treaties represent one of the purposes for which access powers are granted under the Tax Code of Moldova. According to the Tax Code, if an international treaty stipulates other rules and provisions than those stated in the tax legislation, the rules of the treaty shall apply (Article 4 of the Tax Code). Moldova's Regulation on exchange of information approved by the STS Order 24 September 2019 (internal EOI Regulation) also articulates that the provisions of international treaties prevail over the tax legislation of Moldova and the provisions of the international treaties concluded by Moldova are interpreted by using commentary of the OECD Model Tax Convention (Article 6 of the internal EOI Regulation). It provides an additional layer of obligation to provide the requested information regardless of domestic tax interest for treaties which contain wording akin to Article 26(4) of the OECD Model Tax Convention, which is the case for all but five EOI relationships of Moldova (see section C.1.4 below).

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

169. Jurisdictions should have in place effective enforcement provisions to compel the production of information. Moldova has enforcement provisions to compel the production of information where a person does not provide the information requested under the Tax Code and the Contravention Code. The tax authority can exercise search and seizure powers. Also, there are administrative and criminal sanctions available to the tax authority in case of non-compliance with obligation to provide the requested information.

170. A taxpayer that fails to provide information and documents as required by the STS during the tax audits is liable to a fine from MDL 4 000 (EUR 187) to MDL 6 000 (EUR 280) (Article 253(1) of the Tax Code). This may also trigger the unscheduled tax audit to the taxpayer during which the STS will verify compliance, assess additional tax liabilities and apply additional penalties. For the requests of banking information, failure to comply with the bank summons' requirements will be sanctioned with a fine of MDL 5 000 (EUR 234). These sanctions do not apply if the persons submit justifying documents on the impossibility of their submissions to the STS (Article 253 (5) and (5[1]) of the Tax Code). The STS has also the power, under Article 145 of the Tax Code, to seize documents from a taxpayer regardless of their belonging and location where the documents would otherwise disappear or there is a need to document the tax infringement or in case of examination of criminal cases for tax evasion.

171. In addition, according to Article 71 of the Contravention Code, intentional violation of the legal provisions regarding the access to information would be subject to a fine from MDL 450 (EUR 21) to MDL 750 (EUR 35) to a natural person, and with a fine from MDL 900 (EUR 42) to MDL 1 500 (EUR 70) to a person who is granted certain rights and obligations on the actions of legal entity. Submission of a response with erroneous data upon request of the government authorities is sanctioned with a fine from MDL 1 350 (EUR 63) to MDL 1 650 (EUR 77) to the person.

172. The effective implementation of the enforcement provisions to compel the production of information will be reviewed under the Phase 2 review.

B.1.5. Secrecy provisions

173. Jurisdictions should not decline on the basis of secrecy provisions (e.g. bank secrecy, corporate secrecy) to respond to a request for information made pursuant to an exchange of information mechanism.

Bank secrecy

174. There are bank secrecy provisions in Law no. 202 of 6 October 2017 on Activity of Banks (Law on Activity of Banks), that require banks to keep their customers' information and records, e.g. account balances, and related transactions confidential (Article 96(1) of the Law on Activity of Banks). However, information considered to be subject to bank secrecy can still be provided by the banks to the extent that providing such information is justified by the purposes as required by law. Banks will not be considered as breaching the obligations of bank secrecy if the information is provided upon the written requests from public authorities that are empowered by

laws for purposes of fulfilling their duties (Article 97 of the Law on Activity of Banks). This would include the case where the STS requires the banks to provide the related banking information for EOIR purposes. Banks may also provide such information for purpose of the implementation of the Foreign Accounts Tax Compliance Act (FATCA) agreement signed between the United States and Moldova (Article 97 of the Law on Activity of Banks). Although Article 134(16) of the Tax Code enables the STS to request documents held by banks, Moldova has informed that banking information is provided to the STS insofar based on Article 97 of the Law on Activity of Banks.

175. Moldova has informed that there were no cases in which bank secrecy was an impediment in obtaining the information. These provisions on bank secrecy and the related exceptions are in line with the standard.

Professional secrecy

176. Moldovan laws on lawyers contain secrecy provisions which are not overridden by access powers stipulated under the Tax Code. Legal professional privilege of lawyers covers all information, any type of data, any form and any medium as well as any documents drafted by the lawyer, which contain information or data provided by the client, or those based on them, for the purpose of providing legal assistance, and whose confidentiality has been requested by the client (Article 58(5) of the Statute of the Lawyer Profession no. 302/2011). According to Article 55 of the Law no. 1260/2002 on lawyers (the Law on Lawyers), a lawyer is not allowed to disclose or transmit to third parties confidential information that has become known to the lawyer during the provision of legal assistance without the client's consent.

177. The legal assistance, under the Law on Lawyers, includes providing consultations, explanations, and conclusions on legal issues, presenting verbal or written information on legislation, drawing up legal documents, representing clients' interests in the courts, carrying out fiduciary activity (Article 8 of the Law on Lawyers).

178. A lawyer may provide information upon the consent of the client, however, there are no express exceptions in the laws regarding lawyers about the case of requests made under an EOI agreement. The Tax Code provides the STS with rights to request and receive necessary information for their duties including responding to an information request under an EOI agreement from any person (Article 134(1)2) of the Tax Code). In this context, lawyers would respond to the request and provide the requested information, not related to any issues covered by the contract between client and lawyer.

179. The obligation of lawyers to maintain professional secrecy extends to all forms of the lawyer's profession and lawyer's employees (Article 58(4)

of the Statute no. 302/2011). The disclosure of information subject to professional secrecy by the lawyer or trainee lawyer constitutes a serious disciplinary violation (Article 58(3) of the Statute no. 302/2011).

180. There is a concern regarding the scope of legal professional privilege under Article 58(5) of the Statute of the Lawyer Profession no. 302/2011 and Article 55(1) of the Law on Lawyers because professional privilege between a lawyer and a client is broader than the standard (as described in Article 7(3) of the OECD Model TIEA and Article 26(5) of the OECD Model Tax Convention, and their commentaries) which is restricted to communications produced for the purposes of seeking or providing legal advice or use in existing or contemplated legal proceedings. Legal professional privilege may have limited impact for the exchange of information, since lawyers are generally not a source of information for EOIR purposes. However, a lawyer may be the sole source of information if he/she administers a foreign trust. Moldova has informed that there have been no cases in which information needs to be obtained from lawyers. As this is a matter of practice, this issue will be reviewed in Moldova's Phase 2 review (see Annex 1).

181. Law no. 69/2016 on the organisation of the notaries' activity (the Law on Notaries) also contains a secrecy provision, covering information regarding notarial acts and the facts that have become known to the notary within his/her activity regardless of the way of obtaining or source of information, including after the cessation of the activity (Article 7(1) of the Law on Notaries). The notary may provide the information held in certain cases including where there is a written consent of the client (Article 7(5) of the Law on Notaries) but there is no express exception for the case of requests made by the Moldovan authorities under an EOI agreement. Moldova implied that the STS may use information provided by a notary office when it determines the amount of tax liabilities under the Tax Code but it is uncertain whether the STS is able to access the information held by Notaries protected by secrecy provisions for EOI purposes. The application of the secrecy provision for notaries in practice will be reviewed in Moldova's Phase 2 review (see Annex 1).

182. Moldova has informed that there were no cases in which legal professional privilege was an impediment in obtaining the information, however, Moldova's legal professional privilege is broadly defined compared to the standard as it covers all information obtained by a lawyer for the purpose of providing legal assistance or notary acting in his/her professional capacity, rather than being restricted to communications produced for the purposes of seeking or providing legal advice or use in existing or contemplated proceedings and there are no express exceptions in the case of requests made under an EOI agreement. **Therefore, Moldova is recommended to ensure that the scope of legal professional privilege is in line with the standard**.

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.

183. The Moldovan law does not require the notification of the person who is the object of an EOI request, either before or after the information is exchanged.

184. The conclusions are as follows:

Legal and Regulatory Framework: in place

The rights and safeguards that apply to persons in Moldova are compatible with effective exchange of information.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

Notification

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

186. Moldovan law does not require notification of the taxpayer concerned of the existence of an EOI request, either prior or after providing the requested information to the requesting jurisdiction and the STS does not need the taxpayer's consent to provide information to requesting jurisdictions (Article 134(1)19) of the Tax Code). The request for information to the taxpayer includes minimum amount of information necessary to respond to the request. The STS officials do not inform a taxpayer concerned or third-party information holder that the requesting information is required by a foreign jurisdiction. The full request from the requesting jurisdiction is not shared with the taxpayer concerned under any circumstances. In case information requested must be obtained from a third-party information holder, the STS requests the information pursuant to the Tax Code (Article 134) which enables the STS to request and receive information from any person necessary for the performance of its duties including exchange of information.

Appeal rights

187. In Moldova, the person concerned who is dissatisfied with a decision or an action taken by the STS or considers his/her right or legitimate interest are injured by them may appeal against the decision or action taken by the STS, including the exercise of access powers for EOI purposes (Article 267 of the Tax Code, Article 209 of the Administrative Code and Article 21(1) of the Law on Access to Information). In principle, an appeal against the STS's decision or tax official's action must be submitted to the STS within 30 days from the date of the decision or action and it must be examined by the STS within 30 days from the date of the receipt, and in the event of disagreement with a decision issued by the STS on the appeal, the person is entitled to appeal to the court (Articles 268 and 269 of the Tax Code). Under the Administrative Code, the appeal must be submitted to a court within 30 days from the decision. The dispute against the STS regarding the refusal to provide certain categories of information is examined by the administrative contentious court. The person concerned has the right to file an appeal against the decision of the administrative contentious court that will be examined by panel specialised for administrative contentious disputes, and the person may subsequently file an appeal to the Supreme Court of Justice. EOI is carried out as long as a final and enforceable decision is not issued in this respect by the court.

188. Information received from other jurisdictions may be disclosed to persons outside the tax administration (e.g. taxpayers concerned and courts) under the EOI agreements, and in that case, the other jurisdiction's competent authority will be informed about it (Article 13 of the internal EOI Regulation). Moldova informed that the request letter is not disclosed to the taxpayer. If no certain period is given for the appeal procedure in laws, the competent public authorities, including the STS and courts, must act within a reasonable time (Article 27 of the Administrative Code). Therefore, appeal rights granted under Moldovan laws have potential to delay exchange of information during the appeal process, however, they appear not be excessive or designed to unduly prevent or delay exercise of access powers or exchange of information. The appeal procedures in practice will be reviewed in the Phase 2 review.

189. Moldova informed that they have not encountered any appeals against the request of information to taxpayers and information holders for EOIR purposes.

Part C: Exchanging information

190. Sections C.1 to C.5 evaluate the effectiveness of Moldova's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all Moldova's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Moldova's network of EOI mechanisms respects the rights and safeguards of taxpayers and whether Moldova can 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.

191. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Moldova, the legal authority to exchange information is currently derived from DTCs and the Multilateral Convention.

192. Moldova has an extensive EOI network covering 148 jurisdictions through 47 DTCs, a regional instrument[19] and the Multilateral Convention (see Annex 2). All of Moldova's EOI instruments are in force except for one protocol to existing DTC which is nevertheless already ratified by Moldova. There are 38 DTCs which do not contain the post-2005 model wording including language akin to the Article 26(4) of the OECD Model

19. Moldova is a Party to the Agreement between Member States of the Commonwealth of Independent States on Co-operation and Mutual Assistance on Issues of Compliance with the Tax Legislation and Combating Violations in this Area, dated 4 June 1999 (CIS Agreement) entered into force in Moldova on 10 August 2001. The agreement, although not based on the Model DTC, follows the standard. All CIS member states have also with Moldova a DTC or both DTC and the Multilateral Convention and Moldova informed that the CIS Agreement is not applied as legal instrument for EOIR purposes in practice.

Tax Convention enabling exchange of information regardless of a domestic tax interest, however, 33 out of the 38 treaty partners with which Moldova has concluded these treaties are covered by the Multilateral Convention so most of its EOI relationships meet the standard. The remaining DTCs with five[20] jurisdictions are not in line with the standard. These five DTCs also do not contain language similar to Article 26(5) of the OECD Model Tax Convention, explicitly providing for the obligations of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information. Out of these five jurisdictions, Moldova does not have regular exchanges with Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, however, Belarus is one of the most significant EOIR partners for Moldova. Moldova has informed that Protocols related to these five DTCs are under negotiation with its partners. Therefore, Moldova should continue to work with these five jurisdictions to ensure that its EOI relations with these partners are in line with the standard.

193. Moldova's EOI network covers all of its significant partners including its main trading partners, all OECD Members and all G20 countries. On 27 January 2011, Moldova signed the Multilateral Convention, which entered into force in Moldova on 1 March 2012, significantly expanding its EOI network.

194. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms of Moldova.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

Other forms of exchange of information and assistance

195. Moldova receives information in the form of spontaneous exchange of information and engages in assistance in recovery of tax claims under the Multilateral Convention.

20. These jurisdictions are Belarus, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

C.1.1. Standard of foreseeable relevance

196. The standard for exchange of information envisages information exchange to the widest possible extent, but does not allow speculative requests for information that have no apparent nexus to an open inquiry or investigation (i.e. "fishing expeditions"). Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction.

197. The Multilateral Convention and all of Moldova's DTCs containing articles for EOIR purposes provide for exchange of information that is "foreseeably relevant", "relevant" or "necessary" to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered in the DTCs. The OECD Model Tax Convention recognises in its commentary to Article 26 that the terms "necessary" and "relevant" allow the same scope of exchange of information as does the term "foreseeably relevant".

198. According to the internal EOI Regulation, the request received is verified to check whether the information is necessary or foreseeably relevant, and the Moldovan authorities interpret the DTCs based on the commentary of OECD Model Tax Convention (Article 79^3(1) of the Tax Code and Article 16(d) of the internal EOI Regulation). Therefore, the scope of these DTCs is consistent with the standard.

Clarification and foreseeable relevance

199. Moldova requires that the requesting jurisdiction provide sufficient information to demonstrate the foreseeable relevance of the information requested. The internal EOI Regulation, which is mandatorily followed by the STS officials, includes templates that capture identity information details, tax purpose of the request and a brief description of the case, and the time period for which the information is requested. If the information provided is insufficient, the requesting party must be informed in writing of the need to provide additional details in order to proceed with the processing of the request. Moldovan authorities have indicated that they have not declined a request over the last three years.

200. The template for outgoing request requires identity information on both the taxpayer concerned in the requesting jurisdiction and the Moldovan taxpayer concerned. While the identity information will be available to the requesting jurisdiction in most cases, it happens that the requesting authority does not know who in Moldova maintains the requested information and it is important that the Moldovan authorities do not decline the request in these cases. Similarly, the taxpayer concerned may be identified other than by way

of name and the request should not be automatically rejected in these cases. Moldova informed that the STS would not decline an inbound request just because the requesting jurisdiction would have not provided the name and address of Moldovan taxpayers or the person believed to be in possession of the information, as long as other information sufficient to identify the taxpayer or the person to the extent known is included in the request or would be provided by the requesting jurisdiction. The implementation of the standard of foreseeable relevance in practice will be assessed during the Phase 2 review.

Group requests

201. Moldova's EOI agreements and domestic law do not contain language prohibiting group requests. The internal EOI Regulation does not have specific procedures for group requests. The procedures for responding to group requests follow those applicable to ordinary, non-group requests taking into account the perspective of foreseeable relevance. Hence, there is no guidance in respect of how officials are to handle group requests and how foreseeable relevance in respect of such requests is to be examined. Moldova has not received any group request and does not have experience handling such a request yet. The procedures that Moldova would follow in respect of a group request will be examined further during the Phase 2 review (see Annex 1).

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

202. For exchange of information to be effective, it is necessary that a jurisdiction's obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the standard envisages that exchange of information mechanisms will provide for exchange of information in respect of all persons.

203. Out of Moldova's 47 DTCs containing articles for EOIR purposes, 8 DTCs[21] do not explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered). However, seven of the partner jurisdictions with which Moldova concluded DTCs are also signatories to the Multilateral Convention, which provide for EOI in respect of all persons. Regarding the EOI relation with Uzbekistan, the DTC restricts exchange to information that is necessary for carrying out the provisions of domestic laws of the contracting parties concerning taxes covered by these EOI agreements. Moldova has informed that the Protocol for amending existing DTC with Uzbekistan is

21. These are the DTCs with Bulgaria, Japan, Kazakhstan, Poland, Russia, Turkey, Ukraine and Uzbekistan.

under negotiation. Therefore, Moldova should ensure that its EOI relation with Uzbekistan is in line with the standard (see Annex 1). Moldova confirmed that to the extent that domestic laws are applicable to residents and non-residents, information can be exchanged under these EOI agreements in respect of all persons, including non-residents.

C.1.3. Obligation to exchange all types of information

204. Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity (see Article 26(5) of the OECD Model Tax Convention).

205. Out of Moldova's 47 DTCs, only 9 DTCs contain language akin to the Article 26(5) of the OECD Model Tax Convention, explicitly providing for the obligations of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information. Nevertheless, the absence of this language from the other 38 DTCs does not automatically create restrictions on exchange of bank information. Out of these 38 jurisdictions, 33 jurisdictions are covered by the Multilateral Convention, which ensure that the requested jurisdiction shall not decline to supply the information requested solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person.

206. In addition, the commentary to Article 26(5) indicates that while paragraph 5, added to the OECD Model Tax Convention in 2005, represents a change in the structure of the Article, it should however not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information.

207. The exchange of bank information in the absence of language akin to the Article 26(5) of the OECD Model Tax Convention in respect of the 38 DTCs will be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of some of these treaty partners.

208. The pre-2005 wording of DTCs may be a concern in respect of the remaining five jurisdictions,[22] as they are non-Global Forum members and/or they have not yet undergone peer reviews. It may have legal restrictions to access bank information for EOI purposes under their domestic laws. Moldova has informed that protocols to these five DTCs are under negotiation. Therefore, Moldova should continue to work with these five EOI

22. These jurisdictions are Belarus (which joined the Global Forum in 2021), and Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan which are not Global Forum members.

partners to ensure that its EOI relations with these partners are in line with the standard (see Annex 1).

C.1.4. Absence of domestic tax interest

209. 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. An inability to provide information based on a domestic tax interest requirement is not consistent with the standard. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

210. There are no domestic tax interest restrictions on Moldova's powers to access information in EOI case. Out of Moldova's 47 DTCs, 9 DTCs contain provisions similar to Article 26(4) of the OECD Model Tax Convention, which obliges the contracting parties to use their access powers to obtain and provide information to the requesting jurisdiction even in cases where the requested party does not have a domestic tax interest in the requested information. In addition, 33 DTCs are complemented by the Multilateral Convention that meets the standard. Wording of the remaining five DTCs[23] may be a concern because EOI in Moldova is subject to reciprocity and will depend on the domestic limitations (if any) in the laws of its treaty partners. Moldova has informed that protocols to these five DTCs are under negotiation. Therefore, Moldova should continue to work with these five EOI partners to ensure that their EOI relations are in line with the standard (see Annex 1).

C.1.5. and C.1.6. Civil and criminal tax matters

211. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The principle of dual criminality provides that assistance can only be provided if the conduct being investigated (and giving rise to an information request) would constitute a crime under the laws of the requested jurisdiction if it had occurred in the requested jurisdiction. In order to be effective, exchange of information should not be constrained by the application of the dual criminality principle.

212. All of Moldova's EOI instruments provide for exchange of information in both civil and criminal tax matters. In addition, there are no such provisions in any of Moldova's EOI instruments (or domestic law) which would indicate that a dual criminality principle would restrict EOI for tax purposes.

23. These are the DTCs with Belarus, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

C.1.7. Provide information in specific form requested

213. In some cases, a contracting party may need to receive information in a particular form to satisfy its evidentiary or other legal requirements. Such formats may include depositions of witnesses and authenticated copies of original records. Contracting parties should endeavour as far as possible to accommodate such requests. The requested party may decline to provide the information in the specific form requested if, for instance, the requested form is not known or permitted under its law or administrative practice. A refusal to provide the information in the form requested does not affect the obligation to provide the information.

214. There are no restrictions in Moldova's EOI agreements or domestic laws that would prevent it from providing information in a specific form.

C.1.. 8 and C.1.9. Signed agreements should be in force and be given effect through domestic law

215. Exchange of information cannot take place unless a jurisdiction has EOI arrangements in force. Where EOI arrangements have been signed, the international standard requires that jurisdictions must take all steps necessary to bring them into force expeditiously.

216. All Moldova's instruments are in force, except for one protocol to existing DTC which is nevertheless already ratified by Moldova, and have been given effect through domestic law. The Law no. 595/1999 on International Treaties (Law on International Treaties) stipulates these processes and in order to implement the Law, the Regulation on the mechanism of the conclusion, application and termination of international treaties approved by the Government Decision no. 442/2015 exists. According to the Regulation, after the signing procedure is completed, the Ministry of Finance sends the set of documents including a law necessary for ratification of the DTC to the Ministry of Foreign Affairs and European Integration for examination and then it will be presented to the Parliament, which is responsible for ratifying the DTC. The instrument of ratification will be signed by the President of Moldova (Article 17 of the Law on International Treaties). The Ministry of Foreign Affairs and European Integration of Moldova shall notify the other Contracting Party or the depositary of the international treaty about the fulfilment of the conditions necessary for the entry into force of the treaty and exchange the appropriate documents or send them to the depositary (Article 18 of the Law on International Treaties). The ratification process of the Multilateral Convention is the same as that of a DTC. Therefore, Moldova has in place the legal and regulatory framework to give effect to its EOI mechanisms. The table below summarises outcomes of the analysis under Element C.1 in respect of Moldova's bilateral EOI mechanisms.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	**148**
In force	134
In line with the standard	129
Not in line with the standard	5 (Belarus, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan)
Signed but not in force	14[24]
In line with the standard	14
Not in line with the standard	-
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	**1**
In force	1
In line with the standard	-
Not in line with the standard	1 (Turkmenistan)
Signed but not in force	
In line with the standard	-
Not in line with the standard	-

217. Out of the 47 DTCs of Moldova, 42 are complemented by the Multilateral Convention and 5 are with countries which have not signed the Multilateral Convention, i.e. Belarus, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. These five DTCs are not in line with the standard. The missing safeguards (Article 26(4) and (5) of the OECD Model Tax Convention) of these DTCs have been discussed in sections C.1.3 and C.1.4.

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

> The jurisdiction's network of information exchange should cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

218. Moldova has an extensive EOI network covering 148 jurisdictions through 47 DTCs and the Multilateral Convention which expands Moldova's EOI network based on DTCs by 101 jurisdictions. Moldova's EOI network covers a wide range of counterparties including its main trading partners, all OECD members and all G20 countries.

24. For 14 partner jurisdictions the Multilateral Convention has been signed but it is not in force (see annex 2).

219. Moldova has in place an ongoing programme for negotiation of EOI agreements and is currently negotiating protocols to existing DTCs and new DTCs. Moldova has informed that they try to ensure that the protocols and new DTCs in ongoing negotiations are in line with the standard.

220. No Global Forum members indicated, in the preparation of this report, that Moldova refused to negotiate or sign an EOI instrument with it. 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 relationship, Moldova should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

221. The conclusions are as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Moldova covers all relevant partners.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.3. Confidentiality

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

222. Moldova's EOI instruments contain the confidentiality provisions for safeguarding all information regarding exchange of information. Such information is to be shared only with authorities and persons covered by the DTCs and the Multilateral Convention. Such confidentiality also extends to other information exchanged between the Competent Authorities. Moldova's laws and administrative regulations ensure that information received under an EOI mechanism is treated as confidential and is disclosed only to the extent permitted by the agreements.

223. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of Moldova concerning confidentiality.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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

224. Governments would not engage in information exchange without the assurance that the information provided would only be used for the purposes permitted under the EOI instrument and that its confidentiality would be preserved. Information exchange instruments must therefore contain confidentiality provisions that spell out specifically to whom the information can be disclosed and the purposes for which the information can be used. In addition to the protections afforded by the confidentiality provisions of information exchange instruments, jurisdictions with tax systems generally impose strict confidentiality requirements on information collected for tax purposes.

225. All of Moldova's EOI instruments have confidentiality provisions modelled on Article 26(2) of the OECD Model Tax Convention to ensure that the information exchanged will be disclosed only to persons authorised by the agreements.

226. The Terms of Reference, as amended in 2016, 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 authorises the use of information for purposes other than tax purposes and where tax information may be used for other purposes in accordance with their respective laws. The Multilateral Convention provides for this possibility. Moldova informed that there were no requests wherein the requesting partner sought Moldova's consent to utilise the information for non-tax purposes and similarly Moldova did not request its partners to use information received for non-tax purposes.

227. Under Moldovan domestic laws, the STS and tax officials have obligation to keep secrets protected by law and not to disclose the information obtained during the duties (Article 136, 18) of the Tax Code). Any information received by the STS is treated as a secret and tax officials are prohibited from disclosing data and information constituting the secret which the tax official becomes aware of, both in the course of exercising their duties as well as after resignation or retirement (Article 226[16] (11) and (12) of the Tax Code). There are a few exceptions which allow such information to be disclosed to prosecution and judicial court for the purpose of examining tax evasion cases and these authorities shall use the information for this purpose only. Administrative sanctions including warning, reprimand, suspension of promotion, demotion and dismissal apply if information is disclosed in breach of this confidentiality duty (Articles 57 and 58 of the Law no. 158/2008 on the

Civil Service and the Status of the Civil Servant). Breach of confidentiality provisions under the Tax Code will also be subject to penalties (Article 107 of the Contravention Code). The disclosure of information including secrets by a civil servant or by a person to whom this information has been entrusted or has become known in connection with his service shall be sanctioned with a fine from MDL 1 500 to MDL 3 000 (EUR 69 to EUR 138) applied to the natural person or with a fine from MDL 4 500 to MDL 7 500 (EUR 208 to EUR 345) applied to persons other than natural person.

228. The provisions of international treaties prevail over the domestic legislation (Article 4(1) of the Tax Code) and the STS uses commentary on the OECD Model Tax Convention for the interpretation of the provisions of the treaties concluded with other states (Article 6 of the internal EOI Regulation).

229. All information related to the exchange of information is confidential and must be appropriately labelled by applying the stamp with the inscription "Information with limited accessibility" (Article 8 of the internal EOI Regulation). Confidentiality agreements are to be concluded with tax officials involved in the exchange of information process. The Regulation on the mechanism for applying the provisions of the international treaties in the field of mutual administrative assistance in tax matters approved by Government Decision No. 1275 also states that the exchange of information is subject to measures to ensure confidentiality in accordance with the provisions of the treaty. The practical implementation of confidentiality provisions will be further assessed in the Phase 2 review.

C.3.2. Confidentiality of other information

230. The confidentiality provisions in Moldova's EOI agreements and domestic laws do not draw a distinction between information received in response to requests and information forming part of the requests themselves. All other information, such as background documents, communications between the requesting and requested jurisdictions and within the tax authorities, are treated confidentially.

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.

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

232. In addition to the Multilateral Convention, all of Moldova's DTCs including articles for exchange of information on request contain a provision equivalent to the exception provided in Article 26(3) of the OECD Model Tax Convention, which allows jurisdictions to refuse to exchange certain types of information, which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

233. The term "professional secret" is not defined in the EOI agreements and therefore it derives its meaning from Moldova's domestic laws. Moldova's domestic laws define the scope of legal professional privilege and allow for exception from obligation to provide information requested for tax purposes in respect of information subject to the legal professional privilege. This is not in line with the standard because the scope of the professional secret regarding lawyers and notaries in domestic laws is broader than the standard (see B.1.5). Legal professional privilege in Moldova may have limited impact for the exchange of information, since lawyers and notaries are generally not a source of information for EOIR purposes. Moldova reported that there have been no cases in which information needs to be obtained from them. Further, the STS has informed that they have to date never encountered practical difficulties in responding to EOI requests due to the application of rights and safeguards, nevertheless, **Moldova is recommended to ensure that the scope of legal professional privilege is in line with the standard**.

234. The conclusions are as follows:

Legal and Regulatory Framework: in place

Deficiencies identified/ Underlying factor	Recommendations
Although Moldova informed that legal professional privilege has never been an impediment in obtaining the information, the information held by lawyers and notaries subject to legal professional privilege is wider than the scope accepted under the standard.	Moldova is recommended to ensure that the scope of legal professional privilege is in line with the standard.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

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.

235. The implementation of this aspect of the standard is primarily based on practice and will be assessed in the Phase 2 review with a new review period.

Legal and Regulatory Framework

This element involves issues of practice. Accordingly, no determination has been made.

Practical Implementation of the Standard: The assessment team is not in a position to issue a rating on this element, as it involves issues of practice that are dealt with in the Phase 2 review.

C.5.1. Timeliness of responses to requests for information

236. In order for exchange of information to be effective, it must be provided in a timeframe that allows tax authorities to apply the information to the relevant cases. If a response is provided but only after a significant lapse of time, the information may no longer be of use to the requesting jurisdiction. This is particularly important in the context of international co-operation as cases in this area must be of sufficient importance to warrant making a request.

237. Article 20(1) of the Multilateral Convention requires the requested jurisdiction to inform the requesting jurisdiction of the action taken and the outcome of the assistance as soon as possible.

238. Although Moldova's DTCs do not specify the timeframes of responses to requests for information, the internal EOI Regulation sets out the procedures, including a timeframe, for exchange of information. According to the procedures, the STS responds to the request received from other jurisdiction within 60 days from the date of its receipt regardless of whether the information is already in hand or not, and if necessary, the deadline may be extended by informing the requesting jurisdiction in advance. If the information requested is in the possession of a bank, the bank must present all documents it holds regarding the taxpayer's account etc. to the STS within three working days from the receipt of the bank summons which is authorised by the STS pursuant to Article 226 of the Tax Code.

239. The evaluation of the timeliness of responses for requests for information involves issues of practice that will be dealt with in the Phase 2 review.

C.5.2. Organisational processes and resources

240. It is important that a jurisdiction has appropriate organisational processes and resources in place to ensure a timely response. The delegated and operational competent authority in charge of exchanging information for tax purposes is within the STS. The unit responsible for the exchange of information is the International Cooperation and Exchange of Information Unit within the Cooperation and Exchange of Information Department of the STS.

241. An analysis of the organisational process and resources implemented by Moldova in practice will be carried out during the Phase 2 review.

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

242. Exchange of information assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions. There are no legal or regulatory requirements in Moldova that impose unreasonable, disproportionate or unduly restrictive conditions. Whether any unreasonable, disproportionate, or unduly restrictive conditions exist in practice will be reviewed under the Phase 2 review.

Annex 1: List of in-text recommendations

The Global Forum 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, the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, it should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be stated in the text of the report. A list of such recommendations is reproduced below for convenience.

- **Element A.1.1:** Moldova should ensure the legal ownership information of companies maintained by the State Register and the legal ownership information of JSCs maintained by the Single Central Depositary of Securities or the register companies are always up to date (refer to paragraph 38).
- **Element A.1.1:** Moldova should clarify what identity information of the shareholders should be kept by the LLCs, and put in place effective compliance measures for LLCs that fail to keep the identity and ownership information (refer to paragraph 48).
- **Element A.1.1:** Moldova should ensure that its procedure for accessing ownership information held by third parties is compatible with the standard (refer to paragraph 70).
- **Element A.1.1:** Moldova should put in place related procedures in place to validate the beneficial ownership information submitted to the State Register by the companies (refer to paragraph 72).
- **Element A.1.1:** Moldova should put in place effective compliance measures for breach of the obligations for companies to maintain the beneficial ownership information (refer to paragraph 75).
- **Element A.1.1:** Moldova should clarify in its AML legal framework that all elements in the definition of the beneficial owners are always applied for both reporting entities and companies in the identification of beneficial owners as required by the AML Law (refer to paragraph 76).

- **Element A.1.3:** Moldova should put in place effective compliance measures for breach of the obligations for partnerships to maintain the beneficial ownership information (refer to paragraph 94).
- **Element A.1.5:** Moldova should put in place clearly defined sanctions in place for breach of the obligations for co-operatives to maintain the beneficial ownership information (refer to paragraph 117).
- **Element A.1.** Other relevant entities and arrangements: Moldova should clarify in its AML legal framework that all elements in the definition of the beneficial owners are always applied for both reporting entities and co-operatives in the identification of beneficial owners as required by the AML Law (refer to paragraph 117).
- **Element C.1.2:** Moldova should ensure that its EOI relation with Uzbekistan is in line with the standard (refer to paragraph 203).
- **Elements C.1.3 and C.1.4**: Moldova should continue to work with Belarus, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan to ensure that its EOI relations with these partners are in line with the standard (refer to paragraphs 208 and 210).
- **Element C.2:** Moldova should continue to conclude EOI agreements with any new relevant partner who would so require (refer to paragraph 220).

In addition, the Global Forum may identify aspects of the legal and regulatory framework that require follow-up in Phase 2. A non-exhaustive list of these aspects is reproduced below for convenience.

- **Element A.1.1:** Moldova confirmed that the administrators are considered as the natural persons who hold the position of senior manager roles under the standard in Moldova, but this will be followed up and considered in Phase 2 review (refer to paragraph 62).
- **Element B.1.5:** Legal professional privilege may have limited impact for the exchange of information, since lawyers are generally not a source of information for EOIR purposes. However, a lawyer may be the sole source of information if he/she administers a foreign trust. Moldova has informed that there have been no cases in which information needs to be obtained from lawyers. As this is a matter of practice, this issue will be reviewed in Moldova's Phase 2 review (refer to paragraph 180).
- **Element B.1.5:** The application of the secrecy provision for notaries in practice (refer to paragraph 181).
- **Element C.1.1:** The procedures that Moldova would follow in respect of a group request (refer to paragraph 201).

Annex 2: List of Moldova's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Albania	DTC	6 December 2002	6 June 2003
2	Armenia	DTC	6 October 2002	20 June 2005
3	Austria	DTC	29 April 2004	1 January 2005
4	Azerbaijan	DTC	27 November 1997	28 January 1999
5	Belarus	DTC	23 December 1994	28 May 1996
6	Belgium	DTC[25]	17 December 1987	21 May 1996
		Protocol	30 March 2017	Ratified by Moldova
7	Bosnia and Herzegovina	DTC	8 December 2003	17 December 2004
8	Bulgaria	DTC	15 September 1998	25 March 1999
9	Canada	DTC	4 July 2002	13 December 2002
10	China	DTC	7 June 2000	26 May 2001
11	Croatia	DTC	30 May 2005	10 May 2006
12	Cyprus[26]	DTC	28 January 2008	3 September 2008
13	Czech Republic	DTC	12 May 1999	26 April 2000
14		Protocol	14 October 2004	13 July 2005

25. The DTC contains an article for exchange of information regarding amendments of tax legislation but does not include an article for EOIR purpose. The Protocol ratified by Moldova contains provisions for EOIR purpose.

26. 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.

	EOI partner	Type of agreement	Signature	Entry into force
15	Estonia	DTC	23 February 1998	21 July 1998
16	Finland	DTC	16 April 2008	9 November 2008
17	Georgia	DTC	29 November 2017	17 April 2018
18	Greece	DTC	29 March 2004	11 July 2005
19	Hungary	DTC	19 April 1995	16 August 1996
20	Ireland	DTC	28 May 2009	22 April 2010
21	Israel	DTC	23 November 2006	12 April 2007
22	Italy	DTC	3 July 2002	14 July 2011
23	Japan	DTC	18 January 1986	23 June 1998
24	Kazakhstan	DTC	15 July 1999	25 February 2002
25	Kuwait	DTC	15 March 2010	21 June 2013
26	Kyrgyzstan	DTC	17 April 2004	16 May 2006
27	Latvia	DTC	25 February 1998	24 June 1998
28	Lithuania	DTC	18 February 1998	7 September 1998
29	Luxembourg	DTC	11 July 2007	4 December 2009
30	North Macedonia	DTC	21 February 2006	28 December 2006
31	Malta	DTC	10 April 2014	17 June 2015
32	Montenegro	DTC	9 June 2005	23 May 2006
33	Netherlands	DTC	3 July 2000	1 June 2001
34	Oman	DTC	3 April 2007	13 August 2007
35	Poland	DTC	15 November 1994	27 October 1995
36	Portugal	DTC	11 February 2009	18 October 2010
37	Romania	DTC	21 February 1995	10 April 1996
38	Russia	DTC	12 April 1996	6 June 1997
39	Serbia	DTC	9 June 2005	23 May 2006
40	Slovak Republic	DTC	25 November 2003	17 September 2006
41	Slovenia	DTC	31 May 2006	14 November 2006
42	Spain	DTC	8 October 2007	30 March 2009
43	Tajikistan	DTC	15 November 2002	25 February 2004
44	Turkey	DTC	25 June 1998	28 July 2000
45	Turkmenistan	DTC	24 July 2013	31 December 2013
46	Ukraine	DTC	29 August 1995	27 May 1996
47	United Arab Emirates	DTC	10 July 2017	1 January 2017
48	United Kingdom	DTC	8 November 2007	30 November 2008
49	Uzbekistan	DTC	30 March 1995	28 November 1995

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[27] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the 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 Multilateral Convention was signed by Moldova on 27 January 2011 and entered into force on 1 March 2012 in Moldova. Moldova can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cabo Verde, 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, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), Malaysia, Malta, Marshall

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

Islands, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, North Macedonia, Norway, Oman, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Benin, Botswana (entry into force on 1 October 2021), Burkina Faso, Gabon, Jordan (entry into force 1 December 2021), Liberia (entry into force 1 December 2021), Maldives, Mauritania, Papua New Guinea, Paraguay (entry into force on 1 November 2021), Philippines, Rwanda, Thailand, Togo, United States[28] (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

CIS Agreement

Moldova is a Party to the Agreement between Member States of the Commonwealth of Independent States on Cooperation and Mutual Assistance on Issues of Compliance with the Tax Legislation and Combating Violations in this Area, dated 4 June 1999 (CIS Agreement) entered into force in Moldova on 10 August 2001. The member states of the CIS Agreement are Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia and Tajikistan (Georgia and Uzbekistan have not finalised the ratification procedure). The agreement provides for different forms of cooperation such as mutual collaboration of actions aimed at the prevention, detection and prosecution of tax legislation violation and exchange of information on taxpayer's compliance with tax legislation.

28. The United States is a Party to the original Convention but only a signatory to its Protocol, the Convention does not apply between the United States and Parties to the amended Convention that are not OECD or Council of Europe members. Moldova became a member of the Council of Europe on 13 July 1995 and the United States indicated that EOIR is possible where there is a meeting of the minds between the United States and a Party to the amended Convention as to the application of the original Multilateral Convention. In this context, the United States can exchange information under the Multilateral Convention with Moldova as it has reached a meeting of the minds as to the application of the Multilateral Convention with Moldova.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as amended in December 2020 and the Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 30 August 2021, Moldova's responses to the EOIR questionnaire and peer inputs received in preparing this review.

Moldova joined the Global Forum in 2016. This review is the first one conducted by the Global Forum on Moldova.

Review	Assessment team	Period under review	Legal Framework as of	Date of adoption by Global Forum
Round 2 Phase 1	Mr Samuel Szillat, Germany; Mr Joseph Balikuddembe, Uganda; Mr Colin Yan and Mr Hiroki Ema, Global Forum Secretariat	Not applicable	30 August 2021	18 November 2021

List of laws, regulations and other materials received

Administrative Code

Capital Market Law

Civil Code

Contravention Code

Guidance "On Identification of the Beneficial Owner" (Order No. 36 of 23 August 2018 of the Office for Prevention and Fight against Money Laundering)

Instructions on collecting, checking and recording data on the beneficial owners in the State Register of Legal Persons and Individual Entrepreneurs (Order No. 05/01-281i of 9 August 2018 of the State Register

Law on Access to Information

Law on Archival Fund, no. 880-XII of 22 January 1992

Law on Entrepreneurial Co-operatives, no. 73-XV of 12 April 2001

Law "On Infringements Detection Procedure and Means of Sanctions' application regarding Preventing and Combating Money Laundering and Terrorism Financing"

Law on Joint Stock Companies, No. 1134 of 2 April 1997

Law on Limited Liability Companies, No. 135 of 14 June 2007

Law on Savings and Credit Associations, No. 139-XVI of 21 June 2007

Law on State Registration of Legal Entities and Individual Entrepreneurs, No. 220 of 19 October 2007

Law on State Secret, No. 245 of 27 November 2008

Law no. 69/2016 on the Organisation of the Notaries' Activity

Law no. 86/2020 on Non-profit Organisations

Law no. 158/2008 on the Civil Service and the Status of the Civil Servant

Law no. 192/1998 on the National Commission for the Financial Market

Law no. 202/2017 on the Activity of Banks

Law no. 234/2016 on the Single Central Depository of Securities

Law no. 287/2017 "On Accounting and Financial Reporting"

Law no. 308/2017 "On Preventing and Combating Money Laundering and Terrorism Financing"

Law no. 407/2006 on Insurance (excerpt)

Law no. 548/1995 on the National Bank of Moldova

Law no. 595/1999 on International Treaties

Law no. 1007/2002 on Production Co-operatives

Law no. 1252/2000 on Consumer Co-operatives

Law no. 1260/2002 on Lawyers

Regulation "On the Exchange of Tax Information", Order No. 411 of 24 September 2019

Regulation "On the Mechanism for Applying the Provisions of the International Treaties of the Republic of Moldova in the field of mutual administrative assistance in tax matters" approved by Government Decision No. 1275 of 26 December 2018

Regulation on the mechanism of the conclusion, application and termination of international treaties approved by the Government Decision no. 442/2015

Regulation on Requirements for Prevention and Combating Money Laundering and Terrorist Financing in the Activity of Banks (No. 200 of 9 August 2018)

State Archive Service Order No. 57 of 27 July 2016

Statute of the Lawyer Profession no. 302/2011

Tax Code No. 1163-XIII of 24 April 1997

Annex 4: Moldova's response to the review report[29]

Republic of Moldova would like to expresses its appreciation and gratitude to the Assessment Team and the Global Forum Secretariat for their extraordinary work and great collaboration during the Peer Review process.

Republic of Moldova is also grateful to the members of the Peer Review Group for their significant contribution to the assessment report.

Republic of Moldova takes due note of the findings of the report and will examine them carefully, with the aim of further improving the framework and practice in the area of exchange of information.

Republic of Moldova reiterates its commitment to the Global Forum standard on transparency and exchange of information on request and will work to address the recommendations identified in the report, continuing to be a reliable partner in administrative cooperation.

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

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request MOLDOVA 2021 (Second Round, Phase 1)

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 160 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 publication contains the 2021 Second Round Peer Review Report on the Exchange of Information on Request of Moldova. It refers to Phase 1 only (Legal and Regulatory Framework).



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