GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

UNITED KINGDOM

2018 (Second Round)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: United Kingdom 2018 (Second Round)

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 150 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

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.

Abbrevations and acronyms

3AMLD	Third EU Anti-Money Laundering Directive
4AMLD	Fourth EU Anti-Money Laundering Directive
ACS	Authorised contractual scheme
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
AUT	Authorised unit trust
CCEW	Charity Commission for England and Wales
CDD	Customer Due Diligence
CIO	Charitable Incorporated Organisation
DTC	Double Tax Convention
EEA	European Economic Area
EEIG	European Economic Interest Groupings
EOI	Exchange of information
EOIR	Exchange of information on request
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
GP	General Partnership
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
HMRC	Her Majesty's Revenue and Customs
LP	Limited partnership

LLP	Limited liability partnership
MLR	Money Laundering Regulations
Multilateral Convention (MAAC)	The Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended
PEP	Politically exposed person(s)
PRG	Peer Review Group of the Global Forum
PSC	People of Significant Control
SAR	Suspicious Activity Report
SBEE Act	Small Business, Enterprise and Employment Act 2015
SLP	Scottish Limited Partnership
TIEA	Tax Information Exchange Agreement
TCSP	Trust or Company Service Provider
UCIS	Unregulated Collective Investment Scheme
2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.
2016 Methodology	2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015.
2016 Terms of Reference (ToR)	Terms of Reference related to Exchange of Information on Request (EOIR), as approved by the Global Forum on 29-30 October 2015.

Executive summary

1. This report analyses the implementation of the international standard on exchange of information on request (EOIR) by the United Kingdom on the second round of reviews conducted by the Global Forum against the 2016 Terms of Reference. It covers both the legal implementation of the standard as at 23 July 2018, as well as its operation in practice, in particular in respect of EOI requests received during the period from 1 April 2014 to 31 March 2017. This second round report concludes that the United Kingdom continues to be rated overall Largely Compliant with the standard. The United Kingdom previously underwent the EOIR peer review through two assessments in the first round of reviews: the 2011 Combined Phase 1 and Phase 2 Report and the 2013 Supplementary Combined Phase 1 and Phase 2 Report. These two assessments were conducted according to the Terms of Reference approved by the Global Forum in February 2010 and were integrated in a report approved in 2013 (the 2013 Report).

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

Element		First Round Report (2013)	Second Round Report (2018)
A.1	Availability of ownership and identity information	**LC**	**LC**
A.2	Availability of accounting information	**C**	**LC**
A.3	Availability of banking information	**C**	**C**
B.1	Access to information	**LC**	**PC**
B.2	Rights and Safeguards	**C**	**C**
C.1	EOIR Mechanisms	**C**	**C**
C.2	Network of EOIR Mechanisms	**C**	**C**
C.3	Confidentiality	**C**	**C**
C.4	Rights and Safeguards	**C**	**C**
C.5	Quality and timeliness of responses	**LC**	**C**
	OVERALL RATING	**LC**	**LC**

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

Progress made since previous review

3. The 2013 Report recommended improvement in respect of three main areas. First, the United Kingdom was recommended to ensure that there were robust mechanisms to identify owners of bearer shares or to eliminate such shares. Second, the 2013 Report found that the formal process to obtain information was complex and caused undue delays to exchange of information (EOI) and recommended the United Kingdom to ensure its procedure for accessing information was compatible with effective international EOI. Third, the United Kingdom was recommended to monitor the then newly established processes to provide status updates to its exchange partners when it was not in a position to provide a full response to requests within 90 days.

4. Since the 2013 Report, the United Kingdom has mostly addressed the recommendation regarding bearer shares. Whilst UK companies no longer have the possibility to issue such shares and a surrender process was put in place to convert any existing bearer shares into registered shares, a small cohort of entities and arrangements (open-ended investment companies and unauthorised unit trusts, which represent approximately 0.01% of legal entities in the UK) are still able to issue bearer shares or equivalent instruments. The UK has recently written to these entities and, based on responses received, the UK is not aware of any entity that has done so in practice.

5. The formal procedure to access information from third parties remains a concern. In the 76 cases where the competent authority needed to seek the tribunal approval to collect the information, the process involved continued to delay effective EOI. To assist requesting jurisdictions sending requests that would require the tribunal approval process, HMRC developed a document that sets out the information that requesting jurisdictions can provide to support that process (in particular when banking information is requested). Several questions contained in the document seem to go beyond the standard. HMRC advised that, whilst it encourages EOI partners to respond to all the questions contained in the document where possible, it does not require requesting jurisdictions to provide all the information stated in the document in order to pursue tribunal approval. HMRC advises that it has never refused a request on that basis. Input from three of the UK's partners also indicated that the procedure to activate formal access powers results in an undue burden on requesting jurisdictions. These jurisdictions felt that they had to provide a considerable amount of details on their domestic investigation to support the UK process. The UK does not believe that the information sought went beyond the standard but, in response to peers' feedback, the UK has now implemented further changes to their communications to ensure that this is clear to all partners. Several peers also indicated delays in obtaining information in relation to requests requiring the formal procedures to access the information in the UK. In July 2018, the UK published a government consultation notifying its intent to reform UK processes for issuing third party

notices, with the aim of significantly reducing the time taken in obtaining information in future.

6. This review also finds that the recommendation regarding status updates has been adequately addressed. The EOI team has closely monitored the status of responses to requests and in the great majority of instances (95.4%) a partial reply or status update was sent where requests could not be replied to within 90 days.

7. As a major global financial centre with a well-developed network of EOI mechanisms, the UK is an important EOI partner to many jurisdictions. Thirty-six EOI partners provided input to this review. The United Kingdom received more than 5 200 and sent over 1 700 EOI requests during the new review period covering a wide variety of information. The most significant EOI relationships for the UK in terms of numbers of inbound requests were with France, India, Poland, Spain and Germany.

8. The UK was capable of responding to the great majority of the requests received in a timely manner, with the exception to some requests where the tribunal approval is required or where the information could not be accessed. EOI partners praised the working relationship established with the UK competent authority, which was considered very co-operative and easy to contact by the peers.

Key recommendation(s)

9. The key areas for improvement relate to the availability of ownership and accounting information and the access to information.

10. In respect of the remaining entities and arrangements other than companies that can still issue shares or units in bearer form, the UK is recommended to ensure that there are robust mechanisms to identify owners of such bearer shares or equivalent instruments.

11. The 2016 ToR established a requirement for beneficial ownership on relevant entities and arrangements to be available. While the UK developed robust legal requirements to ensure the availability of beneficial ownership information for most legal entities and arrangements, those are currently not available in respect of general partnerships; limited partnerships; and Scottish general partnerships having at least one individual partner, when those partnerships do not have an on-going relationship with an AML obliged person in the United Kingdom. Moreover, the UK is recommended to monitor and strengthen its supervision and enforcement measures to ensure that adequate, accurate and up to date beneficial ownership information is available.

12. This report also recommends that the United Kingdom ensures that accounting records and underlying documentation in line with the standard

are available for limited partnerships formed under UK law, including Scottish limited partnerships (other than qualifying partnerships), with no UK resident partner and no business activity in the UK. Moreover, the retention period for records of entities that cease to exist through liquidation (including companies, limited liability partnerships and Scottish partnerships) should be extended to a minimum period of five years.

13. The United Kingdom should also ensure that its procedure for accessing information is timely and does not require EOI partners to provide information beyond the international standard. The United Kingdom should also (i) use its access powers to access information to support a tax debt collection process of its exchange of information partners, when the taxes are covered by the relevant EOI instruments; and (ii) ensure that it can use its information gathering powers to access information from any person within its territorial jurisdiction, including legal persons resident in the UK in the cases where their management or partners are not in the UK's territory.

Overall rating

14. Based on a global consideration of the United Kingdom's compliance with the individual elements, the overall assigned rating for the United Kingdom is Largely Compliant.

15. This report was approved at the PRG meeting on 10-13 September 2018 and was adopted by the Global Forum on 12 October 2018. A follow up report on the steps undertaken by the United Kingdom to address the recommendations made in this report should be provided to the PRG no later than 30 June 2019 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and Ratings	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.	Whilst most entities were prohibited from issuing bearer shares in 2015, a remaining small number of entities and arrangements (i.e. open-ended investment companies and unauthorised unit trusts) can still issue shares or units in bearer form and there are currently no mechanisms to identify the owner of such shares or units.	The United Kingdom should ensure that robust mechanisms are in place to identify the owners of shares or units in bearer form, or to abolish such types of share or unit.

Determinations and Ratings	Factors underlying recommendations	Recommendations
	There is no legal requirement for the maintenance of information on the beneficial owners of general partnerships; limited partnerships; and Scottish general partnerships having at least one individual partner, when those partnerships do not have an on-going relationship with an AML obliged person in the United Kingdom.	The United Kingdom should ensure that beneficial ownership information is available for all limited and general partnerships, including Scottish general partnerships.
Largely Compliant	During the review period, the United Kingdom established the Registry of People of Significant Control, which provides public access to beneficial ownership information. However, the oversight of Companies House concerning the accuracy of beneficial ownership information filed was limited and triggered mainly by third-party complaints. Beneficial ownership information is also required to be kept with AML obliged persons if engaged by an entity or arrangement. However, some of the professional body supervisors have not demonstrated an adequate level of supervision during the review period. In January 2018, the UK created a specific body to ensure that supervisory standards are consistently high across all professional body AML supervisors but the impact of this development could not be fully assessed.	The United Kingdom should continue to monitor and strengthen its supervision and enforcement measures to ensure that adequate, accurate and up to date beneficial ownership information is available.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place but needs improvement.	There are no record-keeping requirements in line with the standard for limited partnerships formed under UK law, including Scottish limited partnerships (other than qualifying partnerships), with no UK resident partner and no business activity in the UK.	The United Kingdom should ensure that accounting records and underlying documentation in line with the standard are available for all relevant legal entities and arrangements.

Determinations and Ratings	Factors underlying recommendations	Recommendations
	Accounting records and underlying documentation for legal entities (including companies, limited liability partnerships, limited partnerships and Scottish partnerships) which cease to exist through liquidation are not required to be maintained for a minimum period of five years.	The United Kingdom should require that accounting records and underlying documentation be maintained for liquidated entities (including companies, limited liability partnerships and Scottish partnerships) for a minimum period of five years.
Largely Compliant		
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place.		
Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place but needs improvement.	The United Kingdom's formal access powers would only apply for purposes of determination or assessment of the tax due by the requesting jurisdiction. As a result, the United Kingdom has not been able to gather information to support the debt collection processes of its exchange of information partners.	The United Kingdom should ensure it has powers to access information to respond to requests for information in relation to enforcement of tax claims from its exchange of information partners, where the taxes are covered by the relevant EOI instruments.

Determinations and Ratings	Factors underlying recommendations	Recommendations
Partially Compliant	The formal process to obtain information (other than information already in the possession of HMRC or information which is voluntarily provided to HMRC) is complex and on average takes 12 months to complete before information is provided to the requesting jurisdiction. This process unduly delayed effective exchange of information during the review period. It has also sometimes created an undue burden to requesting partners, some of whom considered that they had to provide a considerable amount of details on their investigation, which were occasionally beyond the foreseeable relevance standard, to support the UK processes.	The United Kingdom should ensure that its procedure for accessing third party information is compatible with effective international exchange of information in tax matters.
	The United Kingdom did not exercise its formal access powers to reply to some requests regarding UK legal entities where the requested information was kept outside the UK and there were no UK resident directors or partners. Whilst there are applicable sanctions for non-compliance with the maintenance or provision of information in such cases, the UK considers that those sanctions would not be effective to ensure access to information where there is no UK resident director, partner, or other information holder.	The United Kingdom should exercise its information gathering powers to access information from any person within the UK's territorial jurisdiction, including legal persons in the cases where their management or partners are not in the UK territory. If those powers are found to be insufficient to compel the production of the information in practice, the UK should take appropriate measures to ensure that accounting records and underlying documentation can be obtained in all relevant situations in line with the standard.

Determinations and Ratings	Factors underlying recommendations	Recommendations
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.		
Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place.		
Compliant		
The jurisdiction's network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place.		
Compliant		
The jurisdiction's 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.		
Compliant		
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.		
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
	This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.	
Compliant		

Overview of the United Kingdom

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

Legal system

17. The United Kingdom of Great Britain and Northern Ireland (the "United Kingdom" or the "UK") is a political union made up of four constituent nations: England, Scotland, Wales and Northern Ireland.

18. The United Kingdom is a unitary State in which the UK Parliament is the "supreme" legislative authority (that is, able to legislate on any matter and not bound by decisions of its predecessors). The UK does not have a codified constitution, relying instead on a mix of common law (derived from custom and judicial precedent rather than statute) and separate pieces of constitutional legislation. The UK Parliament has devolved certain areas of government to Parliaments or Assemblies in Scotland, Wales and Northern Ireland. With limited exceptions, however, the power to legislate on taxation matters has been reserved to the UK Parliament.

19. Very few areas relevant to the peer review involve devolved powers or legislation specific to a particular part of the United Kingdom. Areas where there are differences include charities and partnership law and are noted in this report.

20. There is no technical difference between ordinary statutes and "constitutional law" in the UK. To remove any possibility of conflict in the case of a tax treaty, the texts of such treaties are incorporated into UK domestic law, which states that the provisions of the agreement shall have effect "notwithstanding any other enactment".

21. The monarch is an integral part of Parliament (as the "Crown-in-Parliament") and gives Parliament the power to meet and create legislation. An Act of Parliament does not become law until it has been signed by the monarch ("royal assent").

22. Secondary legislation is made in the form of statutory instruments, most commonly Orders in Council, regulations, rules and orders, which are issued by Parliament and then approved by Her Majesty by Order in Council, or are approved by a Minister of the Crown.

23. Within the United Kingdom there are three distinct legal systems, each having its own court system and legal profession: England and Wales, Scotland, and Northern Ireland. The legal systems in England and Wales and Northern Ireland are based on a common law tradition. The Scottish legal system is based on a mixture of common and civil law.

24. European Union (EU) law is also a source of law in the UK. Where EU law conflicts with national law, the courts must uphold EU law. However, on 29 March 2017 the UK triggered Article 50(2) of the Treaty of the European Union, signalling that it will leave the EU no later than 29 March 2019. In matters connected to transparency and exchange of information, EU directives have been transposed into national legislation. Additional national legislation would need to be passed in order to modify or terminate existing obligations. Discussions are on-going between the UK and the EU on the nature of the future relationship between the UK and the EU.

25. The Supreme Court has jurisdiction to resolve disputes relating to devolution in the United Kingdom and concerning the legal powers of the three devolved governments (in Scotland, Wales and Northern Ireland) or laws made by the devolved legislatures.

26. The Supreme Court is the highest court in all matters under English and Welsh law, Northern Ireland law and Scottish civil law (although the High Court of Justiciary remains the highest court for criminal law in Scotland).

27. The Prime Minister and Cabinet are formally appointed by the Monarch to form Her Majesty's Government, though the Prime Minister chooses the Cabinet. Northern Ireland, Scotland and Wales each have their own government or Executive. England, the largest country of the United Kingdom, has no devolved executive and is administered directly by the UK government and Parliament on all issues.

Crown Dependencies and Overseas Territories

28. The UK has Overseas Territories, which are under the sovereignty of the UK but do not form part of the UK itself. Most are largely self-governing, each with its own constitution and government, which enacts local laws. Territory constitutions set out the powers and responsibilities of the institutions of government, which for most territories include a Governor or Commissioner appointed by Her Majesty, an elected legislature and Ministers.

29. There are also three Crown Dependencies (the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man). They are not part of the UK but self-governing dependencies of the Crown. They have their own directly elected legislative assemblies, administrative, fiscal and legal systems and their own courts of law.

30. Overseas Territories and Crown Dependencies were not dealt within the UK's first round of peer review reports and are similarly not dealt within this review. Crown Dependencies[1] and Overseas Territories[2] with financial centres are themselves members of the Global Forum and have undergone their own peer reviews.

Tax system

31. Her Majesty's Treasury (HM Treasury) is the UK's Ministry of Finance, and is responsible for all policy on UK taxation and the regulation of the UK's financial services sector, which includes overall co-ordination of UK AML policy jointly with the Home Office.

32. Her Majesty's Revenue and Customs (HMRC) is the UK's tax and customs authority. The majority of national taxes, including income tax, are administered and collected by HMRC. The Commissioners for HMRC are also the UK competent authority for the purpose of exchange of information under tax treaties.

33. The UK tax system is composed of a mixture of taxes on income, capital and consumption. The main sources of taxation law and practice in the UK are:

- EU directives and regulations
- Taxes Acts (statute law)
- Statutory Instruments (secondary legislation)
- Case law
- Statements of practice
- HM Revenue and Customs guidance manuals.

34. Under the UK's tax system, liability to tax is primarily determined by residence status. For individuals, residence in part depends on the amount of time an individual spends in the UK and his or her connections to the UK.

1. These are Guernsey, the Isle of Man and Jersey.
2. These are Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Montserrat and Turks and Caicos Islands.

For example, a person will always be resident if he/she spends 183 days or more in the UK in a tax year (a UK tax year runs from 6 April to 5 April). However, other "non-time" factors can be significant, such as available accommodation, family, economic interests and social ties. An individual cannot become non-resident simply by spending a large amount of time outside the UK. Some individuals (who are UK resident, but not UK domiciled, or not ordinarily resident in the UK) can elect to be taxed under "the remittance basis", which means their foreign source income and gains are only taxed when remitted to the UK. In April 2017, changes were made to the non-domiciled rules so that an individual is treated as domiciled in the UK for tax purposes if he or she meets either one of the two new tests: (i) he or she has been a tax resident in the UK for 15 of the last 20 years; or (ii) he or she was born in the UK and had a UK domicile of origin (this deemed-domiciled status only applies while the individual is UK-resident). Deemed-domiciled individuals will be subject to UK tax on their worldwide income and gains, and their worldwide estate is liable to UK inheritance tax.

35. For companies, UK residence applies if a company is UK-incorporated or if its central management and control are in the UK. The vast majority of UK resident individuals are liable to tax on their income and gains wherever they arise worldwide. This is also true for UK resident companies, with the exception of a small number of companies that have made an election under Section 18A Corporation Tax Act 2009 to exempt the profits and losses of foreign permanent establishments. Non-resident individuals and entities are taxed on income arising in the UK, and on gains on certain assets such as residential property or assets used in a trade.

Financial services sector

36. The UK is the largest net exporter of financial services in the world, exporting GBP 60.7 billion net in 2016.[3] The UK's financial services industry plays an important role in the UK economy, contributing GBP 124.2 billion in gross value added (GVA) in 2016, 7.2% of the UK's total GVA.[4] The financial

3. Balance of payments time series data, Office for National Statistics; June 2017; https://www.ons.gov.uk/timeseriestool?query=&topic=%2Feconomy%2Fnationalaccounts%2Fbalanceofpayments&updated=&fromDateDay=&fromDateMonth=&fromDateYear=&toDateDay=&toDateMonth=&toDateYear=&size=10.

4. Financial services: contribution to the UK economy, House of Commons Library; March 2017; http://researchbriefings.files.parliament.uk/documents/SN06193/SN06193.pdf (based on ONS data).

services industry also contributed GBP 71.4 billion in tax in the financial year 2015/2016, 11.5% of total UK Government tax receipts.[5]

37. The UK has the leading share of trading in many international financial markets with, for example, a 37% share of global foreign exchange trading, which means that more foreign exchange takes place in the UK than anywhere else.[6] In 2016, the average daily turnover in the UK's foreign exchange market was USD 2.4 trillion.[7]

38. The UK financial services sector includes banking, insurance, asset management, consumer credit firms, organised and informal markets and supporting professional services. There are 159 authorised banks incorporated in the UK as published by the Bank of England, and a further 151 banks incorporated outside the UK with authorisation to accept deposits through a branch in the UK. There are 45 Building Societies[8] incorporated and registered in the UK. There are 56 000 firms regulated by the Financial Conduct Authority (FCA) for financial services operating in the UK and the shares of 2 032 companies, of which 541 are financial services providers, are traded on either the Alternative Investment Market or "Main Market" operated by the London Stock Exchange.

AML supervised entities

39. HM Treasury is responsible for appointing AML/CFT supervisors who are responsible for monitoring their respective sectors. There are currently 25 AML/CFT supervisors. The breakdown of the supervised population is provided below.

5. Total tax contribution of UK financial services: ninth edition, City of London Corporation/PwC; December 2016; https://www.cityoflondon.gov.uk/business/economic-research-and-information/research-publications/Documents/research-2016/total-tax-report-2016.pdf (PwC estimates based on HMRC data).
6. Triennial Central Bank Survey: Foreign exchange turnover in April 2016, Bank for International Settlements; September 2016; www.bis.org/publ/rpfx16fx.pdf.
7. Source: Bank for International Settlements.
8. A building society is a financial institution owned by its members as a mutual organisation. Building societies offer banking and related financial services, especially savings and mortgage lending.

Sector	Number of entities	Supervisors
Financial, credit, payment and e-money institutions	19 620 (including 315 banks)	FCA
Accountancy	48 000	13 professional bodies [a], HMRC
Legal	18 600	9 legal professional bodies [b]
High value dealers	737	HMRC
Casinos	325	Gambling Commission
TCSPs	22 600	HMRC, FCA, Professional bodies
Money service businesses	1 854	HMRC and the FCA
Estate agents	10 143	HMRC

Notes: a. Association of Accounting Technicians; Association of Chartered Certified Accountants; Association of International Accountants; Association of Taxation Technicians; Chartered Institute of Management Accountants; Chartered Institute of Taxation; Insolvency Practitioners Association; Institute of Certified Bookkeepers; Institute of Chartered Accountants in England and Wales; Institute of Chartered Accountants in Ireland; Institute of Chartered Accountants of Scotland; Institute of Financial Accountants; and International Association of Book-keepers.

b. Chartered Institute of Legal Executives; Council for Licensed Conveyancers; Faculty of Advocates (Scottish Bar Association); Faculty Office of the Archbishop of Canterbury; General Council of the Bar (England and Wales); General Council of the Bar of Northern Ireland; Law Society of England and Wales; Law Society of Northern Ireland; Law Society of Scotland.

AML Evaluation

40. The UK is a member of the Financial Action Task Force (FATF). The FATF last published a Mutual Evaluation Report for the UK in 2007. That report rated the UK partially compliant with a number of FATF recommendations, including the Recommendations 5 (customer due diligence), 33 (Legal persons – beneficial owners) and 34 (Legal arrangements – beneficial owners) and the UK was placed in the regular follow-up process. In October 2009, FATF published a follow-up report[9] recognising that the UK had made significant progress in addressing deficiencies identified in respect of Recommendation 5, which was brought to a level equivalent to largely compliant, and, as a result, the UK was removed from the regular follow-up process. The 2009 follow-up report concluded that the UK would remain rated Partially Compliant in relation to Recommendations 33 and 34.

41. The UK is currently undergoing evaluation by the FATF under its fourth round of mutual evaluations and its new Mutual Evaluation Report is expected to be adopted at the FATF Plenary in October 2018.

9. Available at: www.fatf-gafi.org/media/fatf/documents/reports/mer/FoR%20UK.pdf.

Recent developments

42. Since the 2013 Report, a number of legislative amendments were introduced by the UK, which impact in particular Element A.1.

43. The Small Business, Enterprise and Employment Act 2015 ("SBEE Act") introduced a number of important developments concerning the availability of legal and beneficial ownership information in the UK. In particular, it has prohibited companies incorporated under the Companies Act from issuing new bearer shares, as well as provided for a process for conversion and cancellation of existing bearer shares. Moreover, the UK banned open-ended investment companies created after 26 June 2017 from issuing bearer certificates.

44. The SBEE also introduced the Register of Persons of Significant Control ("PSC"), which is the main pillar of the UK system for the maintenance of beneficial ownership information.

45. The introduction of the PSC Register by the SBEE Act has been supplemented by a number of regulations that clarify or extend the PSC requirements in specific circumstances:

- The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 clarified the scope of obligations applicable to LLPs.
- The Register of People with Significant Control (Amendments) Regulations 2017 extended the PSC requirements to additional UK entities such as Scottish Limited Partnerships with effect from 24 July 2017. Moreover, the Regulations provide that entities subject to the PSC Register requirement will have 14 days to update their PSC Register and an additional 14 days to inform Companies House of any changes with effect from 26 June 2017. Previously companies would only be required to notify changes to Companies House once a year on the annual confirmation statement.
- The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 adds to the PSC scope: (i) Limited partnerships registered in Scotland; and (ii) General partnerships constituted under the law of Scotland, during any period in which they are a qualifying partnership (as defined in regulation 3 of the Partnership (Accounts) Regulations 2008 (SI 2008/569)). Broadly, a "qualifying" partnership is one each member of which is a corporate body.

46. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("Money Laundering Regulations 2017") transposed the EU 4th Anti-Money Laundering Directive into UK law.

47. The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 was passed in December 2017, creating the Office for Professional Body AML Supervision (OPBAS), which launched in January 2018. OPBAS is tasked with ensuring that professional body AML/CTF supervisors in the UK meet consistently high standards, and has powers to penalise them where they do not.

Part A: Availability of 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.

48. The 2013 Report concluded that the UK's legal and regulatory framework and its implementation in practice generally ensured the availability of legal ownership information for all relevant entities and arrangements. A gap was, nevertheless, identified in relation to bearer shares. While the UK maintained that the issuance of bearer shares was rare, no statistics existed. The UK was recommended to ensure that there were robust mechanisms to identify owners of bearer shares or to eliminate such shares. Element A.1 was determined to be in place but in need of improvement and rated Largely Compliant.

49. The present review finds that the UK eliminated the possibility of companies issuing bearer shares. Companies are prohibited from issuing new bearer shares since 26 May 2015; and were given nine months to surrender, convert and cancel existing bearer shares. However, it was also found that a very small number of entities and arrangements other than companies can still issue shares or units in bearer form and there are currently no mechanisms to identify the owner of such shares or units. This gap could potentially affect 400 open-ended investment companies (OEICs) and 24 unauthorised unit trusts (UUTs) as well as any UUTs incorporated in the future. It is not known how many of these entities if any have issued bearer shares or bearer units. The UK advised that, based on discussions with the industry, bearer shares/certificates would be extremely unlikely to be issued in practice by OEICs and UUTs. The UK banned OEICs created after 26 June 2017 from issuing bearer certificates but has not done the same for UUTs. However, it indicates that it will look to abolish bearer shares/certificates for both OEICs and UUTs to complete the full abolition of all bearer shares in the UK despite the low risk associated with these few remaining entities (0.01% of UK entities). The UK is recommended to ensure that there are robust mechanisms to identify owners of bearer shares or equivalent instruments, or else abolish them entirely.

50. This review also finds that the availability of legal ownership information is generally adequately ensured through the combination of supervisory and enforcement measures taken by Companies House, HMRC and, in some instances, AML supervisors. Practical supervision of the availability of legal ownership information is mainly carried out through corporate and tax filings and other enforcement measures.

51. The 2016 ToR established a requirement for beneficial ownership on relevant entities and arrangements to be available. In the UK, the main requirements ensuring availability of beneficial ownership information are contained in commercial law and AML law. Since 2016, companies, limited liability partnerships and European Companies incorporated in the UK are required to obtain and provide to a publicly accessible register information on "Persons of Significant influence or Control (PSC)" over them. Further, in 2017, similar filing obligations were established for Scottish limited partnerships and certain Scottish general partnerships. Moreover, the coverage of the UK AML framework is very broad. Financial institutions and a wide range of service providers including trust and company service providers are required to conduct customer due diligence and identify their customers and the customers' beneficial owner. Therefore, beneficial ownership information will be available with AML obliged persons when they are engaged by UK legal entities and arrangements.

52. It remains that beneficial ownership information may not be available for (i) general partnerships, (ii) limited partnerships and (iii) Scottish general partnerships having at least one individual partner. The UK is therefore recommended to take further measures to ensure that all beneficial owners of relevant entities and arrangements are identified in line with the standard.

53. Although general supervisory and enforcement measures are in place to support the availability of beneficial ownership information, some concerns were identified, in particular concerning the level of oversight by Companies House concerning accuracy of beneficial information filed at the PSC Registry and the level of supervision and enforcement by some professional body AML supervisors. The UK considers that this issue had no impact on any EOI request received during the period under review. In January 2018, the UK created a specific body to ensure that supervisory standards are consistently high across all AML supervisors, although the impact of this development could not be fully assessed during this review.

54. Overall, the availability of ownership information was confirmed in the UK's EOI practice. During the review period, the UK received 1 100 requests related to ownership information. These included requests related to ownership of companies, partnerships and trusts. Some of these requests related to beneficial ownership information; however, no precise

statistics are available on the actual number of requests that covered this type of information.

55. The new table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	Whilst most entities were prohibited from issuing bearer shares in 2015, a remaining small number of entities and arrangements (i.e. open-ended investment companies and unauthorised unit trusts) can still issue shares or units in bearer form and there are currently no mechanisms to identify the owner of such shares or units.	The United Kingdom should ensure that robust mechanisms are in place to identify the owners of shares or units in bearer form, or to abolish such types of share or unit.
	There is no legal requirement for the maintenance of information on the beneficial owners of general partnerships; limited partnerships; and Scottish general partnerships having at least one individual partner when those partnerships do not have an on-going relationship with an AML obliged person in the United Kingdom.	The United Kingdom should ensure that beneficial ownership information is available for all limited and general partnerships, including Scottish general partnerships.
Determination: In place but certain aspects of the legal implementation of the element need improvement.		

Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	During the review period, the United Kingdom established the Registry of People of Significant Control, which provides public access to beneficial ownership information. However, the oversight of Companies House concerning the accuracy of beneficial ownership information filed was limited and triggered mainly by third-party complaints. Beneficial ownership information is also required to be kept with AML obliged persons if engaged by an entity or arrangement. However, some of the professional body supervisors have not demonstrated an adequate level of supervision during the review period In January 2018, the UK created a specific body to ensure that supervisory standards are consistently high across all professional body AML supervisors but the impact of this development could not be fully assessed.	The United Kingdom should continue to monitor and strengthen its supervision and enforcement measures to ensure that adequate, accurate and up to date beneficial ownership information is available.
Rating: Largely Compliant		

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

56. As described in the 2013 Report (para. 50), different types of companies can be created in the UK, the main types are shown below.

Type of company	Governing law	Statistics as at 31 March 2017	Statistics as at 10 February 2011
Private company limited by shares	Primarily the Companies Act 2006	3 737 487	Approx. 2 500 000
Private company limited by guarantee	Primarily the Companies Act 2006 (if charitable company, Charities Acts 1993 and 2006 also apply)	147 911	Approx. 105 000
Public limited companies (PLC)	Primarily the Companies Act 2006	6 939	Approx. 10 000
European companies (Societas Europaea – SE)	Council Regulation on the Statute for a European Company	50	24
Private unlimited companies	Primarily the Companies Act 2006	4 420	Approx. 6 500
Open Ended Investment Companies (OEICs)[3]	Open Ended Investment Companies Regulations 2001	400	Not available
Unregistered companies[4]	Companies not formed under companies legislation; these are largely companies incorporated prior to early company law statutes	902	Not available
Overseas (foreign) companies	Registered under the Companies Act 2006	11 720	10 373 (as of November 2010)

Notes: a. An open-ended investment company (OEIC) is a body corporate which owns and manages investments (of various types) in order to give its members the benefit of spreading investment risk and the benefit of the management of the funds by or on behalf of the company. The full definition is given in section 236 of the Financial Services and Markets Act 2000 (FSMA). OEICs incorporated in the UK must be authorised by the FCA. All such companies have the letters ICVC ("Investment Company with Variable Capital") at the end of the company name. Investors in an OEIC buy shares in that investment company. Historically, unit trusts were the most commonly used legal vehicles for investment. However, in the 1990s, in response to concerns that non-UK investors did not understand trust structures and so were reluctant to invest in AUTs, the UK government decided to allow a corporate form (the OEIC) that could repurchase its own shares without the standard restrictions in the Companies Act.

b. In terms of the nature of their business unregistered companies include:

- Royal Charter bodies. These are described here (https://privycouncil.independent.gov.uk/royal-charters/chartered-bodies/) and include institutions such as universities, schools, scientific bodies, hospitals, trade guilds and charities;
- Companies created by private Act of Parliament (such as certain canal and water companies);
- Public corporations incorporated by a special public Act of Parliament. Examples include Highways England, the Meteorological Office, the Ordinance Survey and the Royal Mint.

Legal Ownership and Identity Information Requirements

57. The 2013 Report concluded that legal ownership information in respect of domestic companies was required to be available in line with the standard (except in relation to bearer shares, which are dealt with under A.1.2). The framework was based on filing requirements with Companies House and record-keeping obligations imposed on the companies themselves. Those were also supported by AML obligations that covered a wide spectrum of financial institutions and service providers. The 2013 Report concluded that legal requirements were adequately implemented in practice.

58. The relevant rules or practices described in the 2013 Report that are relevant to legal ownership information generally continue to apply. Since the last review, the Small Business, Enterprise and Employment Act 2015 ("SBEE Act") introduced important developments in company law (amending the Companies Act 2006 among other acts). Where changes to legislation or practice have been introduced, those will be further noted below.

59. The 2013 Report identified two issues that led to (in-text) monitoring recommendations in respect of A.1.1:

- Nominees not acting by way of business were not covered by UK AML obligations and, as such, were not obliged to hold information on the persons for whom they acted. The UK was recommended to monitor the impact of this gap on an ongoing basis.
- While companies incorporated abroad but centrally managed and controlled in the UK were required to keep or provide legal ownership information in a number of instances, there were no direct mechanisms that assured that such information was available in all cases. The UK was recommended to continue to monitor the availability of ownership information for these companies to ensure that this information could be provided to EOI partners.

60. The issue identified on non-professional nominees has been further mitigated as a result of the introduction of the PSC register and related obligations to identify persons of significant control (or beneficial owners, broadly speaking) pursuant to the SBEE Act. Companies must take reasonable steps to identify their PSCs and a person who is a PSC must inform its status to the company (if he/she knows that to be the case or ought reasonably to do so that he is a PSC; or he/she has received a notice from the company). To support this requirement, companies have the legal power to send notices requesting information, with penalties attached for non-compliance. As a result of the PSC requirements, the nominator of a nominee shareholder meeting any of the PSC criteria is required to be identified as such and listed on the PSC register (Companies Act 2006, Schedule 1A, s. 19, as amended by the SBEE Act) (see section on beneficial ownership below), regardless of whether the

nominee acts by way of business or not. If the nominee receives a notice from the company he/she would be required to disclose the nominator. As the PSC register and related requirements are particularly relevant to ensure the availability of beneficial ownership information, their implementation in practice is further detailed in that section.

61. With respect to foreign companies centrally managed or controlled in the UK, the UK reports that it continues to monitor the availability of ownership information in respect of these companies. The UK competent authorities reported having received no EOI requests in relation to those companies during the current review period. As these companies are considered to be residents in the UK, they must provide full accounts to HMRC, including in some cases ultimate ownership information. In addition, there are a number of tax rules that require overseas companies to understand and maintain information on their ownership structure (e.g. group relief, corporate interest restriction, losses transfer, research & development relief, and close company rules).

62. The situation of Unregistered Companies is similar to the ones of foreign companies, in that they are not required to maintain or file ownership information with the Registry. As noted above, those are companies prior to early company law statutes and there are currently 902 of them. There are a number of tax rules that require those companies to maintain ownership information. Moreover, they are required to identify their PSCs and submit this information to the PSC register. The UK has not received EOI requests in relation to those companies.

Implementation of obligations to keep legal ownership information

63. The 2013 Report concluded that relevant legal requirements applicable to companies were properly implemented in practice. There have been no significant changes made in the supervisory and enforcement practice, except in relation to the administration of the PSC Registry and related obligations dealt with in more detail under the section on implementation of obligations concerning beneficial ownership later in this report.

64. The following table[10] shows a summary of the legal requirements to maintain legal ownership information in respect of companies.

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

Type	Company law	Tax law	AML law
Companies incorporated under the Companies Act 2006	All	Some	Some
Open Ended Investment Companies (OEICs)	All (except in relation to bearer shares, see A.1.2)	Some	Some
SEs	All	Some	Some
Unregistered companies	None	Some	Some
Overseas (foreign) companies	Some	Some	Some

Company law obligations and supervision

65. Corporate registration and record keeping in the UK continues to be overseen by Companies House, an executive agency sponsored by the Department for Business, Energy and Industrial Strategy (BEIS). Companies House incorporates and dissolves companies with limited liability and registers the information companies are legally required to supply. The register is publicly accessible online and searchable free of charge. The UK reports that there are more than 300 examiners to check information that is placed on the register to ensure it is compliant with company law requirements. This can involve both checking information before registration and post-registration compliance.

66. To incorporate, all companies incorporated under the Companies Act and *Societates Europaeae* (SEs) must submit details of share capital and initial shareholdings to Companies House (Companies Act 2006, Part 2, ss. 9-10). Companies House has a statutory duty to incorporate a company on receipt of a correctly completed application. Same day incorporation is possible and a basic review of the filed information is conducted to verify its completeness. During years 2014 to 2016, Companies House rejected approximately 55 000 to 65 000 incorporation applications per year, which corresponded to around 8 to 9% of the incorporation applications made. Registration can be online if the company is limited by shares and uses standard articles of association ("model articles"). Once the company is registered, a "certificate of incorporation" is provided.

67. The SBEE Act also introduced a requirement for companies to have at least one registered director who is a natural person (however, this director does not need to be a resident in the UK).

68. Companies incorporated under the Companies Act, as well as SEs, must update any changes to their shareholders as part of the annual Confirmation Statement (Companies Act, c. 26, Part 24, s. 853F, as amended by the SBEE Act), which replaced the annual return described in the 2013 Report. The SBEE Act also provides that a company may opt to have its company register (book of shares) held by Companies House, instead of kept at the registered office of the company.

69. Companies House runs targeted campaigns to assist companies to understand and comply with their filing obligations. This includes sending reminders. Companies are strongly encouraged to file information digitally and submissions are subject to automated validation checks. The system validation checks will refer a filing to examiners where an issue is identified (e.g. failure to file annual accounts or the system identified that an individual that was appointed as a new company officer is disqualified or bankrupt). Similar checks are also in place for paper filings.

70. If accounts or confirmation statements are not filed, the company will receive an automated, statutory letter approximately two weeks after the filing date to establish if the company is carrying on business or is otherwise in operation.

71. In order to evaluate compliance, Companies House maintains statistics of both hard compliance rates (i.e. the percentage of company annual returns that were received both complete and on-time) and soft compliance rates (i.e. the percentage of returns received that were complete, irrespective of timeliness).[11] For the period under review, hard compliance rates were above 70% (i.e. 77.4% (year ending 31 March 2015); 79.9% (year ending 31 March 2016) and 71.2% (year ending 31 March 2017)). Soft compliance rates were above 97 % in all the three years under review.

72. Where returns were filed with delay, late filing penalties were applied. They amounted to the following in the years under review: 177 620 for the period 2014-15; 194 987 for the period 2015-16; and 206 575 for the period 2016-17. Approximately 1 800-2 400 companies were prosecuted on an annual basis during the review for failure to deliver annual returns.

73. Companies House has some powers to deal with inaccurate information. With respect to registered shareholder information, this is dealt with mainly in the context of complaints by third parties and no general on-site or off-site review programme is established. Companies House received approximately 2 525 complaints in 2016 about data inaccuracies on the register. It

11. When determining compliance rates, companies are included irrespective of their trading status (i.e. dormant and actively trading companies are included). Dormant companies are those that have notified Companies House that they are not trading but that remain compliant with their annual filing obligations as they wish to remain on the register. They may, however, show as inactive to HMRC as they are not trading and thus not incurring a tax charge. The number of dormant company accounts accepted in 2017 was 509 096. Companies in liquidation and those in the course of dissolution including the ones selected to be part of a strike off process, however, are excluded from the register for purposes of determining compliance rates. As at 31 December 2017, 177 736 companies were in the course of dissolution and 89 886 were in liquidation.

advises that it follows up these cases by contacting the company involved. In most cases, Companies House reports that the relevant companies had made a mistake or oversight and they corrected the information. If there is no response to the complaint, this could be taken as indicia that the company is no longer in operation and Companies House can strike the company off the Register. If the issue appears suspicious (e.g. complaints about company directors providing a false address), Companies House refers the matter on to law enforcement agencies, even if the error is resolved by the company. This was mainly through filing a Suspicious Activity Report (SAR), with the National Crime Agency. In 2016-17, Companies House filed 208 SARs, which appears to be a relatively small number. Since March 2017, at the request of law enforcement, Companies House has changed its practice and instead of (only) filing SARs, it now makes weekly intelligence referrals to law enforcement on cases that fall below a threshold for a SAR. This has substantially increased the amount of information and the number of entities being made subject to law enforcement referral. In the year from 1 April 2017 to 31 March 2018, a total of 2 264 entities were referred. There has been only one instance in which a company was prosecuted solely for filing inaccurate information with the register.

74. Companies House rejected the following percentage of annual returns 1.65% in 2014-15, 1.77% in 2015-16 and 4.27% in 2016-17. The significant increase in the last year of the review period was due to the change of the filing system (from annual returns to annual confirmation statements which included PSC identity information).

Dissolved Companies

75. Each year a significant proportion (11.9% in 2016/17) of companies on the register at Companies House cease to exist. The vast majority of these (11.2% of registered companies in 2016/17) go through the strike-off procedure, which can be compulsory or voluntary. A small percentage of companies also cease to exist through liquidation.

76. The number of compulsory and voluntary strike-offs for the financial years 2014-15, 2015-16 and 2016-17 were:

Strike-offs per year	Compulsory strike-offs	Voluntary strike-offs	Total
2014/15	163 127	189 360	352 487
2015/16	167 376	217 901	385 277
2016/17	205 908	215 696	421 604

77. Pursuant to section 1000 of the Companies Act 2006, if the registrar has reasonable cause to believe that a company is not carrying on business or in operation, the registrar may send the company a letter inquiring whether

the company is carrying on business or in operation. The Registrar will do so in practice on an annual basis if a company fails to meet its filing obligations. If no answer is received within the set deadline, a second letter will be sent. If the registrar (i) receives an answer that the company is not carrying on business or in operation or (ii) does not receive any answer to the second letter within the set deadline, the registrar may publish in the Gazette and send to the company a notice that the company will be struck off the register and will be dissolved within two months. The liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved (s. 1000(7)). In practice, the compulsory strike off of inactive companies is fairly automated. Although non-compliant inactive companies have been reported in large number, these are dealt with through the strike off process (generating more than 160 000 mandatory strike-offs per year, as per the table above).

78. A company may also elect to be struck off if it (Companies Act 2006, Part 31, Chapter 1, Voluntary strike off, s. 1004):

- has not traded or sold off any stock in the last 3 months
- has not changed names in the last 3 months
- is not threatened with liquidation as a result of insolvency
- has no agreements with creditors.

79. If a company wishes to be struck off from the business register, HMRC must be notified and given the opportunity to object. HMRC advises that it regularly uses this opportunity to object in practice, in around 100 000 cases per annum (20 to 25% of cases). A final tax return and statutory accounts must be submitted to HMRC. Struck off companies may be restored to the register within six years of the date of their dissolution; including in the circumstance that a creditor wishes to make a claim. This is because it is not possible to bring a claim unless the company legally exists. Several thousand companies are successfully restored to the register each year (7 788 in 2016/17). The UK advises that the effect of restoration is to revive the company as if it had never been dissolved in the first place (section 1028 of the Companies Act 2006). As a result, the UK considers that all record keeping obligations would still apply in the intervening period until the date where restoration of the company is no longer possible. Although this is not explicit in the law, the UK advises that there would be an obligation on former directors of a company that has been struck off to maintain records until it is no longer possible for a restoration application to be made, i.e. seven years. This is stated explicitly in advice to directors.[12]

12. See https://www.gov.uk/strike-off-your-company-from-companies-register/close-down-your-company.

80. Less than 1% of companies each year (0.7% in 2016/17) go through liquidation as most of them cease to exist under the strike off procedure. There are three types of liquidation:

- Compulsory liquidation – the court makes a winding-up order on the application of a creditor, shareholder or director. An official receiver, a civil servant in the Insolvency Service, is appointed to oversee the initial stages of the winding up process. Later, an insolvency practitioner may be appointed to continue the process but must still report to the official receiver.
- Creditors' voluntary liquidation – shareholders of an insolvent company can themselves pass a resolution that the company be wound up voluntarily. An insolvency practitioner is appointed who must follow statutory processes but there is no court order or official receiver.
- Members' voluntary liquidation – this is not insolvency but another mechanism by which a company can be wound up. The company is solvent but the shareholders want to wind up the company. Often this happens in close companies when directors who are also shareholders want to retire. An authorised insolvency practitioner is still appointed to manage the liquidation of assets and payments to creditors, etc. but debts are paid in full.

81. In case of voluntary liquidation, the liquidator is required to maintain records for one year following the date of dissolution (Regulation 16 of the Insolvency Regulations 1994). In case of winding-up by the court (compulsory liquidation), the liquidator, with the consent of the court appointed official receiver, can destroy the records immediately after a winding-up order is made. HMRC advises that a liquidator in a compulsory or voluntary liquidation will not destroy records if HMRC requests that they be retained. HMRC would make such a request if it had any concerns, including both domestic and foreign tax claims.

82. Notwithstanding the above, statutory information filed by a company that is struck off or otherwise ceases to exist through liquidation, including information on shareholders and beneficial ownership information, stays on Companies House's register and is publicly accessible. In response to some concerns about data privacy, Companies House stopped publishing information on companies dissolved more than six years ago, but this information is still available at Companies House.

Supervision by HMRC for tax purposes

83. HMRC also plays a role in ensuring that legal ownership information is maintained. Many tax issues rely on accurate ownership information (such as loss transfers between taxpayers, various tax reliefs, grouping arrangements, transfer pricing, and close company rules). When an entity is incorporated, it

provides legal ownership information to Companies House, and the company information is automatically sent across to HMRC for a new record. The company is required to give notice to HMRC when it becomes liable to corporation tax (Finance Act 2004 s. 55). Broadly, a company becomes liable to corporation tax when it begins any business activity, such as starting to trade, receive income, or acquire or dispose of assets. As HMRC also has an important role in relation to the availability of accounting information, additional information on the implementation of tax obligations is provided in element A.2 of this report.

Beneficial ownership information

84. Under the 2016 ToR, beneficial ownership on companies should be available. The main source of information on beneficial owners is the register of people of significant control (PSC register) and related obligations introduced in the SBEE Act effective as of 6 April 2016. Beneficial ownership information is also collected by a wide variety of financial institutions and service providers, including banks, TCSPs, lawyers and accountants, which are subject to AML obligations to perform customer due diligence. While companies are not required to engage these AML obliged persons, in practice, the UK advises that the overwhelming majority do so in the course of carrying on business activities in the UK. For example, a sample search conducted by Companies House indicated that more than 97% of transactions made to Companies House were from accounts with UK banks. These represent both accounts held in the name of the company itself, as well as accounts held by directors, agents, or service providers. In the case of service providers or agents, the UK advises that those are most likely to be accountants, who are also AML obliged persons required to identify their client's beneficial owners as part of their CDD obligations.

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

Type	Company law	AML Law
Companies incorporated under the Companies Act 2006	All except publicly traded companies	Some, if they have a relationship with an AML obliged person, which is not a legal requirement
Open Ended Investment Companies (OEICs)	None	All, when marketing or offering units or shares
SEs	All[a]	Some, if they have a relationship with an AML obliged person, which is not a legal requirement
Unregistered companies	All[b]	Some, if they have a relationship with an AML obliged person, which is not a legal requirement
Overseas (foreign) companies	None	All required under the standard (i.e. all foreign companies which have a relationship with an AML obliged person)

Notes: a. European Public Limited Liability Company (Register of People with Significant Control) Regulations 2016.
b. Unregistered Companies Regulations 2009 (as amended in 2017).

Register of Persons with Significant influence or Control (PSC)

86. Since 6 April 2016, companies have been required to keep their own registers of Persons with Significant influence or Control (PSC), and, from 30 June 2016, they have had to file their PSC information at Companies House at incorporation, or at the time of their next annual confirmation statement. Companies House holds the UK's central register of PSC information. The PSC registry is publicly accessible, although some information may be restricted from the public, as specified below.[13] The PSC Registry has been the main source of beneficial ownership information in the UK for EOI purposes since mid-2016.

87. The use of the term "Persons with Significant influence or Control" and not beneficial owner is due to the fact that beneficial owner already had a specific meaning under UK common law.

Definition of PSC

88. A PSC over a company is an individual who meets one or more of the following conditions in relation to the company (Companies Act 2016, Part 21A, Schedule 1A, ss.1-5 as modified by SBEE Act 2015):

- he/she holds, directly or indirectly, more than 25% of the shares in the company
- he/she holds, directly or indirectly, more than 25% of the voting rights in the company
- he/she holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company; or
- he/she has the right to exercise, or actually exercises, significant influence or control over the company.

89. This definition contains the elements of direct and indirect ownership and control required under the standard. There is also statutory guidance published in June 2017 explaining the meaning[14] of "significant influence"

13. Part 21A of and Schedules 1.1.4.1A and 1B to the Companies Act 2006 (as inserted by the SBEE c. 26, Part 7, s. 81, The Register of People with Significant Control Regulations 2016).

14. The guidance provides that:

"Significant influence" and "control" are alternatives.

1.22. Where a person that can direct the activities of a company, trust or firm, this would be indicative of "control".

and "control" and providing practical examples (Statutory Guidance on the Meaning of "Significant Influence or Control" over Companies in the Context of the Register of People with Significant Control).

90. The PSC definition further specifies that, where shares or rights in a company are held by a trust or partnership which meets one of these conditions, an individual who has the right to exercise, or actually exercises, significant influence or control over the trust or partnership may also be a PSC in relation to the company (Companies Act 2016, Part 21A, Schedule 1A, ss. 6 as modified by SBEE Act 2015).[15]

Obligations on companies to gather information and on other persons to provide it

91. Companies must take reasonable steps to determine whether any individual meets the conditions for being a "registrable person", or any legal entity meets the conditions for being a "registrable relevant legal entity" in relation to them, and if so, to identify them and confirm their details.

92. Individuals with significant control over a company will either be "registrable" or "non-registrable" in relation to the company (Companies Act 2016, Part 21A, Schedule 3, c.1, s. 790C(4), as modified by SBEE Act 2015). They are "non-registrable" if they do not hold any interest in the company except through one or more other legal entities over each of which they have significant control and each of which is a "relevant legal entity" in relation

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1.23. Where a person can ensure that a company, trust or firm generally adopts the activities which they desire, this would be indicative of "significant influence".

1.24. The "control" and "significant influence" do not have to be exercised by a person with a view to gaining economic benefits from the policies or activities of the company, trust or firm.

15. The statutory guidance also sets out some examples of the right to exercise "significant influence or control", which include (Statutory Guidance on the Meaning of "Significant Influence or Control" over Companies in the Context of the Register of People with Significant Control, section 5.5):

The right to appoint or remove any of the trustees or partners, except through application to the courts, or as a result of a breach of fiduciary duty by the trustees;

The right to direct the distribution of funds or assets;

The right to direct investment decisions of the trust or partnership;

The right to amend the trust or partnership deed; or

The right to revoke the trust or terminate the partnership.

to the company; otherwise, they are "registrable" (s. 790C(4)(a)and (b)). An individual who has control over a company is "registrable" in relation to that company even if that person has no other interest in that same company. If individuals are non-registerable, the company must record the "relevant legal entity", which must in turn have its own disclosure requirements (s. 790C(6)). "Non-registrable individuals" can be identified from the parent (or ultimate parent) company's PSC information. Where a UK company is owned by another UK company, the "top" company in the chain must show the natural persons who are its ultimate beneficial owners. The subsidiary company shows this "top" company as its beneficial owner and the register includes a link to that company and the natural persons who are its beneficial owners. In this way, there is no gap in beneficial ownership information. Where a UK company is owned by a foreign legal entity, that foreign legal entity will only be "registerable" in the circumstances described in the paragraph below (i.e. if the foreign entity has voting shares admitted to trading on certain regulated markets). In all other instances, the UK company will need to look through the foreign entity and identify the "registrable" individuals.

93. The relevant legal entity is considered to have its own disclosure requirements and therefore, be a "registerable relevant legal entity" when it is: (i) a legal entity required to have its own PSC register; (ii) a publicly traded company in the UK; or (iii) a legal entity specified by the Secretary of State by regulations (s. 790C(7)). The law expressly refers that the Secretary of State is to have regard to the extent to which legal entities to be specified are bound by disclosure and transparency rules (in the UK or elsewhere) broadly similar to the ones of the PSC Registry. To date, the Secretary of State has only made regulations in relation to (foreign) legal entities with voting shares admitted to trading on a regulated market in an EEA State or on specified markets in Switzerland, the United States, Japan and Israel (The Register of People with Significant Control Regulations 2016, s. 4). An exception concerning publicly traded companies is permitted under the standard because other transparency regimes apply to them.

94. The Companies Act imposes duties on companies to gather information, and on others to supply it, to enable companies to keep the register (Companies Act 2006, Part 21A, Chapter 2, ss. 790D, 790E, 790G and 790H). The main duties are:

- The company must give notice to anyone whom it knows or has reasonable cause to believe to be a registrable person or a registrable relevant legal entity in relation to it.
- The companies may also give notice to a person if it knows or has reasonable cause to believe that the person (i) knows the identity of someone who is a registerable person, or (ii) knows the identity of someone likely to have that knowledge (Companies Act 2006,

Part 21A, Chapter 2, s. 790D). The latter could apply for instance to some legal owners or service providers of the company.

- Persons receiving notice have an obligation to reply within one month.
- Regardless of receiving a notice, a registrable person or a registrable relevant legal entity are required to make themselves known to companies over which they are a registerable person or a registrable relevant legal entity, provided that they know or ought reasonably to know that obligation (Companies Act 2006, Part 21A, Chapter 2, s. 790G).
- The company must also give notice to the person or entity if the company knows or has reasonable cause to believe that a relevant change has occurred. A registrable person or a registrable relevant legal entity also have an obligation to update the company of any change that the person knows of the change or ought reasonably to do so.

95. Failure to comply with notices issued by the company or providing false information is criminal offence, and may result in an unlimited fine and/or a prison sentence of up to two years (Companies Act 2006 Schedule 1B, s. 13).

96. The company may freeze also the interests of parties that do not comply with such information notices (Companies Act 2006 Schedule 1B). Whilst a company is not required by law to impose restrictions on shareholder rights, the UK authorities advise that it must seriously consider doing so as part of the legal requirement to take reasonable steps. If the company is unable to identify the PSC and chooses not to impose restrictions, it should be able to justify its decision. The UK advises this would only be expected to apply in rare and complex cases where imposing restrictions could impinge on the rights of a third party.

Duty to keep a register

97. The company must keep its PSC register and make this register available to the public. The company must also provide updated information on their PSCs to Companies House as part of the annual confirmation statement (SBEE Act c. 26, Part 8, ss. 92-93). Moreover, from 26 June 2017, companies are required to update information on their own PSC register within 14 days of a registrable change, and to file this information with Companies House within a further 14 days (Register of People with Significant Control (Amendments) Regulations 2017, which amendments Part 21 A, ss. 790E and 790M of the Companies Act 2006). Failure to do so is subject to a Level 3 penalty (currently, GBP 1000).

98. Obligations on the company apply to all of the officers (whether natural or, where permitted corporate) of the company (Companies Act 2006, Part 21A, Chapter 2, s790F).

99. In summary, the company is required to (Companies Act 2006, Part 21A, Chapter 2, ss. 790D-E):

- take reasonable steps to identify if there are people who are registrable[16] and, if they are an individual, confirm his/her information before it is entered on the register
- record the details on the company's own PSC register
- provide this information to Companies House as part of the annual Confirmation Statement
- update the information on the company's own PSC register within 14 days of a change, and update the information at Companies House within a further 14 days
- where no person or entity is a PSC, this must also be recorded.[17]

100. Companies are required to maintain up-to-date PSC information throughout their lifetime (i.e. updating their own register within 14 days when their PSCs change and then informing Companies House within a further 14 days so they can update the central, public PSC register). However, if a company's PSC stops being a PSC, then he or she cannot be removed from the company's PSC register immediately – the company must retain his or her details on their register for 10 years (Companies Act 2006, Part 21A, 790U). Furthermore, Companies House keep the PSC information filed with them for 20 years.

Practical implementation

101. During the June 2013 G8 Summit in Lough Erne, the UK government committed to take action to increase transparency of company ownership and control. The creation of the PSC register, maintained by Companies House, was the key measure taken to this end. While the register started being populated from June 2016 and guidance has been issued to assist companies in identifying their PSCs, compliance verification work is still at an early stage.

16. The details of a legal entity may be entered rather than an individual, where the legal entity has its own PSC register or is exempt by virtue of being listed on a regulated market. This provides a picture of corporate chains and any PSC can be identified from the parent company's PSC information.
17. In addition to the PSC Register, companies are required to provide information on their directors as part of their confirmation statements.

There are currently 23 people working in the PSC compliance team and more widely 80 staff at Companies House work specifically on improving the integrity of the PSC register.

102. The responsibility is placed on companies and PSCs (provided that they know/ought to know that they are PSCs or that they receive a notice) to ensure information is accurately reported to Companies House, which in turn has a supervisory role to ensure the reliability of the PSC register. However, to date, supervision has been on an inception phase and has only been performed on limited instances – i.e. proactively pursuing non-fillers, some reviews of companies that declared no PSCs and reactive pursuits following a third-party complaint. Third-party complaints may also allow Companies House to develop some intelligence concerning issues that require fixing (e.g. NGOs undertake analysis of certain issues in the PSC Registry and feed intelligence/patterns to Companies House). Moreover, a large proportion of company incorporations and subsequent annual filings are conducted by TCSPs subject to AML obligations, who will be conducting customer due diligence on their clients. This is an additional source of beneficial ownership information in the UK for many companies.

103. No other on-site or offsite verification programmes are currently in place to verify the reliability of the information filed. For instance, no supervision has been conducted on whether companies have actually taken all necessary steps to identify their PSCs or how companies addressed situations of non-compliance by shareholders, nominees or service providers when investigating who are the company's PSCs. As a result, the current level of supervision does not ensure that filed information is adequate, accurate and up to date.

104. Companies House also highlights the value of the information being publicly accessible free of charge and open to corrections from the public. In 2017, there were 2 billion accesses of the entire Companies House register. There are approximately 20 000-30 000 hits on PSC on a daily basis. An analysis from the current PSC Register shows that approximately 80% of companies are directly owned by natural persons or by companies whose immediate shareholders are natural persons and are managed by the same persons. The remaining 20% are more complex structures.

105. In terms of third-party complaints, in 2017 (up to September), Companies House received 63 individual complaints from third parties citing incorrect or inaccurate information on the PSC register and 2 bulk complaints from civil society groups involving 4 600 companies (including, for instance, companies that had reported a foreign legal entity as a PSC). Investigations by Companies House's compliance team led to 40 of the individual complaints being closed after the companies involved complied with requests to correct their return. With respect to the bulk complaints, Companies House

received a good response rate to pilot programmes and has progressed to pursue all 4 600 complaints. Most of these entities have now complied, either before or after follow-up by Companies House, with only around 800 of these cases now outstanding.

106. As noted above, as of July 2017 some PSC register rules were tightened: in addition to an annual update, entities now have 14 days to update their PSC register and a further 14 days to notify Companies House of any change to their PSC information. Any notifications filed "late" through Companies House on-line services are advised of the offence of not filing within the time allowed. From 26 June 2017 to September 2017, the number of companies on the register who failed to file PSC information fell from 300 000 to 130 000 (and in January 2018 the number fell further to 60 000). Those entities that remain non-compliant (including those subject to the bulk complaints discussed above) are vulnerable to escalation and Companies House has referred the first cases to prosecutors from May 2018.

107. As at January 2018, Companies House reported that 98.4% of companies registered in Companies House "live registry"[18] provided PSC information (including information that they have no PSC). As at 1 May 2018, 369 000 companies have indicated that they do not have a registrable PSC;[19] and 25 000 companies have indicated that they are still investigating who their PSC is. Companies House advises that it is in the process of writing to these companies and have so far achieved good compliance – i.e. since the beginning of 2018, the number of companies that reported that they were investigating who their PSC was has reduced from over 40 000 to 25 000.

108. Certain information filed by companies is not available to the public. This includes residential addresses and date of birth for individuals (directors and PSCs). In addition, information including names relating to directors and PSCs who are at risk of harm, if their details were to be made public, is protected and is only available to law enforcement authorities. In order to benefit

18. The "live" or effective register comprises all companies to which the Companies Act 2006 relates, which are registered with Companies House regardless of trading status (including dormant and actively trading companies). Companies in liquidation and those in the course of dissolution are excluded from the live register. The live registry has approximately 3.5-3.6 million companies.

19. A company does not have a registerable PSC where the company is under control of a group of persons, none of whom possesses more than a 25% shareholding or is able to exercise significant control by other means. Companies that do not have a registrable PSC are still obliged to report this fact to the register, and to confirm that this remains the case annually in their confirmation statement. They are also required to inform Companies House within 14 days whenever there is a change to the details of directors and secretaries.

from this protection companies or the PSCs need to apply to Companies House (The Register of People with Significant Control Regulations 2016, ss. 36 and 37). A decision on whether to restrict public access to information on PSCs and directors is taken by the Registrar (head of Companies House), normally after obtaining an opinion from law enforcement (e.g. local police force). It is possible that one PSC appears named, and that another PSC has its information withheld. The UK advised that this would be rare in practice since if one PSC applied for protection, all PSCs of the company would likely seek the same protection. To date, only a dozen applications were successful in securing protection (e.g. food companies whose PSCs could be targeted by animal rights activists). A note is not included in the company's page in the registrar to make it known to the public that such protection has been granted, although in some cases it can be inferred from the filings.

109. To conclude, whilst a public registry permits a broader review of its quality, it remains the case that the level of supervision and enforcement by the UK government to verify the accuracy of beneficial ownership information on the register needs to be improved.

AML obligations

110. The UK Money Laundering Regulations 2017 ("MLR 2017") came into force on 26 June 2017 and transposed the 4th EU AML Directive into UK national legislation. Prior to that, the UK AML framework was based on the Money Laundering Regulations 2007 ("MLR 2007"), which had implemented the 3rd EU AML Directive. The definition of beneficial owner provided in the MLR 2017 meets the international standard. While the coverage of the UK AML framework is very broad, encompassing financial institutions, lawyers, accountants and TCSPs (among others), there are no legal requirements for UK companies to engage them, although in practice the UK advises that the overwhelming majority would do so in carrying on business activities in the UK (e.g. by having a bank account). The UK's 2015 National Risk Assessment of Money Laundering and Terrorist Financing (the "2015 NRA") found that the effectiveness of the supervisory regime in the UK was inconsistent and, whilst some supervisors were highly effective in some areas, there was room for improvement across the board. To address this, in January 2018, the UK established a new oversight body, the Office of Professional Body AML Supervision (OPBAS) to work with professional body supervisors and ensure they provide consistently high standards of supervision. The impact of this development could not be fully assessed.

AML obliged persons

111. AML obliged persons include a wide category of financial institutions and service providers including credit and financial institutions, auditors,

accountants, tax advisers and insolvency practitioners, independent legal professionals when providing certain corporate services and trust or company service providers (MLR 2017, Regulation 8). Those persons were also covered under the MLR 2007.

Definition of beneficial owner under AML law

112. A "beneficial owner", in relation to a body corporate which is not a company whose securities are listed on a regulated market, is defined as (Regulation 5 MLR 2017):

a. any individual who exercises ultimate control over the management of the body corporate

b. any individual who ultimately owns or controls (in each case whether directly or indirectly), including through bearer share holdings or by other means, more than 25% of the shares or voting rights in the body corporate; or

c. an individual who controls the body corporate. An individual is deemed to control a body corporate if he or she satisfies one or more of the conditions set out to be a PSC (Regulation 5 MLR 2017 and Part 1 of Schedule 1A to the Companies Act 2006).

113. A person meeting any of the criteria above is to be recorded as a beneficial owner.

114. Where the AML obliged person has exhausted all possible means of identifying the beneficial owner of a body corporate and (i) has not succeeded in doing so; or (ii) is not satisfied that the individual identified is in fact the beneficial owner, the AML obliged person may treat the senior person in that body corporate responsible for managing it as its beneficial owner (MLR 2017 s. 28 (6) and (7)). In those instances, the AML obliged person must keep records in writing of all the actions it has taken to identify the beneficial owner of the body corporate MLR 2017 s. 28 (7)). The UK advises that, in line with the risk-based approach, "all possible means" is not explicitly defined in legislation or guidance. In practice, the relevant supervisory authority will make a judgement based on the specific facts of the case, taking into account risk profile, nature of business, and other relevant factors.

115. Regulation 28(9) notes in particular that AML obliged persons do not satisfy their CDD obligations by relying solely on the information contained in the PSC register. The verification of the identity of any beneficial owners is to be made on the basis of documents, data or information obtained from a reliable and independent source (MRL 2017, Regulation 28(18).

116. The MLR 2017 also imposes obligations on UK body corporates to inform changes to their beneficial owners to AML reporting entities with which they have a business relationship within 14 days of the change (Regulation 43(4)).

Customer Due Diligence and identification of the beneficial owner(s) of the customer

117. AML obliged persons must carry out customer due diligence (CDD) when:

- establishing a business relationship
- carrying out an occasional transaction in excess of EUR 15 000 (or EUR 1 000 if the occasional transaction constitutes a wire transfer)[20]
- there is a suspicion of money laundering or terrorist financing; or
- there are doubts about the veracity or adequacy of documents or information previously obtained for the purposes of identification or verification.

118. The CDD measures that the AML obliged persons must carry out are set out in regulations 27 and 28 MLR 2017 and include:

- identifying the beneficial owner of the customers
- taking reasonable measures to verify the identity of the beneficial owner so that the AML obliged person is satisfied that it knows who the beneficial owner is
- taking reasonable measures to understand the ownership and control structure of beneficial owners that are legal persons or arrangements.

119. The UK explained that Regulation 28(4) clarifies how CDD should be conducted on a customer which is either owned by a legal person or held within a legal arrangement. In these circumstances, the customer's ultimate beneficial owners will be the beneficial owners of the legal person/arrangement. Regulation 28(4)(a) therefore requires those ultimate beneficial owners to be identified, with Regulation 28(4)(b) requiring that reasonable measures be taken to verify their identities. Regulations 5 and 6 define who should be treated as beneficial owners for these purposes and those are always individuals.

20. An occasional transaction is defined as a transaction carried out other than as part of a business relationship and amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or several operations that appear to be linked.

120. Where an AML obliged person is unable to apply CDD measures, that person: (a) must not carry out any transaction through a bank account with the customer or on behalf of the customer; (b) must not establish a business relationship or carry out a transaction with the customer otherwise than through a bank account; (c) must terminate any existing business relationship with the customer; (d) must consider whether the relevant person is required to make a disclosure by (i) the Terrorism Act 2000 or (ii) the Proceeds of Crime Act 2002 ("POCA") (MLR 2017, s. 31).

121. The AML obliged persons must conduct on-going monitoring of a business relationship, including undertaking reviews of existing records and keeping the documents or information obtained for the purpose of applying customer due diligence measures up-to-date.

122. Records must be kept for five years from the end of the business relationship (Regulation 40).

Third-party reliance

123. Section 39 of the MLR 2017 provides that AML obliged persons may rely on a third party to apply the customer due diligence measures but the AML obliged person remains liable for any failure to apply such measures. Moreover, the AML obliged person must immediately obtain from the third party all the information needed to identify the customer's beneficial owner, and must enter into arrangements with the third party which enable the AML obliged person to obtain from the third party immediately on request copies of any identification and verification data and any other relevant documentation on the customer's beneficial owner. The AML obliged person must also require the third party to retain copies of the data and documents obtained for the retention period specific in the MLR 2017.

124. Pursuant to section 39 (3) of the MLR 2017, the third party relied upon by the UK AML obliged person must be: (i) another UK AML obliged person; (ii) a person carrying on business in another EEA State who is subject to the requirements in national legislation implementing the 4AMLD as an obliged entity (within the meaning of that directive), and supervised for compliance with those requirements in accordance with section 2 of Chapter VI of the 4 AMLD; or (iii) a person who carries on business in a third country who is subject to requirements in relation to customer due diligence and record keeping which are equivalent to those laid down in the 4 AMLD; and supervised for compliance with those requirements in a manner equivalent to section 2 of Chapter VI of the 4 AMLD. Moreover, Regulation 39 (4) provides that a UK AML obliged person may not rely on a third party established in a country which has been identified by the European Commission as a high-risk third country as defined in regulation 33(3) of the MLR 2017.

125. In practice, the AML supervisors interviewed during the on-site visit reported that third-party reliance (outside a group of companies) is not commonly applied by UK AML obliged entities, considering the liabilities involved.

Sanctions

126. The UK framework provides civil and criminal sanctions under the MLR 2017, the POCA and other legislation in the regulated sectors. The set of penalties available may also depend on the powers applicable to the AML obliged entity's supervisor.

127. All AML supervisors are required to take necessary measures to ensure their populations comply with relevant requirements. Where there are breaches, supervisors are required to keep records setting out their action and the justification (MLR 2017, Regulation 46).

128. The FCA (supervisor of banks and other financial institutions) and HMRC are empowered to impose fines, at any level that is sufficiently effective, proportionate and dissuasive, or publicly censure their population (Regulation 76). The FCA and HMRC are also empowered to suspend or restrict the authorisation to provide services subject to the MLR 2017 for up to 12 months, or remove authorisation entirely (Regulation 77).

129. There are 9 legal professional body supervisors that monitor legal services providers' compliance with the MLR 2017 and 13 accountancy professional bodies, in addition to HMRC, that supervise accountancy service providers' compliance with the MLR 2017. The professional body AML supervisors are required to ensure that breaches of a relevant requirement by their member renders that member liable to effective, proportionate and dissuasive sanctions under their rules (Regulation 49).

130. All professional body AML supervisors have powers to remove or impose restrictions on their members' ability to practice through their rulebooks. In addition, professional bodies may have access to other powers to sanction their members, including suspension, fines, public censure and taking over management of that member's firm, depending on their rulebooks. Professional bodies are also required to ensure their supervisory functions are operationally independent of any other functions that do not relate to disciplinary matters, that sensitive supervisory information is appropriately handled, and that a person is appointed to monitor and manage the professional body's compliance with its duties in the MLR 2017 (Regulation 49). To ensure sanctions are proportionate, effective and dissuasive, professional bodies refer cases for sanctions to autonomous committees or tribunals where independent experts and members of the profession, tasked with safeguarding the AML regime, the interests of the public and the integrity of the profession, ensure the sanctions are appropriate.

131. Where a breach requires a penalty that is effective, proportionate and dissuasive but beyond the scope of a professional body's rulebook, the professional bodies are entitled to refer the case to HMRC or FCA. HMRC or FCA may then issue an appropriate sanction using its powers as described above.

132. Where a relevant person has breached a relevant requirement in HMRC or FCA's regulated sectors, and an officer was knowingly concerned with the breach, FCA/HMRC may temporarily or permanently prohibit that officer from holding an office involving responsibility for the carrying out of relevant requirements (Regulation 78), or issue a fine to that officer (Regulation 76).

133. Regulation 86 also provides criminal offences so that where a connected person contravenes the MLR 2017, that person is liable to:

- on summary conviction, a fine or imprisonment for a term not exceeding three months or both
- on conviction on indictment, imprisonment for a term not exceeding two years to a fine, or both.

134. This includes the case where a person provides information to any person which the person knows that is false or misleading; or that the person is reckless as to whether the information is false or misleading (Regulation 88).

Supervision of AML obligations

135. As mentioned above, AML obliged persons are supervised by different authorities depending on the type of business they conduct. HM Treasury is responsible for appointing supervisors (although adoption of supervisors is ultimately subject to Parliamentary approval). Each supervisor is required by law to collect some statistical information on its supervision (as per Schedule 4 to the MLR) and provide it to HM Treasury, who then uses this information to publish an annual supervision report.

136. In total, Treasury has 25 appointed AML/CTF supervisors which oversee eight broad sectors. Some have been supervisors for AML/CTF purposes since AML regulations were first implemented in 1993; others were introduced when the Regulations were updated in 2007. The supervisors are a highly diverse group including large global professional bodies, smaller professional and representative bodies, and a number of public sector organisations.

137. Below is a list of supervisors for the AML obliged persons that are more relevant in the context of EOI for tax purposes:

- Financial Conduct Authority (FCA) – supervises credit and financial institutions authorised by the FCA, trusts and company service providers authorised by the FCA and other financial institutions
- HMRC – supervises those firms acting as TCSPs that do not have FCA or professional body supervision. Many HMRC-supervised TCSPs are also supervised by HMRC as accountancy service providers as they do not have professional body supervision
- Professional bodies – there are 9 legal professional body supervisors that monitor legal services providers' compliance with the MLR 2017 and 13 accountancy professional bodies.

138. The UK's 2015 National Risk Assessment ("NRA") identified a number of vulnerabilities in the UK's supervisory regime. It was found that the effectiveness of the UK's supervisory regime was inconsistent and, while some supervisors were found to be highly effective in some areas, room for improvement was identified across the board, including in understanding and applying a risk-based approach to supervision and in providing a credible deterrent. The number of professional body supervisors in some sectors risked inconsistencies of approach.

139. The 2017 NRA also identified risks in the sector relating to inconsistent supervision of accountancy firms[21] (despite good practice in areas) and some examples of poor AML/CTF compliance by practitioners. The involvement of accountants in company formation and other company services, whether in the UK or overseas, was assessed to be the accountancy service at highest risk of exploitation.

140. The 2017 NRA assessed legal services to be at high risk of exploitation for money laundering. The creation of trusts and companies on behalf of clients is assessed to be the legal service at greatest risk of exploitation. Investigations by law enforcement often feature trusts and companies being used to facilitate high-end money laundering by hiding beneficial ownership, undermining due diligence checks and frustrating law enforcement investigations. This is often used in conjunction with other services (in particular the purchase of property) to facilitate money laundering.

141. The UK provided some aggregated information on the activities of AML supervisors during the review period (data on the FCA is presented in element A.3).

21. The term "accountant" in the UK is not a protected term, and qualifications are not required to offer accountancy services. Both professional body supervised and HMRC supervised accountants may have a variety of qualifications, though HMRC also supervises a greater proportion of accountants without qualifications.

	Number of desk based reviews [a]				
	2012/13	**2013/2014**	**2014/15**	**2015/16**	**2016/17**
Accountancy sector [b]	5 359	4 834	6 408	6 406	6 848
Legal sector	835	181	3 305	1 963	697
	Number of compliance visits				
Accountancy sector	2 059	1 651	1 536	1 812	1 631
Legal sector	780	793	1119	759	710

Notes: a. The UK explained that variations year on year reflect a number of trends, including operational issues as supervisors have their own cycles of inspections, specific compliance or risking campaign, priorities and resources constraints. As such desk based reviews and compliance visits' numbers may not converge in a given year.

b. The figures do not take into account HMRC data.

142. In addition, the following data was available in relation to the application of sanctions:[22]

Enforcement action	**Accountancy sector**	**Legal sector**	**FCA**	**HMRC**
2014/2015				
Expulsion/withdrawal of membership	13	32		
Suspension	1	1		
Fines	33	12	1	677
Reprimand	51	6		
Undertaking/condition	44	27		
Warning	298			199
Action plan	483		23	492
Early interventions			8	
Section 166 reports [a]			6	
2015/2016				
Expulsion/withdrawal of membership	19	7		
Suspension	2	8		
Fines	14	3	1	1 152
Reprimand	41	0		
Undertaking/condition	13	3		
Warning	238			102

22. Source: HM Treasury's Anti-Money Laundering and Counter-Terrorist Financing: Supervision Report 2015-17, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685248/PU2146_AML_web.pdf.

Enforcement action	Accountancy sector	Legal sector	FCA	HMRC
Action plan	670		56	243
Early interventions			8	
Section 166 reports			6	
2016/2017				
Expulsion/withdrawal of membership	23	6		
Suspension	3	5		
Fines	35	5	3	892
Reprimand	28	3		
Undertaking/condition	70	3		
Warning	205			119
Action plan	582		72	231
Early interventions			7	
Section 166 reports			5	

Note: a. The FCA can require a firm to have a report undertaken by an independent skilled person – a Section 166 Report – to review aspects of a firm's activities that cause concern or where further analysis is required.

143. During the review period it could be observed that:

- The majority of supervisors carry out desk-based reviews and/or issue annual questionnaires to collect up-to-date information from their supervised populations on a range of issues, including AML compliance.
- 22 supervisors carried out visits as part of their supervisory actions. All of them recorded the assessed firm's compliance with AML requirements.
- Enforcement action taken by supervisors included expulsion/withdrawal of membership, suspension, fines, reprimand, warnings and action plans.
- While there was data available on supervision and enforcement per sector, no published data per individual supervisor was available. The number of fines applied by accountancy and legal service professional body supervisors appear to be significantly low when compared with the ones applied by HMRC.
- No data was available on the amount of financial sanctions imposed by most supervisors.

144. During the on-site visit, some regulators (including some private sector regulators) were interviewed. While they demonstrated a good knowledge of the AML framework, it was noted that regulators approach to supervision was very different. For instance, as part of compliance visits

some regulators inspected a sample of an AML obliged persons' customer files to verify e.g. the procedures followed to identify beneficial owners. Others focused only on checking more broad policies in place and procedure rather than whether those were actually followed in specific cases. Regulators mentioned that complex structures would usually raise red flags and required AML obliged persons to seek deeper understanding of the customer and beneficial ownership structure.

145. In response to the vulnerabilities identified in the NRA, the UK government created a new supervisory function within the FCA, called the Office for Professional Body AML Supervision (OPBAS) in January 2018 (The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017). OPBAS is responsible for overseeing the adequacy of the AML/CTF supervisory arrangements of professional body supervisors in the UK.

146. The UK maintained its supervisory model for the legal and accountancy sectors, in which regulatory oversight is undertaken by 22 private sector professional bodies (but with the new oversight body, OPBAS, to ensure they meet consistently high standards). This is on the basis that these bodies would have a good understanding of the business sector in which they operate and a close contact with supervised firms. However, the independence of supervisors carries some risk in relation to controls for institutional conflicts of interest. The UK authorities have advised that the legislation requires sufficient separation between the professional bodies representation and supervisory roles and that the supervisors which supervise the same sectors collaborate to prevent "supervisor shopping". Whilst supervisors are funded by the industry, the UK confirms that it is able to raise these fees if appropriate to ensure adequate supervisory resources and activities.

147. The UK expected that the operation of OPBAS will ensure that supervisory standards are consistently high across the professional bodies, and to enable better information and intelligence sharing between these bodies. OPBAS commenced its supervisory role for the 22 legal and accountancy professional bodies in January 2018. It has an annual budget of just under GBP 2 million. OPBAS has set out its intended approach in a public sourcebook. It has powers to censure supervisors and to recommend to HM Treasury that a supervisor be removed from its role where it does not meet the standards set out in the AML law. At the present stage, however, it is unclear what specific measures will be taken to ensure that obligations of service providers to identify (and verify) beneficial ownership are properly supervised.

148. Given the concerns described above in respect of inconsistent supervision of AML obliged professionals in the legal and accountancy sectors, it is recommended that the UK continue to monitor, and strengthen, if needed,

its supervisory and enforcement measures to ensure that beneficial ownership information collected under AML laws is adequate, accurate and up to date.

Availability of information on the ownership of companies for EOI in practice

149. Although the UK did not keep separate statistics on the number of requests for information on the legal and beneficial ownership information on companies, peer input confirmed that this information has been commonly requested during the review period. Peers did not raise concerns regarding the availability of this type of information. The UK indicated that the main source of ownership information was the registries maintained by Companies House, HMRC's tax records and, where required, the companies themselves.

ToR A.1.2. Bearer shares

150. The 2013 Report noted that the UK's Companies Act (s. 122) allowed all types of companies to issue "share warrants to bearer" or "stock warrants to bearer", provided the company's articles of association[23] allowed it. "Share warrants to bearer" would have the essential properties of "bearer shares": the name of the owners of such bearer securities were not recorded in the register of the company and they could be sold without any necessity to notify the company. The UK was recommended to ensure that there were robust mechanisms to identify owners of bearer shares or to eliminate such shares.

The abolition of bearer shares in 2015

151. The present review finds that the UK eliminated the possibility of companies issuing bearer shares. Pursuant to the SBEE Act, as of 26 May 2015, companies were prohibited from issuing new bearer share warrants; and the law provides for a nine-month surrender process for the conversion and cancellation of existing warrants (Part 7, ss. 84-86 and Schedule 4).

152. Pursuant to the process established, companies were required to give notice to holders of bearer shares that they had nine months from 26 May 2015 to surrender their share warrants and to have their name entered as a member in the register of members of the company concerned, or (if applicable) to have the bearer's name and other particulars delivered to the registrar, and the document containing that information registered by the registrar and the date recorded (Schedule 4, Part 1, s. 1). Their holdings would be converted into registered (non-bearer) shares within one month after 26 May 2015.

23. A company must have articles of association prescribing regulations for the company (s. 18 Companies Act).

153. Any bearer shares not surrendered and exchanged by 26 December 2015 can no longer be transferred and no rights can be attached to them (such as voting rights). Any distribution to which the bearer shares would have been entitled must have been paid into a separate bank account. Companies which still had bearer shares on 26 February 2016 were required to apply to court to cancel them and to hold the nominal value of the shares in escrow within 14 days of cancellation together with any suspended distributions to ensure that all bearer shares are eliminated. Once in escrow, the amount could remain there for up to three years.

154. The UK advised it identified around 1 300 companies which had issued bearer shares.[24] Companies House wrote to these companies and explained requirements of the surrender process. Only 1 out of the 1 300 companies is outstanding. The UK advised that the director of that company will be subject to enforcement action, probably banned from holding a directorship for a period of time, and the company will ultimately be struck off the register. All other companies contacted Companies House and informed it that the shares were being converted into registered shares. Companies House checked all confirmation statements for each company when they came in and where required requested companies to correct them to exclude the bearer shares. Companies House advises that it continues to monitor all those that have confirmed they had complied, taking compliance action where necessary, and rejecting any applications which attempt to register new bearer shares. Remaining bearer shares have been cancelled, with their value being held in escrow for when owners appear.[25] Holders of bearer shares can receive the value of the shares, but will not be able to convert their bearer shares into registered shares.

A residual gap

155. A remaining number of entities and arrangements other than companies can still issue shares or units in bearer form and there are currently no mechanisms to identify the owner of such shares or units. This gap potentially currently refers to 400 open-ended investment companies (OEICs) and

24. At incorporation, a company is required to give details of its share capital and the number and classes of shares and to keep this information up to date. Companies House advised that it looked at these records to determine how many companies had issued bearer shares.

25. Where a share warrant is cancelled, the company must pay into court the nominal value of the shares plus any premium paid on them, plus any dividends and/or interest accrued. The owner of the bearer shares may claim that amount, but only during the period of six months to three years after the cancellation date, and only if the court is satisfied that there are exceptional circumstances justifying their failure to surrender the shares (SBEE Act, Schedule 4, p.9, 10).

24 unauthorised unit trusts (UUTs) as well as any UUTs incorporated in the future. The UK banned OEICs incorporated after 26 June 2017 from issuing bearer certificates (Anti-Money Laundering Regulations 2017, Part 2, s. 18 amended Regulation 48 (bearer shares) of the Open-Ended Investment Companies Regulations 2001) but has not done the same for UUTs.[26]

156. OEICs and UUTs are collective investment schemes, which are a form of investment fund that enables a number of investors to "pool" their assets and invest in a professionally managed portfolio of investments. These are popular with institutional investors, such as pension funds, who can use such schemes to spread or reduce the risk that is associated with investment in such assets as well as gain the benefits of professional management. As noted under A.1.1, an OEIC is a body corporate which owns and manages investments on behalf of its members, the full definition is given in section 236 of the Financial Services and Markets Act 2000 (FSMA). OEICs incorporated in the UK must be authorised by the FCA and are regulated by it. Investors in an OEIC buy shares in that investment company. UUTs are unit trusts which have not been authorised by the FCA (under Section 243 of FSMA) and, as such, there are restrictions on who they can be marketed to (i.e. they can be marketed only to a more limited class of investors, mainly institutional investors rather than the general public).[27]

157. The UK is recommended to continue to take steps to ensure that there are robust mechanisms to identify owners of bearer shares or equivalent instruments.

158. In practice, although OEICs and UUTs represent less than 0.01% of legal entities in the UK, they do hold assets and liabilities of significant value. However, the UK, including the FCA as the OEIC authorising body, believes that, bearer instruments do not form part of their business model

26. It is noted that in 2016 the Financial Conduct Authority prohibited Authorised Unit Trusts (AUTs) and Authorised Contractual Schemes (ACSs) from issuing bearer certificates. This change revoked a previous rule that allowed such certificates to be issued for AUTs (the UK noted that they were never permitted for ACSs).

27. UUTs are categorised differently according to the tax status of their investors. Unlike authorised unit trusts, UUTs are not exempt from UK capital gains tax unless they are an Exempt Unauthorised Unit Trust (EUUT), which requires them to apply for approval to HMRC, who must be satisfied that they meet a number of conditions. The most relevant of these conditions is that all the investors (unit holders) must be "eligible investors". In this respect, an eligible investor is one that is exempt from UK taxation of capital gains other than by reason of residence. Such investors would include pension schemes, insurance companies carrying on a pension business, and charities. Where a UUT is a EUUT, then any gains realised on disposals by the UUT are exempt from UK taxation of gains.

because unit trust and OEIC investments have traditionally been sold either through regulated financial advisers or direct via off-the-page advertising. The professional management of these entities also creates a separation between shareholders and management of the entities. In 2016, the Investment Association, the trade body for collective investment schemes, consulted with their members as to whether bearer shares were in use. They received no affirmative responses. The UK has also written to all OEICs and UUTs in the summer of 2018 asking if bearer shares have been issued and, based on responses received, which included many of the largest fund managers, the UK is not aware of any entity that has done so in practice. However, as nil responses we were not requested, it is not known for certain if the OEICs and UUTs that have not responded simply did not issue bearer shares or failed to respond that they have done so. The UK advises that it will look to close this theoretical gap to ensure its original intention of abolishing all bearer shares in the UK is fully completed.

Availability of information on the owners of bearer shares for EOI in practice

159. Peer input did not indicate whether information has been requested on companies or other entities that had issued bearer shares and whether information on the owners of such shares was available. No general concerns regarding bearer shares have been identified by peers either. The UK competent authority does not recall having received requests on companies that had issued bearer shares.

ToR A.1.3. Availability of information on the identity of partners and beneficial owners of Partnerships

160. The 2013 Report concluded that partnership, tax and AML laws ensured the availability of information that identified the partners in any partnership that had income, deductions or credits for tax purposes or carried on business in the UK; or was a limited partnership formed under UK law.

161. As described in the 2013 Report, the following types of partnerships can be formed in the UK:

Type of partnership	Governing law	Statistics as at 31 March 2017	Statistics as at February 2011
General partnerships (GPs)	Partnership Act 1890	335 645	410 505
Limited Partnerships (LPs)	Limited Partnerships Act 1907 The Act also applies the 1890 Act to limited partnerships.	45 250	c. 18 500

Type of partnership	Governing law	Statistics as at 31 March 2017	Statistics as at February 2011
Limited Liability Partnerships (LLPs)	Limited Liability Partnerships Act 2000 which applies in England and Wales and in Scotland. In Northern Ireland the Limited Liability Partnerships Act (Northern Ireland) 2002 applies. The Limited Liability Partnerships (Accounts and Audit) (Application of Companies) Act 2006) Regulations 2008 and The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009.	60 778	c.45 500
European Economic Interest Groupings (EEIGs).	The European Economic Interest Grouping Regulation 1989 (SI 1989/638). Northern Ireland has its own supplementary domestic legislation, the European Economic Interest Grouping Regulations (Northern Ireland) 1989 (S.R. (NI) 1989 No. 638).	294	236
Scottish General Partnerships (SGPs) and Scottish Limited Partnerships (SLPs)	Partnership Act 1890, Limited Partnerships Act of 1907	c. 32 000	20 040

162. In Scotland, general and limited partnerships are given separate legal personality under the Partnership Act 1890, unlike those in other parts of the UK. LLPs also have separate legal personality throughout the UK. All partnerships in the UK (including EEIGs) are transparent for tax purposes, whether or not they have separate legal personality, except when an LLP is not carried on with a view of profit (typically when it is being wound up), when it is treated as a corporate entity.

Information requirements on the identity of partners

163. The legal framework analysed in the 2013 Report concerning the availability of information on the identity of partners has not changed, with the exception to some additional filing obligations with Companies House for certain Scottish general partnerships and Scottish limited partnerships. The AML framework has also changed with the MLR 2017, as detailed under A.1.1.

Availability of information on the identity of partners in practice

Tax obligations

164. As described in the 2013 Report, UK resident partners are taxable on profits and gains whether UK-source income or not. Non-resident partners will be liable to tax on trade or professional profits and gains arising from activities carried on in the UK. The Taxes Management Act 1970 (TMA)

requires anyone chargeable to UK income or capital gains tax for a particular tax year to give notice of chargeability, i.e. inform HMRC that they are liable to income and/or capital gains tax, if they have not received an HMRC notice to file a return for that year (s. 7, TMA). All types of partnerships are required to file a Partnership Tax Return with HMRC, including a partnership statement, if HMRC has issued the partnership with a notice to do so (TMA, s. 12AA and s. 12AB). HMRC's power to issue a notice is not discretionary: a tax return will be issued if there is a tax consequence for that chargeable period. The partnership has to nominate one of the partners to do file the partnership tax return. The return includes, *inter alia*, details of all the present partners, and for those that have left or joined during the period covered by the return, the period for which they were partners (s. 12AA(6)). In general, all partnerships carrying on business in the UK should be expected to file tax returns in the UK. The same rules apply to EEIGs.

165. Tax reporting obligations are monitored and enforced in practice by HMRC. This obligation should ensure that the UK have information on the identity of partners for all partnerships (i) that carry on business in the UK; and (ii) where partners have income, deduction or credits for purposes in the UK (as taxation takes place at the level of partners).

Filing obligations with Companies House

166. As analysed in the 2013 Report and as per subsequent amendments in UK law, the following registering and subsequent filing obligations with Companies House apply per type of partnership:

Type	Separate legal personality	Registration with companies House when formed	Need to notify Companies House of changes in partners	Need to file annual return/ confirmation statements (identifying partners)
GPs	No	No	No	No
LPs	No	Yes (s. 8, Limited Partnership Act)	Yes (s. 9, Limited Partnership Act	No
LLPs	Yes, it is a body corporate	Yes, (s. 2 Limited Liability Partnerships Act).	Yes (s. 2 and s. 9, Limited Liability Partnerships Act).	Yes (Part 8, 2009 LLP Regulations)
EEIGs	Yes	Yes	Yes	No
Scottish GPs	Yes, under Scottish law they have a distinct legal personality	No	No	Yes, if all partners are corporate partners. Otherwise no.
Scottish LPs	Yes, under Scottish law they have a distinct legal personality	Yes (s. 8, Limited Partnership Act)	Yes (s. 9, Limited Partnership Act	Yes, since June 2017

167. As noted above, LLPs file partner information with Companies House as part of their annual returns/annual confirmation statements. During the review period, the compliance of LLPs with filing obligations within the deadline was around 76%. The compliance rate irrespective of timeliness (i.e. including returns/annual statements received after the deadline) was approximately 97%. Action was taken against non-filers.

168. With respect to LPs, the UK's 2015 NRA highlighted law enforcement agencies' concern around the risks posed by limited partnerships, due to limited reporting obligations that applied to them in comparison to other corporate forms. In particular, risks were identified in relation to Scottish partnerships, including SLPs, which have distinct legal personality, separate from the partners themselves, especially when they do not carry on business or otherwise incur tax obligations in the UK. Compared to other forms of partnerships, SLPs experienced an unusual rise in popularity in the last 10 years. The number of SLPs rose by 374% between 2007 and 2016, with an average year on year growth of 36% during this period, compared to around 5% for other types of limited partnership. Seventy per cent of the SLPs incorporated during this growth period were registered at just 10 addresses. The UK increased the scope of the PSC register to include these entities to address the tax transparency risk (see more details below).

169. No filing of annual returns with Companies House was required for any GPs and LPs (including SGPs and SLPs) until June 2017. Moreover, since partnerships (including SLPs) are tax transparent, no UK tax liability and no UK tax filing obligations are likely to arise if the partners are non-UK resident and there are no trading profits in the UK.

170. Effective as of June 2017, the UK has strengthened filing requirements for SGPs and SLPs:

- SGPs in which all partners are corporate partners are considered Scottish qualifying partnerships and must register with Companies House and file annual confirmation statements and notifications of change of partners.
- SLPs (which were already required to register with Companies House and file notifications of change of partners) must also file annual confirmation statements.

171. In relation to partnerships that are limited partnerships under UK law (including SLPs), the UK is recommended to monitor that the recently established measures are sufficient to ensure that information on the identity of partners of those partnerships is available to its competent authorities as required under the standard. Moreover, as SGPs have separate legal personality, the UK is also recommended to establish sufficient oversight to ensure the availability of information on the identity of partners in relation to SGPs

that fall within the following criteria: (i) have non-UK resident partners; (ii) do not carry on business in the UK; and (ii) in which not all partners are corporate partners, to ensure the availability of information on the identity of partners of such partnerships.

Partnerships that cease to exist

172. Under the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 part 13 Chapter 1, LLP strike-offs and liquidations follow essentially the same process as for companies.

173. In addition, there is currently no mechanism to remove defunct LPs including SLPs from the register. Companies House has recently run a communication campaign to contact SLPs to make them aware of new filing responsibilities, as well as the need to de-register should they be no longer carrying on business. Of the 31 000 SLPs on the register, over 14 500 active SLPs have complied with the new obligations, while over 12 000 have been identified as inactive. The remaining 4 700 non-compliant SLPs are still being chased by Companies House. Any active SLP which does not file outstanding PSC information is vulnerable for escalation to prosecutors.

Beneficial ownership information

174. The 2016 ToR requires that information is available in respect of beneficial owners of any partnership that (i) has income, deductions or credits for tax purposes in the jurisdiction; (ii) carries on business in the jurisdiction; or (iii) is a limited partnership formed under the laws of the jurisdiction.

175. As described under A.1.1, the availability of beneficial ownership information is mainly ensured by the obligations established under the PSC Registry and the AML obligations imposed on a large variety of obligated entities.

176. LLPs are required to keep a register of their PSCs from April 2016 and must file the PSC information with the central public register at Companies House from 30 June 2016 (The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016).

177. Qualifying SGPs (i.e. SGPs in which all partners are corporate partners) and SLPs must file their PSC information with the central public register at Companies House from June 2017 (The Scottish Partnerships (Register of People with Significant Control) Regulations 2017).

178. Other partnerships would be required to have beneficial ownership information available only to the extent that they engage an AML obliged person in the UK.

179. The UK estimate that approximately 86% of partnerships only have natural partners (based on analysis of files from tax year 2015-16) and therefore would be simple structures where the partners would normally also be beneficial owners.

180. It remains the case that there are no legal requirements for the availability of beneficial ownership information for the following partnerships, when they do not have an on-going relationship with an AML obliged entity:

- GPs, in particular the ones having foreign corporate partners or having partners that are nominees
- LPs, in particular the ones having foreign corporate partners or having partners that are nominees
- SGPs that are not qualifying SGPs (meaning the ones that may have at least one non-corporate partners).

181. The UK is recommended to ensure that beneficial ownership information is available for all general partnerships, including Scottish general partnerships and all limited partnerships.

Definition of beneficial owner

182. Pursuant to the PSC legislation (The Scottish Partnerships (Register of People with Significant Control) Regulations 2017), a PSC in relation to a partnership is a person who fulfills any of the criteria below:

- directly or indirectly holds the right to more than 25% of the surplus assets on winding up the partnership
- directly or indirectly holds more than 25% of the voting rights in the partnership
- directly or indirectly holds the right to appoint or remove the majority of those entitled to take part in the management of the partnership
- otherwise has the right to exercise, or actually exercising, significant influence or control over the partnership
- has the right to exercise or actually exercises, significant influence or control over the activities of a firm and the members of the firm hold, directly or indirectly, any of the rights set in the first four bulletin points above
- has the right to exercise or actually exercises, significant influence or control over the activities of a trust and the trustees of the trust hold, directly or indirectly, any of the rights set in the first four bulletin points above.

183. For the mechanisms for partnerships to identify their PSCs and applicable sanctions, please refer to A.1.1.

184. Under the AML law, a "beneficial owner" in relation to a partnership (other than a limited liability partnership) means any individual who: (a) ultimately is entitled to or controls (in each case whether directly or indirectly) more than 25% share of the capital or profits of the partnership or more than 25% of the voting rights in the partnership; (b) satisfies one or more the conditions set out in Part 1 of Schedule 1 to the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (references to people with significant control over an eligible Scottish partnership); or (c) otherwise exercises ultimate control over the management of the partnership (MLR 2017, Regulation 5(3)). Limited liability partnerships are considered body corporates and the same beneficial owner definition applicable to companies applies to limited liability partnerships as well (see A.1.1).

Implementation of obligations to keep beneficial ownership information in practice

185. While the PSC registration obligations for LLPs has been in force since April/June 2016, the obligations established in relation to eligible Scottish partnerships are relatively new (coming into force as of June 2017). As in respect to the other aspects of the UK's system for the maintenance of beneficial ownership information, the same conclusions made under A.1.1 apply. The UK is therefore recommended to ensure that the relevant AML and PSC obligations are adequately implemented and enforced in practice.

Availability of information on the identity of partners and beneficial owners of partnerships for EOI in practice

186. The UK did not keep separate statistics on the number of requests for information on the identity of partners and beneficial owners of partnerships. However, one EOI partner noted in its peer input having requested information concerning partnerships. This partner has not indicated any issue concerning the availability of the requested information.

A.1.4. Availability of beneficial ownership information for Trusts

Information Requirements on the identity of settlor, trustee and beneficiaries of trusts

187. The 2013 Report determined that information on the identity of the settlor, trustee(s) and beneficiaries was required to be available in line with the standard. In particular it was concluded that:

- UK resident trustee(s) acting by way of business were required to identify settlor and beneficiaries (subject to a 25% threshold) pursuant to AML law.

- Information on the trust would also be available where there would be UK-taxable income or gain, either because there was a UK-source or the trust was considered UK resident because all trustees were UK residents (or the settlor and one of the trustees were UK resident).
- In cases where the settlor was not UK resident and some of the trustees were not UK resident as well and there was no UK source income, information about the trust may not be available in the UK. However, in these cases there was a requirement for UK trustees to hold information under: (i) trust law if the trust was governed by UK trust law (common law); or (ii) UK AML law if the trustee(s) acted by way of business (as described in the first bullet point above).
- The UK reported that it was rare for the UK to receive a request for information concerning the ownership of a trust and none of its peers had reported any difficulties in obtaining information on UK trusts.

188. Since the 2013 review, the MLR 2017 brought important developments:

- A UK trust and service provider (TCSP) is required to identify beneficial owners of the trusts they act for, including all the trust beneficiaries (Part 2 of MLR 2017, pursuant to the new definition of beneficial owner of a trust, analysed in more detail below).
- Trustees of all UK resident express trusts (being those with all trustees resident in the UK; or with at least one trustee and the settlor resident in the UK) irrespective of whether they are liable to pay UK tax, as well as non-UK resident express trusts which generate a UK tax consequence, are required to maintain accurate and up-to-date written records of the beneficial owners of the trust, and to provide these to UK law enforcement authorities, including HMRC, on request.
- Trustees of all UK resident and non-UK resident express trusts which generate a UK tax consequence must register details of the beneficial ownership of such trusts with HMRC.

189. As those developments are relevant in relation to beneficial ownership as well, they will be analysed in more detail below.

Beneficial ownership information

Trusts having a UK trustee acting by way of business

190. Trustees acting by way of business are AML obliged persons under UK law. Regulation 6 (1) of MLR 2017 provides for a definition of "beneficial owner", which is more comprehensive than the definition provided in the 2007 AML legislation. Accordingly, a beneficial owner in relation to a trust means each of the following: (a) the settlor; (b) the trustees; (c) the

beneficiaries; (d) where the individuals (or some of the individuals) benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates; (e) any individual who has control over the trust.

191. "Control" over the trust is defined as a power (whether exercisable alone, jointly with another person or with the consent of another person) under the trust instrument or by law to: (a) dispose of, advance, lend, invest, pay or apply trust property; (b) vary or terminate the trust; (c) add or remove a person as a beneficiary or to or from a class of beneficiaries; (d) appoint or remove trustees or give another individual control over the trust; (e) direct, withhold consent to or veto the exercise of a power mentioned in (a) to (d) (Regulation 6 (2) of the MLR 2017). The concept of control under the MLR 2017 is defined broadly and also covers situations where a person exercises control through a chain of legal entities or arrangements or without any legal or formal position in the trust arrangement.

192. The term "protector" is not defined in UK statute. Protectors are generally understood in trust law as a person appointed under the trust instrument to direct or restrain the trustees in relation to their administration of the trust. Any individual acting as a protector can be considered to be an individual who has control over the trust under Regulation 6 (1)(e) of the MLR 2017. As such the definition contained under the UK AML legislation meets the requirement of the 2016 ToR.

193. AML obliged persons must take reasonable measures to understand the ownership and control structure of beneficial owners that are legal persons or arrangements (MLR, Regulation 28(4)(c)).[28] The UK authorities interviewed during the on-site visit explained that in such circumstances the AML obliged person would need to apply CDD on the legal person/arrangements named as settlors/beneficiaries/controlling persons until an individual is identified. In case the ownership chain seems to purposely disguise beneficial ownership, the AML obliged entity should consider not engaging or terminating the customer relationship and filing a suspicious activity report.

28. The UK explained that Regulation 28(4) clarifies how CDD should be conducted on a customer which is either owned by a legal person or held within a legal arrangement. In these circumstances, the customer's ultimate beneficial owners will be the beneficial owners of the legal person/arrangement. Regulation 28(4)(a) therefore requires those ultimate beneficial owners to be identified, with Regulation 28(4)(b) requiring that reasonable measures be taken to verify their identities. Regulations 5 and 6 define who should be treated as beneficial owners for these purposes and those are always individuals.

Trusts required to be included in the Trust Register

194. If the trustees pay UK tax on the trust assets, income, or gains,[29] Regulation 45 of the MLR 2017 requires trustees (or agents acting on behalf of the trustees) to provide information about the trust to HMRC. This includes beneficial ownership information;[30] and details about the trust itself like the country in which the trust is considered to be resident for tax purposes; the place where the trust is administered; and a contact address for the trustees. HMRC maintains, as of 10 July 2017, a register of trusts that can be, on request, shared with UK and EEA law enforcement authorities; financial investigation units; and EOI competent authorities (i.e. the register is not public).

195. A non-UK resident express trust which does not hold any UK assets or have any UK source income does not need to register. This would include the situation of a trust which has a mixture of UK resident and non-resident trustees and the settlor is not or has not been resident or domiciled in the UK.

196. HMRC reports that as at 12 July 2018 approximately 100 000 trusts were registered. Each tax year a trust incurs a tax liability, the registered information must be updated by 31 January after the end of that tax year.

197. Prior to the introduction of the register, HMRC already obtained information on legal arrangements, including some information on trustees, settlors and beneficiaries based on tax filings.

198. Regulation 44(1) of the MLR 2017 requires trustees of all UK resident express trusts (irrespective of whether they are liable to pay UK tax), and non-UK resident express trusts which generate a UK tax consequence to keep written beneficial ownership information that is both accurate and up-to-date.

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29. This applies to both UK resident trusts and to non-UK resident trusts that have a UK tax liability. Trusts are required to register to file tax returns with HMRC if chargeable to tax: (i) at their formation, or when further assets are settled (when there are inheritance tax and capital gains tax consequences for the settlor); (ii) during their lifetime (when there are potential inheritance tax, income tax, or capital gains tax consequences); (iii) when assets are distributed, or on cessation (when, broadly, there are potential inheritance tax and capital gains tax consequences).

30. It is noted, however, that the register will only contain information on the named settlors and beneficiaries. For instance, if a company is a beneficiary of a trust, the details of that company will be recorded on the trust register and not those of the company's beneficial owner. Under AML CDD obligations, a professional trustee would be expected to identify the company's beneficial owner. HMRC's information powers allow them to access such CDD information. Also, if the company is incorporated in the UK, its PSC information should also be available on Companies House's PSC register.

Regulation 44(3) further states that, if a trust's beneficial ownership changes during the course of a business relationship, the trustee must notify the AML obliged person of the change and the date on which it occurred within 14 working days of the trustee becoming aware of the change.

199. If a trustee breaches the obligations established under Regulations 44, 45(2) and 45(9) of the MLR 2017 (including the duty to maintain accurate and up-to-date written records of the beneficial owners of the trust, and to submit information to HMRC for inclusion on the register of trusts with tax consequences (in years in which the trust incurs a tax consequence)) (Regulation 75, combined with paragraph 8 of Schedule 6), Regulation 76(1) and (2) together of the MLR 2017 provide that either the FCA or HMRC can impose a financial penalty (of an amount it considers to be appropriate) on, or publish a statement of censure in relation to, any trustee who breaches these duties.

Non-UK resident express trusts managed by non-professional trustees

200. UK resident non-professional trustees (i.e. trustees not subject to AML obligations) of trusts that are considered non-UK resident express trusts (e.g. trusts that have a mixture of UK resident and non-resident trustees and the settlor is not or has not been resident or domiciled in the UK) are not required by any statute to maintain beneficial ownership in the UK in respect of such trusts. Common law obligations would nonetheless apply to the UK trustees of those trusts. While common law obligations, as asserted in the 2013 Report, would ultimately require trustees to know the identity of the settlor and beneficiaries, in case those persons are not individuals, it remains unclear whether the trustee would be required to look through them and establish the individuals who effectively own or control them as well as persons acting as protectors of the trust. The UK is recommended to monitor that beneficial ownership information is available with respect to express trusts that meet the following criteria (i) are administered in the UK or in respect of which a trustee is a non-professional resident in the UK; (ii) are considered non-UK resident express trusts (e.g. trusts that have a mixture of UK resident and non-resident trustees and the settlor is not or has not been resident or domiciled in the UK); and (iii) do not have tax consequences in the UK. The UK advises that this gap has not impeded or restricted EOI during the review period.

Implementation of obligations to keep beneficial ownership information in practice

201. The 2013 Report concluded that relevant legal requirements as they applied to trusts were properly implemented in practice.

202. The UK mainly relies on the compliance with tax and AML obligations to ensure the availability of beneficial ownership information in respect

of trusts. There are approximately 22 600 firms, including sole proprietors, acting as trust and company service providers (TCSPs) in the UK. The vast majority of these are supervised for AML compliance by legal and accountancy professional bodies and the provisions of TCSP services are generally incidental/peripheral to the core accountancy or legal services the firm provides. Tax advisers, accountants and solicitors are commonly involved in setting up and managing trusts. Trusts are commonly established by way of a trust deed which will usually be drawn up by a solicitor, although this is not a legal requirement. Financial institutions providing TCSP services will still be supervised by the FCA. Those firms acting as TCSPs that do not have professional body or FCA supervision must be supervised by HMRC. This includes most of the UK's specialist formation agents, and those accountancy service providers supervised by HMRC as well as virtual office service providers and some firms providing trustee services – though most of the latter are supervised by professional bodies.

203. There is a statutory register of TCSPs (maintained by HMRC and the professional body) where the TCSP needs to be entered. It is a requirement to be registered as a TCSP to conduct this type of service and as such, it is an offence to carry on TCSP business without registering. There is a range of penalties for failing to register ranging from GBP 100 (plus fees), for being late and coming forward, to penalties of up to GBP 5 000 per month (plus fees) for those who persist in not registering.

204. TCSPs are all subject to AML supervision; however, as noted under A.1.1, supervisory and enforcement approaches have not been consistent and the UK is asked to monitor and strengthen them as needed to ensure that beneficial ownership information is available in line with the standard.

205. In the discussions held with HMRC during the on-site visit, HMRC officials responsible for the supervision of the TCSP sector explained their practical approach to supervision. It is expected that the AML obliged person will have performed a risk assessment and then reviewed its customer base to classify the different types of risks assumed and that a segmentation of customers per type of risk is performed. Risk assessment should be performed on an on-going basis. Where the TCSP operation is complex, HMRC would likely perform a few visits to check, among others, how customer due diligence and identification of customers and their beneficial owners is performed and verified; whether SARs have been made etc. Sanctions for non-compliance have been applied – including warnings, action plans, and financial penalties. When conducting verification visits of the TCSP sector (for instance, after a warning letter has been issued), HMRC find that significant improvements have been made to address the identified shortcomings in the majority of cases.

Availability of beneficial ownership information of trusts for EOI in practice

206. Four EOI partners indicated in their peer input having requested information regarding trusts, including information on the identity of beneficiaries and trustees and trust documentation. No issues regarding the availability of this information were identified by these partners.

ToR A.1.5. Foundations

207. UK law does not recognise foundations.

Other relevant entities and arrangements

208. The 2013 Report identified three groups of other relevant entities and arrangements that can be formed pursuant to UK law. Those were: (i) mutual societies; (ii) investment entities or schemes; and (iii) charities. Some of these entities and arrangements take the form of companies or trusts and are subject to the rules that apply to such entities regarding registration, record keeping and sanctions.

Mutual entities

209. The following mutual entities can be formed in the UK:

Type of Mutual Society	Governing law	Statistics as at 31 March 2017	Regulator
Building Societies	Building Societies Act 1986	48	Registered with the FCA
Credit Union	Credit Unions Act 1979)	329 (as at September 2016)	Registered with the FCA
Co-operative Societies and Community Benefit Societies	The Co-operative and Community Benefit Societies Act 2014 (CCBS Act) They replaced the "industrial and provident society" ("IPS") legal form with two new legal forms: co-operative society and community benefit society. Existing industrial and provident societies remain registered but are now deemed "pre-commencement societies" (generally referred to as "registered societies").	8 198	Financial Co-operative Societies are registered with the FCA/ If they are charitable, the Charities Commission will regulate them

210. Financial mutual societies (building societies, credit unions, and co-operative societies) are regulated by the Financial Conduct Authority (FCA) and must identify and/or disclose their close links and controllers (Schedule 6 to Financial Services and Markets Act 2000 – FSMA).

211. A controller includes persons (individuals, entities, arrangements) who hold more than 10%/20% (depending on the circumstances) of the shares or voting powers in relation to the firm or parent undertaking[31] as well as persons who hold shares or voting power in the firm or parent undertaking as a result of exercising significant control over the firm's management.

212. The definition of controllers seems to broadly meet the requirements of the international standard, as it includes elements of ownership and control.

213. The FCA conducts several hundred compliance checks of their supervised population each year which are tailored to the size and risk profile of the entity in question. These range from on-site inspections of the largest firms which may last for multiple days or weeks, through to shorter conversations with smaller firms.

Investment entities

Type of investment entity	Governing law	Statistics as at 31 March 2017	Regulator
Authorised Investment Funds (also called **Authorised Collective Investment Schemes**), can be divided into three types: **(i) Authorised Unit Trusts (AUTs) (ii) Open-ended Investment Companies (OEICs) (iii) Authorised Contractual Schemes (ACSs)**	Financial Services and Markets Act 2000 (FSMA) – Part XVII deals with powers of incorporation and authorisation and defines the types of entities that are authorised funds and the parties involved in their operation. Open Ended Investment Companies Regulation 2001 (OEICR)	1 840 (as of December 2016)	Authorised and regulated by the FCA
Investment Trusts[a]	Companies Act legislation, as for limited liability companies.	Part of the 6 939 public companies	Registered with the FCA
Unregulated Collective Investment Schemes (UCIS)[b]	The managers of UCIS are still required to be authorised under Part IV of Financial Services and Markets Act 2000. They may also be subject to the EU Markets in Financial Instruments Directive (MiFID)	24	HMRC

Notes: a. Investment trusts are public companies listed on the London Stock Exchange and subject to Companies Act legislation. Their principal activity is to invest the funds they control according to their own investment policy.

b. UCIS are collective investment schemes which are not authorised by the FCA and as such are not subject to the same restrictions and requirements provided to FCA-authorised schemes. They have very limited use and are very rare.

31. As defined in the FCA Handbook: https://www.handbook.fca.org.uk/handbook/glossary/?starts-with=P.

214. In relation to OEICs and AUTs, the director of an OEIC or manager or the trustee of an AUT must establish and maintain a register of unit-holders. The director, manager or trustee must exercise all due diligence and take all reasonable steps to ensure the information contained on the register is at all times complete and up to date (Schedule 3 to the OEIC Regulations and FCA Handbook – Collective Investment Schemes 6.6.4).

215. Collective investment schemes, including AUTs, OEICs, ACSs and UCISs when marketing or offering units or shares will be required to undertake CDD measures on investors under MLR 2017 (Regulation 8(2)(b) and Regulation 10(2)(e)). CDD includes appropriate steps to identify the beneficial owner of the scheme. The beneficial owner is determined as an individual who benefits from at least 25% of the units or shares of the investment fund, or an individual who exercises control over at least 25% of the units or shares of the investment fund.

Charities

216. As described in the 2013 Report, charities are organisations set up for specified charitable purposes which operate for public benefit, and therefore are likely to be of limited relevance for the current evaluation. They do not have "owners" and cannot distribute their profits other than for purposes which further their charitable purposes.[32] There are a variety of legal forms that charities can take – common types include (i) a charitable company (usually companies limited by guarantee); (ii) a charitable incorporated organisation (CIO); (iii) a charitable trust; (iv) an unincorporated association. Some charities are incorporated as Royal Charter bodies. Other charities may be established or governed by a Scheme of the Charity Commission for England and Wales. They are regulated by a charity regulator (the Charity Commission for England and Wales (CCEW), the Charities Commission for Northern Ireland (CCNI), or the Scottish Charity Regulator (OSCR)) and are required to register with the relevant regulator.

217. Charitable Incorporated Organisations are a recently introduced charitable structure that has legal personality and limited liability for its members and trustees. Whereas charitable companies (usually companies limited by guarantee) have to register with both Companies House and

32. Moreover, a charity can only transfer assets to another charity or entity with a similar purpose, such as a charitable company or Charitable Incorporated Organisation. This may occur in the event that the charity is closing. Such a transfer requires the approval of the Charity Commission to prevent inappropriate disbursements. It is not permitted for assets placed within a charity to be disbursed or transferred for a non-charitable purpose or a purpose that is not aligned with the original charity's charitable objectives.

the relevant charity regulator, CIOs only have to register with the Charity Commission. They are not covered by the PSC Registry.

218. Upon registration with the CCEW charities must provide details of their trustees or equivalent, copy of their governing document, and evidence of income level (excluding CIOs). Documents provided may or may not include the name of the settlor of a charitable trust. Profits must be reinvested into the charity. There are duties to ensure money is applied only for public benefit and also very strict restrictions on how income can be reapplied even when charity is dissolved. The higher the income earned by a charity the greater external scrutiny (independent examination, audit), and more reporting requirements to the relevant charity regulator, apply.

Availability of legal and beneficial ownership information of other relevant entities and arrangements for EOI in practice

219. One EOI partner indicated in its peer input having requested ownership and other type of information regarding funds. No issues regarding the availability of this information were identified.

A.2. Accounting records

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

220. The 2013 Report concluded that the United Kingdom's legal and regulatory framework and its implementation in practice generally ensured the availability of accounting information in line with the standard. Element A.2 was determined to be in place and rated Compliant.

221. While no in-box recommendations were made in the 2013 Report, two in-text recommendations were included. It was noted that in one instance during the previous review period, accounting information was not available regarding a Scottish limited partnership. The UK was recommended to monitor whether there was any impact of this gap on EOI in practice and demonstrate that the issue was not material. The second in-text recommendation was for the UK to monitor the availability of information in relation to trusts having UK resident trustees which were neither considered residents for tax purposes nor in receipt of UK income. It was concluded that those were not subject to record keeping or reporting requirements for tax purposes but might be required to keep (some) records pursuant to the terms of the trust or, if the trustee was acting by way of business, pursuant to AML law requirements.

222. The present review finds that there are no record-keeping requirements in line with the standard for limited partnerships formed under UK law, including Scottish limited partnerships (other than qualifying partnerships[33]), with no UK resident partner and no business activity in the UK.

223. This review also finds that accounting records and underlying documentation may not be available for liquidated entities (companies, limited liability partnerships, limited partnerships and Scottish partnerships) for a minimum period of five years.

224. The other aspects of the UK legal framework and practice in relation to the availability of accounting records and underlying documentation were found to be in line with the standard.

225. The new table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	There are no record-keeping requirements in line with the standard for limited partnerships formed under UK law, including Scottish limited partnerships (other than qualifying partnerships), with no UK resident partner and no business activity in the UK.	The United Kingdom should ensure that accounting records and underlying documentation in line with the standard are available for all relevant legal entities and arrangements.
	Accounting records and underlying documentation for legal entities (including companies, limited liability partnerships, limited partnerships and Scottish partnerships) which cease to exist through liquidation are not required to be maintained for a minimum period of five years.	The United Kingdom should require that accounting records and underlying documentation be maintained for liquidated entities (including companies, limited liability partnerships and Scottish partnerships) for a minimum period of five years.
Determination: In place but certain aspects of the legal implementation of the element need improvement.		
Practical implementation of the standard		
Rating: Largely Compliant		

33. General and limited partnerships in which each partner is a limited company or otherwise has limited liability are considered qualifying partnerships.

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

Companies

226. As described in the 2013 Report, companies are required to maintain accounting records and underlying documentation meeting all the requirements of the standard for a minimum period of five years. Requirements mainly arise from company law (s. 386 of the Companies Act 2006) and tax law (paragraphs 21 and 22 of Schedule 18 to Finance Act 1998, Schedule 37 Finance Act 2008, among others).

227. With respect to dissolved companies, the accounting records and underlying documentation will be required to be maintained as follows:

- In cases of voluntary liquidation: the liquidator is required to maintain records for one year following the date of dissolution (Regulation 16 of the Insolvency Regulations 1994).
- In cases of winding-up by the court (compulsory liquidation): the liquidator, with the consent of the court appointed official receiver, can destroy the records immediately after a winding-up order is made (Regulation 16 of the Insolvency Regulations 1994).
- In cases of striking off: the UK considers that the liability of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved (s. 1000(7), Companies Act 2006). This means that the general retention periods provided under tax law/company law would still apply for struck off companies.[34]

228. In practice, accounting records and underlying documentation remain available for some years after the company stopped carry on business. The Insolvency Service's statistics team have examined all the compulsory liquidation cases closed in 2017 and the average time taken to complete these

34. Struck off companies may be restored to the register within six years of the date of their dissolution; including in the circumstance that a creditor wishes to make a claim. This is because it is not possible to bring a claim unless the company legally exist. The UK advises that the effect of restoration is to revive the company as if it had never been dissolved in the first place (section 1028 of the Companies Act 2006). As a result, the UK considers that all record keeping obligations would still apply in the intervening period until the date where restoration of the company is no longer possible, i.e. seven years and there would be an obligation on former directors of a company that has been struck off to maintain records until the end of that period. This is stated explicitly in advice to directors on GOV.UK (https://www.gov.uk/strike-off-your-company-from-companies-register/close-down-your-company).

liquidations was 26 months. With respect to voluntary liquidations the average length was similar – around 2 years. Moreover, HMRC is made aware of all liquidations and liquidators will not destroy records if HMRC asks for them to be retained. Moreover, as highlighted under A.1.1 – Dissolved Companies, less than 1% of companies each year (0.7% in 2016/17) go through liquidation as most of them cease to exist under the strike off procedure. Moreover, tax returns and accounts filed with Companies House would remain available even after liquidation.

229. It remains the case that the current legal framework does not ensure that accounting records and underlying documentation are kept for liquidated companies for a minimum period of five years and the UK is recommended to address this gap. During the review period, this has impacted the UK's ability to provide full responses in 15 out of the 1 659 requests for accounting information received.

Partnerships

230. The accounting requirements for partnerships described in the 2013 Report remain applicable and are summarised below:

- General and limited partnerships are subject to general obligations "to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives" (s. 28, Partnership Act 1890). The "partnership books" must be kept at the place of business of the partnership and be open to inspection by all the partners (s. 24(9)). This duty for partners to account to one another is also provided in case law.
- Partners of a "qualifying partnership" (i.e. general and limited partnerships in which each partner is a limited company or otherwise has limited liability) have to prepare accounts for the partnership as if the partnership were a company and submit them to Companies House.
- Limited liability partnerships have to maintain and file accounts with Companies House in accordance with Company Law (Part 3 of the Limited Liability Partnership (Accounts and Audit) (Application of Companies Act) Regulations).
- Partnerships including foreign partnerships carrying on business in the UK are required to maintain accounting records and underlying documentation and to file tax returns where there are UK partners or UK source income. Such records, including underlying documentation, must be kept for at least 5 years.

231. The 2013 Report concluded that under UK partnership and tax law, limited partnerships formed under UK law (other than qualifying

partnerships) with no UK resident partner and no business activity in the UK are not subject to record-keeping requirements for tax purposes. Therefore, accounting information in line with the standard may not have to be available in the UK for partnerships under these circumstances.

232. The 2013 Report noted that in one instance in the previous review period, accounting information was not available regarding a Scottish limited partnership. That partnership had no UK tax-resident partners and no UK-taxable business, and no accounting records were available within the UK jurisdiction. It was noted that UK partnership law implies that in order to be registered in the UK, a limited partnership would need to have its principal place of business in the UK (s 8, Limited Partnerships Act 1907). Subsequent to registration, the circumstances may change and the partnership's principle place of business may move outside of the UK. The UK reported that such cases were considered to be rare. The UK was recommended to monitor whether there was any effect of this gap on EOI in practice and demonstrate that the issue was not material.

233. During the current review period, a number of reports[35] highlighted the risks of misuse of legal persons and arrangements, in particular limited partnerships, including Scottish limited partnerships. There have been known instances where Scottish limited partnerships that were involved in money laundering and tax evasion schemes were left off the radar of regulatory authorities, as they had no UK tax consequences and no accounting filing obligations with Companies House.

234. The United Kingdom should ensure that accounting records and underlying documentation in line with the standard are available for all limited partnerships, as well as all Scottish partnerships. The UK is also recommended to establish adequate oversight concerning the compliance with such requirements.

235. The same gap identified for liquidated companies applies to limited liability partnerships, as they are subject to the same rules on liquidation as companies as per the Liability Partnership (Accounts and Audit) Application of Companies Act 2006.

35. IMF, United Kingdom: Financial Sector Assessment Programme: Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) – Technical Note (June 2016), p. 22, https://www.imf.org/external/pubs/ft/scr/2016/cr16165.pdf; Transparency International UK, Offshore in the UK – Analysing the use of Scottish Limited Partnerships in Corruption and Money Laundering (March 2017) p.15.

Trusts

236. The accounting requirements for trusts described in the 2013 Report remain applicable and can be summarised as follows:

- UK resident trusts or trusts with UK source income are required to maintain accounting records including underlying documentation in relation to UK tax matters. They are required to keep all such records as may be necessary to deliver a correct and complete tax return. Such records, including underlying documentation, must be kept for at least 5 years.
- Where a trust carries on a trade, profession or business, accounting records must include all amounts received and expended and, if dealing in goods, all sales and purchases.
- Under common law, trustees have a fiduciary duty to keep accounts of the trust's assets and to allow the beneficiaries to inspect them as requested. Further, trustees should obtain "good receipt" from beneficiaries when they distribute trust property.

237. The 2013 Report noted that a trust having a UK resident trustee but that is neither considered resident for tax purposes nor in receipt of UK income will not be subject to record keeping or reporting requirements for tax purposes but may be required to keep records pursuant to the terms of the trust. Moreover, in case the trustee is acting by way of business, transactional records would be required to be kept for AML purposes. It was noted that there had been no cases where information could not be provided by the UK to its EOI partners because of the failure by UK trustees to keep accounting records. The UK was recommended to continue to monitor any cases where the absence of reporting requirements for tax purposes resulted in a failure to provide information for EOI purposes.

238. The UK reports that it has monitored the situation and that the absence of reporting requirements for accounts for UK trustees of trusts which are not UK resident or incurring a UK tax charge, has had no impact upon EOI. The present review recommends that the UK ensure the availability of accounting information for trusts administered by a UK trustee which have no tax consequences in the UK.

Other relevant entities and arrangements

239. The 2013 Report concluded that adequate accounting obligations were in place for collective investment schemes and charities. There have been no changes in the legal framework applicable to them since the last review.

240. Accounting record keeping obligations, including the obligation to maintain underlying documentation are also provided in respect of entities such as building societies (pursuant to section 81 of the Building Societies Act 1986), credit unions (pursuant to rule CREDS 8.2.7 of the Credit Unions Sourcebook made by the FCA), and co-operative societies and community benefit societies (pursuant to section 90 of the Co-operative and Community Benefit Societies Act 2014). The UK advises that in situations where one of these entities is liquidated or otherwise ceases to exist, the relevant legislation (e.g. Section 90 of the Building Societies Act 1986 and section 123 of the Co-operative and Community Benefit Societies Act 2014) apply, with certain modifications, the same provisions to mutual societies as are applied to the winding up of companies.

Implementation of accounting requirements in practice

241. The 2013 Report did not identify an issue concerning the implementation of accounting requirements in practice.

242. Supervision of accounting requirements including maintenance of underlying documentation is carried out by Companies House, the Insolvency Service, HMRC and the FCA (in respect of the entities it regulates).

243. During the review period, approximately 94% of companies and 91% of limited liability partnerships required to file accounts with Companies House have done so on time and a total of 99% of companies and 98% of limited liability partnerships have done so eventually (whether on time or after the set deadline). Companies House raised late penalty fines of approximately GBP 193 000 per year during that period. Approximately 3% of the annual accounts received were rejected. Companies whose accounts are rejected are required to correct and refile them.

244. The Insolvency Service carries out investigations for poor record keeping, often continuing from action taken by Companies House and/or HMRC, which may result in prosecutions and bans on directors.

245. HMRC has extensive compliance activity which covers accounts accuracy, as accounts are relied on for calculating the tax due. Typically, a settlement for additional tax is made if the accounts are insufficient proof of income and expenses. HMRC's penalty regime includes adjustments for poor accounting, and there is also a separate penalty purely for poor record-keeping.

246. HMRC's primary compliance regime is based on audits (typically referred to as "enquiries" or "compliance checks"). These check whether taxpayers have paid the correct amount of tax at the correct time. If they have not, HMRC will seek to recover this additional tax due and charge penalties where

applicable. HMRC are able to conduct a compliance check in respect of income tax, corporation tax, VAT, capital gains tax and most other taxes and duties.

247. During a compliance check, the taxpayer will usually be asked to provide information and documents to support the figures they have entered onto their tax returns. The information and documents should fulfil both the general requirement of allowing the completion of an accurate tax return, as well as specific record requirements, such as VAT invoices and receipts for VAT-registered businesses.

248. HMRC does not retain statistics for penalties imposed for poor record keeping when a revised assessment to tax has been made following an investigation. The table below shows the total number of compliance checks, and those in which a correction was made. These figures will include many cases of inaccurate accounting records.

	2016/17	2015/16	2014/15
Number of compliance checks	N/A	744 338	744 681
Number of cases checked that are incorrect	N/A	330 762	345 241
Total Assessed Revenue	N/A	GBP 11 442 200 000	GBP 11 174 200 000
Number of compliance checks with penalty	89 773	83 248	58 748

249. A company registered in the UK under the UK Companies Act is by definition tax resident in the UK and so within the charge to UK corporation tax, wherever its activities take place. All active UK companies are required to file a tax return with a set of accounts (Schedule 18 Finance Act 1998), even if all trading is carried out outside the UK. The only exception is where a UK company is resident solely in another country for tax purposes as per the application of a double tax treaty, in which case the other jurisdiction will specifically tell the UK that it is. HMRC advises that it will only accept this if it is satisfied that the company is fully and consistently taxed elsewhere.

250. The following numbers of notices to file a corporation tax return were issued by HMRC[36] and the following numbers of returns were received. Failure to file with returns is subject to penalties and prosecution:

	2016/17	2015/16
Notices issued	2 974 744	2 733 090
Returns received	2 851 591	2 682 742
Returns not received as at 21 Aug 2018	23 153 (4.14%)	50 348 (1.84%)

36. There is effectively an 18 to 24-month lag between a company incorporation and it needing to file a tax return. Moreover, companies that cease to exist or are dormant are not required to file an annual return.

251. The FCA carries out systems and control failures compliance, including accounting records compliance work in relation to its regulated sector, but does not keep specific statistics on its accounting records compliance work (see element A.3 for some statistics on FCA's general supervision and enforcement).

A.3. Banking information

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

252. In terms of the availability of banking information, the 2013 Report concluded that banks' record keeping requirements and their implementation in practice were in line with the standard. Since then, the UK legal framework continues to ensure the availability of banking information for all account-holders.

253. The EOIR standard now requires that beneficial ownership information (in addition to legal ownership) in respect of accountholders be available. In this regard the MLR 2017 requires that banks, as reporting entities for the purposes of the AML/CFT Act, conduct customer due diligence (CDD) on a customer and any beneficial owner of a customer. A bank is required to conduct on-going monitoring on a business relationship and must retain these records for a period of at least five years.

254. The availability of banking information and beneficial ownership information of accountholders is monitored and enforced by the FCA.

255. During the current review period, 765 out of the 5 206 requests received by the UK contained inquiries for banking information. Information was found to be available when requested. When there were issues with responding to EOI requests for banking information, those were related to access and are dealt under element B.1.

256. The new table of recommendations, determination and rating is as follows:

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

ToR A.3.1. Record-keeping requirements

257. The 2013 Report concluded that banks' record keeping requirements and their implementation in practice are in line with the standard. That report noted that, during the previous review period, one peer noted that the reply to one request was affected due to poor record retention by a UK bank. However, the report concluded that this may have been an isolated incident.

258. The main record keeping requirements are contained in the MLR 2017 (which replaced the MLR 2007 described in the 2013 Report) and the FCA Handbook (whose specific requirements were already described in the 2013 Report).

259. Banks and other financial institutions carrying on business in the UK must keep records of business relationships or occasional transactions for a period of five years from the date of the transaction or when the business relationship ends (Regulation 40, MLR 2017). The records that must be kept are those that were obtained to satisfy the due diligence requirements, as well as supporting documents in respect to a transaction that is the subject of CDD or on-going monitoring to enable the transaction to be reconstructed Regulation 40(2), MLR 2017).

ToR A.3.1. Beneficial ownership information on account holders

260. As analysed under A.1.1, CDD measures require the identification of the customer and, if the customer is beneficially owned by another person(s), the AML obliged person must identify that other person (s) (the beneficial owner(s)) and take reasonable measures to verify his/her identity so that the AML obliged person is satisfied that it knows who the beneficial owner is.

261. A definition of beneficial owner is included for different types of legal entities and arrangements (Regulations 5 and 6), as analysed under A.1. The definitions established meet the requirements of the international standard.

262. Third-party reliance is allowed, however the relying party remains liable for any failure by the relied person in applying CDD measures (Regulation 39 of MLR 2017; see A.1.1 for more details).

263. The FCA is the supervisory authority for credit and financial institutions, including banks. It currently supervises 315 banks.

264. The FCA's approach to AML/CFT supervision is risk-based, operated under three main pillars:

- ***Pillar 1***: Proactive supervision of the biggest firms – the 14 highest AML risk firms (a mix of the largest retail and investment banks)

are subject to the most intensive AML/CFT supervision. These firms account for over 78% of the UK retail banking. They have a named AML/CFT expert relationship manager from FCA's Financial Crime Department and are proactively supervised by a supervision sector team.

- ***Pillar 2***: Event-driven, reactive supervision of actual or emerging risks – Risks are identified on the basis of intelligence from a variety of sources including whistle-blowers, law enforcement agencies and other regulators. In the period February 2016-18, there were 91 risk events opened in relation to retail banking
- ***Pillar 3***: Thematic supervision which focuses on risks and issues affecting multiple firms or a sector as a whole.

265. The FCA AML supervisory approach is divided up into 3 main programmes:

- ***Enhanced Supervision***, which includes detailed scrutiny of a firm's AML/CFT systems and controls. Firms can be placed in enhanced supervision for a variety of issues, including systemic failings.
- ***Systematic AML Programme*** – 14 of the largest retail and investment banks operating in the UK are included in this programme (see Pillar 1 described above) on the basis of the systemic financial crime risks, the financial crime risk profile of the products and services they offer and of the extent and nature of their global footprint. The programme operates with inspections taking around 4-6 months involving desk-based research (review of AML annual reports, AML and sanctions policies and procedures, compliance team organisation) and on-site visits (review of client files – including review of identification of beneficial owners, system alerts, examination of suspicious activity reports, interviews).
- ***Proactive AML Programme:*** This predominantly covers smaller firms assessed as higher risk. The full cycle for these visits covers 150 firms, over four years. An inspection typically involves interviews with staff from a variety of functions, a targeted review of customer files, with a particular focus on high-risk customers (e.g. politically exposed persons (PEPs), correspondent banking) and a review of the firm's alert handling processes for sanctions, PEP screenings and transaction monitoring.

266. Other firms are reviewed as part of the FCA's Risk Assurance Review. A selection of approximately 100 firms (including approximately 12 banks) is reviewed on a yearly cycle across all sectors subject to the MLR 2017. Firms selected are subject to either a desk-based review or an on-site

visit, depending on the initial risk assessment. In 2016, the FCA introduced an annual data return for firms with revenues of at least GBP 5 million and deposit taker institutions. The returns are used in the selection the selection of firms for further inspections.

267. AML/CFT is a responsibility for all FCA supervisory staff, with sector supervisors responsible for assessing firms' overall AML/CFT compliance and undertaking less complex AML/CFT work, supported by a specialist Financial Crime Department who lead on the highest priority and most complex issues Additionally, some multi-firm work focussed on AML/CFT systems and controls is led by sector supervisors with support from AML specialists. FCA's supervisory staff can be broken down as follows:

Number of staff[a] by department

Financial crime department	Supervision	Enforcement	Intelligence
50	700	569[b]	66

Notes: a. 2017/18 resources allocation.
b. As at end of December 2016.

268. The number of desk-based reviews and on-site inspections carried out by FCA in respect of the 19 620 supervised entities in the last four years and their outcomes are summarised below:

Number of:	2013/14	2014/15	2015/16	2016/17
Desk based reviews (total)	96	56	134	154
Compliant	47	32	77	73
Partially compliant	25	9	45	74
Non-compliant	24	15	6	7
On-site inspections (total)	33	53	116	100
Compliant	12	9	10	27
Partially Compliant	17	27	33	27
Non-compliant	4	5	16	4
Awaiting decision	5	9	57	42

269. During the review period, the FCA conducted 111 bank inspections, comprising: 11 in-depth on-site visits under the Systematic AML Programme (which involve several weeks on-site as part of a six-month long inspection), 79 on-site visits under the Proactive AML Programme (which involve several days on-site), and 21 which were a mixture of on-site visits and off-site inspections under the Risk Assurance Programme.

270. The FCA has a range of tools to address AML/CFT deficiencies in firms, including banks. In addition to financial penalties, the FCA uses early intervention techniques, firm-specific action plans as well as the power to require firms to cease certain types of business. The FCA can also require a firm to have a report undertaken by an independent skilled person – a Section 166 Report – to review aspects of a firm's activities that cause concern or where further analysis is required. A summary of enforcement action taken in the last three years is included below.

Enforcement action	Number of actions taken 2014/15	Number of actions taken 2015/16	Number of actions taken 2016/17
Action plan	23	56	72
Early interventions	8 (all banks)	8 (all banks)	7(all banks)
Section 166 reports	6 (all banks)	6 (all banks)	5 (all banks)
Fines	1 (a bank)	1 (a bank)	3 (all banks)

271. Since 2012, the FCA has concluded enforcement action against 10 firms for AML failings. Eight cases used the FCA's powers under Financial Services and Markets Act 2000 (FSMA),[37] and two used the FCA's powers under the AML legislation. The financial penalties imposed by the FCA

37. Separate to their powers under the MLR 2017, the FCA may also draw on its powers under the FSMA to sanction businesses that fail to comply with their requirements under the MLRs. These powers include:

Requiring firms to employ an appropriately qualified independent person to provide a report on an issue determined by the FCA (Section 166 FSMA);

Issue public censures or statements on a firm (Section 205 FSMA) or individual (Section 66 FSMA);

Impose financial penalties of such amount as the FCA considers appropriate on a firm (Section 206 FSMA) or individual (Section 66 FSMA);

Vary or cancel a firm's Part 4A permission to provide regulated activities (Section 55J FSMA);

Impose requirements on a firm's Part 4A permission to provide regulated activities (Section 55L FSMA);

suspend or restrict a firm's Part 4A permission to provide regulated activities (Section 206(1)(A) FSMA and Section 206A(1)(b) FSMA);

Impose an assets requirement on a firm to freeze assets, as well as powers to obtain freezing/restraining injunctions through the High Courts (see Section 380 onwards of FSMA); and

Require a regulated firm to conduct a consumer redress exercise (Section 404F(7) FSMA).

in this period (including disgorgement and before any discount for early settlement), totalled more than GBP 343 million (firms) and GBP 92 700 (individuals). The issuance of financial penalties and the name of the fined entities are made public for deterrence purposes. In addition to imposing financial penalties, the FCA also imposed business restrictions on two of the firms, which included restricting a firm from acquiring new customers that were resident or incorporated in high-risk jurisdictions for a set period and restricting a firm from accepting deposits from new customers for a set period. The FCA has also increased the use of its early intervention tools to address weaknesses in firms' systems and controls. So far, there have been at least six early interventions by the FCA since 2012/13, in response to weaknesses in AML controls. These early interventions led to four impositions of requirements; two firms undertaking not to take certain actions; and consideration of enforcement action in four cases.

272. A 2016 expert report[38] noted that FCA continued to see failings in a number of banks, including in relation to the assessment and management of higher-risk business, although the authorities see the situation as improving. Many banks, particularly large banks, now appear to recognise AML as an issue requiring senior management attention and a robust message from the top. This was also confirmed by FCA during this assessment on-site visit in January 2018.

38. IMF, United Kingdom: Financial Sector Assessment Programme: Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) – Technical Note (June 2016), p. 6, https://www.imf.org/external/pubs/ft/scr/2016/cr16165.pdf.

Part B: Access to information

273. 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).

274. The 2013 Report found that the UK had comprehensive powers to access information requested by its treaty partners. It was found that in order to reply to the majority of EOI requests, the UK could use information already in the hands of HMRC or request information from information holders on a voluntary basis. In all other cases, HMRC had to issue a formal notice to information holders which needed to be either approved by the person the information related to or a tribunal. It was found that, where access to information required tribunal approval, the procedure was time-consuming and complex. Peer input had raised concerns about that procedure and considered that it unduly delayed exchange of information. The legal framework was determined to be in place and element B.1 was rated Largely Compliant.

275. Since then, the UK continues to be able to rely on HMRC's extensive information databases and resources as well as on the informal (voluntary) co-operation of taxpayers to reply to the vast majority of the 5 206 EOI requests received by the UK during the review period. This has enabled the UK to provide timely responses to most EOI requests.

276. However, this review also finds that, in the instances where the tribunal process needed to be engaged to collect information, the process

continued to delay effective exchange of information. This has been noted by six peers that had provided input to this review. Another six peers did not express particular concerns, but noted that requests for banking information generally take more than 180 days to be replied to by the UK.

277. In response to the recommendation in the 2013 Report, HMRC's EOI team developed a document to assist requesting jurisdictions in providing the types of details that can support the UK tribunal process (in particular when banking information is requested directly from banks). This review finds that several questions contained in the document seem to go beyond the standard. The UK advises nonetheless that the document was meant as an "aide memoire" designed to help deliver a successful and quicker tribunal hearing, and that it did not require responses to all questions in order to pursue tribunal approval. The UK further notes that it has never refused a request on the basis that the requested jurisdiction did not provide the information requested in the aide memoire. The UK also indicated that some peers have found the aide memoire useful in guiding them in drafting their requests to the UK and the use of the aide memoire has reduced the overall time taken to receive the requested information. Nonetheless, three peers that provided input to this review expressed concerns that the document and process involved was overly burdensome to the requesting jurisdictions and one of them considered that the information requested in the aide memoire went beyond the foreseeable relevance standard. The UK believes that some peers mistakenly thought that all information requested in the aide memoire had to be provided. The UK also reports that it has now amended the aide memoire in response to this feedback to make its purpose clearer to peers. Moreover, in July 2018, the UK published a government consultation with specific proposals for reform of UK processes for issuing third party notices, with the intent of significantly reducing the time taken in obtaining information in future.

278. This review also finds that, whilst the UK requested UK legal entities to provide information on a voluntary basis, where there were no UK-resident directors, partners or other information holders, HMRC did not exercise its formal access powers (by means of issuing formal notices) to further pursue the requested information. This has affected approximately 170 requests in the review period. These requests were in regard to UK legal entities where the requested information was kept outside the UK and there were no UK resident directors or partners. Whilst there are applicable sanctions for non-compliance with the maintenance or provision of information in such cases, in the UK's experience, those sanctions available to HMRC are not effective to ensure access to information in cases where there is no UK resident director or partner to whom they can be applied. The UK advised that the UK would check if any third party in the UK (e.g. a service provider) held relevant information to reply to EOI requests in such instances, and where

that is the case, the UK would not hesitate to use its third party information gathering powers.

279. Moreover, UK's formal access powers available for EOI would only apply for purposes of determination or assessment of the tax due by the requesting jurisdiction. As a result, the UK has not been able to access information to respond to requests for information in relation to enforcement of tax claims from EOI partners. According to peer input, this issue has impacted four exchange of information requests during the review period and one partner has indicated it would refrain from making similar requests in the future. The UK has now published a government consultation notifying its intent to expand Schedule 36 powers to allow access to information for the purpose of enforcing a tax claim.

280. As a result of the issues currently identified, the legal framework concerning access to information is now determined to be in place but in need of improvement and the implementation of the standard in practice is now rated Partially Compliant.

281. The new table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	The United Kingdom's formal access powers would only apply for purposes of determination or assessment of the tax due by the requesting jurisdiction. As a result, the United Kingdom has not been able to gather information to support the debt collection processes of its exchange of information partners.	The United Kingdom should ensure it has powers to access information to respond to requests for information in relation to enforcement of tax claims from its exchange of information partners, where the taxes are covered by the relevant EOI instruments.
Determination: In place but certain aspects of the legal implementation of the element need improvement.		

Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	The formal process to obtain information (other than information already in the possession of HMRC or information which is voluntarily provided to HMRC) is complex and on average takes 12 months to complete before information is provided to the requesting jurisdiction. This process unduly delays effective exchange of information. It has also sometimes created an undue burden to requesting partners, some of whom considered that they had to provide a considerable amount of details on their investigation, which were occasionally beyond the foreseeable relevance standard, to support the UK processes.	The UK should ensure that its procedure for accessing third party information is compatible with effective international exchange of information in tax matters.
	The United Kingdom did not exercise its formal access powers to reply to some requests regarding UK legal entities where the requested information was kept outside the UK and there were no UK resident directors or partners. Whilst there are applicable sanctions for non-compliance with the maintenance or provision of information in such cases, the UK considers that those sanctions would not be effective to ensure access to information where there is no UK resident director, partner, or other information holder.	The United Kingdom should exercise its information gathering powers to access information from any person within the UK's territorial jurisdiction, including legal persons in the cases where their management or partners are not in the UK territory. If those powers are found to be insufficient to compel the production of the information in practice, the UK should take appropriate measures to ensure that accounting records and underlying documentation can be obtained in all relevant situations in line with the standard.
Rating: Partially Compliant		

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

Access powers available to the competent authorities

282. The 2013 Report described in-depth the powers to access information available in the UK in order to reply to an EOI request (paras. 203-227 of the 2013 Report). These powers have not changed since that report. In summary, HMRC has information gathering and inspection powers under Schedule 36 of Finance Act 2008 (Schedule 36) to check the tax position of taxpayers. Moreover, Schedule 23 of Finance Act 2011 (Schedule 23) enables HMRC to collect data from data-holders to use in compliance activities.

283. Powers under both schedules are used across all UK taxes and duties, including Income Tax, Capital Gains Tax, Corporation Tax and VAT. Under Paragraph 63(4) of Schedule 36 and Paragraph 45(4) of Schedule 23, the powers can also be used to check a taxpayer's tax position in regard to a "relevant foreign tax", i.e. any tax covered by an EOI instrument of the UK.

284. These powers enable HMRC to acquire the information needed to fulfil its exchange of information obligations, when it does not already hold it. An exception is made to information to support the debt collection process, as further analysed below.

Schedule 36 powers

285. As described in the 2013 Report, Schedule 36 provides HMRC with a number of powers including:

- the power to issue a notice to require a taxpayer to provide information or documents that are reasonably required to check that person's tax position (para. 1)
- the power to issue a notice to require a third party to provide information or documents that are reasonably required to check the tax position of another person whose identity is known. This power is subject to approval by the first party or by tribunal (para. 2)
- the power to issue a notice to require a third party to provide information or documents that are reasonably required to check the tax position of another person or class of persons whose identity or individual identities are not known. This power is subject to approval by tribunal (para. 5).
- the power to issue a notice to require a business to provide the name, date of birth and last known address of another person or class of persons where HMRC cannot readily ascertain the identity or identities by other means (para. 5A)

- the power to inspect a person's business premises and the business assets and documents that are on that premises if the inspection is reasonably required to check the person's tax position. This power is subject to approval by the occupier of the premises or by tribunal (para. 10)
- the power to inspect the business premises, business assets and relevant documents of an involved third party if the inspection is reasonably required to check the tax position of another person or class of persons. This power is subject to approval by the occupier of the premises or by tribunal (para. 10A).

Schedule 23 powers

286. Schedule 23 enables HMRC to collect data from data-holders to use in compliance activities. Data-holders from which "relevant data"[39] can be collected include: employers, merchant acquirers, providers of electronic stored-value payment services, payers of interest, licence issuers and business intermediaries. These powers are supported by regulations which specify the relevant data that may be required from each data-holder. The main powers available to HMRC under Schedule 23 are:

- the power to issue a notice to require a data-holder to provide relevant data about another person or class of persons to assist HMRC in discharging its tax functions (para. 1)
- the power to gain tribunal pre-approval of a notice to prevent a subsequent appeal by the data-holder (para. 5)
- the power to take copies of or extracts from any documents provided (para. 6).

287. The powers under Schedule 23 have not been used to reply to EOI requests received during the review period.

Access powers in practice

288. In order to reply to the vast majority of EOI requests, HMRC used its extensive information databases and resources as well as reliance on the informal co-operation of taxpayers (i.e. information has been provided by the taxpayer on a voluntary basis without the need of issuing a formal notice under Schedule 36 or Schedule 23).

39. Pursuant to Schedule 23, "relevant data" means data of a kind specified for each type of data-holder in regulations made by the Treasury.

289. In summary, the main sources used by HMRC to access information for EOI were:

- *Legal and beneficial ownership information*: the publicly accessible information maintained by Companies House, the Trusts Register maintained by HMRC, HMRC's tax records and, where required, information was requested from the relevant entity. With respect to beneficial ownership information in particular, HMRC has direct access to the PSC register (see element A.1), except for the non-public information on register (i.e. information on PSCs who are at the risk of harm). In practice, that applies to a limited amount of information. HMRC would need to consult the relevant legal entity in order to obtain the non-public information or request it from Companies House (s. 34(3) of The Register of People with Significant Control Regulations 2016).
- *Accounting information*: the relevant entity. Some information such as financial statements may be directly available at HMRC's databases.
- *Banking information*: the accountholder, followed by the bank, if the information was not provided by the accountholder.

Procedure to access banking information

290. Due to the common law contractual duty of confidentiality (see B.1.5), a bank is not able to provide banking information on a voluntary basis. Therefore, a bank would require either a request from the accountholder or a formal notice in order to co-operate.

291. In practice, where the requesting jurisdiction sends an EOI request to the UK because (i) it is unable to obtain the UK bank statements from its taxpayer directly; or (ii) where it prefers not to do so because for instance the taxpayer cannot be trusted to transmit the statements without fraudulently altering them, the UK will first ask the requesting jurisdiction to request the taxpayer to sign a mandate authorising the taxpayer's bank to supply his/her bank statements to HMRC (assuming that the taxpayer is co-operating with the foreign investigation). Where a mandate is provided by the requesting jurisdiction, this will be issued to the bank and the records obtained under that arrangement. This mandate replaces the need for a taxpayer approved third party notice under Schedule 36. Where the UK needs to use its formal information powers to obtain bank records, within the laid down procedures in Schedule 36, HMRC will discuss the contents of the proposed notice with the bank. This approach is aimed at reducing the risk of the bank deciding to appeal against the notice. There have been no appeals from banks during the review period.

292. For a tribunal-approved notice, HMRC has to satisfy the tribunal that the information is reasonably required to check the tax position of the taxpayer and that it is reasonable to expect that the person to whom the notice is addressed holds that information. For EOI purposes, HMRC interprets "reasonably required" as having the same meaning as "foreseeably relevant". HMRC prepares a detailed written application for approval. This application sets out the background of the requesting country's investigation, including: identification details of the taxpayer; the nature of the tax risk; the reason for and history of the investigation; any irregularities established; details of the information required; why it is relevant; why the UK person could be expected to hold that information; and confirmation that the requesting jurisdiction has exhausted its own means of obtaining the information. Where appropriate, the application is supported by exhibits of relevant documents. HMRC has to put considerable work into preparing matters for the tribunal's consideration. This preparation can take several months (though it can be faster in some cases) depending on the complexity of the matter and the extent of information provided to HMRC by the requesting jurisdiction.

293. In summary, HMRC pursues all other possible means to collect banking information before seeking a tribunal-approved notice considering the complexity that the process involves. HMRC advises that it can nonetheless pursue this avenue directly when the requesting jurisdiction provides sufficient explanation on why it would need the bank to be approached first.

294. Where the name of the taxpayer is not known, pursuant to paragraph 5A of Schedule 36, HMRC has the power to require a data holder to provide a person's name, address and date of birth, based on the identifying information that is provided by HMRC to the data holder (e.g. a bank account number). Paragraph 5A also specifies that these powers can be exercised when certain prescribed conditions are met.[40] When the name of the taxpayer is determined, HMRC will provide this information to the requesting jurisdiction. If the requesting jurisdiction wishes to obtain additional information (e.g. banking records) it would normally need to submit a new request demonstrating the foreseeable relevance of the requested information and

40. The conditions for the Tribunal to approve a notice under paragraph 5A are: (i) that the information is reasonably required by the HMRC officer for checking the tax position of the taxpayer (this can be used to check position of the taxpayer in relation to foreign tax as well), (ii) the taxpayers identity is not known to the officer but the officer holds information from which the taxpayers identity can be ascertained, (iii) the officer has reason to believe that the person will be able to ascertain the taxpayers identity from the information held by the officer and the person obtained the relevant information about the taxpayer in the course of carrying out the business and (iv) the taxpayer's identity cannot readily be ascertained by other means from the information held by the officer.

explaining the means used to collect the information in its own jurisdiction before submitting the request to the UK. The UK would then pursue to collect the requested records under its regular access powers.

Using formal access powers in practice

295. Of 5 206 the requests received during the review period, HMRC issued formal information notices under Schedule 36 (covering both banking and non-banking requests) in 98 cases (i.e. in less than 2% of the cases) There were 76 tribunal-approved notices and 22 taxpayer-approved notices. The number of notices issued throughout the review period was somewhat stable: 27 notices in relation to requests received in the year ending 31 March 2015, 40 in relation to the year ending 31 March 2016, and 31 notices in relation to the year ending 31 March 2017. Moreover, the process to issue Schedule 36 notices in relation to 41 requests received in the review period is still in progress (representing 26% of all pending cases).

296. The process to access information on the basis of the 76 cases that required the tribunal to issue notices took on average 14 months from the receipt of the request to providing information to the requesting jurisdiction. If the time elapsed while awaiting additional background information from the requesting jurisdiction to ensure the foreseeable relevance standard was met is discounted, then the UK advises that these cases took an average of just over nine months.

297. In order to assist dealing with requests that would require the tribunal process, HMRC hired additional staff with skills and training to handle this process. Ten core staff can pursue a notice, with additional officers available if required. HMRC also developed a document that sets out what information would normally be required from requesting authorities to support the tribunal approval process when banking information is required.

298. HMRC advises that it encourages EOI partners to respond to all the questions contained in the document but it considers that the document is only intended to be an "aide memoire" and that it does not insist that the full questionnaire is completed in order to progress in collecting the information. However, there is no language in the document clarifying that not all information would be required – and the title of the document refers to "information needed". Moreover, several questions contained in the document seem to go beyond the standard, since the answer to some of them may only be available after the partner is able to review the information requested from the UK. For instance, the following questions are included in the document:

- "How may the tax risks translate to additional tax liabilities? Please provide a table showing estimated figures of additional income and tax due, covering the enquiry period."

- "If the entity under enquiry was involved in a scheme of tax evasion or avoidance, please explain how the scheme worked, and provide copies of relevant documents."
- "Please detail the part in this scheme played by the UK bank account."
- "Please provide evidence of the existence of the UK bank account (to show the name and address of the UK bank, sort code and account number)."

299. HMRC indicated that it did not receive negative feedback on the questionnaire during the review period and that, in contrast, some partners advised that they considered the document helpful. Although peers are generally satisfied with the assistance provided by the UK competent authority, three peers that provided input to the review indicated serious concerns with the content of the questions and one peer explicitly noted that they go beyond the foreseeable relevance standard. Six peers noted delays and concerns with the amount of information requested by the UK to support its domestic access process. Peers considered the process "quite complex and lengthy", noting "unsatisfactory delays" and that requests for clarifications were "particularly burdensome". Six other peers indicated that obtaining banking information from the UK takes longer than other information, without details on the reasons. The UK advises that the aide memoire has now been redrafted in response to feedback to ensure its purpose is clear to all peers, and that not all questions need to be answered. In July 2018, the UK published a government consultation notifying its intent to reform UK processes for issuing third party notices, with the aim of significantly reducing the time taken in obtaining information in future.[41]

300. The UK is recommended to ensure that the processes for accessing information in order to reply to an EOI request are effective and do not create undue burden to its EOI partners, in particular that partners are not required to provide information beyond the foreseeable relevance standard to support the domestic process of obtaining information in the UK.

Requests for information to support the collection of a tax debt

301. The UK's formal access powers would only apply for purposes of determination or assessment of the tax due by the requesting jurisdiction. As a result, the UK has been unable to gather information to support the debt collection processes of its exchange of information partners.

41. Available at https://www.gov.uk/government/consultations/amending-hmrcs-civil-information-powers.

302. HMRC advises that it is nonetheless able to reply to EOI requests where the requesting authority is seeking to identify assets in the UK (including the existence of UK bank accounts) in relation to tax debts arising in the requesting jurisdiction by using all its tools and systems (including informal approaches, information already available within HMRC etc.) to identify those assets and provide details to the requesting authority. Additionally, in the case of jurisdictions with whom the UK's treaties include assistance in debt collection, the UK can pursue the payment of tax debt owed in those jurisdictions through the courts.

303. Input from two EOI partners indicates that the UK has not been able to use formal powers to support their debt collection processes when requested to do so. This has affected the response to four requests; however, one of the peers also indicated that it would refrain from making similar requests in the future.

304. The UK advises that in those specific cases it asked the taxpayers involved to provide the information voluntarily. However, in the cases taxpayers would not agree to do so, the UK explained to the partners its formal access powers under Schedule 36 were limited to the checking of "tax positions" as defined in paragraph 64:

> Tax position
>
> 64 (1) In this Schedule, except as otherwise provided, "tax position", in relation to a person, means the person's position as regards any tax, including the person's position as regards —
>
> (a) past, present and future liability to pay any tax,
>
> (b) penalties and other amounts that have been paid, or are or may be payable, by or to the person in connection with any tax, and
>
> (c) claims, elections, applications and notices that have been or may be made or given in connection with any tax, and references to a person's position as regards a particular tax (however expressed) are to be interpreted accordingly.

305. The UK considers that the checking of "tax positions" refers to correctly quantifying liabilities to tax (and certain related matters such as claims for relief and penalties). This applies equally to both the domestic and EOI context.

306. The UK advises that information obtained through a Schedule 36 notice could subsequently be used to support the collection of a tax debt, as long as its original purpose was to ascertain a subject's tax position. That would apply both in domestic and EOI context. However, the UK advises that

Schedule 36 would not enable HMRC to seek information as to the taxpayer's solvency for the purpose of evaluating the viability of enforcement action.

307. The Model TIEA, which is a source to the international standard, specifically provides in Article 1 that information to be exchanged include "information that is *foreseeably relevant to the determination, assessment and collection of such taxes, recovery and enforcement of tax claims*, or the investigation and prosecution of tax matters". The same goes for the revised Commentary to Article 26, which provides in paragraph 3 that "The matter of administrative assistance for purpose of tax collection is dealt with in Article 27, *but exchanges of information for the purpose of tax collection are governed by Article 26*" (emphasis added).

308. The UK should ensure it has powers to access information to support a tax debt collection process of its exchange of information partners, when the taxes are covered by the relevant EOI instruments. The UK has notified its intent to extend HMRC's Schedule 36 powers to include information to support tax debt collection, in a government consultation published in July 2018.

Information held outside the UK

309. The UK indicated that it was not able to provide full responses to approximately 170 EOI requests because the directors or partners of the relevant entity were outside the UK territory and the relevant records were not kept in the UK.

310. Under Schedule 36, a person is required to produce a document if it is in the person's possession or powers (s. 18). In the decision Parissis and others [2011] UKFTT 218 (TC), the First-Tier Tribunal considered that documents are in a person's possession or power if that person can request the documents from another person/body, even if that other person is overseas. The taxpayer is presumed to have documents within his/her power if he/she can obtain them from a third party by influence or otherwise.

311. In the cases mentioned above, informal requests for the information were not successful. The formal information powers in Schedule 36 of the Finance Act could have been used to require the entity to provide the requested information, but the competent authority did not pursue this avenue, because past experience showed that compulsory powers were not effective when the persons required to maintain and provide records were outside the UK territory. Whilst there are applicable sanctions for non-compliance with the maintenance or provision of information in such cases, in the UK's assessment, those sanctions are not to be effective when applied to persons overseas.

312. The UK competent authority advised that in some instances the requesting jurisdiction was satisfied with a partial reply to the requests, in particular in cases the directors or partners were residing in the requesting jurisdiction (and therefore the requesting jurisdiction could easily pursue domestic avenues to obtain the information). The UK should nevertheless ensure that it uses all its information gathering powers to access information from any person within its territorial jurisdiction, including legal persons in the cases where their management or partners are not in the UK territory. Where a first attempt to collect information informally proved to be insufficient, the UK should not hesitate to engage its (formal) information gathering powers to ensure effective exchange of information. If those powers are found to be insufficient to compel the production of the information in practice, the UK should take appropriate measures to ensure that accounting records and underlying documentation can be obtained in all relevant situations in line with the standard.

Old information

313. An information notice may not require a person to produce a document if the whole of the document originates more than six years before the date of the notice, unless the notice is given by, or with the agreement of, an authorised officer from HMRC. Information older than six years can be obtained if it affects a current tax position. The requirement to have an agreement from an authorised officer is meant to ensure that access powers are being used correctly and act as a safeguard for both the taxpayer and HMRC.

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

314. 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.

315. The 2013 Report noted that the domestic tax interest that had been identified in the 2011 assessment (e.g. the issue of obtaining information on persons who were not named absent a domestic tax interest) had been resolved – see more details under B.1.1 Procedure to access banking information. No issues were identified in the current review either. During the current review period, the UK provided information in which it did not have a domestic tax interest – e.g. bank account information for a person that had no other interests that could give rise to a UK tax charge.

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

316. The 2013 Report concluded that the UK had in place effective enforcement provisions to compel the production of information. There was a high compliance with notices to produce information during the review period and sanctions were not required to be applied. The situation remains the same in the current review period: where formal access powers have been activated, there was a high level of compliance. However, as noted earlier in this section, in some instances where informal requests were made and not successful, the competent authority did not pursue to collect information using the formal powers (those were normally cases where the officers of the entity involved were outside the UK).

317. As described in the 2013 Report, the initial penalty for failing to comply with a notice is a fixed GBP 300 fine. After that penalty is imposed, there is liability to a penalty of up to GBP 60 a day for so long as the failure continues, with an increased daily penalties where default exceeds 30 days up to GBP 1 000 (para 49AIf). A penalty based on the amount of tax at risk may also be charged in addition to daily or standard penalties where an officer believes that the failure or obstruction is likely to result in the person paying significantly less tax. There is also a penalty of up to GBP 3 000 for carelessly or deliberately providing inaccurate information.

318. A financial institution is guilty of a criminal offence if it conceals, destroys or otherwise disposes of a document required by a notice or a document that it has been informed is likely to be the subject of a notice under Schedule 36. On summary conviction the maximum fine in England and Wales or Northern Ireland is presently GBP 5 000 (GBP 10 000 in Scotland) and on conviction on indictment to imprisonment for a term of up to 2 years, or a fine, or both.

319. During the current review period, there was only one case where the information was not obtained after a notice was issued. A Schedule 36 information notice was issued to the administrator of a company, requiring the production of accounting records relating to one particular client. The administrator appealed on the grounds that the notice was too burdensome, as the company's records for the period concerned were contained in over 100 boxes of files in storage with no adequate indexing. This response was passed to the treaty partner, who withdrew the request. The UK advised that if the requesting authority had persisted the UK would have had to consider working with the information holder to arrive at a solution that would overcome the claim that the request was "unduly onerous" and obtain the requested information.

ToR B.1.5. Secrecy provisions

320. The 2013 Report concluded that there were no secrecy provisions regarding ownership, identity or accounting information which limited the competent authority's ability to respond to an EOI request. The report also noted that banks owed their customers a contractual duty of confidentiality which applied to all information relating to the customer, the customer's account and his/her transactions with the bank. Certain defined exceptions applied under which the bank is permitted to divulge information about a customer's account. They include situations where the bank is compelled to do so by law (e.g. in the case of a tribunal-approved notice under Schedule 36 or Schedule 23) or the customer agrees to the information being disclosed.

Professional privilege

321. The 2013 Report concluded that professional privilege encompassed not only communication between an attorney or another person who is acting as a legal representative and their client related to legal proceedings or legal advice (e.g. the representative of an appellant taxpayer in a case before a First-Tier Tribunal), but also documents produced by an auditor or a tax adviser for his/her clients concerning advice about the client's tax affairs. The report concluded that the latter privilege was beyond the exemption for attorney-client privilege under the international standards. However, it also noted that the privilege did not cover working papers or documents executed in the course of a transaction itself and could not protect the professional from disclosing evidence of the fact of a transaction (including contracts, deeds or other instruments). It also noted that, in practice, these exceptions had never been invoked to prevent HMRC from obtaining information for the purposes of an EOI request and peers did not indicate any concerns. The UK was recommended to nevertheless monitor the effect of the privilege for auditors and tax advisers to ensure it did not interfere with international exchange of information in tax matters.

322. This review finds that the protection attached to certain documents produced by an auditor or tax advisor did not prejudice EOI in the current review period. Recent case law clarified the scope of professionals covered: in R (Prudential Plc & Anor) v Special Commissioner of Income Tax & Anor [2013] UKSC 1, the Supreme Court confirmed that legal advice privilege does not extend beyond qualified members of the legal profession, or to other professionals such as accountants. Then, broadly, the information and documents protected from the requirement to disclose are the auditor's and tax adviser's own documents concerning advice given to their client about the client's tax affairs (paragraphs 24 and 25 of Schedule 36), and communications between an advisor and client for the purpose of giving and receiving tax advice. There are exclusions from the protection (paragraph 26

of Schedule 36): no protection is provided in relation to information or documents that contain workings showing how a particular entry on the return or accounts was arrived at. In addition, where the notice relates to an unidentified taxpayer, no protection is provided for such part of a document that contains information as to the identity, or address, of a taxpayer to whom the notice relates. This restriction applies only in respect of the tax advisors and auditors rather than to the information. There is no corresponding protection for the client if the information or documents are in the client's hands. As such, the protection applicable to documents produced by an auditor or tax advisor does not prejudice EOI in practice as the documents can be obtained from the client.

323. As noted above, the First-tier Tribunal rules allow an appellant in a tax appeal to appoint a representative to whom effective rights of audience and representation are given (Rule 11 of the First-tier Tribunal (Tax) Rules 2009). This representative need have no qualifications, legal or otherwise. The UK's tax legislation prevents the UK tax administration being able to use its coercive information powers to obtain information related to the conduct of a pending tax appeal regardless of who holds that information (see paragraph 19(1)(a) of Schedule 36 to Finance Act 2008). The UK advises that the tribunal proceedings are intended to be informal and for lawyers not to be necessary, and so this rule would ensure that all tax appeals are treated on an equal footing. This safeguard did not have an impact on exchange of information during the review period.

324. With respect to legal professional privilege itself, there have been no cases during the review period where such privileges were an impediment to obtaining information for EOI.

325. On domestic matters, however, there have been a number of taxpayer challenges to information notices on the basis of legal professional privilege, which clarified the scope of professional privileges in the UK. For example, in Lewis v the Commissioners for HM Revenue and Customs TC/2013/05924, as part of an enquiry into the tax treatment of a payment received by Mr Lewis on the termination of his employment, HMRC issued a notice under Schedule 36 Finance Act 2008 requiring Mr Lewis to produce certain correspondence between his solicitor and his former employer relating to the termination of his employment. The taxpayer sought to withhold this correspondence on the basis that it was protected by litigation privilege. The judge dismissed the taxpayer's arguments. Although the correspondence was privileged as regards any proceedings between the taxpayer and his employer, it was not produced or created in contemplation of litigation with HMRC.

326. Where there is a dispute between a taxpayer and HMRC which concerns whether a document is protected from the requirement to disclose information under Schedule 36 by legal professional privilege, a procedure

exists to refer the matter to the First-tier Tribunal. HMRC advises that, in domestic matters, it has made frequent use of this procedure, and does not hesitate to challenge assertions of privilege by the taxpayer.

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.

327. The 2013 Report found that the rights and safeguards applicable to persons in the UK were compatible with effective EOI. Element B.2 was, therefore, determined to be in place and rated Compliant.

328. There have been no relevant changes to the UK legal framework and practices concerning rights and safeguards since the 2013 Report. This review finds that in practice the approach taken by the UK competent authority does not hinder effective EOI. As such, Element B.2 is continued to be determined to be in place and rated Compliant.

329. The table of determination and rating remains as follows:

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

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

Notification requirements

330. As noted in the 2013 Report, when issuing a formal third party notice in relation to an EOI request, the general notification requirements applicable to domestic tax cases apply. As a general rule, the person whose tax position is being checked (i.e. the foreign taxpayer in case of EOI) is sent: (i) a summary of reasons why HMRC requires the information and documents (Schedule 36, s. 3(3)(e)); and (ii) a copy of any notice approved by the tribunal (s. 4(1)). Moreover, the third party notice must name the taxpayer to whom it relates (s. 2(2)) unless there are reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax (s. 3(5)) (see also element C.3). The same requirements occur when the information is being required by HMRC for its own taxation purposes. For situations where information is obtained about persons whose identity is

not known (e.g. group requests), there is a possibility of making an application for a tribunal approved without a notification to the taxpayers involved (Schedule 36, s. 5(3A)).

331. In practice, the UK competent authority advises that the summary of reasons in an EOI context has to refer to the fact that the information has been requested for EOI purposes as well as some background information about the request (e.g. state what sort of liability is being investigated, and explain why the documents or information are required). It does not need to disclose all the details of the on-going foreign investigation. One example would be a summary of reasons stating that information is being sought from a bank on the basis of suspicion that money privately funnelled from a business, but the summary does not need to contain details of how the suspicion came about. The UK competent authority normally contacts the foreign competent authority to discuss the content of the summary of reasons when it is ready to issue the notice.

332. There are exceptions to the above-referenced notification requirements. The tribunal may disapply the requirement to name the taxpayer in the notice if it is satisfied that the officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax (s. 3(5)). Moreover, the requirement to send the summary of reasons and the copy of the notice to the taxpayer may be disapplied by the tribunal if it is satisfied that there are reasonable grounds for believing those actions might prejudice the assessment or collection of tax (ss.3(4) and 4(2)(b)). It is not clear in the legislation what would be the difference between prejudicing or seriously prejudicing the assessment and collection. HMRC advises that, in a EOI context, if the requesting jurisdiction advises that it wishes the taxpayer not to be notified, the UK requests that jurisdiction to provide specific reasoning to support the application to the tribunal to disapply all notification requirements (including the requirements to name the taxpayer in the notice and that the notice is sent to the taxpayer), if the requesting jurisdiction considers that those can be harmful to its investigation. In cases where the pre-notification has been disapplied, there is no post-exchange notification made to the taxpayers.

333. A decision from 2014 assists in understanding the circumstances under which the tribunal would disapply the notification requirement. In that decision, issued in a domestic (non-EOI) context, the Judge considered that "it is sufficient if the tribunal is satisfied that there is a real (as opposed to fanciful) risk of prejudice to the system of administration and collection of tax". The UK advises that similar understanding would apply to EOI cases.

334. During the review period, the UK reports that in only eight cases requesting jurisdictions requested to waive the notification requirements. The notification requirements have been disapplied by the tribunal in these eight

instances. These cases involved, among others, instances where the taxpayer had a history of fraud or there was a risk that records would be destroyed. The requesting jurisdictions were required to provide further information to substantiate HMRC's request to the tribunal to disapply the notifications. No particular concerns with respect to notification requirements in the UK were raised in the peer input.

Tribunal process to issue a third party notice

335. Section 14 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 provides that the tribunal may make an order prohibiting the disclosure or publication of (a) specified documents or information relating to the proceedings; or (b) any matter likely to lead members of the public to identify any person whom the tribunal considers should not be identified. This provision could be used to restrict the publication of the name of the foreign taxpayers in decisions made in proceedings of tribunal-approved third party notices. This provision was not used during the review period.

336. A court decision also clarified that the court hearing of an application for approval of a third party notice is to be heard in private (i.e. without the presence of the taxpayer or members of the public) (Judge Barbara Mosedale, [2015] UKFTT 0518 (TC)).

Appeal rights in relation to the approval of EOI notices

337. Where an information holder is given a third party notice, that person may appeal to the tribunal against the notice or any requirement in the notice on the ground that it would be unduly onerous to comply with the notice or requirement (Schedule 36, s. 30). Similar rights exist for taxpayers if a notice is issued to the taxpayer (s. 29(1)). However the appeal rights do not apply to a requirement in a third party notice to provide any information, or produce any document, that forms part of the taxpayer's statutory records.

338. Data-holders also have the right to appeal against the notice issued by HMRC to require them to provide relevant data about another person or class of persons (Schedule 23, paras. 28-29).

339. The third parties being required to provide information may make representations to the tribunal for consideration in the approval hearing but they have no right to attend the hearing (Schedule 36, s. 3(3)(e)d). There is no right of a taxpayer to object to the approval of or appeal against any issue of a notice to a third party. If they do object, such objections would be brought before the tribunal to be considered in the approval hearing but there is no right to have them heard. There have been no appeals during the review period. There has been, however a decision from 2016 (based on a request

made in 2011; Derrin Brothers Properties Limited & Others v HMRC [2016] EWCA Civ 15). In that case, the Court of Appeal confirmed that the judicial approval mechanism contained in Schedule 36, together with the possibility of challenging the validity of the notice once issued by way of judicial review proceedings, was a sufficient safeguard for taxpayers against the inappropriate use by HMRC of its information gathering powers.

Part C: Exchanging information

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

C.1. Exchange of information mechanisms

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

341. The 2013 Report found that the United Kingdom had a very extensive network of EOI mechanisms consisting of 122 DTCs, 22 TIEAs and the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention), and its protocol, which entered into force for the UK on 1 October 2011. In addition to these agreements, the United Kingdom was also able to exchange information with other EU members under the EU Council Directive 2011/16/EU. The 2013 Report also noted that 18 bilateral agreements entered into by the UK were not in line with the standard. Those were the agreements with: Barbados, Egypt, Fiji, Gambia, Israel, Jamaica, Kenya, Liechtenstein, Namibia, Nigeria, Oman, Papua New Guinea, Sri Lanka, Swaziland, Switzerland, Tunisia, Zambia and Zimbabwe. The UK was recommended to continue its programme of renegotiating its remaining EOI instruments that did not meet the standard. Element C.1 was, nonetheless, determined to be in place and rated Compliant.

342. Since the 2013 Report, the UK has maintained an active negotiation programme and made progress in bringing some of the remaining 18 deficient agreement in line with the standard. EOI arrangements in line with the standard are in force with seven[42] of these jurisdictions. Moreover, the UK

42. Barbados, Israel, Liechtenstein, Nigeria, Switzerland, Tunisia and Zambia.

will be able to exchange information in line with the standard with two[43] other jurisdictions once they bring the Multilateral Convention into force. In relation to the nine[44] remaining jurisdictions, the UK has either approached them or has been approached by them for renegotiation. Negotiations are on-going with a number of these jurisdictions, and in some cases signature is imminent.

343. The UK has also concluded bilateral EOI instruments with 13 new partners and signed a number of new instruments (e.g. protocols to DTCs, new DTCs) to update old agreements. Agreements are generally ratified by the UK in less than one year after signature. The UK's network of EOI partners has also increased due to the signature of the Multilateral Convention by new countries. Today, the UK's network of EOI instruments covers 166 jurisdictions.

344. The UK's interpretation of "foreseeable relevance" is generally found to be in line with the standard. When peers have raised issues, those were related to requests where the information was maintained by a third party (such as requests for banking information) and where formal access powers had been used. These issues were dealt with in element B.1.

345. The EOIR standard now includes a reference to group requests.[45] The UK has received no group requests during the review period. The UK advised that it has experience in sending group requests and would be in a position to process such requests, provided that the requests meet the foreseeable relevance standard, including the identification of the group or class of taxpayers to which the request refers.

346. The new table of determination and rating is as follows:

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

43. Jamaica and Kenya.
44. Egypt, Fiji, Gambia, Namibia, Oman, Papua New Guinea, Sri Lanka, Swaziland and Zimbabwe.
45. In line with paragraph 5.2 of the Commentary to Article 26 of the *OECD Model Tax Convention*.

Other forms of exchange

347. The UK exchanges information on both a spontaneous and an automatic basis. In the years 2015, 2016 and 2017, the UK has made a total of 668 spontaneous exchanges to over 50 treaty partners. Spontaneous exchanges are encouraged through written guidance in the EOI Manual and through presentations on exchange of information delivered by the EOI team to field officers throughout the UK.

348. Until 2016 the UK exchanged information with EU Member States and some dependent territories and third countries under EU Directive 2003/48 (the Savings Directive) and associated agreements. The UK applies the Common Reporting Standard in matters of automatic exchange of information and exchanged first financial information in September 2017 on the basis of the Multilateral Convention and Directive 2014/107/EU and amended agreements on taxation of savings. The first exchange of information on tax rulings and advance agreements on transfer pricing in the context of the BEPS project took place in November 2016. By the end of 2016, 716 tax rulings were exchanged overseas The UK is also committed to exchanging information on country-by-country reports in 2018.

349. The UK also exchanges automatic information on a reciprocal basis with around 40 countries including EU Member States and non-EU countries. The total numbers of records exchanged per year exceed 1 million.

ToR C.1.1. Foreseeably relevant standard

350. Exchange of information mechanisms should allow for EOI on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction

351. The UK currently has bilateral agreements with 149 jurisdictions which represents an increase of 13 bilateral relationships since the last review. The UK's EOI network is further expanded by the amended Multilateral Convention, the Protocol having entered into force in the UK on 1 October 2011, and by the EU Directive on Mutual Administrative Assistance in Tax Matters (the EU Directive).

352. The great majority of the UK' EOI relationships are in line with the standard either because the bilateral agreement is in line with the standard or because deficient agreements are complemented by the Multilateral Convention. Progress in renegotiating old agreements that did not meet the standard has been made since the last review.

353. Eleven of the UK's older DTCs limit EOI to information that is at the disposal of competent authorities in the normal course of administration. Those are the ones with: Egypt, Fiji, Gambia, Jamaica, Kenya, Namibia,

Oman, Papua New Guinea, Sri Lanka, Swaziland and Zimbabwe. The UK will be able to exchange information in line with the standard with Jamaica and Kenya once they ratify and bring into force the Multilateral Convention. In relation to the remaining nine jurisdictions, the UK has either approached these jurisdictions or has been approached by them. Negotiations are on-going on most instances and in some cases signature is imminent. There are cases where the UK has not received a response from the treaty partner concerning its renegotiation offer and the UK advises that it will continue to pursue opportunities to address deficient treaties.

354. A number of other DTCs limit EOI to information necessary to carry out the provisions of the convention but they are complemented by the Multilateral Convention, except the DTC with Côte d'Ivoire. The UK has approached Côte d'Ivoire to bring their DTC in line with the standard.

355. In practice, the UK competent authority considers that it generally interprets foreseeable relevance broadly and it does not require a specific template to be used for requests the UK receives. The UK has further clarified that its policy is to assist peers wherever possible. This may include asking peers to provide additional information in cases where what has been requested is unclear, or the foreseeable relevance standard has not been clearly established, rather than rejecting such cases outright. However, it was found that, where the use of formal information powers and judicial approval are required, the competent authority looks for a deeper understanding of the background of the case to explain the foreseeable relevance to the tribunal. In that process, some of UK's EOI partners considered that information requested by the UK in order to activate its access powers went beyond the foreseeable relevance standard. In particular, the document developed by the UK with questions it expects treaty partners to answer in order to activate the judicial procedure for access to information was viewed by these partners as requesting information beyond the standard (see analysis on element B.1).

356. In addition to the cases already noted under element B.1, peers have not raised any other issues concerning the UK's interpretation of the foreseeable relevance standard, with the exception of one peer. This peer asserts that, in relation to most requests it sent during the review period, the UK competent authority required the submission of underlying documentation (such as statements taken on oath, documents seized during search operations or other types of supporting documents) and the disclosure of intelligence linking the UK entity with the peer's taxpayer to establish foreseeable relevance. The peer further noted that a number of requests were based on data leaks and the UK requested lengthy clarifications and independent evidence apart from publicly available information to process those requests. Finally, the peer noted that, in relation to requests for information held by UK intermediaries, who had allegedly assisted the peer's taxpayers in opening foreign bank

accounts or incorporating offshore entities, the UK redirected the peer to the jurisdiction of the incorporated entity or where the bank account was located instead of directly approaching the intermediaries for obtaining the information. Finally, the peer noted that the UK requested clarifications in 67% of the requests and unilaterally closed cases where the peer could not respond to the clarification requests.

357. The UK considered that all requests for clarification sent to the peer in question were necessary in order for it to (i) understand the background of the request and the information being requested; (ii) establish that there was an open investigation in course of the relevant taxpayer; (iii) establish that the peer had pursued all means available in its territory to obtain the information, except the ones that would raise disproportionate difficulties; or (iv) establish that the request was in conformity with the peer jurisdiction's law and administrative practices.

358. The UK acknowledged that it occasionally requests underlying documentation to be provided. However, the provision of documentation is not a requirement for the UK, which is open to accepting non-documentary clarification from peers to support cases to proceed. This approach is consistently applied, irrespective of the source of the data that has given rise to a domestic tax investigation in the requesting jurisdiction, and irrespective of the requesting jurisdiction. The UK's policy for processing requests is not altered when a request has been initiated as a result of a data leak (or otherwise stolen data). Moreover, the UK acknowledges that in cases where the requested information may be more readily available in other jurisdictions, the UK may suggest the requesting jurisdiction to contact the jurisdiction with a closer link to the case first. However, the UK confirmed that, where the foreseeable relevance of the request has been established in accordance with the standard, the UK will respond to the request if the requesting jurisdiction requires so, even in cases where the requested information may also be available in another jurisdiction. The UK confirmed that it is in a position to gather information from UK intermediaries in all instances where a link to the intermediary is established in the request. The UK confirmed that where a UK intermediary has been involved in a transaction undertaken by a peer's taxpayer, the UK is unequivocally committed to replying to requests, in line with the standard, where the requests are foreseeably relevant in accordance with the standard, and domestic avenues have been exhausted (except the domestic avenues that would raise disproportionate difficulties). One peer noted that the above has not always been its experience with the UK. The UK is recommended to ensure that all requests that are foreseeably relevant are responded to in line with the standard.

359. The UK competent authority requested clarification in relation to 689 requests, representing 13.2% of the requests received during the review

period. It routinely seeks clarification or additional information from the requesting jurisdiction before declining to respond to a request (see C.5.1 for details on requests for clarification and peer input).

360. The UK declined to reply to 73 requests in the review period (i.e. 1.4% of requests received), over half of which on the basis of lack of foreseeable relevance (see also element C.5.1). This involved cases where, for instance, the requesting jurisdiction did not include background information to demonstrate the foreseeable relevance of the request even after several reminders from the UK competent authority. Other declined requests related to information on entities outside the UK jurisdiction (e.g. entities in Crown Dependencies or Overseas Territories), cases where there was no EOI instrument to provide basis for the request; or requests for information which HMRC considered that it did not have powers to obtain or obtaining it was not in line with its administrative practices. This affected cases related to (i) comparable transaction data for transfer pricing purposes, from third parties not party to the transaction under consideration;[46] (ii) information on taxpayer's movements in and out of the UK, as HMRC would not normally have access to this source of information under these circumstances.[47]

Group requests

361. None of the UK's EOI agreements or domestic law contains language prohibiting group requests. The United Kingdom interprets its agreements and domestic law as allowing for such requests. No group requests were received during the review period. There is currently no specific guidance on group requests, which the UK advised would be dealt with under the procedures for ordinary requests, i.e. the group request must demonstrate the foreseeable relevance of the information, which would include the identification of the group or class of taxpayers to which the request refers. Should information be sought from a person who does not voluntarily provide it, the

46. Paragraph 8 example "c" of the Commentary to Article 26 of the OECD Model Tax Convention noted that, whilst requests for comparable transfer pricing data in those circumstances would be foreseeably relevant, EOI in this case might be a "difficult and delicate matter owing in particular to the provisions of subparagraph c) of paragraph 3 relating to business and other secret". HMRC considers that, as a result of its legal obligation of confidentiality and the OECD Transfer Pricing Guidelines (specifically *Chapter III, A.4.3.3, paragraph 3.36*) as written into the UK transfer pricing legislation, it cannot provide comparability data that is not in the public domain or is not internal comparable third party data from the UK taxpayer who is party to the transaction.

47. In those cases, other sources of investigation could be accessed for the same information, such as the taxpayer him or herself.

UK would be able to utilise its compulsory information gathering powers to obtain the information sought. In particular, Schedule 36 of the Finance Act provides for specific powers and procedures to obtain information and documents about persons whose identity is not known. The UK advised that the process for group requests for information has been utilised domestically with success.

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

362. The 2013 Report noted that DTCs with two jurisdictions, Barbados and Jamaica, specifically excluded certain residents of those jurisdictions from the scope of the arrangement to ensure that they did not benefit from the provisions concerning the avoidance of double taxation. The UK and Barbados are now able to exchange information in respect of all persons under the Multilateral Convention. The UK and Jamaica will be able to do the same as soon as Jamaica brings the Multilateral Convention into force.

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

363. The OECD Model Tax Convention Article 26(5) and the Model TIEA Article 5(4), which are authoritative sources of the standards, stipulate that bank secrecy cannot form the basis for declining a request to provide information and that a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

364. Thirty-two of the UK's DTCs, in particular older ones, do not include a provision equivalent to Article 26(5)[48] and EOI is currently not possible under another instrument to the standard (i.e. the Multilateral Convention/EU Directive) in force. EOI in line with the standard will be possible with 5[49] of these 32 jurisdictions which have signed the Multilateral Convention, once they ratify the convention and it enters into force with respect to them. Whilst there are no limitations in the UK's laws with respect to access to bank information, information held by nominees, and ownership and identity

48. These are the DTCs entered with: Bangladesh (1979), Bolivia (1994), Bosnia and Herzegovina (1981), Côte D'Ivoire (1985), Egypt (1977), Fiji (1975), Gambia (1980), Guyana (1992), Jamaica (1973), Jordan (2001), Kenya (1976), Kiribati (1974), Kuwait (1999), Malawi (1978), Mongolia (1996), Montenegro (1981), Morocco (1981), Myanmar (1951), Namibia (1967), Oman (1998), Papua New Guinea (1991), Philippines (1976), Serbia (1981), Sierra Leone (1947), Solomon Islands (1968), Sudan (1975), Chinese Taipei (2002), Thailand (1981), Trinidad and Tobago (1982), Tuvalu (1974), Venezuela (1996) and Viet Nam (1994).

49. These are Jamaica, Kenya, Kuwait, Morocco and Philippines.

information absent a provision equivalent to Article 26(5), Trinidad and Tobago has been identified by the Global Forum as having domestic restrictions on access to banking information, which will restrict EOI under the DTC with the UK. Further, 26 jurisdictions with which the UK has a DTC without a provision equivalent to Article 26(5) have not been reviewed by the Global Forum and it is not known whether they may have restrictions in accessing certain types of relevant information which would limit effective EOI under the respective DTCs.[50] The UK has, however, advised that it has approached all of these partners and is currently negotiating with a number of them.

365. During the new review period, the UK exchanged information held by financial institutions and persons acting in a fiduciary capacity and no problems were encountered in practice (except the ones described in element B.1). Peers have not raised any issues either.

ToR C.1.4. Absence of domestic tax interest

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

367. Similar to C.1.3, thirty-two of the UK's DTCs, in particular older ones, do not include a provision equivalent to Article 26(4)[51] and EOI is not possible under another instrument to the standard. EOI in line with the standard will be possible with 5[52] of these 32 jurisdictions which have signed the Multilateral Convention, once they ratify the convention and it enters into force with respect to them. Whilst there are no domestic interest restrictions in the UK's information gathering powers, Trinidad and Tobago has been identified by the Global Forum as having domestic restrictions on use of access powers regardless of domestic tax interest which will restrict

50. Those are: Bangladesh, Bolivia, Bosnia and Herzegovina, Côte d'Ivoire, Egypt, Fiji, Gambia, Guyana, Jordan, Kiribati, Kuwait, Malawi, Mongolia, Montenegro, Myanmar, Namibia, Oman, Papua New Guinea, Serbia, Sierra Leone, Solomon Islands, Chinese Taipei, Thailand, Tuvalu, Venezuela and Viet Nam.

51. These are the DTCs entered with: Bangladesh (1979), Bolivia (1994), Bosnia and Herzegovina (1981), Côte D'Ivoire (1985), Egypt (1977), Fiji (1975), Gambia (1980), Guyana (1992), Jamaica (1973), Jordan (2001), Kenya (1976), Kiribati (1974), Kuwait (1999), Malawi (1978), Mongolia (1996), Montenegro (1981), Morocco (1981), Myanmar (1951), Namibia (1967), Oman (1998), Papua New Guinea (1991), Philippines (1976), Serbia (1981), Sierra Leone (1947), Solomon Islands (1968), Sudan (1975), Chinese Taipei (2002), Thailand (1981), Trinidad and Tobago (1982), Tuvalu (1974), Venezuela (1996) and Viet Nam (1994).

52. These are Jamaica, Kenya, Kuwait, Morocco and Philippines.

EOI under the DTC with the UK. Further, as under C.1.3, 26 jurisdictions with which the UK DTCs do not contain Model Article 26(4) have not yet been reviewed by the Global Forum and may have restrictions in access to certain types of relevant information which would limit effective EOI under the respective DTCs.[53] However, the UK advises that it has approached all of these partners and is currently negotiating with a number of them.

ToR C.1.5. Absence of dual criminality principles

368. The 2013 Report did not identify any issues with the UK's network of agreements in respect of dual criminality and no issues arose in practice. The additional agreements that the UK has entered into since then do not include dual criminality provisions. Peers have not raised any issues in practice.

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

369. The previous EOIR report found that the UK's network of EOI instruments provided for exchange in both civil and criminal matters with the exception to the TIEA with Liechtenstein where some issues were identified. Since then, the UK and Liechtenstein entered into a DTC and both jurisdictions can also exchange information pursuant to the Multilateral Convention and the two instruments allow for EOI in line with the standard.

370. The additional agreements that the UK signed since its last review provide for exchange of information in both civil and criminal tax matters. The UK receives and makes requests that relate to criminal investigations. There are no different processes in place for dealing with these requests. Peers have not raised concerns.

ToR C.1.7. Provide information in specific form requested

371. The UK competent authority is prepared to provide information in the specific form requested to the extent permitted under UK law and administrative practice. No issues arose in practice.

53. Twenty-six jurisdictions have not yet been reviewed by the Global Forum and whether they require a provision akin to Article 26(4) of the OECD *Model Taxation Convention* to exchange information in line with the standard is not known. Those are: Bangladesh, Belarus, Bolivia, Bosnia and Herzegovina, Chinese Taipei, Côte D'Ivoire, Egypt, Fiji, Gambia, Guyana, Jordan, Kiribati, Kuwait, Malawi, Mongolia, Montenegro, Myanmar, Namibia, Oman, Papua New Guinea, Serbia, Sierra Leone, Solomon Islands, Tajikistan, Thailand, Tuvalu, Uzbekistan, Venezuela and Viet Nam.

ToR C.1.8. Signed agreements should be in force

372. After an agreement is signed, it is approved by Parliament in the form of a draft Order in Council. The Order is then made in the Privy Council, which typically takes a few months. The agreement is then published in the Gazette. For most agreements, UK ratification has been finalised within a year of signature.

373. No treaty has taken longer than two years to ratify apart from the TIEA with Brazil signed in 2012. The UK reported that it is working with Brazil to resolve the issues preventing them from making progress in ratifying the agreement. While the UK ratified the TIEA in 2015, Brazil's ratification is still pending.

374. The table below summarises the status of the UK's bilateral treaties.

Bilateral EOI mechanisms

			Total number of bilateral EOI mechanisms	Not complemented by the Multilateral Convention/ EU Directive (as of June 2018)
A	Total number of EOI relationships	A = B + C	149	49
B	Number of relationships signed but not in force	B = D + E	6 (Belarus, Brazil, Colombia, Kyrgystan, Lesotho and Switzerland)	3 (Belarus, Kyrgystan and Lesotho)
C	Number of relationships signed and in force	C = F + G	143	45
D	Number of relationships signed (but not in force) and to the Standard	D	6 (Belarus, Brazil, Colombia, Kyrgystan, Lesotho and Switzerland)	3 (Belarus, Kyrgystan and Lesotho)
E	Number of relationships signed (but not in force) and not to the Standard	E	0	0
F	Number of relationships in force and to the Standard	F	130	36
G	Number of relationships in force and not to the Standard	G	13 (Cote d'Ivoire, Egypt, Fiji, Gambia, Jamaica, Kenya, Namibia, Oman, Papua New Guinea, Sri Lanka, Swaziland, Trinidad and Tobago and Zimbabwe)	11 (Cote d'Ivoire, Egypt, Fiji, Gambia, Namibia, Oman, Papua New Guinea, Sri Lanka, Swaziland, Trinidad and Tobago and Zimbabwe)

ToR C.1.9. Be given effect through domestic law

375. The United Kingdom has in place domestic legislation necessary to comply with the terms of its EOI agreements. Effective implementation of EOI agreements in domestic law has been confirmed in practice as there was no case encountered where the UK was not able to obtain and provide the requested information due to unclear or limited effect of an EOI agreement in the UK's law. Also, no issue in this regard was reported by peers.

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

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

376. The 2013 Report noted that the UK had a very extensive network of agreements as well as an on-going programme to enter into new agreements or renegotiate the ones that failed to meet the standard. The UK network of agreements covered all relevant partners, meaning all those partners who were interested in entering into an EOI instrument with the UK. Element C.2 was determined to be in place and rated Compliant.

377. Since the 2013 Report, the UK continued to expand its EOI network, entering into 13 new bilateral relationships. The UK also has a number of bilateral negotiations on-going. Economic considerations are at the forefront, but the UK has also made approaches to those jurisdictions with which it has deficient exchange of information provisions absent a significant economic interest.

378. Comments were sought from Global Forum members in the preparation of this report and no jurisdiction advised that the UK refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, the UK is recommended to continue to conclude EOI agreements with any new relevant partner who would so require.

379. The new table of determination and rating is as follows:

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

C.3. Confidentiality

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

380. The 2013 Report concluded that the applicable treaty provisions and statutory rules that apply to officials with access to treaty information as well as the practice in the UK regarding confidentiality were in accordance with the standard. No issues were found in practice.

381. There have been no relevant changes in the UK's legal framework with respect to confidentiality since the last review. Moreover, all EOI instruments signed since then contain appropriate confidentiality provisions.

382. The new table of determination and rating is as follows:

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

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

383. The 2013 Report concluded that the applicable treaty provisions and statutory rules that apply to officials with access to treaty information as well as the practice in the UK regarding confidentiality were in accordance with the standard. Whereas there have been changes in the UK's legal framework with respect to confidentiality (e.g. the Data Protection Act 2018) since the last review, the legal framework continues to ensure the protection of confidentiality in line with the standard. Moreover, all EOI instruments signed since then contain appropriate confidentiality provisions.

Practical measures to ensure confidentiality of the information received

384. The 2013 Report concluded that the UK had in place appropriate policies and procedures to ensure confidentiality of the exchanged information.

385. In summary, the following policies to protect confidentiality have been implemented in the UK:

- **Security check:** All employees are security-checked at the appropriate level to ensure that they can see sensitive material and have signed a declaration of confidentiality (section 3 Commissioners of Revenue and Customs Act 2005).

- **Training:** All government employees take mandatory training in handling data and the tracking of this is carried out centrally. HMRC employees also take mandatory online training regarding handling confidential taxpayer information. All staff on the EOI teams are trained on the use and disclosure of data received from overseas through EOI mechanisms. In all instances where the teams have obtained data through EOI mechanisms, guidance concerning its use and disclosure is provided to the HMRC colleagues to whom it is disseminated.
- **Physical security:** Information received pursuant to an EOI arrangement is held by the EOI team in locked cabinets or, where appropriate, safes with restricted access. When a request is closed, the papers are scanned and the paper shredded. Scanned papers are held electronically in a secure Controlled Access Folder and are deleted after six years in accordance with data protection policy. The EOI Unit is seated in secure areas where no uninvited visitors can walk through.
- **Clean desk policy:** HMRC operates a clear desk policy, so no taxpayer sensitive papers are left out while staff is not physically at the desk. At the end of the day everything is locked away. All desks are clear, cupboards are locked, no material is left on printers or faxes and the area of the EOI Team is also locked.
- **Electronic communication:** Any electronic communication outside of HMRC with overseas tax authorities on the process of cases will not mention information that can identify the taxpayer and uses reference numbers. All other email communication is carried out by encrypted email if outside the EU or uses the EU's central secure email network (CCN).
- **Access to IT:** IT access is controlled, monitored, and auditable.

386. There have been no known breaches of confidentiality during the review period. Peer input raised no concerns in this connection.

Transmission of EOI requests and responses

387. With EOI partners outside the EU, the UK uses regular post, registered post or also encrypted e-mail for the jurisdictions with which the UK has an agreement to do so authorised by HMRC's data guardian. The UK's preference is to provide information to partners by encrypted email. A small number of peers have said they are unable to accept encrypted email and in these cases the UK will provide information by post. Regular post is generally used for cost-saving reasons. Three partners have indicated problems in receiving communication from the UK via regular post. The UK has since

been using encrypted email with some of them. The UK is recommended to only send physical mail via an international registration system where a mail tracking function is in place. In that way, it is ensured that information is adequately received by the addressee.

Disclosure of information on notices for the collection of information and in the tribunal process for the approval of the notices

388. Where information must be obtained from a third-party information holder, there is a general requirement that a third party notice includes the name of the taxpayer (Schedule 36, s. 2(2)). As analysed under section B.2, this requirement may be disapplied by the tribunal if it is satisfied that the HMRC officer requesting the issuance of the notice has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax (s. 3(5)). There is also a general requirement that the notice says that it has been approved by the tribunal. In many instances, the disclosure of the name of the taxpayer may be necessary to describe the requested information (e.g. when a taxpayer is the accountholder in a request for banking information). However, the general requirement provided in Schedule 36 that the taxpayer should be named in the notice goes beyond the international standard, even if an exception is provided to this requirement. The application of the exception would depend on a specific request by the requesting jurisdiction and the acceptance of the reasoning put forward in this connection by the tribunal and would be restricted to cases where naming the taxpayer "might seriously prejudice the assessment or collection of tax". The standard requires that the requested jurisdiction disclose only the minimum information contained in a competent authority letter necessary for this jurisdiction to be able to obtain or provide the requested information to the requesting jurisdiction. The UK is recommended to ensure that only the minimum information necessary to obtain the requested information is disclosed to information holders. In practice, peers have expressed no concerns about disclosures in this context.

389. The notices for collection of information (issued under Schedule 36 or Schedule 23 of the Finance Act) generally mention that a request had been made under an international agreement (and specify that agreement). They also include a reference to the domestic access powers and the information required to be produced. No reference to the background of the request is included.

390. For information on the summary of reasons sent to taxpayers when a formal third party notice is issued, please refer to element B.2.

391. The EOI request is not disclosed to third party information holders or taxpayers as part of tribunal process to approve notices. If a taxpayer or

third party makes *ex parte* representations against a notice being approved, there is no formal disclosure regime in the First-Tier Tribunal, where the decision as to whether to approve the notice is made. The tribunal is familiar with the confidentiality requirements of international tax instruments, and, if there was an issue about the confidentiality of material, the UK competent authority reports that it would seek resolution with the consent of the other competent authority. If a taxpayer or information holder contacts the UK competent authority to seek to receive a copy of a foreign EOI request, the UK competent authority have explained that they will contact the requesting jurisdiction and have confirmed that they will not disclose a copy of the actual request letter without the consent of the requesting jurisdiction.

Disclosure of information contained in EOI requests

392. HMRC's handling of information is governed by sections 17 and 18 of the Commissioner for Revenue and Customs Act 2005. Section 17(2)(c) specifies that HMRC's use of information is subject to any restriction or prohibition on the use of information contained in an international or other agreement to which the UK or the UK Government is party. This means that HMRC must respect the confidentiality requirements in tax treaties, as a matter of domestic law. Article 26 the OECD Model Tax Convention permits disclosure of information to the taxpayer and his/her proxy, and information can also be disclosed in court. However, if the other competent authority explains during the exchange process that certain information is sensitive and not to be disclosed, for example, because it would affect the other jurisdiction's investigation, HMRC would respect this and not reveal that information to the taxpayer. A HMRC official who made a non-permitted disclosure of confidential tax information could face dismissal and possible prosecution.

393. Usually HMRC's disclosure of information to the taxpayer is discretionary rather than mandatory. Section 18 of the Revenue and Customs Act 2005 provides for a range of circumstances where information may be disclosed. This includes the disclosure of information to taxpayers: (i) as part of HMRC's functions (s. 18(2)), (ii) when there is consent of each person to whom the information relates (s. 18(h)), (iii) in civil or criminal proceedings (s. 18(c) and (d)), (iv) in accordance with other legislation (s. 18(3)). Other legislation includes the UK Data Protection Act 2018, which requires disclosure of personal data in certain circumstances. As there are certain exceptions from disclosure for taxation and other relevant matters and so not all information would usually be disclosable but only an extract of the information relevant to the case (and never the actual foreign EOI request).

Disclosure of competent authority letters and information received in response to UK's outbound EOI requests

394. Where information received pursuant to an EOI arrangement is referred to another department of HMRC, papers are stamped with a treaty stamp and forwarded with a set of instructions giving advice on use and disclosure, including the restriction of sharing information with other government departments and other offices of HMRC which do not handle the taxes covered by the request.

The set of instructions specifically require the recipients not to disclose competent authority cover letters. Moreover, there is advice to contact the EOI Team should the HMRC investigators have any doubts or difficulties on the use and disclosure of information received. Documents received such as invoices and contracts could be disclosed to taxpayers in the context of ongoing investigations.

395. Information received in response to EOI requests can generally be disclosed if a UK taxpayer makes a request under the Data Protection Act 2018. However, HMRC investigators should first consider whether disclosure would prejudice the assessment or collection of foreign tax as well as UK tax, and if so, the investigators should contact the EOI Team for advice. HMRC investigators must also ensure that information which refers to third parties (who are living individuals) is excluded from the information disclosed to the data subject. Copies of letters to or from the overseas authority must not be provided to the data subject. HMRC investigators can disclose any information about the data subject which is contained in the answer letters but not photocopies of the letters.

Disclosure of information for non-tax purposes

396. The 2016 Terms of Reference clarify that, although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides for the authority supplying the information authorises the use of information for purposes other than tax purposes and where tax information may be used for other purposes in accordance with their respective laws. Such an exception is in accordance with the amendment to Article 26 of the OECD Model Tax Convention introducing this element, which previously appeared in the commentary to this Article. In the UK, the Commissioners for Revenue and Customs Act 2005 prevents HMRC from sharing data unless there is a specific legal gateway providing for such exchange. Regulations that reflect international agreements (such as DTCs, TIEAs and multilateral agreements) create such a gateway. During the review period, the UK asked one partner if it could share information with a regulator and that request was refused. The UK advises that it would generally give permission to a foreign competent

authority to use information provided by the UK to support tackling wider criminality and regulatory abuse.

ToR C.3.2. Confidentiality of other information

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

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

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

ToR C.4.1. Exceptions to requirement to provide information

398. As concluded in the 2013 Report, all of the UK's EOI agreements ensure that the parties are not obliged to provide information which would disclose any trade, business, industrial or commercial secret. Further, most of the treaties ensure that the parties are not obliged to provide information which would disclose professional secrets. Some minor deficiencies in relation to specific treaties and the UK's domestic law were identified and led to some in-text recommendations. Element C.4 was, nevertheless, determined in place and rated Compliant.

399. The first issue identified in the 2013 Report was that the exception to the obligation to provide information in relation to professional secrets was not explicitly mentioned in seven UK treaties (with Antigua and Barbuda, Bolivia, Brunei Darussalam, Kiribati, Montserrat, Sierra Leone and Tuvalu). An in-text recommendation was included for the UK to continue to ensure that appropriate safeguards are maintained in exchanges of information with these jurisdictions. Since then, the UK has made progress in updating the EOI arrangements with Antigua and Barbuda, Brunei Darussalam and Montserrat and it was found that the DTC with Bolivia does contain an exception concerning professional secrecy. Moreover, the UK approached Kiribati, Sierra Leone and Tuvalu in January 2016 to renegotiate their DTCs (on matters unrelated to EOI) but received no response. The UK advises that there have been no issues related to disclosure of professional secrets under these treaties and that they do not refer to professional secrets simply because at the time they were signed the inclusion of the extended definition was not

standard practice yet. The UK further advises that it will continue to review the EOI article in the relevant treaties and would seek to update the agreement if circumstances required.

400. Second, the TIEA with the British Virgin Islands contains a provision that could impede effective exchange of information in certain cases and the UK was recommended to work with the British Virgin Islands to resolve this issue. Since then, the two jurisdictions can exchange information in line with the standard under the Multilateral Convention and the issue is, therefore, resolved.

401. Finally, an in-text recommendation was also included in the 2013 Report for the UK to monitor the broad scope of professional privilege to ensure it did not prevent access to information held by auditors and tax advisers when information was needed to assist the UK's international partners. As analysed under B.1, the protection attached to certain documents produced by an auditor or tax advisor did not prejudice EOI as the documents can in any case be obtained from the client. The in-text recommendation has therefore been removed.

402. In practice other restrictions to HMRC's information gathering powers (such as the restrictions concerning old information and information about pending tax appeals) did not impair the UK's ability to exchange information and the UK competent authority is not aware of any examples where this has been an issue.

403. The table of determination and rating therefore remains unchanged as follows:

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

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.

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

- *Responding to requests*: Jurisdictions should be able to respond to requests within 90 days of receipt by providing the information requested or provide an update on the status of the request.

- *Organisational processes and resources*: Jurisdictions should have appropriate organisational processes and resources in place to ensure quality of requests and quality and timeliness of responses.
- *Restrictive conditions*: EOI assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions

405. The 2013 Report found that during the previous review period the UK did not routinely provide a status updates when EOI requests could not be responded to within 90 days. At that time, the UK competent authority was undertaking organisational changes to ensure it would provide regular status updates, which included the development of a new database. The UK was recommended to monitor the processes that had been put in place to ensure that it was able to provide status updates within 90 days. Element C.5 was rated Largely Compliant.

406. Following the 2013 Report, the EOI team has been closely monitoring the status of responses to requests and, during the present review period, in the great majority of instances (95.3%) a partial reply or status update was sent where requests could not be replied to within 90 days. The UK is looking at further upgrading its EOI databases to create automated alerts to deadlines and ensure that status updates are invariably given within the 90-day time period. Considering the substantial progress made, the recommendation is considered to be addressed.

407. This review also finds that there was a sufficient number of professional staff with clear responsibilities for processing requests and retrieving information; the staff had adequate expertise and training. During the new review period, the UK received a high volume of requests for which it was capable of responding to in a timely manner in most instances, except in circumstances where the tribunal process to access information had been required (see discussion on B.1). EOI partners were very positive about the good working relationship established with the UK competent authority. In particular, the easiness to contact the competent authority was one of the main aspects noted by peers.

408. The 2016 ToR includes an additional requirement to ensure the quality of requests made by assessed jurisdictions. Resources and procedures are in place to ensure the quality of the UK's outgoing requests. Peer input was very positive in that regard. In the few cases where clarifications were sought, the UK promptly provided them and they did not cause delays.

409. The new table of determination and rating is as follows:

Legal and Regulatory Framework
Determination: This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.
Practical implementation of the standard
Rating: Compliant

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

410. Over the period under review (1 April 2014 to 31 March 2017), the UK received a total of 5 206 requests for information. These requests covered a wide range of information: 1 100 requests included inquiries for ownership information; 1 657 covered accounting information, 765 covered banking information and 4 047 other types of information. Requests for other information included requests for a wide range of information such as aggressive tax planning and tax avoidance schemes, employment income, transfer pricing related information, asset holding/property ownership, pensions, insurance, undeclared income, residency status, loans, substance of business operations (number of employees, premises, other means), address of taxpayers for tax recovery purposes and value of assets. The most significant EOI relationships for the UK in terms of numbers of inbound requests were with France, India, Poland, Spain and Germany.

411. Statistics on response times are tabulated below (as at 16 October 2017).

	1 April 2014 to 31 March 2015		1 April 2015 to 31 March 2016		1 April 2016 to 31 March 2017		Total	
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	1 597	30.7	1 761	33.8	1 848	35.5	**5 206**	**100.0**
Full response: ≤ 90 days	904	56.6	1 094	62.1	1 145	62.0	**3 143**	**60.4**
(cumulative) ≤ 180 days	1 233	77.2	1 282	72.8	1 428	77.3	**3 943**	**75.7**
(cumulative) ≤ 1 year	1 386	86.8	1 461	83.0	1 611	87.2	**4 458**	**85.7**
> 1 year	94	5.9	143	8.1	18	1.0	**255**	**4.9**
Declined for valid reasons	9	0.6	37	1.7	27	1.5	**73**	**1.4**
Status update provided within 90 days (for responses sent after 90 days)	649	95.6	578	92.9	641	97.3	**1 868**	**95.3**
Requests withdrawn by requesting jurisdiction	29	1.8	37	2.1	19	1.0	**85**	**1.6**
Failure to obtain and provide information requested	72	4.5	63	3.6	44	2.4	**179**	**3.4**
Requests still pending at date of review	7	0.3	20	1.1	129	7.0	**156**	**3.0**

Notes: A request seeking information concerning one UK person will be counted as one request; a request seeking information concerning two UK persons will generally be counted as two requests.

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

Requests that take longer than 90 days to be replied to

412. The UK explained that requests that are not fully dealt with within 90 days include requests for banking information or other requests where formal powers to access information from third parties must be activated (see element B.1). Complex requests involving multinational enterprises and requests that required further clarification by the requesting jurisdiction (where the requesting jurisdiction takes a long time to provide the requested clarification) also fall within this category.

413. A small proportion of requests (4.9%) have taken more than a year to fully answer.

414. As at 16 October 2017, 156 requests have not been fully answered, including seven requests received in the first year of the review period. Those include, for instance, (i) a case where the business of a company in relation to which accounting information was requested was taken over and the new owners were having difficulties in accessing information; (ii) where there are open enquires to determine whether the individuals involved would be taxable in the UK or the requesting jurisdiction; (iii) cases requiring the use of formal powers under Schedule 36.

Failure to obtain and provide information requested

415. In 3.4% of the requests, the UK was not able to provide full responses to requests. In the great majority of these 179 cases, the UK provided at least some of the information requested together with an explanation on the reasons for failure to provide the remaining information. There was a variety of reasons why information could not be obtained and exchanged and the main ones in order of frequency were:

- **The directors or partners of the entity were outside the UK jurisdiction** and informal requests for the information were not successful. The formal information powers at Schedule 36 of the Finance Act were not used because the UK considered that it was highly unlikely that the information would be provided when these powers do not have legal effect overseas. HMRC advises that it does check for any third party in the UK that may have relevant information (e.g. a service provider). In the event that such a third party exists, then HMRC advises that it does not hesitate to use their third party information powers. It also advises that in some instances the requesting jurisdiction was satisfied with a partial reply. Peer input confirms that there have been instances where information has not been received where directors/partners were outside the UK (see more details in element B.1 and the recommendation made on that element).

- The competent authority considered that **the use of HMRC's information powers would not be proportionate** (for example, because the information was in respect of a very low value transaction – e.g. GBP 200). No specific complaints were made by peers in this regard.
- **Records of a liquidated or dissolved UK entity could not be located**, whether because the retention period had expired for liquidated companies, or because the former officers of dissolved companies were not found or did not reply to an informal request from HMRC (see element A.2). Partial replies were generally provided. The issue of liquidation was not particularly noted by peers on their input.
- The **current contact details for the UK information holder were not held** (e.g. individuals that had moved out of the UK).

Clarifications required

416. The UK competent authority requested clarification in relation to 689 requests, representing 13.2% of the requests received during the review period. The main reasons were:

- additional details needed to support UK domestic procedures such as the formal information gathering powers (see element B.1)
- insufficient information to identify the UK party
- the meaning of the questions or description of the information requested was unclear
- complexity of the request
- domestic avenues apparently not tried by the requesting jurisdiction
- no explanation of foreseeable relevance
- confirmation that approaching the taxpayer or a third party would not jeopardise the case
- confirmation of the period for which information was requested.

417. Peers generally only raised concerns in relation to some clarification requests to support the use of the UK's formal information gathering powers (see element B.1). The other instances where clarification has been requested seem reasonable and did not raise concerns by most peers. One peer, however, has raised concerns that the UK sometimes requires lengthy discussions, which have affected the timeliness of responses. The UK is recommended to ensure that responses to requests are provided in a timely manner.

Declined requests

418. The UK competent authority declined to answer 73 requests, representing 1.4% of the requests received during the review period. The most common reasons included the following:

- The request was very wide in scope and considered to be a "fishing expedition" (see C.1.1 for the analysis of foreseeable relevance and peer input in this respect).
- HMRC considered that it did not have powers to obtain the information or obtaining it was not in line with its administrative practices – e.g. (i) comparable transaction data for transfer pricing purposes, from third parties not party to the transaction under consideration (see C.1.1 for more details); (ii) information on taxpayer's movements in and out of the UK (see C.1.1); (iii) information to support the collection of a tax debt (see element B.1).
- There was no legal instrument to exchange information with the requesting jurisdiction.
- The request was for information held in another jurisdiction (e.g. a UK Crown Dependency or Overseas Territory), made to the UK in error.

Status updates

419. The 2013 Report recommended that the United Kingdom provide a status update within 90 days in all cases when it could not answer the request during that period.

420. The UK put a management information system in place to monitor incoming and outgoing requests and manage response times, including ensuring that status updates are sent invariably when full responses cannot be given within 90 days. During the current review period, status updates or partial replies were sent within 90 days in 95.3% of instances. This was generally confirmed by peer input, although it is possible that some updates were not received by peers, The cases where status updates were not systematically provided (notwithstanding that procedures were in place) mainly referred to the requests managed in the UK competent authority office for the Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC). Following the review period, a designated team leader has been recruited, part of whose role is to ensure deadlines are met and that these are also personal performance measures for the Competent Authorities within JITSIC. The UK competent authority also reports that it is also looking at upgrading its EOI databases to create automated alerts to deadlines. The recommendation is therefore addressed and removed.

ToR C.5.2. Organisational processes and resources

Incoming requests

421. The 2013 report concluded that the UK's organisational processes and resources in respect of handling incoming requests were adequate and in line with the standard. The organisational processes and resources have generally been maintained. As noted above, the procedures for status updates have been enhanced since the last review. This review finds that clear procedures were in place and staff had adequate expertise.

The UK Competent Authority

422. The competent authority for the United Kingdom is "the Commissioners for Her Majesty's Revenue and Customs (HMRC) or their authorised representative". In practice, the Commissioners delegate their competent authority responsibilities to the International Relations team. The list of UK delegated competent authorities for EOI requests is available on the Global Forum's Competent Authority database.

423. Around 90% of EOI requests for information received are handled by the EOI team within HMRC's Customer Compliance Directorate (Risk and Intelligence Service group). The team comprises 23 staff working full time on exchange of information, including three with delegated competent authority status, working with an Assistant Director who also has competent authority status. Since the 2013 Report, 12 additional staff were added to the EOI team.

424. The remaining 10% are directed to other 52 UK delegated competent authorities, who are specialist staff dealing with treaty interpretation and application, transfer pricing matters/mutual agreement procedures, or niche areas of tax such as oil taxation, inheritance tax or assistance in tax collection. UK members of JITSIC also have delegated competent authority status and carry out enhanced EOI on strategic tax avoidance projects. The JITSIC team headcount has increased by one since the last review in 2013. The team now consists of 12 people of which 9 are competent authorities.

EOI Manual and Training

425. The EOI team developed a manual and standard work instructions. All the staff in the EOI team has received training on EOI mechanisms, confidentiality obligations and internal processes. This is delivered through desk training, written and oral guidance and mentoring programmes.

Procedure for incoming requests

426. The control and recording of exchange of information requests is monitored through the EOI database, a bespoke database which captures all exchanges on request and spontaneous exchanges, both inbound and outbound. Requests are logged onto the EOI database and allocated to a caseworker. Allocation is based on factors such as existing workload, jurisdiction concerned and the details of the request. The EOI office staff acknowledges and processes the request. Once allocated, it is the caseworker's responsibility to ensure that the request is processed efficiently and to record all actions in the database.

427. All requests are reviewed by a senior EOI caseworker upon receipt. The allocated caseworker will determine the foreseeable relevance, check the relevant EOI mechanism, consider how to best answer the request and seek any clarification necessary. Should there be any doubt about the validity of a request, it is referred to a competent authority for review.

428. The EOI team managers use the database to weekly monitor cases which have not been answered and where the 90-day deadline is approaching. These cases are discussed at weekly team meetings and the caseworker responsible is also made personally aware. The managers continue to monitor these cases to ensure an interim response or status update is sent within the deadline. When available, an indication is given of the expected (full) reply date. The case will continue to be monitored once the 90-day status update or interim response has been sent so that further updates are provided.

429. As far as possible all the work needed to answer a request is carried out by the EOI team, including the use of formal information-gathering powers. Where a request is referred to another office within HMRC, a covering memorandum is sent to the other office with the request, providing guidance on use and disclosure of information contained in the request, so the recipient is aware of his/her responsibilities and the appropriate procedures. Requests are referred to other HMRC offices for example when: (i) the UK party is already under investigation by HMRC; (ii) the UK party is a large company handled by the Large Business Service; or (iii) there is a requirement for technical expertise in a particular subject, e.g. residence issues.

430. The EOI caseworker reviews the information obtained to check that it responds to the question asked. If the information is incomplete, the caseworker may seek additional information to fully answer the request. If there is doubt as to whether the information provided is sufficient, the requesting jurisdiction is asked to confirm whether or not any additional information is needed.

431. EOI caseworkers and delegated competent authorities are instructed as part of their objectives and performance management to make early

interim reports and to provide updates on the status of a request where a substantive report cannot be made promptly within 90 days.

Outgoing requests

432. The 2016 ToR cover also requirements to ensure the quality of requests made by the assessed jurisdiction.

433. The United Kingdom has a vast experience with requesting information pursuant to its EOI instruments. The quality of the UK outbound requests was confirmed by the peer input.

Processing outgoing requests

434. Most EOI requests are sent by the EOI unit, which has responsibility to manage the EOI central mailbox and process inbound and outbound requests. The JITSIC office and other individual competent authorities can also submit requests directly.

435. The EOI team developed a template request along with guidance on completing the template for tax auditor who wishes to send a request (e.g. to ensure domestic avenues have been exhausted and the foreseeable relevance test is met). Requests are submitted to the central mailbox, where it is allocated to an EOI caseworker/delegated competent authority who works with the tax auditor on the request, including providing any jurisdiction-specific advice. The request is checked by another delegated competent authority before being submitted to the requested jurisdiction.

436. During the review period, the UK sent a total of 1 741 requests to its EOI partners. A breakdown per year is included in the table below.

	2015	2016	2017	Total
Number of outgoing requests	471	544	726	1741

437. Comprehensive statistics on the number of requests for clarification received and the time to reply these requests were not maintained by the UK. Based on the analysis of random sample of 82 requests, the UK authorities estimate peers requested clarification on approximately 14.6% of the total requests during the review period.

438. Peer input indicated that the UK's outbound requests were generally of a high quality: they met the foreseeable relevance standard, were supported by appropriate elements and communicated effectively.

439. Peer input indicates that clarifications have occasionally been requested and related for instance to: (i) certain statements that were expected in an EOI request were missing (including that the UK pursued domestic means to obtain the information); (ii) the cases were complex, (iii) additional background information was required to support the requested jurisdiction's administrative practices (such as notification); (iv) the subject of the request was not readily identified based on the information provided, (v) the tax years or taxes concerned were not clearly stated; (vi) the time period for which the information was requested was missing.

440. Peers did not indicate any issues to the UK responses to clarification requests and, in particular, no delays were reported.

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

441. Exchange of information should not be subject to unreasonable, disproportionate or unduly restrictive conditions. There are no factors or issues identified that could unreasonably, disproportionately or unduly restrict effective EOI in the United Kingdom.

Annex 1: List of in-text recommendations

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

- Section A.1.3 – In relation to partnerships that are limited partnerships under UK law (including Scottish Limited Partnerships), the UK is recommended to monitor that the recently established measures are sufficient to ensure that information on the identity of partners of those partnerships are available to its competent authorities as required under the standard. Moreover, as SGPs have separate legal personality, the UK is also recommended to establish sufficient oversight to ensure the availability of information on the identity of partners in relation to SGPs that fall within the following criteria: (i) have non-UK resident partners; (ii) do not carry on business in the UK; and (ii) in which not all partners are corporate partners, to ensure the availability of information on the identity of partners of such partnerships.
- Section A.1.4: The UK is recommended to monitor that beneficial ownership information is available with respect to express trusts that meet the following criteria (i) are administered in the UK or in respect of which a trustee is a non-professional resident in the UK; (ii) are considered non-UK resident express trusts (e.g. trusts that have a mixture of UK resident and non-resident trustees and the settlor is not or has not been resident or domiciled in the UK); and (iii) do not have tax consequences in the UK.
- Section A.2: The present review recommends that the UK ensure the availability of accounting information for trusts administered by a UK trustee which have no tax consequences in the UK.

- Section C.1.1: The UK is recommended to ensure that all requests that are foreseeably relevant are responded to in line with the standard.
- Element C.2: As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, the UK is recommended to continue to conclude EOI agreements with any new relevant partner who would so require.
- Section C.3.1: The UK is recommended to only send physical mail via an international registration system where a mail tracking function is in place.
- Section C.3.1: The UK is recommended to ensure that only the minimum information necessary to obtain the requested information is disclosed to information holders.
- Section C.5.1: The UK is recommended to ensure that responses to requests are provided in a timely manner.

Annex 2: List of Jurisdiction's EOI mechanisms

Bilateral international agreements for the exchange of information

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
1	Albania	DTC	26-03-13	30-12-13
2	Algeria	DTC	18-02-15	16-06-16
3	Anguilla	TIEA	20-07-09	17-02-11
4	Antigua and Barbuda	DTC	19-12-47	19-12-47
		Protocol	05-03-68	19-09-68
		TIEA	18-01-10	19-05-11
5	Argentina	DTC	03-01-96	01-08-97
6	Armenia	DTC	13-07-11	21-02-12
7	Aruba	TIEA	05-11-10	01-01-12
8	Australia	DTC	21-08-03	17-12-03
9	Austria	DTC	30-04-69	13-11-70
		Protocol	17-11-77	30-12-78
		Protocol	18-05-93	01-12-94
		Protocol	11-09-09	19-11-10
10	Azerbaijan	DTC	23-02-94	03-10-95
11	Bahamas	TIEA	29-10-09	07-01-11
12	Bahrain	DTC	10-03-10	19-12-12
13	Bangladesh	DTC	08-08-79	08-07-90
14	Barbados	DTC	26-03-70	26-11-70
		Protocol	18-09-73	12-12-73
15	Belarus	DTC	31-07-85	30-01-86
		DTC	07-03-95	Not in force
		DTC	26-09-17	Not in force

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
16	Belgium	DTC	01-08-87	04-10-89
		Protocol	24-06-09	24-12-12
17	Belize	DTC	19-12-47	19-12-47
		Protocol	08-04-68	08-03-69
		Protocol	12-12-73	12-12-73
		TIEA	25-03-10	01-08-11
18	Bermuda	TIEA	04-12-07	10-11-08
19	Bolivia	DTC	03-11-94	23-10-95
20	Bosnia and Herzegovina	DTC	06-11-81	18-09-82
21	Botswana	DTC	09-09-05	04-09-06
22	Brazil	TIEA	28-09-12	Not in force
23	British Virgin Islands	DTC	29-10-09	12-04-10
		TIEA	29-10-09	12-04-10
24	Brunei Darussalam	DTC	08-12-50	08-12-50
		Protocol	04-03-68	20-11-68
		Protocol	12-12-73	06-04-73
		Protocol	11-12-12	19-12-13
25	Bulgaria	DTC	16-09-87	28-12-87
26	Canada	DTC	08-09-78	18-12-80
		Protocol	07-05-03	04-05-04
		Protocol	21-07-14	18-12-15
27	Cayman Islands	DTC	15-06-09	20-12-10
28	Chile	DTC	12-07-03	21-12-04
29	China (People's Republic of)	DTC	26-07-84	23-12-84
30	Colombia	DTC	02-11-16	Not in force
31	Côte d'Ivoire	DTC	26-06-85	24-01-87
32	Croatia	DTC	06-11-81	16-09-82
33	Curacao[a]	TIEA	10-09-10	01-05-13
34	Cyprus[b]	DTC	20-06-74	18-03-75
		Protocol	02-04-80	15-12-80
35	Czech Republic	DTC	05-11-90	20-12-91
36	Denmark	DTC	11-11-80	17-12-80
		Protocol	01-07-91	19-12-94
		Protocol	15-10-96	20-06-97

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
37	Dominica	TIEA	31-03-10	23-12-11
38	Egypt	DTC	25-04-77	23-08-80
39	Estonia	DTC	12-05-94	19-12-94
40	Ethiopia	DTC	10-06-11	21-02-13
41	Kingdom of Eswatini	DTC	26-11-68	18-03-69
42	Faroe Islands	DTC	20-06-07	03-06-08
43	Fiji	DTC	21-11-75	27-08-78
44	Finland	DTC	17-07-69	05-02-70
		Protocol	17-05-73	07-07-74
		Protocol	16-11-79	25-04-81
		Protocol	01-10-85	20-02-87
		Protocol	26-09-91	23-12-91
		Protocol	31-07-96	08-08-97
45	France	DTC	19-08-08	18-12-09
46	Former Yugoslav Republic of Macedonia	DTC	08-11-06	02-08-07
47	Gambia	DTC	20-05-80	05-07-82
48	Georgia	DTC	13-07-04	11-10-05
		Protocol	04-02-10	17-12-10
49	Germany	DTC	30-03-10	30-12-10
50	Ghana	DTC	20-01-93	10-08-94
51	Gibraltar	TIEA	24-08-09	15-12-10
52	Greece	DTC	25-06-53	15-01-54
53	Grenada	DTC	04-03-49	04-03-49
		Protocol	25-07-88	14-12-88
		TIEA	31-03-10	10-10-12
54	Guernsey	DTC	24-06-52	24-06-52
		Protocol	14-12-94	03-01-95
		Protocol	20-01-09	27-11-09
		TIEA	20-01-09	27-11-09
55	Guyana	DTC	31-08-92	18-12-92
56	Hong Kong (China)	DTC	21-06-10	20-12-10
57	Hungary	DTC	28-11-77	27-12-78
58	Iceland	DTC	30-09-91	19-12-91

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
59	India	DTC	25-01-93	25-10-93
		Protocol	30-10-12	27-12-13
60	Indonesia	DTC	05-04-93	14-04-94
61	Ireland	DTC	02-06-76	23-12-76
		Protocol	07-11-94	21-09-95
		Protocol	04-11-98	23-12-98
62	Isle of Man	DTC	29-07-55	29-07-55
		Protocol	19-12-91	19-12-91
		Protocol	14-12-94	31-03-94
		Protocol	29-09-08	02-04-09
		TIEA	29-09-08	02-04-09
63	Israel	DTC	28-09-62	13-02-63
		Protocol	20-04-70	25-03-71
64	Italy	DTC	21-10-88	31-12-90
65	Jamaica	DTC	16-06-73	31-12-73
66	Japan	DTC	02-02-06	12-10-06
		Protocol	17-12-13	12-12-14
67	Jersey	DTC	24-06-52	24-06-52
		Protocol	14-12-94	03-01-95
		Protocol	10-03-09	27-11-09
		TIEA	10-03-09	27-11-09
68	Jordan	DTC	22-07-01	24-03-02
69	Kazakhstan	DTC	21-03-94	15-12-96
		Protocol	18-09-97	02-11-98
70	Kenya	DTC	31-07-73	30-09-77
		Protocol/EoN	20-01-76	30-09-77
71	Kiribati	Protocol	10-05-50	10-05-50
		Protocol	04-03-68	23-10-68
		DTC	25-07-74	25-07-74
72	Korea	DTC	25-10-96	30-12-96
73	Kosovo	DTC	04-06-15	16-12-15
74	Kuwait	DTC	21-07-99	01-07-00
75	Kyrgyzstan	DTC	13-06-17	Not in force
76	Latvia	DTC	08-05-98	30-12-98

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
77	Lesotho	DTC	17-12-97	23-12-97
		DTC	03-11-16	Not in force
78	Liberia	TIEA	01-11-10	30-03-12
79	Libya	DTC	17-11-08	08-03-10
80	Liechtenstein	TIEA	11-08-09	02-12-10
		DTC	11-06-12	19-12-12
81	Lithuania	DTC	19-03-01	28-11-02
		Protocol	21-05-02	28-11-02
82	Luxembourg	DTC	24-05-67	12-07-68
		Protocol	18-07-78	21-05-80
		Protocol	28-01-83	19-03-84
		Protocol	02-07-09	28-04-10
83	Macau (China)	TIEA	03-09-14	20-05-15
84	Malawi	DTC	25-11-55	25-11-55
		Protocol	12-07-68	13-09-68
		Protocol	10-02-78	14-03-79
85	Malaysia	DTC	17-12-97	08-07-98
		Protocol	22-09-09	28-12-10
86	Malta	DTC	12-05-94	27-03-95
87	Marshall Islands	TIEA	26-10-12	07-05-14
88	Mauritius	DTC	11-02-81	19-10-81
		Protocol	23-10-86	26-10-87
		Protocol	27-03-03	22-10-03
		Protocol	10-01-11	13-10-11
89	Mexico	DTC	02-06-94	15-12-94
		Protocol	23-04-09	18-01-11
90	Moldova	DTC	08-11-07	30-10-08
91	Monaco	TIEA	23-12-14	22-04-15
92	Mongolia	DTC	23-04-96	04-12-96
93	Montenegro	DTC	06-11-81	16-09-82
94	Montserrat	DTC	19-12-47	19-12-47
		Protocol	06-04-68	04-12-68
		Protocol	09-12-09	14-03-12

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
95	Myanmar	DTC	13-03-50	13-03-50
		Protocol	04-04-51	04-04-51
96	Morocco	DTC	08-09-81	29-11-90
97	Namibia	DTC	28-05-62	19-12-62
		Protocol	14-06-67	27-11-67
98	Netherlands[c]	DTC	26-09-08	25-12-10
		Protocol	12-06-13	31-01-14
99	New Zealand	DTC	04-08-83	16-03-84
		Protocol	04-11-03	23-07-04
		Protocol	07-11-07	28-08-08
100	Nigeria	DTC	09-06-87	27-12-87
101	Norway	DTC	14-03-13	17-12-13
102	Oman	DTC	23-02-98	09-11-98
		Protocol	26-11-09	09-01-11
103	Pakistan	DTC	24-11-86	08-12-87
104	Panama	DTC	29-07-13	12-12-13
105	Papua New Guinea	DTC	17-09-91	20-12-91
106	Philippines	DTC	10-06-76	22-01-78
107	Poland	DTC	20-07-06	27-12-06
108	Portugal	DTC	27-03-68	17-01-69
109	Qatar	DTC	25-06-09	15-10-10
		Protocol	20-10-10	27-07-11
110	Romania	DTC	18-09-75	21-11-76
111	Russian Federation	DTC	15-02-94	18-04-97
112	Saint Kitts and Nevis	DTC	19-12-47	19-12-47
		TIEA	18-01-10	19-05-11
113	Saint Lucia	TIEA	18-01-10	19-05-11
114	Saint Vincent and the Grenadines	TIEA	18-01-10	19-05-11
115	San Marino	TIEA	16-02-10	27-07-11
116	Saudi Arabia	DTC and Protocol	31-10-07	01-01-09
117	Senegal	DTC	26-02-15	30-03-16
118	Serbia	DTC	06-11-61	16-09-82
119	Sint Maarten	TIEA	10-09-10	01-05-13

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
120	Sierra Leone	DTC	19-12-47	19-12-47
		Protocol	18-03-68	16-01-69
121	Singapore	DTC	12-02-97	19-12-97
		Protocol	24-08-09	08-01-10
122	Slovak Republic	DTC	05-11-90	20-12-91
123	Slovenia	DTC	13-11-07	11-09-08
124	Solomon Islands	DTC	10-05-50	10-05-50
		Protocol	08-04-68	24-01-69
		Protocol	25-07-74	25-07-74
125	South Africa	DTC	04-07-02	17-12-02
		Protocol	08-11-10	13-10-11
126	Spain	DTC	21-10-75	25-11-76
		DTC/EoN	13-12-93 & 17-6-94	26-05-95
		DTC	14-03-13	12-06-14
127	Sri Lanka	DTC	21-06-79	21-05-80
128	Sudan	DTC	08-03-75	08-10-77
129	Sweden	DTC	30-08-83	26-03-84 [d]
		DTC	20-03-15	31-12-15
130	Switzerland	DTC	08-12-77	07-10-78
		Protocol	05-03-81	10-05-82
		Protocol	17-12-93	19-12-94
		Protocol	26-06-07	22-12-08
		Protocol	07-09-09	15-12-10
		Protocol	30-11-17	Not in force
131	Chinese Taipei	DTC	08-04-02	23-12-02
132	Tajikistan	DTC	01-07-14	16-03-15
133	Thailand	DTC	18-02-81	20-11-81
134	Trinidad and Tobago	DTC	31-12-82	22-12-83
135	Tunisia	DTC	15-12-82	20-01-84
136	Turkey	DTC	19-02-86	26-10-88
137	Turkmenistan	DTC	31-07-85	30-01-86
		DTC	20-06-16	19-12-16
138	Turks and Caicos Islands	TIEA	22-07-09	25-01-11

	Jurisdiction	Type of EoI arrangement	Date signed	Date in force
139	Tuvalu	DTC	10-05-50	10-05-50
		Protocol	04-03-68	23-10-68
		Protocol	25-07-74	25-07-74
140	Uganda	DTC	23-12-92	21-12-93
141	Ukraine	DTC	10-02-93	11-08-93
142	United Arab Emirates	DTC	12-04-16	25-12-16
143	United States	DTC	24-07-01	19-07-02
		Protocol	19-07-02	31-03-03
144	Uruguay	TIEA	14-10-13	10-10-16
		DTC	24-02-16	14-11-16
145	Uzbekistan	DTC	15-10-93	10-06-94
		Protocol	24-01-18	01-06-18
146	Venezuela	DTC	11-03-96	31-12-96
147	Viet Nam	DTC	09-04-94	15-12-94
148	Zambia	DTC	22-03-72	29-03-73
		Protocol	30-04-81	14-01-83
149	Zimbabwe	DTC	19-10-82	11-02-83

Notes: a. The count of 25 TIEAs includes Curacao and St. Maarten but not the Caribbean part of the Netherlands which is a part of the Netherlands jurisdiction, see footnote 51.

b. Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

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

c. There is also a separate TIEA with the Kingdom of the Netherlands covering Bonaire, Saint Eustatius and Saba.

d. The 1983 treaty was terminated in 2015.

EU Directive on Administrative Cooperation

The United Kingdom can exchange information relevant for direct taxes upon request with EU member states under the EU Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation (as amended). The Directive came into force on 1 January 2013. All EU members were required to transpose it into their domestic legislation by 1 January 2013. The United Kingdom can exchange information within the framework of the Directive with Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain and Sweden.

Convention on Mutual Administrative Assistance in Tax Matters (amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the amended Convention).[54] The Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

The United Kingdom signed the 1988 Convention on 24 May 2007 and the Protocol amending the 1988 Convention on 7 May 2010. The amending Protocol entered into force in respect of the United Kingdom on 1 October 2011.

Currently,[55] the amended Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United

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

55. Since this date, Antigua and Barbuda has signed the Multilateral Convention and Kuwait and Vanuatu have deposited their instruments of ratification, for an entry into force on 1 December 2018.

Kingdom), Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curacao (extension by the Netherlands), Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Guatemala, Guernsey (extension by the United Kingdom), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, the Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Poland, Portugal, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Kingdom and Uruguay.

In addition, the following are the jurisdictions that have signed the amended Convention, but where it is not yet in force: Armenia, Bahrain (entry into force on 1 September 2018), Brunei Darussalam, Burkina Faso, Dominican Republic, El Salvador, Former Yugoslav Republic of Macedonia, Gabon, Grenada (entry into force on 1 September 2018), Hong Kong (China) (extension by China, entry into force on 1 September 2018), Jamaica, Kenya, Kuwait, Liberia, Macau (China) (extension by China, entry into force on 1 September 2018), Morocco, Paraguay, Peru (entry into force on 1 September 2018), Philippines, Qatar, United Arab Emirates (entry into force on 1 September 2018), United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010) and Vanuatu.

Annex 3: Methodology for the Review

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

The evaluation was based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 23 July 2018, the United Kingdom's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2014 to 31 March 2017, the United Kingdom's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by the United Kingdom's authorities during the on-site visit that took place from 23-27 January 2018 in London, the United Kingdom.

List of laws, regulations and other material received

Small Business, Enterprise and Employment Act 2015

The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016

The Register of People with Significant Control Regulations 2016

The European Public Limited-Liability Company (Register of People with Significant Control) Regulations 2016

The Register of People with Significant Control (Amendments) Regulations 2017

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

The Scottish Partnerships (Register of People with Significant Control) Regulations 2017

Companies Act 2006

Unregistered Companies Regulations 2009

Insolvency Regulations 1994

Partnership Act 1890

Limited Partnerships Act 1907

Limited Liability Partnerships Act 2000

Partnership (Accounts) Regulations 2008

Trustee Act 1925

Trustee Act 2000

Charities Act 2006

Finance Act 2008 – Schedule 36

Finance Act 2011 – Schedule 23

Tribunals Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009

Commissioners for Revenue and Customs Act 2005

Data Protection Act 2018

Police and Criminal Evidence Act 1984

Authorities interviewed during on-site visit

HM Treasury

HM Revenue and Customs – HMRC

Companies House

Department for Business, Energy, and Industrial Strategy – BEIS

Financial Conduct Authority – FCA

Charity Commission of England and Wales

Insolvency Service

UK Finance

The Institute of Chartered Accountants in English and Wales

The Law Society

Society of Trust and Estate Practitioners – STEP

Current and previous review(s)

This report provides the outcomes of the third peer review of the United Kingdom's implementation of the EOIR standard conducted by the Global Forum. The United Kingdom previously underwent the EOIR peer review through two assessments in the first round of reviews: the 2011 Combined Phase 1 and Phase 2 Report and the 2013 Supplementary Combined Phase 1 and Phase 2 Report. These two assessments were conducted according to the Terms of Reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews.

The two assessments were published without rating of the individual essential elements or any overall rating, as the Global Forum waited until a representative subset of reviews from across a range of Global Forum members had been completed in 2013 to assign and publish ratings for each of those reviews. Subsequently, an integrated report reflecting the outcomes of the two assessments was prepared in 2013 (the 2013 Report) and ratings were assigned in that report.

Information on each of the United Kingdom's reviews is listed in the table below.

Review	Assessment team	Period under review	Legal framework as of (date)	Date of adoption by Global Forum
2011 report	Ms Yanga Mputa, Deputy Director, South African Revenue Service; Mr Koki Harada, Deputy Director, Ministry of Finance, Japan; and Mr Beat Gisler, Global Forum Secretariat	1 January 2007 to 31 December 2009	February 2011	September 2011
2013 supplementary report	Ms Yanga Mputa, Deputy Director, South African Revenue Service; Mr Junya Toya, Deputy Director, International Operations Division, National Tax Agency, Japan; Mr Remi Verneau and Mr Bhaskar Goswami, Global Forum Secretariat	-	January 2013	April 2013
2013 consolidated report	(as for the 2013 supplementary report)	1 January 2007 to 31 December 2009	January 2013	November 2013
2017 report	Ms Ingebjørg Brekka, Norway and Mr Robin Ng, Singapore; and Ms Renata Teixeira, Global Forum Secretariat	1 April 2014 to 31 March 2017	23 July 2018	12 October 2018

Annex 4: Jurisdiction's response to the review report[56]

The United Kingdom has chosen not to provide any comments.

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

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GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request UNITED KINGDOM 2018 (Second Round)

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

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

This report contains the 2018 Peer Review Report on the Exchange of Information on Request of United Kingdom.

Consult this publication on line at ***https://doi.org/10.1787/9789264306189-en***.

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