GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

PAKISTAN

2022 (Second Round, Phase 1)

OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Pakistan 2022 (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
AMLA	Anti-Money Laundering Act 2010, on which the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) framework is based
CDD	Customer Due Diligence
DNFBP	Designated non-businesses and professions
DTC	Double Taxation Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
FATF	Financial Action Task Force
FBR	Federal Board of Revenue
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
ICMAP	Institute of Cost and Management Accountants of Pakistan
ICAP	Institute of Chartered Accountants of Pakistan
LLPA	Limited Liability Partnership Act
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
PKR	Pakistan rupee

SBP	State Bank of Pakistan (central bank)
SECP	Securities and Exchange Commission of Pakistan

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Pakistan on the second round of reviews conducted by the Global Forum. Because of the COVID-19 pandemic, the onsite visit that was scheduled to take place in early 2022 was cancelled. The present report therefore assesses the legal and regulatory framework in force as of 22 April 2022 against the 2016 Terms of Reference (Phase 1). As the review was started with a view to conduct a combined review, some peer inputs have been received and used in this review to the extent possible. The assessment of the practical implementation of the legal framework of Pakistan will take place separately at a later time (Phase 2 review).

2. This report concludes that overall Pakistan has a legal and regulatory framework in place that generally requires the availability, access and exchange of all relevant information for tax purposes in accordance with the standard, however it needs improvement in some areas.

3. In 2016, the Global Forum evaluated Pakistan in a combined review against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice. The report of that evaluation (the 2016 Report) concluded that Pakistan was rated Largely Compliant overall.

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

	First Round Report (2016)		Second Round Report (2022)
Element	**Determinations**	**Ratings**	**Determinations**
A.1 Availability of ownership and identity information	In place	Partially Compliant	Needs improvement
A.2 Availability of accounting information	In place	Largely Compliant	In place
A.3 Availability of banking information	In place	Compliant	Needs improvement
B.1 Access to information	In place	Compliant	In place
B.2 Rights and Safeguards	In place	Compliant	In place
C.1 EOIR Mechanisms	In place	Compliant	In place
C.2 Network of EOIR Mechanisms	In place	Compliant	In place
C.3 Confidentiality	Needs improvement	Largely Compliant	In place
C.4 Rights and safeguards	In place	Compliant	In place
C.5 Quality and timeliness of responses	Not applicable	Partially Compliant	Not applicable
OVERALL RATING	LARGELY COMPLIANT		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. The four-scale ratings are Compliant, Largely Compliant, Partially Compliant, and Non-Compliant.

Progress made since previous review

4. The 2016 Report concluded that the legal and regulatory framework of Pakistan was in place but needed improvement, with two recommendations to ensure the confidentiality of the information exchanged. The issues related to five double taxation conventions (DTCs) that may allow disclosure of exchanged information going beyond the standard; and some possible ambiguity or contradiction between domestic law and treaty confidentiality requirements (element C.3).

5. Pakistan has made progress on both recommendations. Firstly, Pakistan became a Party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) in 2017, under which exchange can now occur with four of the five partners with which Pakistan has DTCs with the deficiency. An amendment to Pakistan's domestic law also now restricts disclosure in Pakistan of exchanged information from going beyond the limits in the standard and due to the specifics of the treaty provisions causes the same restriction to apply to each of the treaty partners. The in-box recommendation has been downgraded to in-text.

6. Secondly, the possible ambiguity in Pakistan's domestic law or potential contradiction to treaty confidentiality requirements has been removed through amendments to the law.

Key recommendations

7. The 2016 Terms of Reference added requirements in respect of the availability of beneficial ownership of relevant entities and arrangements and it is in this area that Pakistan has some key recommendations. The Company Law requirements introduced from 2020 for companies and limited liability partnerships to obtain and maintain beneficial ownership will not result in the compilation of beneficial ownership information in all cases required by the standard. Persons having customer due diligence obligations under the anti-money laundering regime will continue to be relied upon as a source of information on beneficial ownership, but the frequency of updating has not been clearly specified for many of these obliged persons and so it is not ensured that this information would be up to date. The identity of partners in general partnerships relies on tax laws, but those laws do not require the annual filing of such information in all cases. New legislative requirements for the availability of information on trusts and waqfs are incomplete for some provinces, and when completed these may still not cover all relevant waqfs in Pakistan.

Exchange of information in practice

8. There were 56 Exchange of Information (EOI) requests received during the period 1 April 2018 to 31 March 2021, compared to 16 received in the review period of the 2016 Report. This upward trend was also observed for each of those three years, with more than half received in the year ending 31 March 2021.

9. Pakistan made 1 042 outbound EOI requests in the same period; however this includes a very large number of requests made in bulk to follow up on automatic exchange of financial account information and a bulk request following up on certain international data leak cases. The number of outward requests made when those bulk numbers are excluded was 74.

Next steps

10. This review assesses only the legal and regulatory framework of Pakistan for transparency and exchange of information on request. Pakistan has achieved a determination of "in place" for elements A.2, B.1, B.2, C.1, C.2, C.3 and C.4 and "in place but needs improvement" for A.1 and A.3.

The rating for each element and the Overall Rating will be issued once the Phase 2 review is completed.

11. This report was approved at the Peer Review Group of the Global Forum on 7 July 2022 and was adopted by the Global Forum on 5 August 2022. A follow-up report on the steps undertaken by Pakistan to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2023 and thereafter in accordance with the procedure set out under the 2016 Methodology for peer reviews and non-member reviews.

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	The Companies Act requires a foreign company with a place of business or conducting business activity in Pakistan to annually file with the companies registrar a list of members of the company, but it is only required to list those members who are Pakistani. There is no requirement to file ownership information under the tax laws, and while some ownership information may be available from reporting entities under the AML framework, it is not assured that all shareholders or members will be known nor is it assured that a reporting entity would be engaged in all cases.	Pakistan should ensure the availability of legal ownership information for all foreign companies with sufficient nexus with Pakistan.
	There is no specified frequency for reporting entities to update customer due diligence; so there could be situations where the available beneficial ownership information is not up to date. There is also more generally a lack of comprehensive guidance from the AML regulatory authorities on customer due diligence procedures and the application of the beneficial ownership definition.	Pakistan should ensure that, in all cases, complete and up-to-date beneficial ownership information for all relevant entities and arrangements is available in line with the standard.

Determinations	Factors underlying recommendations	Recommendations
	The procedures prescribed by company law regulations and the forms specified under those regulations may not result in the compilation of beneficial ownership information by a company to the full extent required by the standard. The procedures to identify the ultimate beneficial owners(s) are directed only towards those members who hold 25% or more of the shares or voting rights in the company. It does not contemplate joint control or control through multiple interests each falling below the threshold. The register required to be maintained by companies will only reflect the information received in declarations received from such members, which will not capture the full range of beneficial owners required by the standard.	Pakistan is recommended to ensure that the obligations imposed on companies for identification and maintenance of beneficial ownership information covers information to the full extent required by the standard.
	Nominees who are not subject to the anti-money laundering legislation, for example due to not providing these services in a professional capacity, will not be required to maintain ownership and identity information on their nominator. Nominee shareholders or members are also not generally required to disclose their status to the company.	Pakistan should ensure the availability of accurate beneficial ownership information of legal entities having nominee shareholdings.
	Pakistan relies upon the tax laws as the basis for identifying the partners in general partnerships, specifically through the filing of tax returns for the updating such information originally provided on registration with the tax authority. However, the filing obligation is subject to a taxable income threshold to trigger first and subsequent filing obligations, below which a tax return is not required to be filed.	Pakistan should ensure that identity information on partners of all relevant general partnerships is available in line with the standard.

Determinations	Factors underlying recommendations	Recommendations
	Pakistan relies upon the AML framework as the basis for availability of beneficial ownership information on general partnerships, and partly relies on this for limited liability partnerships, however there is no requirement for partnerships to engage an AML-obliged person. In the case of limited liability partnerships, Pakistan requires these entities to maintain a register of beneficial owners, however the procedures and forms prescribed by regulations may not result in the compilation of beneficial ownership information to the full extent required by the standard. Furthermore, the definition of beneficial owner in the Limited Liability Partnerships Act lacks a requirement to include person(s) exercising control though other means in the event that no person(s) are identified with a controlling interest or there is doubt over that element. The definition is limited to ownership or control via "rights", which will not cover the full scope of control required by the standard. Furthermore, it does not extend to the identification of the individuals holding a senior managerial position.	Pakistan should ensure that beneficial ownership information in line with the standard is always available for all partnerships.
	New trust laws have introduced trust registration requirements in each province and territory, however each law requires the relevant authority to introduce secondary Rules to give effect to that law and this has not been done in all cases. Furthermore, each trust law provides the power to prescribe the natural persons exercising ultimate effective control over the trust who must be identified, in addition to natural persons who may be a settlor, trustee or beneficiary, however none of the relevant authorities responsible for issuing these Rules have done so. New laws covering waqfs have also provided for registration of waqfs, the provision of information about the waqf at registration, and for the manager to obtain, hold and update information on the waqf. However, these laws have not prescribed or not fully prescribed that all beneficial ownership information in line with the standard is to be included in this information. It is also unclear whether waqfs utilised for private purposes are covered by these registration requirements in all cases.	Pakistan should ensure that beneficial ownership information in line with the standard is required to be available under the trust and waqf laws for all relevant trusts and waqfs.

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		
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	There is no specified frequency for banks to update customer due diligence; so there could be situations where the available beneficial ownership information is not up to date. There is also more generally a lack of comprehensive guidance from the State Bank of Pakistan on customer due diligence procedures and the application of the beneficial ownership information definition.	Pakistan should ensure that, in all cases, complete and up-to-date beneficial ownership information for all bank accounts is available in line with the standard.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
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		

Determinations	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
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		
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 Pakistan

12. This overview provides some basic information about Pakistan that serves as context for understanding the analysis in the main body of the report. Pakistan is a country in South Asia and is the world's fifth most populous country. It had a gross domestic product (GDP) of EUR 227.8 billion in 2020.[1] The official currency is the Pakistan rupee (PKR).[2]

Legal system

13. Pakistan is a federal country, and law relevant to this report encompasses federal, provincial and territorial law. The executive, legislative and judiciary branches of the state are independent. The executive branch is headed by the Prime Minister, who is appointed by members of the National Assembly. The Prime Minister is assisted by a council of ministers who are appointed by the President on the advice of the Prime Minister. The legislature branch consists of Parliament with two chambers – the Senate and the National Assembly. Each of the provinces has a Provincial Assembly that elects a Chief Minister who then appoints the ministers of their cabinet. The federal and provincial legislatures have the authority to legislate over those matters within their competence. The Federal Government legislates on the regulation of companies, partnerships, anti-money laundering and banking. It also legislates on taxation matters including income tax. Trusts are subject to provincial and territorial law.

14. Pakistan's legal system is based on the legal system of the former British India, which in turn was derived from the common law tradition of England and Wales. Islamic legal principles have also influenced Pakistan's legal system.

15. The Supreme Court is the highest court of appeal. The next highest court is the High Court, of which there are five in Pakistan; one in each of

1. Source of GDP: State Bank of Pakistan.
2. Exchange rate on 31 March 2021, EUR 1 = PKR 178.54; Source: State Bank of Pakistan.

the four provinces and one in the capital city, Islamabad. The High Court supervises the subordinate courts and exercises original, appellate and review jurisdiction. Subordinate courts are generally created by statute and are broadly divided into two classes: criminal courts and civil courts. For tax matters, the Commissioner (Appeals) is the first appellate forum where any person dissatisfied with any order by another Commissioner or officer of Inland Revenue can appeal against the order. The Appellate Tribunal of Inland Revenue is the second appellate forum consisting of a chairman and other judicial and accountant members appointed by the Government, where a person aggrieved by an order of the Commissioner (Appeals) may appeal against that order. Further appeals from the Tribunal may then proceed to one of the relevant High Courts and then the Supreme Court.

16. International agreements (including agreements for exchange of information for tax purposes) that concern matters regulated by law require ratification by Pakistan's Parliament. Where a ratified international tax agreement conflicts with any domestic law, the treaty prevails over the domestic law.[3]

17. The principal legislation covering taxation including tax litigation is the Income Tax Ordinance. There are four tiers of tax appeal beginning with internal appeal, then an Appellate Tribunal, followed by the High Court (based on geographical jurisdiction) and finally the Supreme Court.

Tax system

18. Pakistan's federal tax system collects personal and corporate income tax, sales tax on goods, and customs and excise duties. The Federal Board of Revenue (FBR) is the authority responsible for collecting federal taxes. Provincial governments have jurisdiction over sales tax on services, which are collected by provincial sales tax authorities.

19. The income tax system taxes individuals and associations of persons at progressive rates up to 35% and companies are taxed at 29% or, if qualifying as a small company, at 21% (2021 fiscal year).[4] Pakistan taxes its residents (individuals, companies and associations of persons) on their worldwide income. Non-residents are taxable on Pakistan source income. Trusts are treated as companies for tax purposes.

20. The general rule for residency of individuals is based on a measure of time in Pakistan, with the criteria undergoing some modification in 2019. However, from 2021 the residency rule has reverted to the position that was in

3. As provide by section 107(2) of the Income Tax Ordinance.
4. A "banking company" is subject to a tax rate of 35%.

place for many years prior to 2019 – individuals are resident for a tax year if they are present in Pakistan for, in aggregate, at least 183 days in the tax year. A company (including a trust, which is treated as a company for tax purposes) is a resident of Pakistan for a tax year if it is incorporated or formed by or under any law in force in Pakistan, or the control and management of the affairs of the company (or trust) is situated wholly in Pakistan at any time in the year. An association of persons is resident for a tax year if the control and management of the affairs of the association is situated wholly or partly in Pakistan at any time in the tax year.

Financial services sector

21. Pakistan's financial sector is predominantly bank based. There are 32 commercial banks operating in Pakistan, which are supervised by the State Bank of Pakistan (SBP) as the central bank. As of 31 March 2021 these banks held total assets of PKR 25.8 trillion (EUR 144.5 billion). The SBP is mandated to regulate the monetary and credit system of Pakistan. Other financial operators supervised by the SBP include Development Finance Institutions (9), Microfinance Banks (11), exchange companies (52) and payment services entities (7 operational).[5] Pakistan is not an international financial centre as the financial sector is primarily domestically oriented.

22. The Securities and Exchange Commission of Pakistan (SECP) is a statutory body that regulates and supervises the capital market, Non-banking Finance Companies (113), insurance companies (50) and Islamic finance and insurance companies (30). The SECP supervises investment and asset management companies and pension funds, which are included in the Non-banking Finance Companies. It also regulates the Pakistan Stock Exchange and licenses securities brokers (334). The SECP maintains the corporate registry, which has decentralised provincial and territorial offices.

23. Trust and company service providers are not recognised as a distinct business sector, with activities of this nature mainly carried out by lawyers and accountants with company formation services carried out as an adjunct to their primary professional activity. Professional trustees are not specifically recognised under the regulatory framework, however there are 249 intermediaries (accountants and lawyers) registered with the SECP as Company Service Providers.

5. The statistics in this paragraph are the most recently available from State Bank of Pakistan, generally reports or listings published in 2021.

Anti-Money Laundering Framework

24. Pakistan's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) framework is based on the Anti-Money Laundering Act 2010 (the AMLA). In addition to the AMLA, there are sector-specific regulations. Reporting entities are defined by the AMLA as financial institutions and designated non-financial businesses and professions (DNFBPs[6]), with both of these terms also being defined in the AMLA consistent with their respective FATF definitions.[7] The SBP and the SECP are the two principal AML/CFT supervisors, with their scope of responsibility aligning with their supervisory roles mentioned in paragraphs 21 and 22. Until recently there were no designated AML/CFT supervisory authorities for DNFBPs.

25. The Financial Action Task Force (FATF) and the Asia/Pacific Group on Money Laundering (APG) review the compliance of Pakistan's financial sector with the AML/CFT standard. The APG undertook the most recent mutual evaluation of Pakistan, which was adopted in October 2019.[8]

26. Since then, there have been three follow-up reports on technical compliance, with the second report in May 2021[9] being an extensive review of progress on 23 Recommendations. This was closely followed by a third report in July 2021 that reviewed an additional four Recommendations. Overall, the position following the third report is that Pakistan has 35 Recommendations rated as Compliant or Largely Compliant.[10]

27. Of note in the second follow-up report, a range of improvements to law, regulations and regulation processes were introduced to enhance the availability of beneficial ownership for legal persons and legal arrangements and impose requirements on most DNFBPs to collect and make this information available to competent authorities. Conclusions on Recommendation 24 (Transparency and beneficial ownership of legal persons) and Recommendation 25 (Transparency and beneficial ownership of legal arrangements) were upgraded to Largely Compliant. The report also found that in 2020 Pakistan issued AML/CFT Regulations for DNFBPs and had appointed AML/CFT supervisors

6. In this report, designated non-financial business and professions or DNFBP refers to the term as defined in the AMLA, except in the discussion of FATF reports in paragraph 27, where the FATF meaning is intended.
7. An exception being that casinos are not included in Pakistan's definition of DNFBPs, as casinos are not permitted to operate in Pakistan.
8. Accessible here: www.apgml.org/mutual-evaluations/page.aspx?p=c12cf2af-4e56-472c-9201-90d0baf9ceda.
9. Accessible here: www.apgml.org/documents/default.aspx?s=date&c=7.
10. Accessible here: https://www.fatf-gafi.org/media/fatf/documents/reports/fur/APG-3rd-Follow-Up-Report-Pakistan-2021.pdf.

for accountants and lawyers. Accountants who are members of either the Institute of Chartered Accountants or the Institute of Cost and Management Accountants are regulated by those bodies, with oversight by the SECP, and accountants not covered by those bodies are regulated and supervised by the FBR. The Pakistan Bar Council (PBC) is the AML/CFT self-regulating body for lawyers, with oversight by the Ministry of Justice. At the time of the report, risk-based supervision had not yet been implemented.

28. Of note in the third follow-up report, a range of amendments had been made to the AML legal framework relevant to customer due diligence requirements including on requirements to identify and verify the beneficial owners of legal persons and legal arrangement. The report's conclusion on Recommendation 10 (Customer due diligence) was upgraded to Compliant.

Recent developments

29. The Companies Act was amended in 2020 to make it mandatory for all companies registered in Pakistan to keep a register of their beneficial owners. The Trusts Act was also replaced with provincial and territorial trust laws through 2020 and 2021. Amendments to the Anti Money Laundering Act (AMLA) were also made in 2020 and several sets of regulations related to the AMLA have been issued by relevant regulatory authorities through 2020. On 29 June 2022, the Income Tax Ordinance was amended to introduce a new requirement for companies and associations of persons to furnish beneficial ownership information to the FBR, and update these particulars when a change occurs. The modalities to operationalise these obligations would follow in secondary legislation, which has not yet been prepared.

Part A: Availability of information

30. Sections A.1, A.2 and A.3 evaluate the availability of legal and beneficial 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.

31. The 2016 Report concluded that Pakistan's legal and regulatory framework ensures that legal ownership and identity information for relevant entities and arrangements is required to be available.

32. It was also noted in the 2016 Report that the enforcement mechanisms under the Partnerships Act and the Trusts Act for the maintenance of ownership information are relatively mild and not directly applicable by a supervisory government authority. In 2020, the provincial and the capital territory Trusts Acts introduced new sanctions of PKR 1 million (EUR 5 601) for noncompliance with the requirements and these are imposed by a designated local government authority. No changes have been made in relation to partnerships. These aspects will be analysed in the Phase 2 of the review.

33. Not discussed in the 2016 Report, but now an integral part of the standard as strengthened in the Terms of Reference revised in 2016, is the availability of beneficial ownership information on all relevant entities and arrangements. In Pakistan, a range of new requirements were introduced to the Companies Act on 26 August 2020 requiring companies to keep a register of beneficial owners and requirements were also introduced to the AMLA on 24 September 2020 and through related regulations to conduct customer due diligence to identify, verify and record beneficial ownership of legal person and legal arrangements. These amendments and the related regulations that followed were introduced less than two years ago and the supervision and enforcement arrangements may take some time to mature.

34. For the AML framework, there is a lack of clarity on the frequency of updating required for customer due diligence. There is also a lack of available guidance from some of the AML regulatory authorities on the customer due diligence procedures to be applied, including understanding the application of the beneficial ownership definition.

35. For the obligations imposed on companies and limited liability partnerships under their respective laws, the requirements specified in regulations will not result in the identification and maintenance of beneficial ownership information in all scenarios. The procedures to identify the ultimate beneficial owners(s) are directed only towards those members who hold 25% or more of the shares or voting rights in the company and the register required to be maintained by the company will only reflect the information received in declarations from such members. The procedures do not contemplate control through other means, such as ownership of multiple interests or acting jointly, or through means other than ownership.

36. The availability of identity information for partners of general partnerships relies on the filing of annual tax returns, but such filing is not required for general partnerships below a certain taxable income threshold. In the case of beneficial ownership of partners in a general partnership, information is only required to be available to the extent that the partnership has a relationship with an AML obliged person, however there is no obligation on partnerships to have such a relationship.

37. New provincial and territorial trust laws were recently introduced that replace the former Trusts Act and these provide for the ability to prescribe a requirement to look through entities or arrangements when in the position of settlor, trustee, beneficiary or similar, but this has not yet been carried out by the provincial or territorial authority designated in each law for issuing such rules and therefore the underlying beneficial owners of trusts may not be identified in all cases.

38. 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
The Companies Act requires a foreign company with a place of business or conducting business activity in Pakistan to annually file with the companies registrar a list of members of the company, but it is only required to list those members who are Pakistani. There is no requirement to file ownership information under the tax laws, and while some ownership information may be available from reporting entities under the AML framework, it is not assured that all shareholders or members will be known nor is it assured that a reporting entity would be engaged in all cases.	Pakistan should ensure the availability of legal ownership information for all foreign companies with sufficient nexus with Pakistan.
There is no specified frequency for reporting entities to update customer due diligence; so there could be situations where the available beneficial ownership information is not up to date. There is also more generally a lack of comprehensive guidance from the AML regulatory authorities on customer due diligence procedures and the application of the beneficial ownership definition.	Pakistan should ensure that, in all cases, complete and up-to-date beneficial ownership information for all relevant entities and arrangements is available in line with the standard.
The procedures prescribed by company law regulations and the forms specified under those regulations may not result in the compilation of beneficial ownership information by a company to the full extent required by the standard. The procedures to identify the ultimate beneficial owners(s) are directed only towards those members who hold 25% or more of the shares or voting rights in the company. It does not contemplate joint control or control through multiple interests each falling below the threshold. The register required to be maintained by companies will only reflect the information received in declarations received from such members, which will not capture the full range of beneficial owners required by the standard.	Pakistan is recommended to ensure that the obligations imposed on companies for identification and maintenance of beneficial ownership information covers information to the full extent required by the standard.
Nominees who are not subject to the anti-money laundering legislation, for example due to not providing these services in a professional capacity, will not be required to maintain ownership and identity information on their nominator. Nominee shareholders or members are also not generally required to disclose their status to the company.	Pakistan should ensure the availability of accurate beneficial ownership information of legal entities having nominee shareholdings.

Deficiencies identified/Underlying factor	Recommendations
Pakistan relies upon the tax laws as the basis for identifying the partners in general partnerships, specifically through the filing of tax returns for the updating such information originally provided on registration with the tax authority. However, the filing obligation is subject to a taxable income threshold to trigger first and subsequent filing obligations, below which a tax return is not required to be filed.	Pakistan should ensure that identity information on partners of all relevant general partnerships is available in line with the standard.
Pakistan relies upon the AML framework as the basis for availability of beneficial ownership information on general partnerships, and partly relies on this for limited liability partnerships, however there is no requirement for partnerships to engage an AML-obliged person. In the case of limited liability partnerships, Pakistan requires these entities to maintain a register of beneficial owners, however the procedures and forms prescribed by regulations may not result in the compilation of beneficial ownership information to the full extent required by the standard. Furthermore, the definition of beneficial owner in the Limited Liability Partnerships Act lacks a requirement to include person(s) exercising control though other means in the event that no person(s) are identified with a controlling interest or there is doubt over that element. The definition is limited to ownership or control via "rights", which will not cover the full scope of control required by the standard. Furthermore, it does not extend to the identification of the individuals holding a senior managerial position.	Pakistan should ensure that beneficial ownership information in line with the standard is always available for all partnerships.
New trust laws have introduced trust registration requirements in each province and territory, however each law requires the relevant authority to introduce secondary Rules to give effect to that law and this has not been done in all cases. Furthermore, each trust law provides the power to prescribe the natural persons exercising ultimate effective control over the trust who must be identified, in addition to natural persons who may be a settlor, trustee or beneficiary, however none of the relevant authorities responsible for issuing these Rules have done so. New laws covering waqfs have also provided for registration of waqfs, the provision of information about the waqf at registration, and for the manager to obtain, hold and update information on the waqf. However, these laws have not prescribed or not fully prescribed that all beneficial ownership information in line with the standard is to be included in this information. It is also unclear whether waqfs utilised for private purposes are covered by these registration requirements in all cases.	Pakistan should ensure that beneficial ownership information in line with the standard is required to be available under the trust and waqf laws for all relevant trusts and waqfs.

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.

The Phase 2 recommendations issued in the 2016 Report are reproduced below for the information of readers.

Deficiencies identified/Underlying factor	Recommendations
Ownership information on certain companies and partnerships is available with financial institutions, if engaged by the company or partnership, or with the entities themselves. However, the low compliance rate with filing obligations in combination with limited inspection of ownership information and enforcement (which also does not include striking off of non-compliant entities) do not ensure that the information is available as required under the law in all cases.	Pakistan should take measures to ensure that ownership information in respect of the relevant entities is practically available as required under the international standard.
Information required to be held by trustees is mainly supervised by AML supervisory authorities, however, the supervisory and enforcement system has not yet been set up for trustees who are not financial institutions.	Pakistan should take the necessary supervisory and enforcement measures to ensure that information on settlors and beneficiaries of trusts operated by Pakistan resident trustees is available in all cases.

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

39. The 2016 Report described the types of companies that may be incorporated under the Companies Act. The main category is companies limited by shares, where the liability of members is limited to the unpaid amount of their shares. Such companies may be private, with a minimum of one member and a maximum of 50, or public, which can be formed by three or more members and are permitted to list on the stock exchange. Another category of company is those limited by guarantee whereby the liability of the company's members is limited to the amount of each member's assets contribution. The final category is an unlimited company where the members are liable for the

liabilities of the company to the extent the company's assets are not sufficient to pay its liabilities.

40. As of 31 March 2021, there were 132 649 private companies limited by shares, 3 282 public companies limited by shares, 73 companies limited by guarantee and 2 unlimited liability companies. In addition, there were 1 068 foreign companies which were registered with the Securities and Exchange Commission of Pakistan (SECP), as is required when carrying on business in Pakistan.

Legal ownership and identity information requirements

41. The 2016 Report concluded that legal ownership and identity information for domestic companies is required to be available through several mechanisms. Since 2016, Pakistan has repealed the Companies Ordinance 1984 and replaced it with the Companies Act 2017. Most of the previous provisions have been renumbered, restated or restructured. There are some changes including additions and deletions, however various findings from the earlier Report continue to apply in the replacement Act. In particular, all domestic companies are required to provide information on their founders upon registration with the SECP and report any subsequent changes annually. Domestic companies are also still required to keep a register of their shareholders both current and historical at their registered office in Pakistan. The tax law requires domestic companies, but not foreign companies, to include some information on their shareholders upon registration with the Federal Board of Revenue (FBR), but this is not required to be updated. Neither domestic nor foreign companies are required to provide ownership information with income tax returns. Reporting entities under the AML framework may be a source of information for identity and legal ownership in respect of companies, but it is not assured that every company would have a relationship with a reporting entity and if they do, it is not assured that the reporting entity would have information on every shareholder or member.

42. 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[11]

Type	Company Law	Tax Law	AML Law
Private limited company	All	Some	Some
Public limited company	All	Some	Some
Company limited by guarantee	All	Some	Some
Unlimited liability company	All	Some	Some
Foreign companies (tax resident)	Some	None	Some

Companies Law requirements

43. A domestic (Pakistani) company obtains legal personality upon registration with the registrar (section 18 of the Companies Act). Founders of a company must upon registration provide a memorandum of association with various details of the company, including identification of all members, their name, nationality, occupation, residential address and the number of shares or contribution amount to the company (sections 27 to 29 and 31). There is a separate registrar with a Company Registration Office (CRO) located in each province and territory. The SECP, which is an independent government body, maintains centralised registration and statutory return data gathered by each CRO.

44. A person cannot be a member of a domestic company unless and until their name is entered into the register of members (section 118), which companies are required to maintain (section 119), and which must record details as specified in Regulations. For members who are natural persons, these specified details must include their name, Pakistani National Identity Card Number or a passport number, nationality, residential address and, for foreign or dual nationals, their country of origin. For members other than natural persons, the register must include the legal person's name, official address, and the name of an authorised representative natural person with the same details as required for a natural person member. In all cases, the member details must include the date of entry on the register as a member and, when relevant, the date of cessation and reason for cessation. For a company with share capital, the member details must include the number of shares held.

11. 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 the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. "Some" means that an entity will be covered by these requirements if certain conditions are met.

45. Subject to the exception described below, domestic companies must file an annual return with the registrar (Form A for companies with share capital and Form B for companies with no share capital) containing specified information that includes the name, address, nationality and National Identity Card number or passport number for every shareholder or member. In the case of Form A, it also requires the number of shares held at the end of the period to which the form relates and if there have been any transfers of shares in the period since previously filing a Form A, the names of the transferor and transferee must be provided along with the number of shares transferred and the date of transfer.

46. If there have been no changes since the last filed annual return, a company is not required to file Form A or B, provided that it files Form C informing the registrar of that fact. Single member companies and companies with paid up capital of not more than PKR 3 million (EUR 1 680) with no relevant changes need not file Form C. The annual return or notification required to be filed must be filed within 30 days of the annual general meeting or if no such meeting is held, 30 days from the end of the calendar year to which the return relates. This may be extended by 15 days in certain circumstances. Failure to comply is liable to a penalty of PKR 25 000 plus PKR 500 per additional day of default (EUR 140 and EUR 3 respectively). Higher amounts are applicable to listed companies.

47. Register records maintained by a domestic company must be kept through the life of the company and must be retained for five years from the dissolution of the company (section 413; see paragraph 76).

48. The registrar must retain records received in physical form for ten years from the date of filing or, in the case of dissolved domestic companies, five years from the date of dissolution. Longer periods apply in cases deemed of public value, by order of the SECP, any Court or other competent authority or when expected to be needed for pending proceedings. Physical records filed at the time of incorporation must be retained permanently. In any case of destroying physical records, the registrar must ensure that these are preserved in electronic form to be retained permanently.

49. The Companies Act defines a foreign company to be any company or body corporate incorporated outside Pakistan that has a place of business or liaison office in Pakistan whether by itself or through an agent, physically or electronically, or conducts any business activity in any other specified manner. The scope of such foreign companies as defined in the Companies Act may in some cases include a company incorporated outside of Pakistan treated as a tax resident of Pakistan under the Income Tax Ordinance (see paragraph 20), but it is not assured in every case. A company incorporated outside of Pakistan may have its control and management of its affairs situated wholly in Pakistan and therefore be a tax resident, but not have a place of business or liaison office in Pakistan (and the reverse may also be possible).

50. Every foreign company must, within 30 days of establishment of a place of business, liaison office or conducting a business through an agent or in any other specified manner, provide to the registrar: copies of its constitutional documents; the address of its registered or principal office; the address of its principal office in Pakistan; a list of the directors, chief executive and secretary (if any) of the company; the name, designation and address in Pakistan of the principal officer of the company in Pakistan; and the name, occupation and address of one or more persons authorised to accept on behalf of the company any notice or document required to be served on the company and their consent to this function. In the event of any change in these details (which do not include current legal ownership information) the company must file an update within 30 days of any change, including when relevant the consent requirement for an authorised person. Failure to comply with any of these filing requirements renders the company and every culpable officer or agent of the company liable to a penalty of PKR 25 000 plus PKR 500 per additional day of default (EUR 140 and EUR 3 respectively).

51. The Companies Act also requires a foreign company to annually file with the registrar financial statements as described at paragraph 195 and section 437 requires this filing to be accompanied by a list of Pakistani members of the company. There is no requirement to file information on members who are not Pakistani. While Pakistani member is not defined, guidance on the intended meaning of this term may be obtained from section 452 which appears to provide a related obligation on Pakistani citizens to file their details with the foreign company, with the obligation applying to citizens within the meaning of the Citizenship Act, including dual citizens, whether residing in Pakistan or not.

52. Section 439 of the Companies Act gives the SECP the power to call upon a foreign company to furnish, among other things, information of shareholding and imposes a duty on the company and its officers to furnish such information within the specified time. Any person failing to comply commits an offence. This would not compensate for the absence of an obligation to have the information available.

53. Currently, the companies registrar would be the primary source of information for the Pakistani authorities on legal owners of a foreign company with a place of business or conducting a business activity in Pakistan. However, it is possible for a foreign incorporated company to be a tax resident of Pakistan and considered to have a sufficient nexus with Pakistan under the standard, but not be treated as a foreign company by the Companies Act. In any case, the information required to be filed with the companies registrar by a foreign company as defined by the Companies Act will only cover Pakistani members of the company; the obligation does not extend to foreign members. Finally, while the registrar has the power to obtain further information from the foreign company, there is no requirement that legal

ownership information be held by the company or its officers in Pakistan and therefore availability is not assured in all cases. **Pakistan should ensure the availability of legal ownership information for all foreign companies with sufficient nexus with Pakistan**.

Tax law requirements

54. Every domestic company is required to apply to be registered for tax purposes with the FBR (section 181 of the Income Tax Ordinance). At registration, the company must provide, among other things, a copy of the certificate of incorporation issued by the SECP and identity details of every shareholder owning 10% or more of the shares in the company and the percentage held (Rule 80B of the Income Tax Rules 2002). Any person failing to apply for registration is subject to a penalty of PKR 10 000 (EUR 56) (Item 3 of s. 182). There is no requirement under the Income Tax Ordinance to update any registration information including the shareholder information after the initial registration. While Rule 82 of the Income Tax Rules provides that a person may notify the FBR of a subsequent change in any information previously provided in the registration by filing a form to modify the registration, it permits this to be done but does not oblige it to be done. Furthermore, no timeframe is specified. Furthermore, income tax return filing requirements do not oblige domestic companies to include ownership information.

55. Every foreign company liable to tax in Pakistan must also apply to be registered with the FBR, with the information provided at registration varying slightly depending on whether it has a permanent establishment in Pakistan. The information to be supplied upon application by a company with a permanent establishment in Pakistan includes the name of the company, the business address, the registration number and date of registration with the SECP and the name, address and authority letter of appointment of the principal officer or authorised representative of the company. A foreign company without a permanent establishment must provide similar information except that the business address will be a business address in a foreign country. Foreign companies are not required to provide ownership information upon registration with the FBR or with subsequent tax returns.

56. Any person failing to notify material changes to the registration information is subject to a penalty of PKR 5 000 (EUR 28) (Item 4 of s. 182). Since there is no clear obligation to update the registration and no timeframe specified within which to notify a change (see paragraph 54), and also no guidance on whether ownership information would be considered material, this does not appear to be a sanction capable of application.

Anti-money laundering law

57. The anti-money laundering framework is a subsidiary and partial source of legal ownership information in Pakistan. Pakistan's AMLA obliges all reporting entities to conduct customer due diligence measures before entering into a business relationship and to maintain records of transactions, account files and documents obtained through the due diligence (sections 7 and 7A).

58. In the case of a customer that is a legal person or other body corporate, a reporting entity must identify the natural persons who ultimately own or control the entity, which is discussed in detail from paragraph 81 in relation to beneficial ownership information and involves a threshold of ownership in the case of companies (25%). Each AML regulatory authority has also issued regulations requiring the reporting entities under its supervision to gain "an understanding of the client's ownership and control structure" when carrying out customer due diligence on all legal persons and legal arrangements, but there is no further specified obligation to obtain information on every shareholder or member of a company. The customer due diligence procedures to identify beneficial owners are therefore not assured of identifying the legal owners in all cases. Furthermore, the absence of requirements on the frequency of updating customer due diligence that is discussed further in the context of beneficial ownership at paragraphs 91 and 92 may cause such information as might be held on legal owners not to be up to date.

59. The AML requirements may not capture all relevant companies, as there is no overarching obligation in Pakistan to have or maintain a business relationship with a reporting entity. See paragraph 83 for details of circumstances that would often, but not universally, cause engagement with a reporting entity in practice.

60. The AMLA requires customer due diligence records and the results of any analysis undertaken to be maintained for a period of at least five years following the termination of the business relationship (section 7C). In the case of reporting entities regulated by the SBP, the period is extended to ten years after the business relationship has ended. The full range of regulatory authorities are described at paragraph 82.

Legal ownership information – Enforcement measures and oversight

61. The penalties for failing to lodge the annual return required by the Companies Act (which must include ownership information) and failing to keep or update a register of members were described at paragraph 45. In addition, it is an offence to knowingly prepare or lodge false records with the intent to defraud or deceive, and on conviction, a person is liable to imprisonment for up to seven years. The Pakistan authorities report that the

compliance rate for filing annual returns was 36.6% for the year 2019 rising to 42.7% for 2021.

62. The Companies Act provides for the concept of inactive companies (section 424). A domestic company is an inactive company if it is not a listed company and has not been carrying on any business or operation and has not had any significant accounting transactions. A significant accounting transaction is defined for this purpose and is not dependent on the amount. A significant transaction is specified to be any transaction other than payments obliged to be made under any law, allotment of shares or to maintain an office and company records. A domestic company may apply for the status of inactive company. Section 424 indicates that circumstances such as being formed for a future project or only holding an asset or intellectual property would be relevant for such an application. Alternatively, a company is qualified to apply for inactive status at a later time if it has not had any significant accounting transaction in the last two financial years. There is no restriction on the length of time for which a company can retain inactive status.

63. Alternatively, the registrar itself must assign the status of inactive company when a company has not filed financial statements or annual returns for two consecutive financial years. The registrar must issue a notice to the company when it assigns this status and enter it into a register of inactive companies that must be maintained by the registrar. The register of inactive companies is periodically published on the SECP's website. On 31 March 2021, there were 22 677 companies registered as inactive companies.

64. An inactive company remains subject to certain requirements, including filing an annual return of an inactive company. The annual return requires details on the members of the company, specifically the name, nationality, number of shares held, the date of becoming a member and the National Identity Card number or passport number. The annual return for an inactive company can only be filed with a declaration that the company remains inactive, failing which the company would be subject to the standard filing requirements of active companies. An inactive company may apply to change its status to active at any time, and in any case is required to inform the registrar of a change in its circumstances through the next annual filing of a return. A failure to file an inactive return and any failure to file prior to being assigned the status of inactive are matters that the registrar may take into account in having reasonable cause to commence the strike off procedures described in paragraph 68). An inactive company as defined in the Companies Act is not prohibited by that law from conducting business, transacting or holding assets, although if the nature of the activity causes it to no longer qualify as an inactive company it will then be obliged to make this known to the SECP through the annual return process described above.

65. The tax administrative penalties for failing to register, failure to update registration details and failure to file an annual tax return with the FBR were also mentioned at paragraphs 54 and 56 (noting the deficiency in applicability of the penalty for failing to update registration details). Furthermore, it is an offence to fail to comply with a notice to submit a tax return, which may be punished by imprisonment for up to one year, and deliberately making a false or misleading statement is liable to imprisonment for up to two years. The FBR does not directly identify inactive companies, however it does have a measure of those companies that are registered with it but have not filed an income tax return for the most recent period. The principal officer, a director, general manager, company secretary and similar officers of a company are liable for prosecution. On 30 June 2020, which is the last day of the 2020 tax year, there were 111 421 companies registered with the FBR. Company tax returns for the 2020 tax year were due by 31 December 2020, and at November 2021 the number of companies who had filed a tax return for 2020 was 50 056, i.e. only 45%. The ownership details held by the FBR for domestic companies would in any case only be those provided at registration, as domestic companies are not required to include ownership information with their tax returns (see also paragraph 54).

66. The Income Tax Ordinance also provides for a mechanism described as the Active Taxpayers List, which is published on the FBR website and updated weekly. It records those taxpayers who are up to date with the filing of tax returns. There are various consequences from not being listed, including the payment of advance tax on certain transactions with other parties. Connection to utilities for commercial or industrial premises are also not possible unless the relevant person is registered with the FBR. These provisions may present some practical difficulties for inactive companies to carry on business or to engage in some transactions or activities, but do not preclude the possibility in all cases.

67. The 2016 Report noted that the low compliance rate with filing obligations under both company law and tax law, in combination with limited inspection of ownership information and enforcement (which also does not include striking off non-compliant entities) did not ensure that the information is available as required under the law in all cases. Pakistan was recommended to take measures to ensure that ownership information in respect of the relevant entities is practically available as required under the standard. Filing compliance under both company law and tax law has not improved since then. Furthermore, while ownership information is still required to be provided upon registration under tax law, there is no longer an obligation to include ownership information with tax returns. The supervisory measures taken since 2016 for company law and tax law purposes and their adequacy in respect of the filing of ownership information at registration or subsequently by all companies, including inactive companies, will be examined in greater detail in the Phase 2 review (see Annex 1).

Companies that cease to exist

68. A company ceases to exist by being stricken off the SECP company register. The Companies Act also has the concept of defunct companies. A company is defunct if it has no known assets or liabilities. Under section 425, the registrar may by notice sent to a company believed to be defunct, inquire of the company whether it is carrying on business or is in operation. A 15-day period for response is provided, failing which a further notice is sent providing 30 days for a response. In the event of no response or confirmation from the company that it is not carrying on a business or is not in operation, a show cause notice is published in a wide circulation newspaper and in due course the company will be struck off the register and dissolved. If no cause to the contrary is shown, the procedure ends with publication in the official Gazette that the company has been struck off and on publication in the Gazette, is dissolved. The SECP struck off 1 680 companies in the 6 months ending June 2018, 675 in the year ending June 2019, 111 in the year ending June 2020 and 42 companies in the year ending June 2021.

69. A company, member or creditor that is aggrieved with being struck off as defunct may, within three years of the publishing of the notice in the Gazette, apply to the Court for restoration to the register. The Court may order this if satisfied that the company was carrying on business or in operation, or it is otherwise just to be restored. The Companies Act does not condition restoration on the availability of legal ownership information. The Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

70. A defunct company itself may apply to the register to be struck off. If satisfied, the registrar will then publish a show cause notice in the official Gazette. If no cause to the contrary is shown, then this procedure also ends with publication in the official Gazette that the company has been struck off and on publication in the Gazette, is dissolved.

71. In either case of strike off for a defunct company, the liability (criminal, civil or otherwise) of every director, officer and member of the company continues and may be enforced as if the company had not been dissolved.

72. Companies may also be dissolved either upon application by the company or following liquidation procedures. Liquidators may be appointed voluntarily by members or creditors, or compulsorily by the court. The company is stricken off the register at the end of the procedure.

73. The Companies Act does not provide for re-domiciliation of foreign companies as Pakistan companies and there are no provisions in the Act relating to dissolution, strike off or any other matter that contemplates re-domiciliation of a Pakistani company to another jurisdiction.

74. Where a company has been dissolved, any interested person may apply to the Court within two years of the date of dissolution for an order declaring the dissolution to have been void.

75. An in-text recommendation was made in the 2016 Report concerning the retention period for ownership information kept by a company when the company is liquidated, which at that time was only three years from dissolution of the company. Pakistan was recommended to ensure ownership information is available for at least five years. In 2020, the Companies Act was amended to extend this to five years (section 413).

76. The SECP has the power to extend the retention period for any company. In any event, as the Companies Act requires that legal ownership information be provided to the SECP in annual returns, the information on companies that ceased to exist remains available with the registrar.

77. The person(s) responsible for retention after dissolution depends on the manner of dissolution and will be: i) as directed by the Court when wound up under supervision of the Court; ii) as identified by special resolution of members if wound up by members; or iii) as directed by creditors when wound up by creditors. Failure to comply is liable to a penalty of PKR 500 000 (EUR 2 800). The provision covering the liability refers to "the liquidators or any person to whom the custody of the books and papers have been committed". "Person" is not defined in the Companies Act, so could be a legal or natural person. However, the Companies Act describes qualifications and conditions that indicate a liquidator must be a natural person.[12] There is no requirement that the records be retained in Pakistan or by a person in Pakistan.

78. The availability of ownership information required to be retained in relation to a dissolved company will be assessed in the Phase 2 review (see Annex 1).

Availability of legal ownership information in EOI practice

79. Peers provided no input on requests for legal ownership information of companies during the period. The implementation of the legal framework and the availability of legal ownership information on companies in practice will be examined during the Phase 2 review.

12. An exception arises under the Banking Ordinance where the SBP may be a liquidator of a banking company.

Availability of beneficial ownership information

80. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. Pakistan collects some beneficial ownership information through its AML framework, and from 2020, obligations on companies were introduced in the Companies Act. Under the Companies Act, domestic companies must keep beneficial ownership information. The tax law does not provide for the availability of beneficial ownership information in Pakistan. The following table shows a summary of the legal requirements to maintain beneficial ownership information in respect of companies.

Companies covered by legislation regulating beneficial ownership information

Type	Company Law	Tax Law	AML Law
Private limited company	All	None	Some
Public limited company	All	None	Some
Company limited by guarantee	All	None	Some
Unlimited liability company	All	None	Some
Foreign companies (tax resident)[13]	None	None	All

Anti-money laundering law requirements

81. The AML framework is primarily provided by the AMLA, which was substantially amended in 2020. Section 7A of the AMLA requires reporting entities to carry out customer due diligence (CDD) when entering into a business relationship with a customer. A reporting entity is defined to cover both financial institutions and designated non-financial business and professions. The definition of financial institution in the AMLA follows the definition contained in the standard,[14] and designated non-financial business and professions are defined to include, most relevantly:

- lawyers, notaries, accountants and other legal professionals
- trust and company service providers
- real estate agents, including builders and developers.

13. Where a foreign company has a sufficient nexus, then the availability of beneficial ownership information is required to the extent the company has a relationship with an AML-obliged service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).
14. ToR Footnote 8, referring to FATF International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation.

82. Various regulators are now specified as AML/CFT regulatory authorities and these regulatory authorities are responsible for issuing regulations under the AMLA with respect to the reporting entities under their specific supervision. These are the SBP, the SECP, the FBR, the Institute of Chartered Accountants of Pakistan (ICAP), the Institute of Cost and Management Accountants of Pakistan (ICMAP), the Supervisory Board for National Savings Schemes and the Supervisory Board for Pakistan Post. The regulations set out further details of the customer due diligence required to be conducted, which now includes identifying the beneficial owners of customers that are companies.

83. There is no legal obligation for every relevant legal entity and arrangement to have a relationship with a reporting entity. Such engagement in practice will occur through: i) banks, but there is no legal requirement to have a bank account in Pakistan; and ii) the other specified service providers, in the event that these are engaged. The income tax regime has some requirements that would require the maintenance of a bank account in many cases. Section 21(l) generally denies a deduction for any transaction exceeding PKR 250 000 (EUR 1 400) if it is not paid through a banking channel such as by cheque or online transfer, a threshold that is reduced to PKR 25 000 for some types of expenditure.[15] [16] Section 114A of the Income Tax Ordinance has, since 1 July 2021, required every taxpayer to update their registration details with the FBR to include details of the bank account utilised for business expenses, although the provision may be read as only requiring provision of bank account details if one is used, and not requiring a bank account in all cases. In addition, and consistent with that reading, no timeframe was specified within which currently registered taxpayers were required to provide such information. Reference is also made to the general lack of timeframe to update registration details mentioned in paragraph 54 and the consequential inability to enforce updating as described in paragraph 56. Separately, under the Companies Act there are certain circumstances that would require a company to open a bank account – namely in relation to allotment and acquisition of shares, payment of dividends, and for certain security deposits. Nevertheless, the coverage of CDD obligations does not fully ensure that beneficial ownership will be available on all companies and can only provide partial support to the Companies Act requirements that Pakistan has introduced to ensure the availability of beneficial ownership information. The actual coverage of the holding of Pakistani bank accounts

15. Such as utilities, freight charges, taxes and salaries.
16. The Income Tax Ordinance does not require that the account be with a Pakistan bank. However, the Pakistani authorities advise that in practice it is understood to be a Pakistani bank account.

and usage of other Pakistani service providers in practice will be assessed in Phase 2 of the review.

84. The term "beneficial owner" is defined in the AMLA and this definition has been applied without modification by each of the regulatory authorities in regulations issued under the AMLA. A beneficial owner is:

> [a] natural person who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted, or [a] natural person who ultimately exercises effective control over a legal person or legal arrangement;

85. Each of the sets of regulations set out the customer due diligence requirements for identification of the beneficial owners of companies in substantially the same terms. Specifically:

> For customers that are legal persons, the regulated person shall identify and take reasonable measures to verify the identity of beneficial owners by:
>
> (a) identifying the natural person(s) (if any) who ultimately has a controlling ownership interest (as defined under relevant laws) in a legal person; and
>
> (b) to the extent that there is doubt under (a) as to whether the person(s) with the controlling ownership interest is the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means; and
>
> (c) where no natural person is identified under (a) or (b) above, the identity of the relevant natural person who holds the position of senior managing official.

86. No threshold has been directly provided in the AMLA or related regulations, however the SECP, FBR, ICMAP and ICAP have issued guidance indicating that the threshold of 25% provided in the Companies Act (see paragraph 97) is also applicable for AML purposes for those reporting entities that are under their supervision. These authorities have therefore considered the Companies Act as a "relevant law" for the purpose of defining a controlling ownership interest referred to in their AML regulations. According to the Pakistani authorities, the other regulatory authorities (the SBP, Pakistan Post and the National Savings Schemes) have not allowed for the use of a threshold under regulations or guidance and therefore those reporting entities subject to their supervision are required to identify natural persons that are beneficial owners of customers that are legal persons without applying a threshold to their ultimate controlling ownership interest. While the differing approaches

across reporting entities may create some uncertainty over whether to apply a threshold, both approaches are acceptable under the Standard.

87. The regulations issued by the SBP explicitly provide that ultimate effective control or ultimate ownership or control includes through a chain of ownership or by means of control other than direct control.[17] The SECP has stated the same in guidance. The regulations issued by the supervisory bodies of Pakistan Post and the National Savings Schemes also state that a controlling ownership interest may be direct or indirect. The regulations from the FBR, ICAP and ICMAP do not explicitly state that a controlling ownership interest may be direct or indirect, however this may be inferred from the use of the word "ultimately" in each set of regulations and these three regulatory authorities have jointly issued guidance clarifying that ownership or control for AML purposes may be direct or indirect.[18]

88. The definition of beneficial owner of a legal person in the AMLA as required to be applied through regulations made under that law is therefore in line with the requirements of the standard.

89. Section 7A(2) of the AMLA requires a reporting entity, when entering into a business relationship with a company, to identify and take reasonable measures to verify the identity of each beneficial owner. The identity information must be verified using reliable, independent source documents, data or information. Regulations issued by each regulatory authority add further detail to the requirements. For natural persons, the identity information to be verified and recorded includes the name, date of birth, national identity or passport number and address.

90. Simplified customer due diligence is permitted under the regulations of each regulatory authority, but only if lower risks have been identified. Simplified procedures stated in the regulations are that verification of the identity of a customer and beneficial owner may occur after the establishment of the business relationship, but are still required in every case. Ongoing monitoring and scrutiny of transactions may be reduced based on a monetary threshold specified by the regulatory authority, or inferring the purpose and intended nature of the business relationship rather than collecting all information and carrying out all measures otherwise required. Simplified procedures must not be applied when there are suspicions of money laundering or terrorist financing.

91. Section 7A(2) of the AMLA also requires a reporting entity to monitor the business relationship on an ongoing basis. Section 7H requires reporting entities to have policies and procedures to ensure compliance with

17. Regulation Definitions paragraph 67.
18. AML/CFT Guidelines for Accountants.

the Act, which should include having policies and procedures on updating customer due diligence. The regulations issued by the various regulatory authorities provide some further detail on the meaning of "ongoing", including scrutiny of transactions throughout the relationship, undertaking reviews of existing records and ensuring that documents, data or information collected is kept up to date and relevant. The frequency of review is not specified; instead the regulations use terms such as periodic and ongoing. For example, the regulations issued by the SECP require business relations to be monitored on an ongoing basis to ensure that transactions are consistent with knowledge of the customer and require periodic review of the adequacy of information obtained on customers.

92. The SECP has guidance stating that it should be updated at "appropriate" times and describes some factors and triggers to consider. Reporting entities covered by the SBP regulations are encouraged to update customer due diligence on a "periodical" or "ongoing" basis and to develop a policy in regard to the frequency and procedure of the updating.[19] The SBP has issued AML-CFT Guidelines on the Risk Based Approach for those reporting entities under its supervision, which require that policies should be based on an assessment of AML-CFT risks, and that these risks should also be periodically re-assessed. The Pakistani authorities state that the reporting entities have such policies in place. However, the SBP has not provided guidance on what would be the appropriate frequency of updating to be included in such policies. Across all of the regulatory authorities, only ICMAP has published guidelines on the frequency of updating, by issuing an FAQ specifying that the frequency should be between one and three years according to the category of risk. In summary, no specific timeframes have been provided for reporting entities through the AMLA, regulations or guidance, with the exception of reporting entities supervised by ICMAP. This could lead to situations where the available beneficial ownership information is not up to date.

93. More generally, only the SECP has issued comprehensive guidance on customer due diligence procedures including understanding the application of the beneficial ownership information definition. Furthermore, as noted in paragraph 86, the guidance issued by the SECP, FBR, ICMAP and ICAP seems based on the application of the threshold in the Companies Act and reporting entities may infer that the other procedures on beneficial ownership information under that Act also apply for AML purposes, including the deficiencies in the company law framework mentioned in paragraph 111.[20] **Pakistan should ensure that, in all cases, complete and up-to-date beneficial ownership information for all relevant entities and arrangements**

19. The wording of Regulation 2(21) uses a mix of "may" and "shall", leading to uncertainty on the application of these requirements.
20. Also for limited liability partnerships, see paragraph 149.

is available in line with the standard. The steps that reporting entities take in practice to keep beneficial ownership information up to date and measures taken by Pakistani authorities to ensure that such information is up to date and accurate will be examined in Phase 2 of the review (see Annex 1).

94. The AMLA requires that documents and records obtained through customer due diligence and the results of any analysis undertaken be kept for at least five years following the termination of the business relationship (section 7C). In the case of reporting entities regulated by the SBP, the period is extended to ten years after the business relationship has ended. The retention period meets the requirements of the standard.

95. The AMLA permits reliance on a third party to perform customer due diligence if conducted in a prescribed manner. The SECP has prescribed requirements for third party reliance in its regulations (Regulation 24) and these mirror the conditions and requirements of the standard. The SBP, the FBR, the supervisory bodies of the National Savings Schemes and Pakistan Post have also prescribed the requirements for third party reliance by their respective reporting entities that closely follow the standard, except that a relying reporting entity must "immediately obtain" (SBP, National Savings Schemes and Pakistan Post) or "keep copies of" (FBR) the documents relied upon for customer due diligence rather than permitting the documents to be held by the third party until requested, i.e. the conditions are more strict than required by the standard.

96. In contrast, ICAP and ICMAP have prescribed requirements for third party reliance that omit the requirement in the standard that a reporting entity satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay. Pakistan should ensure that its third party reliance rules are in line with the standard (see Annex 1).

Companies Law requirements

97. The Companies Act was amended in August 2020 to insert section 123A, which requires every domestic company to keep a register of its ultimate beneficial owners. Associated regulations were also issued. Section 123A(2) defines an ultimate beneficial owner as:

> a natural person who ultimately owns or controls a company, whether directly or indirectly, through at least 25% of shares or voting rights or by exercising effective control in that company through such other means, as may be specified

98. It appears that section 123A(2) is to be read as incorporating control by other means simultaneously to ownership, but only as may be specified

through some instrument. Regulations issued in connection with section 123A are one such possible instrument. The regulations did not directly expand upon the meaning of "ultimate beneficial owner", however the explanatory text to Regulation 19A states that an ultimate beneficial owner is:

> A natural person who ultimately owns or controls a company, whether directly or indirectly, through at least 25% of shares or voting rights or by exercising effective control in that company through other means. Exercise of control through other means may be exercised through a chain of ownership or through close relatives or associates having significant influence or control over the finances or decisions of the company

99. The definition and explanatory text therefore cover most of the types of control that exist but it is not clear whether the description of control by other means is limitative or mere examples. This text used in explanation of Regulation 19A is recited in Guidelines issued by the authority solely responsible for supervision and enforcement of these obligations (the SECP), without further elaboration.

100. The definition does not extend to the identification of the individuals holding a senior managerial position in cases where no beneficial owner is identified.

101. The definition of beneficial owner in the Companies Act and subsidiary material is not in line with the standard in respect of senior managing officials, however the register of ultimate beneficial owners is maintained by the company itself. Details of the senior managing officials are matters that will be known to the company and therefore information on the current senior managing officials is available to the same extent as the register information would be. Furthermore, there are some filing requirements under the Companies Act, which means that the SECP are required to have details of some officials. In particular:

- The initial company registration form must contain name, address and identity details of the chief executive officer and every director.
- The annual return to be filed by the company (see paragraph 45) must provide the name, address and identity details of the chief executive officer and every director and the chief financial officer and secretary if relevant.[21]

21. Section 154(2) of the Companies Act specifies that directors can only be natural persons. The registration form and annual return forms specified under regulations are also premised on the directors, chief executive officer, chief financial officer and secretary only being natural persons due to requirements to provide

102. The process to gather beneficial ownership information by all domestic companies (including inactive companies) is detailed in Regulations. However, as detailed below, the requirements of the Regulations and the official Forms provided in the Regulations that companies must use to collect information on their beneficial owners focusses only on those members having 25% or more of the shares or voting interests and therefore will not result in the collection of beneficial ownership information in all cases.

103. Every company was required by Regulation 19A(1), by 26 November 2020,[22] to issue a notice (Form 42) to every member or representative of every legal person or legal arrangement that directly held at least 25% of shares or voting rights in the company (the "target" company).[23] The form recites the meaning of control by other means as mentioned in paragraph 98 but the design and instructions for the form will lead it to be completed only in respect of beneficial owners (as defined) of the legal entity holding the shares or voting interests in the target company instead of collecting information on the beneficial owners of the target company itself. Regulation 19A(1) and the related procedure will therefore result in the collection of information on persons who may not be beneficial owners (as defined) of the target company, and fail to obtain information on persons who are beneficial owners (as defined) of the target company. A person to whom the notice was issued had 14 days to submit a declaration to the company, providing details of the natural person beneficial owner(s) including the name, Pakistani national identity number or a passport number, nationality, residential address and, for foreign or dual nationals, their country of origin.

104. Form 43 was specified for use in this purpose and the design of Form 43 follows the direction taken by Form 42 – the declaration appears only to contemplate identifying the ultimate beneficial owner(s) of each member holding 25% or more of the shares or voting rights in the company. If the beneficial ownership is held through a chain of ownership or control, details of the legal persons or legal arrangements through which ownership or control exists is also required to be provided.

105. Regulation 19A(2) also requires a new member of a company to submit Form 43 within 14 days of their name being entered in the register of members. No threshold for ownership or voting rights is specified, however

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either a National Identity Card number (which is limited to natural persons) or a passport number.

22. Within three months of section 123A coming into force, and section 123A came into force on 26 August 2020.

23. In practice, according to the Pakistani authorities, companies issue the notice to all shareholders. The assessment team has not been able to reconcile this practice to the text of Regulation 19A(1) or any other element of the legal framework.

the obligation to provide Form 43 will only fall on a new member that meets the threshold of holding shares or voting interests in the company. The SECP interprets Regulation 19A(1) as obliging the company to notify the new member of this requirement using Form 42, the trigger for action by the company being when the new member's application for registration of the transfer of their shares under section 74 of the Companies Act is received.

106. Where any change occurs in the particulars of an ultimate beneficial owner or their ownership of the company as declared under Regulation 19A(2), the member is required by Regulation 19A(3) to submit a further declaration within 14 days (Form 44). This declaration is required to provide the date of change in beneficial ownership particulars (whether a change in details of a continuing beneficial owner or a change in the beneficial ownership) as well as the new/updated details.

107. Regulation 19A(6) permits a company to apply to the SECP for approval to withhold or defer payment of a dividend to a member who has failed to comply with the notice issued to them under Regulation 19A(1). A company is not obliged to do this, and the permission does not extend to any failure to a new member failing to declare under Regulation 19A(2) or any member failing to provide updated information under Regulation 19A(3).

108. The company receiving the initial declaration(s) made under Regulation 19A(2) or updated declaration(s) made under Regulation 19A(3) is required by Regulation 19A(4) to note the declarations and record the particulars provided on ultimate beneficial owner(s) in a register to be maintained by the company. The register is only required to hold information on beneficial owners obtained through the procedures specified in the Regulations. It is not required to hold beneficial ownership information that the company may have obtained or become aware of through other means. There is no provision that limits the time period for which the information must be retained by continuing companies and the recordkeeping requirements for dissolved companies are as described at paragraph 47.

109. Regulation 19A(5) then requires the company, within 15 days of receiving an initial or updating declaration and thereafter with its annual return, to file with the registrar[24] a declaration of compliance with Section 123A(2) using Form 45. Form 45 provides for the company to declare whether it has complied with its notice obligation under Regulation 19A(1) and its register obligation under Regulation 19A(4). As required by Regulation 19A(6), the form must also identify a person who has been authorised by the company to provide to the registrar or any other competent authority the beneficial ownership information maintained by the company if and when requested to do so.

24. The registrar is the person in charge of a Company Registration Office established by the SECP. There are seven regional Company Registration Offices.

110. Form 45 indicates that the SECP has construed the obligation to file the form declaring compliance as only an annual obligation after the initial filing and not within 15 days of receiving updated beneficial ownership information. SECP has also confirmed this interpretation in guidance.[25]

111. Overall, the procedures provided by the Regulations and the forms specified under the Regulations may not result in the compilation of beneficial ownership information by a company to the fullest extent required by the standard. The procedures to identify the ultimate beneficial owners(s) are directed only towards those members who hold 25% or more of the shares or voting rights in the company and the register required to be maintained by the company will only reflect the information received in declarations from such members. For example, the register would not be required to hold information on beneficial owner(s) with ownership of multiple interests each of which falls below the threshold or who may be acting jointly, or who may exercise control of the company through means other than through ownership or voting rights. **Pakistan is recommended to ensure that the obligations imposed on companies for identification and maintenance of beneficial ownership information covers information to the full extent required by the standard**.

Nominees

112. The holding of shares or membership of a company as a nominee is not prohibited by any legislation in Pakistan.

113. Nominee shareholders or members are not generally required to disclose their status to the company, however in the event that such status is disclosed to the company, the company must seek and record details of the person on whose behalf shares are held. Disclosure may occur during the process for obtaining beneficial ownership under the Companies Act as described from paragraph 97, subject to the deficiencies noted in that analysis and also noting that disclosure will not be sought if a nominee holds less than a 25% ownership interest.

114. Amendments to the AMLA in 2020 extended its scope to DNFBPs, who are defined to include trust and company service providers who act as, or arrange for another person to act as, a nominee shareholder. These service providers are therefore reporting entities under the AMLA who are required to carry out customer due diligence and maintain ownership and identity information in respect of all persons for whom they act as a legal owner. Those obligations are explained from paragraph 57 for legal ownership and

25. Frequently Asked Questions on Ultimate Beneficial Ownership, November 2020, Question 22.

from paragraph 81 for beneficial ownership. Nominees who are not subject to the AMLA, for example due to not providing these services in a professional capacity, will not be required to maintain ownership and identity information on their nominator. **Pakistan should ensure the availability of accurate beneficial ownership information of legal entities having nominee shareholdings.**

Beneficial ownership information – Enforcement measures and oversight

115. Any contravention or default in complying with the beneficial ownership information obligations imposed by section 123A of the Companies Act is liable to a penalty of PKR 1 000 000 (EUR 5 601) in the case of a director or officer of the company and any other person. The company itself is also liable to a penalty of PKR 10 000 000 (EUR 56 010). Enforcement and oversight of the ownership information obligations in the Companies Act is the responsibility of the SECP.

116. On 31 March 2021 there were 136 006 companies registered with the SECP. At December 2021 the number of companies who had filed their declaration of compliance with the ultimate beneficial ownership information requirements (Form 45) was 60 516, indicating a compliance rate of less than 50%.

117. The AMLA delegates the authority to impose sanctions to each of the regulatory authorities specified under that law, which have been listed in paragraph 81. Each regulatory authority is also given the authority to prescribe the sanctions including specifying the amount of any financial penalties. The Financial Monitoring Unit, which has overarching oversight of the AMLA, has issued guiding principles (the AML/CFT Sanctions Rules) that must be followed by the regulatory authorities when determining and administering sanctions. Sanctions available include financial penalties; revocation of licence or deregistration; imposing conditions, limitations or restrictions on operations; and temporary or permanent prohibition on natural persons holding an office or position of responsibility. Penalty amounts have not been set in the Rules other than to specify an overarching maximum of PKR 100 million (EUR 560 100) per violation. The regulatory authorities have not publicly prescribed further sanction principles, retaining the flexibility to operate within the Rules issued by the Financial Monitoring Unit according to their own circumstances. The oversight and enforcement by these regulatory authorities in practice will be assessed in the Phase 2 review (see Annex 1).

Availability of beneficial ownership information in EOI practice

118. Peer input was provided on one request for beneficial ownership information during the period, stating that it was successfully processed in a timely manner. The implementation of the legal framework and the availability of beneficial ownership information on companies in practice will be examined during the Phase 2 review.

A.1.2. Bearer shares

119. Prior to 1984, company law applying in Pakistan[26] provided for the issuance of share warrants entitling the bearer to shares as specified on surrender of the warrant, which could also provide for entitlement to dividends paid by coupon or otherwise. That law was repealed and replaced by the Companies Ordinance 1984, which no longer provided for the issuance of share warrants. In turn, that Ordinance was repealed and replaced by the Companies Act 2017, which also does not provide for the issuance of share warrants.

120. However, in the previous iterations of these company laws and the initial enactment of the Companies Act 2017, the issuance of bearer shares was not explicitly prohibited. These laws provided that a share certificate is prima facie evidence of the title of the person to the specified shares. Regulations issued in 2018 provided that share certificates issued in physical form must state the name of the person to whom the certificate is transferred; it only applied to certificates in physical form and did not preclude issuance in any other form such as in digital form.

121. In August 2020, the Companies Act was amended to insert section 60A, which prohibits the issuance of bearer shares, bearer share warrants and any other equity or debt security of a similar nature. Related Regulations issued on 28 September 2020 provided for procedures where any company with such bearer securities on issue was required, within three months, to give notice in a national newspaper to bearers of such securities that the bearer had a further three months to surrender the bearer securities to be registered or cancelled. Upon any failure to surrender, the company was required to apply to the court for cancellation of the securities. A company failing to comply was subject to a penalty of up to PKR 10 000 000 (EUR 56 010) and a director, officer or any other person involved subject to a penalty of PKR 1 000 000 (EUR 5 601).

122. Pakistan does not have statistics on the number of companies that allowed for the issuance of bearer shares in their article of association prior to 2020, if any. Pakistan has not identified any instances of companies giving

26. The Indian Companies Ordinance 1913.

notice or applying for cancellation of bearer shares in application of the new section 60A, nor has it identified any instances of a failure to comply. The existence of bearer shares in Pakistan and, if any, the effectiveness of the measures taken by Pakistan to regularise such shares will be examined in the Phase 2 review (see Annex 1).

A.1.3. Partnerships

123. At the time of the 2016 Report, the only form of partnership provided for by Pakistan's law were partnerships without legal personality. These partnerships, which this report will refer to as general partnerships,[27] continue to be governed by the Partnership Act. On 31 March 2021 there were 238 629 general partnerships registered with the FBR. Pakistan does not have central data on the number of general partnerships in existence more generally, as these registrars operate at a district level throughout Pakistan. The 2016 Report found that the legal and regulatory framework in Pakistan required the identification of partners of a general partnership in accordance with the standard. There has been no change to the requirements in relation to these partnerships.

124. In 2017, Pakistan enacted the Limited Liability Partnership Act (LLPA), which introduced a new category of partnership as indicated by the name of the Act and these entities have legal personality. Every limited liability partnership must have at least one designated partner who is an individual and resident in Pakistan, excepting when one or more partners are bodies corporate in which case at least two individuals must serve in this capacity as partners or nominees of such bodies and at least one of these individuals must be a resident in Pakistan. A designated partner is responsible for the doing of all acts, matters and things required to be done by the limited liability partnership under the LLPA, unless expressly relieved by that Act. There were, on 31 March 2021, 1 201 limited liability partnerships. The SECP is responsible for regulating limited liability partnerships and it maintains a register of these entities.

Identity information

125. A general partnership is established by the contract between partners. Ordinarily, a partner will be an individual, however a company can enter into a partnership with a natural person and also with another company. The partnership is not required to be registered with a registrar, however a partner will be unable to sue the partnership or another partner of the partnership

27. The Income Tax Ordinance uses the term "association of persons" or "AOP" to describe these arrangements.

if it is not registered or the partner wishing to sue is not registered. The partnership itself is also unable to sue a third party unless the partnership is registered and the partners suing are or have been registered as partners.

126. At registration, the partnership must provide the name of the partnership, the place(s) at which it will carry on business, the names and addresses of the partners and their date of joining, and the duration of the partnership. Changes to these details must be notified to the registrar, although no deadline is prescribed in the law for doing so. However, inaccurate or out of date information may have consequences to the legal rights and obligations as between partners and third parties and third parties may claim for any damages caused by inaccurate registered information. Knowingly providing false or incomplete information may be punished by a fine or imprisonment up to three months, or both. The Partnership Act does not specify the amount of the potential fine and statistics on amounts imposed in practice have not been provided.

127. In practice, registration of general partnerships is with local registrars who are responsible for particular districts of the country, of which there are 146. Given the lack of an absolute obligation to register and the reliance solely on the legal consequences of not doing so, the 2016 Report found it difficult to conclude that ownership information would reliably be available through these registers in all cases. This remains the case for this review.

128. General partnerships are, however, required to register for tax purposes with the FBR, but only if they are chargeable to tax, required to deduct or collect tax, or are required to furnish a tax return under the Income Tax Ordinance. The Income Tax Ordinance classifies a general partnership as an "association of persons", which are liable to tax separately from the members (partners) of the association (partnership). An association of persons is also included in the definition of "person" under the Income Tax Ordinance so that the rules on chargeability to tax are applied to the person (the general partnership). An association of persons is a resident of Pakistan for a tax year if the control or management of the association is situated wholly or partly in Pakistan at any time during the tax year. As is the case for other persons, an association of persons (general partnership) is chargeable to tax on worldwide income if resident and Pakistan source income if non-resident.

129. All partners are required to be identified in the registration with FBR including names, addresses and dates of birth and this information must be kept updated. No timeframe within which to notify any change has been specified. The administrative penalties for any person failing to register, failure to update registration details and failing to file an annual tax return with the FBR were mentioned at paragraphs 54 and 56.

130. A general partnership chargeable to tax in Pakistan is required to lodge an annual tax return but only if taxable income has exceeded PKR 400 000 (EUR 2 133) for that income year or any earlier year.[28] In the event that a partnership's taxable income exceeds the threshold for an income year, it must file a tax return and must continue to file annual tax returns for subsequent income years irrespective of the taxable income in those subsequent income years. Foreign general partnerships that carry on business in Pakistan through a permanent establishment are subject to the same requirements as domestic general partnerships in terms of registering with the FBR and filing tax returns. A foreign general partnership with control and management of the affairs of the partnership situated wholly or partly in Pakistan at any time in an income year is likewise subject to the same registration and filing requirements. As the taxable income threshold for filing a tax return at first instance does not require filing by all general partnerships for every income year, the tax laws will not ensure the availability of information on the identity of partners of general partnerships in all cases. **Pakistan should ensure that identity information on partners of all relevant general partnerships is available in line with the standard**.

131. A filed tax return must include annual accounts, which must also include information on all partners in the partnership in the income year. For the 2020 tax year (year ending 30 June 2020, due 30 September 2020), 75 071 general partnerships had filed a tax return by the end of March 2022, which represents 33% of the number of general partnerships registered with the FBR on 30 June 2020. It is unclear to what extent the rate of filing of tax returns is affected by the taxable income threshold criterion mentioned above. The impact of the low filing rate on the availability of up-to-date identity information for general partnerships will be examined in the Phase 2 review in following up the recommendation made on this subject in the 2016 Report.

132. The FBR will retain these records, at a minimum, for the period within which an assessment may be amended, which is five years from submission of the return and may be extended. Identity and ownership information obtained at the time of registration are retained in electronic form by the FBR for at least as long as the taxpayer is active or has not been deregistered, and in practice for longer, subject to ad hoc purges of aged data.

133. Pakistan now provides for limited liability partnerships under the LLPA, which are created through mandatory registration with the Registrar. Limited liability partnerships have separate legal personality, may sue and be sued, may hold property and may do and suffer such acts as a body corporate may do. Limited liability partnerships are therefore more similar in form and structure to companies rather than general partnerships. Details

28. Taxable income is total income minus any allowable deductions.

of all partners must be submitted with the application for registration. Any changes in partner or change in name or address must be notified to the Registrar within 15 days. A failure to update such information renders the limited liability partnership and every partner of it liable to a penalty of up to PKR 1 000 000 (EUR 5 601).

134. The tax registration requirements for limited liability partnerships are the same as for general partnerships, including for foreign limited liability partnerships carrying on business through a permanent establishment in Pakistan or with control and management situated in whole or in part in Pakistan at any time in an income year.

135. To the extent that a general partnership or limited liability partnership engages the services of an AML reporting entity, such as a bank, that reporting entity will be required to conduct customer due diligence including identification of the customer and verification of that identity on the basis of documents from reliable sources. This appears to require that information on partners in a general partnership or limited liability partnership should be available with a reporting entity, if engaged. However, there are no requirements to engage AML reporting entities that would ensure such relationships for general or limited liability partnerships in all cases.

136. Considering that general partnerships are not required to either file tax returns or engage an AML reporting entity in all cases, identity information for partners of general partnerships is not required to be available in line with the standard. Identity information for partners of limited liability partnerships is required to be available, primarily through obligations under the LLPA.

Beneficial ownership

137. The standard requires that information in respect of each beneficial owner of a relevant partnership be available. Where any partner is a company or other entity or arrangement, information on the beneficial owners of that entity or arrangement should be available.

Partnership law requirements

138. The Partnership Act does not include any obligation to report information on the beneficial ownership of a general partnership to the Registrar if registered.

139. The LLPA as enacted in 2017 did not include requirements in relation to beneficial ownership, however the Act was amended with effect from 27 August 2020 to impose an obligation to obtain, maintain and timely

update information on beneficial owners. A beneficial owner of a limited liability partnership is defined in section 8 to be:

> a natural person who ultimately and effectively owns or controls a limited liability partnership through direct or indirect rights or who shares at least one fourth of the net profits and losses of the partnership

140. The definition lacks the requirement to identify person(s) exercising control though other means in the event that no person(s) are identified with a controlling interest or there is doubt over that element. The definition is limited to ownership or control via "rights", which will not cover the full scope of control required by the standard. Furthermore, it does not extend to the identification of the individuals holding a senior managerial position in cases where no beneficial owner is otherwise identified.

141. Further details of the requirements are specified by Regulations made under that Act and the procedures closely follow the procedures established for companies as discussed from paragraph 101. Corresponding forms are specified with the Regulations. That is, by 26 November 2020[29] a limited liability partnership must have issued a notice (Form IX) to each partner having at least a one fourth share of net profits or losses, or a representative of such a partner if a legal entity or legal arrangement. Regulation 14A(4)(x), as part of the procedures, clarifies that ultimate beneficial owners must be identified in case of exercise of indirect rights or controlling interest through a chain of ownership or control through intermediate legal entities and legal arrangements, but this does not close the gap noted in paragraph 140 in relation to control by other means.

142. The partner or representative of a partner receiving the notice has 14 days in which to respond with a declaration (Form X) providing their identity details (if a natural person) or details of the beneficial owner(s) having effective ownership or control of the partnership interest in the limited liability partnership if not a natural person partner. In the case of a legal entity or legal arrangement sharing at least a one fourth interest in the net profit and losses of the limited liability partnership, the collection of beneficial ownership information from that partner will suffer from the same deficiencies as described at paragraph 103 for collecting beneficial ownership information on companies. That is, Form X will be completed only in respect of beneficial owners (as defined) of the partner holding the interest in the limited liability partnership instead of collecting information on the beneficial owners of the limited liability partnership itself.

29. Within three months of section 8 of the Limited Liability Partnership Act coming into force, and section 8 came into force on 26 August 2020.

143. A new partner holding a one fourth interest in the net profits or losses is required to submit Form X within 14 days of their name being entered in the register of partners. The Regulations do not oblige the limited liability partnership to notify the new partner of this requirement.

144. Where any change occurs in the particulars of an ultimate beneficial owner or their ownership of the limited liability partnership as previously declared in Form X, the partner or representative is required to submit a further declaration within 14 days (Form XI). This declaration is required to provide the date of change in beneficial ownership particulars as well as the new/updated details.

145. The limited liability partnership receiving the initial declaration(s) or updated declaration(s) is required to note the declarations and record the particulars provided on ultimate beneficial owner(s) in a register to be maintained by the partnership. The register is only required to hold information on beneficial owners obtained through the procedures specified in the Regulations. It is not required to hold beneficial ownership information that the limited liability partnership may have obtained or become aware of through other means. There is no provision that limits the period for which this information must be retained by a continuing partnership and therefore would be retained indefinitely. The recordkeeping requirements for dissolved limited liability partnerships will fall on the designated partner(s) described in paragraph 124 as last occurring at the time of dissolution.

146. The limited liability partnership must, within 15 days of receiving an initial or updating a declaration and thereafter with its annual return, file with the Registrar[30] a declaration of compliance using Form XII. The form includes a section for declaring how many notices have been complied with and how many have not been complied with, and a section for noting how many new partners or updated declarations have been received during the year. The form must also identify a person who has been authorised by the partnership to provide to the Registrar or any other competent authority the beneficial ownership information maintained by the partnership if and when requested to do so.

147. Form XII indicates that the SECP has construed the obligation to file the form declaring compliance as only an annual obligation after the initial filing and not within 15 days of receiving updated beneficial ownership information.

30. The Registrar is an office established by the SECP. The SECP has designated the Registrar of Companies to also fulfil the function of Registrar of Limited Liability Partnerships. Additional Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars performing functions under the Companies Act are also appointed to the same role for administration of the LLPA.

148. The definition of beneficial owner in the LLPA is not in line with the standard for the reasons described in paragraph 140. However, in respect of the deficiency in identifying senior managing officials, the register of ultimate beneficial owners is only maintained by the partnership itself. Details of the senior managing officials are matters that will be known to the partnership and therefore information on the current senior managing officials is available to the same extent as the register information would be. In relation to forms required to be filed with the SECP on registration or from time to time, senior managing officials may be identified but the forms and procedures do not guarantee that this will occur or will be up to date.

149. More broadly, the procedures provided by the Regulations and the forms specified under the Regulations may not result in the compilation of beneficial ownership information by limited liability partnerships to the fullest extent required by the standard. The procedures to identify the ultimate beneficial owners(s) are directed only towards those partners who share in one fourth or more of the net profits and losses of the partnership and the register required to be maintained by the partnership will only reflect the information received in declarations in respect of the beneficial owners of such partners. For example, the register would not be required to hold information on beneficial owner(s) whose ownership interest or control is related to more than one partner each of which falls below the specified threshold, or who may be acting jointly, or who may exercise control of the partnership through other means.

Tax law requirements

150. There is no obligation under Pakistan's tax law to report information on the beneficial ownership of general partnerships or limited liability partnerships to the FBR.

Anti-money laundering law requirements

151. The availability of beneficial ownership information on general partnerships is therefore primarily reliant on Pakistan's AML framework. The AML framework also provides a secondary basis for availability of such information on limited liability partnerships, supplementing the requirements under the LLPA. The explanation at paragraph 83 in relation to there being no requirement in Pakistan to engage an AML obliged service provider also applies to general partnerships and limited liability partnerships and therefore the AML framework may not fully ensure the availability of beneficial ownership information in all cases. **Pakistan is recommended to ensure that beneficial ownership information in line with the standard is always available for all partnerships**

152. Limited liability partnerships are legal entities under Pakistan law. The customer due diligence obligations of reporting entities under the AMLA are explained from paragraph 81 and the definition of beneficial owner in the AML framework discussed in paragraphs 84 to 87 for companies is therefore similarly relevant to limited liability partnerships. As noted, no threshold is specified in the AMLA for a controlling interest of any entity. The regulations issued by each regulatory authority provide for determining a controlling ownership interest as defined under relevant laws. The SECP has issued guidance[31] that indicates that the threshold for a controlling interest threshold specified in the LLP Regulations (holding at least a one fourth interest) is also the applicable threshold for the purposes of the AMLA. However, no other AML regulatory authorities have issued guidance on whether a controlling interest threshold would apply to limited liability partnerships. Unlike the situation with companies described at paragraph 86, where guidance issued by the FBR, ICAP and ICMAP permits the use of a controlling interest threshold for companies, these regulatory authorities have not explicitly extended that permission to AML customer due diligence on limited liability partnerships. While the differing approaches across reporting entities may create some uncertainty over whether to apply a threshold, both approaches are acceptable under the Standard.

153. For general partnerships, the definition of beneficial owner in the AMLA stated in paragraph 84 provides the starting point. Each of the regulatory authorities responsible for a category of reporting entity has then issued regulations expanding on the customer due diligence requirements for identification of the beneficial owners of legal arrangements. These are in substantially the same terms. Specifically:

> For customers that are legal arrangements, the regulated person shall identify and take reasonable measures to verify the identity of beneficial owners as follows:
>
> (a) for trusts, the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership);
>
> (b) for waqfs and other types of legal arrangements, the identity of persons in equivalent or similar positions as specified in (a).
>
> (c) Where any of the persons specified in (a) or (b) is a legal person or arrangement, the identity of the beneficial owner of that legal person or arrangement shall be identified.

31. Guidelines on Ultimate Beneficial Ownership Framework for Companies and LLPs.

154. Under the Partnership Act, every partner has joint control over the partnership and must therefore be identified. In the event that a partner is a legal person or arrangement, look through will be required to the natural person(s) who are beneficial owner(s) of the legal person or arrangement.

Oversight and enforcement

155. Any contravention or default in compliance with the obligations to seek, provide or maintain beneficial ownership information imposed by the LLPA is liable to a penalty of PKR 1 000 000 (EUR 5 601) in the case of a partner or officer. The partnership itself is also liable to a penalty of PKR 10 000 000 (EUR 56 010). There is no provision in the LLPA or related regulations providing for restricting a partner's participation in the partnership if they fail to respond to a notice, although the partnership may be entitled to recover from a partner any sanction suffered by the partnership as a result of their inaction. Enforcement and oversight of the ownership information obligations in the LLPA is the responsibility of the SECP. Enforcement and oversight of AML obligations are described in paragraph 117. The application of this in practice will be assessed in Phase 2 of the review (see Annex 1).

Availability of partnership information in EOI practice

156. Peer input was provided on four requests for identity and beneficial ownership information on partnerships during the review period, which were successfully processed in a timely manner. The implementation of the legal framework and the availability of information on partnerships in practice including in relation to the recommendation made in the 2016 Report will be examined during the Phase 2 review.

A.1.4. Trusts

157. Trusts have been recognised in Pakistan under both common law and statutory law. A Pakistani resident can act as a trustee or otherwise in a fiduciary capacity in relation to a trust formed in Pakistan or under foreign law. Pakistan's law also provides for the creation of waqfs (or wakfs), which are a permanent dedication by a person professing the Muslim faith of any property to a mutwalli (manager) the ultimate benefit of which is expressly or impliedly reserved for the poor or for any other purpose recognised by Islamic law as a religious, pious or charitable purpose of a permanent character. It is possible for waqfs to be recognised as valid if created for the initial purpose of maintenance, support or benefit of the creator themselves, or the creator's family, children or descendants, so long as the final beneficiaries would be the poor or a purpose that is religious, pious or charitable under

Islamic law. For example, if none of the creator, family, children or their descendants remain alive.[32]

Identity information

158. The 2016 Report found that Pakistan's trust laws ensured that identity information on settlors, trustees and beneficiaries of domestic trusts was required to be available in line with the standard. The requirements arose through a combination of obligations on trustees, registration with civil courts, and information held by the FBR. The obligations for waqfs in relation to availability of information on settlors, mutwallis and beneficiaries followed the obligations for trusts. However, it was found that information on settlors and beneficiaries of foreign trusts operated by Pakistan resident trustees may not be available in all cases as these trusts were not covered by Pakistan's trust law. The findings in the 2016 Report were based on the Trusts Act and the Mussalman Wakf Act applying at that time.

159. From 2020, the law relating to trusts and waqfs was progressively replaced by new laws covering each province and territory, which are listed in Annex 3. In the case of law regulating trusts, the Federal Trusts Act has now been replaced by new provincial and territorial laws. Each of the provincial and territorial laws are substantially similar, with the main difference being in the relevant authority in the provincial or territorial government with whom the trust or waqf must register and that will supervise and enforce the requirements of the particular law. In all cases, the principal office holder is a government official. Initially all of the new trust laws specified that settlors, trustees and beneficiaries can only be natural persons. However, the Trusts Act of Khyber Pakhtunkhwa province was amended in 2021 to remove this restriction for trusts operating in that province so that legal persons could also have these roles. The former national Trusts Act that was replaced by the provincial and territorial laws had no restriction for these rules. All of the new provincial and territorial laws include savings provisions which carry over registrations for trusts made under the repealed law to the new laws and so trusts created under the previous law may have legal persons as settlors, trustees and beneficiaries.

160. Under each provincial and territorial trust law, every trust must register with the relevant provincial or territorial authority. A trust is not recognised as functional by the law unless it is registered. All trusts created under the previous Trusts Act were registered by default under the new laws, and a period of six months from commencement of each new Trusts Act was provided within which to meet the additional information requirements of the new laws. The application for registration is required to include information

32. Musalman Wakf Validating Act 1913.

on the purpose of the trust, the author (settlor), details of the trustees, beneficiaries of the trust and any other natural persons exercising ultimate effective control over the trust as may be prescribed. The application must be renewed by the trustee every year, including providing or updating the information required for the trust and the application for renewal must be lodged at least 30 days before expiry. The trust laws do not provide for the role of protector of a trust.

161. The province of Sindh has operationalised the new trust registration requirements through the issuance of Trust Rules and a series of published notices requiring the registration of trusts operating in the province. The province of Khyber Pakhtunkhwa has also operationalised its registration requirements through issuance of Trust Rules. The province of Baluchistan has not issued Trust Rules or operationalised its registration requirements, however it has as an interim measure implemented a process for registering trusts through its Charities Registration and Regulatory Authority. Pakistan has not provided information on whether registration has been operationalised in the remaining provincial and territorial laws, including whether relevant Trust Rules have been issued to prescribe the procedures.

162. The trust laws also impose an obligation on each trustee to collect and hold information about the author (settlor), details of the trustees, beneficiaries of the trust and any other natural persons exercising ultimate effective control over the trust.

163. For the purposes of the Income Tax Ordinance, a trust is included in the definition of company. Waqfs are considered a form of trust for tax purposes and thus are also treated as companies. Trusts (including waqfs) deriving income subject to tax in Pakistan must be registered with the FBR and file income tax returns. The trust deed or contract must be provided upon registration and the details of the settlor(s) and trustee(s) (and equivalents for waqfs) must also be provided at registration. However, the annual tax return does not require the identification of the settlor(s), trustee(s) or beneficiaries in all cases.

164. To the extent that a trustee is a reporting entity itself, or engages the services of an AML reporting entity such as a bank, the reporting entity will be required to undertake customer due diligence to understand the identity and structure of the trust, which should include identification of the settlor, trustee and beneficiaries of the trust. Each of the trust laws governing domestic trusts introduced in 2020 oblige trustees to disclose their trustee status to a AML reporting entity when entering into a business relationship or carrying out an occasional transaction with them.

165. The 2016 Report found that information on settlors and beneficiaries of foreign trusts operated by Pakistan resident trustees may not be available in all cases, as these were not covered by Pakistan's trust law.

While that remains the case under the new trust laws, Pakistan has made relevant amendments to strengthen its AML requirements. Amendments to the AMLA in 2020 expanded the definition of reporting entity to include trust and company service providers in the business or profession of acting as or arranging for another person to act as a trustee or to perform similar functions for other legal arrangements. The definition also covers lawyers, notaries, accountants and other legal professionals when engaged in carrying out monetary transactions for clients.

166. In relation to waqfs, the law governing these arrangements for each province and territory was amended in 2020 and 2021. It was already the case that every person creating a waqf and every mutwallis (manager) of a waqf must register waqf property with a government appointed administrator. Managers of waqfs are government administrators or persons appointed by the government administrator to manage, maintain and control the waqf property. The amendments included a requirement for the administrator to maintain a centralised register of waqf properties and a requirement for a person creating a waqf or managing a waqf to disclose their status to any AML reporting entity before entering into a business relationship or an occasional transaction. The administrator was also made subject to a requirement to provide information on waqf properties to competent authorities and requiring information on beneficial owners and persons controlling the assets to be given to AML reporting entities upon request.

Beneficial ownership

167. The standard requires that beneficial ownership information be available in respect of express trusts governed by or administered in Pakistan or in respect of which a trustee is resident in Pakistan.

168. Pakistan's trust laws require that upon registration of a trust and through annual updating of the registration thereafter, a trustee must provide information on the author of the trust (settlor), details of the trustees, beneficiaries of the trust and any other natural persons exercising ultimate effective control over the trust as may be prescribed. However, as described in paragraph 161, not all jurisdictions have issued the Trust Rules necessary to carry this out. Furthermore, while these laws have provided the power to be more prescriptive on other natural persons who may exercise ultimate effective control over the trust, no province or territory has done so. **Pakistan should ensure that beneficial ownership information required to be available under the trust laws is in line with the standard**.

169. Pakistan's waqf laws require the manager of a waqf to register and provide information to the government administrator of waqfs upon registration. The manager must obtain, hold and update that information, and make it available to the government administrator upon request. In all cases except

waqfs subject to Khyber Pakhtunkwhan (KPK) provincial law, the laws require that the government administrator must prescribe the information to be provided upon registration and the manner in which it must be provided. The KPK province law has specified some details to be provided upon registration including the identity of the waqif or dedicator (similar to settlor), the identity of the beneficial owner, and other information that the government administrator may require. The KPK province law has also specified that registration must be done within 90 days of commencement of the law in the case of an existing waqf and 90 days from creation of a waqf subsequently.

170. Furthermore, all provincial and territorial laws have provided or applied a definition of beneficial owner in waqf law to mean:

> a natural person who ultimately owns or controls a waqf, whether directly or indirectly, or by exercising effective control of that waqf through other means as may be prescribed

171. As waqfs are legal arrangements under Pakistan's law and bear some similarity to trusts, this definition does not align with the requirements of the standard. Nevertheless, only the law of KPK province have applied this definition in their waqf information requirements.

172. The registration requirement imposed by provincial and territorial waqf laws relates to a requirement to register waqf property rather than registering the waqf itself, nevertheless the effect is that a waqf with waqf property is registered. These laws define waqf property as:

> means property of any kind permanently dedicated by a person professing Islam for any purpose recognised by Islam as religious, pious or charitable, but does not include property of any waqf such as is described in section 3 of the Mussalman Waqf Validating Act, 1913 (Act VI of 1913), under which any benefit is for the time being claimable for himself by the person by whom the waqf was created or by any member of his family or descendants

173. The Mussalman Waqf Validating Act recognises waqfs that have, at least temporarily, a private purpose. It does so in section 3:

> It shall be lawful for any person professing the Mussalman faith to create a wakf which in all other respects is in accordance with the provisions of Mussalman law, for the following among other purposes:
>
> (a) for the maintenance and support wholly or partially of his family, children or descendants, and
>
> (b) where the person creating a wakf is a Hanafi Mussalman, also for his own maintenance and support during his lifetime

> or for the payment of his debts out of the rents and profits of the property dedicated:
>
> Provided that the ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purpose recognised by the Mussalman law as a religious, pious or charitable purpose of a permanent character.

174. Section 4 of the same Act is also relevant to the validity:

> No such wakf shall be deemed to be invalid merely because the benefit reserved therein for the poor or other religious, pious or charitable purpose of a permanent nature is postponed until after the extinction of the family, children or descendants of the person creating the wakf.

175. It is therefore unclear whether all waqfs, and particularly those in existence and for the time being having a private purpose, would be subject to the registration requirements of each of the provincial and territorial laws. The Pakistani authorities state that in practice all waqfs are registered, either under the laws previously applicable or under the new laws. Implementation of the legal framework and the availability of information on waqfs in practice will be examined during the Phase 2 review (see Annex 1).

176. Other than the details described in the KPK province law as mentioned in paragraph 169, the rules for information to be provided at registration and the rules for obtaining, holding and updating that information have not yet been prescribed by the provincial and territorial laws. **Pakistan should ensure that beneficial ownership information required to be available under the waqf laws is in line with the standard**.

177. Pakistan's AML framework also provides a basis for the availability of beneficial ownership of local and foreign trusts and waqfs. The customer due diligence obligations of reporting entities under the AMLA are explained from paragraph 81 and the definition of beneficial owner in the AMLA is provided in paragraph 84. Each of the regulatory authorities responsible for a category of reporting entity has issued regulations expanding on the customer due diligence requirements for identification of the beneficial owners of legal arrangements in substantially the same terms. Specifically:

> For customers that are legal arrangements, the regulated person shall identify and take reasonable measures to verify the identity of beneficial owners as follows:
>
> (a) for trusts, the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership);

(b) for waqfs and other types of legal arrangements, the identity of persons in equivalent or similar positions as specified in (a).

(c) Where any of the persons specified in (a) or (b) is a legal person or arrangement, the identity of the beneficial owner of that legal person or arrangement shall be identified.

178. When read together, the definition of beneficial owner with the customer due diligence requirements of the regulations aligns with the standard for trusts and waqfs.

179. As discussed at paragraph 165, from 2020 trust and company service providers as well as lawyers, notaries, accountants and other legal professions conducting monetary transactions for clients are now reporting entities under the AMLA who are required to apply these customer due diligence requirements. The coverage by the AMLA customer due diligence obligations for persons who may be professional trustees is therefore broad and the potential gap for identity and beneficial ownership information by non-professional trustees that are also not covered by the trust laws or tax law obligations may be narrow. The scope of this potential gap will be examined during the Phase 2 review (see Annex 1).

Oversight and enforcement

180. Trust registration is administered in each province and territory by a government official identified in each respective jurisdiction's law. That official has a range of powers under the law to access records of the trust and to take action against a non-compliant trust. Failure to provide access to records or violating the purpose of the trust is subject to a penalty of up to PKR 1 000 000 (EUR 5 061). A trustee who fails to register a trust, or failing to renew the registration of the trust, is not directly sanctioned. However, the failure may lead to proceedings by the relevant government official leading to extinguishment of the trust, which may in turn be characterised as a breach of duty to the trust by the trustee. A trustee who breaches the trust is liable to make good any loss of trust property or loss of a beneficiary through a breach of trust.

181. On 30 June 2020, which is the last day of the 2020 tax year, there were 7 510 trusts and non-profit organisations registered with the FBR. Tax returns from trusts for the 2020 tax year were due by 31 December 2020, and by November 2021 the number of trusts and non-profit organisations who had filed a tax return for 2020 was 4 570. For registrations with the provincial and territorial authorities (which includes registrations made under the previous trust and waqf laws), at February 2022 there were 2 305 trusts and 2 736 waqfs.

182. Enforcement and oversight of AML obligations including those relevant to trusts are described in paragraph 117.

Availability of trust information in practice

183. Peer input did not identify any requests for identity or beneficial ownership information on trusts during the review period. The implementation of the legal framework and the availability of information on trusts in practice will be examined during the Phase 2 review.

A.1.5. Foundations and similar entities

184. Pakistan's law does not provide for foundations but does provide for the creation of associations with charitable and not for profit objects. These associations can be established only for promoting commerce, art, science, religion, health, education, research, sports, protection of the environment, social welfare, charity or any other useful object. The rules of such an association must prohibit the payment of dividends to members and it must intend to apply any profit or income only to promoting its objects. In case of winding up or dissolution of the association, any assets or property can only be transferred to another entity with the same or similar objects.

185. An association of this kind has to be registered and licensed by the SECP. Memorandum and Article of Association must be provided upon registration in a form that is in accordance with a form provided in the Companies Act or as near thereto as admitted and approved by the SECP. The Memorandum of Association must identify the founders of the association. Membership is not transferable, although members may subsequently join or leave. Annual returns and financial statements must be filed, which provide updated information on the association's representatives.

186. These associations established under Pakistan's law are not relevant entities under the Terms of Reference for the review. Nevertheless, information on their founders and representatives is held by the SECP. No other entities or legal arrangements not already covered in this report have been identified.

A.2. Accounting records

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

187. The 2016 Report concluded that the legal and regulatory framework on the availability of accounting records and underlying documentation was in place in respect of all relevant legal entities and arrangements. All relevant

entities involved in economic activities in Pakistan were required under the commercial laws and tax law to keep accounting records that correctly explain the entity's transactions, enable it to determine the entity's financial position with reasonable accuracy at any time and allow financial statements to be prepared. The requirements under the Companies Act and Trusts Act were supplemented by obligations imposed by the tax law. Tax accounting requirements supported by commercial laws required underlying documentation to be available in Pakistan in line with the standard for keeping and maintaining underlying documentation.

188. The accounting and record-keeping requirements in substance have not changed, although provisions in the former Companies Ordinance were transferred to the Companies Act in 2017 and the provisions in the former Trusts Act were transferred to the trust law of each province and territory in 2020 or 2021.

189. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Pakistan in relation to the availability of accounting 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.

The Phase 2 recommendation issued in the 2016 Report is reproduced below for the information of readers.

Deficiencies identified/ Underlying factor	Recommendation
Although Pakistani authorities carry out supervisory and enforcement measures focused on availability of accounting information, these do not result in sufficient levels of compliance to ensure that the relevant accounting information (including underlying documentation) is in all cases available in practice.	Pakistan should take further measures to ensure that accounting information in respect of the relevant entities and arrangements is practically available as required under the international standard.

A.2.1. General requirements

190. In Pakistan, the requirement to keep accounting records and their underlying documentation in the standard is ensured by a combination of obligations set in tax law and the specific laws governing each type of entity.

Company Law

191. Every company including an inactive company as defined under the Companies Act and discussed at paragraphs 62 and 63, is required to prepare and keep, at its registered office, books of account and other relevant books, papers and financial statements for every financial year, which give a true and fair view of the state of affairs of the company. The directors may decide to keep these records at another place in Pakistan, but the company must notify the registrar of the details of that place within seven days of the directors' decision to keep at that other place (section 220). The records must be retained for ten years, or if the company has existed for less than ten years, for the full period that it has existed. This includes all vouchers relevant to any entry in the books. For companies that cease to exist, the retention requirements are as discussed in paragraph 75 (five years from dissolution) and the persons responsible are as described in paragraph 77.

192. The company (including an inactive company) must prepare annual financial statements for submission at its annual general meeting and the statements must be prepared in accordance with accounting standard specified in the Companies Act. Listed and larger companies must apply International Financial Reporting Standards and smaller companies may alternatively use Accounting and Financial Reporting Standards applicable in Pakistan. These will include, among other things, statements of assets and liabilities, a profit and loss statement and a balance sheet. Prior to 1 December 2021, only companies with paid up capital of more than PKR 1 000 000 (EUR 5 061) were required to have their financial statements audited, and these constituted 45% of all companies. From 1 December 2021, all companies are subject to this requirement.

193. Shortly after adoption of the statements at the meeting, all companies (including inactive companies) with paid up capital of more than PKR 1 000 000 (EUR 5 601) must forward a copy of the financial statements and all annexures to the registrar at the SECP Companies Registration Office of its registration.

194. Every director, the chief executive and the chief financial officer who by act or omission causes default with any of the above requirements is liable for a fine up to PKR 100 000 (EUR 51) and imprisonment up to one year. Sanctions are higher in the case of listed companies.

195. A foreign company with a place of business in Pakistan or carrying on business through an agent or other means must annually prepare audited financial statements in respect of its operations in Pakistan and file these with the registrar. Section 449 of the Companies Act imposes upon a foreign company the same requirements to retain a copy of its books of account and supporting documentation at its place of business in Pakistan as applies to domestic companies. The form and content of these financial statements must as nearly as possible follow that which it would have been required to file if those operations were conducted by a company formed and registered in Pakistan. In addition, it must also file a statement of financial position and a profit and loss account of the company overall (section 437 of the Companies Act). The filing deadline is 45 days from filing similar documents in its country of incorporation, or 180 days from the end of the accounting period, whichever is earlier. Failure to comply renders the company and every officer or agent authorising or permitting the default liable to a penalty of PKR 25 000 (EUR 140) and PKR 500 (EUR 3) for each continuing day of default.

Partnership and trust law

196. A limited liability partnership is required by the LLPA and related regulations to maintain books of accounts at its registered office. The books must be audited, annual, prepared on an accruals basis and based on double entry accounting. An annual statement of accounts must be prepared within four months from the end of the year. The SECP has the power to require the statements to be filed, though has not yet done so broadly or for any class of limited liability partnerships. The books must account for all money received and expended, the assets and liabilities, costs of goods purchased and sold and inventories. The books for the ten years preceding the current year must be retained. Any failure to comply with these requirements renders the limited liability partnership liable to a fine up to PKR 2 000 000 (EUR 10 121) and the designated partner(s) (see paragraph 124) may be fined up to PKR 1 000 000 (EUR 5 601). In the case of dissolution of a limited liability partnership, the designated partner(s) at the time of dissolution remain liable as if the partnership had not been dissolved.

197. There are no direct requirements in the Partnership Act in relation to records for general partnerships, either for maintenance or retention. However, the partners have an interest and obligation to account to each other for the operations of the partnership, and are subject to the tax obligations described below.

198. Each of the trust laws oblige trustees to keep clear and accurate accounts of the trust property and its income. Beneficiaries are entitled on request to require a trustee to submit them with full and accurate information

as to the amount and state of the trust property. A trustee is liable to any losses caused to the beneficiary or to the trust's assets by a breach of his/her duties. The trust laws require trustee(s) to have the accounts audited and to submit financial reports to the provincial or territorial authority responsible for administering the trust law. The trustee(s) are required to retain these records for five years after their involvement with the trust ceases or the trust is extinguished. In the case of a trust that comes to an end, the trustee(s) at the time of cessation are responsible for retaining the records. Similar accounting obligations and record retention requirements apply in respect of waqfs covered by the provincial and territorial waqf laws, noting that the person responsible for administering the waqf property and ensuring that accounts are prepared is a government administrator or a person appointed by and accountable to the government administrator. While the government role with waqfs should ensure that records are required to be available, no sanction has been provided in each trust law for a failure of trustees to comply with these requirements. In addition, the requirement on trustees to submit financial reports to the relevant government authority in each provincial and territorial law is specified to be done "in every financial year" which may lead to uncertainty over the deadline for filing. Pakistan should ensure that sanctions are applicable if a trustee fails to comply with its record keeping and filing obligations under trust law (see Annex 1).

Tax Law

199. The 2016 Report described the record keeping requirements in the Income Tax Ordinance and these remain the same. This includes a requirement on companies, partnerships and trusts to file financial statements with their annual tax return. All persons deriving income from business (including foreign entities and arrangements) must maintain proper accounting records with respect to all receipts and expenses, goods purchased and sold, and assets and liabilities. For this purpose, "income from business" includes profits or gains of any business carried on, income from any trade, profession, sale of goods, provision of services, hire or lease of movable property and management fees. "Business" is defined to include any trade, commerce, manufacture, profession, vocation or adventure or concern in the nature of such activities, but does not include employment.

200. The Income Tax Rules also specify the records to be kept in relation to income from other sources, mainly contracts and transactional documentation necessary to substantiate profits and losses.

201. The tax requirements apply to Pakistan residents in respect of their worldwide income and non-residents with respect to Pakistan source income. This applies to companies and trustees in respect of the trusts. As partnerships are a taxable entity in Pakistan, it also applies to partnerships resident

in Pakistan or deriving income from sources in Pakistan including carrying on business in Pakistan. It therefore covers all relevant partnerships for the purposes of the standard.

202. The Income Tax Ordinance requires the records to be retained for six years after the end of the tax year to which the records relate. This period is extended if records relate to ongoing dispute or court proceedings. Any person who fails to maintain and retain records as required is liable on conviction to a fine of PKR 50 000 (EUR 281). If the failure is deliberate, the person may also be subject to imprisonment for up to two years.

203. The Income Tax Ordinance defines the role of "representative" who is a person made responsible for the performance of the various duties and obligations under that law of the person represented. For a company or partnership (domestic and foreign), the representative includes any director, the manager, secretary, agent, accountant or similar officer. Any person associated with the management or administration of the company or partnership is also a representative if the FBR serves a notice on them to that effect. For a trust, a representative is any trustee of the trust. The Income Tax Ordinance does not relieve representatives from their duties and obligations if the company, partnership or trust ceases to exist, with the exception of liability to payment of tax for which a representative will only be liable in some circumstances. Therefore, each representative will be liable for any failure to retain records required to be kept under the tax laws. There is no requirement that any representative be resident or located in Pakistan.

A.2.2. Underlying documentation

204. The Income Tax Rules provide additional details of the records required for income from business and in relation to income from other sources. Taxpayers with business income are required to maintain, at a minimum, invoices and receipts for each transaction with a description, quantity and value of the goods and services, a daily record of the receipts, sales, payments, purchases and expenses, and the vouchers of purchases and expenses. All such underlying documentation is subject to the same six year record keeping requirement under tax law. In addition to the tax requirements, the accounting documentation required under the Companies Act and the trust laws will necessitate the underlying documentation to be retained for the retention period as for the financial statements for which they provide support, being ten years for companies and five years for trusts. The audits of the accounts required by these laws will also necessitate access to the underlying documentation by the auditors.

Oversight and enforcement of requirements to maintain accounting records

205. The FBR has oversight of the obligations to maintain accounting records under the tax laws. Enforcement occurs as part of its general enforcement of tax obligations, however Pakistan has not provided statistics on the number of these activities carried out. The SECP has oversight of the accounting obligations of companies and limited liability partnerships and during the review period it carried out inspections or examinations of financial statements and books of account in numbers ranging from around 140 for the 2018 financial year to more than 300 for the two subsequent financial years ending 30 June. The trust laws covering each province and territory specify the particular government official responsible for monitoring trustee obligations, and waqfs are managed by a government official themselves or a manager appointed by and accountable to them. Statistics on monitoring activities were not provided. These aspects will be analysed under the Phase 2 review.

Availability of accounting information in EOIR practice

206. Peers provided input on 16 requests for accounting information during the period, some of which covered multiple entities. Pakistan has so far provided responses for less than half of the entities concerned, with efforts continuing on the remainder.

207. The implementation of the legal framework and the availability of accounting information on companies in practice will be examined during the Phase 2 review.

A.3. Banking information

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

208. The 2016 Report concluded that the legal and regulatory framework in Pakistan requires the availability of banking information to the standard. Identity information on all account holders and transaction records continue to be made available through AML obligations.

209. Since the 2016 Report, the standard was strengthened in 2016 with an additional requirement of ensuring the availability of beneficial ownership information on all account holders. As discussed in A.1, an issue was identified with respect to customer due diligence that may affect whether beneficial ownership information held by AML obliged persons is sufficiently up to date. Specifically, there is an absence of any prescribed frequency for updating CDD

on existing customers. Also discussed in relation to A.1, there is more generally a dearth of available guidance on the customer due diligence procedures to be carried out, including some aspects of beneficial ownership identification and this lack applies to the banking sector. Pakistan is recommended to take suitable actions to address this gap in its legal framework.

210. 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
There is no specified frequency for banks to update customer due diligence; so there could be situations where the available beneficial ownership information is not up to date. There is also more generally a lack of comprehensive guidance from the State Bank of Pakistan on customer due diligence procedures and the application of the beneficial ownership information definition.	Pakistan should ensure that, in all cases, complete and up-to-date beneficial ownership information for all bank accounts is 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.3.1. Record-keeping requirements

Availability of banking information

211. Banks are subject to the accounting requirements as explained under A.2 and must keep proper accounting records that show and explain the transactions of the company.

212. The SBP is the regulatory and supervisory body for banks operating in Pakistan. Banks are required to be licensed with the SBP under the Banking Companies Ordinance and are required by that law to keep proper accounting records of all transactions, including deposits. Banks are prohibited from removing any records relating to their business to a place outside of Pakistan without prior permission in writing from the SBP.

213. In addition, under the AMLA all banks are subject to AML obligations as reporting entities. A new record keeping provision was added to the AMLA in 2020 (section 7C) that requires reporting entities to keep records of all transactions for at least five years from the date of the relevant transaction and for all other records relating to a business relationship including customer due diligence records and records of analysis carried out for the due diligence, for five years following termination of the business relationship. Regulations issued by the SBP which apply to banks have extended the retention period for transaction and all other business relationship records to ten years. This period is further extended if records are relevant to ongoing litigation or are required to be retained by order of a court or competent authority. The regulations require that records must permit reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the identifying number of any account involved. The regulations also require banks to make these records available to competent authorities on enquiry or order as soon as possible.

214. All reporting entities are prohibited by section 7E of the AMLA from opening or maintaining anonymous accounts or accounts in the name of fictitious persons. Regulation 2(12) of the SBP Regulations prohibits the opening or maintenance of numbered accounts. The AMLA permits reliance on a third party to perform customer due diligence if conducted in a prescribed manner and the SBP has prescribed the requirements for third party reliance by their respective reporting entities that meet the standard (see paragraph 95).

Beneficial ownership information on account holders

215. The standard was strengthened in 2016 to specifically require that beneficial ownership information be available in respect of all account holders.

216. As explained under Element A.1 with regard to the availability of beneficial ownership information for companies under AML law, the AMLA establishes Pakistan's AML legal framework. Banks are required, under that framework, to ensure that beneficial ownership information on all of their customers is obtained and verified in accordance with the prescribed CDD measures. These requirements apply for all customers – Pakistani or foreign – legal persons and arrangements including partnerships and trusts. In the case of foundations, as explained at Element A.1.5 the creation of these are not provided for by Pakistan law. In the event that a foreign foundation seeks a business relationship with a bank, the bank's CDD may depend on identification of the foundation as either a legal person or legal arrangement with procedures applicable accordingly, however there is no guidance available from the SBP on this subject. The prevalence of foreign foundations operating in Pakistan and the CDD practices in relation to such entities or arrangements will be examined in Phase 2 of the review (see Annex 1).

217. The obligations on banks to keep customer due diligence up to date is discussed at paragraph 91. The AMLA requires banks to monitor the business relationship on an ongoing basis. The SBP regulations provide some further detail on the meaning of ongoing including periodical updating of the customer due diligence and periodic review of the adequacy of the information and monitoring of transactions to ensure that these are consistent with the bank's knowledge of the customer.[33] However, no specific timeframes have been provided in the AMLA, regulations or guidance from the SBP. More generally, the SBP has not issued comprehensive guidance on customer due diligence procedures including understanding the application of the beneficial ownership information definition (see also paragraphs 86 to 93, 151 and 216). **Pakistan should ensure that, in all cases, complete and up-to-date beneficial ownership information for all bank accounts is available in line with the standard**. The steps that banks take in practice to keep beneficial ownership information up to date and measures taken by Pakistani authorities to ensure that such information is up to date and accurate will be examined in Phase 2 of the review.

Oversight and enforcement

218. The SBP regulates banks in Pakistan under the Banking Companies Ordinance. The AMLA also specifies the SBP as the regulatory authority for all reporting entities licensed or regulated by the SBP, so it is responsible for supervising and enforcing the AML obligations of banks.

219. The scope of the sanctions on non-compliance under the AML framework are described in paragraph 117. The actual imposition of penalties by the SBP is done under the powers provided by section 83(5) of the Banking Companies Ordinance for contravention of regulations issued by the SBP, which provides for a fine of up to PKR 200 000 (EUR 1 120) and if continuing in contravention, a further PKR 10 000 (EUR 56) per day. The fine may be applied to every director or other officer of the company and any other person knowingly a party to the contravention.

220. The SBP has a range of supervisory and enforcement powers under the Banking Companies Ordinance. Under section 41, it may issue directions to banking companies generally or to any banking company specifically, which must be complied with. Failure to comply with a direction renders every director and officer of the bank that is knowingly a party to the non-compliance liable to the fine provided by section 83(5) mentioned above. It may issue orders for the removal of directors and officials of a bank when in the public interest or to secure the proper management of the bank

33. The wording of Regulation 2(21) uses a mix of "may" and "shall", leading to uncertainty on the application of these requirements.

(section 41A). In the three years ending March 2021, the SBP carried out 77 full scope inspections, 8 thematic reviews (each thematic review covers a number of banks) and 19 focused, follow-up or special inspections.

Availability of banking information in EOI practice

221. Peers provided input on seven requests for banking information during the period and for two of these requests no information was received.

222. The implementation of the legal framework and the availability of banking information in practice will be examined during the Phase 2 review.

Part B: Access to information

223. 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).

224. The 2016 Report concluded that the Competent Authority in Pakistan has broad access powers to obtain all types of relevant information, including ownership, accounting and banking information from any person in order to comply with obligations under Pakistan's EOI instruments. These access powers can be used regardless of domestic tax interest. In case of failure on the part of the information holder to provide the requested information, the Competent Authority has adequate powers to compel the production of information. Finally, secrecy provisions contained in Pakistan's law are compatible with effective exchange of information.

225. The legal framework in respect of the access powers of the Competent Authority continues as before. There have been no administrative rulings or judicial decisions related to accessing information for exchange, other than the resolution of an incidental court case mentioned in the 2016 Report that is explained below at paragraph 231 and has no impact on the findings in this report. No special procedures are required for accessing information necessary for international exchange; the same powers and procedures are used as for accessing information for domestic purposes. No case has been identified for the review period of a failure to provide requested information that was due to any deficiency in access powers.

226. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Pakistan in relation to access powers of the competent authority.

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 and B.1.2. Ownership, identity, accounting and banking information

Accessing information generally

227. The competent authority in Pakistan for EOI purposes is the Federal Board of Revenue (FBR). The FBR is an independent government body and the powers of the FBR are generally exercised or delegated by a Commissioner.

228. The FBR may by notice in writing require any person whether or not liable for tax under the Income Tax Ordinance to furnish any information relevant to fulfilling an obligation under an international agreement as specified in the notice; or to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or an authorised officer concerning the tax affairs of that person or any other person and, for that purpose, the Commissioner or authorised officer may require the person examined to produce any accounts, documents, or computer-stored information in the control of the person (section 176). The power to obtain and collect information for the purposes of international agreements is reiterated in section 107(1A) and relevant agreements are defined broadly to mean tax treaties, tax information exchange agreements, multilateral conventions, intergovernmental agreements and any similar arrangement or mechanism. This covers all of the DTCs and regional or multilateral agreements described at Annex 2 and any that might be foreseen for the future.

229. The exercise of these powers for the purpose of any such agreement is expressly stated to prevail over any other law in Pakistan (section 107(1A)). This is reaffirmed by section 176(5), which also expressly states that the power has effect notwithstanding any law or rules relating to privilege or the public interest in relation to the production of accounts, documents, computer-stored information or the giving of information. This includes any constraints under banking law, which in any case has recognised the primacy of tax access powers by providing that the restriction on divulging customer

information under the Banking Companies Ordinance is subject to exception where it is necessary in accordance with law. The AMLA has a confidentiality provision applying to information furnished to investigating agencies or officers under or pursuant to that Act, specifically suspicious or currency transaction reporting requirements under the AMLA. The access powers relied upon for EOI purposes are not access powers under the AMLA and are therefore not constrained by the AMLA confidentiality provision.

230. The powers under sections 107(1A) and 176 are in practice the powers commonly used for exchange of information purposes. Section 107(1A) expressly provides that the powers to obtain and collect information for EOI purposes override anything contained in any other law to the contrary including confidentiality restrictions. The powers have primacy when seeking banking information, beneficial ownership information from any holder of such information, for accounting records or for anything requested by an exchange partner. Initiating the use of these powers is not subject to authorisation or other special procedures external to the FBR. The same powers are used to obtain information from government authorities and nongovernment sources.

231. The 2016 Report noted that there was an ongoing court case relating to a requirement in the Income Tax Ordinance for banks to provide to the FBR various transaction details when amounts exceeded certain thresholds (section 165A). The question to be resolved was whether this broad provision was an allowable exception to the banks' contractual obligations to their clients. At the time, the Pakistan authorities stated that it was not probable that the court would decide in favour of the banks challenging the tax requirement and in any event it was a different provision to those applicable to access powers for exchange of information. The 2016 Report concluded that a negative decision should not have any impact on access to banking information under section 176 and only recommended in-text that Pakistan monitor developments to ensure that Pakistan's access powers remain applicable to banking information to meet exchange obligations. Subsequently the court disposed of the case after the Pakistan Banks Association reached agreement with the FBR on providing the information. Therefore, to the extent that any uncertainty existed, it has been resolved.

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

232. There are no domestic tax interest restrictions on the exercise of the access powers by the FBR, as discussed in detail in the 2016 Report (see paragraphs 139-140). It remains the case that the information gathering powers discussed in B.1.1 and B.1.2 are not subject to any domestic tax interest restrictions on their exercise.

233. In practice, during the review period the FBR has obtained information in response to exchange of information requests without distinguishing whether the information was necessary or relevant to domestic tax purposes. No issues were reported by peers in respect of any possible restriction to exchange that would have been based on the application of a domestic tax interest condition.

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

234. If a person fails to provide information requested by the FBR under section 176 of the Income Tax Ordinance they are liable to a fine of up to PKR 25 000 (EUR 140) or imprisonment for a term not exceeding one year, or both (section 182(1)(Item 9) and section 191 of the Income Tax Ordinance). The fine increases to PKR 50 000 (EUR 280) for the second and each subsequent default. Providing inaccurate information is punishable with a penalty of up to PKR 25 000 (EUR 140). If the inaccuracy is deliberate the punishment is a fine of up to PKR 100 000 (EUR 506) or imprisonment not exceeding three years or both (section 192 of the Income Tax Ordinance). The effectiveness of these sanctions in practice will be examined in Phase 2 of the review (see Annex 1).

235. The Commissioner or any officer authorised by the Commissioner, is empowered to enter and search premises in order to enforce any provisions of the Income Tax Ordinance, including for the purposes of fulfilling obligations under an international agreement and impound records, documents and computers as required (section 175). A person denying or obstructing access is liable to a fine of PKR 50 000 (EUR 280). If prosecuted and convicted, the person may also be subject to imprisonment up to one year.

236. Pakistan authorities advise that in practice the main power used to obtain information for exchange of information purposes is by notice to provide information under section 176. During the review period the FBR frequently exercised this power and applied sanctions for non-compliance with the access power on more than 1 000 occasions across companies, partnerships and trusts, although it does not have separate statistics on cases where this related to access for EOI purposes (if any).

B.1.5. Secrecy provisions

Bank secrecy

237. Pakistan's tax law does not allow for exceptions from the obligation to provide information under the formal powers. The tax authority's access and compulsion powers remain applicable notwithstanding professional or any other secrecy rules contained in Pakistan's statutes. Section 175(7) of the

Income Tax Ordinance ensures that the power to enter and search premises has precedent over any rule of law relating to privilege or the public interest in relation to accessing premises or places, or the production of accounts, documents or computers. Section 176(5) provides in similar terms that the power to compel a person to attend, give information or provide documents takes precedent over any law or rules. The primacy of the tax law over secrecy in banking law is also confirmed by section 33A of the Banking Companies Ordinance, which provides that the general obligation not to divulge information relating to customers is subject to the exception where the release of information is done in accordance with law. Therefore, banking secrecy is not an impediment to the access powers of the FBR, as required under the standard and banks have not raised bank secrecy to oppose notices received from the FBR in EOI or domestic cases.

Professional secrecy

238. According to Pakistan's authorities, British common law remains a strong influence on the tradition protecting information held by lawyers acting as attorneys. At common law, the privilege attaches to confidential written or oral communications between professional legal advisers and their clients, or any person representing the client, in connection with and in contemplation of, and for the purposes of legal proceedings or in connection with the giving of legal advice. If an attorney acts in any capacity other than as an attorney, the privilege does not apply.

239. In addition, section 9 of the Qanun-E-Shahadat Order 1984 restricts an advocate from disclosing, without client consent, any communication made to them in the course of their employment as an advocate by or on behalf of the client, or to state the contents or condition of any document or disclose any advice given to the client in the course and for the purpose of such employment.

240. However, as described in paragraph 237, the access powers under the Income Tax Ordinance are applicable notwithstanding privilege under other law or rules in Pakistan. The exercise of these powers is also supported by section 107(2), which gives primacy to any agreement for exchange of information over any domestic law. The effect of this primacy is both to ensure that the access powers prevail over domestic law, but use of the powers is also constrained to the extent necessary to conform with protections in the agreements (see element C.4).

241. The scope of the restrictions for legal privilege are in line with the standard. Legal privilege is not an impediment to the exercise of access powers of the FBR, particularly given the override in the Income Tax Ordinance. No issues were reported by peers or by Pakistan concerning information requests through the period under review.

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.

242. The 2016 Report found that there were no issues regarding prior notification requirements or appeal rights and the element was determined to be in place. This remains the same given no further changes to the legal framework since the 2016 Report.

243. The conclusions are as follows:

Legal and Regulatory Framework: in place

The rights and safeguards that apply to persons in Pakistan 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

244. Pakistan's domestic legislation does not require notification of the persons concerned prior to or after providing the requested information to the requesting jurisdiction. There is no requirement to notify the person who is the object of the request of any of the steps in obtaining the requested information unless the person is the information holder from which the information is requested (see further section B.1.1 and C.3.1).

245. The Income Tax Ordinance has not provided any right of appeal over use of the access powers under that Ordinance. However, any action of a government authority can be challenged before the High Court under Article 4 of the Pakistan Constitution on the basis that the action is not authorised by law. The Pakistani authorities advise that, as a copy of the access power provisions are generally provided or referenced in any notice or letter issued for the purpose of exercising the powers, they see the possibility of such challenges preventing or delaying the exchange of information as low. Also, as noted above, the tax law does not require the FBR to notify the person who is the subject of the request (other than the holder of the information) nor disclose the purpose for which information is requested. Accordingly, there was no case where appeal or challenge to the High Court was filed against the use

of access powers for exchange of information purposes during the period under review.[34] In summary, Pakistan's legal framework is determined to be in place for ToR B.2.1.

34. There were also no appeals or challenges over use of the access powers under section 176 for domestic purposes.

Part C: Exchange of information

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

247. The 2016 Report concluded that this element was in place, but nevertheless noted that four of Pakistan's EOI agreements did not meet the standard as they lacked wording based on the OECD Model Convention for either Article 26(4) or Article 26(5) of that Convention, or both.[35] An inbox recommendation was made for Pakistan to renegotiate these older treaties to bring them in line with the standard.

248. Since then, Pakistan has brought into force a new DTC with Switzerland that is in line with the standard on these matters. Pakistan also signed the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) on 14 September 2016 and it entered into force in Pakistan on 1 April 2017. The entry into force of the Multilateral Convention allows for full exchange with Austria, Germany and Kazakhstan and therefore effectively addresses the recommendation.

249. Pakistan's EOI network now includes 158 jurisdictions, and all three bilateral agreements entered into since the 2016 Report are in line with

35. The DTCs with Austria, Germany and Switzerland for Article 26(4) and Austria, Kazakhstan and Switzerland for Article 26(5).

the standard.[36] At the cut-off date for this report, there were no bilateral agreements signed but not yet in force.

250. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

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

251. Pakistan has been automatically exchanging financial account information since 2018 in application of the Common Reporting Standard. Pakistan has received spontaneous exchanges of information, but has not sent information spontaneously.

C.1.1. Standard of foreseeable relevance

252. The 2016 Report found that 57 of Pakistan's DTCs provided for exchange of information that is "foreseeably relevant", "necessary" or "relevant" to the administration and enforcement of the domestic laws of the contracting parties. It concluded that these agreements met the standard for foreseeable relevance. In addition, it found that another five DTCs contained wording providing for exchange of information that is necessary for carrying out the provisions of the Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes that are the subject of the Convention. It concluded that this wording should not restrict effective exchange of information as it appears to provide for the same scope of exchange of information, an interpretation to which the Pakistan authorities were in agreement.

253. Of the five DTCs noted in the 2016 Report as containing wording providing for exchange of information that is "necessary", there is now a replacement DTC in force between Pakistan and Ireland with wording that meets the standard of foreseeable relevance. Exchanges with Malaysia, Poland and the United Kingdom may now occur under the Multilateral Convention.

36. New DTCs have entered into force with Bulgaria, Hong Kong (China) and Switzerland.

254. The last of the five mentioned in the 2016 Report providing for exchange of information that is "necessary", the DTC with the United States, retains the language noted in the 2016 Report. The DTC with Brunei Darussalam and the regional SAARC regional Agreement[37] under which exchange may occur with Bhutan were not examined in the 2016 Report, and these also have similar wording. Pakistan's authorities have reaffirmed that Pakistan interprets this alternative formulation in all of these agreements as equivalent to the term "foreseeably relevant". None of these peers raised concerns with the application of the foreseeable relevance requirements during the period under review. As a result, these agreements are considered as meeting the standard of foreseeable relevance.

255. The 2016 Report also noted that three other DTCs, namely those with Austria, Germany and Switzerland, did not meet the standard on foreseeable relevance. Since the 2016 Report, a replacement DTC has come into force between Pakistan and Switzerland that meets the standard on foreseeable relevance. Pakistan also now has full exchange with Austria and Germany through the Multilateral Convention that is in force in respect to each of these parties.

256. All of the new EOI agreements that Pakistan has signed or that have come into force since the 2016 Report meet the standard of foreseeable relevance in their EOI Article.

257. All exchange of information requests are scrutinised for foreseeable relevance centrally by the office of the Secretary of Exchange of Information. Pakistan states that it has procedures for carrying out this scrutiny, although no formal guidelines have been issued. In the three year period ending March 2021 Pakistan made 26 requests for clarification and declined 2 requests on grounds of not meeting the standard of foreseeable relevance. The procedures that Pakistan follows in relation to deciding on foreseeable relevance will be examined further during the Phase 2 review (see Annex 1).

Group requests

258. Pakistan's EOI agreements and domestic law do not contain language prohibiting group requests. While Pakistan did not receive any group requests during the review period, it has described procedures for responding to group requests that are consistent with those applicable to ordinary, non-group requests.

37. South Asian Association for Regional Co-operation Multilateral Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in Tax Matters (SAARC regional Agreement).

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

259. The 2016 Report determined that four of Pakistan's DTCs[38] and the SAARC regional Agreement did not explicitly provide that the EOI provision was not restricted by the equivalent Article 1 of the Model Taxation Convention (on residency) in each of those agreements. The DTCs with these jurisdictions provide for the exchange of information as is necessary for carrying out the provisions of the domestic laws of the Contracting States, or similar language. To the extent that the domestic tax laws are applicable to non-residents as well as to residents, information under these agreements can be exchanged in respect of all persons and the agreements meet the standard. Moreover, three of the four DTC jurisdictions and two of the six SAARC partners are also signatories to the Multilateral Convention, which explicitly provides for EOI in respect of all persons.

260. EOI agreements entered into since the 2016 Report allow for EOI with respect to all persons.

C.1.3. Obligation to exchange all types of information

261. The 2016 Report noted that 64 of the 65 DTCs agreements in force at that time did not contain language akin to Article 26(5) of the OECD Model Tax Convention.[39] Additionally, although not noted in the 2016 Report, the SAARC regional Agreement with which Pakistan may exchange information with a further three partners also does not contain such language. The absence of this language does not automatically create restrictions on exchange of bank information, however it means that there is not a clear obligation to exchange all types of information including banking information. In particular, information that is not accessible under the domestic laws of the requesting jurisdiction might not be provided if requested under these agreements.

262. Pakistan's domestic law does not contain restrictions on access to the relevant types of information, however the possibility may occur in the domestic laws of some of Pakistan's partners. The 2016 Report found that some relevant restrictions had been identified in the reviews of Austria and Kazakhstan in relation to banking information. The possibility of domestic restrictions also remained open in respect of other partners of Pakistan that had not yet been reviewed by the Global Forum. Therefore Pakistan was

38. DTCs with Bahrain, Tunisia, Ukraine and Uzbekistan.
39. DTCs with Brunei Darussalam and the Czech Republic were erroneously listed in Annex 2 of the Report as not being in force at that time. The DTC with Brunei Darussalam came into force on 25 December 2009 and is not in line with the standard. The DTC with the Czech Republic came into force on 30 October 2015 and is in line with the standard.

recommended to continue to renegotiate its DTCs to incorporate wording in line with Article 26(5) of the OECD Model Tax Convention.

263. Since the 2016 Report, Austria and Kazakhstan have made changes to their domestic laws that mean that the DTCs that Pakistan has with these partners are no longer subject to the same degree of uncertainty over exchange of banking information. To the extent that other partners of Pakistan have been subject to reviews by the Global Forum since the 2016 Report, no further partners have been identified as having domestic law restrictions that might affect the ability to exchange any of the types of information required under the standard. All DTCs concluded after the 2016 Report have provisions in line with the standard.[40]

264. The Multilateral Convention has also been signed by Pakistan and has entered into force since the 2016 Report. The potential scope of the issue has therefore narrowed to those DTCs and parties to the SAARC regional Agreement where the partner is not also a party to the Multilateral Convention and the partner has not yet been reviewed by the Global Forum. Specifically this is Bhutan under the SAARC regional Agreement; and for DTCs the relevant partners are Bangladesh, Belarus, Egypt, Iran, Kyrgyzstan, Libya, Nepal, Sri Lanka, Syria, Tajikistan, Turkmenistan, Uzbekistan, Viet Nam and Yemen. In addition, there is a DTC of this nature with the Philippines who has signed but not deposited the instruments of ratification of the Multilateral Convention. Pakistan has not received requests for banking information from any of the countries mentioned in this paragraph (before, during or after the review period). Pakistan is unable to confirm that the absence of language akin to Article 26(5) of the OECD Model Tax Convention would not cause any such future request to be declined in the absence of reciprocity. Pakistan should renegotiate its older treaties to bring them fully in line with the standard (see Annex 1).[41]

265. Notwithstanding the inability to confirm that a request would not be denied due to the absence of language akin to Article 26(5) of the OECD Model Tax Convention in a relevant agreement, the Pakistani authorities have advised that no EOI request has ever been declined on these grounds to date. No issues related to this have been reported by peers.

40. DTCs with Bulgaria, Hong Kong (China) and Switzerland that were signed after the 2016 Report have subsequently come into force and are in line with the standard. A DTC with Ireland signed before the 2016 Report that came into force afterwards is also in line with the standard.

41. Of the countries listed in this paragraph who are not parties to the Multilateral Convention, Pakistan is in negotiation with, or at least has requested negotiations on revision of the Agreement in relation to language akin to Article 26(5) of the OECD Model Tax Convention with all except Kyrgyzstan and Syria.

C.1.4. Absence of domestic tax interest

266. 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.

267. The circumstances of Pakistan's EOI agreements in relation to domestic tax interest are the same as described for element C.1.3. In 2016, 64 of the 65 DTCs agreements did not contain language akin to Article 26(4) of the OECD Model Taxation Convention. Additionally, although not noted in the 2016 Report, the SAARC regional Agreement also does not contain such language.

268. The absence of a provision similar to Article 26(4) of the OECD Model Taxation Convention does not automatically create restrictions on access and provision of the requested information, however it means that there is not a clear obligation to exchange the requested information if the requested jurisdiction does not have a domestic interest in obtaining such information.

269. There are no domestic tax interest restrictions in Pakistan in respect of obtaining and providing information requested under EOI agreements (see element B.1). All agreements concluded after the 2016 Report have provisions in line with the standard. This includes the Multilateral Convention and therefore the scope of any potential domestic tax interest issue has narrowed to only those countries mentioned in paragraph 264.

270. The Pakistani authorities have advised that no EOI request has ever been declined on the grounds that the information requested is not of domestic tax interest. While no requests for information of this nature were received during the review period, requests from two jurisdictions listed in paragraph 264 were received in earlier years and Pakistan provided the requested information in both cases. Pakistan confirms that it will continue to follow this approach in the event of any future requests. No issues related to this have been reported by peers.

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

271. Pakistan's network of agreements provide for exchange in both civil and criminal matters, with no dual criminality restriction. No issues related to this have been reported by peers. Pakistan has confirmed that it has received requests on criminal matters and has not declined any of these for any lack of dual criminality.

C.1.7. Provide information in specific form requested

272. Pakistan's network of agreements have no restrictions that would prevent it from providing information in a specific form. Pakistan states that there were no cases where information was requested in a specific form during the review period.

C.1.8 and C.1.9. Signed agreements should be in force and be given effect through domestic law

273. The 2016 Report stated that all of Pakistan's signed DTCs were in force except for those with Brunei Darussalam and the Czech Republic. Those DTCs are now understood to have been in force at the time of the 2016 Report. A replacement DTC with Ireland had been signed and came into force soon after the 2016 Report.

274. Since then, Pakistan has signed the Multilateral Convention, two new DTCs with Bulgaria and Hong Kong (China), and a replacement DTC with Switzerland. All of these agreements are now in force and no undue delays occurred in the processes. Pakistan has no EOI agreements signed but not yet in force.

275. Pakistan has the legislative and regulatory framework in place to give effect to all of its current agreements, principally through section 107 and other supporting provisions of the Income Tax Ordinance as described under elements B.1.1 and B.1.2.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	158
In force	150
In line with the standard	135
Not in line with the standard	15 *
Signed but not in force	8
In line with the standard	8 **
Not in line with the standard	-
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	13
In force	13
In line with the standard	-
Not in line with the standard	13
Signed but not in force	0
In line with the standard	0
Not in line with the standard	0

* Bhutan under the SAARC regional Agreement and DTCs with Bangladesh, Belarus, Egypt, Iran, Kyrgyzstan, Libya, Nepal, Sri Lanka, Syria, Tajikistan, Turkmenistan, Uzbekistan, Viet Nam and Yemen (see C.1.3).
** Multilateral Convention not in force in Benin, Burkina Faso, Gabon, Mauritania, Papua New Guinea, Philippines, Rwanda and Togo.

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.

276. Pakistan has a large network of EOI relationships, with 150 in force at the cut-off date for this report. A further 11 relationships are signed and are only pending further action by the partners. Pakistan has EOI relationships with all regional partners, neighbouring countries and its main trading partners, with the exception of Afghanistan.

277. No Global Forum members indicated, in the preparation of this report, that Pakistan refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship to the standard with all partners who are interested in entering into such relationship, Pakistan should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

278. The conclusions are as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Pakistan 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.

279. The 2016 Report concluded that the confidentiality provisions in Pakistan's EOI instruments and domestic laws were in place, but certain aspects of the legal implementation needed improvement. Pakistan has taken action that resolves these issues since that Report by amending its domestic law, to ensure confidentiality is maintained in line with the standard.

280. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of Pakistan 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

281. All of Pakistan's EOI agreements have confidentiality provisions to ensure that the information exchanged will only be disclosed as authorised by the agreements. However, as these treaties were concluded over several decades, their wording varies.

282. The 2016 Report noted that the DTCs with Bosnia and Herzegovina, Denmark, Kyrgyzstan and Norway condition confidentiality of the exchanged information at the level of confidentiality required in the standard by requiring that the information has to be confidential in the party providing the information, which may allow disclosure that goes beyond the standard if such disclosure is allowed in the sending jurisdiction. The DTC with Hungary conditions confidentiality of the exchanged information on confidentiality being requested by the providing jurisdiction. The provisions in these five DTCs are not in line with the standard and Pakistan was recommended to renegotiate the respective provisions.

283. Since then, these provisions have not been amended but the Multilateral Convention has entered into force in Pakistan and exchange with four of the five mentioned partners may occur under that agreement with confidentiality requirements in line with the standard. Furthermore, section 107(1B) of the Income Tax Ordinance provides that information received and sent under any tax treaty, tax information exchange agreement, multilateral convention or similar must be kept confidential. This includes concomitant communication and correspondence related to the exchange. Domestic compliance with this provision in Pakistan's law is required, notwithstanding that the five mentioned DTCs may be more permissive. This therefore effectively aligns confidentiality requirements with the standard so far as Pakistan is concerned. Furthermore, the other partner under such a DTC is also effectively constrained by the DTC from disclosing information that Pakistan now requires to be kept confidential under its domestic law. Nevertheless, Pakistan should renegotiate the relevant provisions to align with the standard (see Annex 1).

284. All agreements concluded after the 2016 Report have provisions in line with the standard.

285. The 2016 Report identified an issue relating to ambiguity over the interaction between domestic confidentiality and treaty precedence provisions. The report noted that while section 107(2) gave precedence to agreements for the avoidance of double taxation or exchange of information in the event of conflict with domestic laws, section 107(1B) explicitly imposed confidentiality obligations in relation to information exchanged under these agreements but made it subject to exceptions listed in section 216(3). Some of those exceptions go beyond what is allowed under the standard and examples were given in the 2016 Report.

286. In 2016, Pakistan amended section 107(1B) to remove reference to the disclosure exceptions in section 216(3).[42] At that point the domestic confidentiality were aligned with the standard, albeit potentially being more restrictive than permitted by the standard in that disclosure was not permitted for any reason. Subsequently Pakistan further amended in 2019 to provide for the exception specified in section 216(3)(a), which allows disclosure:

> to any person acting in the execution of this [Income Tax] Ordinance, where it is necessary to disclose the same to him for the purposes of this Ordinance

287. The effect of this exception is to permit disclosure for any purposes of assessment, collection, enforcement, prosecution and dispute resolution of tax imposed under the Income Tax Ordinance. The combined effect of section 107(1B) and the exception in section 216(3)(a) will also prevent Pakistan from informing a taxpayer or any other person of an inbound request, except to the extent that it is necessary to carry out the request. It is implicit that a taxpayer may be provided with information received by Pakistan under an EOI agreement to the extent that is relevant to explaining the reasons for an assessment or a proposed assessment.

288. Section 107(1B) expressly overrides any rights that a person may have to access information under the Freedom of Information Ordinance.

289. Pakistan has, therefore, removed the ambiguity in section 107(1B) described in the 2016 Report and it is now reconcilable with section 107(2) which gives precedence to the terms of Pakistan's EOI agreements over domestic law. Essentially Pakistan's domestic confidentiality provisions cannot and do not provide for more disclosure than permitted by an EOI agreement. Pakistan's domestic confidentiality restrictions are compatible with the standard.

42. The amendment occurred after the cut-off date for the 2016 Report.

290. A person who discloses any information in contravention of section 107(1B) commits an offence punishable on conviction with a fine of up to PKR 500 000 (EUR 2 800) or imprisonment of up to one year or both. The sanction is applicable to any person who commits the offence and is not contingent on whether that person continues or has ceased to hold a position.

291. 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 to authorise the use of information for purposes other than tax purposes and the tax information may be used for other purposes in accordance with their respective laws. The Multilateral Convention provides for this possibility as well. Pakistan has advised that there are no provisions in the domestic legal framework preventing the FBR from granting authorisation to use the information for other purposes if a requesting partner seeks Pakistan's consent. However section 107(1B) effectively prevents Pakistan making such a request for its own use.

292. There were no cases during the review period where a requesting partner sought Pakistan's consent to use the information for non-tax purposes, however one such request was made after the review period, to which Pakistan granted permission.

C.3.2. Confidentiality of other information

293. The confidentiality restriction imposed by section 107(1B) applies to any concomitant communication or correspondence made under an EOI agreement in equal measure as to any information received or supplied under the agreement, as mentioned in paragraph 283. This means that all other information, such as background documents, communications between the requesting and requested jurisdictions and within the tax authorities, should be treated confidentially.

294. Pakistan provided an example notice used for gathering information from information holders. The notices that are sent out carry general information, including that the request is initiated by a foreign jurisdiction's request for information and the jurisdiction is named. No legal requirement for this practice was put forward. However, disclosing to the third party information holder the foreign tax authority which has made the relevant information request is not necessary for gathering the requested information, and hence it is not in accordance with the Standard. As Pakistan should not disclose to third parties information that is not needed to obtain the information requested, the Phase 2 review will analyse this practice to ensure that

information holders are not unnecessarily subject to confidential information (see Annex 1).

Confidentiality in practice

295. The Pakistan authorities advise that EOI activities are overseen by the Chief, International Taxes, and all exchanged information is routed through his/her office. Responsible staff including support staff are trained on the confidentiality requirements and physical records are stored in locked facilities. Records in electronic form are kept on computers secured by passwords and these computers are also subject to physical security controls. The practical implementation of confidentiality provisions overall will be assessed in the Phase 2 review.

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.

296. Pakistan's EOI instruments ensure that the parties are not obliged to provide information that would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy (*ordre public*), in a manner consistent with Article 26(3)(c) of the Model Tax Convention.

297. The 2016 Report noted that DTCs with Germany, Ireland, Malaysia, Poland, Switzerland and the United States contain wording that no information shall be exchanged that would disclose any trade, business, industrial, commercial or professional secret or any trade process. Essentially, the agreements seem to prohibit the exchange of such information rather than leaving it to the discretion of the requested jurisdiction whether to provide such information. This does not undermine the operation of the standard. In any case, the DTCs with Ireland and Switzerland have been replaced since the 2016 Report with new DTCs that contain model language on this aspect, and exchange under the Multilateral Convention may now occur with those countries as well as Germany, Malaysia and Poland.

298. Disclosure of any communication between an advocate and a client without the client's consent is restricted under section 9 of the Qanun-E-Shahadat Order, but only to the extent that it was in the course of employment as an advocate by or on behalf of the client. Common law privilege may also attach to written or oral communications between professional legal advisers and their clients (see also element B.1.5). The scope of this restriction and privilege is subject to, and is narrowed by, the requirements of Pakistan's EOI

agreements, which are incorporated into Pakistan's law and given primacy over other laws including the Evidence Act through the provisions described in paragraph 237.

299. As was described in the 2016 Report, the EOI agreements concluded by Pakistan at that time met the standards for the protection and rights of taxpayers and third parties. This remains the case with EOI agreements concluded since then. This protection of the rights and safeguards of taxpayers and third parties is in accordance with the standard and does not inhibit access for EOI purposes. Pakistan advises that no EOI requests were received during the review period where issues relating to the rights and safeguards of taxpayers and third parties under this element were engaged.

300. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the information exchange mechanisms of Pakistan in respect of the rights and safeguards of taxpayers and third parties.

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.

301. The 2016 Report assessed the practice of exchange of information of Pakistan for the period January 2012 through December 2014 and rated it as Partially Compliant with the standard. It noted that there were significant delays in the provision of information for a number of requests, with half taking more than a year. Status updates were not systematically provided. It was indicated that the factors contributing to these issues were a lack of rigorous monitoring of deadlines to ensure follow up on pending cases and administrative delays due to transfer of cases between field offices.

302. The implementation of this aspect of the standard is primarily based on practice and will be assessed in the Phase 2 of the review.

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.

The Phase 2 recommendations issued in the 2016 Report are reproduced below for the information of readers.

Deficiencies identified/ Underlying factor	Recommendations
Pakistan was not able to respond in a timely manner in several cases with half of the requests responded to after a year. The main deficiencies relate to handling of requests at the local level and lack of rigorous monitoring and follow-up action by the FBR in cases where information is not provided within the prescribed deadline.	Pakistan should limit any unnecessary delays in obtaining and providing the requested information so that it improves the timeliness of its responses.
Pakistan recently introduced new measures to improve its EOI processes including obligation to systematically provide status updates. However, certain improvements should continue to be done to ensure that the requested information is provided in a timely manner.	Pakistan should monitor recently introduced measures and take further action where necessary to ensure that responses are provided in a timely manner.

C.5.1. Timeliness of responses to requests for information

303. Initial peer inputs received in relation to EOI requests sent to Pakistan from 1 April 2018 to 31 March 2021 and statistics provided suggest that Pakistan is responsive and timely in providing information, although peers have reported multiple instances where only partial information was provided and the scope of the incomplete information included ownership, accounting and banking information. According to peers, full information was provided within 90 days in only a minority of the cases for which peers provided input and less than half of the requests were fully met within 180 days. Status updates do not appear to be routinely provided based on the feedback from peers. A full evaluation of the timeliness of responses for requests for

information, involves issues of practice that will be dealt with in the Phase 2 review of Pakistan.

C.5.2. Organisational processes and resources

304. The structure of the FBR and the role of competent authority were described in the 2016 Report and this remains the same. There has been no increase in EOI staff since then. In practice, it is the office of the Chief (International Taxes) through which EOI requests are routed. The Chief is an official at the Secretary level who is also responsible for other international matters including automatic exchange. The Chief is supported on exchange of information on request by a Second Secretary designated to manage that work, who in turn has four staff to administer exchanges. Manual registers are used for both inward and outward requests in which details of each step of processing are recorded. Details of whether a comprehensive manual or other documented procedures exist have not been provided.

305. There were 56 EOI requests received during the period under review, with an upward trend through the three years that was also continuing the upward trend observed in the 2016 Report.

306. The 2016 ToR includes an additional requirement to ensure the quality of requests made by assessed jurisdictions. During the review period 1 April 2018 to 31 March 2021 Pakistan made 1 042 outbound EOI requests, however this included a very large number of requests in bulk following up on automatic exchange of financial account information and a bulk request following up on certain international data leak cases. The number of outward requests made in the review period when those bulk numbers are excluded was 74.

307. In relation to the bulk requests following up on automatic exchange of financial account information, one peer indicated that there were issues raised on foreseeable relevance and whether all domestic means had been pursued by Pakistan, resulting in a large number of the requests being withdrawn by Pakistan. The quality of outgoing EOI requests will be assessed in the Phase 2 review (see Annex 1).

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

308. There are no factors or issues identified in Pakistan that impose unreasonable, disproportionate or unduly restrictive conditions.

309. An analysis of the organisational process and resources implemented by Pakistan in practice, including whether any unreasonable, disproportionate, or unduly restrictive conditions exist in practice, will be carried out during 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**: Pakistan should ensure that its third party reliance rules are in line with the standard (para. 96).
- **Element A.2:** Pakistan should ensure that sanctions are applicable if a trustee fails to comply with its record keeping and filing obligations under trust law (para. 198).
- **Element C.1.3**: Pakistan should renegotiate its older treaties to bring them fully in line with the standard (para. 264).
- **Element C.2**: Pakistan should continue to conclude EOI agreements with any new relevant partner who would so require (para. 277).
- **Element C.3**: Pakistan should renegotiate the confidentiality provisions in the DTCs with Bosnia and Herzegovina, Denmark, Hungary, Kyrgyzstan and Norway to align them with the standard (para. 283).

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: The supervisory measures taken since 2016 for company law and tax law purposes and their adequacy in respect of the filing of ownership information at registration or subsequently by all companies, including inactive companies (para. 67).

- Element A.1: The retention and availability of records of a company after it is dissolved (para. 78).

- Element A.1: The steps that reporting entities take in practice to keep beneficial ownership information up to date and measures taken by Pakistani authorities to ensure that such information is up to date and accurate (para. 93).
- Element A.1: The oversight and enforcement of AML ownership identification obligations by regulatory authorities in practice (para. 117 and 155).
- Element A.1.2: The existence of bearer shares in Pakistan and, if any, the effectiveness of the measures taken by Pakistan to regularise such shares (para. 122).
- Element A.1.4: Implementation of the legal framework and the availability of information on waqfs in practice (para. 175).
- Element A.1.4: The scope of the gap relating to non-professional trustees of foreign trusts not covered by tax or AML law obligations (see para. 179).
- Element A.3: Prevalence of foreign foundations operating in Pakistan and CDD practices applied to these by banks (para. 216).
- Element B.1.4: The effectiveness of access power sanctions in practice (para. 234).
- Element C.1.1: The procedures for deciding on foreseeable relevance (para. 257).
- Element C.3.2: The practice of disclosing to information holders the name of the requesting jurisdiction, when not needed to obtain the information requested (para. 294).
- Element C.5.2: The quality of outgoing EOI requests (para. 307).

Annex 2: List of Pakistan's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Austria	DTC	4 August 2005	3 January 2006
2	Azerbaijan	DTC	10 April 1996	24 July 1999
3	Bahrain	DTC	27 June 2005	25 September 2009
4	Bangladesh	DTC	15 October 1981	8 July 1987
6	Belarus	DTC	23 July 2004	30 August 2006
5	Belgium	DTC	17 March 1980	2 September 1983
7	Bosnia and Herzegovina	DTC	24 August 2004	7 February 2006
8	Brunei Darussalam	DTC	20 November 2008	25 December 2009
9	Bulgaria	DTC	21 May 2019	20 February 2020
10	Canada	DTC	24 February 1976	15 December 1977
11	China (People's Republic of)	DTC	15 November 1989	27 December 1989
12	Czech Republic	DTC	2 May 2014	30 October 2015
13	Denmark	DTC	22 October 1987	22 October 1987
14	Egypt	DTC	16 December 1995	1 September 1998
15	Finland	DTC	30 December 1994	10 April 1996
16	France	DTC	15 June 1994	1 September 1996
17	Germany	DTC	14 June 1994	30 December 1995
18	Hong Kong (China)	DTC	17 February 2017	24 November 2017
19	Hungary	DTC	24 February 1992	6 February 1994
20	Indonesia	DTC	7 October 1990	28 February 1991
21	Iran	DTC	27 May 1999	24 April 2004

	EOI partner	Type of agreement	Signature	Entry into force
22	Ireland	DTC	16 April 2015	11 October 2016
23	Italy	DTC	22 June 1984	27 February 1992
24	Japan	DTC	23 January 2008	9 November 2008
25	Jordan	DTC	9 March 2006	31 July 2007
26	Kazakhstan	DTC	23 August 1995	29 January 1997
27	Korea	DTC	13 April 1987	20 October 1987
28	Kuwait	DTC	30 June 1998	1 January 1999
29	Kyrgyzstan	DTC	18 January 2005	12 March 2012
31	Lebanon	DTC	31 August 2005	26 June 2008
30	Libya	DTC	9 January 1975	1 March 1976
32	Malaysia	DTC	29 May 1982	11 September 1982
33	Malta	DTC	8 October 1975	20 October 1975
34	Mauritius	DTC	30 September 1994	19 May 1995
35	Morocco	DTC	18 May 2006	8 October 2009
36	Nepal	DTC	25 January 2001	13 July 2010
37	Netherlands	DTC	24 March 1982	4 October 1982
38	Nigeria	DTC	10 October 1989	7 March 1990
39	Norway	DTC	7 October 1986	18 February 1987
40	Oman	DTC	12 June 1999	28 September 2002
41	Philippines	DTC	22 February 1980	24 June 1981
42	Poland	DTC	25 October 1974	24 November 1975
43	Portugal	DTC	23 June 2000	4 June 2007
44	Qatar	DTC	6 April 1999	6 April 2000
45	Romania	DTC	27 July 1999	13 January 2001
46	Saudi Arabia	DTC	2 February 2006	15 November 2006
47	Serbia	DTC	21 May 2010	21 October 2010
48	Singapore	DTC	13 April 1993	6 August 1993
49	South Africa	DTC	26 January 1998	9 March 1999
50	Spain	DTC	2 June 2010	18 May 2011
51	Sri Lanka	DTC	5 October 1981	18 June 1983
52	Sweden	DTC	22 December 1985	30 June 1986
53	Switzerland	DTC	21 March 2017	29 November 2018
54	Syrian Arab Republic	DTC	16 March 2001	18 December 2002

	EOI partner	Type of agreement	Signature	Entry into force
55	Tajikistan	DTC	13 May 2004	30 July 2005
56	Thailand	DTC	14 August 1980	7 January 1981
57	Tunisia	DTC	18 April 1996	5 August 1997
58	Türkiye	DTC	14 November 1985	8 August, 1988
59	Turkmenistan	DTC	26 February 1995	1 July 1998
60	Ukraine	DTC	23 December 2008	26 October 2011
61	United Arab Emirates	DTC	7 February 1993	30 November 1994
62	United Kingdom	DTC	24 November 1986	8 December 1987
63	United States	DTC	1 July 1957	21 May 1959
64	Uzbekistan	DTC	22 May 1995	12 September 1996
65	Viet Nam	DTC	25 March 2004	4 February 2005
66	Yemen	DTC	2 March 2004	6 January 2006

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).[43] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the 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 Pakistan on 14 September 2016 and entered into force on 1 April 2017 in Pakistan. Pakistan can exchange information with all other Parties to the Multilateral Convention.

43. 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 that sets out the amendments separately.

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, Botswana, 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,[44] 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), Jordan, Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), Maldives, Malaysia, Malta, Marshall 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, Paraguay, 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, Thailand, Tunisia, Türkiye, 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, Burkina Faso, Gabon,

44. Note by Türkiye: 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. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye 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 Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Mauritania (entry into force on 1 August 2022), Papua New Guinea, Philippines, Rwanda, Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).[45]

South Asian regional Agreement

Pakistan is also a party to the SAARC Limited Multilateral Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in Tax Matters, which was signed by Pakistan on 13 November 2005 and entered into force in Pakistan from 19 May 2010. The other parties to the agreement are Bangladesh, Bhutan, India, Maldives, Nepal and Sri Lanka. The SAARC regional Agreement provides for administrative assistance between member countries including exchange of information on request.

45. Since 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, as is the case for Pakistan.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and are 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 of 22 April 2022, Pakistan's responses to the EOIR questionnaire and inputs from partner jurisdictions. This assessment was launched in the third quarter of 2021, and peer contributions were received for the period 1 April 2018 to 31 March 2021. Although implementation in practice is not assessed in this report, the assessment team has considered these contributions to confirm the compliance of the legal and regulatory framework.

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Mr Paul Metcalfe, United Kingdom; Mr Abdulmohsen Nasser Alsuhayl, Saudi Arabia; Mr Radovan Zídek, Global Forum Secretariat	Not applicable	May 2015	August 2015
Round 1 Phase 2		January 2012 to December 2014	13 May 2016	July 2016
Round 2 Phase 1	Ms Sophio Tsereteli, Georgia; Ms Beth Mwobobia, Kenya; Mr Ricky Herbert, Global Forum Secretariat	Not applicable	22 April 2022	5 August 2022

List of laws, regulations and other materials reviewed

Anti-money laundering laws

Anti-Money Laundering Act 2010 (AMLA)

Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation Financing Regulations for State Bank of Pakistan's Regulated Entities

Anti-Money Laundering and Combating Financing of Terrorism Regulations for Chartered Accountants Reporting Firms

Federal Board of Revenue Anti Money Laundering and Countering Financing of Terrorism Regulations for DNFBPs

Oversight Regulations for Self-Regulatory Bodies of Accountants, 2020

Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations

Company, partnership, trust and waqf laws

Balochistan Trust Act 2020

Balochistan Waqf Properties Act 2020

Companies Act 2017

Companies Regulations

Companies Distribution of Dividends Regulations

Companies General Provisions and Forms Regulations

Companies (Registration Offices) Regulations

Foreign Companies Regulations 2018

Islamabad Capital Territory Trust Act 2020

Islamabad Capital Territory Waqf Properties Act 2020

Khyber Pakhtunkhwa Trust Act 2020

Khyber Pakhtunkhwa Waqaf Properties Ordinance 1979

Limited Liability Partnerships Act 2017

Limited Liability Partnerships Regulations

Musalman Wakf Validating Act 1913

Partnerships Act 1932

Punjab Trust Act 2020

Punjab Waqaf Properties Ordinance 1979

Sindh Trusts Act 2020

Sindh Trust Rules 2020

Sindh Waqf Properties Act 2020

Tax laws

Income Tax Ordinance

Income Tax Rules

Other laws

Banking Companies Ordinance 1962

The Qanun-E-Shahadat Order 1984 (Law of Evidence)

Annex 4: Pakistan's response to the review report[46]

Pakistan extends its gratitude to the Global Forum Secretariat, Peer Review Group and the assessment team for conducting Pakistan's Second Round of Review on Exchange of Information. Pakistan is committed to address the recommendations received in this review. Pakistan also looks forward to the Phase 2 of the review where Pakistani authorities would like to have detailed discussion with the assessment team on practice side of the standards particularly on A1 and A3. However, Pakistan wishes to place on record Pakistan's perspective on recommendation received on A3.

Pakistan's perspective on A3.

SBP, being a financial sector supervisor, is applying risk based approach and has instructed its Regulated Entities (REs) to apply the same. SBP's AML/CFT/CPF Regulations (Regulation-1, Paragraph-6) require REs to formulate their policies for application of due diligence in light of levels of ML/TF/PF risks identified as low, medium or high in their Internal Risk Assessment Report (IRAR) and/or as prescribed by SBP from time to time.

Moreover, Regulation-2, Paragraph-21 also requires REs to apply following measures for ongoing monitoring of business relationship:

- SBP REs shall ensure update of Customer Risk Profiling (CRP) of their new and existing customers on ongoing basis.
- SBP REs shall ensure update of CDD of their existing customer on periodical basis. The adequacy of information obtained in respect of customers and beneficial owners shall be reviewed periodically and it shall be ensured that the information is kept up to date, particularly for higher risk categories of customers. In this regard, SBP REs shall develop a policy with regard to frequency and procedure of CDD updating in line with CRP.

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

- If customer's profile is revised, the underlying reasons for the revision shall be documented and customer(s) may be contacted for provision of revised/updated information/document etc., if necessary.
- All business relations with customers shall be monitored on an ongoing basis to ensure that the transactions are consistent with the SBP REs knowledge of the customer, its business and risk profile and where appropriate, the sources of funds.

Accordingly, SBP REs have formulated internal policies, which inter alia set frequency for updating customer profile or CDD of their customer as per their risk profiling, ranging from 1-5 years.

SBP verifies implementation of the same by banks through its supervisory activities, including onsite inspection and offsite assessments, and if any discrepancies are observed, necessary enforcement action is taken against the delinquent bank. Hence, frequency is included in internal policies of all SBP REs.

During the onsite visit, if required, Pakistan can provide extracts of banks' internal policies to the reviewers.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request PAKISTAN 2022 (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 2022 Second Round Peer Review Report on the Exchange of Information on Request for Pakistan. It refers to Phase 1 only (Legal and Regulatory Framework).

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