GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report Phase 2 Implementation of the Standard in Practice

LATVIA

OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Latvia 2015

PHASE 2: IMPLEMENTATION OF THE STANDARD IN PRACTICE

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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 120 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004. The standards have also been incorporated into the UN Model Tax Convention.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 and Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

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 review reports, please refer to www.oecd.org/tax/transparency and www.eoi-tax.org.

Executive summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in Latvia as well as the practical implementation of that framework. The international standard, which is set out in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information within a jurisdiction, the competent authority's ability to gain timely access to that information, and in turn, whether that information can be effectively exchanged on a timely basis with its exchange of information partners.

2. Latvia is a middle size state located in the Baltic region of Northern Europe with an area of 62 249 sq km and a population of about 2.2 million. Latvia has a small, export oriented open economy with GDP of about EUR 30 billion in 2014. Sixty-nine percent of the GDP is produced in the service sector, followed by industry with 25% and agriculture 6%. One third of the GDP represents exports. Latvia joined the EU in May 2004 and the euro zone in January 2014. Latvia is a member of many international organisations such as the Council of Europe, the World Trade Organization, Moneyval and others.

3. All relevant entities are subject to comprehensive requirements under Latvian commercial, tax, anti-money laundering and accounting legislation to maintain and have available relevant ownership, accounting and bank information. Such information is available also for EOI purposes. All relevant entities are required to register with Latvian government authorities (except for trusts which are not recognised by Latvian law) and domestic entities must provide information on their founders upon registration. Limited liability companies, partnerships and foundations are also required to report to the Registry any changes in shareholders/members. Joint stock companies and co-operatives are not required to report changes in their ownership structure to the Registry, however, they are required to keep and maintain an up to date register of shareholders. Accounting, tax and AML obligations do not ensure that ownership information on foreign companies is available in Latvia in all instances. Joint stock companies can issue bearer shares which must be

in dematerialised form and registered with the Latvian Central Depository. The legal regulation of bearer shares is analogous to the regulation of listed securities and ensures that information on the owners of bearer share is available in Latvia.

4. Legal obligations in respect of availability of ownership information are properly implemented to ensure practical availability of such information in Latvia. The relevant ownership information is available in the Enterprise Registry or with the entity. The registration and maintenance of the submitted information in public register is carried out by the Enterprise Registry. Companies, partnerships and foundations gain their legal personality upon entry into the Registry. All companies and partnerships registered with the Enterprise Registry are automatically registered with the tax authority and required to file annual tax returns (regardless of their tax liability). A person becomes a shareholder of the company upon entry into the register of shareholders. Identity of partners in a partnership is contained in the partnership agreement and filed with the tax administration. Identity of founders, members of the executive board and beneficiaries of the foundation is available with the Register of Associations and Foundations. There is an uncertainty on practical availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees. Latvia is therefore recommended to monitor this issue. Latvia received above 500 requests for ownership information over the period under review. There was no case reported in the EOI context where the requested information was not available. Availability of ownership information in Latvia was also confirmed by peers.

5. Latvian accounting law requires all domestic legal entities as well as foreign enterprises performing economic activities in Latvia to keep adequate accounting records including underlying documentation in Latvia for a minimum of five years. The requirements under the Accounting Law are supplemented by obligations imposed by the tax law and under AML regulations. Practical availability of accounting information has been confirmed in practice. The State Revenue Service (SRS) and AML supervisory authorities take appropriate supervisory and enforcement measures ensuring availability of the information in practice. Latvia received more than 350 requests for accounting information over the reviewed period. The requested accounting information was provided in all cases where the taxpayer was identifiable except for a few requests which are awaiting results of tax control measures. This was also confirmed by peers.

6. Availability of banking information is ensured by Latvian AML and accounting obligations. Banks are expressly prohibited from establishing business relationships with or carrying out transactions for anonymous customers. The practical availability of banking information in line with the standard is ensured by the respective Latvian supervisory authority through

on-going monitoring, system of on-site inspections and auditors' reporting. Latvia received 133 requests for banking information over the reviewed period and there was no case where the requested information was not available with the bank. No issue in this respect was also indicated by peers.

7. The Latvian competent authority has broad access powers to obtain and provide the requested information which can be used for EOI purposes without requirement of a domestic tax interest. However, access to bank information under several DTCs is limited by the type of information which can be obtained from banks and additional conditions for obtaining it. Further, obtaining banking information in practice also under other EOI instruments was subject to additional restrictive conditions. In order to address this deficiency Latvia amended its law however as this amendment came into force only recently it remains to be tested in practice and Latvia is therefore recommended to monitor its implementation. Access powers are supported by effective enforcement provisions to compel the production of information. Nevertheless, there appears to be a hesitation to use stronger access and compulsory powers for exchange of information purposes. Latvia is therefore recommended to monitor effective use of its access and compulsory powers for exchange of information purposes. The scope of information protected by attorney client privilege is however broad and might limit effective exchange of information. Latvia's domestic legislation does not require notification of the taxpayer prior to exchange of information. The taxpayer has no right to appeal the provision of information to the requesting competent authority.

8. Latvia has a considerable EOI network covering 99 jurisdictions through 58 DTCs, two TIEAs, the Multilateral Convention and EU instruments. All of Latvia's agreements are in force except for one and most of them to the standard. Through these mechanisms Latvia is involved (in addition to EOI upon request) in spontaneous and automatic exchange of information, multilateral controls and recovery assistance. However, due to limitations in Latvia's domestic law, access to bank information is restricted in respect of 16 jurisdictions. It is therefore recommended that Latvia brings these 16 EOI relations in line with the standard.

9. All Latvia's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by these agreements. Although the Latvian tax law permits disclosure of information beyond extent permitted by the international standard, provisions of Latvia's EOI agreements override domestic laws. Nevertheless, in practice, the obtained information is contained in the tax database without appropriate indication that it has been obtained pursuant to the international treaty. As the domestic confidentiality rules allow disclosure of information which goes beyond the standard this may lead to use of information which

is not in line with the standard. Latvia is therefore recommended to take measures to address this issue. Taxpayer may request information from his/her tax files on the basis of generally applicable provisions of the Law on Information Disclosure and Law on Taxes and Fees which contain appropriate exceptions in respect of information provided by the requesting competent authority. There has been no unlawful disclosure of exchanged information encountered in practice as confirmed by peers.

10. Latvia has in place appropriate organisational processes to ensure provision of responses in a timely manner as was demonstrated over the last three years. Latvia is also considered by peers an important and reliable EOI partner. The SRS is designated as the competent authority for EOI purposes. Latvia received 531 requests from 29 treaty partners related to direct taxes over the period 1 July 2011 to 30 June 2014. The requested information was provided within 90 days, within 180 days and within one year in 73%, 83% and 88% of the time respectively. Latvia effectively exchanged information in line with the standard during the reviewed period. Nevertheless, there appear to be room for improvement in terms of resources dedicated to exchange of information especially in view of the current workload of the Competent Authority and anticipated increase of requests for information in coming years.

11. Latvia has been assigned a rating for each of the 10 essential elements as well as an overall rating. The ratings for the essential elements are based on the analysis in the text of the report, taking into account the Phase 1 determinations and any recommendations made in respect of Latvia's legal and regulatory framework and the effectiveness of its exchange of information in practice. On this basis, Latvia has been assigned the following ratings: Compliant for elements A.1, A.2, A.3, B.2, C.2 and C.5; and Largely Compliant for elements B.1, C.1, C.3 and C.4. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Latvia is Largely Compliant.

12. Recommendations have been made where elements of Latvia's EOI regime have been found to be in need of improvement. Latvia's follow-up report on progress in these areas should be provided to the PRG within twelve months after the adoption of this report.

Introduction

Information and methodology used for the peer review of Latvia

13. The assessment of the legal and regulatory framework of the Republic of Latvia (hereafter Latvia) as well as its practical implementation and effectiveness were based on the international standards for transparency and exchange of information as described in the Global Forum's Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information For Tax Purposes, and was prepared using the Global Forum's Methodology for Peer Reviews and Non-Member Reviews. The assessment has been conducted in two stages: the Phase 1 review assessed Latvia's legal and regulatory framework for the exchange of information as at January 2014, while the Phase 2 review assessed the practical implementation of this framework during a three year period (July 2011 through June 2014) as well as amendments made to this framework since the Phase 1 review up to August 2015. The following analysis reflects the integrated Phase 1 and Phase 2 assessments.

14. The assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at 7 August 2015, Latvia's responses to the Phase 1 and Phase 2 questionnaires, supplementary questions, information provided during the on-site visit in Riga, Latvia which took place on 17-19 March 2015, other materials supplied by Latvia and information provided by partner jurisdictions. During the on-site visit, the assessment team met with officials and representatives of relevant Latvia's government agencies including Ministry of Finance, State Revenue Service, Enterprise Registry and Financial and Capital Market Commission (see Annex 4).

15. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information, (B) access to information, and (C) exchange of information. This review assesses Latvia's legal and regulatory framework and its application in practice against these elements and each of the enumerated aspects. In respect of

each essential element a determination is made that either: *(i)* the element is in place, *(ii)* the element is in place but certain aspects of the legal implementation of the element need improvement, or *(iii)* the element is not in place. These determinations are accompanied by recommendations for improvement where relevant. In addition, to reflect the Phase 2 component, recommendations are made concerning Latvia's practical application of each of the essential elements and a rating of either: *(i)* Compliant, *(ii)* Largely Compliant, *(iii)* Partially Compliant, or *(iv)* Non-Compliant is assigned to each element. As outlined in the Note on Assessment Criteria, an overall "rating" is applied to reflect the jurisdiction's level of compliance with the Standard. A summary of findings of the review is set out at the end of this report (see Summary of Determinations and Factors Underlying Recommendations).

16. The Phase 1 and Phase 2 assessments were conducted by a team which consisted of two expert assessors: Ms. Ivonete Bezerra de Sousa, Secretariat of Federal Revenue Service-RFB, Brazil and Mr. Wayne Lonnie Brown, Assistant Financial Secretary, Ministry of Finance, Bermuda; and a representative of the Global Forum Secretariat: Mr. Radovan Zidek.

Overview of Latvia

17. Latvia is a middle size state located in the Baltic region of Northern Europe with an area of 62 249 sq km and a population of about 2.2 million (July 2013 est.), of which roughly one third lives in the capital city of Riga. Ethnically, the population is 59% Latvian and 29% Russian. Latvia borders on the north with Estonia, on the south with Lithuania, on the east with Russia and on the southeast with Belarus. The official language is Latvian, however Russian is also widely spoken. The official currency is the euro.

18. Latvia is a small, export oriented open economy. Latvia's GDP is about EUR 30 billion (latest figures 2014). Sixty-nine percent of the GDP is produced in the service sector, followed by industry with 25% and agriculture 6%. One third of the GDP represents exports. Latvia is a low-lying country with large forests that supply timber for construction and paper industries. Latvia also produces consumer goods, textiles and machine tools. Due to its geographical location, transit services are highly-developed together with manufacturing of machinery and electronics industries. Latvia's economy experienced GDP growth of more than 10% per year during 2006-07, but entered a severe recession in 2008. In 2012 and 2013 the GDP grew for 5% and 4% respectively. The IMF, EU, and other international donors provided substantial financial assistance to Latvia as part of an agreement to defend the currency's peg to the euro. The majority of companies, banks, and real estate have been privatised. The state holds significant shares in strategic large enterprises.

19. The main trading partners of Latvia are EU member states. 70% of all exports goes to the EU. In terms of exports the main partners in 2012 were Russia (18.3%) followed by Lithuania (15%), Estonia (12%), Germany 7.2%, Poland 5.6% and Sweden (4.8%). Main importing partners are Lithuania (18.9%), Germany (11.5%), Russia (9.3%) and Poland (8.1%).

20. Latvia joined the EU in May 2004 and the euro zone in January 2014. Latvia is a member of many international organisations including Council of Europe, the World Trade Organization, Moneyval, UNESCO, World Health Organisation and others. In May 2013 OECD opened membership talks with Latvia. Latvia is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes since January 2012.

General information on the legal system and the taxation system

Governance and the legal system

21. Latvia is a parliamentary democratic republic with a multi-party system. The head of state is the President, elected by the Parliament for a four-year term. Most executive power lies with the Prime Minister, who is the head of the Cabinet of Ministers and is appointed by the President on the basis of the general election results. The remainder of the Cabinet is appointed by the Prime Minister. The appointed Cabinet needs to be approved by the Parliament. The Parliament (Saeima) is unicameral and consists of 100 members elected by popular vote based on proportional representation. The Saeima is elected for a term of four years.

22. The country consists of 110 municipalities and nine cities which are self-governing units which can issue by-laws, regulations and decisions with sub-law regulatory power.

23. The legal system of the Latvia is based on civil law and relies on a single national law. The hierarchy of law consists of the Constitution (Satversme), laws, regulations of the Cabinet of Ministers and binding regulations of local governments. International agreements (including agreements for exchange of information for tax purposes) which settle matters regulated by law require ratification by the Saeima. Where a ratified international treaty conflicts with domestic law the ratified treaty prevails over domestic law. A list of relevant legislation and regulations is set out in Annex 3.

24. The Latvian court system consists of district courts, regional courts and the Supreme Court. The district (municipal) court is the court of first instance for civil, criminal and administrative cases. There are 35 district courts. The regional courts are the courts of appeal in cases already heard in district courts and serve as courts of first instance for cases falling specifically

under their jurisdiction, such as tax matters. There are six regional courts in Latvia.[1] In addition, the Constitutional Court reviews cases concerning the conformity of laws with the Constitution, as well as other cases where breach of the Constitution might have arisen.

The tax system

25. Latvia has a fully-fledged tax system comprising direct and indirect taxes, fees and duties. The tax system is governed by the Law on Taxes and Fees, specific taxing Acts and Cabinet Regulations issued pursuant to these Acts. The Law on Taxes and Fees specifies the Latvian tax system, determines the types of taxes and regulates the tax procedure including rights of taxpayers and the appeal procedures for decisions made regarding taxes and fees.

26. The tax system consists of:

- state taxes, which are determined by the Latvian Parliament;
- state fees, which are levied in accordance with the Law on Taxes and Fees, other laws and Cabinet regulations;
- local government fees, which are be levied in accordance with the Law on Taxes and Fees and with binding regulations issued by local governments; and
- taxes determined in the legal acts directly applicable of the European Union.

27. State taxes in Latvia include personal and corporate income taxes, real estate tax, value added tax, excise duty, customs duty, lottery and gambling tax, mandatory payments of state social insurance, micro-enterprise tax, tax on cars and motorcycles, electricity tax and vehicle operating tax. The rate of personal income tax depends on the nature of the income and varies from 10% to 24%. The corporate income tax rate is 15%. The standard VAT rate is 21%, with reduced rates of 12% and 0%.

28. Latvia taxes its residents (companies and individuals) on their worldwide income. All companies established under Latvian law and registered in Latvia are considered as resident in Latvia. An individual is a Latvian tax resident if that person has its permanent address or "a usual residence" (183 days rule) in Latvia. A permanent establishment of a foreign company is treated as Latvian resident and is liable to tax from Latvian source income

1. These courts are Riga Regional Court, Kurzeme Regional Court, Latgale Regional Court, Vidzeme Regional Court, Zemgale Regional Court and the Regional Administrative Court.

and worldwide income attributable to the permanent establishment (s. 14 Law on Taxes and Fees). Non-resident companies carrying on activity in Latvia (not through a permanent establishment) and non-resident individuals working in Latvia are subject to tax only on their Latvian source income. The definition of permanent establishment under Latvian law in general corresponds to the definition of permanent establishment provided in Article 5 of the OECD Model Tax Convention.

Exchange of information for tax purposes

29. Exchange of information for tax purposes (EOI) is specifically regulated by the Law on Taxes and Fees and Cabinet Regulation No. 1245. The Law on Taxes and Fees provides general tax procedures which apply also in respect of EOI. The Law on Taxes and Fees further authorises the Cabinet to issue a regulation laying down specific rules and conditions under which the Latvian competent authority can access and exchange information with another jurisdiction for tax purposes. These rules apply to EOI based on international agreements and EU legislation (s. 1 Cabinet Regulation No. 1245). Taxes are administered by the State Revenue Service (SRS) which is also designated as the Latvian competent authority for EOI purposes (s. 5).

30. Latvia provides international co-operation in tax matters based on international bilateral and multilateral instruments and EU law. The relevant EU legislation includes the EU Council Directive 2011/16/EU on Administrative Co-operation in the Field of Taxation, the EU Savings Directive 2003/48/EC (EU-SD), Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, Council Regulation (EU) No. 904/2010 on administrative co-operation and combating fraud in the field of value added tax and Council Regulation (EC) 2073/2004 on administrative co-operation in the field of excise duties. These co-operation mechanisms involve spontaneous exchange of information; automatic exchange of information, multilateral controls and recovery assistance.

Overview of the financial sector and relevant professions

31. The financial sector comprises the following types of entities which require authorisation from the Latvian Financial and Capital Market Commission:[2] banks (26), credit unions (32), insurance companies (21), investment brokerage firms (5), investment management companies (12) private pension funds (6), payment institutions (33) and electronic money

2. Numbers in parenthesis indicates the number of each type of registered entity as at December 2013.

institutions (1 429). While banks take the form of joint stock companies, Credit Unions are organised as co-operatives that carry out activities for their members (including the State and its organisational units). The total value of assets in the Latvian banking sector is EUR 30.8 billion as at 31 December 2014. The banking sector represents about 90% of total assets in the financial sector supervised by the Financial and Capital Market Commission. Out of all Latvian banks, three are state-controlled banks with more than 75% capital. The investment sector plays a relatively small role. However, non-resident deposits play a significant role in the Latvian financial sector. The AML supervisory authority in respect of the financial sector is the Financial and Capital Markets Commission and the Bank of Latvia in respect of money and currency changing companies.

32. The Latvian financial market is part of the EU single market and is open to credit and other financial institutions that offer cross-border financial services in line with the principle of the free movement of financial services.

33. There are three Self-Regulatory Organisations governing the relevant professions: Latvian Council of Sworn Advocates, Latvian Council of Sworn Notaries and Latvian Association of Certified Auditors (LACA). In July 2015, there were 1 354 persons registered as advocates, 112 persons registered as notaries and 199 certified auditors.

34. Anti-money laundering/combating financing of terrorism (AML/CFT) in Latvia is primarily regulated by the Prevention of Money Laundering and Terrorism Financing Law. This Law implemented the EU Third Money Laundering Directive and other related EU Regulations and Directives[3] into Latvian domestic law. Regulation of AML issues is under the overall control of the Ministry of Finance. The Financial Intelligence Unit (FIU) is established as a central national agency under the supervision of the Prosecutor's Office. The Prosecutor's Office is an independent state authority which can initiate investigations or prosecutions and is responsible

3. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing; Commission Directive 2006/70/EC of 1 August 2006, laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis; Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community and Regulation (EC) No 1781/2006 of the European Parliament and of the Council of November 15, 2006 on information on the payer accompanying transfers of funds.

for supervision of criminal investigations carried out by the Police or other law enforcement agencies. According to the Prevention of Money Laundering and Terrorism Financing Law, the FIU is empowered to receive and analyse suspicious and unusual transactions reports received from financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), and disseminate this information when there is reasonable suspicion that a person has committed a crime.

Recent developments

35. During the last three years Latvia has broadened access to banking information for tax purposes through two law amendments. The first amendment inserted new paragraph 11^1 into the section 63 of the Credit Institutions Law to broaden access to banking information for requests under the EU Directive 2011/16/EU and EOI agreements containing post-2005 wording. The amendment came into force on 10 April 2013. The second amendment of paragraph 11^1 of section 63 of the Credit Institutions Law was made in 2015 to address deficiencies in practical access to banking information under this paragraph identified during the reviewed period. The second amendment came into force on 4 August 2015 (see section B.1).

36. Latvia signed the Convention on Mutual Administrative Assistance in Tax Matters which came into force in Latvia on 1 November 2014. In addition, as a member of the "Early Adopters Group" Latvia signed on 29 October 2014 a multilateral competent authority agreement to automatically exchange information based on the Multilateral Convention with commitment to start first exchanges in September 2017.

37. Latvia has recently started to exchange information with the United States in accordance with the FATCA agreement which came into force on 15 December 2014. Latvia is also in the process of implementing EU Directive 2014/107/EU of 9 December 2014 providing for automatic exchange of information in accordance with the Common Reporting Standard[4] among EU members. First automatic exchanges of information under the directive shall take place in September 2017.

4. The Common Reporting Standard (CRS) calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. The CRS was developed in response to the G20 request and approved by the OECD Council on 15 July 2014.

Compliance with the Standards

A. Availability of information

Overview

38. Effective exchange of information requires the availability of reliable information. In particular, it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority[5] may not be able to obtain and provide it when requested. This section of the report describes and assesses Latvia's legal and regulatory framework for availability of information and its implementation in practice.

39. The Latvian legal and regulatory framework ensures that ownership information regarding all relevant entities is available in Latvia in line with the international standard with the exception of foreign companies. All companies are required to register with the Enterprise Registry and domestic companies must provide information on their founders upon registration. Limited liability companies are also required to report to the Registry any changes in shareholders. Joint stock companies and co-operatives are not

5. The term "competent authority" means the person or government authority designated by a jurisdiction as being competent to exchange information pursuant to a double tax convention or tax information exchange.

required to report changes in their ownership structure to the Registry, however, they are required to keep and maintain an up to date register of shareholders. In addition, companies are required to report to the Enterprise Registry beneficial owners in certain circumstances. Foreign companies are not required to have available ownership information in Latvia in all instances. Ownership information must be available in certain circumstances under the accounting or tax law and if an AML obliged person is engaged by the company; however, availability of such information will depend largely on the obligations of the jurisdiction in which the company is incorporated. It is therefore recommended that Latvia ensure that ownership information on foreign companies, in particular those having their head office or headquarters in Latvia, is available in all cases.

40. The application of relevant mechanisms ensures that ownership information regarding domestic companies is generally available. The registration and maintenance of the submitted information in public register is carried out by the Enterprise Registry. A company gains legal personality upon entry into the Registry. In cases where deficiencies are identified the Registry takes remedial actions which include request for correction of the provided information, issuance of warning letters and application of sanctions. All companies registered with the Enterprise Registry are automatically registered with the tax authority and required to file annual tax returns (regardless of their tax liability). Any information provided to the Enterprise Registry is transferred to the tax database and available to the tax authority. A person becomes a shareholder of the company upon entry into the register of shareholders. Management board of LLCs is further required to file changes in the shareholder register with the Enterprise Registry. Delay in submitting the updated register of shareholders will typically trigger issuance of administrative violation protocol and application of sanction. Shares of joint stock companies are recorded in the Central Securities Depository and kept in the financial instruments accounts operated by financial institutions or investment brokerage companies subject to AML obligations.

41. Nominee ownership is restricted to obliged persons under AML rules, which require identification of a person on whose behalf a nominee is acting. Nominees' compliance with their AML obligations is supervised by the Financial and Capital Market Commission. The combination of obligation to hold shares on nominee accounts operated by the Central Depository and general level of compliance with AML obligations ensure that the information on the person on whose behalf a nominee holds the shares is available.

42. Joint stock companies can issue bearer shares. Bearer shares can be issued only in dematerialised form and must be registered in the Latvian Central Depository. Transfers are valid only upon being entered in the shareholder register of the joint stock company and recorded in the respective

financial instrument account of the transferee. The legal regulation of bearer shares is analogous to the regulation of listed securities and ensures that information on the owners of bearer shares is available in Latvia. No issue in respect of availability of information on holders of bearer shares has been encountered in domestic or exchange of information practice confirming that such information is available in Latvia as required under the standard.

43. Ownership information on partnerships must be reported to the Enterprise Registry upon their registration and kept updated. Further, the tax return of each partner must include information on all other partners in a partnership. This obligation is triggered also in case of a foreign partnership with a taxable presence in Latvia. The relevant legal provisions are properly implemented to ensure that ownership information regarding partnerships is available. The same supervisory and enforcement measures are applied as in the case of companies. In addition, the partnership agreement is available to the partners and held by the partnership in order to conduct its business and manage relation among partners in the partnership governed by the partnership agreement.

44. Latvian law does not recognise the concept of a trust. However, Latvian tax and AML legislation ensure that information is available regarding the settlor and beneficiaries of a foreign trust operated by a Latvian trustee. The tax law requires all Latvian trustees of foreign trusts to keep information identifying the settlor and beneficiaries of the trust in order to substantiate their tax position with regards to the trust's assets and income generated from them. Further, any person providing trustee services by way of business is expressly covered by the Law on Prevention of Money Laundering and Terrorism Financing (PMLA) and is subject to AML obligations which include identification of the settlor and beneficiaries of an express trust. However, application of these obligations is not founded in practice and there is no guidance to confirm practical applicablity of the above rules. Considering this uncertainty Latvia should monitor the practical availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees and take the necessary measures to ensure its availability if such information is not available in line with the standard. Further, information on the settlor and beneficiaries of a trust might not be kept by all non-professional trustees. In practice, no case where a Latvian non-professional trustee administers foreign trust has been encountered and such cases appear to be rare as the trust arrangement is generally not used in Latvia and its use, particularly in cases where no legally enforceable relation has been established, would entail too much uncertainty for all parties of the arrangement.

45. With regard to foundations, information on founders, members of the executive board (or any other person with the authority to represent the

foundation) and beneficiaries is available in Latvia. Information on founders and members of the executive board must be provided to the Registry of Associations and Foundations upon registration and kept updated. Information on beneficiaries must be included in annual accounts of the foundation filed with the tax administration and it is normally stated in articles of association which need to be filed with the Registry. In addition, members of the executive board are subject to AML rules requiring them to identify their clients. In practice, the same procedures as in respect of other entities required to register with the Registry apply in respect of foundations. Supervision of members of foundation's executive board is performed by the SRS. It is also noted that foundations under Latvian law cannot be established for profit making purposes and their profit cannot be distributed among its founders therefore their relevance for the purpose of the review is limited.

46. Latvian law provides for sanctions in respect of key obligations to maintain ownership information. Although, some of the sanctions appear rather low and might not be dissuasive compliance levels with the crucial obligations are sufficient to ensure practical availability of the relevant information.

47. All relevant Latvian entities as well as foreign entities performing economic activities in Latvia are required under the Accounting Law to keep accounting records in line with the international standard. The requirements under the Accounting Law are supplemented by obligations imposed by the tax law and under AML regulations. Accounting information might not be kept by non-professional trustees in all instances. However, situation where a foreign trust is operated by a non-professional trustee resident in Latvia which does not engage any service provider (such as a bank) is very likely to be rare as the trust arrangements are generally not used in Latvia. Availability of underlying documentation is ensured by accounting and tax requirements. Accounting records and underlying documentation must be kept in Latvia for at least five years. Latvia's legal and regulatory framework is adequately implemented in practice to ensure availability of accounting information in respect of all relevant entities. The SRS and AML supervisory authorities take appropriate supervisory and enforcement measures ensuring availability of such information as required under the standard.

48. In respect of banks and other financial institutions, Latvian AML and accounting legislation imposes appropriate obligations to ensure that all records pertaining to customers' accounts as well as related financial and transactional information are available. Banks are expressly prohibited from establishing business relationships with or carrying out transactions for anonymous customers. The practical availability of banking information in line with the standard is ensured by the Financial and Capital Market Commission through on-going monitoring, system of on-site inspections and

auditors' reporting. If deficiencies are identified sanctions under the respective laws are effectively applied.

49. Over the period under review, Latvia received more than 500 requests for ownership information, above 350 requests for accounting information and 133 requests for banking information. The requested ownership and accounting information was provided in full except for about 5% of cases where *(i)* the holder of the information was not identifiable based on the information provided by the requesting jurisdiction or otherwise, or *(ii)* the response is pending results of tax control measures carried out by the SRS (see further section B.1 and C.5.1). Although banking information has not been provided in 26 cases (see further section B.1.1) there was no case where the requested information was not available with the bank. Accordingly, there was no case reported in the EOI context where the requested information was not available despite legal obligation to have it available. Availability of information in Latvia was also confirmed by peers.

50. Overall, ownership, accounting and bank information is in practice available in Latvia. Effective enforcement measures and monitoring activities are taken by the supervisory bodies to ensure availability of such information.

A.1. Ownership and identity information

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

Companies (ToR[6] A.1.1)

Types of companies

51. The following types of companies can be established under Latvian law:

- **limited liability company** – Limited liability company (LLC) (s. 134(3) Commercial Law) is the most common legal form for business entity in Latvia. LLCs are separate legal entities with equity capital made up of contributions paid by their owners. Shares of LLCs are not publicly tradable. LLC may be founded by one or several founders who can be natural or legal persons (s. 140). Founders are liable for the obligations of the company only up to the amount of their unpaid contribution to the company's capital. The minimum

6. Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information.

amount of equity capital of LLC is EUR 2 800 (s. 185). There were 157 092 LLCs in Latvia as at January 2015;

- **stock company** – A stock company is a company the shares of which are publicly tradable (s. 134(4)). The equity capital of a stock company is divided into shares/stock which may be registered stock or bearer stock (s. 228). Shareholders are not liable for the obligations of the company. The equity capital of a stock company may not be less than EUR 35 500 (s. 225).There are no restrictions regarding the number of shareholders. There were 997 stock companies in Latvia as at January 2015;
- **European Company –** European Companies are regulated by Council Regulation (EEC) 2157/2001 on Statute for a European Company which permits the creation and management of companies with a European dimension, free from the territorial application of national company law. The minimal capital is EUR 120 000 (Art. 4 of the Council Regulation).The rules that apply to European Companies are the same as applicable to stock companies in Latvia (Art. 10). There were four European Companies in Latvia as at January 2015;
- co-o**perative society** – Co-operatives are formed by at least three legal or natural persons (s. 8(4) Co-operative Societies Law) to undertake business for the economic or social benefit of their members (s. 1(5)). Members are not liable for the debts/obligations of the co-operative (s. 5). There were 1 917 co-operatives in Latvia as at January 2015.

52. LLCs, stock companies as well as co-operatives are founded and obtain legal personality at the moment they are registered with the Enterprise Registry (s. 135(2) Commercial Law; s. 4(2) Co-operative Societies Law). In order to set up a company or co-operative the founders must, among other requirements, prepare and sign the Memorandum of Association and Articles of Association, set up administrative institutions of the company, pay up the equity capital and submit an application to the respective office of the Enterprise Registry (ss.141 and 142 Commercial Law; s. 10 Co-operative Societies Law).

Information kept by public authorities

Enterprise Registry

53. The Enterprise Registry is an administration authority under the supervision of the Minister for Justice. Registration of the entities is carried out by state notaries of the Enterprise Registry. The Enterprise Registry carries out functions of a business register for all types of entities required to be registered by law, e.g. for companies, co-operatives, partnerships, foundations or individuals conducting business (merchants) (s. 1 Law on the Register

of Enterprises of the Republic of Latvia (LRE). Enterprises (companies), branches and representations shall be registered according to their location in the relevant department of the Enterprise Registry (s. 2).

54. Founders of a company or co-operative must upon registration provide to the Enterprise Registry the memorandum of association and articles of association (s. 142 Commercial Law; s. 10 Co-operative Societies Law). The memorandum of association of a company must include (s. 143 Commercial Law):

- information regarding the founders:
  - for natural persons – given name, surname, personal identity number (if the person does not have a personal identity number – the date of birth, the number and date of issue of a personal identification document, the state and authority which issued the document) and residential address,
  - for legal persons – name, registration number, legal address, office and residential address of the representative who signs the memorandum of association in the name of the legal persons;
- the name of the company;
- the amount of the equity capital of the company, the number of shares and par value;
- the amount of the equity capital each founder has subscribed to and the amount of equity capital to be paid-up before registration, the procedures and time periods for payment;
- the number of shares due to each founder according to the part of the equity capital such founder has subscribed to;
- the given names, surnames, personal identity numbers and residential addresses of the members of the board of directors of the company.

55. The memorandum of association of a co-operative must include information similar to information contained in the memorandum of association of a company (i.e. identification of founders, size of equity capital, the distribution of co-operative shares among the founders and the time limits and types of their investment, changes in the type of co-operative shares and the procedures for the alienation of co-operative shares) (s. 12 Co-operative Societies Law). Nevertheless, there is no requirement to update this information when a change of ownership occurs. However, the co-operative has to maintain a register of members, see below.

56. In addition, articles of association of a company or co-operative must give the time period or goals of the activities of the company (if the company is founded for a specific period of time or to reach a specific goal) and the

rights of members of the board of directors to represent the company (s. 144 Commercial Law, s. 13 Co-operative Societies Law).

57. The articles of association of stock companies must indicate (s. 144 Commercial Law):

- the categories of issued stock, the rights which arise from each category of stock and the number and the par value of each category of stock;
- whether the stock is registered stock or bearer stock; and
- if the articles of association provide that registered stock can be converted into bearer stock or *vice versa* the provisions for such conversions.

58. The Enterprise Registry issues upon registration an enterprise registration certificate including registration number of the entity and date of its registration. The original of the registration certificate shall be kept by the entity. Copies of the certificate are submitted to the relevant government authorities including tax administration (s. 2 LRE).

59. Companies are required to submit upon registration their register of shareholders to the Enterprise Registry (s. 149(9) (see below). The Registry then registers the shareholders in the Commercial Register which it maintains. LLCs are further required to report any change in the shareholder register to the Enterprise Registry. The board of directors must within three working days after entering the shareholder on the register submit a new version of the register to the Commercial Registry (s. 187(7) Commercial Law).

60. Companies are also obliged to submit information on their beneficial owners to the Enterprise Registry. A shareholder of a company who holds at least 25% of the capital company shares for the benefit of another person, has a duty to notify the company thereof within 14 days, indicating the person for whose benefit such shares are held (s. 17^1(2) Commercial Law). A shareholder which is not a natural person having a participation in a company of at least 25%, and which has not been established in accordance with the laws of a European Union Member State, has a duty, within 14 days, to submit a notification to the company on the owners of such shareholder (s. 17^1(3)). Further, a shareholder referred in both cases above must indicate to the company the natural person who owns or directly or indirectly controls at least 25 per cent of the company and the data allowing identification of such person (s. 17^1(6)). The company shall submit all notifications referred above within 14 days from their receipt to the Enterprise Registry (s. 17^1(8)). In case of failure to do so sanctions regarding a company or a shareholder in breach are available (s. 166^3 Administrative Violations Code and s. 195^1 Criminal Law). The Enterprise Registry received 82 beneficial ownership notifications in 2012,

18 in 2013 and 11 in 2014. Low number of notifications can be explained by the fact that *(i)* 76.2% of companies are single-member companies where the single-member is deemed to be the actual beneficiary of the company unless he states otherwise and submits a notification to the Enterprise Register and *(ii)* 23.6 % of companies are founded by up to five natural persons or held by members of the management board of the company. Nevertheless, the low filing rate does not ensure that accurate beneficial ownership information is available in the Register in all cases.

61. Entries in the Commercial Register shall be stored in electronic form (s. 16 LRE). There is no provision that limits the time period for which the stored information should be kept. According to the information provided by the Enterprise Register the information shall therefore be kept for an unlimited period of time regardless whether the entity has been liquidated. Information which is not received in electronic form is scanned and entered into the electronic database. All information submitted after 2007 is stored in electronic format. Information on legal owners contained in the Register (i.e. information on shareholders of LLCs and founders of joint stock companies) is publicly available on line.[7]

In practice

62. The registration and maintenance of submitted information in the public register is carried out by the Enterprise Registry. The Enterprise Registry is staffed with about 170 employees deployed in eight regional offices with local jurisdiction and headquarters in Riga. 65% of registered entities are registered in Riga office.

63. Documents can be submitted to the Register in presence, by post, email or through on-line portal.[8] The registration application has to be signed by all founders and submitted by the board of directors. Upon submission of the documents the Registry manually checks whether all required information and in required form (i.e. authenticated and valid) was provided. The Registry checks correctness of the submitted information through information system allowing it direct access to databases of several government authorities such as Office of Citizenship and Migration Affairs (maintaining the Population Register), State Revenue Service, State Land Service or Information Centre of Ministry of the Interior. The submission of documents is incomplete or inaccurate in about 18% of cases (29 550 submissions in 2014). In that case the state notary gives a reasonable period of time (in most cases one month) to rectify the deficiencies. If the deficiency is not rectified the state notary refuses to make entry into the Register. This is the case in

7. www.ur.gov.lv/.
8. https://www.latvija.lv/.

about 5% of submissions (8 208 in 2014). The decision to refuse entry into the Register can be appealed to the Chief state notary and subsequently to the Administrative Court. However only about 0.1% of the Registry decisions are appealed. The same procedure applies in respect of submissions subsequent to the registration.

64. Information provided to the Registry is kept in the central electronic database (URIS). The database allows monitoring of the registration procedure and subsequent submissions and includes various modules for monitoring compliance, producing statistics, issuing registration certificates or authentification of documents. Any new information entered into the Registry's database is automatically transferred to the tax database.

65. Information contained in the register is considered as evidence of the facts stated there and can be relied upon by third parties and courts. It is also noted that a company gains legal personality only upon entry into the Registry. Accordingly the compliance rate with filing obligations (including obligation to keep updated ownership information) is relatively high. In 2013 breach of filing obligations was detected in respect of 4.2% of registered companies (i.e. in respect of 6 674 companies) and in 2014 in respect of 5.7% companies (9 151). Over the period 2013 and 2014 1 746 companies were liquidated (1.1% of registered companies) by the Registry as they had not remedied their failures to submit information to it. The most common deficiencies relate to inconsistencies in the provided information (e.g. incorrect identification numbers, spelling mistakes in addresses or names). In cases where deficiencies are identified the Register takes remedial actions which include request for correction of the provided information, issuance of warning letters and application of sanctions (see further section A.1.6). Although the Registry takes appropriate measures to tackle deficiencies when they are encountered more proactive measures to identify noncompliance with filing obligations (e.g. regular desk audits) should be taken especially considering that other government authorities are not obligated to report discrepancies in the information entered in the Enterprise Registry and information at their disposal.

Information provided to tax administration

66. All companies and co-operatives operating in Latvia must be registered with the tax administration (s. 15^{1}(1) Law on Taxes and Fees (LTF)). Any company or co-operative registered with the Enterprise Registry is automatically registered for tax purposes as well. The Enterprise Registry issues upon registration to the entity a uniform eleven digit registration number and issues a registration certificate which is also a taxpayer's certificate (s. 15^{1}(1) LTF)). All information submitted to the Enterprise Registry upon registration and subsequently is directly available to the tax administration. Foreign legal persons having a taxable presence in Latvia which are not required to register

with the Enterprise Registry (such as foreign company with permanent establishment in Latvia) must register directly with the tax administration (s. 15[1](5) LTF) (see below).

67. Taxpayers are required to submit an annual tax declaration to the SRS. The tax declaration must include annual accounts of the undertaking (s. 22 Law on Enterprise Income Tax). Annual accounts of Latvian companies with net turnover exceeding EUR 800 000 must contain information on ownership structure of the entity and its group. A group is understood as an aggregate of companies which includes a parent company and its subsidiary companies. The required information includes names and legal addresses of the entities in the group, the participatory share of the company in other companies within the group and the amount of equity and of profit or loss of subsidiary companies of the group and associated companies (s. 42 Annual Accounts Law).

68. Further, certain tax positions require that the company discloses its ownership structure to the tax administration (e.g. transfer pricing, utilisation of tax losses, and exemption of dividend payments). However, these tax reporting obligations do not ensure that information on shareholders is provided to the Latvian tax administration in all cases since they are linked to specific conditions (e.g. turnover threshold, transfer pricing obligations, utilisation of tax losses).

In practice

69. Supervision of obligations to register and file annual returns with the tax authority is carried out by the SRS's Tax Board Department and the Tax Control Department. The total SRS staff is 4 316 out of which 2 225 is deployed in tax area and 418 deals with economic (including tax) crimes.

70. All companies registered with the Enterprise Registry are automatically registered with the tax authority and required to file annual tax returns (regardless of their tax liability). Therefore noncompliance with tax filing obligations is easily monitored and detected by the tax database system. Any information provided to the Enterprise Registry is transferred to the tax database and available to the tax authority.

71. Companies and other business entities are required to file their annual tax returns electronically by using the SRS Electronic Declaration System. The declaration system has an in-built control mechanism that warns a taxpayer about errors made in the declaration and prohibits the taxpayer from submitting incomplete or clearly deficient declaration. All declarations are automatically analysed based on the risk criteria defined by the SRS. In response to results of the electronic risk analysis appropriate tax administration measures are carried out. If the analysis reveals high potential risk data credibility assessment is launched. Within the framework of the

data credibility assessment the taxpayer is requested to provide additional information to explain the risks established or to adjust the declaration. The SRS conducted 232 800 credibility assessments in 2012, 243 187 in 2013 and 288 524 in 2014. If the explanations provided by the taxpayer fail to address the concerns established or no adjustments are made tax control measures are carried out, i.e. tax audit, data credibility verification or thematic inspection. The SRS carried out 1 355 tax audits in 2012, 1 445 in 2013 and 1 318 in 2014. In the same periods the SRS conducted 6 001, 5 708 and 4 866 thematic inspections respectively. If the taxpayer does not substantiate his/her tax position he/she is subject to sanctions and ultimately the SRS can restrict his/her economic activities and strike off the taxpayer from the Enterprise Registry (see further section A.1.6).

72. Compliance with tax obligations to maintain information under tax law appears to be appropriate to ensure availability of such information. All companies which are registered with the Enterprise Registry are required to file annual tax declarations. This obligation is automatically monitored by the tax database system which together with application of enforcement measures ensures compliance with the tax obligations. It is nevertheless noted that the availability of ownership information is not based on tax obligations but on the requirement to keep shareholder register and to submit it to the Enterprise Registry (or in the case of joint stock companies on information kept by the Central Depository). This is also confirmed in practice as the SRS in majority of the cases obtains the relevant ownership information from its tax database as the information is available through the database of the Enterprise Registry.

Information held by companies

73. Companies are required to maintain a register of shareholders. A shareholder is a person who has been entered in the register of shareholders. Until the person is entered into the register of shareholders it cannot exercise its shareholder rights (s. 136(1) Commercial Law).

74. The register of shareholders should reflect all changes in shareholders. The register is made up of separate divisions. A division is a document containing aggregate entries of each change and reflects the complete current composition of shareholders. (s. 187(2)). Deletion and exclusion of entries is not permitted (s. 187(10). The register of shareholders includes:

- sequence numbers and par value of shares;
- information regarding shareholders:
    - for a natural person – the given name, surname, personal identity number (if the person does not have a personal identity number

– the date of birth, the number and date of issuance of a personal identification document, the state and authority which issued the document) and address where the person may be reached;

- for a legal person – the name, registration number and legal address;

- the number of shares of each shareholder;
- the deadline for paying-up of shares provided for in the memorandum of association or the provisions for the increase of the equity capital, if shares have not been paid-up;
- the date when paying-up of shares to their full extent has been performed (s. 187(5));

75. A notification for making an entry in the register of shareholders shall be submitted to the company by the person regarding whom the entry is to be made (s. 187(1)). The board of directors has to make an entry in the register of shareholders or to raise justified objections against making an entry not later than on the following day after it has received a notification regarding changes in the information to be entered in the register of shareholders (s. 187(6)).

76. The board of directors of a co-operative society is under the obligation to maintain and keep updated a list of all co-operative members (s. 19 Co-operative Societies Law). Membership in a co-operative can be established during its foundation or after approval of a written membership application by the general meeting of members (s. 18). Minutes and decisions of the general meeting should be kept by the co-operative (s. 50(2)).

77. The register of shareholders shall be stored for 10 years after the company is struck-off from the Commercial Register (s. 187(4) Commercial Law). Upon liquidation of a co-operative, the liquidation commission should transfer the list of members and other relevant documents to the National Archives of Latvia for archivation (s. 53(10) Co-operative Societies Law).

In practice

78. A person becomes a shareholder of a company upon entry into the register of shareholders. It is the obligation of the board of directors to keep a shareholder register and enter all shares therein. The board makes entries in the shareholder register based on the memorandum of association (when company is founded) and subsequently based on a joint application submitted to it by the seller and the buyer. The Board of LLCs is further required to file changes in the shareholder register with the Enterprise Registry and it is liable for any damages caused if the register is not properly kept. As

previously stated compliance with filing obligations with the Registry is relatively high and noncompliance was detected only in respect of 7.53% of all registered companies over the last three years. Delay in submitting the updated register of shareholders will typically trigger issuance of administrative violation protocol and application of sanction under s. 166^3 of the Administrative Violations Code. Such protocols were issued in 503 cases over the years 2012-2014, however specific statistics in respect of cases where failure to maintain the register of shareholders was identified are not available (see further section A.1.6).

79. Shares of joint stock companies are required to be recorded in the Central Securities Depository and kept in the financial instruments accounts operated by financial institutions or investment brokerage companies subject to AML obligations. A shareholder is a person who has shares in its financial instrument account. As of December 31 2014 there were 860 securities accounts opened with the Central Securities Depository.

Nominee identity information

80. Providing nominee shareholding is restricted only to licensed professionals. In accordance with Article 125 of the Financial Instruments Market Law (FIML), only a brokerage company, credit institution or licensed intermediary which is a professional participant in the Latvian securities market has the right to own a nominee account and provide nominee shareholding services. The nominee account, as a special type of securities account, is operated by the Central Securities Depository. Such an account must be indicated as a nominee account and identification of the owner of the account must be included (s. 130(3) FIML).

81. The owner of a nominee account is required to maintain records on the securities held in the account and perform CDD measures as prescribed under the Law on the Prevention of Money Laundering and Terrorism Financing (AML Law). Owners of nominee accounts are obliged persons under the AML Law (s. 3(1)) and are therefore required to identify their customers, i.e. the person on whose behalf they hold the shares, and perform CDD at the moment of establishing the business relationship in all cases (s. 11(1)). This includes, using an AML-risk based approach, identifying the beneficial owner of the customer where the customer is a legal entity (s. 17(1)). The beneficial owner is in general defined as a natural person having real or legal direct or indirect control of an entity or holding, alone or together with other persons, voting rights or financial interest in that legal person of more than 25% (s. 1(5)). The nominee is further required to conduct ongoing monitoring, to ensure that the information held on the customer is up-to-date (s. 20) and to keep information for five years following the termination of the business relationship (s. 37(2)).

82. In practice, all nominees are AML obligated persons. Nominees' compliance with their AML obligations is supervised by the Financial and Capital Market Commission. There are no specific statistics available on supervisory and enforcement measures taken in respect of service providers acting as nominee shareholders (see further below section on information held by service providers and other persons). Nevertheless the combination of obligation to hold such shares on accounts operated by the Central Depository and general level of compliance with AML obligations of these professionals should ensure that the information on the person on whose behalf a nominee holds the shares is available.

Foreign companies

83. Foreign companies or other legal entities established under laws of another jurisdiction can conduct commercial activities in Latvia as branches or permanent establishments. Branches of foreign entities must be registered with the Enterprise Registry. An application for entering a branch in the register must include:

- name of the branch and of the foreign entity;
- legal address of the branch and of the foreign entity;
- register in which the foreign entity is registered and its registration number;
- person who is authorised to represent the foreign entity in respect of activities related to the branch;
- legal type of foreign entity;
- copy of the articles of association, memorandum of association or a document equivalent to such of the foreign entity (s. 25(2) Commercial Law).

84. In practice, the same procedures apply for registration of branches of foreign companies as in respect of domestic companies although in case of foreign companies limited information may be available in government databases to check the submitted information. There were 509 foreign branches registered in Latvia as at January 2015.

85. A company registered under foreign law cannot become tax resident in Latvia and no criteria of place of effective management or management and control is used to establish tax residency therein. However, the location of a company's head office or headquarters in Latvia, by virtue of its degree of permanency, would give rise to a permanent establishment notwithstanding that the concept of head office or headquarters is not recognised in

Latvian law (s. 14(7) LTF). In order to register as a permanent establishment the foreign person should submit an application to the SRS. The application must include the applicant's passport and should contain the name and address of the foreign entity, its current accounting data, identification of its founders and its registration certificate (Cabinet of Ministers Regulation No. 150). Taxpayers have obligation to notify their local tax administration office regarding changes in their registration documents within ten days of making the changes (15(2)(4) LTF). The same tax and accounting rules apply in respect of the permanent establishment as for domestic companies. If the net turnover of the foreign company's permanent establishment exceeds EUR 800 000 its annual accounts must contain information on ownership structure of the entity and its group. Ownership information must be reported also in certain tax positions (e.g. transfer pricing, utilisation of tax losses, and exemption of dividend payments). However, these tax reporting obligations do not ensure that information on shareholders is provided to the Latvian tax administration in all cases.

86. The SRS registers the permanent establishment of a non-resident in Latvia on the basis of its decision to operate in Latvia through a permanent establishment and its registration application to the SRS. The SRS sends a foreign company an invitation to register the permanent establishment on its own initiative if the signs of a permanent establishment are established in activities of the representative office of a foreign company registered with the Register of Enterprises or with the Register of Value Added Taxpayers. The permanent establishment of a non-resident in Latvia is deemed to be a separate resident taxpayer and Latvian tax laws apply to it accordingly. In addition, if a foreign company is established in another EU member state and employs an employee in Latvia it is required to register with the SRS as a person making mandatory social insurance contributions. The same information is required to be provided to the SRS upon registration and the same administrative procedure is applied as in case of domestic taxpayers.

87. To the extent that a foreign company engages the services of AML obligated persons (such as banks with which the foreign company maintains an account), some ownership information would be collected with respect to the foreign company, by virtue of CDD conducted by that AML obligated person. However, since not all companies must engage with AML obligated persons in Latvia the CDD requirements cannot ensure that ownership information is available in all instances. On practical availability of ownership information with service providers see the section Information held by service providers and other persons below.

88. Companies formed outside of Latvia are generally not required to maintain or provide information identifying their owners even if they are effectively managed or have their head office or headquarters therein.

Obligation to maintain ownership information under the tax law is linked to specific conditions (e.g. turnover threshold, transfer pricing obligations, utilisation of tax losses) which do not ensure that such information will be available in all cases. Therefore, the availability of information that identifies the owners of foreign companies with sufficient nexus with Latvia will generally depend on the law of the jurisdiction in which the company is formed and it may not be available to Latvian competent authorities in all cases.

89. There is limited practical experience with cases where information regarding foreign companies was requested for domestic or exchange of information purposes. However, according to the Latvian authorities the identified legal gap does not have significant impact on availability of the ownership information in practice as such information should be provided by representatives of the foreign company upon request by the tax authority under provisions of section 10 of the LSRS (if not already available in the tax database or through public sources).

Information held by service providers and other persons

90. The Law on Prevention of Money Laundering and Terrorism Financing (PMLA) which regulates AML rules in Latvia is a transposition of the 3rd EU Money Laundering Directive. PMLA requires obliged entities to perform CDD. The obliged entities under the PMLA are persons performing an economic or professional activity such as:

- credit and financial institutions;
- tax advisors, external accountants, auditors;
- notaries, lawyers, other independent providers of legal services when they, acting on behalf of their customer, assist their customer in transactions concerning the following:
  - buying and selling of immovable property or shares of the commercial company,
  - managing of the customer's money or financial instruments and other funds,
  - opening or managing of all kinds of accounts in credit institutions or financial institutions,
  - creation, management or operation of legal arrangements, as well as in relation to the organisation of contributions necessary for the creation, operation or management of a legal arrangement;
- providers of services related to the creation and operation of a legal arrangement;

- persons acting as real estate agents or intermediaries in immovable property transactions;
- other legal or natural persons trading in immovable property, means of transport, cultural monuments, precious metals, precious stones, the articles thereof, or trading in other goods, as well as acting as intermediaries in the abovementioned transactions or engaged in provision of other services, if payment which on the day of the transaction is equivalent to or exceeds EUR 15 000 is carried out in cash (s. 3(1) PMLA).

91. The obliged person is required to identify a customer prior to establishing a business relationship or prior to performing an individual transaction if the amount of the transaction is equivalent to or exceeds EUR 15 000 or the transaction is considered unusual or suspicious (s. 11 PMLA).

92. A natural person shall be identified by verifying his or her identity according to the personal identification document where the given name, surname, personal identity number (or equivalent including date of birth in case of non-residents) is provided (s. 12(1) PMLA). For the identification of a legal person documents attesting registration, address of the registered office and identity of persons who are entitled to represent of the customer should be requested (s. 13(1)).

93. An obliged person is further required to apply customer due diligence (CDD) which includes clarification of the ownership structure of the client (s. 17(1) PMLA). CDD is required to be performed:

- prior to establishing a business relationship;
- prior to opening of account, acceptance of money or other funds for storage or holding;
- if there are suspicions regarding money laundering or terrorism financing; or
- if there are doubts about the veracity of the previously obtained information on the identification of the customer or on customer due diligence (s. 16).

94. The obliged person is further required to determine a beneficial owner for customers subject to enhanced customer due diligence (i.e. with a non-face-to-face customer, when establishing a business relationship with a politically exposed person; and when establishing a cross-border relationship by credit institutions with respondents from third countries) and all customers where suspicions have been aroused that the transaction is executed on behalf of another person (s. 18 PMLA). The beneficial owner is defined as a natural person, having real or legal direct or indirect control over the management or

operations; or holding in person or in contract with a business partner more than 25% of the voting rights; or acting in concert and holding more than 25% of the voting rights; or a natural person, who for other reasons is the real recipient of the revenue of such an entity (s. 1(5)).

95. The obliged person is required to ensure regular updating of the documents, data and information obtained in the process of the customer due diligence and this documentation must be stored for at least for five years following the end of the business relationship (s. 17(1), s. 37(2) PMLA).

In practice

96. Several bodies are responsible for supervision of implementation of AML obligations in Latvia. The most relevant supervisory authorities for the purpose of the review are

- the Financial and Capital Market Commission which supervises financial institutions including banks and participants on the securities market;
- Council of Sworn Advocates;
- Association of Certified Auditors;
- Sworn Notaries Council; and
- the State Revenue Service supervising DNFBPs other than sworn advocates, certified auditors and sworn notaries.

97. The supervisory authorities conducted in total 241 on-site inspections in 2011, 240 in 2012 and 342 in 2013 which represents about 8% of AML obligated persons being inspected every year. As a result financial sanctions were applied in four cases in 2011 and the total amount of fines was EUR 185 104. In 2012 the financial sanctions were applied in four cases with the total amount of EUR 108 344 and in 2013 in 10 cases with the total amount of EUR 341 690. Licenses were suspended in four cases in 2011, in five cases in 2012 and in two cases in 2013. Warnings without application of sanctions were issued in one case in 2011, in five cases in 2012 and in four cases in 2013.

98. Information held by AML obligated persons is rarely used by the tax authorities as a source of ownership information in respect of legal entities. Nevertheless it can be an important alternative source particularly in respect of information held by banks operating bank accounts of the respective entity (see further section A.3). Supervision of AML obligations of relevant DNFBPs does not appear to be a priority for Latvian authorities and may be improved although the Latvian authorities are taking measures to further

strengthen DNFBP's compliance with their AML obligations. As information held by these professionals is rarely requested by the tax authorities this appears to have only limited impact on practical availability of ownership information for exchange of information purposes.

Conclusion

99. The Latvian legal and regulatory framework ensures that ownership information regarding domestic companies and co-operatives is available. LLCs are required to provide information on their founders upon registration with the Enterprise Registry and report any changes in shareholders subsequently. Stock companies and co-operatives are not required to report changes in their ownership structure to the Registry, however they are required to keep and maintain an up to date register of shareholders. In addition, companies are required to report to the Enterprise Registry beneficial owners in certain circumstances. Nominee ownership is restricted only to professionals covered by AML obligations and identification of the nominee and the fact that shares are held on behalf of another person must be entered in the register of shareholders.

100. Companies that are not formed under Latvian law are not required to provide ownership information to any registration authority in order to conduct activities in Latvia. Further, tax obligations do not ensure that ownership information is available in all circumstances. AML obligated person could be engaged by a foreign company and might therefore conduct CDD with respect to the company. However, these obligations do not ensure the availability of full ownership information with respect to all relevant foreign companies. Therefore, Latvia is recommended to ensure that ownership information on foreign companies with sufficient nexus with Latvia, in particular, having their head office or headquarters in Latvia, is available in all cases.

101. The application of relevant mechanisms ensures that ownership information regarding domestic companies is generally available (see further section A.1.6). The ownership information is available to the tax authorities mainly through the Enterprise Registry or in respect of joint stock companies through the Central Securities Depository. Over the period under review Latvia received more than 500 requests for ownership information regarding companies and co-operatives. A few of them related to foreign companies however the precise number is not available. In about 2% of cases the requested information was not provided in full as the holder of the information was not identifiable based on the information provided by the requesting jurisdiction or otherwise (see further section B.1 and C.5.1). Finally, no issue was indicated by peers regarding availability of ownership information in respect of companies.

Bearer shares *(ToR A.1.2)*

102. Stock companies can issue bearer shares under the Latvian law (s. 228(1) Commercial Law). Bearer shares can be issued only in dematerialised form (s. 229(2)). The rights arising from bearer shares belong to the person whose shares have been registered in the financial instrument account kept by the Central Depository (s. 228(3) Commercial Law). The Central Depository is supervised by the Financial and Capital Market Commission. The procedure for issuance, registration and transfer of bearer shares is the same as the procedure applicable for publicly traded shares listed on the Latvian exchange market (Art. 93 and 94 FIML).

103. The board of directors is obliged to ensure that issued bearer shares are registered in the Latvian Central Depository in accordance with the provisions of the Financial Instrument Market Law (s. 263^{1}(1) Commercial Law). Upon registration of new bearer shares the Central Depository informs its members of the ISIN code of the newly registered securities (Latvian Central Depository Regulation, No.2). Any transfer of bearer shares is recorded by the Central Depository in the shareholders register of the respective stock company within one day after receipt of an application signed by transferor and transferee (s. 238(5)). The bearer share is then transferred from the financial instrument account of the transferor to the financial instrument account of the transferee (s. 228). The Central Depository is required to verify the identity of the owner of the account and keep such information updated (s. 130(3) FIML).

104. In addition, the shareholder's obligation under the section 17^{1} of the Commercial Law to submit information on beneficial owners to the company equally relates to the holders of bearer shares (see above).

105. The company and Latvian authorities, including the tax administration, are entitled to request information on holders of bearer shares from the Central Depository (s. 236^{2} Commercial Law). In such cases the Central Depository can be required to prepare a complete list of owners of shares of a particular company or a particular type of company. The list must include, with regard to natural persons – name, surname, personal identification number, other personal idientification data and state of residence; with regard to legal persons – name of company, registration (incorporation) number, date of registration, other identification data and state of residence (Latvian Central Depository Regulation, No.7).

106. All bearer shares were required to have been entered in the Central Depository or converted into registered shares by 31 December 2009. Activities of a company which had not done so would be terminated (s. 314 Commercial Law). There has been no such company whose activities were terminated in practice, however, in four cases warnings have been issued

and the liquidation procedure can be launched. According to the data of the Latvian Central Depositary, as of February 2015 45 companies had issued bearer shares, representing 4.7% of all stock companies in Latvia. All these bearer shares are registered with the Central Depository and traded on the securities market as required by the law.

107. The legal regulation of issuance and transfer of bearer shares, which is analogous to the regulation of listed securities, means that information on the owners of bearer shares is required to be available to the Latvian competent authority in all instances. No issue in respect of availability of information on holders of bearer shares has been encountered in domestic or exchange of information practice confirming that such information is available in Latvia as required under the standard.

Partnerships *(ToR A.1.3)*

108. Latvian law recognises three types of partnerships:

- ***general partnerships***: A general partnership has two or more partners undertaking business activities under a common business name based on a partnership agreement. All partners are entitled to act on behalf of the partnership and are jointly and severally liable for the debts/obligations of the partnership (s. 77(1) Commercial Code). There were 540 general partnerships in Latvia as at January 2015;
- ***limited partnerships***: A limited partnership has one or more partners with limited liability for the obligations of the partnership up to the amount of the unpaid parts of their contributions (limited partners) and one or more partners with full liability for the obligations of the partnership (general partners). Relations between limited and general partners are specified in the partnership agreement (s. 118(1). Limited partners do not have the right to participate in the management of the partnership (s. 121(1). There were 135 limited partnerships in Latvia as at January 2015; and
- ***European Economic Interest Groupings*** *(EEIGs):* The EEIG is a European form of partnership in which companies or partnerships from different European countries (the partners in the EEIG) can co-operate. It must be registered in the EU State in which it has its official address. EEIGs are regulated under Council Regulation (EEC) No.2137/85 of 25 July 1985 on the European Economic Interest Grouping. EEIGs are subject to the same requirements as general partnerships (Council Regulation (EEC) No.2137/85 of 25 July 1985 on the European Economic Interest Grouping). There were three EEIGs in Latvia as at January 2015.

Information kept by public authorities

Enterprise Registry

109. A partnership obtains legal personality upon entry in the Enterprise Register (s. 89(1) Commercial Law).

110. The following information must be entered in the Register upon formation of a partnership:

- partnership's name;
- type of partnership;
- amount of contribution by each limited partner and the total amount of limited partner contributions;
- given name, surname, personal identity number (if the person does not have a personal identity number – the date of birth, the number and date of issue of a personal identification document, the state and authority which issued the document) of general and limited partners, for partners being legal persons – name, registration number and legal address;
- the right of members of the partnership to represent the partnership individually or jointly;
- partnership's legal address;
- if the partnership has been established for a specific time period or for achievement of a specific objective – the time period for which it was established or the objective;
- branch firm name, if it is different from the firm name of the partnership, and its legal address (s. 8(2) Commercial Law).

111. Changes in the information provided upon incorporation must be notified to the Enterprise Registry (s. 78(3,4) Commercial Law). Applications for registration of the information provided to the Registry must be signed by all partners of the partnership (s. 78(4)). Changes become legally effective in respect of third parties upon being entered in the Register (s. 89(1)).

112. Foreign partnerships established under the laws of another jurisdiction can conduct commercial activities in Latvia as branches or permanent establishments. If a foreign partnership systematically carries out business in Latvia it is required to register a permanent establishment with the tax administration (s. 14(7) LTF) or, if the business is carried out through an independent undertaking, the partnership is required to register a branch with the Enterprise Registry (s. 22 Commercial Law). An application for entering a branch in the Enterprise Register must include the same types of information

as in the case of foreign companies, including the names of persons who are authorised to represent the foreign partnership and a copy of the articles of association (s. 25(2) Commercial Law).

113. The same obligation to disclose beneficial owners in the Enterprise Register as for companies applies in respect of partnerships including branches of foreign partnerships (s. 17^1 and s. 25(1) Commercial Law) (see section A.1.1).

114. In practice, the same procedures as in respect of companies apply in respect of partnerships (see section A.1.1). The registration and subsequent filing with the registry is supervised by notaries of the Enterprise Registry. There is no difference in registration procedures for general or limited partnerships. Information on general or limited partners is provided upon registration and kept updated. If the submission of documents is not complete or inaccurate the state notary requests the applicant to rectify the deficiencies. If the deficiency is not rectified the state notary refuses to make the entry into the Register. Considering that a partnership gains legal personality upon registration with the Registry and change in partners becomes legally effective in respect of third parties only upon entry into the Registry there appear to be only rare cases of noncompliance with partnerships' obligations in these respects. Accordingly no sanctions were applied in respect of partnerships by the Registry. However effective application of sanctions plays an important role in maintaining compliance with legal obligations. It is therefore recommended that Latvia monitors their application and applies them effectively in all cases where breach of partnership's filing obligation is found.

Information provided to tax administration

115. Partnerships are transparent for tax purposes. However, all partnerships are required to register for tax purposes and submit an annual tax declaration including identification of all partners in the partnership (s. 22(9) Law on Enterprise Income Tax). In addition, foreign partnerships systematically carrying out business in Latvia through an independent undertaking must be registered with the Enterprise Registry and information submitted to the Enterprise Registry upon registration and subsequently is directly available to the tax administration.

116. Each partner of a partnership (including limited partner) is liable to income tax according to the share of taxable income of the partnership due to him or her in Latvia and must be registered with the tax administration (s. 2(3) Law on Enterprise Income Tax). A partner of a partnership is obliged to include in his/her tax return an income declaration in respect of the partnership, the partnership's annual financial report and a certification by the partnership regarding the size of the partnership contribution share belonging to each member (s. 22(10) Law on Enterprise Income Tax). This obligation

covers also partners in foreign partnerships that are carrying on business in Latvia and requires that information on all partners in the partnership is included in their tax returns. Further, annual financial statements of Latvian partnerships with net turnover exceeding EUR 800 000 must contain information on the partnership's ownership structure (s. 42 Annual Accounts Law).

117. In practice, compliance with tax obligations of partnerships is supervised by the same measures as in respect of companies (see further section A.1.1). All partnerships registered with the Enterprise Registry are required to file annual tax declarations. The obligation is monitored by the tax database system which together with application of enforcement measures (see further section A.1.6) ensures partnership' compliance with the tax obligations. In addition, identification of all partners in a partnership is included in income tax returns of each partner in the partnership. This mechanism allows crosschecking of filing obligations of partnerships and their partners. Compliance with these obligations is also confirmed in practice as in the vast majority of cases information on partners in a partnership is already at the disposal of the SRS through tax filing obligations.

Information held by the partners and service providers

118. Partners in a partnership are not specifically required to maintain a record of all partners. However, identity information on all partners is available through the partnership agreement which should be available with the partnership or to the partners (s. 79 Commercial Law). Further, applications for registration of any changes in information provided to the Enterprise Registry must be signed by all partners of the partnership (s. 78(4)) and it is therefore necessary that information on all partners must be available to them.

119. To the extent that any partnership engages the services of an AML obligated person, such as a bank, or auditor, the beneficial owners of the partnership (i.e. partners that own or control more than a 25% stake in the partnership) would be identified through CDD (see A.1.1).

120. In practice, the partnership agreement is available to the partners and held by the partnership in order to conduct its business and manage relation among partners in the partnership governed by the partnership agreement. Information on partners in the partnership has to be provided typically through the partnership agreement upon opening a bank account, having annual accounts audited, purchasing a real estate property or registering as an employer for social security contributions. In the limited number of cases where the information on partners would not be already at the disposal of the tax administration the information would be requested and obtained from the partnership representatives as confirmed in the domestic tax context.

Conclusion

121. The legal and regulatory framework in Latvia ensures that ownership information regarding partnerships is available. Partnerships incorporated in Latvia are required to submit information on all their partners to the Enterprise Registry and report any subsequent changes thereof. Further, the tax return of each partner must include information on all other partners in a partnership (including foreign partnership).

122. The relevant legal provisions are properly implemented in Latvia to ensure that ownership information regarding partnerships is available. Over the period under review Latvia did not receive any request for ownership information regarding partnerships. Accordingly, no peer indicated an issue in this respect.

Trusts *(ToR A.1.4)*

123. Latvian law does not recognise the concept of a trust and Latvia is not a party to the Hague Convention on the Law Applicable to Trusts and on their Recognition.[9] However, there are no restrictions for a resident of Latvia to act as trustee, protector or administrator of a trust formed under foreign law.

Tax legislation

124. Latvian tax law requires all residents (individuals and legal entities) to pay income tax on all their income, regardless of the location of the source of wealth of such income provided they are the beneficial owners of such assets and income (s. 4(2) LTF). Thus, Latvian trustees who are the legal but not beneficial owners of trust assets have to be able to prove that they are not the beneficial owners in order prevent being taxed on the income of the trust (s. 15).

125. The Latvian authorities advise that in order to substantiate the trustee's tax position (i.e. whether he/she is or is not a beneficial owner of that income), the trustee would have to be able to provide the trust deed as well as other relevant information such as bank accounts, accounting records and underlying documentation. Thus, the identity of the settlor and the beneficiary (or class of beneficiaries) would be provided as the aforementioned documents would include this information.

126. In practice, there has been no case encountered where a Latvian person acted as a trustee in domestic or exchange of information context and therefore this matter is not considered by the Latvian authorities practically

9. www.hcch.net/index_en.php?act=conventions.text&cid=59.

relevant. Availability of information on settlors and beneficiaries of foreign trusts is based on interpretation by the Latvian authorities without basis in Latvian administrative regulations or practice. Considering lack of further guidance there is uncertainty to which extent such interpretation will be applied in practice and acceptable by courts.

AML legislation

127. Any person providing services by way of business in the framework of a trust or any similar contractual relationship under foreign law becomes a service provider in relation to the AML legislation and is subject to AML requirements (s. 1(10)(d) PMLA). An obliged person is required to conduct customer due diligence which in the case of legal arrangements includes clarification of the structure of the relevant arrangement, the way in which control is expressed over it and to gather information on the purpose and intended nature of the business relationship (s. 17). Trustees are therefore obliged to identify settlors and beneficiaries of the trust, verify their identity and in the case of legal persons investigate their ownership structure (ss.11,12,17). Further, trustees have to conduct ongoing monitoring of the business relationship including ensuring that the information is kept up-to-date (s. 17(1)). In practice, the relevant service providers who may in most cases provide trustee services are supervised by Council of Sworn Advocates, Council of Sworn Notaries and the Financial and Capital Market Commission (acting as a supervisory authority in respect of banks and financial institutions). The supervisory authorities confirmed that person acting as a trustee is required to keep information on the settlor and beneficiaries of the trust in which he/she acts as a trustee however no case where a Latvian person acted as a trustee has been encountered in practice.

128. Where a legal person acts on behalf of somebody else (including a foreign trust) and becomes a customer of an AML obliged person, the obliged person must verify the direct and indirect natural owners if their holding in the customer amounts to more than 25%, and if natural persons exercise a determining influence over the customer (ss.1(5),18). As indicated above there has been no case encountered in practice where a Latvian person acted as a trustee nevertheless the Latvian AML supervisory authorities confirmed that the service provider would be required under his/her CDD obligations to keep the identity of the settlor, the trustee and the beneficiary of the trust and that this would be typically done through provision of the trust deed (unless the trust deed refers only to a class of beneficiaries).

129. A Latvian non-professional trustee is not covered by AML obligations under the PMLA. Although providing such services should generate taxable income and trigger an obligation to keep information substantiating the tax position of the person concerned, information on the settlor and

beneficiaries of the trust might not be kept by such trustee in all instances. It is considered that this situation is likely to be rare and not likely to prevent effective EOI. Accordingly no such case has been encountered in practice. The reason for that appears to be that the trust arrangement is generally not used in Latvia (as also not recognised by Latvian law) and its use, particularly in cases where no legally enforceable relation has been established, would entail too much uncertainty for all parties of the arrangement.

Conclusion

130. Latvian tax and AML legislation ensure that information is available regarding the settlor and beneficiaries of a foreign trust operated by a Latvian trustee. The tax law requires all Latvian trustees of foreign trusts to keep information identifying settlor and beneficiaries of the trust in order to substantiate their tax position with regards to the trust's assets and income generated from them. Further, any person providing trustee services as a way of business is expressly covered by the PMLA and is subject to AML obligations which include identification of the settlor and beneficiaries of the express trust.

131. Application of these obligations in respect of trusts is not founded in comparable practice and there has been no case encountered where a Latvian resident person acted as a trutee to confirm practical applicability of such interpretation. The level of awareness of the requirement to keep the relevant information even on theoretical level is low as it is not considered a practical issue. Latvia did not receive any requests for information regarding trusts during the reviewed period and accordingly no peer input has been received in this respect. Considering the above uncertainty Latvia is recommended to monitor the practical availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees and take the necessary measures to ensure its availability if such information is not practically available in line with the standard.

Foundations *(ToR A.1.5)*

132. A foundation or association (a foundation) is an aggregate of property that has been set aside for the achievement of a goal specified by the founder, which shall not have a profit-making nature (s. 2(2) Associations and Foundations Law (AFL)). A foundation is a legal person liable to third parties only to the extent of all its own property (s. 4(1)). A foundation has the right to perform economic activity for the maintenance and utilisation of its own property and to achieve its goals (s. 7(1)). Its income can be used only for purposes specified in the articles of association. Profit obtained from foundation's economic activity cannot be divided among its founders (s. 7(2)).

133. A foundation obtains the status of a legal person at the moment when it is entered into the Register of Associations and Foundations (s. 3 AFL). As at January 2015 there were 1 269 foundations registered in Latvia. Founders are obliged to submit to the Registry an application including the following information:

- the name and legal address of the foundation;
- the decision on founding including names of all founders and date when it was taken;
- the goals of foundation;
- the articles of association;
- given name, surname, personal identity number (if none – date of birth, the number and date of issuance of a personal identification document, the state and authority that has issued the document) of the members of the executive board, indicating whether they have the right to represent the foundation individually or collectively;
- the written consent of each member of the executive board to serve as a member of the executive board (ss.15, 24(2) and 92(3)).

134. The articles of association must specify the procedures by which property is transferable to it, the goal of the foundation, the procedures for the use of the resources of the foundation, the procedures for appointment and change in members of the executive board, its numerical composition and representation rights (s. 90(1) AFL). Although names of beneficiaries are not specifically required to be contained in the articles of association identification of beneficiaries (or group of beneficiaries) is normally included as part of the goals of the foundation. Any amendments to the articles of association come into effect in respect of third persons only after being notified to the Registry (s. 101(3)). Changes in the executive board shall be notified for entry into the Register by attaching an extract from the minutes of the executive board meeting with the decision on election or recall of its members (45(6)).

135. The executive board is obliged to prepare the foundation's annual accounts in accordance with the Law on Accounting. Accounting rules require that information on payments or donations to beneficiaries during the accounting year is included in the foundation's accounting records and underlying documentation (ss. 4(2) and 53^{1}(1) Annual Accounts Law). If the foundation has received the status of a public benefit organisation its annual accounts should include information on persons who benefitted from the foundation's activities in the respective accounting year. If the foundation is not considered a public benefit organisation its annual accounts must include records of donations and gifts (s. 10 AFL). Annual accounts must be examined by a financial auditor and submitted by the executive board to the tax

administration (s. 52 AFL). The SRS may request more detailed information about the activities of the foundation (including information on beneficiaries) upon notice (s. 10(2) LSRS).

136. In practice, the same procedures as in respect of other entities required to register apply in respect of foundations (see section A.1.1). If information required to be included in the registration application (including identification of founders and members of the executive board of the foundation) is not submitted and the deficiency is not rectified within the given deadline the state notary refuses to make the entry into the Registry. Considering that a foundation gains legal personality upon registration with the Registry and change in information entered in the Registry becomes legally effective in respect of third parties only upon it is included in the Registry there appear to be only rare cases of noncompliance. However, no sanction was applied by the Registry in respect of foundations during the reviewed period despite a few cases where sanctions should have been applied. As application of sanctions plays an important role in maintaining compliance Latvia should ensure their effective application also in respect of foundations. Nevertheless, it is noted that foundations under Latvian law cannot be stablished for profit making purposes and their profit cannot be distributed among its founders. Therefore their relevance for the purpose of the review is limited.

137. Members of a foundation's executive board who are remunerated for it are subject to AML obligations (s. 3(1)(5) PMLA). As obliged persons they are required to identify their clients and perform CDD measures which include identification of the founder(s) and beneficiaries of the foundation (ss.11,12,17). Supervision of members of foundation's executive board is performed by the SRS by the same measures as applied in respect of other service providers (see further section A.1.1 and A.1.6). When a foundation conducts financial activity involving an obliged entity (financial institution or one of the designated categories of professionals) the obliged entity will also conduct such CDD and identify the founders plus beneficial owners of the foundation. This has been also confirmed by the Latvian supervisory authorities.

Conclusion

138. Latvia's legal and regulatory framework ensures the availability of information on the foundation's founders, members of the executive board (or any other person with the authority to represent the foundation) and beneficiaries. Information on founders and members of the executive board must be provided to the Registry of Associations and Foundations upon registration and kept updated. Information on beneficiaries is normally stated in articles of association which need to be filed with the Registry and must be included

in annual accounts of the foundation filed with the tax administration. In addition, members of the executive board who act in a professional capacity are subject to AML rules to identify their clients.

139. Latvia did not receive any request for information regarding foundations over the reviewed period. However, there are no indications based on information obtained from the Latvian authorities or peers that would indicate lack of practical availability of ownership information in respect of foundations. Considering restricted purpose of their use foundations' relevance for exchange of information in tax matters is limited.

Enforcement provisions to ensure availability of information (ToR A.1.6)

140. Latvia should have in place effective enforcement provisions to ensure the availability of ownership and identity information. The existence of appropriate penalties for non-compliance with key obligations is an important tool for jurisdictions to effectively enforce the obligations to retain identity and ownership information.

141. Individual members of statutory bodies of entities commencing commercial activities without registration or without licence (if required) are liable to a fine in an amount from EUR 280 up to EUR 700 and can be prohibited from holding certain offices in commercial entities (s. 166^2 Administrative Violations Code).The fine under section 166^2 was imposed in 26 cases in 2012, in 24 cases in 2013 and in 123 in 2014. The total amount of the fine was EUR 55 700 in 2012, EUR 10 800 in 2013 and EUR 43 600 in 2014. The prohibition to hold certain offices in commercial entities was applied in respect of 1 004 board members in 2013 and in respect of 1032 board members in 2014.

142. In the case of failure to submit to the Enterprise Registry the information or documents specified by the Commercial Law within the time period specified a warning should be issued to the entity and a fine can be imposed in an amount from EUR 70 up to EUR 430. If the same violation is committed repeatedly within a year a fine shall be imposed in an amount from EUR 210 up to EUR 700 (s. 166^3 Administrative Violations Code). The Register of Enterprises issued warnings and imposed fines in 2012 to 152 companies, in 2013 to 259 companies and in 2014 to 92 companies. Further, the operations of the entity can be terminated on the basis of a court decision if the company has not submitted to the Registry of Enterprises the information or documents required by law (s. 314(1) Commercial Law). The Register of Enterprises issued 2 436 warnings to terminate operation of the company in 2012, 3 415 in 2013 and 6 059 in 2014. Out of the total 11 910 warnings issued during the three years (7.5% of companies) the deficiency was not remedied in 703 cases

(0.4%) and the company was brought to a court. In addition, the Register of Enterprises can directly terminate activities of an entity based on section 314^1 of the Commercial Law if it does not co-operate with the Register as required by law. The Register issued 5 920 warnings of termination of activities of a company under section 314^1 in 2013 and 2014 (3.7% of companies) and as a result terminated activity of 1 746 companies.

143. According to the Criminal Law, if a company submits wrongful information to the Enterprise Registry, the officials of the company are liable to a fine of between EUR 960 and EUR 32 000 or can be sentenced to community service or imprisonment (s. 272 Criminal Law) and the company is liable to a fine of between EUR 3 200 and EUR 32 millions (s. 70^6). If a shareholder fails to report to the company its beneficial owners (s. 17^1 Commercial Law) the shareholder is liable to a fine of between three and one hundred times the minimum monthly wage (currently between EUR 960 and EUR 32 000) or can be sentenced to community service or a prison term of up to three years (s. 195^1 Criminal Law). Statistics on application of sections 272 and 195^1 of the Criminal Law are not available. According to the Latvian authorities these sections were used only rarely during the reviewed period.

144. A company failing to submit to the Enterprise Registry information on its beneficial owners in the prescribed period (s. 17^1 Commercial Law) is subject to a warning and a fine of between EUR 70 and EUR 430 can be applied if the required information is not submitted. If the same violation is committed repeatedly within a year a fine is imposed of between EUR 210 and EUR 700 (s. 166^3 Administrative Violations Code). As indicated above, the Registry issued warnings and applied sanctions under section 166^3 in 503 cases over the years 2012 till 2014. However according to the Latvian authorities warnings and fines in respect of failure to submit beneficial ownership information were applied only in rare cases.

145. The board of directors has an obligation to maintain and keep updated the register of shareholders (s. 187^1 Commercial Law). If the register of shareholders is not kept, members of the board can be recalled on the initiative of a shareholder or third party whose lawful rights have been infringed and who can claim damages caused by the company in court (ss.306(1,2) and 314(2). Statistics on the number of cases where damages where claimed on the board of directors are not available as they represent private law matters. Nevertheless according to the Latvian authorities these cases are expected to be rather rare mainly due to companies' compliance with the obligation.

146. An entity which fails to register for tax purposes within the time period given by law, provides false information upon registration or does not provide the required identification information within the given deadline is liable to a fine in an amount from EUR 210 up to EUR 350 (s. 165^2 Administrative Violations Code). Section 165^2 was applied in 205 cases in

2012, 262 cases in 2013 and 301 in 2014. The total amount of fine applied in these years was EUR 46 000, EUR 57 100 and EUR 65 900 respectively.

147. In the case of not submitting a tax declaration or violating the deadline specified by law a fine shall be imposed on the taxpayer in an amount from to EUR 140 up to EUR 14 000 depending on the length of delay (s. 159^8 Administrative Violations Code). The respective fine was applied by the SRS in 1 918 cases in 2013 and in 1 843 cases in 2014. The total amount of fine applied in these years was EUR 392 533 and EUR 306 843 respectively.

148. In the case of failure to provide information, or the provision of false information, to the tax authority, a fine shall be imposed on officials or members of the statutory body of the respective entity in an amount up to EUR 700 and the person can be prohibited from holding certain offices in commercial entities (s. 159^9 Administrative Violations Code). The fine for failure to provide information was applied in 4 388 cases in 2013 and in 6 026 cases in 2014. The total amount of fine applied in 2013 was EUR 1.01 million and in 2014 EUR 0.84 million. A taxpayer concealing income or other taxable items is liable to a fine, which in respect of individuals is in an amount from EUR 140 up to EUR 350 and in respect of legal persons from EUR 710 up to EUR 2 100 (s. 159 Administrative Violations Code). Fine under section 159 was imposed in 52 cases in 2012, in 98 cases on 2013 and in 89 cases in 2014. The total amount of the applied fine in these years was EUR 48 900, EUR 97 100 and EUR 84 000.

149. An obliged person in breach of requirements for customer identification or customer due diligence under PMLA is liable to a fine which, in respect of individuals, is from EUR 140 up to EUR 570 and in respect legal persons from EUR 210 up to EUR 700 (s. 165^7 Administrative Violations Code). Further sanction for breach of AML obligations is available under the Criminal Law. A person who knowingly provides false information to an obliged person under PMLA is liable to a fine of between EUR 900 and 32 000 (in the case of a repeated offence up to EUR 48 000) or can be sentenced to community service or a prison term of up to three years (s. 195^1 Criminal Law). If a legal person the fine can be from EUR 3 200 up to EUR 32 millions (s. 70^6). A fine for failure to keep information as required under PMLA was applied in three cases in 2011, in two cases in 2012 and in five cases in 2013. The total amount of the applied fine in these years was EUR 184 964, EUR 108 133 and EUR 341 472.

150. A legal person is liable to sanctions if a criminal offence (including reporting false information to state authorities) has been committed in the interests or for the benefit of the legal person or as a result of lack of supervision by a member of its statutory body (s. 70^1 Criminal Law). These sanctions are liquidation, restriction of rights, confiscation of property or a monetary levy (s. 70^2 Criminal Law). The criminal law sanctions are effective from

April 2013. None of them were imposed in 2013. In 2014 three entities were liquidated and the fine was applied in two cases.

Conclusion

151. Latvian law provides for sanctions in respect of key obligations to maintain ownership information. Although penalties under the Administrative Violations Code are rather low and might not be dissuasive enough to ensure availability of information in practice compliance levels with the crucial obligations ensuring availability of the relevant information in Latvia are sufficient. This is mainly attributable to the mechanisms where the relevant entity has its own interest in maintaining accurate ownership information. As noted in sections A.1.3 and A.1.5 sanctions for failure to provide ownership information to the Registry were not applied in respect of partnerships and foundations. Latvia is therefore recommended to monitor this issue and take measures to ensure availability of the relevant ownership information if appropriate. Nevertheless this issue should not have negative impact on the practical availability of the relevant information for the purposes of exchange of information (see further sections A.1.3 and A.1.5).

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Factors underlying recommendations	**Recommendations**
Ownership information on foreign companies having sufficient nexus with Latvia (in particular, having their head office or headquarters in Latvia) is not consistently available.	Latvia should ensure that ownership information on foreign companies with sufficient nexus with Latvia (in particular, having their head office or headquarters in Latvia) is available in all cases.

Phase 2 rating	
Compliant.	
Factors underlying recommendations	**Recommendations**
Availability of information on settlors and beneficiaries of foreign trusts is based on interpretation by the Latvian authorities and there is no basis to confirm it.	Latvia should monitor the availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees to ensure that such information is practically available.

A.2. Accounting records

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

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

General requirements (ToR A.2.1)

153. The general accounting obligations are stipulated by the Accounting Law. The Accounting Law applies to all relevant entities including companies, co-operative societies, partnerships, individuals conducting economic activity, associations, foundations and other legal or natural persons who perform economic activities in Latvia (s. 1 Accounting Law).

154. All entities covered by the Accounting Law have a duty to produce accounts, which must be truthful, comparable, timely, significant, understandable and complete. The accounting must clearly reflect all economic transactions of the undertaking, as well as each fact or event which causes changes in the state of the property of the undertaking. Accounting shall be conducted so that a third person qualified in the area of accounting may obtain a true and clear view of the financial position of the undertaking at the date of the balance sheet, of the results of the economic activities of the undertaking, of its cash flow for a specific time period, as well as be able to determine the beginning of each economic transaction and trace its course (s. 2 Accounting Law). An undertaking is required to be able to prepare financial statements at specified dates. A financial report consists of a balance sheet, a profit and loss account, a cash flow statement, a statement of changes in equity and an annex giving information on accounting method used (s. 1 Annual Accounts Law).

155. Entries supported by source documents shall be made in accounting registers. Accounting registers shall be maintained using a double entry accounting system. Individuals whose income from economic transactions during the previous accounting year does not exceed EUR 300 000 and foundations whose income from economic transactions during both the current and previous accounting year does not exceed EUR 40 500 may organise

their accounting by the simple entry system (s. 9 Accounting Law). Detailed rules regarding the maintaining and organising of accounts are provided in the binding Cabinet Accounting Regulations.

156. The head of the undertaking (i.e. members of the board of directors, partners in a partnership, members of executive board of a foundation) is responsible for maintaining the accounting records and the preservation of all documents substantiating economic transactions of the accounting entity (s. 2 Accounting Law). A head of an undertaking is liable for any losses caused to the undertaking by not doing so (s. 16 Accounting Law). Any person has the right to claim compensation for losses caused by improper accounting by the undertaking (s. 17). Heads of undertakings who have allowed violations of the Accounting Law are liable to a fine in an amount from EUR 140 up to EUR 350 and can be prohibited from holding certain offices in commercial entities (s. 166^6 Administrative Violations Code).

157. Taxable income of taxpayers (tax residents and permanent establishments) is based on the amount of profit or loss, prior to the calculation of enterprise income tax, as set out in the profit or loss account in an annual financial report drawn up in accordance with the Annual Accounts Law (s. 4(1) Law on Enterprise Income Tax). Taxpayers are then required to maintain accounting records of business revenues and expenditures to substantiate their tax liability (s. 14(6) LTF). Such records must include records and documents required by accounting law. If the taxpayer fails to provide such records or provides false information to the tax authority a fine shall be imposed on officials or members of the statutory body of the respective entity in an amount up to EUR 700 and the person can be prohibited from holding certain offices in commercial entities (s. 159^9 Administrative Violations Code).

158. In practice, compliance with accounting obligations under accounting and tax law is supervised by the SRS. Compliance with accounting requirements is verified during carrying out thematic inspections and tax audits. SRS thematic inspections are specifically focused on record keeping compliance and in particular on control of accounting records as they form basis of corporate income taxation. If deficiencies are found the SRS directly applies sanctions for violation of record keeping obligations under the Administrative Violation Act. If these deficiencies may have impact on the person's tax liability a tax audit is launched. During the tax audit accounting and other records substantiating person's tax liability are analysed and the tax can be reassessed. In 2012 the SRS conducted 6 001 thematic inspections and 1 355 tax audits, in 2013 5 708 thematic inspections and 1 445 tax audits, in 2014 4 866 thematic inspection and 1 318 tax audits. As a result the sanction for violation of record keeping obligations was applied in 705 cases in 2012, 870 cases in 2013 and in 1 020 cases in 2014. The total

amount of the applied fines in these years was EUR 291 700, EUR 298 700 and EUR 412 500 respectively. Fines under section 166[6] of the Administrative Violations Code were applied in 587 cases in 2012, in 689 cases in 2013 and in 826 cases in 2014. The total amounts of this fine applied over these years was EUR 104 600, EUR 125 400 and EUR 132 600 respectively. In majority of the cases where deficiencies were identified noncompliance was found through analysis of accounting data and consisted in misuse of accounting rules. In several cases discrepancies between accounting entries and underlying documentation were found. The compliance level in case of smaller businesses tends to be relatively lower than in case of companies with the audited accounts.

159. An obliged person under the AML legislation (including a person acting, in a business capacity, as trustee of a foreign trust) is obliged to keep records of all data and documents on all transactions within a business relationship (including transactions between a trustee and a settlor or beneficiary). The scope of records to be kept is very broad and comprises all data and written documents about the transactions (s. 37(2) PMLA). Further, clients have an obligation to provide to the obliged person upon its request information on their executed transactions, economic and personal activity, financial position, sources of money or other funds (s. 28(1) PMLA). An obliged person which does not properly conduct monitoring of client transactions is liable to a fine which, in respect of individuals, is from EUR 140 up to EUR 570 and in respect legal persons from EUR 210 up to EUR 700 (s. 165[7] Administrative Violations Code) and criminal sanctions can be applied.

160. In practice, compliance with the requirement to keep transactional documentation is verified together with compliance with CDD requirements. As described in section A.1.1 several bodies are responsible for supervision of implementation of AML obligations in Latvia such as the Financial and Capital Market Commission supervising financial institutions including banks and participants on the securities market, Council of Sworn Advocates, Association of Certified Auditors or Sworn Notaries Council. The supervisory authorities conducted 823 on-site inspections in the period of 2011 and 2013 and applied financial sanctions in 14 cases during the same period. The total amount of the applied fines was EUR 450 034 (see further sections A.1.1 and A.1.6). The most common deficiencies related to missing formal requirements or inappropriate format of the kept documentation. It is also noted that the level of compliance varies between professions with the highest compliance level in the banking sector.

161. The accounting obligations previously described apply also to trustees who act in a business capacity. Acting as a trustee represents economic activity

as defined in paragraph 3 section 1 of the Commercial Law[10] and therefore a Latvian trustee of a foreign trust is required to keep full accounting records and underlying documents for all operations of the trust (not simply for his/her own income derived from the trust) in line with the accounting standards. It follows from basic accounting principles embodied within these standards that the trustee must keep segregated accounts in respect of assets managed on behalf of third parties and his/her own assets (ss.45(3) and 53[1](1) Annual Accounts Law). Further, both professional and non-professional trustees who are not the beneficial owners of the trust assets have to keep the necessary records to disprove their tax liability for income from that asset. Professional trustees are also subject to the AML accounting requirements to keep documentation of transactions of the trust, although the AML requirements may not require the trustees to keep accounting records that fully reflect the financial position and assets/liabilities of the trust. In addition, the transactions of a trust having a non-business trustee can be subject to AML requirements if, for example, the trustee *(i)* opens an account or establishes a relationship related to the trust with a bank in Latvia or other fiduciaries subject to AML legislation; or *(ii)* purchases or sells any real property for the trust via a lawyer or other professional who would also be subject to the AML/CFT framework. A potential narrow gap remains for trusts which have a non-professional trustee who is not covered by accounting obligations and perform none of the aforementioned activities involving obliged persons under AML rules in Latvia. Latvia is recommended to monitor this potential gap to ensure that it does not limit effective exchange of information in tax matters. Nevertheless situation where a foreign trust is operated by a non-professional trustee resident in Latvia which does not engage any service provider (such as a bank) is very likely to be rare. The reason for that appears to be that the trust arrangement is generally not used in Latvia and its use, particularly in cases where no legally enforceable relation has been established, would entail high legal uncertainty for all parties of the arrangement.

162. In practice, there has been no case encountered where a Latvian person acted as a trustee in domestic or exchange of information context. Neveretheless, the accounting law requirements and in particular the application of detailed accounting standards ensure that if a Latvian resident person acts as a trustee of a foreign trust the person has to keep separate accounting records in respect of the trust in line with the international standard. These obligations are further supported by AML obligations to keep transactional documentation and requirements under the tax law. Compliance with obligations under accounting and tax law is appropriately enforced by the SRS to ensure availability of the required accounting records in practice. In addition, AML obligations are supervised by various bodies as described above.

10. Economic activities are any systematic, independent activities for remuneration (s. 1(3) Commercial Law).

Conclusion

163. All relevant Latvian entities as well as foreign entities involved in economic activities in Latvia are required under the Accounting law to keep accounting records that correctly explain the entity's transactions, enable it to determine the entity's financial position with reasonable accuracy at any time and allow financial statements to be prepared. The requirements under the Accounting Law are supplemented by obligations imposed by the tax law and under AML regulations.

164. Latvia's legal and regulatory framework is adequately implemented to ensure availability of accounting information in respect of all relevant entities. The SRS and AML supervisory authorities take appropriate supervisory and enforcement measures ensuring availability of the information in practice. Availability of accounting information in Latvia has been also confirmed by EOI practice. Latvia received more than 350 requests for accounting information. In 95% of cases the requested accounting information was provided in full. In the remaining 5% of cases the complete requested information was not provided as *(i)* the holder of the information was not identifiable based on the information provided by the requesting jurisdiction or otherwise, or *(ii)* the response is pending results of tax control measures carried out by the SRS (see further section B.1 and C.5.1). Further, no peer reported an issue regarding availability of accounting information in Latvia.

Underlying documentation *(ToR A.2.2)*

165. All relevant Latvian entities as well as foreign entities involved in economic activity in Latvia are required to keep underlying documentation, including contracts, invoices and other documents which must be reflected in the entity's accounting records. Accounting records are based on accounting entries. Each accounting entry must be supported by a source document (s. 7 Accounting Law). A source document is a document attesting the existence of the economic transaction of the accounting entity and must include at least the following information:

- the name of the document;
- identification of its author:
  - name;
  - the registration number or personal identity number (in case of individual);
  - the legal address;
  - signature;

- date of the document;
- registration number of the document;
- participants in the economic transaction specifying the name, registration number and legal address of each participant;
- description, basis and quantifiers (volumes, amounts) of the economic transaction; and
- other information necessary for the accounting entry (s. 7 Accounting Law).

166. As Latvia is an EU Member State and hence part of the intra-community VAT system, Latvian undertakings must further fulfill specific requirements regarding documentary evidence of transactions performed. Among other things, they must keep all documents from which intra-community flows of goods and services can be traced, and, more generally, all invoices.

167. The tax law requires taxpayers to keep evidence providing information regarding income and expenses as well as assets and liabilities (s. 14(6) LTF). The Latvian authorities advise that this includes keeping underlying copies of original documents, including invoices and contracts. Further, as mentioned above, PMLA requires obliged persons to keep underlying documentation for transactions with their clients (s. 37(2) PMLA).

168. Practical availability of underlying documentation is supervised by the SRS together with availability of accounting records. The same supervisory and enforcement measures apply as outlined above. Where the SRS identified deficiencies sanctions were applied (see further section A.1.6). However no serious cases were identified by the SRS during the reviewed period which would indicate systemic issue in respect of practical availability of the relevant information in Latvia.

Conclusion

169. Accounting and tax requirements under Latvian law require underlying documentation to be available sufficient to meet the international standard for effective exchange of information.

170. The level of compliance with obligations to keep underlying accounting documentation ensures that such information is practically available in Latvia. As stated above, Latvia received more than 350 requests concerning accounting information including requests for underlying accounting documentation. The requested information was provided in all cases where the taxpayer was identifiable except for a few requests which are awaiting results

of tax control measures requiring direct co-operation with the taxpayer. Accordingly, no issue in respect of availability of underlying accounting information in Latvia was indicated by peers.

5-year retention standard (ToR A.2.3)

171. Accounting records and underlying documentation must be kept for at least five years. Annual accounts and transaction records must be kept for 10 years (s. 10 Accounting Law). All accounting records including underlying documentation must be systematically arranged and kept in the archives of the undertaking (s. 10). Accounting registers together with underlying documentation must be kept within Latvia (s. 6).

172. Taxpayers are required for the purpose of substantiating the accuracy of tax liabilities to retain documents supporting revenues and expenditures relating to financial and business activities and other documents supporting their tax position for at least five years (s. 15(4) LTF).

173. Persons obliged under AML rules to maintain transaction records are required to store them at least for five years following the end of business relationships (s. 37(2) PMLA).

174. In practice, the SRS has not encountered issues regarding failure to retain accounting documents for the required period. If the accounting records are not available sanctions as indicated in section A.2.1 apply.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 rating
Compliant.

A.3. Banking information

Banking information should be available for all account-holders.

175. Access to banking information is of interest to the tax administration when the bank has useful and reliable information about its customers' identity and the nature and amount of their financial transactions.

Record-keeping requirements (ToR A.3.1)

176. A credit institution and financial institution (a bank) is prohibited from opening and keeping anonymous accounts (s. 15 PMLA). Further, opening an account or making a deposit are subject to identification measures in accordance with specific AML provisions (s. 16(1) PMLA). Under these provisions banks are required to perform CDD measures which include verification of client identity through the personal identification document where the given name, surname, personal identity number (or equivalent including date of birth in case of non-residents) is provided or, in the case of a legal person, through documents attesting registration, address of the registered office and identity of persons who are entitled to represent the customer (ss. 12(1) and 13(1)). Further, CDD measures require ongoing monitoring of the business relationship including ensuring that the information held on the client is kept up-to-date (s. 17(1)). All data and documents gathered when identifying customers and performing CDD have to be kept for a minimum of five years (s. 37(2)). There are administrative and criminal sanctions available in case of breach of CDD requirements (see section A.1.6).

177. Banks are obliged to keep records of all data and documents on all transactions performed under a business relationship (s. 37(2) PMLA). The scope of records to be kept is very broad and comprises information on the nature and date of transactions, type and amount of currency involved, and the type and identifying number of any account involved in the transaction. The transaction records and underlying documentation must be kept for at least five years (s. 37(2)). A bank which does not properly conduct monitoring of client's transactions is liable to a fine from EUR 210 up to EUR 700 (s. 165^7 Administrative Violations Code) and criminal sanctions in respect of its officials can be applied.

178. All banks are considered accounting entities under the Accounting Law and as such are obliged to keep accounts in line with the accounting standards of other relevant entities (see section A.2). A bank's accounting should provide a true and clear view of its financial position, results of its economic activities, its cash flow and must allow reconstruction of all its economic transactions (s. 2 Accounting Law). Accounting entries must be supported by source documents attesting the existence of the economic transaction. Such documents must include identification of its author and participants in the economic transaction specifying the name, registration number and legal address of each participant; description, basis and quantifiers (volumes, amounts) of the economic transaction; date of the transaction and other information necessary for the accounting entry (s. 7 Accounting Law). Accounting records and underlying documentation must be kept for at least five years (s. 10 Accounting Law). If a bank breaches one of these obligations any person has the right to claim compensation for losses caused

by such breach (s. 17). Heads of banks who have allowed violations of the Accounting Law are further liable to a fine in an amount from EUR 140 up to EUR 350 and can be prohibited to hold certain offices in commercial entities (s. 166^6 Administrative Violations Code).

179. Banks are also required to maintain information on accounts operated by them based on their contractual obligations with clients. It is stipulated by the Credit Institutions Law that a bank is obliged to provide to its clients (or their legal representatives) requested information regarding the accounts of and the transactions carried out by them (s. 62(1,2)).

180. In addition, banks are required to maintain adequate records in order to fulfill tax requirements under the EU Savings Directive to report automatically the identity and residence, the account number and information concerning the interest payment to account holders that are not resident in Latvia but are residents in other EU member states (Chapter 9 LTF).

In practice

181. Practical availability of banking information is supervised and enforced by the Financial and Capital Market Commission. Financial and Capital Market Commission performs desk based ongoing monitoring of financial institutions as well as regular on-site inspections. There are 12 employees responsible for prudential supervision and five employees devoted specifically to carrying out AML supervision (including on-site inspections) in respect of 26 banks operating in Latvia. Financial and Capital Market Commission carries out about 100 on-site inspections per year primarily focused on banks and other financial institution. Banks are subject to on-site inspections based on risk analysis. On-site inspections can be full AML scope or special purpose inspections. In full scope inspections evaluation of all risks as well as internal control mechanisms is performed. CDD and transactional documentation held in respect of about 200 customers selected based on their bank account turnovers is reviewed during each inspection. Special purpose inspections are focused on one aspect identified as risky based on information obtained during bank monitoring.

182. In the case deficiencies are identified the Financial and Capital Market Commission directly applies sanctions. In 2012 the Financial and Capital Market Commission imposed a fine in two cases. In one case a fine in the amount of EUR 106 710 was applied in respect of the bank and in one case a fine of EUR 1 423 in respect of the payment institution. In 2013 the FCMC imposed a fine in four occasions in respect of credit institutions and in one case in respect of the payment institution in the total amount of EUR 327 244 and suspended the provision of payment services in respect of one payment institution. In 2014 the FCMC imposed a fine on one bank in the amount of

EUR 70 000 and one payment institution in the amount of EUR 7 000 as a result of the weaknesses detected during an on-site inspections.

183. Banks' compliance with their legal obligations is further supervised by internal and external auditors. Internal auditors of particular institution hold regular investigations regarding its compliance and submit their reports to the Financial and Capital Market Commission. Further banks are required to have their accounts audited by sworn auditors who have the right to become acquainted with assets of the credit institution, accounting entries, documents verifying such entries, and any other information necessary to assess bank's compliance with its legal obligations. Financial and Capital Market Commission holds regular meetings with external auditors. If deficiencies are identified the sworn auditor has to report them without delay to the Financial and Capital Market Commission for further action. No such reports were made in 2012-2014 however two reports were received by the Commission recently. The most common deficiencies relate to adjustments of internal controlling mechanism or deficiencies in formal requirements of the kept documentation. The level of compliance slightly varies between smaller and bigger banks where comparably higher risks are detected in respect of small private banks.

Conclusion

184. The legal and regulatory framework in Latvia requires the availability of banking information to the standard. Identity information on all account-holders is made available through AML obligations and the availability of transaction records is primarily ensured by accounting and AML rules.

185. The practical availability of banking information in line with the standard is ensured by the respective Latvian supervisory authority through on-going monitoring, system of on-site inspections and auditors' reporting. Availability of banking information has been confirmed also in Latvia's EOI practice. Latvia received 133 requests for banking information over the reviewed period. Although the banking information has not been provided in 26 cases (see further section B.1.1) there was no case where the requested information was not available with the bank. No issue in respect of availability of information with banks was also indicated by peers.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 rating
Compliant.

B. Access to information

Overview

186. A variety of information may be needed in a tax enquiry and jurisdictions should have the authority to obtain all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership of companies or the identity of interest holders in other persons or entities, such as partnerships and trusts, as well as accounting information in respect of all such entities. This section of the report examines whether Latvia's legal and regulatory framework and its implementation in practice give the authorities access powers that cover the right types of persons and information and whether rights and safeguards are compatible with effective exchange of information.

187. The Latvian competent authority has broad access powers to obtain and provide the requested information. These powers include tax audits in premises of taxpayers and third parties, inspection of documents, requests for explanations and statements or power to summon a taxpayer. Under treaties which do not contain the exact post-2005 model wording of foreseeable relevance, access to bank information is subject to restrictions which might limit effective exchange of information and are not in line with the standard. It is therefore recommended that Latvia ensures that its competent authority has access powers in respect of all bank information as requested by all its EOI partners. Further, obtaining banking information in practice also under EOI instruments which contain the post-2005 model wording was subject to restrictive conditions. In order to address this deficiency Latvia amended its law however as this amendment came into force only on 4 August 2015 it remains to be tested in practice. Latvia is therefore recommended to monitor its implementation. All information gathering powers that can be used for domestic purposes can be used for EOI purposes regardless of whether there is a domestic tax interest. Latvia has in place enforcement provisions to compel the production of information including criminal sanctions and search and seizure power. Nevertheless, there appears to be a hesitation to use stronger powers such as tax audits for exchange of information purposes

and the SRS' compulsory powers were not applied over the period under review although in a few cases the requested information was not provided. Latvia is therefore recommended to monitor effective use of all its access and compulsory powers for exchange of information purposes. The scope of information protected by attorney client privilege is broad and might limit effective exchange of information although there was no case during the reviewed period where the requested information needed to be obtained from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney. There was also no case where a person refused to provide the information requested because of professional privilege.

188. Latvia's domestic legislation does not require notification of the taxpayer prior to exchanging information. The SRS is required to notify the taxpayer concurrently with providing the requested information to the requesting competent authority or if there is a reason to believe that such notification will hinder assessment or payment of taxes the notification can be delayed up to 90 days after transmitting the requested information. In practice the taxpayer is not notified unless he/she specifically asks the SRS which was the case in one case over the reviewed period. Latvia is currently planning to amend the law to abolish the notification requirement. There is no clear regulation on what information should be provided by the tax administration in the notice to a person holding the requested information. According to the Latvian authorities the existing rules should be interpreted in a way that only information necessary for obtaining the requested information should be contained in the notice. This has been also confirmed in practice however considering that the legal regulation is unclear Latvia should monitor this issue.

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).

189. The competent authority in Latvia for EOI purposes is the SRS (s. 5 Regulation No. 1245). The SRS is responsible for tax administration in Latvia. SRS is supervised by the Ministry for Finance. In addition to administration of taxes the SRS is responsible also for administration of mandatory social security contributions, customs, fees and other mandatory payments specified by the State (s. 1 The Law on the State Revenue Service (LSRS)). The SRS also includes the Finance Police responsible for prosecution of criminal tax offences (s. 3).

190. The SRS is the competent authority to gather and provide the requested information for EOI purposes. The SRS has wide powers to do that including gathering information directly from the taxpayer, third persons and other government authorities (see below).

Bank, ownership and identity information (ToR B.1.1) and Accounting records (ToR B.1.2)

191. The SRS's information gathering powers include the following:

- to visit plots of land and premises in the ownership or use of legal or natural persons, where economic activities are performed or which are related to obtaining of revenues for other legal or natural person (s. 10(1) LSRS);
- to perform tax audit in the lands and premises of taxpayers and third parties (s. 10(1));
- to inspect the accounting and all other related documentation of legal persons and natural persons and to receive necessary explanations and statements in their respect (s. 10(2));
- to request presentation of originals of documents and receive copies of documents from merchants, institutions, organisations, local governments, financial institutions and credit institutions for the accounting and registration of a taxable object (income) or examination of taxes and fees, as well as to receive necessary statements and copies of documents from natural persons which relate to the tax liability and payments, property and income of legal or natural persons to be inspected, as well as to request and receive relevant explanations (s. 10(5));
- to summon a taxpayer (including a third party) to attend the SRS (s. 10(11)).

192. All these powers can be used also for EOI purposes. There are no specific information gathering powers intended solely for EOI. The Regulation No. 1245 lays down procedural rules for their use in the field of EOI (see section B.1.3). There are also no specific procedures or additional conditions for use of information gathering powers in respect of different types of information except for banking information.

In practice

193. In most cases the requested information is obtained by the Competent authority based on powers under section 10(5) LSRS. The Competent authority sends a letter to the information holder requesting him/her to provide

the described information. If the information cannot be obtained through a written request and requires oral statement the Competent Authority asks the Client Service Department in the SRS to interview the respective person based on section 10(11). In cases where more complex information is needed the Competent authority would request the Tax Control Department to open a tax audit or thematic inspection (hereafter a tax audit) under section 10(1).

194. The requested information was obtained through a tax audit carried out by the Tax Control Department in about 9% of cases. It is however noted that since October 2012 tax audits were rarely performed solely for the purpose of exchange of information although in a few cases not complete responses were obtained using power under section 10(5). It appears that requests for information where no domestic tax is at stake are not adequately prioritised and therefore obtaining information for exchange of information purposes where more complex information or efforts are requested may be delayed. Inadequate prioritisation of exchange of information by the Tax Control Department appears to have also negative impact on use of compulsory measures as pointed out by a peer (see further section B.1.4).

195. As already mentioned above in most cases the requested information is obtained from the information holder who is usually not the taxpayer under investigation in the requesting jurisdiction but a Latvian taxpayer. If the requested information is ownership information or information contained in the income tax returns such as annual accounting statements the information can be obtained directly from the tax database. Banking information requested for exchange of information purposes is obtained from banks by the Competent Authority using power under section 10(5) of the LSRS.

196. The Competent Authority has direct access to the tax database containing all information filed in tax returns, information obtained from taxpayers during tax audits, information from the Enterprise Registry and information identified as relevant from open sources. The database also allows access to several government authorities' databases such the Population Register, the Land Register, State Labour Inspectorate or Road Traffic Inspectorate. Although the tax database appears to contain vast amount of possibly relevant information it is used by the Competent Authority only in limited number of cases. This can be explained by workload of the Competent authority nevertheless the Competent Authority should use its access powers in the most effective way (including use of alternative sources of information if the information cannot be obtained from the usual source such as a Latvian taxpayer) so that the requested information can be provided in a timely manner (see further section C.5).

Access to banking information under the Credit Institutions Law

197. The Credit Institutions Law provides for conditions upon which the SRS can obtain banking information protected under bank secrecy rules and defines the information which can be provided.

198. If the information is requested pursuant to the international agreement which does not contain the exact post-2005 model wording specifically providing for exchange of information that is "foreseeably relevant" for carrying out provisions of the convention or to the administration or enforcement of domestic tax laws of the requesting party section 63(11) of the Credit Institutions Law applies. Under this section *(i)* the information on the person who opened the bank account, *(ii)* the amount of interest and taxes paid for the money present in the relevant bank account and *(iii)* information or documents relating to a specific transaction in the account cannot be provided. The SRS must further submit to the bank specified information from the requesting jurisdiction in order to obtain the banking information. The information must confirm *(i)* that the taxpayer concerned has not submitted tax declaration in the requesting jurisdiction as provided for under the laws of the requesting jurisdiction; *(ii)* that during a tax audit of the relevant taxpayer, violations of the regulatory enactments regarding accounting records or taxes have been detected; and *(iii)* that the relevant taxpayer does not make tax payments in accordance with the requirements of laws on taxes (s. 63(11) the Credit Institutions Law).

199. The provision of banking information under treaties which do not contain language specifically referring to "foreseeable relevance" is subject to restrictions relating to conditions under which banking information can be provided and to the scope of the provided information which are not in line with the standard. Further, the requested jurisdiction should provide to the information holder only information which is necessary to obtain the requested information (see section B.2.1). Since some of treaty partners with which Latvia concluded these treaties are covered by the EU Council Directive 2011/16/EU or the Multilateral Convention the wording of these DTCs is a concern in practice in respect of 16 jurisdictions out of Latvia's 99 EOI partners (see section C.1).

200. The Competent authorities should have the power to obtain all information held by banks which is foreseeably relevant for carrying out the provisions of the international treaty or to the administration or enforcement of the domestic tax laws of the requesting jurisdiction. It is up to the requesting jurisdiction to decide which information to request for the purpose of EOI as provided for under the respective treaty. Therefore it is recommended that Latvia ensures that its competent authority has access powers in respect of all bank information, as requested by its EOI partners.

201. If the information is requested pursuant to the EOI instrument which contains the exact post-2005 model wording providing for exchange of information that is "foreseeably relevant" for carrying out provisions of the agreement or to the administration or enforcement of domestic tax laws of the requesting party section 63(11[1]) applies. This section was introduced into the Credit Institutions Law in April 2013 and was amended in August 2015. Under the amended section 63(11[1]) the SRS can now obtain from the bank the following information:

- the number of a bank account including a closed bank account;
- bank account holder;
- the person authorised to deal with the bank account;
- the person who opened the bank account;
- the opening balance and closing balance of the bank account during the reporting period;
- the amount of interest and taxes paid for the money present in the relevant bank account for a specific period of time;
- bank account statement for a specific period of time;
- information or documents relating to a specific transaction in the account including copies of the payment orders, cash deposit slips, cheques (including cancelled cheques), loan contracts and of other documents certifying the transactions;
- documents certifying opening of the accounts, including copies of the contract for opening the bank account, signature cards and of other documents obtained by a credit institution for customer identification purposes;
- information regarding other accounts of the account holder in the bank during a specific period of time, as well as information regarding the payment card attached to the relevant accounts (the type, number and user thereof);
- information regarding attachment of the payment card to the bank account; and
- information listed above in respect of third persons' accounts if this information is foreseeably relevant or important for tax administration of a specific taxpayer or group of taxpayers (s. 63(11[1]) the Credit Institutions Law).

In practice

202. During the last three years Latvia amended its rules for access to banking information under the Credit Institutions Law twice. As described above the first amendment inserted new paragraph 11^1 into the section 63 of the Credit Institutions Law broadening access to banking information for requests under the EU Directive 2011/16/EU and EOI agreements containing post-2005 wording. The amendment came into force on 10 April 2013. Following this amendment paragraph 63(11) remains to be applied after April 2013 only in respect of EOI agreements which do not contain post-2005 wording. The second amendment came into force on 4 August 2015 and further broadens access to banking information under paragraph 11^1 to address deficiencies in practical access to banking information under this paragraph identified during the reviewed period.

203. During the period under review (i.e. 1 July 2011 – 30 June 2014) Latvia received seven requests for banking information which were handled under s. 63(11) and 126 requests under s. 63(11^1). In all seven cases processed under s. 63(11) the requested banking information was not provided as the requirements for accessing the information under this paragraph were not met. In these cases the Latvian Competent Authority informed the requesting competent authority that the information cannot be provided unless statements are provided which confirm that conditions under s. 63(11) were met. However no such confirmations were received and the requests are considered closed. In addition, in a few of these cases the information requested would not be allowed to be provided even if the confirmation was received due to restriction in scope of the information which can be accessed.

204. Out of 126 requests where s. 63(11^1) was applicable the requested information was provided in 107 cases. In the remaining 19 cases the information was not provided due to restrictive application of section 63(11^1). These restrictions related to three areas:

- provision of banking information in respect of third persons;
- requirement to provide the name of the bank account holder and the bank account number;
- scope of information which can be provided which did not include detailed documentation held on the bank account such as opening account contracts, signature cards or complete bank account statements.

205. Restrictions above were pointed out by several peers and confirmed by the Latvian authorities. In order to address these deficiencies Latvia amended the respective law provision. As described above the amended paragraph 63(11^1) now explicitly requires banks to provide among other

(i) banking information in respect of third persons' accounts and group of taxpayers, *(ii)* numbers of bank accounts (instead of confirmation of existence of a bank account of the identified persons) and *(iii)* copy of documentation kept in respect of individual transactions as well as documentation related to opening of the account and CDD documentation. It is noted that requests to which section 63(11[1]) is applicable may be reconsidered if submitted anew.

206. The amendment of paragraph 63(11[1]) appears to address the identified deficiencies and to provide for access to banking information in line with the standard. Nevertheless, considering that the amendment came into force only very recently it remains to be tested in practice. Latvia is therefore recommended to monitor its implementation so that all banking information as requested by its EOI partners can be provided in line with the international standard.

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

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

208. The Law on Taxes and Fees authorises the Cabinet to lay down the procedure for exchange of information between Latvia and its treaty partners (s. 7(4) LTF). Section 17 of Regulation No. 1245 states that if the competent authority of a European Union Member State, or the competent authority of a state with which Latvia has entered into an international agreement, requests information according to the relevant EOI instrument, the SRS shall take the necessary measures in order to obtain the information referred to in the request. International agreement is defined as one that has been ratified by the Parliament (s. 1 Regulation No. 1245). According to section 20 of the Regulation, the SRS shall obtain the requested information according to the procedures by which it would be obtained upon acting on its own behalf or upon the request of another institution of the Republic of Latvia in relation to a taxpayer of Latvia. Based on these provisions, a request made under an EOI agreement pertaining to a foreign tax matter is thus treated as a Latvian tax matter and is fulfilled using all the domestic tax information gathering powers available in Latvia regardless of whether Latvia needs the information for its own domestic tax purposes.

209. A tax period is considered closed generally three years after its end. Although the tax period is closed for Latvian tax purposes (i.e. tax in Latvia cannot be levied) the SRS can exercise its information gathering powers to

provide the requested information which is already at its disposal or to obtain it from the taxpayer or third parties. This has also been confirmed in practice during the reviewed period.

210. In practice, about 20% of requests received by Latvia over the period under review related to a person which had no nexus with Latvia for tax purposes. Vast majority of these requests related to banking information. In none of these requests the issue of domestic tax interest was raised and accordingly no issue in this respect was reported by peers.

Compulsory powers (ToR B.1.4)

211. Jurisdictions should have in place effective enforcement provisions to compel the production of information. There are administrative and criminal sanctions available to the SRS in case of non-compliance with obligation to provide the requested information. In addition to summoning the taxpayer the SRS can exercise search and seizure powers.

212. In the case of failure to provide or provision of false information to the tax authority a fine shall be imposed on officials or members of the statutory body of the respective entity in an amount up to EUR 700 and the person can be prohibited to hold certain offices in commercial entities (s. 159^9 Administrative Violations Code). A taxpayer concealing income or other taxable items is liable to a fine which is in respect of individuals in an amount from EUR 140 up to EUR 350 and in respect of legal persons from EUR 710 up to EUR 2 100 (s. 159 Administrative Violations Code). A person who knowingly provides false information to a State institution (including the tax administration), or refuses to give an explanation or opinion should be subject to a fine of between EUR 960 and EUR 32 000, community service or imprisonment (s. 272 Criminal Law). Sanction applies also in respect of a legal person which is liable to a fine from EUR 3 200 up to EUR 32 millions (s. 70^6).

213. The SRS can enter premises where economic activities are performed, or which are related to the obtaining of revenues, to perform tax audit measures therein and to seal the sale and production of premises, warehouses, archive premises, cash offices and cash-desks in order to ensure the preservation of documentation, money and valuable items which might be relevant for the tax assessment (s. 10 LSRS).

214. In practice, compulsory measures are rarely used for exchange of information purposes. The requested information is in majority of cases requested by the Competent Authority based on section 10(5) of the LSRS. If the information is not provided the Competent authority refers the case to the SRS unit responsible for the penalisation for application of a fine under section 159^9 of the Administrative Violations Code. During the period under review there was only one case where the fine was applied as the information

was not provided. In other six cases the requested information was provided upon warning letter issued by the Competent Authority.

215. In the one case where a fine was applied the taxpayer was fined with EUR 300 but no further action was taken to verify availability of the information. Although it is acknowledged that this is only one case out of 531 requests received during the reviewed period it may indicate a weakness in the application of compulsory measures in cases where information is requested only for exchange of information purposes. This potential weakness was also pointed out by one peer indicating that it did not receive the requested accounting information since the information holder did not respond to the Competent Authority within the prescribed deadline. As mentioned in section B.1.1 the Tax Control Department appears to be hesitant to use its information gathering powers (including search and seizure powers) if the information is not relevant for domestic taxes. It appears that this approach has so far had only limited negative impact on exchange of information practice as in most cases the requested information was provided by the information holder upon request by the Competent Authority. Nevertheless hesitance to use all information gathering powers including tax audit and search and seizure power has a potential to limit effective exchange of information if the holder of the information refuses to co-operate or otherwise denies to provide the requested information. It is therefore recommended that Latvia monitors use of its access and compulsory powers so that the requested information is effectively obtained in all cases.

Secrecy provisions *(ToR B.1.5)*

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

Bank secrecy

217. Latvian law provides for bank secrecy in respect of the identity, accounts, deposits and transactions of banks' clients (s. 61 Credit Institutions Law). The protected information can be provided to such persons themselves, to their lawful representatives, other persons upon consent of the client or state authorities based on authorisation by law (s. 62).

218. The Credit Institutions Law provides such authorisation to the SRS. Bank information regarding customers and their transactions can be submitted by a bank to the tax administration without the client's consent upon the written request of the SRS under the conditions laid down by the Law. Such information is restricted to items specified in the Law (see section B.1.1).

219. Further, banks are required to automatically provide the tax administration with information on interest payments to natural persons from EU member States based on Chapter 9 of the Law on Taxes and Fees which implements the EU Savings Directive.

220. In practice, the Competent Authority obtains the requested banking information when conditions of section 63(11) or section 63(11[1]) of the Credit Institutions Law are fulfilled. As described in section B.1.1 these conditions did not allow exchange of banking information fully in line with the standard during the period under review. As a consequence Latvia did not provide the requested banking information in 26 cases out of 133 requests for banking information received during the reviewed period. To address this deficiency Latvia amended the Credit Institution Law, however, the amendment came into force only recently and remains to be tested in practice.

Attorney-Client Privilege

221. Information obtained in connection with providing qualified legal services is protected under the Advocacy Law. Under Article 6 of the Advocacy Law state authorities (including the tax administration) must guarantee the independence of advocates. It is prohibited to request information or explanations from advocates, as well as to interrogate them as witnesses regarding the facts which have become known to them in providing legal assistance (s. 6(2) Advocacy Law). It is also prohibited to monitor their correspondence or documents which advocates have received or prepared in providing legal assistance, to examine or confiscate them, as well as to execute a search in order to find and confiscate such correspondence and documents (s. 6(3)). However, an unlawful action of an advocate in the interests of a client or promotion of such unlawful action to a client should not be recognised as provision of such legal assistance and therefore information obtained by an advocate in such a case would not be protected (s. 6). A court decision is necessary to prove that the advocate's actions were unlawful. The Latvian authoritites indicated that only a few such cases have been initiated and it is difficult to prove such behavoir in practice.

222. Advocates have an obligation to report unusual or suspicious transactions to the AML supervisory authority (s. 30(1) PMLA). However, there is an exemption from the reporting obligation in the case of advocates defending their customers in pre-trial criminal proceedings or judicial proceedings, or in the case of providing advice for avoiding judicial proceedings (s. 30(3)).

223. The attorney client privilege contained in the Latvian law is very broad and goes beyond the limits of the international standard. The international standard allows protection of confidential communication between a client and his/her admitted legal representative for the purpose of providing

legal advice or for the purposes of existing or contemplated legal proceedings. This means that the protected information *(i)* should not be meant to be disclosed to any third persons, *(ii)* the information must have been obtained by the legal representative only when acting as a legal representative (and not in his/her other capacity such as a nominee shareholder, a trustee, a settlor, a company director or under a power of attorney to represent the company in its business affairs) and *(iii)* the protected information does not include purely factual information such as on the identity of a director or beneficial owner of a company. The Latvian law is not in line with these limitations as it protects all information obtained by the legal representative in connection with providing legal services without appropriate exceptions. It is therefore recommended that Latvia ensure that the scope of attorney-client privilege is consistent with the standard.

224. In practice, the Competent Authority requests information from the taxpayer who is obliged to provide the requested information. Accordingly, there was no case when the information needed to be requested from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney and there was also no case when a person refused to provide the information requested because of professional privilege. It is however common that the information is received from advocates, tax advisors or other legal professionals acting on behalf of their clients as their legal representatives. Therefore it appears that the identified legal gap had limited impact on exchange of information practice during the reviewed period, however, considering the broad protection of information it remains a concern for practical exchange of information.

Conclusion

225. The Latvian competent authority has broad access powers to obtain and provide requested information held by persons within its territorial jurisdiction. However, the Credit Institutions Law provides limitations on bank information which can be obtained from banks, which might limit effective exchange of information in certain circumstances. All information gathering powers which can be used for domestic purposes can be used for EOI purposes regardless whether there is a domestic tax interest. Latvia has in place enforcement provisions to compel the production of information, including criminal sanctions and search and seizure power. Attorney client privilege under Latvian law protects also communication produced for purposes other than seeking or providing legal advice or use in existing or contemplated legal proceedings.

226. In most cases the requested information is gathered by the Competent Authority from the third party information holder who is a Latvian taxpayer. If the requested information is ownership information or information

contained in the income tax returns such as annual accounting statements the information can be obtained from the tax database. Banking information is obtained by the Competent Authority from banks. Obtaining banking information during the period under review was subject to restrictive conditions. In order to address these deficiencies Latvia amended its law however as this amendment came into force only on 4 August 2015 it remains to be tested in practice. It is therefore recommended that Latvia monitors its implementation so that all banking information as requested by its treaty partners can be provided in line with the international standard. During the period under review it was demonstrated that Latvia provides information regardless of domestic tax interest. In the vast majority of cases the information is gathered by the Competent Authority using power under section 10(5) of the LSRS, however, use of stronger powers such as tax audits which seem appropriate for more complex cases is very rare and compulsory powers were not applied over the period under review although in a few cases the requested information was not provided. Latvia is therefore recommended to monitor effective use of all its access and compulsory powers. There was no issue encountered in respect of professional legal privilege during the reviewed three year period.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	**Recommendations**
The provision of banking information under treaties which do not specifically provide for exchange of foreseeably relevant information is subject to restrictions which are not in line with the standard. Consequently, banking information cannot be exchanged in line with the standard with 16 out of Latvia's 99 EOI partners.	Latvia should ensure that its competent authority has access powers in respect of banking information requested by all its EOI partners.
Latvian law protects all information obtained by the legal representative in connection with providing legal services without appropriate restrictions.	Latvia should ensure that the scope of attorney-client privilege in its domestic law is consistent with the international standard.

Phase 2 rating	
Largely compliant.	
Factors underlying recommendations	**Recommendations**
Amendment of the Latvian law in respect of access to banking information under EOI instruments which provide for exchange of foreseeably relevant information came into force only in August 2015 and remains to be tested in practice.	Latvia should monitor implementation of the amendment of the Credit Institutions Law so that all banking information as requested by its EOI partners can be provided in line with the international standard.
Although the requested information was in the vast majority of cases obtained directly by the Latvian Competent Authority it appears that the tax authority is hesitant to use all its information gathering powers including tax audits and compulsory measures in order to obtain information requested for exchange of information purposes.	Latvia should monitor use of its access and compulsory powers so that the requested information is effectively obtained in all cases.

B.2. Notification requirements and 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.

Not unduly prevent or delay exchange of information *(ToR B.2.1)*

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

228. Latvia's domestic legislation does not require prior notification. The SRS is required to notify the taxpayer concurrently with providing the requested information to the requesting competent authority (s. 22(4) LTF). However, if there is a reason to believe that such notification will hinder assessment or payment of taxes in Latvia or in the requesting jurisdiction the notification can be delayed for up to 90 days after transmitting the requested information (s. 22(4) LTF, s. 20 Regulation No. 1245). Although the taxpayer needs to be notified in

all cases it has not been the case in practice. No obligation to notify the taxpayer is also contained in the Cabinet Regulation No. 1245 and the SRS Tax Procedure Manual providing rules for exchange of information upon request. In fact the taxpayer has never been notified unless he/she specifically asked the SRS whether he/she has been subject to an EOI request. This happened in one case over the reviewed period. Upon his/her request the taxpayer was informed by the SRS after transmitting the requested information to the requesting jurisdiction that the SRS received request for exchange of information in tax matters and under which treaty the request was made. Although current legal regulation has limited impact on exchange of information practice Latvia is considering a legal amendment which would abolish obligation to notify the taxpayer completely. It is recommended that Latvia proceeds with these considerations and aligns its legal regulation and practice in a way which is in accordance with the standard.

229. The taxpayer has no right to appeal the provision of information to the requesting competent authority. Accordingly, no appeal has been encountered in respect of EOI practice during the period under review.

230. The Latvian regulatory framework does not provide clear rules detailing what information should be provided by the SRS to a person holding the information requested for EOI purposes. The requested information is gathered in the same way as in domestic cases, i.e. the SRS must instruct the holder of the information on the taxation period and items to be audited and inform him on which legal basis the information is requested (s. 18(10) LTF). However, it is not clear from the law whether this includes only reference to the domestic law providing for the information gathering power (which is the same both for domestic and EOI cases) or reference to a specific treaty or some further information is required. The legal regulation is also not clear on what information received from the requesting jurisdiction should be provided to the holder while giving him/her the necessary information to obtain the requested information. In practice the holder of the information is informed only of the treaty under which the information is requested and only information necessary for obtaining the requested information is provided to the holder (i.e. the taxation period and items to be audited). As the legal regulation is unclear this issue should be monitored by Latvia to ensure that no further information than indicated is provided to the holder of the information in all cases.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 rating
Compliant.

C. Exchanging information

Overview

231. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Latvia, the legal authority to exchange information is derived from double taxation conventions (DTCs), TIEAs, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and EU instruments. This section of the report examines whether Latvia has a network of information exchange that would allow it to achieve effective exchange of information in practice.

232. Latvia has an extensive EOI network covering 99 jurisdictions through 58 DTCs, two TIEAs, the Multilateral Convention and EU mechanisms for exchange of information. The majority of Latvia's agreements meet the international standard. However, due to limitations in Latvia's domestic law, access to bank information is restricted under treaties which do not contain the exact post-2005 model wording of foreseeable relevance. Since some treaty partners with which Latvia concluded these treaties are covered by the EU Council Directive 2011/16/EU or by the Multilateral Convention the wording of these DTCs is a concern in practice in respect of 16 other jurisdictions.[11] It is therefore recommended that Latvia brings all these EOI relationships into line with the standard. All Latvia's EOI agreements including the Multilateral Convention are in force except for a DTC with Qatar which has been already ratified by Latvia.

233. Latvia's EOI network covers all of its significant partners including its main trading partners, all OECD members and all G20 countries. Nevertheless, Latvia should continue its programme of updating its older agreements and entering into new agreements with all relevant partners.

11. These jurisdictions are Armenia, Belarus, FYROM, Israel, Kuwait, Kyrgyzstan, Morocco, Montenegro, Serbia, Singapore, Switzerland, Tajikistan, Turkmenistan, Turkey, United Arab Emirates and Uzbekistan.

During the course of the assessment, no jurisdiction advised that Latvia had refused to enter into negotiations or conclude an EOI agreement.

234. All Latvia's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. The LTF permits disclosure of information which goes beyond the use of information permitted under the international standard. However, the provisions of Latvia's EOI agreements ratified by the Parliament override domestic laws, meaning that the confidentiality provisions present therein have full legal effect in Latvia. However, information obtained from treaty partners is uploaded to the tax database without appropriate indication that it has been obtained pursuant to the international treaty. As the domestic confidentiality rules allow disclosure of information which goes beyond the standard this may lead to use of information which is not in line with the standard. Latvia is therefore recommended to take measures to address this issue. Taxpayer may request information from his/her tax files on the basis of generally applicable provisions of the Law on Information Disclosure and LTF. These provisions contain appropriate exceptions for disclosure of information provided by the requesting jurisdiction (including the EOI request itself).

235. As noted in Part B of this report, the scope of information subject to legal professional privilege in Latvia is broad as it protects all information obtained by the legal representative in connection with providing legal services without exceptions and might limit effective exchange of information. However, for the period under review, there was no case whereby the requested information was not provided because it was covered by trade, business, industrial, commercial or professional secrets or subject of legal professional privilege.

236. The SRS is designated as the Latvian competent authority for EOI purposes. There are no legal restrictions on the ability of Latvia's competent authority to respond to requests within 90 days of receipt by providing the requested information or by providing an update on the status of the request. Latvia received 531 requests related to direct taxes over the period 1 July 2011 to 30 June 2014. Including the time taken by the requesting jurisdiction to provide additional information, the requested information was provided within 90 days, within 180 days and within one year in 73%, 83% and 88% of the time respectively. Latvia has in place appropriate organisational processes to ensure effective exchange of information. Nevertheless there appear to be room for improvement in terms of resources dedicated to exchange of information especially in view of the current workload of the Competent Authority and anticipated increase of requests for information in coming years. It is therefore recommended that Latvia addresses this issue.

C.1. Exchange of information mechanisms

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

237. The international treaties providing for EOI require ratification by the Parliament of the Republic of Latvia (ss. 8 and 10 Law on International Agreements of the Republic of Latvia). Where a ratified international treaty conflicts with domestic law the treaty prevails over domestic law (s. 13).

238. Latvia has in total 99 EOI relationships. These relationships are based on bilateral treaties, i.e. DTCs and TIEAs, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and EU instruments such as the EU Directive on Administrative Co-operation (2011/16/EU). Latvia has signed 58 DTCs and two TIEAs. All of them except for one are in force. Latvia signed the Multilateral Convention on 29 May 2013 and it entered into force in Latvia on 1 November 2014. Latvia has also signed Competent Authority Agreements with 14 partners to provide detailed rules for EOI under the respective EOI agreements. The Latvian authorities have an ongoing programme of concluding new EOI agreements and revising agreements where necessary in order to bring them up to standard.

Foreseeably relevant standard (ToR C.1.1)

239. The international standard for exchange of information envisages information exchange upon request to the widest possible extent, but does not allow "fishing expeditions," i.e. speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of "foreseeable relevance" which is included in Article 26(1) of the OECD Model Tax Convention and Article 1 of the OECD Model TIEA.

> The competent authorities of the contracting states shall exchange such information as is foreseeably relevant to the carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the contracting states or their political subdivisions or local authorities in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

240. All but one Latvia's DTCs provide for exchange of information that is "foreseeably relevant", "necessary" or "relevant" to the administration and enforcement of the domestic laws of the contracting parties concerning taxes

covered in the DTCs. This scope is set out in the EOI Article in the relevant DTCs and is consistent with the international standard.[12]

241. Latvia's DTC with Switzerland signed in 2002 allows exchange of information only to the extent that it relates to the application of the treaty. That is, it does not provide for EOI to assist in the administration or enforcement of the domestic tax laws of the EOI partner, except to the extent that this relates to the application of the DTC. Therefore, this agreement does not meet the "foreseeably relevant" standard. However, as Switzerland is a signatory to the Multilateral Convention the wording of this DTC will not be a concern in practice upon ratification of the Multilateral Convention by Switzerland.

242. Under the TIEAs with Guernsey and Jersey the requested party is under no obligation "to provide information which is neither held by the authorities nor in the possession of nor obtainable by persons who are within its territorial jurisdiction" (emphasis added). Thus, it uses the words "obtainable by" instead of the expression "in control of" used in Article 2 of the OECD Model TIEA. This deviation is not considered to be inconsistent with the standard.

243. The TIEA with Jersey includes a provision which varies from Article 5(5)(g) of the OECD Model TIEA. The provision allows the competent authority of the requesting party to make a request only when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty. Jersey has advised that it does not intend to interpret the words in a restrictive way and so far there has been no case indicated by Jersey's treaty partners that the provision has been applied to refuse or deny the validity of an EOI request on this basis in respect of the requests made to date. No exchange of information requests have been sent under the treaty to verify its application in practice it is therefore recommended that Latvia monitors its implementation.

244. The Multilateral convention and the EU Administrative Co-operation Directive provide for exchange of information in line with the foreseeable relevance criteria.

245. Overall, Latvia's EOI instruments meet the "foreseeably relevant" standard as described in the Commentary to Article 26 of the OECD Model Tax Convention and the Commentary to the OECD Model TIEA. However, the wording of treaties which do not specifically provide for exchange of

12. The OECD Model Tax Convention on Income and on Capital recognises in its commentary to Article 26 (Exchange of Information) that the terms "necessary" and "relevant" allow the same scope of exchange of information as does the term "foreseeably relevant".

"foreseeably relevant" information triggers a restriction on access to banking information (see section C.1.3).

246. Regulation no. 1245 requires the following information to be included in a request (s. 18):

- the identity of the person under inspection;
- the period for which the information is requested;
- the nature of the information requested and the form in which the competent authority would prefer to receive it;
- the tax to be paid for determination of which the information is sought;
- the reasons for believing that the information requested is foreseeably relevant to administration and enforcement of tax laws of the requesting party;
- the grounds for believing that the information requested is present or held in the requested party or is in the possession of or obtainable from a person within the jurisdiction of the requested party;
- to the extent known, identification of the person who is believed to be in possession of, or able to obtain, the requested information;
- a statement that the requesting party has pursued all means available thereto to obtain the information except those that would give rise to disproportionate difficulty to the requesting party.

247. The inclusion of such information in the request is sufficient to demonstrate foreseeable relevance. No supporting documentation is required. If the required information indicated above is not included in the request, or in supporting documentation, the competent authority cannot accept the request and must inform the requesting party of the reasons (s. 19 Regulation no. 1245).

248. The list of information required to be included in the request appears to be in line with the standard. Its rigorous interpretation (e.g. in respect of criteria for identification of the person under inspection or reasons required for believing that the information requested is foreseeably relevant) in connection with an obligation to refuse any request which does not contain the required information, however, might limit effective exchange of information. Nevertheless the Latvian authorities confirmed that the required information should be interpreted in line with the Art. 5 paragraph 5 of the Model TIEA.

249. In practice, Latvia did not decline any request for information during the period under review on the basis that the requested information was not foreseeably relevant. No supporting documentation is specifically required in

order to demonstrate the tax purpose for which information is sought. Only if the information required to be included in the request under section 18 of the Regulation No. 1245 cannot be supplemented the Competent authority will ask for clarification. This was the case in about 5% of received requests. In most of these cases the information provided did not allow identification of the person concerned or did not include a statement that the requesting jurisdiction pursued all means available to obtain the information except those that would give rise to disproportionate difficulty. Further, no issue in respect of Latvia's interpretation of the criteria of foreseeable relevance was indicated by peers. In view of the above it is concluded that Latvia interprets this criteria in line with the standard.

In respect of all persons (ToR C.1.2)

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

251. Three of Latvia's DTCs do not explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered).[13] Latvia has advised that it interprets the EOI provision to allow exchange of information with respect to all persons.

252. In respect of the TIEAs signed by Latvia, they contain a provision concerning jurisdictional scope which is equivalent to Article 2 of the OECD Model TIEA. The Multilateral Convention and the EU Administrative Co-operation Directive provide for exchange of information in respect of all persons.

253. In practice no issue restricting exchange of information in this respect has been experienced by Latvian authorities or by peers.

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

254. Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity. The OECD Model Tax Convention and the Model TIEA, 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

13. These are the DTCs with Germany, Singapore and Switzerland.

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.

255. Out of Latvia's 58 DTCs:

- Five DTCs[14] contain language akin to the Article 26(5) of the OECD Model Tax Convention providing for the obligations of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information;
- Latvia's other 53 DTCs do not contain language akin to Article 26(5) of the OECD Model Tax Convention.
- There is no DTC signed by Latvia which prohibits exchange of information held by banks, nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

256. For the 53 DTCs that do not contain language akin to Article 26(5) of the OECD Model Tax Convention, the absence of this language does not automatically create restrictions on exchange of bank information. The commentary to Article 26(5) indicates that while paragraph 5, added to the Model Tax Convention in 2005, represents a change in the structure of the Article, it should not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information.

257. Both TIEAs and the Multilateral Convention concluded by Latvia contain a provision similar to Article 5(4) of the OECD Model TIEA, which ensures that the requested jurisdiction shall not decline to supply the information requested solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person.

258. As detailed previously in section B.1 of this report, there are limitations in Latvia's domestic law with respect to access to banking information. These restrictions apply in respect of treaties which do not contain the exact post-2005 model wording of paragraph 1 Article 26 of the OECD Model Double Tax Convention providing for exchange of information that is "foreseeably relevant" (see section C.1.1). Restrictions are not linked to the inclusion of paragraph 5 (or paragraph 4) of the Model Convention. Under treaties which do not contain the prescribed wording the Latvian competent authority can obtain only information which is stipulated by section s. 63(11) of the Credit Institutions Law. Types of information which can be obtained from banks and additional conditions regarding information which needs to be provided in order to obtain the requested information from a bank are restrictive and might limit effective exchange of information. As a result

14. The DTCs with China, India, Mexico, Qatar and the United States.

53 treaties which contain pre-2005 wording do not provide for exchange of information in line with the standard.[15] However, out of these 53 jurisdictions 26 are covered by EU Council Directive 2011/16/EU. Out of the remaining 27 jurisdictions,[16] 16 jurisdictions are signatories to the Multilateral Convention and 11 of them have ratified it. Thus Latvia does not have EOI relation providing for effective exchange of banking information in force with 16 out of 99 of Latvia's EOI partners which might impact Latvia's ability to provide banking information.[17] In view of this it is recommended that Latvia brings all its EOI relationships into line with the standard.

259. Practical aspects of exchange of banking information are described in section B.1 and C.5 of the report. As already detailed Latvia is able to access banking information under its EOI instruments however domestic law restrictions on access to banking information did not allow it to exchange all banking information in line with the standard. It was confirmed in practice that exchange of banking information under treaties which do not contain post-2005 model wording is restricted by section 63(11) of the Credit Institutions Law. In addition, exchange of banking information under EOI instruments which contain post-2005 model wording was subject to restrictive application of section 63(11^1) of the Credit Institutions Law. In order to address this issue Latvia amended section 63(11^1). Since the amendment came into force only recently it remains to be tested in practice and Latvia is therefore recommended to monitor its implementation.

Absence of domestic tax interest *(ToR C.1.4)*

260. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party

15. These treaties are DTCs with Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, FYROM, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Korea, Kyrgyzstan, Kuwait, Lithuania, Luxembourg, Malta, Moldova, Morocco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russia, Serbia, Slovak Republic, Slovenia, Spain, Sweden Singapore, Switzerland, Tajikistan, Turkmenistan, Turkey, Ukraine, United Arab Emirates, United Kingdom, Uzbekistan.
16. These jurisdictions are Albania, Armenia, Azerbaijan, Belarus, Canada, FYROM, Georgia, Iceland, Israel, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Moldova, Morocco, Montenegro, Norway, Russia, Serbia, Singapore, Switzerland, Tajikistan, Turkmenistan, Turkey, Ukraine, United Arab Emirates and Uzbekistan.
17. These 16 jurisdictions are Armenia, Belarus, FYROM, Israel, Kuwait, Kyrgyzstan, Morocco, Montenegro, Serbia, Singapore, Switzerland, Tajikistan, Turkmenistan, Turkey, United Arab Emirates and Uzbekistan.

if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the international standard. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

261. Out of Latvia's 58 DTCs:

- Eight DTCs[18] contain provisions similar to Article 26(4) of the OECD Model Tax Convention, which oblige the contracting parties to use their information gathering measures to obtain and provide information to the requesting jurisdiction even in cases where the requested party does not have a domestic interest in the requested information;
- 49 DTCs do not contain explicit provisions obliging the contracting parties to use information-gathering measures to obtain and exchange requested information without regard to a domestic tax interest; and
- the DTC with Switzerland only allows the exchange of "information which is at a party's disposal under their respective taxation laws in the normal course of administration." Agreements with this restrictive language may not allow the competent authorities to use their access powers to obtain any kind of information for EOI purposes.

262. There are no domestic tax interest restrictions on Latvia's powers to access information for EOI purposes (see Section B.1 above). As such, the exchange of information in the absence of domestic interest in respect of the 49 DTCs will be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of some of these partners. Out of these 49 jurisdictions 27 jurisdictions are covered by the EU Council Directive 2011/16/EU. Out of these 22 jurisdictions[19] 12 are signatories of the Multilateral Convention and eight of them have ratified it. Therefore domestic tax restriction may be a concern in practice in respect of 14 jurisdictions.[20] It is recommended that Latvia work with the EOI partners where domestic interest restrictions exist to remove these restrictions and bring these EOI relations to the standard.

18. These DTCs are with Canada, China, India, Mexico, Qatar, Russia, UAE and with the United States.
19. These jurisdictions are Albania, Armenia, Azerbaijan, Belarus, FYROM, Georgia, Iceland, Israel, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Moldova, Montenegro, Morocco, Serbia, Singapore, Tajikistan, Turkey, Turkmenistan, Ukraine and Uzbekistan.
20. These jurisdictions are Armenia, Belarus, FYROM, Israel, Kuwait, Kyrgyzstan, Montenegro, Morocco, Serbia, Singapore, Tajikistan, Turkey, Turkmenistan and Uzbekistan.

263. Both of the TIEAs concluded by Latvia contain a provision similar to Article 5(2) of the OECD Model TIEA, which allows information to be obtained and exchanged notwithstanding it is not required for Latvia's domestic tax purpose.

264. In practice, Latvia is able to use all its domestic information gathering measures for EOI purposes regardless of a domestic tax interest (see part B.1.3). Latvia does not require reciprocity in respect of EOI partners who require a domestic tax interest for providing the requested information. About 20% of received requests over the reviewed period related to a person which had no nexus for tax purposes with Latvia. In none of these requests the issue of domestic tax interest was raised and accordingly no issue in this respect was reported by peers.

Absence of dual criminality principles (ToR C.1.5)

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

266. There are no such limiting provisions in any of Latvia's EOI instruments which would indicate that there is dual criminality principle to be applied and there has been no case where Latvia declined a request because of dual criminality requirement as has been confirmed by peers

Exchange of information in both civil and criminal tax matters (ToR C.1.6)

267. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The international standard is not limited to information exchange in criminal tax matters but extends to information requested for tax administration purposes (also referred to as "civil tax matters").

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

269. Latvia does not require information from the requesting competent authority as to whether the requested information is sought for criminal or civil tax purposes and no peer input indicated any issue in this respect. The same procedures apply in respect of exchange of information for civil and criminal tax matters. Latvian authorities confirmed that Latvia will not require use of specific instrument for exchange of information in criminal

matters even if the requesting jurisdiction indicates that the information will be used in criminal tax proceedings.

Provide information in specific form requested *(ToR C.1.7)*

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

271. Latvia's EOI instruments allow for the provision of information in specific form requested (including depositions of witnesses and production of authenticated copies of original documents) to the extent permitted under Latvia's domestic law and administrative practices. Only Latvia's DTC with the United States contains specific reference to the form of information, providing that if specifically requested by a treaty partner, the other partner shall provide information in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts and writings). Peer inputs indicate that Latvia provides the requested information in adequate form and no issue in this respect has been reported.

In force *(ToR C.1.8)*

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

273. EOI agreements must be ratified by the Latvian Parliament (ss. 8 and 10 Law on International Agreements of the Republic of Latvia). The draft agreement is signed upon approval of the Cabinet of Ministers. Upon signing the agreement together with supporting documentation and incorporating law is submitted to the Parliament for approval. The domestic ratification process is completed after the signed agreement is approved. The Ministry of Foreign Affairs subsequently informs the agreement party thereof.

274. All Latvia's EOI agreements are in force except for a DTC with Qatar signed in September 2014 which has been already ratified by Latvia.

Be given effect through domestic law (ToR C.1.9)

275. For exchange of information to be effective, the contracting parties must enact any legislation necessary to comply with the terms of the agreement.

276. As discussed in section B, Latvia has the legislative and regulatory framework in place to give effect to its agreements.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	**Recommendations**
As a result of domestic law limitations with respect to access to banking information Latvia does not have EOI relationships in force providing for effective exchange of information to the standard with 16 of its 99 EOI partners.	Latvia should ensure that all its EOI relationships provide for exchange of information to the standard.

Phase 2 rating
Largely compliant.

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

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

277. Ultimately, the international standard requires that jurisdictions exchange information with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement. Agreements cannot be concluded only with counterparties without economic significance. If it appears that a jurisdiction is refusing to enter into agreements or negotiations with partners, in particular ones that have a reasonable expectation of requiring information from that jurisdiction in order to properly administer and enforce its tax laws it may indicate a lack of commitment to implement the standards.

278. Latvia has an extensive EOI network covering 99 jurisdictions through 58 DTCs, two TIEAs, the Multilateral Convention and EU mechanisms for

exchange of information. Latvia's EOI network covers all of its significant partners including its main trading partners, all OECD members and all G20 countries. Latvia's main trading partners are EU member states and Russia.

279. Ultimately, the international standard requires jurisdictions to exchange information with their relevant partners, meaning those partners who are interested in entering into an exchange of information agreement. During the course of the assessment, no jurisdiction has advised that Latvia had refused to enter into negotiations or conclude an EOI agreement. However, in three instances TIEA negotiations have not sufficiently progressed due to limited resources on the Latvian side. International treaty negotiations are the responsibility of the Corporate and International Taxation Unit of the Direct Tax Department in the Ministry of Finance. The Unit is responsible also for international and domestic corporate tax policy, EU corporate tax policy, European Court cases in tax issues and implementation of OECD tax policies. The Unit is staffed with five employees. It appears that the unit is work overloaded and has to carefully prioritise its work. Increase of its staffing or shifting of some of its responsibilities to other departments may facilitate carrying out of its main tasks. However it is noted that Latvia's treaty network is already extensive and covers its main partners. Further, Latvia signed and brought into force the Multilateral Convention which will probably limit the number of bilateral EOI negotiations.

280. Latvia has in place an on-going negotiations programme which includes plans for renegotiation of EOI agreements that do not provide for exchange of information in line with the standard. Latvia advises that it is currently negotiating or renegotiating EOI agreements with Norway, Pakistan, Japan and Vietnam. Renegotiation of the existing treaty with Switzerland is at a preparatory stage. The negotiations have been completed with Cyprus,[21] and Hong Kong.

21. 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.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Factors underlying recommendations	**Recommendations**
	Latvia should continue to develop its exchange of information network with all relevant partners.

Phase 2 rating
Compliant.

C.3. Confidentiality

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

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

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

International treaties

282. All Latvia's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. While a few of the articles in the Latvian DTCs might vary slightly in wording, these provisions contain all of the essential aspects of Article 26(2) of the OECD Model Tax Convention. Both Latvia's TIEAs have confidentiality provisions modelled on Article 8 of the OECD Model TIEA. Confidentiality of the provided information in line with the standard is also provided for in Article 22 of the Multilateral Convention. As the provisions in Latvia's EOI agreements override any contradicting domestic legislation, Latvian authorities are required to keep confidential all information received as part of a request or as part of a response to a request regardless of any provisions in other laws.

283. The DTC with Switzerland does not provide for disclosure of information to authorities dealing with prosecution matters in respect of taxes covered by the DTC. The DTC with the Netherlands specifically allows for provision of the exchanged information to the arbitration board to carry out the mutual agreement procedure under the DTC. It is however noted that Latvia can exchange information with the Netherlands under the EU Council Directive 2011/16/EU and the Multilateral Convention and with Switzerland under the Multilateral Convention once it comes into force in Switzerland.

Latvia's domestic law

284. Under the Latvian tax law a civil servant of the tax administration is prohibited from disclosing any information on the taxpayer which the civil servant becomes aware of in the course of carrying out his/her statutory duties without obtaining the taxpayer's consent (s. 22(1) LTF). Administrative and criminal sanctions apply if information is disclosed in breach of this law (ss.36-38 State Civil Service Disciplinary Law, ss.200 and 329 Criminal Law). There are a few exceptions which allow such information to be made public. These exceptions cover information on the taxpayer's tax arrears that have arisen as a result of the tax review (audit) or data compliance audit or late payment of taxes or information on a natural person who carries on business and is not registered by the Enterprise Registry (s. 22(1) LTF). Such information can be provided to the tax administration supervisory bodies such as Ministry of Finance for ensuring and controlling public revenues and monitoring programme of the state budget; to other tax administration offices for the performance of tax administration functions, including the competent authorities of other jurisdictions in accordance with the provisions of international agreements; to law enforcement agencies and courts for investigation and prosecution purposes; or to other public authorities for monitoring the performance of public administration functions and tasks laid down in special laws on the regulation of public services (s. 22(2) LTF).

285. The LTF permits disclosure of information obtained during the course of tax administration to parties which are not involved in the tax administration, prosecution in respect of taxes or the oversight of the above which goes beyond the use of information permitted under the international standard. However, as indicated above, the provisions of Latvia's EOI agreements ratified by Saeima (the Parliament of the Republic of Latvia) override domestic laws, meaning that the confidentiality provisions present therein have full legal effect in Latvia. According to Article 13 of the Latvian Law on "International Agreements of the Republic of Latvia", if provisions, different from the ones stipulated in the legislation of the Republic of Latvia, are provided in an international agreement, then the provisions of the international agreement are applied. This is further confirmed by the Cabinet Regulation

No. 1245 which stipulates confidentiality rules which mirror paragraph 2 of Article 26 of the Model OECD DTC (s. 36 Cabinet Regulation No. 1245).

286. In practice, EOI requests received from treaty partners are handled by the authorised person within the Competent Authority. All requests and supporting documentation are kept in electronic format in the EOI database. Only persons authorised by the head of the Central Information Exchange Division (CLO) of the Competent Authority can access the EOI database. Each access to the EOI database is traceable and the person accessing it is always uniquely identified. Requests from non-EU jurisdictions are normally received in paper and their scan uploaded to the EOI database. The original request including attachments is stored in the Competent Authority's archive. The archive is kept under a lock in the Competent Authority's office and a key is given only to the authorised officials of the Competent Authority. Entry to the tax authority premises is restricted, protected by an electronic code and a security guard is present at all times. All persons dealing with information obtained from treaty partners are bound by confidentiality rules detailed above and in the case of their breach sanctions will apply.

287. Information obtained from treaty partners which may be relevant for assessment of domestic taxes is uploaded to the tax database. It is however not indicated that the uploaded information has been obtained pursuant to the international treaty and should be used and disclosed only in accordance with it. As the domestic confidentiality rules allow disclosure of information which goes beyond the standard (such as investigation of other than tax crimes) this may lead in certain cases to use of information which is not authorised by the respective treaty and is not in line with the standard. According to the Latvian authorities there has been no such case encountered during the reviewed period in practice. Nevertheless as use of information not in line with the respective treaty cannot be prevented it is recommended that Latvia takes measures to ensure that the received information is treated in accordance with the respective treaty under which it was received.

288. A taxpayer has a right to familiarise himself/herself with the reports on audit findings and documents on the audit file which relate to him, except for such information contained therein which is considered restricted pursuant to the law (s. 16(4) LTF). The Law on Information Disclosure defines restricted information as information which is intended and specified for internal use by an institution (s. 5(2)). Such specification can be given by the author of information or the head of an institution (s. 5(3)). According to the SRS internal regulation Nr.42 and the SRS order No. 1636 the information received from foreign institutions or foreign persons (including EOI competent authorities) must be classified by the SRS as "restricted" information as defined under the Law on Information Disclosure. This has been also confirmed in practice. Accordingly, there was no case during the period under

where the EOI request or supporting documentation was disclosed to the taxpayer. No issue in this respect was also reported by peers.

All other information exchanged *(ToR C.3.2)*

289. The confidentiality provisions in Latvia's exchange of information agreements and domestic law do not draw a distinction between information received in response to requests or information forming part of the requests themselves. As such, these provisions apply equally to all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction. In practice, the same confidentiality rules apply in respect of all information received from Latvia's treaty partner. However as noted above information which is relevant for domestic tax purposes (not the EOI request letter) may be uploaded into the tax database and used not in line with the respective treaty under which it was received.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.

Phase 2 rating	
Largely compliant.	
Factors underlying recommendations	**Recommendations**
Although domestic confidentiality rules allow disclosure of information which goes beyond the standard the received information is not clearly marked as obtained under an international treaty and therefore may be used not in line with the standard.	Latvia should take measures to ensure that the received information is in all cases treated in accordance with the respective treaty under which it was obtained.

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

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

Exceptions to requirement to provide information *(ToR C.4.1)*

290. The international standard allows requested parties not to supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise.

291. All Latvia's EOI agreements except for one contain provision allowing the contracting parties not to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy. The DTC with the Netherlands does not contain such provision and therefore is not in line with the standard. However, the Netherlands signed and ratified the Multilateral Convention and therefore the DTC is not a concern in practice. In addition Latvia can exchange information with the Netherlands under EU Council Directive 2011/16/EU which contains such exceptions in line with the standard.

292. Communications between a client and an attorney or other admitted legal representative are only privileged to the extent that the attorney or other legal representative acts in his or her capacity as an attorney or other legal representative. Where legal professional privilege is more broadly defined it does not provide valid grounds on which to decline a request for EOI. To the extent, therefore, that an attorney acts in another capacity, such as as a nominee shareholder, a trustee, a settlor, a company director, EOI resulting from and relating to any such activity cannot be declined because of legal professional privilege.

293. Except for the DTC mentioned above all of Latvia's EOI agreements ensure that the contracting parties are not obliged to provide information which is subject to legal professional privilege. However, the term "professional secret" is not defined in the EOI agreements and therefore this term would derive its meaning from the Latvia's domestic laws.

294. As described in section B.1.5 of this report, the attorney client privilege contained in Latvian law is too broad and goes beyond the international standard as it protects also communication produced for purposes other than that of seeking or providing legal advice or of use in existing or contemplated legal proceedings. This might limit effective exchange of information since the Latvian competent authority can according to the respective EOI agreements decline to provide the requested information on the grounds that the information is subject to attorney client privilege as defined in Latvian law. It is therefore recommended that Latvia restricts the scope of the protection under the term "professional secret" in its domestic laws so as to be in line with the standard for the purpose of EOI agreements.

295. As described in section B.1.5, there was no case during the period under review where the information needed to be requested from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney and there was also no case when a person refused to provide the information requested because of professional privilege. Nevertheless considering the scope of the legal gap cases where legal

professional privilege can be claimed may have negative impact on Latvia's exchange of information practice.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	**Recommendations**
Latvia's EOI agreements do not define the term "professional secret" and the scope of the term under its domestic laws is wider than permitted by the international standard.	It is recommended that Latvia limits the scope of "professional secret" in its domestic laws so as to be in line with the standard for exchange of information.

Phase 2 rating
Largely compliant.

C.5. Timeliness of responses to requests for information

The jurisdiction should provide information under its network of agreements in a timely manner.

Responses within 90 days *(ToR C.5.1)*

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

297. None of Latvia's DTCs require the provision of request confirmations, status updates or the provision of the requested information within the time-frames foreshadowed in Article 5(6) of the OECD Model TIEA. The TIEA with Guernsey require that the competent authority of the requested jurisdiction confirms receipt of a request; notifies any deficiencies in the request within 60 days; and, if unable to obtain and provide the requested information within 90 days, inform the requesting jurisdiction and explain the reason for its inability, the nature of the obstacles or the reasons for refusing to provide information (art 5(7)). The TIEA with Jersey and the Multilateral Convention oblige treaty parties to provide the requested information as soon as possible.

298. There appear to be no legal restrictions on the Latvian competent authority's ability to respond to EOI requests in a timely manner. The Regulation No. 1245 on EOI procedures requires that the requested information should be provided in as short a time as possible and if the requested information is already at the disposal of the SRS the information should be provided within two months after receipt of the request (s. 21). If obstacles for the provision of information emerge the competent authority should inform within three months after receipt of the request the requesting competent authority of another EU member state of reasons for the delay and should indicate timeframe in which the response will be provided (s. 24). The Regulation however does not contain an obligation to provide status updates in respect of treaty partners who are not members of the EU. However there is nothing in the Latvian regulatory framework that prohibits the competent authority from providing such updates.

In practice

299. Latvia received 531 requests related to direct taxes over the period 1 July 2011 to 30 June 2014. Requests are counted as per request letters regardless of how many taxpayers are subject of the request letter. If additional questions arise concerning details of the same case regarding the same request letter the request is not counted as a new request. The following table shows the time needed to send the final response to incoming EOI requests including the time taken by the requesting jurisdiction to provide clarification (if asked).

	Jul 2011-Jun 2012		Jul 2012-Jun 2013		Jul 2013-Jun 2014		Total	
	num.	%	num.	%	num.	%	num.	%
Total number of requests received*	161	100%	166	100%	204	100%	531	100%
Full response**: ≤90 days	116	72%	132	80%	140	69%	388	73%
≤180 days (cumulative)	124	77%	149	90%	167	82%	440	83%
≤1 year (cumulative)	139	86%	155	93%	175	86%	469	88%
>1 year	7	4%	6	4%	1	0.5%	14	3%
Declined for valid reasons	0	0	0	0	1	0.5%	1	0%
Failure to obtain and provide information requested	7	4%	0	0%	19	9%	26	5%
Requests still pending at date of review	8	6%	5	3%	8	4%	21	4%

* Latvia counts each written request from an EOI partner as one EOI request even where more than one person is the subject of an inquiry and/or more than one piece of information is requested.

** 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 received.

300. As the table shows there is a slight increase in the number of received requests per year during the period under review. Latvia's response times has also slightly increased from 72% of requests responded within 90 days in the first year of the review to 69% in the last year. Most requests over the reviewed period were received from Lithuania, France, Belarus, Finland, Germany and Ukraine. The largest number of requests related to accounting information and underlying accounting documentation. During the same period Latvia sent 329 requests related to direct taxes which is for about 40% less than the number of received requests.

301. Most of the requests where a response was not provided within 90 days related to requests for accounting underlying documentation and verification of transactions where information was obtained directly from the taxpayer or through a tax audit. The main difficulties Latvian authorities are confronted with when obtaining the requested information are cases where the holder of the information is not identifiable, or complex cases where information is obtained by tax control measures requiring co-operation with other SRS departments and by the taxpayer. It is also noted that in a few cases work overload of the CLO may have negative impact on effective way of obtaining the information in cases where alternative sources (such as other government databases or public sources) could have been used.

302. Over the reviewed period Latvia declined one request for information. The request was declined as it related to taxable periods before entry into force of the respective DTC. In response to the request the Latvian Competent Authority explained reason why the request cannot be accepted. No further request in this matter was received by the requesting jurisdiction.

303. Latvia failed to provide the requested information in 26 cases over the reviewed period despite the information was requested in line with the respective treaty and should have been provided according to the international standard. All these 26 requests related to banking information. As described in section B.1.1 obtaining banking information during the period under review was subject to restrictive conditions. In order to address these deficiencies Latvia amended its law in respect of EOI instruments which contain the post-2005 model wording. As the amendment came into force only on 4 August 2015 it remains to be tested in practice and Latvia should monitor its implementation. Exchange of banking information under EOI treaties which do not contain the post-2005 model wording remains restricted. Latvia is therefore recommended under elements B.1 and C.1 to address this issue.

304. Twenty-one requests received during the period under review have not yet been responded. All these requests relate to underlying accounting documentation. In these cases the requested information has not yet been obtained from the taxpayer and consequently administrative proceedings against the taxpayer were initiated by the Tax Control Department. In some

cases the taxpayer cannot be reached and it is repeatedly notified of its obligation to co-operate. If the information is not provided the taxpayer is subject to financial sanction in accordance with the Administrative Violations Code, his economic activity can be suspended or it can be excluded from the VAT register.

305. During the period under review Latvia did not systematically provide status updates in cases where the requested information was not provided within 90 days. The obligation to provide status updates within 90 days in respect of requests received from EU members is contained in section 24 of the Cabinet Regulation No. 1245 and sections 18 and 19 of the Tax Procedure Manual. Nevertheless despite its internal regulation Latvia did not provide status updates during the reviewed period in all cases. Several peers indicated that status updates were automatically provided on the other hand a few peers indicated otherwise. Latvian authorities clarified that due to work overload of the Competent Authority status updates were frequently provided however not in all cases. As the standard requires that status updates are provided in respect of all requests where information is not provided within 90 days Latvia is recommended to address this issue.

Organisational process and resources *(ToR C.5.2)*

Organisation of EOI practice

306. It is important that a jurisdiction has appropriate organisational processes and resources in place to ensure a timely response. The Latvian competent authority for exchange of information in tax matters is the SRS (s. 5 Regulation No. 1245). Central Information Exchange Division within the SRS is responsible for handling practical exchange of information. The Division forms organisational part of the SRS' Tax Board. The Division is administering all types of exchange of information in respect of direct and indirect taxes under Latvia's EOI instruments including automatic exchange of information. The Central Information Exchange Division acts also as the Central Liaison Office (CLO) for the purposes of EU Directive 2011/16/EU.

307. The Central Information Exchange Division is staffed with ten employees. One person is responsible for exchange of information upon request in the field of direct taxes. Eight persons are responsible for exchange of information in the field of VAT, excise duties, automatic exchange of information. The Head of the Division is directly subordinated to the director of the SRS Tax Board.

308. Several SRS departments may be involved in preparation of responses to EOI requests in the field of direct taxes. All requests are received by the CLO. If obtaining of the requested information requires direct contact with the taxpayer or retrieving information from the tax database the CLO approaches

the Client Service Office of the SRS Tax Board. If more complex information is requested then tax audit can be launched. All tax audits are performed by the Tax Control Department of the SRS. In majority of cases the requested information is gathered directly by the CLO through written request to the third party information holder who is usually a Latvian taxpayer.

309. Contact details of Latvia's competent authority are available to competent authorities of EU Member states through the CIRCA database. In respect of competent authorities of non-EU jurisdictions contact details are communicated by Latvia through letters, face to face meetings or emails and are available on the Global Forum's Competent Authority database.[22]

Handling of EOI requests

310. Processing of incoming and outgoing EOI requests is based on Cabinet Regulation No. 1245. Detailed rules are further contained in Chapter 17.4 of the SRS Tax Procedure Manual.

311. All EOI requests are received by the CLO. Upon receipt all requests are recorded into the SRS' Information Exchange System. Requests from EU member countries are received electronically through the CCN network.[23] Request from non-EU jurisdictions are typically received through the post. In respect of requests received from EU Member countries acknowledgment of receipt is sent via the CCN network. All requests are allocated by the head of the CLO to the CLO officer for review and validity check. The CLO officer verifies whether the request contains the required information and whether the request is complete (e.g. signatures, attachments). If information which cannot be substituted is missing a clarification is requested from the applicant jurisdiction.

312. In most cases the requested information is gathered by the CLO. In cases where the preparation of a reply requires information from the SRS tax databases and in cases when the preparation of a reply requires receiving taxpayer's explanations in person the CLO approaches the relevant Client Service Office of the SRS Tax Department to obtain the requested information. If obtaining the information requires launch of a tax audit (or other tax control measure) the CLO should approach the SRS Tax Control Department. However as noted in section B.1 there were only a few cases in first half of the reviewed period where tax audits or compulsory measures were carried out for exchange of information purposes. In cases where the information

22. www.oecd.org/securesites/gfcompetentauthorities/.
23. CCN network means the common platform based on the common communication network (CCN), developed by the European Union for all transmissions by electronic means between competent authorities in the area of customs and taxation.

is not obtained directly by the CLO, the CLO officer translates the respective questions and description of the requested information into Latvian and sends them together with an explanatory letter (and originals of supporting documentation if needed) to the generic email address of the respective Client Service Office of the SRS Tax Board or SRS Tax Control Department. Once the requested information is obtained the SRS department which gathered the information provides response directly to the CLO by using the CLO generic email account. The CLO reviews the obtained information before providing it to the requesting competent authority. The CLO checks whether the obtained information answers the questions made and whether it is complete.

Requests for banking information

313. Banking information is requested by the CLO directly from banks using power under section 10(5) of the LSRS as described in section B.1. In the letter to the bank the SRS details information requested and the legal basis for such request (i.e. the treaty under which the information is requested and reference to the domestic law). The request letter is sent by post to the registered address of the respective bank where the bank account is opened. In accordance with section 63(3) of the Credit Institutions Law banks are given 14 days to provide the information. In majority of cases the information is provided within this deadline.

Internal deadlines

314. Deadlines for steps in obtaining and providing the requested information are contained in the Cabinet Regulation No. 1245 and Chapter 17.4 of the SRS Tax Procedure Manual (Procedure Manual). As a general rule the requested information shall be provided in as short a time as possible after receipt of the request (s. 21 Cabinet Regulation No. 1245). Upon receipt of the request the CLO should within 10 working days request the information from the information holder (s. 10 Procedure Manual) or ask for clarification necessary to process the request (s. 19 Regulation No. 1245). If the information is requested by the CLO from the taxpayer under section 10(5) LSRS the taxpayer is given 10 working days to provide the information. If the information is requested from a bank the bank has 14 days to respond in accordance with section 63(3) of the Credit Institutions Law (s. 11 Procedure Manual). If the requested information is already at the disposal of the SRS the information should be provided to the CLO within one month (s. 16 Procedure Manual). If obtaining of the information requires launching a tax audit (or other tax control procedure) the information should be provided by the Tax Control Department to the CLO within five months (s. 16.2 Procedure Manual). If the information is requested pursuant to request from Lithuania or Estonia the five months deadline is shortened to two months (s. 16.1 Procedure Manual).

These deadlines are compatible with effective exchange of information as evidenced in timeliness of Latvia's responses. It is noted that tax control measures are launched rarely for exchange of information purposes and only in cases where more complex information is requested which cannot be obtained by use of power under section 10(5) of LSRS. In such complex cases more than 90 days appears to be needed to obtain the information nevertheless the internal rules still require to provide the information as soon as possible.

315. The CLO is responsible to ensure compliance with the deadlines referred to in Article 7 of Council Directive No. 2011/16/EU and of the internal procedures by sending reminders regarding expiry of the period for submission of a reply (s. 8.8 Procedure Manual). This is done through sending standardised emails to the generic email address of the respective SRS department handling the EOI request. Emails are followed by phone calls where necessary.

Communication

316. Latvia accepts requests in English, German, French or Russian. If the request is not in one of these languages the requesting competent authority will be asked to translate the request into one of them.

317. Exchange of information among competent authorities of EU Members uses standard electronic format of requests. In respect of non-EU jurisdictions Latvia does not require any specific format of incoming requests as far as information contained in the request includes information in line with Article 5 paragraph 5 of the OECD Model TIEA.

318. The CCN network is used for communication with competent authorities of EU Member states ensuring prompt and secure information exchange. For communication with competent authorities from non-EU jurisdictions standard post is used. Use of standard post might lead to delays in providing the requested information and does not protect confidentiality of exchanged information in all cases. Latvia is therefore recommended to use more effective communication tools with its treaty partners outside of EU such as emails with encrypted attachments or registered post.

319. Communication between the CLO and other SRS departments is carried out through emails and internal SRS postal service. The CLO always uses email to contact the respective SRS department requesting it to obtain the information. If the EOI request includes supporting documentation in paper which is relevant for the tax control measures needed to obtain the information the CLO sends the supporting documentation to the Tax Control Department also by the internal post.

IT tools, monitoring, training

320. All incoming and outgoing requests are registered in the SRS Information Exchange System by the CLO officers. The system includes name of the requesting jurisdiction, identification of the taxpayer under investigation, status of the request, date of receipt, date of final response, reference number, assigned officer responsible for processing the request and the main subject of the request. The system allows monitoring of deadlines however it does not automatically generate reminders where the deadlines are approaching or lapsed.

321. Process of handling EOI requests is monitored by the head of the CLO through use of the Information Exchange System and by daily contact with officers handling the requests. The CLO provides quarterly reports on the administrative co-operation to the director of the Tax Board Department, the SRS Deputy Director General and Director General. These reports contain among other information on number of requests received and send during the reported period, number of responses received and sent, number of pending requests, number of replies provided after the prescribed deadlines and number of replies provided within one month.

322. New employees of the SRS including of the CLO are required to pass a general training which deals with the rules of tax secrecy, confidentiality etc. Each new employee of the CLO is further trained in the relevant legal regulations and SRS internal procedures on exchange of information by the Head and Deputy Head of CLO. On the job training is performed by the more experienced CLO colleagues.

323. The CLO organises special trainings for employees of the Tax Control Department on the exchange of information. The training usually takes place one or two times per year. Around 60 persons take part in each training session resulting in about 360 tax auditors trained in exchange of information over the past three years. The CLO also prepares and updates methodology and guidelines on preparation and processing of requests and informs employees of the Tax Department, the Tax Control Department and the Finance Police Department by e-mail on any relevant changes thereof.

Conclusion

324. Latvia has in place appropriate organisational processes to ensure provision of responses in a timely manner as was demonstrated over the last three years. Latvia is also considered by peers an important and reliable EOI partner. Nevertheless there appear to be room for improvement in terms of resources dedicated to exchange of information in particular in respect of staffing of the CLO. The CLO is responsible for all incoming and outgoing EOI requests related to all types of taxes and in most cases it is also obtaining

the requested information. Currently, there is only one official who is responsible for administering EOI requests related to direct taxes. On average each CLO employee is expected to respond to six requests per day. Although the workload does not currently lead to significant delays in exchange of information in direct taxes it has negative impact on Latvia's ability to systematically provide status updates and may lead to delays or drop in quality of responses where more requests will need be handled in response to recent developments in automatic exchange of information and in relation to coming into force of the Multilateral Convention in November 2014. It is therefore recommended that Latvia addresses this issue and takes measures to ensure appropriate allocation of resources for the exchange of information practice.

Absence of unreasonable, disproportionate, or unduly restrictive conditions on exchange of information *(ToR C.5.3)*

325. Exchange of information assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions. Other than those matters identified earlier in this report, there are no further aspects of Latvia's laws or practices that restrict effective exchange of information.

Determination and factors underlying recommendations

Phase 1 determination
This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.

Phase 2 rating	
Compliant.	
Factors underlying recommendations	**Recommendations**
Latvia has in place appropriate organisational processes. Nevertheless there appear to be room for improvement in terms of resources dedicated to exchange of information practice. The workload does not currently lead to significant delays in exchange of information however it has negative impact on Latvia's ability to systematically provide status updates and may lead to delays or drop in quality of responses where more requests will need to be handled.	Latvia should take measures to ensure that appropriate resources are put in place so that it continues to provide information in a timely manner and, in cases where the information is not provided within 90 days, it updates the requesting competent authority on the status of the request in all cases.

Summary of determinations and factors underlying recommendations

Overall Rating
LARGELY COMPLIANT

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. *(ToR A.1.)*		
Phase 1 determination: The element is in place.	Ownership information on foreign companies having sufficient nexus with Latvia (in particular, having their head office or headquarters in Latvia) is not consistently available.	Latvia should ensure that ownership information on foreign companies with sufficient nexus with Latvia (in particular, having their head office or headquarters in Latvia) is available in all cases.
Phase 2 rating: Compliant.	Availability of information on settlors and beneficiaries of foreign trusts is based on interpretation by the Latvian authorities and there is no basis to confirm it.	Latvia should monitor the availability of information on settlors and beneficiaries of foreign trusts operated by Latvian resident trustees to ensure that such information is practically available.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. *(ToR A.2.)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		

Banking information should be available for all account-holders. *(ToR A.3.)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information). *(Tor B.1.)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	The provision of banking information under treaties which do not specifically provide for exchange of foreseeably relevant information is subject to restrictions which are not in line with the standard. Consequently, banking information cannot be exchanged in line with the standard with 16 out of Latvia's 99 EOI partners.	Latvia should ensure that its competent authority has access powers in respect of banking information requested by all its EOI partners.
	Latvian law protects all information obtained by the legal representative in connection with providing legal services without appropriate restrictions.	Latvia should ensure that the scope of the attorney-client privilege as provided in domestic law is consistent with the international standard.
Phase 2 rating: Largely compliant.	Amendment of the Latvian law in respect of access to banking information under EOI instruments which provide for exchange of foreseeably relevant information came into force only in August 2015 and remains to be tested in practice.	Latvia should monitor implementation of the amendment of the Credit Institutions Law so that all banking information as requested by its EOI partners can be provided in line with the international standard.

Phase 2 rating: Largely compliant. *(continued)*	Although the requested information was in the vast majority of cases obtained directly by the Latvian Competent Authority it appears that the tax authority is hesitant to use all its information gathering powers including tax audits and compulsory measures in order to obtain information requested for exchange of information purposes.	Latvia should monitor use of its access and compulsory powers so that the requested information is effectively obtained in all cases.
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.)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
Exchange of information mechanisms should allow for effective exchange of information. *(ToR C.1.)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	As a result of domestic law limitations with respect to access to banking information Latvia does not have EOI relations in force providing for effective exchange of information to the standard with 16 out of Latvia's 99 EOI partners.	Latvia should ensure that all its EOI relations provide for exchange of information to the standard.
Phase 2 rating: Largely compliant.		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners. *(ToR C.2.)*		
Phase 1 determination: The element is in place.		Latvia should continue to develop its exchange of information network with all relevant partners.
Phase 2 rating: Compliant.		

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received. *(ToR C.3.)*		
Phase 1 determination: The element is in place.		
Phase 2 rating: Largely compliant.	Although domestic confidentiality rules allow disclosure of information which goes beyond the standard the received information is not clearly marked as obtained under an international treaty and therefore may be used not in line with the standard.	Latvia should take measures to ensure that the received information is in all cases treated in accordance with the respective treaty under which it was obtained.
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. *(ToR C.4.)*		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	Latvia's EOI agreements do not define the term "professional secret" and the scope of the term under its domestic laws is wide and goes beyond the international standard.	It is recommended that Latvia limits the scope of "professional secret" in its domestic laws so as to be in line with the standard for exchange of information.
Phase 2 rating: Largely compliant.		
The jurisdiction should provide information under its network of agreements in a timely manner. *(ToR C.5.)*		
Phase 1 determination: This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.		

Phase 2 rating: Compliant.	Latvia has in place appropriate organisational processes. Nevertheless there appear to be room for improvement in terms of resources dedicated to exchange of information practice. The workload does not currently lead to significant delays in exchange of information however it has negative impact on Latvia's ability to systematically provide status updates and may lead to delays or drop in quality of responses where more requests will need to be handled.	Latvia should take measures to ensure that appropriate resources are put in place so that it continues to provide information in a timely manner and, in cases where the information is not provided within 90 days, it updates the requesting competent authority on the status of the request in all cases.

Annex 1: Jurisdiction's response to the review report[24]

Latvia is committed to the internationally agreed standards for transparency and exchange of information in tax matters.

The Phase 2 Report reflects the actual situation of our country regarding its legal framework, practices and procedures in the field of transparency and exchange of tax information. We believe that the recommendations given in the peer review report will ensure effective implementation of the international standards of transparency and exchange of information for tax purposes.

Latvia will put its efforts to ensure that its legal framework, practices and procedures are in line with the international standard and will support Global Forum in its activities taken to achieve more transparent environment in the global perspective.

We would also like to thank the Peer Review Group members and the assessment team for all the engagement and the constructive approach during discussions of the report.

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

Annex 2: List of Latvia's exchange of information mechanisms

European Union exchange of information mechanisms

Latvia exchanges information with EU members under:

- the new EU Council Directive 2011/16/EU of 15 February 2011 on administrative co-operation in the field of taxation. This Directive came into force on 1 January 2013. It repeals Council Directive 77/799/EEC of 19 December 1977 and provides inter alia for exchange of banking information on request for taxable periods after 31 December 2010 (Article 18). All EU members were required to transpose it into national legislation by 1 January 2013. The current EU members, covered by this Council Directive, are: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.
- EU Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments. This Directive aims to ensure that savings income in the form of interest payments generated in an EU member state in favour of individuals or residual entities being resident of another EU member state are effectively taxed in accordance with the fiscal laws of their state of residence. It also aims to ensure exchange of information between member states.
- Council Regulation (EU) No. 904/2010 of 7 October 2010 on administrative co-operation and combating fraud in the field of value added tax (recast of the Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative co-operation in the field of value added tax);
- Council Regulation (EC) No. 2073/2004 of 16 November 2004 on administrative co-operation in the field of excise duties.

Multilateral and bilateral exchange of information agreements

- Latvia signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as well as its 2010 Protocol on 29 May 2013. The Multilateral Convention was ratified by Latvia on 8 May 2014 and entered into force on 1 November 2014. The status of the Multilateral Convention as at August 2015 is set out in the table below. [25] The table also includes territories to which the Multilateral Convention applies based on territorial extension declared by a state party.
- Latvia has signed 58 DTCs and two TIEAs all of which except one are in force (see the table below).

Table of Latvia's exchange of information relations

The table below summarises Latvia's EOI relations with individual jurisdictions established through international agreements or EU Council Directive 2011/16/EU. These relations allow for exchange of information upon request in the field of direct taxes. In case of the Multilateral Convention the date when the agreement entered into force indicates date when the Convention becomes effective between Latvia and the respective jurisdiction. In case of the EU Directive the date signed indicates date when the EU Directive was adopted and the date of entry into force of the EU Directive indicates the date when implementing provisions dealing with exchange of information upon request should become effective in EU member countries.

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
1	Albania	DTC	21-Feb-2008	10-Dec-2008
		Multilateral Convention	Signed	01-Nov-14
2	Andorra	Multilateral Convention	Signed	Not yet in force in Andorra
3	Anguilla [a]	Multilateral Convention	Extended	01-Nov-14
4	Argentina	Multilateral Convention	Signed	01-Nov-14
5	Armenia	DTC	15-Mar-2000	26-Feb-2001
6	Aruba [b]	Multilateral Convention	Extended	01-Nov-14
7	Australia	Multilateral Convention	Signed	01-Nov-14

25. The chart of signatures and ratification of the Multilateral Convention is available at www.oecd.org/ctp/eoi/mutual.

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
8	Austria	DTC	14-Dec-2005	16-May-2007
		Multilateral Convention	Signed	01-Dec-14
		EU Council Directive 2011/16/EU (EU Directive)	15-Feb-2011	01-Jan-2013
9	Azerbaijan	DTC	03-Oct-2005	19-Apr-2006
		Multilateral Convention	Signed	01-Sep-15
10	Belarus	DTC	07-Sep-1995	31-Oct-1996
11	Belgium	DTC	21-Apr-1999	07-May-2003
		Multilateral Convention	Signed	01-Apr-2015
		EU Directive	15-Feb-2011	01-Jan-2013
12	Belize	Multilateral Convention	Signed	01-Nov-14
13	Bermuda [a]	Multilateral Convention	Extended	01-Nov-14
14	Brazil	Multilateral Convention	Signed	Not yet in force in Brazil
15	British Virgin Islands [a]	Multilateral Convention	Extended	01-Nov-14
16	Bulgaria	DTC	04-Dec-2003	18-Aug-2004
		EU Directive	15-Feb-2011	01-Jan-2013
17	Cameroon	Multilateral Convention	Signed	01-Oct-15
18	Canada	DTC	26-Apr-1995	12-Dec-1995
		Multilateral Convention	Signed	01-Nov-14
19	Cayman Islands [a]	Multilateral Convention	Extended	01-Nov-14
20	Chile	Multilateral Convention	Signed	Not yet in force in Chile
21	China	DTC	07-Jun-1996	27-Jan-1997
		DTC Protocol	24-Aug-2011	19-May-2012
		Multilateral Convention	27-Aug-2013	No yet in force in China
22	Colombia	Multilateral Convention	Signed	01-Nov-14
23	Costa Rica	Multilateral Convention	Signed	01-Nov-14
24	Croatia	DTC	19-May-2000	27-Feb-2001
		EU Directive	15-Feb-2011	01-Jan-2013
		Multilateral Convention	Signed	01-Nov-14
25	Curacao [b]	Multilateral Convention	Extended	01-Nov-14

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
26	Cyprus [c]	EU Directive	15-Feb-2011	01-Jan-2013
		Multilateral Convention	Signed	01-Apr-15
27	Czech Republic	DTC	25-Oct-1994	22-May-1995
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
28	Denmark	DTC	10-Dec-1993	27-Dec-1993
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
29	El Salvador	Multilateral Convention	Signed	Not yet in force in El Salvador
30	Estonia	DTC	11-Feb-2002	21-Nov-2002
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
31	Faroe Islands [d]	Multilateral Convention	Extended	01-Nov-14
32	Finland	DTC	23-Mar-1993	30-Dec-1993
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
33	FYROM	DTC	08-Dec-2006	25-Apr-2007
34	France	DTC	14-Apr-1997	1-May-2001
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
35	Gabon	Multilateral Convention	Signed	Not yet in force in Gabon
36	Georgia	DTC	13-Oct-2004	24-Mar-2005
		DTC Protocol	29-May-2004	27-Nov-2012
		Multilateral Convention	Signed	01-Nov-14
37	Germany	DTC	21-Feb-1997	26-Sep-1998
		Multilateral Convention	Signed	Not yet in force in Germany
		EU Directive	15-Feb-2011	01-Jan-2013
38	Ghana	Multilateral Convention	Signed	01-Nov-14
39	Greece	DTC	27-Mar-2002	07-Mar-2005
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
40	Greenland [d]	Multilateral Convention	Extended	01-Nov-14
41	Guatemala	Multilateral Convention	Signed	Not yet in force in Guatemala
42	Guernsey [a]	TIEA	05-Sep-2012	04 Oct-2013
		Multilateral Convention	Extended	01-Nov-14
43	Hungary	DTC	14-May-2004	22-Dec-2004
		EU Directive	15-Feb-2011	01-Jan-2013
		Multilateral Convention	Signed	01-Mar-15
44	Iceland	DTC	19-Oct-1994	1-Jan-1996
		Multilateral Convention	Signed	01-Nov-14
45	India	Multilateral Convention	Signed	01-Nov-14
		DTC	18-Sep-2013	29-Dec-2013
46	Indonesia	Multilateral Convention	Signed	01-May-15
47	Ireland	DTC	13-Nov-1997	18-Dec-1998
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
48	Isle of Man [a]	Multilateral Convention	Extended	01-Nov-14
49	Israel	DTC	20-Feb-2006	01-Jan-2007
50	Italy	DTC	21-May-1997	13-Jul-2006
		DTC Protocol	09-Dec-2004	16-Jun-2008
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
51	Japan	Multilateral Convention	Signed	01-Nov-14
52	Jersey [a]	TIEA	28-Jan-2013	1-Mar-2014
		Multilateral Convention	Extended	01-Nov-14
53	Kazakhstan	DTC	06-Sep-2001	02-Dec-2002
		Multilateral Convention	Signed	01-Aug-15
54	Korea, Republic of	DTC	15-Jun-2008	26-Dec-2009
		Multilateral Convention	Signed	01-Nov-14
55	Kuwait	DTC	09-Nov-2009	25-Apr-2013
56	Kyrgyzstan	DTC	07-Dec-2006	04-Mar-2008
57	Liechtenstein	Multilateral Convention	Signed	Not yet in force in Liechtenstein

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
58	Lithuania	DTC	17-Dec-1993	30-Dec-1994
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
59	Luxembourg	DTC	14-Jun-2004	14-Apr-2006
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
60	Malta	DTC	22-May-2000	24-Oct-2000
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
61	Mauritius	Multilateral Convention	Signed	Not yet in force in Mauritius
62	Mexico	DTC	20-Apr-2012	02-Mar-2013
		Multilateral Convention	Signed	01-Nov-14
63	Moldova, Republic of	DTC	25-Feb-1998	24-Jun-1998
		Multilateral Convention	Signed	01-Nov-14
64	Monaco	Multilateral Convention	Signed	Not yet in force in Monaco
65	Montenegro	DTC	22-Nov-2005	19-May-2006
66	Montserrat[a]	Multilateral Convention	Extended	01-Nov-14
67	Morocco	DTC	24-Jul-2008	25-Sep-2012
		Multilateral Convention	Signed	Not yet in force in Morocco
68	Netherlands	DTC	14-Mar-1994	29-Jan-1995
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
69	New Zealand	Multilateral Convention	Signed	01-Nov-14
70	Nigeria	Multilateral Convention	Signed	01-Sep-15
71	Norway	DTC	19-Jul-1993	30-Dec-1993
		Multilateral Convention	Signed	01-Nov-14
72	Poland	DTC	17-Nov-1993	28-Jun-1994
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
73	Portugal	DTC	19-Jun-2001	07-Mar-2003
		Multilateral Convention	Signed	01-Mar-15
		EU Directive	15-Feb-2011	01-Jan-2013
74	Philippines	Multilateral Convention	Signed	Not yet in force in Philippines
75	Qatar	DTC	26-Sep-14	
76	Romania	DTC	25-Mar-2002	28-Nov-2002
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
77	Russian Federation	DTC	20-Dec-2010	06-Nov-2012
		Multilateral Convention	Signed	01-Jul-15
78	San Marino	Multilateral Convention	Signed	Not yet in force in San Marino
79	Saudi Arabia	Multilateral Convention	Signed	Not yet in force in Saudi Arabia
80	Serbia	DTC	22-Nov-2005	19-May-2006
81	Seychelles	Multilateral Convention	Signed	01-Oct-15
82	Singapore	DTC	06-Oct-1999	18-Feb-2000
		Multilateral Convention	Signed	Not yet in force in Singapore
83	Sint Maarten[b]	Multilateral Convention	Extended	01-Nov-14
84	Slovakia	DTC	11-Mar-1999	12-Jun-2000
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
85	Slovenia	DTC	17-Apr-2002	18-Nov-2002
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
86	South Africa	Multilateral Convention	Signed	01-Nov-14
87	Spain	DTC	04-Sep-2003	14-Dec-2004
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
88	Sweden	DTC	05-Apr-1993	30-Dec-1993
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
89	Switzerland	DTC	31-Jan-2002	18-Dec-2002
		Multilateral Convention	Signed	Not yet in force in Switzerland
90	Tajikistan	DTC	09-Feb-2009	29-Oct-2009
91	Tunisia	Multilateral Convention	Signed	01-Nov-14
92	Turkey	DTC	03-Jun-1999	23-Dec-2003
		Multilateral Convention	Signed	Not yet in force in Turkey
93	Turkmenistan	DTC	11-Sep-2012	04-Dec-2012
94	Turks & Caicos [a]	Multilateral Convention	Extended	01-Nov-14
95	Ukraine	DTC	21-Nov-1995	01-Jan-1997
		Multilateral Convention	Signed	01-Nov-14
96	United Arab Emirates	DTC	11-Mar-2012	11-Jun-2013
97	United Kingdom	DTC	08-May-1996	31-Dec-1996
		Multilateral Convention	Signed	01-Nov-14
		EU Directive	15-Feb-2011	01-Jan-2013
98	United States	DTC	15-Jan-1998	30-Dec-1999
		Multilateral Convention	Signed	01-Nov-14 (amended convention not yet in force in USA)
99	Uzbekistan	DTC	03-Jul-1998	23-Oct-1998

Notes: a. Extension by United Kingdom.

b. Extension by the Netherlands.

c. 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.

d. Extension by Denmark.

Annex 3: List of all laws, regulations and other Relevant material

Commercial Laws

Accounting Law

Annual Accounts Law

Associations and Foundations Law

Co-operative Societies Law

Financial Instruments Market Law

The Commercial Law

The Law on European Cooperative Societies

The Law on Investment Companies

The Law on the Enterprise Register of the Republic of Latvia

Taxation Laws

The Law on Enterprise Income Tax

The Law on Personal Income Tax

The Law on Taxes and Fees

The Law on the State Revenue Service

The Law on Savings and Loan Associations

Banking Laws

Credit Institutions Law

Anti-Money Laundering Laws

Prevention of Money Laundering and Terrorism Financing Law

Other

Administrative Violations Code

Cabinet Regulation No. 1245 on Procedures for the Performing Exchange of Information in the Field of Taxation between the Competent Authorities of Latvia and Other European Union Member States and Competent Authorities of Foreign States with which International Agreements Ratified by the Saeima of the Republic of Latvia have been Entered into

Law on International Agreements of the Republic of Latvia

State Civil Servant Disciplinary Law

The Constitution of the Republic of Latvia

Copies of tax treaties

Annex 4: Authorities interviewed during the on-site visit

Ministry of Finance

State Revenue Service

Ministry of Justice

Enterprise Registry

Financial and Capital Market Commission

Central Bank of the Republic of Latvia

Financial Intelligence Unit

Financial Police

Bar Association

Chamber of Tax Advisors

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