

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report
Phase 2
Implementation of the Standard
in Practice

PAKISTAN



Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Pakistan 2016

PHASE 2:
IMPLEMENTATION OF THE STANDARD IN PRACTICE

July 2016
(reflecting the legal and regulatory framework
as at May 2016)

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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 130 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 Pakistan 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. Pakistan is a state located in South Asia with an area of 796 095 sq km and a population of about 196 million. Pakistan’s GDP is about EUR 490 billion. Agriculture accounts for more than 20% of the GDP and 45% of employment. Textiles account for most of Pakistan’s export earnings. Imports consist mainly of petroleum products and machinery. Remittances from overseas workers remain an important source of investment for Pakistan. Pakistan is a member of many international organisations such as the United Nations, World Trade Organization or International Monetary Fund.

3. The Pakistani legal and regulatory framework ensures that ownership information regarding all relevant entities is available in Pakistan in line with the international standard with the exception of foreign trusts administered by Pakistan resident trustees. All domestic companies are required to provide information on their founders upon registration and annually report any changes subsequently. All companies (including foreign companies with place of effective management in Pakistan) are required to file annual tax returns which have to include information on their shareholders. In addition, domestic companies are required to keep a register of shareholders in their registered office. Partnerships established under Pakistan’s law are required to submit information on their partners and report any subsequent changes thereof to the registrar and to the tax authority. Foreign partnerships that carry on business in Pakistan through a permanent establishment or have a place of effective management there are required to register with the tax administration and the same registration and filing requirements as in case of domestic partnerships apply. Trustees are required by the Anti-Money

Laundering (AML) law and the Trust Act to keep trust documentation which contains identification of settlors and beneficiaries and the trust contract needs to be provided to the tax administration upon registration. Foundations established under Pakistan’s law appear to be not relevant to the work of the Global Forum. Nevertheless, information on their founders and representatives has to be provided to the registrar and to the tax authority.

4. Availability of ownership information in practice is ensured mainly through *(i)* filing requirements with the Security and Exchange Commission of Pakistan (SECP) and the Federal Board of Revenue (FBR), *(ii)* supervisory measures carried out by these authorities and *(iii)* application of sanctions. Ownership information on certain companies and partnerships is available with financial institutions under AML obligations, if engaged by the company or partnership, or with companies and partnerships themselves. However compliance rates of about 40% and 50% with filing obligations with the SECP and the FBR respectively in combination with limited inspection of ownership information and enforcement do not ensure that the information is available as required under the law in all cases. Further, a clear obligation on trustees to maintain information on settlors and beneficiaries was introduced only in December 2015 and the AML supervisory and enforcement system has not yet been set up for trustees who are not financial institutions.

5. All relevant entities are required to maintain accounting records and underlying documentation in line with the standard. Entities involved in economic activities in Pakistan are required under the commercial laws and tax law to keep accounting records that correctly explain the entity’s transactions, enable it to determine the entity’s financial position with reasonable accuracy at any time and allow financial statements to be prepared. Underlying documentation in line with the standard is required to be kept under tax laws and commercial laws. Accounting records and underlying documentation is required to be kept for at least five years after the end of the year to which they relate.

6. Availability of accounting information in practice is mainly ensured through supervision by the FBR and the SECP supported by application of sanctions and filing requirements. Practical availability of accounting information is slightly higher than in respect of ownership information as *(i)* compliance rate with filing of accounting records with the SECP is higher than in case of ownership information, *(ii)* accounting information is compulsorily checked during all tax inspections, *(iii)* annual accounts are required to be included in all tax returns and *(iv)* application of sanctions by the SECP and the FBR is higher than in case of ownership information. Nevertheless supervisory and enforcement measures taken by the Pakistani authorities do not result in sufficient levels of compliance to ensure that the relevant accounting information (including underlying documentation) is available in practice in all cases.

7. The legal and regulatory framework in Pakistan requires availability of banking information in line with the standard. Anonymous accounts, accounts on fictitious names or numbered accounts are prohibited. Obligations to maintain identity information on all account-holders (including identification of their ownership structure) and transaction records are contained mainly in AML/CFT regulations. These obligations are properly implemented in practice through on-going monitoring and system of on-site inspections by the State Bank of Pakistan, the SECP and reporting by auditors.

8. The Pakistan's competent authority has broad access powers to obtain and provide the requested information which are supported by appropriate enforcement provisions to compel the production of information, including criminal sanctions and search and seizure power. Tax authority's access powers remain applicable regardless of banking secrecy or other secrecy privileges. All these access powers can be used to obtain information requested under all international agreements providing for exchange of information regardless of domestic tax interest. Pakistan's legislation does not require notification of the persons concerned prior or after providing the requested information to the requesting jurisdiction. Appeal rights against obtaining or providing the requested information are not foreseen by the tax law.

9. In practice, the requested information is in majority of cases obtained by the tax authority's field office from the taxpayer using its power under section 176 of the Income Tax Ordinance. During the review period no difficulties were encountered in exercising access powers for exchange of information purposes although in several cases obtaining information directly from the taxpayer led to delays in providing the requested information. There was also no case where rights and safeguards contained in Pakistan's law unduly prevented or delayed exchange of information.

10. Pakistan has broad EOI network covering 68 jurisdictions through 64 DTCs and the South Asian Association for Regional Cooperation (SAARC) Agreement. Out of 65 Pakistan's agreements 61 meet the international standard. All Pakistan's EOI agreements are in force except for two DTCs. Pakistan's EOI network covers all of its significant partners including its main trading partners and no jurisdiction has advised that Pakistan had refused to enter into negotiations or conclude an EOI agreement. In practice, no issues in respect of the application of Pakistan's treaties arose during the period under review. Nor was there any case where Pakistan refused to provide the requested information.

11. All Pakistan's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. Nevertheless thirteen old DTCs may allow disclosure of exchanged information beyond the standard. Although the provisions of Pakistan's EOI agreements override domestic laws, meaning that

the confidentiality provisions present therein have full legal effect in Pakistan a newly introduced section in the Income Tax Ordinance states that any information exchanged under a treaty should be kept confidential in accordance with confidentiality rules for domestic cases. It is therefore not clear which section of the domestic law will prevail or to which extent. The scope of information which can be disclosed to the taxpayer or to the information holder is in line with the standard as was confirmed in practice. Information subject to trade, business, industrial or professional secret is obtainable by the competent authority and can be exchanged in line with the respective treaty.

12. There are no legal restrictions on the ability of Pakistan'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. Pakistan received 16 requests over the period under review. The requested information was provided within 90 days, within 180 days and within one year in 12.5%, 37.5% and 50% of the time respectively. Whilst there were no cases where Pakistan failed to provide the requested information, a few cases reported by peers highlighted issues related to establishing a contact with the Pakistani Competent Authority and delays in receiving the requested information. Although Pakistan has generally in place organisational processes and resources to ensure effective exchange of information, improvements should continue to be done in certain important areas to ensure that the requested information is provided in a timely manner.

13. Pakistan 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 Pakistan's legal and regulatory framework and the effectiveness of its exchange of information in practice. On this basis, Pakistan has been assigned the following ratings: Compliant for elements A.3, B.1, B.2, C.1, C.2 and C.4; Largely Compliant for elements A.2 and C.3; and Partially Compliant for elements A.1 and C.5. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Pakistan is Largely Compliant.

14. Recommendations have been made where elements of Pakistan's EOI regime have been found to be in need of improvement. A follow-up report on the measures taken by Pakistan to respond to the recommendations made in the present report will be provided to the Peer Review Group in June 2017 in accordance with the 2016 Methodology for the second round of peer reviews.

Introduction

Information and methodology used for the peer review of Pakistan

15. The assessment of the legal and regulatory framework of Pakistan as well as its practical implementation was 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 Pakistan’s legal and regulatory framework for the exchange of information as at May 2015, while the Phase 2 review assessed the practical implementation of this framework during a three year period (January 2012 through December 2014) as well as amendments made to this framework since the Phase 1 review up to May 2016. The following analysis reflects the integrated Phase 1 and Phase 2 assessments.

16. The assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at 13 May 2016, Pakistan’s responses to the Phase 1 and Phase 2 questionnaires, supplementary questions, information provided during the on-site visit in Islamabad, Pakistan which took place on 8-9 March 2016, other materials supplied by Pakistan and information provided by partner jurisdictions. During the on-site visit, the assessment team met with officials and representatives of relevant government agencies including the Federal Board of Revenue and the Security and Exchange Commission of Pakistan (see Annex 4).

17. 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 Pakistan’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 Pakistan’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 against those elements is set out at the end of this report.

18. The Phase 1 and Phase 2 assessments were conducted by a team which consisted of two expert assessors: Mr. Paul Metcalfe, Foreign Profits Team, HMRC, the United Kingdom and Mr. Abdulmohsen Nasser Alsubhayl, Department of Zakat and Income Tax, Ministry of Finance, Saudi Arabia; and a representative of the Global Forum Secretariat: Mr. Radovan Zidek.

Overview of Pakistan

19. Pakistan is a state located in South Asia with an area of 796 095 sq km and a population of about 196 million (July 2014 est.) making it the seventh most populous country in the world. The capital city of Pakistan is Islamabad. About 36% of the total population lives in urban areas with Karachi (14 million) and Lahore (8 million) being the most populous ones. Pakistan borders on the north with the People’s Republic of China (China), on the west with Afghanistan, on the east with India and on the south with the Islamic Republic of Iran (Iran) and the Arabian sea. The official languages are English and Urdu. The official currency is the Pakistani rupee (PKR).¹

20. Pakistan’s GDP is about EUR 219 billion (latest figures 2014)² making it the 43rd biggest economy in the world. Agriculture accounts for more than 20% of the GDP and 45% of employment. Industry output represents about 20% of GDP and services above 60% of GDP. Main agricultural products include cotton, wheat, rice and sugarcane. Industry is based on production of textiles and apparel, food processing, pharmaceuticals and construction materials. Textiles account for most of Pakistan’s export earnings. Imports consist mainly of petroleum products and machinery. Remittances from overseas workers, averaging about EUR 0.8 billion a month remain an important source of investment for Pakistan. Over the past few years, low growth and high inflation have increased the amount of poverty with growth averaging about 3.5% per year from 2008 to 2013. In 2014 and 2015

1. As of March 2016: EUR 1 = PKR 116.649.

2. <http://data.worldbank.org/country/pakistan>, accessed on 12 March 2016.

Pakistan's GDP grew for an estimated 4% reflecting recent infrastructure improvements.

21. The main trading partners of Pakistan are China and the United States. In terms of exports the main partners in 2012 were the United States (13.3%) followed by China (11.4%), the United Arab Emirates (8.5%) and Afghanistan (7.8%). Main importing partners were China (19.8%), Saudi Arabia (12.8%), the United Arab Emirates (12.5%) and Kuwait (6%).

22. Pakistan is a member of many international organisations including the United Nations, World Trade Organization, International Monetary Fund, the South Asian Association for Regional Cooperation (SAARC) or the Asia/Pacific Group on Money Laundering (APG). Pakistan is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes since September 2012.

General information on the legal system and the taxation system

Governance and the legal system

23. Pakistan is a federal Islamic republic with a multi-party system. The executive, legislative and judiciary branches of the state are independent. The executive branch is headed by the Prime Minister. The prime minister is appointed by the members of the National Assembly. The prime minister is assisted by the Federal Cabinet, a council of ministers whose members are appointed by the president on the advice of the prime minister. The legislature branch consists of Parliament composed of two chambers – the Senate and the National Assembly. The Senate consists of members representing each of the four provinces elected by the provinces' assemblies. New members of the Senate can be elected upon its dissolution by the President. Members of the National Assembly are elected by universal adult suffrage for a period of five years. The President represents the unity of Pakistan and has several ceremonial functions. The judiciary includes the Supreme Court, provincial high courts and district courts exercising civil and criminal jurisdiction. Tax cases are adjudicated by high courts established in all provinces.

24. Pakistan is a federal country subdivided into four provinces, two territories and one capital territory.³ Each province has a directly elected legislature (Provincial Assembly) elected for five-year terms. Each Assembly elects a Chief Minister who appoints the ministers of his/her cabinet. The country consists of 110 municipalities and nine cities which are self-governing units with power to issue by-laws, regulations and decisions with sub-law

3. These are Balochistan, Khyber Pakhtunkhwa, Punjab, Sindh, Federally Administered Tribal Areas, Gilgit–Baltistan, Islamabad Capital Territory.

regulatory power. However, the authority to legislate rests with only federal and provincial legislatures.

25. Pakistan's legal system is based upon the legal system of British India, which derived heavily from the common law tradition of England and Wales. In some federally and provincially Administered Tribal Areas a system of law employing traditional methods persists at the local level. International agreements (including agreements for exchange of information for tax purposes) which settle matters regulated by law require ratification by the Pakistan's Parliament. 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.

The tax system

26. Pakistan's tax system comprises direct and indirect taxes, fees and duties. Taxes on income (other than agricultural income), capital taxes, customs, excise duties and sales taxes on goods and services are levied by the Federal Government whereas sales taxes on services are levied by Provincial governments. The Federal Board of Revenue (FBR) and its subordinate departments administer the tax system. Provincial governments have jurisdiction over sales tax on services. Local governments are empowered to raise revenue through local cesses and levies.

27. The tax system consists of:

- corporate income tax – corporate tax rate is 33%, small companies are taxed at rate 25%, dividends and interests paid to non-residents are subject to withholding tax which varies from 7.5% to 17.5%, royalties and service fees are subject to withholding tax of 15%, other payments to non-residents are generally taxed at withholding tax rate of 20%;
- personal income tax – tax rates differ between salaried and non-salaried taxpayers, the maximum rate for salaried taxpayers is 30% and for non-salaried taxpayers 35%;
- indirect taxes – sales tax is at standard rate 17%, federal and local excise duties are at various rates levied on oil products, tobacco, cigarettes, lubricants or transportation vehicles;
- other taxes – customs duty, stamp duty, property tax or capital value tax.

28. Pakistan taxes its residents (companies and individuals) on their worldwide income (s.11(5) Income Tax Ordinance). All companies established under Pakistan's law and foreign companies with place of effective

management in Pakistan are considered as tax residents in Pakistan (s. 83). An individual is a Pakistan's tax resident if that person has its permanent address or "a usual residence" (183 days rule) in Pakistan (s. 82). A permanent establishment of a foreign company is treated as Pakistan resident and is liable to tax from Pakistan source income and worldwide income attributable to the permanent establishment (s. 101(3)(a)). Non-resident companies carrying on activity in Pakistan (not through a permanent establishment) and non-resident individuals working in Pakistan are subject to tax only on their Pakistan source income (s. 11(6)).

Exchange of information for tax purposes

29. Pakistan signed the first tax agreement providing for exchange of information in 1957. Most of exchange of information takes place with jurisdictions that are home to a significant number of Pakistani overseas workers and investor jurisdictions such as the United Kingdom, the United States, France and Norway. Pakistan's competent authority for exchange of information purposes is the Federal Board of Revenue. The Federal Board of Revenue is an independent government body responsible for formulation and administration of fiscal policies, levy and collection of federal taxes and quasi-judicial function of hearing of appeals.

30. Pakistan provides international co-operation in tax matters based on double tax conventions and the SAARC Limited Multilateral Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in Tax Matters. Pakistan has in total 68 exchange of information relationships. The domestic regulation of exchange of information is contained in the Income Tax Ordinance providing rules for domestic taxation.

Overview of the financial sector and relevant professions

31. Pakistan's financial sector is predominantly bank-based, it also includes a wide range of non-bank financial institutions such as Non-Bank Finance Companies (NBFCs), Insurance companies, Microfinance banks, Islamic banks and the Central Directorate of National Savings (CDNS), in addition to swiftly evolving financial markets. The total value of assets in the Pakistan's financial sector is EUR 140 billion as at January 2016. The banking sector represents about 85% of total assets in the financial sector. The Islamic mode of financing is performed by banks and financial institutions either independently or in most cases along with the regular banking. The total value of assets in the Islamic banking sector amounts to EUR 14.1 billion (10% of total assets in the financial sector). The same law requirements in respect of availability of banking information apply to regular as well as Islamic banking. Pakistan's economy remains cash-based to a

significant extent with a large informal and partially undocumented sector. The insurance industry in Pakistan is relatively small. The capital market in Pakistan consists of single unified national stock exchange, the Pakistan Stock Exchange. The unified Pakistan Stock Exchange started its operations in January 2016. The principal securities traded on the exchange are ordinary shares. However, other securities such as mutual fund certificates, Modaraba certificates⁴, government and corporate bonds and Term Finance Certificates are also being traded. In addition, Pakistan Mercantile Exchange Limited (PMEX) is the Pakistan's only commodity futures exchange, dealing in gold, silver, crude and commodity futures. The financial sector in Pakistan is regulated by the State Bank of Pakistan (SBP) and the Security and Exchange Commission of Pakistan (SECP). The SBP regulates banks, development finance institutions and exchange companies. The SECP regulates the remaining parts of the financial sector including investment or asset management companies, insurance companies, financial intermediaries such as brokers and the Pakistan Stock Exchange.

32. The sector of Designated Non-Financial Businesses and Professions (DNFBPs) comprises mainly lawyers, notaries, accountants, real estate agents and jewellers. As at January 2016 there are 113 000 licensed lawyers in Pakistan, 3 500 of which are permitted to appear before the Supreme Court. Lawyers in Pakistan are called “advocates.” The Legal Practitioners and Bar Council Act govern the profession and a lawyer is only allowed to practice if he/she is properly qualified in accordance with this Act. The notary function is performed by lawyers who meet the qualifications requirement under the Notaries Ordinance 1961. The accounting profession is dominated by the chartered accountants licensed by the Institute of Chartered Accountants of Pakistan (ICAP). Outside the membership of the institute there is another accounting sector that focuses on conducting audits. On January 2016 the total membership of ICAP was 7 535 chartered accountants. In Pakistan trust and company service providers are not recognised as a discrete profession which is mostly performed by lawyers and accountants. The AML supervisory authority in respect of DNFBPs is the National Executive Committee.

33. The system of AML/CFT regulation and supervision of financial institutions in Pakistan is primarily based on anti-money laundering/combating financing of terrorism Act (AML Act) and partially on the industry laws and regulations that govern the activities of financial institutions. Regulation of AML issues is under the overall control of the Ministry of Finance.

4. “Modaraba Certificate” means a certificate of definite denomination issued to the subscriber of the Modaraba acknowledging receipt of money subscribed by him (s.2(1) (b) Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980). Rules regarding issuance, registration and transfer of Modaraba certificates are the same as apply to other registered securities.

Recent developments

34. Pakistan applied to be invited to become a party to the Convention on Mutual Administrative Assistance in Tax Matters, as amended (Multilateral Convention) in April 2014. Its application is currently under review by the Convention's Coordinating Body. In order to be invited to sign and ratify the Multilateral Convention Pakistan amended its Income Tax Ordinance to provide for exchange of information under the Multilateral Convention or any other international treaty providing for such administrative assistance. The legal amendment came into force in July 2015. Pakistan is currently in the process of further amendment of its tax confidentiality rules to clarify the protection of information obtained under international treaties including the Multilateral Convention as suggested by the Convention's Coordinating Body (see further section C.3). If approved by the Parliament the amendment is expected to come into force in early July 2016.

35. Several amendments to the Income Tax Ordinance, the Sales Tax Act and the Federal Excise Act were made through the Finance Act 2015 which came into force in July 2015. One of the purposes of these amendments was to address the issue identified under element B.1. and C.2 in respect of use of access powers for obtaining information pursuant to requests made under treaties which do not provide for avoidance of double taxation. In addition to providing for the possibility to conclude international treaties solely for the purpose of exchange of information, the amendments confirm that domestic access powers can be used for exchange of information purposes and they introduced obligations on banks to provide information to the tax administration about all non-resident persons holding bank accounts in Pakistan on automatic basis (see further section B.1).

36. An amendment of the AML Act requiring all AML obliged persons including DNFBPs to conduct Customer Due Diligence (CDD) measures which also entail the identification of beneficial owners of their clients came into force in December 2015 (see further section A.1).

Compliance with the Standards

A. Availability of information

Overview

37. 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 authority⁵ may not be able to obtain and provide it when requested. This section of the report describes and assesses Pakistan's legal and regulatory framework for availability of information and its implementation in practice.

38. The Pakistani legal and regulatory framework ensures that ownership information regarding all relevant entities is required to be available in Pakistan in line with the international standard. All domestic companies are required to provide information on their founders upon registration with the SECP and annually report any changes in shareholders subsequently. All companies (including foreign companies with place of effective management in Pakistan) are required to file annual tax returns which have to include

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.

information on their shareholders. In addition, domestic companies are required to keep register of shareholders containing their current and historical shareholders in their registered office.

39. Pakistan's law does not provide for issuance of bearer shares. All shares issued are in form of registered shares.

40. Partnerships established in Pakistan are required to submit information on all their partners and report any subsequent changes thereof to the registrar and to the tax authority. Foreign partnerships that carry on business in Pakistan through a permanent establishment or have a place of effective management there are required to register with the tax administration and the same registration and filing requirements as in case of domestic partnerships apply.

41. Trustees are required to keep trust documentation which contains identification of settlors and beneficiaries under the AML law and the Trust Act. Further, domestic trust contracts are required to be registered with civil courts and available there. The trust contract also needs to be provided to the tax administration upon its registration.

42. Foundations established under Pakistan's law appear to be not relevant to the work of the Global Forum. Nevertheless, information on their founders and representatives has to be provided to the SECP and to the tax authority.

43. Availability of ownership information in practice is ensured mainly through (i) filing requirements with the SECP and the FBR, (ii) supervisory measures carried out by these authorities including on-site inspection and tax audits and (iii) application of sanctions. Compliance with filing requirement of ownership information with the SECP and the FBR is on average about 40% and 50% respectively (see further section A.1). SECP supervision and on-site inspections are focused on public companies which represent about 5% of registered companies. The SECP carries approximately about 100 on-site inspections annually covering about 0.14% of registered companies. In addition, the SECP recently started AML supervision of financial institutions which cover about 36 companies annually. The FBR supervision is focused mainly on taxpayers who are filing their tax returns and covers about 5-10% of all taxpayers annually. Both supervisory authorities apply sanctions in cases of non-compliance. Nevertheless, the number of cases where these sanctions were applied and total amounts of fines do not correspond to the relatively low level of compliance with the key obligations. It is also noted that about 60% of registered companies which do not file their annual returns with the SECP are not subject to sanctions and are not required to file their returns retrospectively unless they start to file their annual returns. Ownership information on certain companies and partnerships is available

with financial institutions under AML obligations, if engaged by the company or partnership, or with the entities themselves. However low compliance rates with filing obligations in combination with limited inspection of ownership information and enforcement do not ensure that the information is available as required under the law in all cases. Pakistan is therefore recommended to take further measures to ensure that ownership information is practically available as required under the international standard. Clear obligation on trustees to maintain information on settlors and beneficiaries was introduced only in December 2015. Although certain trustees are required to keep such information for tax purposes and will be therefore subject to tax supervision if not considered inactive, the AML supervisory and enforcement system has not yet been set up for trustees who are not financial institutions. Pakistan is therefore recommended to address this.

44. Accounting information is required to be available in Pakistan in line with the standard. All relevant entities involved in economic activities in Pakistan are required under the commercial laws and tax law to keep accounting records that correctly explain the entity's transactions, enable it to determine the entity's financial position with reasonable accuracy at any time and allow financial statements to be prepared. Underlying documentation in line with the standard is required to be kept under tax laws and commercial laws. Accounting records and underlying documentation is required to be kept for at least five years after the end of the year to which they relate.

45. In practice, availability of accounting information is mainly ensured through supervision by the FBR and the SECP supported by application of sanctions and filing requirements. Accounting information is compulsorily checked during tax inspections and annual accounts are required to be included in all tax returns including in respect of all trusts. Application of sanctions by the SECP and the FBR in respect of breach of accounting obligations is higher than in case of ownership information. More robust supervision and enforcement than in respect of ownership information can be also evidenced in slightly higher compliance rate with regards to accounting filing requirements with the SECP (see further section A.2.1). Nevertheless although supervisory and enforcement measures are carried out in practice they do not result in sufficient levels of compliance to ensure that the relevant accounting information (including underlying documentation) is available in all cases in practice. Pakistan is therefore recommended to take further measures to ensure that accounting information is available in practice.

46. The legal and regulatory framework in Pakistan requires availability of banking information in line with the standard. Anonymous accounts, accounts on fictitious names or numbered accounts are prohibited. Obligations to maintain identity information on all account-holders (including identification of their ownership structure) and transaction records are contained mainly

in AML/CFT regulations. These obligations are properly implemented in practice through on-going monitoring and system of on-site inspections by the State Bank of Pakistan, the SECP and auditors' reporting.

47. During the period under review Pakistan received in total 16 requests for information. The table below gives summary of requests for ownership and accounting information received during the period under review. In addition, during the same period Pakistan received four requests for banking information. One request can relate to different types of information and entities.

Type of requested information	Companies	Partnerships	Trusts
Ownership information	4	3	1
Accounting information	4	5	1

48. Although certain delays were experienced in providing the requested information there was no case where the information was not available. It is nevertheless noted that the number of received requests is rather low to allow conclusions on general availability of the respective types of information in practice. No specific issue in respect of availability of any type of information was raised by peers however delays in receiving the requested information were reported (see further section C.5).

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 (ToR⁶ A.1.1)

Types of companies

49. The following types of companies can be established under Pakistan's law:

- **a company limited by shares** – a company where liability of its members is limited to the unpaid amount of their shares. A company limited by shares can be
 - a private company – a private company can have a minimum of one and a maximum of 50 members. Its articles of association restrict right to transfer the share to the group of persons who can become shareholders and its shares cannot be offered to general public; or

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

- a public company – a public company can be formed by three or more persons subscribing their names to the Memorandum of Association as prescribed under the Companies Ordinance. Only public companies can be listed on stock exchange;
- **a company limited by guarantee** – a company with liability of its members limited by the memorandum of association to the amount of each member’s asset contribution to the company;
- **an unlimited company** – a company with unlimited liability of its members, i.e. in the event of winding-up of a company its members are liable for the liabilities of the company to the extent that assets of the company are not sufficient to pay its liabilities (ss.2(8), 2(9) and 15(2) Companies Ordinance);

50. As in April 2016 there are registered in Pakistan 69 930 companies limited by shares, 72 companies limited by guarantee and 3 unlimited companies.

51. A company obtains legal personality upon registration with the Securities and Exchange Commission of Pakistan (SECP) (ss.15, 31 and 32 Companies Ordinance). The memorandum of association of a company becomes binding for its members and legal representatives when registered (s.31). Upon registration of the memorandum of a company, the registrar, i.e. SECP, shall issue certificate of incorporation including the date of registration and the type of a company (s.32).

Information kept by public authorities

Registration with SECP

52. Registration of companies and other entities is carried out by the SECP. The SECP keeps register of companies which includes all submitted documents. The SECP is an independent government authority headed by the Chairman, Commissioners, Members and the Board nominated by the federal government (ss.5, 6, 12 Securities and Exchange Commission Act).

53. Founders of a company must upon registration provide to the SECP the memorandum of association and articles of association (s.30 Companies Ordinance). The memorandum of association of a company must include (ss.16, 17 and 18):

- the name of the company with indication of its type;
- address of its registered office
- objects of the company and territories of its activities;
- the liability of its members (limited or unlimited);

- the amount of capital with which the company proposes to be registered, and if the company has share capital the division thereof into shares;
- identification of all members of the company including their name and surname, nationality, occupation, residential address and number of shares or amount of contribution to the company.

54. Changes in the memorandum of association must be reported within 90 days to the SECP. The representative of a company is required to submit a certified copy of the order confirming the alteration together with a printed copy of the altered memorandum. If the submission is complete and in accordance with law requirements the registrar shall issue a certificate confirming registration of the change (s. 24 Companies Ordinance). If a change is not registered within the prescribed deadline it becomes null and void (s. 25).

55. Unlimited company and company limited by guarantee have to register their articles of association together with memorandum of association. Articles of association set out inner regulation of the company and must include amount of its share capital, number of its members at the date of registration and enumerate the voting and other rights attached to the different classes of shares issued or to be issued by it (s. 26 Companies Ordinance).

56. All companies have to file an annual return with SECP. The annual return has to include information on companies' shareholders or members on the date of the annual general meeting (if not held at the last day of the calendar year) and information on all transfers of shares carried out during the reported calendar year identifying parties of the transfer (s. 156 Companies Ordinance and Third Schedule of the Companies Ordinance). The return shall be filed with the registrar in the case of a listed company within 45 days and in the case of any other company within 30 days from the date of the annual general meeting held in the calendar year or, when no such meeting is held, from the last day of the calendar year to which it relates (s. 156(3)). If a company fails to submit an annual return in time, the company and every officer of the company who knowingly and wilfully authorises or permits the default is liable to a fine which can be imposed repeatedly as long as the deficiency continues (s. 156(5)) (see further section A.1.6).

57. There is no provision that limits the time period for which the information entered into the register should be kept. According to the information provided by the Pakistani authorities the information shall therefore be kept for an unlimited period of time and regardless whether the entity has been liquidated.

In practice

58. The registration and maintenance of submitted information is carried out by the SECP. The SECP is staffed with about 1 500 employees

deployed in seven regional offices with local jurisdiction and headquarters in Islamabad. However, not all employees are involved in registration or supervisory functions of the SECP.

59. Registration of companies is carried out through seven regional Company Registration Offices. Applications have to be submitted in physical form and their completeness and accuracy is checked at three administrative levels of the registration authority. The provided information is further verified with the Database of Individuals and, if a foreign individual is involved, with the Ministry of Interior and with information already provided to the SECP. Directors and founders of a company are also vetted based on UN AML/CFT lists. If the application does not contain all required information the applicant is requested to furnish the information within 15 days. If the required information is not provided the application is refused.

60. All registered entities are required to file annual returns containing updated information on the entity including information on transfers of shares during the reported year. If a company fails to submit an annual return, the SECP issues an order requesting the return within 15 days. If the return is not provided, sanctions under the Companies Ordinance are required to be applied by the SECP (see further section A.1.6). According to the Pakistani authorities, the compliance rate with regards to the obligation to file annual returns is about 40% in respect of all registered companies. Out of 61 153 companies required to file their annual returns in 2015 24 798 companies actually did so. If a company fails to provide the annual return it is considered inactive, i.e. about 60% of registered companies are considered inactive. The low compliance rate does not ensure that ownership information is available with the SECP in all cases. Further, inactive companies are not restricted in their operations during the time of their non-compliance and shareholders can transfer their shares without reporting it. If a company starts to file annual returns it is required to file missing returns retrospectively however no sanctions are applied.

61. In addition to information contained in annual returns, information on shareholders of companies listed on the Pakistan stock exchange is available to the SECP through automatic reporting by the Central Depository Company (CDC) of owners of more than 10% of shares in a company.

62. Information provided to the SECP is kept in physical files as well as in a central electronic database. Physical documents are archived after five years but remain available upon request. Electronic records are kept for an unlimited period of time. The name of the registered entity is publicly available online.⁷ In order to obtain any further information including information on the shareholders of a company, it is necessary to send a written request

7. <http://www.secp.gov.pk/ns/>

and pay an administrative fee. Information contained in the register can be used in legal proceedings if it is certified by the SECP.

63. The SECP carries out off-site and on-site inspections to ensure compliance with law requirements. Off-site inspections entail monitoring of filing compliance and cross-checking with information already contained in the register. On-site inspection entails a two week visit to the premises of a company to verify its compliance with law requirements including the obligation to keep a shareholder register and the accuracy of filed information. The focus of on-site inspections is on public companies operating mainly in the insurance sector, non-government organisations and brokers, i.e. on entities handling public funds. Private limited companies, representing about 95% of all registered companies, are subject to on-site inspections if such an inspection is requested by a third party or by a government authority. However, failure to file annual returns as such does not trigger an on-site inspection. The SECP carries out, in total, about 100 on-site inspections focused on companies annually (i.e. covering about 0.14% of registered companies annually).

64. The SECP recently launched several initiatives to encourage more businesses to incorporate and improve companies' compliance with filing requirements. These initiatives include publishing the latest filing status of companies on its website, making all forms and templates such as for company incorporation or fee schedule available through SECP's website, issuing guides on incorporation and post-incorporation requirements in different languages and issuing of public notices and compliance alerts in print media. The SECP is aware of risks connected with high percentage of registered companies which are dormant and do not file their returns and it is gradually increasing its efforts to strike these non-compliant entities off from the register (see further section A.1.6).

65. To sum up, although the SECP takes several measures to ensure that the required information is available including off-site and on-site inspections, the low compliance rate persists and it does not ensure that ownership information will be available with the SECP as required under the law. This is a concern especially in respect of private limited companies which are not a priority of SECP supervisory activities and in respect of companies which are considered inactive by the SECP but are not struck off from the register.

Information provided to tax administration

66. All companies operating in Pakistan must be registered with the tax administration and file income tax returns (s. 114(1)(a) Income Tax Ordinance). Upon registration every taxpayer receives a National Tax Number Certificate serving as identification of the person for tax administration purposes (s. 181). No ownership information is required to be provided to the tax authority upon registration or application for the National Tax Number Certificate.

67. Taxpayers deriving income subject to tax are required to submit an annual income tax return to the tax authority (s. 114 Income Tax Ordinance). Identification of companies' main shareholders is required to be provided in income tax returns. A company is required to include in its tax return ten shareholders with the largest share of the company (Return of Total Income under the Income Tax Ordinance, IT-1). In addition, the tax return must include annual accounts of the undertaking (s. 114(2)) Annual accounts of Pakistan's companies must contain information on complete ownership structure of the entity which according to the Pakistani authorities include identification of its legal owners.

In practice

68. Supervision of obligations to register and file annual returns with the tax authority is carried out by the Federal Board of Revenue (FBR). The supervisory measures are mostly carried out by the field formations consisting of 18 regional tax offices and four large taxpayers units. The Inland Revenue Operations and the Information Technology Departments of the FBR's headquarters are mainly responsible for oversight of the processes carried out by the field offices. The FBR is in total staffed with about 20 000 officials who are to a certain extent all involved in the supervisory activity of the FBR.

69. Upon registration with the SECP, a company is required to also register with the FBR. The number of companies registered with the FBR is rising mainly because of withholding tax rates applied on bank transfers to non-registered companies and because of a requirement to provide the National Tax Number Certificate in order to open a bank account, communicate with government authorities or to do business with certain third parties. There were 51 923 companies registered with the FBR for the tax year 2013, 55 091 for the tax year 2014 and 61 286 in March 2016. It is however noted that the number of companies registered with the SECP is about 10% higher than that with the FBR, despite a legal obligation on all companies to be registered with the FBR and applicable sanctions (see further section A.1.6). Although the SECP is monthly publishing name and address of the newly established companies which list is available also to the FBR the tax registration mechanism would benefit from closer connection between registration with the SECP and with the FBR (e.g. through automatic sharing of detailed information or automatic registration). In order to facilitate their co-operation the FBR and the SECP have signed a Memorandum of Understanding providing basis for co-operation and exchange of information. Both authorities are now considering measures how to co-ordinate more efficiently the registration process of companies. The considered measures include a one stop shop approach where companies could register simultaneously with the FBR and the SECP.

70. All companies are required to file their annual returns electronically. 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 declarations. Tax returns including their annexes are uploaded into the tax database and allocated to regional offices responsible for the particular taxpayer who conducts their further assessment. The information contained in the tax database is kept for at least six years.

71. If a tax return does not include financial statements containing a complete list of shareholders, the tax return is rejected as incomplete and the company is issued a notice under section 120 of the Income Tax Ordinance to provide the missing information. If the information is not provided within the prescribed deadline the return is considered invalid. The company is then assessed based on an estimate and treated as if it fails to register and sanctions under section 182 of the Income Tax Ordinance apply (see further section A.1.6).

72. Failure to provide a tax return may trigger the launch of a tax audit. However, according to the tax audit policy, most tax audits are focused on the verification of data contained in filed tax returns. The FBR distinguishes *(i)* a special audit which is focused on a specific area where inconsistencies were identified or fraud is reported, *(ii)* a detailed audit consisting of in-depth audit of a specific taxpayer which includes an analysis of accounting records and all documentation kept by the taxpayer and *(iii)* a regular audit launched based on risk analysis focused on taxpayer's compliance with tax and accounting record keeping obligations. The Pakistani authorities report that 5-10% of all taxpayers are audited annually.

73. The compliance rate of companies that are registered with the FBR with regards to their tax return filing requirements is less than 50%. For the tax year 2013 out of 51 923 registered companies 25 448 filed their income tax returns (49%) whilst for 2014 out of 55 091 registered companies 26 094 filed their income tax returns (47%). Final data for the tax year 2015 is not yet available. During the last two years the FBR introduced several measures to improve compliance with tax filing obligations. These measures include in particular, the application of withholding tax rates (0.6%) on bank transfers to companies which are not filing their returns. The compliance rate nevertheless remains low and does not ensure that the required ownership information will be available with the FBR as required under the law. About 40% of non-filers (21% of registered companies) are in default for 10 years and more. According to the Pakistani authorities it would be difficult for a company economically active in Pakistan to stay non-compliant for such a long period considering various tax and other obligations linked to the normal course of business activities such as tax deductions on various payments and application of withholding tax.

Information held by companies

74. 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 does not have legal rights of a shareholder (s. 155 Companies Ordinance).

75. The following particulars have to be contained in the register of shareholders in respect of each shareholder:

- the name in full, father's name (in the case of a married woman or widow, the name of her husband or deceased husband), nationality, address, and the occupation, if any, of each member, and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be paid on the shares of each member;
- the date at which each person was entered in the register as a member;
- the date at which any person ceased to be a member and the reason for ceasing to be a member (s. 147(1) Companies Ordinance).

76. Every company with more than 50 members shall keep an index of the names of its members in addition to the register of shareholders. The index should allow readily identification of members of the company. A company shall within 14 days after the date at which any alteration is made in the register of shareholders make the necessary alteration in the index (147(2) Companies Ordinance).

77. Any transfer of shares (including through Modaraba certificates) must be reported to the company either by the transferor or the transferee through a written instrument of transfer. The company shall not register a transfer of shares unless proper instrument of transfer duly stamped by the registration authority and executed by the transferor and the transferee has been delivered to the company (s. 76(1) Companies Ordinance). Every company shall maintain a register of transfers of shares (s. 76(4)).

78. The register of shareholders, index of members and register of transfers of shares should be kept continuously from the date of the registration of the company. All these documents shall be kept in the registered office of the company and should be available for inspection by members of the company or general public for at least two hours each day. Any person may make extracts or copies of the registers. If an inspection is refused the company and every officer of the company who is in default shall be liable in respect of each offence to a fine for every day of default. The SECP may order an immediate inspection of the register and index or direct that copies required shall be sent to the persons requiring them (s. 150 Companies Ordinance).

79. The register of shareholders, index of members and register of transfers of shares shall be stored for at least three years after the company is liquidated. After expiry of the three year period no responsibility shall rest on the company, or the liquidators, or any person to whom the custody of the books and papers has been committed for not keeping the documentation (s.428(2) Companies Ordinance). The three year retention period may limit availability of information required to be kept by the company as such information may still be relevant for the requesting jurisdiction especially in cases of criminal tax investigations. Pakistan is therefore recommended to monitor this issue to ensure that ownership information kept by companies is available for at least five years from the end of the period to which the information relates and regardless of liquidation of the company. Nevertheless it is noted that the ownership information should be available at all times with the SECP and the tax administration based on companies' filing requirements.

In practice

80. Availability of ownership information with companies relies primarily on companies' practical need to properly handle their relations with shareholders as a person becomes a shareholder upon entry into the register of shareholders.

81. Supervision of the obligation to maintain a shareholder register in accordance with the law is to a certain extent performed by the SECP and the FBR. However, the focus of on-site inspections carried out by the SECP is on public companies operating mainly in the insurance sector, non-government organisations and brokers, i.e. on entities handling public funds. Private limited companies are subject to on-site inspections if such an inspection is requested by a third party or by a government authority. However, failure to file annual returns as such does not trigger an on-site inspection. The SECP carries out annually about 100 on-site inspections which covers about 0.1% of registered companies. The FBR audits annually 5-10% of all taxpayers but these audits are primarily focused on verification of the declared tax liability and do not compulsorily cover the obligation to maintain a shareholder register or companies which do not file tax returns. Companies' obligation to maintain shareholder information can be ensured also indirectly through filing requirements, however, the compliance rate with the requirement to file annual returns with the SECP is about 40% and the compliance rate with the obligation to file tax returns is less than 50%.

82. Although the practical need to keep shareholder information may ensure that the information will be maintained by companies in the majority of cases the low compliance rate in combination with limited inspection of the obligation to maintain shareholder registers do not ensure that the ownership information is in practice available with all companies as required under

the law (e.g. including full details of the shareholder or for the prescribed retention period). It is noted that in exchange of information practice the requested ownership information was obtained directly from the company in two cases over the reviewed period, nevertheless, it is difficult to conclude that this gives sufficient assurance that the legal requirements are properly implemented in practice given the low number of such cases.

Nominee identity information

83. Nominee acting as a shareholder or member in a company is not allowed under Pakistan’s law (s.161 Companies Ordinance). Shareholder rights are attached to the person entered into the register of shareholders. Shareholdings of shares traded on the stock exchange are held in electronic form by the Central Depository Company (CDC), which serves as a custodian of shares traded on stock exchange.

Foreign companies

84. A company established under foreign law which has its place of business in Pakistan is required to register with the SECP. The application for registration has to be submitted within 30 days of the establishment of the place of business (s.451(1) Companies Ordinance).

85. The following information has to be included in the application:

- a certified copy of the founding charter or other instrument constituting or defining the constitution of the company in English or Urdu language;
- the full address of the registered office of the foreign company in jurisdiction where it is incorporated and in Pakistan;
- a list of the directors, chief executive and secretaries (if any) of the company; and
- name and address of the principal representative and other authorised persons acting on behalf of the company in Pakistan (s.451(2) Companies Ordinance).

86. In case of change in information provided to the SECP the company shall within thirty days of the alteration submit to the registrar a return containing the changed documents (s.452 Companies Ordinance).

87. In practice, the registration of a foreign company operating in Pakistan (including through place of effective management) is necessitated by several measures. Service providers and registers such as banks, utility service providers, car registers or land registers require a company to provide its registration

number with the SECP and the tax authority in Pakistan in order to establish a contractual relation or to enter its record into the register. Further, a foreign company operating a business in Pakistan is required to obtain approval by the Board of Investment which will not grant approval unless the company is properly registered with the SECP and the FBR. As of June 2015 there were 881 foreign companies registered with the SECP. The SECP applies the same measures to ensure their compliance as in respect of domestic companies.

88. Foreign companies with place of effective management in Pakistan are considered tax residents in Pakistan (s. 83 Income Tax Ordinance). As in case of other companies foreign companies which become tax residents in Pakistan are required to register with the tax authority, obtain National Tax Number Certificate and file income tax returns. The identification of ten shareholders with the largest share of the company is required to be included in its income tax return (Return of Total Income under the Income Tax Ordinance, IT-1). In addition, the tax return must include annual accounts of the undertaking which have to include ownership structure of the company as has been confirmed by the Pakistani authorities. Consequently, information on shareholders of a foreign company having place of effective management in Pakistan is required to be provided to the tax authority and be at its disposal. The same measures as in respect of domestic companies are applied in practice. According to Pakistani authorities there does not appear to be a difference in compliance rate with tax filing requirements between domestic and foreign companies meaning that the compliance rate is less than 50% and does not ensure that the required ownership information will be available. Information on foreign companies receiving payments from Pakistani taxpayers acting as withholding agents is also retrievable from their withholding tax reports but these reports do not include complete ownership information.

89. 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 Pakistan the CDD requirements cannot ensure that ownership information is available in all instances.

Information held by service providers

90. The Anti-Money Laundering Act (AML Act) obliges all reporting entities to conduct customer due diligence (CDD) measures (s. 7(7) AML Act). Reporting entities under the AML Act cover

- financial institutions: banks and institutions carrying activities such as trading in money markets, foreign exchange or securities, portfolio

management, safekeeping and administration of cash or securities or insurance services;

- non-financial businesses and professions (DNFBPs): lawyers, notaries and other legal professionals, accountants, trust and company service providers, real estate agents, jewelers, dealers in precious metals and precious stones (ss.2(f) and 2(m)).

91. Further rules detailing required CDD measures are prescribed in regulations issued by the AML supervisory bodies. Under Pakistan’s hierarchy of norms these regulations are considered secondary legislation and therefore have binding power. Under article 5(e) of the regulation PR-M1 financial institutions are required to take reasonable measures to (i) understand the ownership and control structure of the customer (ii) determine that the natural persons who ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or arrangement. Similar obligations cover DNFBPs, although availability of ownership information kept by them depends on regulatory guidance provided by the SECP and the State Bank of Pakistan which vary between professions.

92. In practice, supervision of AML obligation is carried out by the SECP and the State Bank of Pakistan. These authorities supervise AML compliance of financial institutions, but no supervisory system is set up for DNFBPs. Practical availability of information required to be kept by banks is supervised and enforced by the State Bank of Pakistan. All banks operating in Pakistan are annually inspected by the State Bank and their compliance with banking regulations and record keeping requirements including CDD and transactional documentation is mandatorily checked (see further section A.3). The SECP carries out oversight of financial institutions other than banks. Inspection plans are based on annual risk assessment. About 20% of supervised entities is inspected every year. In 2015 the SECP conducted 36 on-site inspections. In cases where deficiencies are found notices to remedy the identified deficiency are issued and sanctions are applied if they are not remedied (see further section A.1.6).

Conclusion

93. The Pakistani legal and regulatory framework ensures that ownership information regarding domestic and foreign companies is required to be available. All domestic companies are required to provide information on their founders upon registration with the SECP and annually report any changes in shareholders subsequently. All companies (including foreign companies with place of effective management in Pakistan) are required to file annual tax returns which have to include information on their shareholders. In addition, domestic companies are required to keep register of shareholders containing their current and historical shareholders in their registered office in Pakistan.

94. In practice, the compliance rate with regards to the filing of annual returns with the SECP is about 40% and the compliance rate with regards to the obligation to file annual tax returns is less than 50% as well. The SECP carries out about 100 on-site inspections of public companies annually which cover about 0.1% of registered companies. The FBR audits annually 5-10% of all taxpayers but these audits are primarily focused on the verification of the declared tax liability and they do not compulsorily cover obligation to maintain the shareholder register or companies which do not file tax returns. It is also noted that ownership information on certain companies is available with financial institutions, however, companies are not required to engage a financial institution or other service provider in Pakistan. It can be concluded that although Pakistani authorities carry out supervisory and enforcement measures these do not result in sufficient levels of compliance to ensure that the relevant ownership information in respect of domestic and foreign companies is in all cases available in practice. It is therefore recommended that Pakistan takes further measures to ensure that ownership information in respect of companies is practically available as required under the international standard. It is noted that during the period under review Pakistan received four requests for ownership information in respect of companies and there was no case where the information was not available although certain delays in providing the requested information were reported by peers (see further section C.5). The low number of received requests however does not allow for conclusions on general availability of the ownership information in practice.

Bearer shares (ToR A.1.2)

95. Pakistan's law does not provide for issuance of bearer shares. All shares issued are in form of registered shares.

Partnerships (ToR A.1.3)

96. Pakistan's law provides for creation of a partnership. Partnership is defined as relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all (s.4 Partnership Act). Rights and duties of partners in a partnership are determined by the contract establishing the partnership (s. 11). The partnership is represented by its partners acting on its behalf (s. 18). Partners are bound to carry on business of the partnership to the greatest common advantage and to render true accounts and full information of all things affecting the partnership to any partner or his legal representative (s. 9).

*Information kept by public authorities***Register of Firms**

97. A partnership is established by the contract between partners. However in order to enforce obligations stemming from the partnership contract the partnership has to be registered with the registrar (s. 69 Partnership Act).

98. The following information must be provided upon registration to the registrar:

- the partnership's name;
- names of places where it carries on its business;
- the date when each partner joined the partnership;
- the names in full and permanent addresses of the partners; and
- duration of the partnership (s. 58 Partnership Act).

99. The registration application has to be signed by all partners or their authorised representatives (s. 58 Partnership Act). If the required information is provided the registrar shall record an entry in the Register of Firms and issue a letter confirming the registration (s. 59).

100. Changes in the information provided upon registration should be notified to the registrar (ss.60-63 Partnership Act). Although the law does not prescribe specific deadline for such notification information contained in the Register is an evidence of the stated facts and may be used by third parties and courts as a proof. Third parties may also claim damages on the partnership caused by inaccurate information reported to the Register (s. 68). (see further section A.1.6).

101. In practice, partnerships are registered by local registrars who are responsible for particular districts of the country. There are 146 districts in Pakistan. It is estimated that there are about 50 000 partnerships and trusts registered at the district level, however, there is neither a centralised authority nor a centralised database which would allow verification of this estimate or to receive a figure referring only to partnerships. It is nevertheless expected that the majority of the 50 000 entities are partnerships given the number of partnerships and trusts registered with the FBR (see further below). The role of a local registrar is carried out by officials of district courts who are responsible for maintaining information filed with the Register of Firms. Statistics on oversight and enforcement measures or level of compliance are not available however oversight and enforcement are not seen by the Pakistani authorities as primary responsibilities of the Registrar and are usually triggered by complaints by third parties or other indication of wrongdoing. Consequently, it is difficult to conclude on the level of availability of the

relevant information in the Register of Firms, however, it appears that the ownership information may not be available in all cases.

Information provided to tax administration

102. Partnerships are required to register for tax purposes (s.181 Tax Ordinance). Identification of all partners is required to be provided upon registration and kept updated (s.181(2)).

103. The tax law classifies partnerships as association of persons (AOP). AOPs are taxpayers taxed on their income separately from their members. However if a company is a partner in a partnership income attributable to its share is taxed at hands of the company (s.92 Tax Ordinance). Identification of four partners with the largest share in the partnership has to be included in the partnership's tax return. The identification of these partners includes their names and surnames, addresses, dates of birth, tax identification numbers or registration numbers. Income from the partnership has to be reported by each partner (regardless of the amount of share in the partnership) together with the amount of his/her share allowing the tax administration to cross check the filed information (Return of Total Income under the Income Tax Ordinance, IT-2). Further, partnership's tax return must include its annual accounts which should contain information on all partners in the partnership.

104. Foreign partnerships that carry on business in Pakistan through a permanent establishment or have a place of effective management there are required to register with the tax administration (ss.84 and 105 Tax Ordinance). The same registration and filing requirements as in case of domestic partnerships apply and therefore information on all their partners must be provided upon registration and any change in partners has to be reported. Further, such foreign partnerships will be required to file their annual income tax returns containing identification of their partners.

105. 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). There were 179 316 AOPs registered with the FBR in March 2016. The number of AOPs includes partnerships registered at the district level as well as unregistered partnerships without legal personality which upon registration with the FBR receive the same tax status as registered partnerships (i.e. being taxed separately from their members as an AOP). All AOPs registered with the FBR are required to electronically file their annual tax returns. The obligation is monitored by the declaration system and tax officers responsible for the respective taxpayer. If a complete return is not provided enforcement measures should apply (see further section A.1.6). Identification of partners in an AOP provided upon registration, annually in tax returns and in financial statements is kept in the tax database and taxpayer's file in the regional tax office for at least six years. For the tax year 2013 out of 157 210 registered AOPs 45 068

filed their income tax returns (29%), for 2014 out of 165 536 AOPs 45 373 filed their returns (27%). Final data for the tax year 2015 is not yet available. As in the case of companies during the last two years the FBR introduced several measures to improve compliance with tax filing obligations such as the application of withholding taxes or carrying out risk based tax audits. Nevertheless, the compliance rate remains low and does not ensure that the required ownership information will be available with the FBR as required under the law.

Information held by the partners and service providers

106. 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 contract which should be available with the partnership or to the partners as parties of the contract. Further, no person can become a partner in a partnership without consent of all the existing partners (s.31 Partnership Act). It is therefore necessary that information on all partners must be available with the partnership and to its partners. In practice, the availability of information held by partners can be verified indirectly through tax return filing requirements or tax audits. It is noted that the practical need to maintain information on partners in a partnership may ensure that the information will be available with partners in majority of cases, however, the low tax compliance rate in combination with limited inspection of ownership information kept by partnerships do not ensure that the information is in practice available as required under the law in all cases.

107. To the extent that a partnership engages the services of an AML obligated person, such as a bank, the service provider will be required to take reasonable measures to understand the ownership and control structure of the customer. This appears to ensure that if a partnership opens a bank account in Pakistan or engages other service provider obliged to conduct CDD information on partners in a partnership should be available with the service provider.

Conclusion

108. The legal and regulatory framework in Pakistan ensures that ownership information regarding partnerships is required to be available. Partnerships established in Pakistan are required to submit information on all their partners and report any subsequent changes thereof to the registrar and to the tax authority. Foreign partnerships that carry on business in Pakistan through a permanent establishment or have a place of effective management there are required to register with the tax administration and the same registration and filing requirements as in case of domestic partnerships apply.

109. There is no clear data to verify partnerships' compliance with their obligations towards local registrars however compliance rate of less than 30%

with tax filing obligations does not ensure that updated information on partnerships is available with the FBR. Ownership information on certain partnerships is available with financial institutions, if engaged by the partnership, or with partnerships themselves however the low tax compliance rate in combination with limited inspection of ownership information does not ensure that the information is available as required under the law in all cases. It is therefore recommended that Pakistan takes further measures to ensure that ownership information in respect of partnerships is practically available as required under the international standard. During the period under review Pakistan received three requests for ownership information in respect of partnerships and the requested information was provided in all cases although certain delays in providing the requested information were reported by peers (see further section C.5). The low number of received requests however does not allow for conclusions on general availability of the ownership information in practice.

Trusts (ToR A.1.4)

110. Pakistan's law allows for creation of trusts. Pakistan's residents can also act as trustees, protectors or administrators of a trust formed under foreign law. Trust law in Pakistan is based on general principles of common law and it is mainly captured in the Trusts Act.

111. According to the Trusts Act no trust is valid unless (i) declared by a contract in writing signed by the author of the trust or the trustee and registered with the civil court or (ii) declared by the will of the author of the trust or of the trustee and the ownership of the property is transferred to the trustee (s.5 Trusts Act). A settlor has to indicate upon creation of a trust (a) an intention to create a trust, (b) the purpose of the trust, (c) the beneficiary, and (d) the trust property, and (unless the trust is declared by will or the author of the trust is himself to be the trustee) transfers the trust property to the trustee (s.6). Every person allowed to enter into contracts and hold a property may become a trustee (s.10). Every person allowed to hold a property may be a beneficiary. A proposed beneficiary may reject his interest under the trust by disclaimer addressed to the trustee (s.9).

112. Pakistan's law provides also for creation of wakfs. A wakf is defined as permanent dedication by a person professing the Muslim faith of any property to a mutwalli for a purpose recognised by the Muslim law as religious, pious or charitable (s.2(e) Mussalman Wakf Act). Wakfs are required to be registered with the civil court and their obligations in respect of availability of information on their settlors, trustees (mutwallis) and beneficiaries follows obligations of trusts (see further below).

Information kept by public authorities

Registration with Civil courts

113. Trust contracts are required to be registered with the civil court (s. 5 Trusts Act). Following from the principles of creation of a trust the trust contract has to include identification of the settlor(s), the trustee and information on beneficiaries allowing their identification (once their identity can be known) (s. 6). Registration of trusts is handled at the district level in a similar way as in the case of partnerships. The estimated number of trusts and partnerships registered with civil courts is about 50 000 although due to lack of centrally managed information it was not possible to verify this figure or to receive a figure related only to trusts.

Tax obligations

114. Trusts operating in Pakistan must be registered with the tax administration and file income tax returns (s. 114(1)(a) Income Tax Ordinance). The trust contract must be provided by the trustee upon registration in order to receive National Tax Number (s. 80(2) Income tax Rules)

115. Trusts are, from the tax perspective, considered as companies and the same rules as in respect of companies apply to trusts (s. 80(2)(b) Income Tax Ordinance). The tax return of a trust must include among others identification of the trustee and annual accounts of the undertaking which should normally include identification of beneficiaries of the trust if an income was distributed to them in the particular year (s. 114(2) Income Tax Ordinance). Further, trusts are required to disclose its ownership structure to the tax authority in order to obtain certain special tax regime (e.g. exemption under the Second Schedule of the Income Tax Ordinance, tax benefits for immovable property trusts). However, identification of settlors and beneficiaries does not form compulsory part of trusts' tax return.

116. In practice, compliance with regards to the registration and tax filing obligations of trusts is supervised by the FBR in the same manner as in the case of other taxpayers (see further section A.1.1). As of March 2016 there were 2 861 trusts (including wakfs) registered with the FBR. Trusts are required to electronically file their annual tax returns. This obligation is monitored by the declaration system and tax officers responsible for the respective taxpayer. If the trust does not file its tax return in time or the return is incomplete enforcement measures should be applied (see further section A.1.6). Compliance with registration and filing requirements is further encouraged by the availability of a 100% tax credit against the tax payable by registered trusts, non-governmental organisations and non-profit organisations applicable when they file their tax returns in addition to lower withholding tax rates applicable also in respect

of payments to other taxpayers filing their tax returns. For the tax year 2013 out of 1 866 registered trusts 1 195 filed their income tax returns (64%), for 2014 out of 2 105 trusts 1 440 filed their returns (68%). Final data for the tax year 2015 is not yet available. The compliance rate in respect of trusts is higher than in the case of other entities however it remains questionable if it ensures that the required information is available with the FBR in all cases.

Information held by trustees and service providers

117. A trustee is required to keep documents pertaining to the trust including identification of the settlors and beneficiaries in order to perform his/her duties. A trustee is bound to keep clear and accurate accounts of the trust property, and at the request of the beneficiary to furnish him/her with full and accurate information as to the amount and state of the trust property (s. 19 Trust Act). The beneficiary has a right to request a trustee to allow him to inspect and take copies of the instrument of trust, the documents of title relating solely to the trust property, the accounts of the trust property and the vouchers (if any) by which they are supported (s. 57). Where there are more beneficiaries than one, the trustee is bound to be impartial, and must not execute the trust for the advantage of one at the expense of another (s. 17).

118. In December 2015 the AML Act was amended and all trustees operating by way of business (i.e. professional trustees) are now expressly covered by AML obligations and CDD requirements (ss.2(m) and 7(7) AML Act). Pursuant to these requirements professional trustees are required to take reasonable measures to (i) understand the ownership and control structure of the customer and to (ii) determine the natural persons who ultimately own or control the customer. This according to the SECP and Financial Monitoring Unit includes identification of settlors and beneficiaries of the trust and verification of their identity.

119. Non-professional trustees are not regulated under the AML law. The Pakistani authorities have advised that such trustees are expected not to be frequent in practice however it seems difficult to arrive at qualified estimate. Given that AML obligations cover all professional trustees and that trustees are required under the Trust Act and to certain extent under the tax law to keep the relevant information this does not appear to have significant negative impact on availability of information on trusts in Pakistan.

120. To the extent that a trust engages the services of an AML obligated person, such as a bank, the service provider will be required to take reasonable measures to understand the ownership and control structure of the customer which should include identification of the settlor, trustee and beneficiaries of a trust.

121. In practice, the supervision of trustees who are financial institutions is supervised by the SECP and the State of Bank of Pakistan (see further section A.1.1 and A.3). However, no supervisory and enforcement system has

been set up yet for DNFBPs acting as trustees. It is therefore recommended that Pakistan puts in place an adequate oversight system and takes the necessary supervisory and enforcement measures to ensure that the required information is held by all trustees.

122. A Pakistan resident can operate a trust established under foreign law. In such case obligations under the Trusts Act ensuring that trust deed containing identification of the settlor and beneficiaries is kept by the trustee do not apply as has been confirmed by Pakistani authorities. However, obligations under the AML Act described above apply also in respect of obliged persons acting as trustees of foreign trusts. Foreign trust are also required to register with the tax administration and file annual returns if obtaining taxable income sourced in Pakistan or having a resident trustee there.

Conclusion

123. Pakistan's law ensures that information on settlors, trustees and beneficiaries of domestic trusts is required to be available in line with the international standard. All professional trustees are required under the AML law to identify settlors and beneficiaries of their trusts. Trustees of domestic trusts are required to keep trust documentation which contains identification of settlors and beneficiaries. Further, trust contracts are required to be registered with civil courts and available there. Trust contract also needs to be provided to the tax administration upon its registration.

124. In practice, the main source of information on trusts is the trustee and information filed with the FBR upon registration or subsequently. The tax filing obligations however do not ensure that information is available in all cases as information on settlors and individual beneficiaries may not be provided in all cases and the compliance rate with tax return filing requirement remains about 68%. Information required to be held by trustees is mainly supervised by AML supervisory authorities, however, the supervisory and enforcement system for trustees who are not financial institutions has not yet been set up. It is therefore recommended that Pakistan puts in place an adequate oversight system and takes the necessary supervisory and enforcement measures to ensure that the required information is available in Pakistan. During the period under review Pakistan received one request for ownership information in respect of trusts and the requested information was provided. However, the limited EOI practice does not allow for conclusions on general availability of the ownership information in practice.

Foundations (ToR A.1.5)

125. Pakistan law provides for creation of foundations as not for profit organisations. Foundations can be established only for promoting commerce, art,

science, religion, sports, social services, charity or any other public interest purpose (s. 42(1) Companies Ordinance). Foundations cannot distribute profit or any income from foundations' activities to their members and in the case of winding up or dissolution of the foundation any assets or property shall not be distributed among its members but shall be transferred to another foundation (s. 43).

126. A foundation has to be registered and licensed by the SECP (s. 42 Companies Ordinance). Memorandum and Articles of Association of the foundation has to be provided upon registration to the SECP. Memorandum of Association contains identification of all founders of the foundation and description of its purpose (ss.16, 17 and 18). Changes in the provided information have to be reported to the registrar nevertheless membership in a foundation is not transferrable. Further, foundations are required to file annual return with the SECP. The annual return must include identification of the foundation's representatives (Form B of annual report).

127. As of April 2016, 729 foundations were registered with the SECP. According to the National Action Plan for AML/CFT not for profit organisations are one of the supervisory and enforcement priorities of the SECP. The SECP carries out continuous off-site monitoring of registered non-profit organisations and conducts 5-10 on-site inspections in respect of foundations annually on risk based analysis. If deficiencies are found, the foundation is requested to remedy them in a given timeframe and if it fails to do that fines are applied and the foundation can be struck off from the register (see further section A.1.6). The SECP further issues a public notice in the form of advertisements in newspapers for filing of statutory returns. Nevertheless, the reported compliance rate with foundations' obligation to file annual returns remains 58% in 2014 and 52% in 2015 (as of March 2016).

128. Foundations are considered non-profit organisations and are required to register and file tax returns with the tax authority. Upon registration they are required to provide Memorandum of association. Information on foundation's representatives and beneficiaries is included in its annual tax return and annexed financial statements. In practice, compliance with registration and tax filing obligations of foundations is supervised by the FBR in the same manner as in case of trusts and other taxpayers (see further section A.1.1).

129. To sum up, foundations established under Pakistan's law appear to be not relevant to the work of the Global Forum. Nevertheless, information on their founders and representatives has to be provided to the SECP and the FBR. Availability of such information in practice, however, may be negatively affected by rather low compliance rates with the law requirements. During the period under review Pakistan did not receive any request related to ownership information in respect of foundations.

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

130. The existence of appropriate penalties for non-compliance with key obligations requiring availability of ownership and identity information is an important tool for jurisdictions to effectively enforce the obligations to retain identity and ownership information.

131. If an entity fails to comply with obligations under the Companies Ordinance such as obligation to register with the SECP, file subsequent changes and keep register of shareholders or members it should be warned by a notice from the SECP to remedy the deficiency. If an entity fails to do so within 30 days the SECP should issue an order to the entity and any officer thereof (s.472(1) Companies Ordinance). If the deficiency is not addressed within the period specified in the order every officer of the company or other persons responsible for non-compliance of the entity is punishable with fine up to PKR 50 000 (EUR 429) and in the case of a continuing non-compliance to a further fine up to PKR 2 000 (EUR 17) for every day of non-compliance. If non-compliance or failure still continues the officer or other person who is a party to such non-compliance or failure shall be liable to punishment with imprisonment of up to six months and shall cease to hold office in the company and be disqualified from holding any office in any company for a period of five years (s.495).

132. In respect of about 68 000 registered entities, the SECP took various administrative actions and supervisory measures in 75 280 cases in the period July 2012 – June 2013, in 81 626 cases in the period July 2013 – June 2014 and in 84 929 cases in July 2014 – June 2015. These actions include issuing certificates of incorporation, verification of information kept by the SECP, approval of submissions to the SECP or issuing a notice to comply with filing requirements. In case of failure to provide the required information fines were applied in several cases. The amount of penalties imposed in the period July 2012 – June 2013 was PKR 2.9 million (EUR 25 450), in the period July 2013 – June 2014 PKR 4.9 million (EUR 43 000) and in the period July 2014 – June 2015 PKR 4.9 million (EUR 43 000). For the same periods, an order to file ownership information contained in the register of shareholders was issued in 117, 145 and 397 cases respectively.

133. The SECP may by a written order request the entity and any of its present or past directors, officers or auditors to furnish to it any document or explanation in writing which the SECP deems necessary for ensuring compliance with the Companies Ordinance. If no information or explanation is furnished within the time specified in the order the entity is liable in respect of each offence to a fine of up to PKR 20 000 (EUR 171) and to a further fine of up to PKR 500 (EUR 4) for every day of failure to provide the requested information. Every officer of the company who knowingly and wilfully authorises or permits, or is a party to, the default shall be punishable with imprisonment of

up to one year (s. 261 Companies Ordinance). It is SECP's common practice to demand explanations or documents from companies and its directors based on observations noted in the filed documents. A written order to furnish information which the SECP deems necessary was issued in 1 249 cases in the period July 2012 – June 2013, in 1 413 cases in the period July 2013 – June 2014 and in 2 410 cases in July 2014 – June 2015. No sanction for failure to comply with these orders was applied as the requested information was provided.

134. Further, an entity may be wound up by the court

- if it fails to deliver its statutory report to the registrar or to hold the statutory meeting or any two consecutive annual general meetings; or
- if the entity is
 - carrying on unlawful or fraudulent activities;
 - carrying on business not authorised by the memorandum of association;
 - conducting its business in a manner oppressive to any of its members or persons concerned with the formation or promotion of the company or the minority shareholders;
 - run and managed by persons who fail to maintain proper and true accounts, or commit fraud, misfeasance or malfeasance in relation to the company; or
 - managed by persons who refuse to act according to the requirements of the memorandum of association, provisions of the Companies Ordinance, or fail to carry out measures given in the order by the SECP or in decisions of the Court (s. 305 Companies Ordinance).

135. In practice, a company was involuntarily wound up in one case in 2013, in one case in 2014 and in four cases in 2015. As part of the National Action Plan for AML/CFT the SECP launched a scrutiny process in 2015 of all non-governmental organisations and not for profit organisations including foundations and trusts. As a result out of about 900 foundations previously registered with the SECP, 200 were struck off from the register in 2015.

136. As mentioned in section A.1.1, about 60% of registered companies (i.e. about 39 000) do not file their annual returns with the SECP and are considered by the SECP inactive. However these companies are not restricted in their operations and shareholders can transfer their shares without reporting it. If a company starts to file annual returns no sanctions are apparently applied in respect of annual returns which the company already failed to file. Lack of effective enforcement of filing obligations in respect of large proportion of registered companies contributes to the low compliance rate which

does not ensure that the required ownership information is available in all cases. It is therefore recommended that the SECP strengthens its enforcement measures (including striking off) in respect of non-compliant entities.

137. If a partnership fails to register it is not recognised by courts as a legal entity. Therefore such partnership cannot sue third parties for their liabilities towards the partnership and obligations stemming from the partnership contract cannot be enforced either (s.69 Partnership Act). Any information contained in the Register of Firms is conclusive proof of any fact therein stated and third parties may claim damages on the partnership caused by inaccurate information reported to the Register (s. 68). If a person wilfully provides incorrect and incomplete information to the registrar it is punishable by a fine or imprisonment of up to three months (s. 70). No figures on the application of this sanction are centrally available as the registration of partnerships is carried out at district level.

138. A trustee is obliged to keep documents pertaining to the trust including identification of the settlors and beneficiaries in order to perform his/her duties. A trustee is liable to the loss caused to the beneficiary or trust's assets by a breach of the trust contract unless the beneficiary has by fraud induced the trustee to commit the breach (s.23 Trusts Act). Statistics on the number of cases where damages were claimed are not available as they represent private law matters. According to the Pakistani authorities these cases are expected to be rather rare mainly due to trustees' general compliance with their obligations towards beneficiaries

139. Any obligated person who fails to register with the tax administration, file a tax return in time or provide information requested by the tax authority in the written notice under s.176 of the Income Tax Ordinance is liable to a fine of up to PKR 50 000 (EUR 429) or imprisonment for a term not exceeding one year, or both (ss. 182(1) and 191 Income Tax Ordinance). If the failure to submit the return continues despite court order the person shall commit a further offence punishable on conviction with a fine up to PKR 50 000 or imprisonment for a term not exceeding two years, or both. (s.191). In the period between July 2012 and June 2013 a fine under section 182 of the Income Tax Ordinance was applied by the tax authority in 43 cases, in the period between July 2013 and June 2014 in 28 cases and in the period between July 2014 and June 2015 in 36 cases. The total amount of the applied fine for failure to provide information was PKR 3.4 million (EUR 29 700), PKR 4 million (EUR 35 000) and PKR 4 million (EUR 35 000) respectively.

140. An obliged person in breach of requirements under the AML law is liable to a fine of up to PKR 100 000 (EUR 857) or imprisonment for up to three years if committed wilfully (s.33 Anti-Money Laundering Act). The sanction can be applied also in respect of responsible individual representatives of the obliged entity upon conviction (s.37). The AML inspections of financial institutions have

been recently introduced as part of overall inspections regime at the SECP. So far, few violations have been reported which have been addressed through orders to the regulated entities. No fines have been imposed as regards AML violations by the SECP. The State Bank of Pakistan conducts AML supervision of banks (see further section A.3). A fine for breach of record keeping requirements was applied by the State Bank in three cases in both 2013 and 2014. The total amount of applied fines was EUR 96 957 and EUR 7 376 respectively.

Conclusion

141. Pakistan's law provides for sanctions in respect of key obligations to maintain ownership information. However, enforcement mechanisms under the Partnerships Act and the Trusts Act are rather mild and not directly applicable by the supervisory government authority. Enforcement provisions appear to be applied in practice however their application does not have a positive impact on compliance rates with crucial obligations. This is the case especially in respect of companies filing obligations with the SECP and tax filing obligations. It is therefore recommended that Pakistan strengthens its enforcement measures, including those relating to the striking off of companies, in respect of non-compliant entities to raise compliance with obligations to maintain ownership information.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Phase 2 rating	
Partially compliant.	
Factors underlying recommendations	Recommendations
Ownership information on certain companies and partnerships is available with financial institutions, if engaged by the company or partnership, or with the entities themselves. However, the low compliance rate with filing obligations in combination with limited inspection of ownership information and enforcement (which also does not include striking off of non-compliant entities) do not ensure that the information is available as required under the law in all cases.	Pakistan should take measures to ensure that ownership information in respect of the relevant entities is practically available as required under the international standard.

Phase 2 rating	
Partially compliant.	
Factors underlying recommendations	Recommendations
Information required to be held by trustees is mainly supervised by AML supervisory authorities, however, the supervisory and enforcement system has not yet been set up for trustees who are not financial institutions.	Pakistan should take the necessary supervisory and enforcement measures to ensure that information on settlors and beneficiaries of trusts operated by Pakistan resident trustees is available in all cases.

A.2. Accounting records

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

142. 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)

143. General accounting obligations of the relevant entities are contained in the laws regulating these entities and in the tax law.

144. A company is required to keep proper books of account with respect to:

- all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- all sales and purchases of goods by the company;
- all assets of the company;
- all liabilities of the company; and
- in the case of a company engaged in production, processing, manufacturing or mining activities, such particulars relating to utilisation

of material or labour or the other inputs or items of cost as may be necessary for proper accounting (s. 230(1) Companies Ordinance).

145. A company must maintain balance sheet and profit and lost accounts. Every balance-sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of its financial year. Every profit and loss account or income and expenditure account of a company shall give a true and fair view of the profit and loss of the company for the financial year on accrual basis (s. 234 Companies Ordinance).

146. The balance sheet and profit and loss account must be sent to members of the company and presented by its directors at all annual general meetings. All companies are further required to file annual accounts with the SECP except for private companies with capital of less than PKR 7.5 million (EUR 63 470) (s. 242 Companies Ordinance). A listed company shall also send its balance sheet and profit and loss account to the stock exchange (s. 233 Companies Ordinance).

147. Every company shall at each annual general meeting appoint an auditor and inform the SECP within 14 days thereof (ss. 252(1) and 253(5) Companies Ordinance). The auditor should be independent and qualified person fulfilling conditions specified in section 254 of the Companies Ordinance. The auditor shall make a report to the members of the company on the accounts and books of accounts of the company and on every balance-sheet and profit and loss account or income and expenditure account and on every other document forming part of the balance-sheet and profit and loss account or income and expenditure account, including notes, statements or schedules appended thereto, which are laid before the company in general meeting. The report shall include statement whether or not in his opinion proper books of accounts as required by the Companies Ordinance have been kept, whether or not in his opinion the balance-sheet and profit and loss account have been drawn up in conformity with the Ordinance and are in agreement with the books of accounts and whether or not the said accounts give true and fair view of the company's financial position as at the end of its financial year (s. 255(3)).

148. Accounting records should be kept at the registered address of the company. However directors of the company may decide that accounting records or their part may be kept at other place in Pakistan. In that case the directors must inform the SECP within seven days of its decision of the address where accounting records are kept (s. 230(2) Companies Ordinance).

149. It is the responsibility of directors and accountants of the company to maintain accounting records as required under the Companies Ordinance. If a company fails to keep accounting records as required its director or chief accountant who willingly or by omission caused this failure are liable to a

fine of up to PKR 50 000 (EUR 429) and to a further fine of PKR 5 000 (EUR 42) for every other day of default. In addition upon they can be imprisoned for up to six months (s. 230(7) Companies Ordinance). The same accounting rules as described above apply also in respect of foundations (s. 42 Companies Ordinance).

150. In practice, supervision of companies' compliance with accounting obligations under the Companies Act is supervised by the SECP. This is mainly done through the monitoring of filing requirements and follow-up actions including on-site inspections and the application of sanctions in cases where deficiencies in filed documents are identified. As stated above, all companies except private companies with capital of less than PKR 7.5 million (EUR 63 470) are required to file annual accounts with the SECP. The filing of financial statements is monitored by the respective SECP Corporate Registration Office. In respect of compliance with the requirement to make accounting information available to shareholders, the SECP monitors compliance through its various departments that review and examine returns, forms, financial statement and other statutory filings by companies. The following table summarises the main supervisory and enforcement actions taken by the SECP in respect of the availability of accounting information during the last three years.

Type of action	2012-13	2013-14	2014-15
Number of annual accounts (financial statements) examined	1 368	1 116	928
Proceedings initiated through show cause notices for various violations of Companies Ordinance and Takeovers Ordinance	522	448	315
Warnings issued for non-compliance	145	125	126
Directions issued	24	15	8
Total amount of penalties imposed	PKR 16.9 million (EUR 142 600)	PKR 10 million (EUR 84 400)	PKR 7.8 million (EUR 65 900)

151. The SECP has further directed all public companies to maintain websites and provide mandatory information to shareholders through the website. Such mandatory information, inter alia, includes annual financial statements for the current and previous two years.

152. However, despite SECP's supervisory and enforcement measures the compliance rate with the obligation to file annual financial statements remains relatively low at 56%. It is also noted that not all private companies are required to file their annual financial statements with the SECP and therefore are not checked through this measure. Nevertheless, they still have to have their annual accounts audited and presented at the annual general meeting.

153. A trustee is obligated to keep clear and accurate accounts of the trust property and at the request of the beneficiary to submit him full and accurate information as to the amount and state of the trust property (s. 19 Trusts Act). The beneficiary has a right to inspect and take copies of the documents of relating to the trust property, the accounts of the trust property and the vouchers (if any) by which they are supported (s. 57). A trustee is liable to any losses caused to the beneficiary or to the trust's assets by a breach of his duties (s. 23 Trusts Act). Similar obligations apply in respect of wakfs (s. 5 Mussalman Wakf Act). Further, in December 2015 the AML Act was amended and all professional trustees are now expressly covered by AML obligations (ss. 2(m) AML Act). Pursuant to these requirements professional trustees are required to keep transactional documentation (s. 7(7) AML Act). According to the SECP and Financial Monitoring Unit the scope of records to be kept is very broad and comprises all data and written documents about trusts' transactions. An obliged person in breach of requirements under the AML law is liable to a fine of up to PKR 100 000 (EUR 857) or imprisonment for up to three years if committed wilfully (s. 33 Anti-Money Laundering Act).

154. In practice, trustees' compliance with their accounting obligations is mainly supervised by the FBR (see further below). If a trustee is a financial institution, its AML obligations will be supervised by the SECP or the State Bank (see further section A.1.1 and A.3). However, no supervisory and enforcement system has been set up yet for DNFBPs acting as trustees. So far, a few violations by financial institutions have been reported which have been addressed through orders to the regulated entities. No fines have been imposed by the SECP as regards AML violations.

155. A taxpayer deriving business income (including foreign entities or arrangements) shall maintain proper accounting records and documents with respect to

- all sums of money received and expended by the taxpayer and the matters in respect of which the receipt and expenditure takes place;
- all sales and purchases of goods and all services provided and obtained by the taxpayer;
- all assets of the taxpayer;
- all liabilities of the taxpayer; and
- in case of a taxpayer engaged in assembly, production, processing, manufacturing, mining or like activities, all items of cost relating to the utilisation of materials, labour and other inputs (s. 29 Income Tax Rules).

156. Business income is defined as including income from any trade, commerce, manufacture, profession, vocation or adventure but does not include employment (s. 2(10) Income Tax Ordinance). If the taxpayer derives other than business income specific documentation requirements apply as described in the section regarding underlying documentation.

157. The books of accounts, documents and records required to be maintained by a taxpayer shall be kept at the place where the taxpayer carries on its business. The place where accounting records are kept must be stated in the tax return (s. 33 Income Tax Rules).

158. A taxpayer who fails to maintain records as required under the tax law commits an offence punishable with a fine of up to PKR 50 000 (EUR 429) and with an imprisonment not exceeding two years if the failure is deliberate (s. 193 Income Tax Ordinance). Further monetary sanctions follow from failure to substantiate taxpayer's tax liability or declare the taxable income (Part XI Income Tax Ordinance).

159. In practice, the supervision and enforcement of tax accounting obligations is the responsibility of field offices of the FBR. This is done mainly through filing requirements, tax audits and the application of sanctions. As discussed in section A.1, all companies, partnerships and trusts are required to file annual tax returns which include financial statements. During the last two years the FBR introduced several measures to improve compliance with tax filing obligations. Nevertheless, the compliance rate with tax return filing requirements remains on average less than 50%. The FBR audits annually 5-10% of all registered taxpayers. A compulsory part of these on-site audits is to check the accounting records and underlying documentation. However, the focus of tax audits is primarily on taxpayers who file their tax returns and therefore does not normally cover companies, partnerships and trusts who failed to file their tax returns. The table below summarises the application of sanctions for failure to maintain records required under the Income Tax Ordinance.

Year	Number of cases	Total amount
July 2012-June 2013	266	PKR 11.3 million (EUR 95 500)
July 2013-June 2014	325	PKR 15 million (EUR 126 700)
July 2014-June 2015	378	PKR 18.6 million (EUR 157 000)

Conclusion

160. All relevant entities involved in economic activities in Pakistan are required under the commercial laws and tax law to keep accounting records that correctly explain the entity's transactions, enable it to determine the

entity's financial position with reasonable accuracy at any time and allow financial statements to be prepared. The requirements under the Companies Act and Trusts Act are supplemented by obligations imposed by the tax law.

161. Practical availability of accounting information is mainly ensured through supervision by the FBR and the SECP supported by application of sanctions and filing requirements. As noted in section A.1, compliance rates with filing requirements are low and therefore do not ensure that information required to be kept by law is actually available in all cases. Inspections and follow-up measures taken by the SECP and the FBR appear adequate, nevertheless, they are primarily focused on entities or arrangements which file their returns and do not focus on all relevant entities or arrangements. AML supervision carried out by the SECP and the State Bank covers only financial institutions. Enforcement provisions are applied in practice however their application does not have sufficient impact on compliance rates with crucial obligations. It can therefore be concluded that although Pakistani authorities carry out supervisory and enforcement measures focused on availability of accounting information, these do not result in sufficient levels of compliance to ensure that the relevant accounting information is available in all cases in practice. It is therefore recommended that Pakistan takes further measures to ensure that accounting information as required under the international standard is practically available. It is noted that during the period under review Pakistan received 10 requests for accounting information. The requested information was provided in all cases although certain delays were reported by peers (see further section C.5). Despite the positive fact that the information was always available the low number of received requests does not give sufficient basis for conclusions on general availability of the accounting information in practice.

Underlying documentation (ToR A.2.2)

162. In addition to the general requirement to maintain accounting records under section 29 of the Income Tax Rules described above the tax law contains specific documentation requirements in respect of different types of income. These rules require the taxpayer to keep contracts and related transactional documentation to substantiate its profits and losses.

163. Taxpayers with business income shall issue and maintain at least the following documents:

- serially numbered and dated invoice or receipt for each transaction of sale or receipt containing the following:
 - taxpayer's name or the name of his business, address, national tax number and sales tax registration number, if any; and

- the description, quantity and value of goods sold or services rendered;
- in case of a wholesaler, distributor, dealer and commission agent, where a single transaction exceeds PKR 10 000 (EUR 85), the name and address of the customer;
- daily record of receipts, sales, payments, purchases and expenses; and
- vouchers of purchases and expenses (s.30 Income Tax Rules).

164. In addition to the tax requirements covering all types of relevant entities companies, trusts and foundations are obliged to maintain underlying accounting documentation under the Companies Act and the Trusts Act as stemming from the general rules on keeping accounting records described in section A.2.1.

165. The supervision of obligations to maintain accounting underlying documentation is primarily performed by the FBR. Furthermore, obligations to maintain underlying documentation under AML rules are supervised by the SECP and the State Bank in respect of financial institutions. The same measures are used as in the case of supervision of general accounting obligations (see further above).

Conclusion

166. Tax accounting requirements supported by commercial laws require underlying documentation to be available in Pakistan in line with the international standard for keeping and maintaining underlying documentation. The same supervisory and enforcement measures are used as in case of general accounting obligations.

5-year retention standard (ToR A.2.3)

167. The accounts and documents required to be maintained under tax law shall be maintained for at least six years after the end of the tax year to which they relate. If there is a proceeding pending before any tax authority or court the taxpayer shall maintain the record till final decision of the proceedings is issued (s. 174 Income Tax Ordinance). Specific underlying documentation required under the Income Tax Rules should be maintained for at least five years after the end of the tax year to which they relate (s. 29(4) Income Tax Rules).

168. Further the Companies Act requires accounting records and underlying documentation to be kept for at least 10 years after the end of the accounting year to which they relate (s. 230(6) Companies Ordinance). This period should be preserved notwithstanding liquidation of the company

(s. 330). The balance sheet and profit and loss account should be also available with the SECP. There is no provision that limits the time period for which the information entered into the register should be kept. The tax law and the Companies Act’s retention requirements are supported by the trust law and AML requirements which however do not contain explicit time specific retention period for all relevant accounting information.

169. Compliance with the required retention period for accounting documents is supervised by the supervisory authorities together with availability of accounting records. The same supervisory and enforcement measures apply as outlined above.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Phase 2 rating	
Largely compliant.	
Factors underlying recommendations	Recommendations
Although Pakistani authorities carry out supervisory and enforcement measures focused on availability of accounting information these do not result in sufficient levels of compliance to ensure that the relevant accounting information (including underlying documentation) is in all cases available in practice.	Pakistan should take further measures to ensure that accounting information in respect of the relevant entities and arrangements is practically available as required under the international standard.

A.3. Banking information

Banking information should be available for all account-holders.

170. 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)

171. The main rules regarding availability of customer and transactional information on bank accounts are contained in the Anti-Money Laundering and Combating the Financing of Terrorism Regulations for Banks and Development Finance Institutions issued by the State Bank of Pakistan (AML/CFT Regulations) and in the Banking Companies Ordinance.

172. Banks are prohibited from opening and keeping anonymous accounts and accounts in the name of fictitious persons or numbered accounts (s. 19 AML/CFT Regulation 1). Banks are required to conduct CDD measures

- when establishing business relationship such as opening a bank account;
- while dealing with occasional customers/walk-in customers under certain conditions (e.g. cash transactions above PKR 0.5 million threshold);
- in other situations/scenarios when there is suspicion of money laundering/financing of terrorism, regardless of any threshold (s. 13 AML/CFT Regulation 1).

173. For identity and due diligence purposes banks are required to obtain and keep at least the following information to identify their customers

- full name as per identity document;
- CNIC/Passport/NICOP/POC/ARC number or where the customer is not a natural person, the registration/incorporation number or business registration number (as applicable);
- existing residential address, registered or business address (as necessary), contact telephone number(s) and e-mail (as applicable);
- date of birth, incorporation or registration (as applicable);
- nationality or place of birth, incorporation or registration (as applicable);
- nature of business, geographies involved and expected type of counterparties (as applicable);
- purpose of account;
- type of account;
- source of earnings;
- expected monthly credit turnover (amount and No. of transactions); and
- normal or expected modes of transactions (s.3 AML/CFT Regulation 1).

174. Where the customer is not a natural person, the bank shall (i) take reasonable measures to understand the ownership and control structure of the customer and (ii) determine the natural persons who ultimately own or control the customer (s. 8 AML/CFT Regulation 1). The documentation required to be kept for this purpose is specified in Annex-I of AML/CFT Regulation 1.

175. In case banks are not able to complete required CDD measures, account shall not be opened or any service provided and consideration shall be given if the circumstances are suspicious so as to warrant the filing of an STR (s. 14 AML/CFT Regulation 1). Adequacy of information obtained in respect of customers and beneficial owners should be periodically reviewed to ensure that the information is up to date (s. 17).

176. Banks are also required to maintain records on transactions, both domestic and international, including the results of any analysis undertaken (e.g. inquiries to establish the background and purpose of complex, unusual large transactions). The records should allow reconstruction of individual transactions including the nature and date of the transaction, the type and amount of currency involved and the type and identifying number of any account involved in the transactions (ss.1 and 2 AML/CFT Regulation 5).

177. The records on transactions and identification data obtained through CDD process like copies of identification documents, account opening forms, KYC forms, verification documents and other documents along with records of account files and business correspondence, shall be maintained for a minimum period of 10 years after the business relationship is ended. Banks shall, however, retain those records for longer period where transactions, customers or accounts involve litigation or it is required by court or other competent authority (ss.3 and 4 AML/CFT Regulation 5).

178. There are administrative and criminal sanctions available in case of breach of CDD requirements under section 33 Anti-Money Laundering Act (see section A.1.6). Although no sanctions are mentioned in the AML/CFT Regulations specifically for failure to obtain and maintain CDD and transactional information required under the regulations the Circular Letter No. 02/2012 specifies that sanctions under Anti-Money Laundering Act apply also in respect of failure to keep information required under the regulations.

179. In addition to the AML/CFT requirements banks are required to be licensed with the State Bank of Pakistan and keep proper accounting records of all transactions including deposits under the Banking Companies Ordinance (ss.27 and 34 Banking Companies Ordinance). Banks accounting records are required to be audited and balance sheets and profit and loss accounts together with the audit report have to be submitted to the State Bank of Pakistan and the SECP (ss.35-37). Bank's accounting records are required to be kept by the bank for at least 10 years after the end of the accounting year to which they relate (s. 230 Companies Ordinance).

In practice

180. The practical availability of information required to be kept by banks is supervised and enforced by the State Bank of Pakistan. All banks operating in Pakistan are inspected on an annual basis by the State Bank and their compliance with banking regulations and record keeping requirements including CDD and transactional documentation is mandatorily checked.

181. Supervisory functions over the banking sector are performed by five departments of the State Bank staffed with about 250 employees. Out of these, on-site inspections of 36 banks operated in Pakistan are carried out by 125 employees seated in the head office in Karachi. In addition to regular on-site inspections covering all banks annually further inspections are carried out based on risk analysis through off-site monitoring or based on received reports from government authorities or third parties. The State Bank also carries out continuous off-site surveillance of the regulated banks. This entails review and analysis of accounting and economic data provided by banks, review of banks' reports pursuant to banking guidelines, directives or specific action plans issued by the State Bank or monitoring of banks' biannual reports on their compliance with AML reporting obligations.

182. Pakistani authorities report that whilst banks' compliance with records keeping requirements is high, AML risks remain. The most frequent cases of non-compliance relate to formal deficiencies in kept documentation or procedural omissions (e.g. standard CDD is performed instead of enhanced CDD). Banks are responsive to results of inspections and identified deficiencies (if any) are addressed swiftly. If a bank fails to address the identified deficiency within the prescribed deadline, monetary sanctions are directly applied by the State Bank. This was the case in three cases in both 2013 and 2014. The total amount of sanctions for violation of record keeping requirements was EUR 96 957 and EUR 7 376 respectively.

183. Accounting obligations of banks are also monitored by the SECP. The Corporate Supervision Department of the SECP oversees the filing of annual and interim financial statements by banks. According to the Pakistani authorities, banks are compliant with their filing requirements and cases of non-compliance are rare.

184. Banks' compliance with their legal obligations is further supervised by auditors. Banks are required to have their accounts audited by authorised 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. If deficiencies are identified they have to be included in the auditor's report which is filed annually with the SECP and the State Bank.

Conclusion

185. The legal and regulatory framework in Pakistan requires the availability of banking information to the standard. Identity information on all account-holders and transaction records are made available mainly through AML/CFT obligations. These obligations are properly implemented to ensure practical availability of banking information in practice through on-going monitoring and system of on-site inspections by the State Bank of Pakistan, the SECP and auditors' reporting.

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 Pakistan's legal and regulatory framework and its implementation in practice gives 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 Pakistan's competent authority has broad access powers to obtain and provide the requested information. These powers include right to enter premises and request information which the tax authority deems relevant from all persons. Pakistan has in place appropriate enforcement provisions to compel the production of information, including criminal sanctions and search and seizure power. The tax authority's access powers remain applicable regardless of banking secrecy or other secrecy privileges. All these access powers can be used to obtain information requested under all international treaties providing for exchange of information regardless of domestic tax interest.

188. In practice, the requested information is in the majority of cases obtained by the FBR field office from the taxpayer using power under section 176 of the Income Tax Ordinance. During the review period, no difficulties were encountered in exercising access powers for exchange of information purposes although in several cases obtaining information directly from the taxpayer led to delays in providing the requested information (see further section C.5).

189. Pakistan's domestic legislation does not require notification of the persons concerned prior or after providing the requested information to the

requesting jurisdiction. Appeal against obtaining or providing information to the requested jurisdiction is not foreseen by the tax law. However any action of a government authority can be challenged under the Constitution. Nevertheless possibility of such challenge does not appear to have potential to unduly prevent or delay exchange of information. There was no case where an appeal or challenge to the High Court was filed against the FBR's use of access powers for exchange of information purposes during the period under review. Accordingly, rights and safeguards contained in Pakistan's law did not unduly prevent or delay exchange of information.

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).

190. The competent authority in Pakistan for EOI purposes is the Federal Board of Revenue (FBR) (s.5 Regulation No. 1245). The Federal Board of Revenue is an independent government body responsible for formulation and administration of fiscal policies, levy and collection of federal taxes and quasi-judicial function of hearing of appeals.

191. The FBR 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)

192. The tax authority may by notice in writing require any person, whether or not liable for tax under the Income Tax Ordinance

- to furnish any information relevant to any tax leviable under the Income Tax Ordinance or any information relevant to fulfilling an obligation under international agreement as specified in the notice; or
- to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or an authorised officer concerning the tax affairs of that person or any other person and, for that purpose, the Commissioner or authorised officer may require the person examined to produce any accounts, documents, or computer-stored information in the control of the person; or
- the firm of chartered accountants to conduct audit for any tax year, to obtain any information, require production of any record, on which

the required information is stored and examine it within such premises (s. 176(1) Income Tax Ordinance).

193. In addition, the tax authority may call for any record or documents including books of accounts for conducting audit of the income tax affairs of the person and to have access to the required information and data for the purpose of investigation in respect of such person or any other person. The Commissioner should state reasons for requesting the information and the reasons shall be communicated in writing to the taxpayer holding the information. After obtaining the requested information the Commissioner shall conduct an audit of the income tax affairs (including examination of accounts and records, enquiry into expenditure, assets and liabilities) of that person or any other person and may call for such other information and documents as he may deem appropriate (s. 177 Income Tax Ordinance).

194. In practice, the requested information is in the majority of cases obtained by the FBR field office from the taxpayer using power under section 176 of the Income Tax Ordinance. In two cases out of 16 requests received during the reviewed period, the requested information was already at hands of the tax administration. During the review period, no difficulties were encountered in exercising access powers for exchange of information purposes although in several cases obtaining information directly from the taxpayer by a field office led to delays in providing the requested information. The main reasons for these delays related to issues covered under section C.5.

195. Access powers under sections 176 and 177 of the Income Tax Ordinance apply also in respect of banking information. Section 176 explicitly states that access powers under this section shall have effect notwithstanding any law or rules relating to privilege or the public interest in relation to the production of accounts, documents, or computer-stored information or the giving of information (s. 176(5) Income Tax Ordinance). This is also confirmed by the Banking Companies Ordinance which states that every bank and financial institution shall not divulge any information relating to the affairs of its customers except in circumstances in which it is required by law or it is in accordance with practice appropriate for a bank (s. 33A(1) Banking Companies Ordinance).

196. Banks are further required to provide certain banking information to the tax authority spontaneously. This information should include

- online access to the bank's central database containing details of its account holders and all transactions made in their accounts;
- a list containing particulars of deposits in a bank account totalling more than PKR 1 million (EUR 8 570) during the preceding calendar month;

- a list of payments made by any person against bills raised in respect of a credit card issued to that person, totalling more than PKR 100 000 (EUR 857) during the preceding calendar month;
- a consolidated list of loans written off exceeding PKR 1 million (EUR 8 570) during a calendar year; and
- a copy of each currency transactions report and suspicious transactions report generated and submitted by the bank to the Financial Monitoring Unit under the Anti-Money Laundering Act (s. 165A Income Tax Ordinance).

197. During the period under review banking information was requested pursuant to EOI requests in four cases and in each case the requested information was provided by banks. There is no requirement to provide specific information in order to obtain banking information as long as the bank can identify the requested information. This can be done by the provision of different identifiers such as the name, the passport number, address, date of birth or the National Tax Number of the person holding the bank account or provision of the bank account number. There are no additional conditions to provide the requested banking information and all types of information held by banks can be obtained as confirmed by the Pakistani authorities. No issue in this respect has been reported by peers either.

198. Application of section 165A of the Income Tax Ordinance was appealed by banks before Lahore High Court and Sindh High Court in 2013 and both Courts issued stay orders. The ground of the appeal is whether the broad exception from banking secrecy as provided under section 165A which includes online access to the bank's central database containing details of its account holders and all transactions made in their accounts is in line with banks' contractual obligations towards their clients. A negative decision of the High Court should not have impact on access to banking information under section 176 as section 176 provides for access to specified information upon request. According to the Pakistani authorities section 165A is primarily intended for domestic purposes and access to banking information pursuant to requests for exchange of information is granted under other provisions of the law which are not challenged. Although a restrictive interpretation by the Court is according to the Pakistani authorities not probable Pakistan is recommended to monitor the development of the court case and if necessary to take measures to ensure that banking information can be accessed pursuant to an EOI request in accordance with the international standard.

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

199. 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.

200. The tax authority has sufficient access powers under section 176 and 177 of the Income Tax Ordinance which can be used also for exchange of information purposes. Section 107 of the Income Tax Ordinance was amended in July 2015 to ensure that the tax authority has access powers to obtain information requested under all international treaties providing for exchange of information regardless of domestic tax interest. Section 107 states that notwithstanding anything contained in any other law to the contrary, the FBR shall have the powers to obtain and collect information when requested by another jurisdiction under a tax treaty, a tax information exchange agreement, a multilateral convention, an inter-governmental agreement, a similar arrangement or mechanism (s. 107(1A) Income Tax Ordinance). It further stipulates that such an agreement shall have effect notwithstanding anything contained in any law for the time being in force (s. 107(2)(e)). In addition, section 176 was amended to further strengthen the obligation to provide information pursuant to an EOI request by expressly stipulating an obligation to furnish any information relevant to fulfilling an obligation under international agreement (s. 176(1)(a)). Accordingly, the tax authority can use access powers under sections 176 and 177 of the Income Tax Ordinance for the purposes of exchange of information under all agreements providing for exchange of information as confirmed by the Pakistani authorities.

201. During the period under review there was at least one case where the requested information was not relevant for domestic tax liability as it did not relate to a Pakistani taxpayer and the requested information was obtained under section 176 nevertheless. No issues in respect of the application of domestic tax interest were reported by peers either. Obtaining information for EOI purposes follows well established domestic practice of use of access powers under section 176 and 177 which do not distinguish whether information is relevant for domestic or foreign taxes.

Compulsory powers (ToR B.1.4)

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

203. For the purposes of obtaining the requested information the tax authority may

- at all times and without prior notice, have full and free access to any premises, place, accounts, documents or computer;
- make an extract or copy of any accounts, documents or computer-stored information;
- impound any accounts or documents and retain them for so long as may be necessary for examination;
- make an inventory of any articles found in any premises or place (s. 175(1) Income Tax Ordinance).

204. If a person fails to provide information requested by the tax authority under s. 176 or 177 of the Income Tax Ordinance it is liable to a fine of up to PKR 100 000 (EUR 857) or imprisonment for a term not exceeding one year, or both (ss. 182(1) and 191 Income Tax Ordinance). Providing of inaccurate information is punishable with a penalty of up to PKR 25 000 (EUR 214) or 100% of the amount of evaded tax (s. 176(I)(10) or if more serious by a fine of up to PKR 100 000 (EUR 857) or imprisonment not exceeding three years or both (s. 192 Income Tax Ordinance).

205. Use of compulsory measures forms an important part of FBR's practice. Compulsory powers work as a deterrent and can be applied directly by the field office. In the period between July 2012 and June 2013, a fine under section 182 of the Income Tax Ordinance was applied in 43 cases, in the period between July 2013 and June 2014 in 28 cases and in the period between July 2014 and June 2015 in 36 cases. The total amount of the applied fine for failure to provide information was PKR 3.4 million (EUR 29 700), PKR 4 million (EUR 35 000) and PKR 4 million (EUR 35 000) respectively. Fines under section 176 of the Income Tax Ordinance were applied in nine cases in the period between July 2012 and June 2013, in seven cases in the period between July 2013 and June 2014 and in five cases in the period between July 2014 and June 2015. There was no case during the reviewed period where compulsory powers had to be used to produce the requested information.

Secrecy provisions (ToR B.1.5)

206. 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.

207. Pakistan's tax law does not allow for exception from obligation to provide information requested for tax purposes. Tax authority's access

and compulsory powers remain applicable notwithstanding professional or any other secrecy rules contained in Pakistan's law (ss. 175(7) and 176(5) Income Tax Ordinance). According to Pakistan's authorities there nevertheless remains strong influence of the British common law tradition protecting information held by lawyers acting as attorneys. In these cases information obtained by the legal representative while acting as such may not be disclosed to the tax authority if it contains legal advice or it is meant to be used for litigation purposes.

208. In practice, there was no case during the period under review where the requested information was not provided because it would be covered by trade, business, industrial, commercial or professional secrets. Nevertheless, it is noted that there was no case during the period under review where the information had to be requested from an advocate or other legal professional not acting on behalf of his/her client under the power of attorney. No issues in respect of the application of exceptions from the requirement to provide the requested information were reported by peers either.

Conclusion

209. Pakistan's tax authority has broad access powers to obtain and provide requested information held by persons within its territorial jurisdiction. These powers include right to enter premises and request information from all persons which the tax authority deems relevant. Pakistan has in place appropriate enforcement provisions to compel the production of information, including criminal sanctions and search and seizure power. Tax authority's access powers remain applicable regardless banking secrecy or other secrecy privileges. These access powers can be used also for exchange of information purposes and they do not distinguish whether the requested information is relevant for domestic or foreign tax purposes. A recent legal amendment of the Income Tax Ordinance broadened the scope of their use to also include agreements which do not provide for avoidance of double taxation, thereby now covering all agreements providing for exchange of information regardless of their form.

210. In all cases during the period under review the requested ownership, accounting or banking information was accessible and obtained. In the majority of cases, the requested information was obtained directly from the taxpayer by the field office. Banking information for exchange of information purposes was obtained from banks using the power under section 176 of the Income Tax Ordinance and no restrictions were encountered. There were no cases where the use of domestic access powers was restricted by domestic tax interest and there was no case where the requested information was not provided because it would be covered by trade, business, industrial, commercial

or professional secrets. No issues regarding the use of access powers were reported by peers either.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
Phase 2 rating
Compliant.

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)

211. 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).

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

213. Use of access powers under the Income Tax Ordinance cannot be appealed. However any action of a government authority can be challenged before the High Court under Article 4 of the Pakistan Constitution on the basis that the action is not authorised by law. The Pakistani authorities advise that, as the information gathering powers are authorised by law for purposes of administration of the Income Tax Ordinance (including EOI), they do not see possibility of such challenges preventing or delaying the exchange of information. As admissibility of such challenge depends on violation of the Constitution and will depend on evidence that the tax authority operated outside its broad powers granted to it under the Income Tax Ordinance these appeal rights do not appear to have potential to unduly prevent or delay exchange of information. Accordingly, there was no case where appeal

or challenge to the High Court was filed against use of access powers for exchange of information purposes during the period under review.

214. In practice, rights and safeguards contained in Pakistan’s law did not unduly prevent or delay exchange of information during the period under review. No issues in this respect were reported by peers either.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
Phase 2 rating
Compliant.

C. Exchanging information

Overview

215. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Pakistan, the legal authority to exchange information is derived from double taxation conventions (DTCs) and the SAARC Limited Multilateral Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in Tax Matters (SAARC Agreement). This section of the report examines whether Pakistan has a network of information exchange that allows it to achieve effective exchange of information in practice.

216. Pakistan has broad EOI network covering 68 jurisdictions through 64 DTCs and the SAARC Agreement. Out of 65 Pakistan's agreements 61 meet the international standard. Three DTCs⁸ do not meet the foreseeably relevant standard as they provide for exchange of information relevant only for the purposes of the Convention and three DTCs⁹ are not in line with the standard due to limitations in respect to access to banking information in domestic laws of Pakistan's treaty partners. All Pakistan's EOI agreements are in force except for two DTCs.¹⁰ In practice, no issues in respect of the application of Pakistan's treaties arose during the period under review. There was also no case where Pakistan refused to provide the requested information.

217. Pakistan's EOI network covers all of its significant partners including its main trading partners. During the course of the assessment, no jurisdiction has advised that Pakistan had refused to enter into negotiations or conclude an EOI agreement.

8. These DTCs are with Austria, Germany, and Switzerland.

9. These DTCs are with Austria, Kazakhstan and Switzerland.

10. These DTCs are with Brunei Darussalam (signed in November 2008) and with the Czech Republic (signed in May 2014).

218. All Pakistan's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. Nevertheless thirteen of Pakistan's DTCs may allow disclosure of exchanged information which goes beyond the standard and Pakistan should renegotiate them. The Income Tax Ordinance permits disclosure of information which goes beyond the use of information permitted under the international standard. Based on section 107(2) of the Income Tax Ordinance, agreements for the avoidance of double taxation or exchange of information prevail over Pakistan's domestic law. However, newly introduced section 107(1B) further states that any information exchanged under a treaty should be kept confidential in accordance with confidentiality rules for domestic cases. It is therefore not clear which section of the domestic law will prevail or to which extent and Pakistan is recommended to clarify this ambiguity. Pakistan's law does not provide specific rules on what information should be contained in the notice to the information holders or what exchanged information can be disclosed to the person concerned upon inspection of his file kept on him/her by the tax authority. Nevertheless, Pakistan's practice is in line with the international standard and no information is disclosed which is not necessary in order to obtain the requested information. There was also no case during the period under review where information was unlawfully disclosed. Measures taken to ensure confidentiality of information kept by the FBR are in line with the international standard.

219. As described in section B.1 Pakistan's domestic law does not allow for exception from the obligation to provide information requested for tax purposes and therefore information subject to trade, business, industrial or professional secret can be exchanged in line with the respective treaty. However, Pakistan's six DTCs contain wording which may preclude exchange of information covered by these secrets or concerning any trade process. In practice, there was no case during the period under review where the requested information was not provided because it would be covered by trade, business, industrial, commercial or professional secrets.

220. The Federal Board of Revenue is designated as the Pakistan competent authority for EOI purposes. There are no legal restrictions on the ability of Pakistan'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. Pakistan received 16 requests over the period under review (i.e. 1 January 2012 to 31 December 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 12.5%, 37.5% and 50% of the time respectively. There was no case where Pakistan failed to provide the requested information. However, a few cases reported by peers highlighted issues related to accessibility of the

Pakistani Competent Authority and delays in receiving the requested information. Although Pakistan has generally in place organisational processes and resources to ensure effective exchange of information, improvements should continue to be done in certain important areas to ensure that the requested information is provided in a timely manner. It is therefore recommended that Pakistan addresses these issues.

C.1. Exchange of information mechanisms

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

221. The international treaties providing for exchange of information require ratification by the Parliament. Where a ratified international treaty providing for avoidance of double taxation or exchange of information conflicts with domestic law the treaty prevails over domestic law (s. 107 Income Tax Ordinance).

222. Pakistan has in total 68 EOI relationships. These relationships are based on 64 DTCs and the SAARC Limited Multilateral Agreement on Avoidance of Double Taxation and the SAARC Agreement. Pakistan has not signed any TIEA. All Pakistan's treaties are in force except for two DTCs. The Pakistani 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)

223. 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.

224. Fifty-seven of Pakistan’s exchange of information agreements 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 agreements and is consistent with the international standard.¹¹

225. Pakistan’s DTCs with Ireland, Malaysia, Poland, the United Kingdom and the United States contain wording providing for exchange of information that is necessary for carrying out the provisions of the Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance, in relation to the taxes which are the subject of the Convention. This wording should not restrict effective exchange of information as it appears to provide for the same scope of exchange of information as the OECD model wording. According to Pakistani authorities “prevention of fraud or for the administration of statutory provisions against legal avoidance” should be interpreted broadly and it has the same meaning as “administration or enforcement of domestic tax laws of the requesting party”. Nevertheless these five DTCs were signed in the 70s and 80s and do not contain the OECD model foreseeable relevance wording. Pakistan should therefore consider to renegotiate them.

226. Pakistan DTCs with Austria, Germany and Switzerland allow 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, these agreements do not meet the “foreseeably relevant” standard and Pakistan is recommended to renegotiate them. It is nevertheless noted that Switzerland and Pakistan initialled a DTC containing an EOI clause in line with the standard in August 2014.

227. There is no specific provision in Pakistan’s law defining information required to demonstrate foreseeable relevance of the requested information. In practice, Pakistan 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 information provided does not allow identification of the specific taxpayer and cannot be supplemented from domestic sources will the Competent

11. 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”.

Authority ask for clarification. This was the case in respect of five requests received during the period under review. Only the name of the taxpayer was provided in these requests which however did not allow unique identification of the taxpayer. Pakistan does not require specific identifiers to be provided but the provision of a passport number, address, date of birth or National Tax Number significantly facilitates the processing of the request. No issues in respect of Pakistan's interpretation of the criteria of foreseeable relevance were indicated by peers either. It is therefore concluded that Pakistan interprets this criteria in line with the international standard.

In respect of all persons (ToR C.1.2)

228. 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.

229. Five of Pakistan's DTCs do not explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered).¹² Nevertheless all of them apply for the purposes of administration or enforcement of domestic tax laws of the requesting party and therefore should cover also persons which do not fall within the scope of Article 1. Further Pakistan has advised that it interprets the EOI provision to allow exchange of information with respect to all persons. Nevertheless there has been no exchange of information under these treaties to confirm this.

230. In practice, no issues restricting exchange of information in respect of all persons have been experienced by Pakistan's authorities or reported by peers.

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

231. 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 declined solely because the information is held by nominees or persons acting

12. These are the DTCs with Bahrain, Tunisia, Ukraine, Uzbekistan and the SAARC Agreement.

in an agency or fiduciary capacity or because the information relates to an ownership interest.

232. Out of Pakistan's 65 EOI agreements only DTC with Spain contains 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. The other 64 agreements do not contain language akin to Article 26(5) of the OECD Model Tax Convention. There is no agreement signed by Pakistan 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.

233. For the 64 agreements 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.

234. Nevertheless the absence of a provision akin to Article 26(5) of the OECD Model Tax Convention means that these agreements do not establish legal obligation to exchange all types of information (including banking information). Therefore information which is not accessible under the domestic laws of the requesting jurisdiction might not be provided if requested under these agreements. Pakistan's domestic law does not contain restrictions on access to the relevant types of information however some of Pakistan's partners may have domestic restrictions which would render the respective treaty not in line with the standard. Such restrictions were identified in reviews of Austria, Kazakhstan and Switzerland. Pakistan is therefore recommended to renegotiate these three treaties. Restrictions on access to the relevant types of information may however exist also in other Pakistan's treaty partners and Pakistan should therefore continue to renegotiate its DTCs to incorporate wording in line with Article 26(5) of the OECD Model Tax Convention.

235. In practice, Pakistan has never declined a request because the information was held by a bank, other financial institution, nominees or persons acting in an agency or fiduciary capacity or because the information related to an ownership interest as has been also confirmed by peers. During the period under review Pakistan obtained four requests for banking information and in all cases the requested information was provided.

Absence of domestic tax interest (ToR C.1.4)

236. The concept of “domestic tax interest” describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the international standard. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

237. Out of Pakistan’s 65 EOI agreements only DTC with Spain contains provision similar to Article 26(4) of the OECD Model Tax Convention, which obliges 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. All remaining agreements 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. No Pakistan’s EOI agreement explicitly restricts scope of the exchange of information to the information which is already at a party’s disposal.

238. The absence of provision similar to Article 26(4) of the OECD Model Tax Convention does not automatically create restrictions on access and provision of the requested information. Nevertheless the absence of such provision means that these agreements do not establish legal obligation to exchange the requested information if the requested jurisdiction does not have its domestic tax interest in obtaining such information.

239. There are no such domestic tax interest restrictions in Pakistan in respect of obtaining and providing information requested under international treaties providing for exchange of information (see further section B.1). Further, Pakistani authorities confirmed that they do not require provision similar to Article 26(4) of the OECD Model Tax Convention in order to exercise their access powers regardless of domestic tax interest. Also no issue in this respect has been reported by peers.

240. A domestic tax interest requirement may however exist in some of Pakistan’s partner jurisdictions. Such restriction was identified in reviews of Singapore¹³ and Kazakhstan. It is therefore recommended that Pakistan works with these EOI partners where domestic interest restrictions exist to remove these restrictions and bring these EOI relations to the standard.

13. Singapore amended its domestic legislation in November 2013 with a view to being able to exchange information to the international standard under all of its DTCs on the basis of reciprocity. This legislation has not yet been reviewed by the Global Forum.

241. In practice, no issues of domestic tax interest restriction arose and no issues in this respect were reported by peers either.

Absence of dual criminality principles (ToR C.I.5)

242. 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.

243. There are no such limiting provisions in any of Pakistan’s EOI instruments which would indicate that there is dual criminality principle to be applied. Accordingly, there has been also no case in practice where Pakistan 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.I.6)

244. 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”).

245. All of Pakistan’s EOI instruments provide for exchange of information in both civil and criminal tax matters.

246. Pakistan 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 for handling requests apply in respect of exchange of information for civil and criminal tax matters. Pakistan authorities confirmed that Pakistan will not require the requesting jurisdiction to use 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.I.7)

247. 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.

248. All Pakistan’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 Pakistan’s domestic law and administrative practices. Peer inputs indicate that Pakistan provides the requested information in adequate form and no issue in this respect has been reported.

In force (ToR C.1.8)

249. 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.

250. EOI agreements must be ratified by the Pakistan Parliament. After signing, the agreement together with supporting documentation and incorporating law are submitted to the Parliament for approval. The domestic ratification process is completed after the signed agreement is approved by the Parliament and gazetted. The Ministry of Foreign Affairs subsequently informs the agreement party thereof.

251. All Pakistan’s EOI agreements are in force except for DTCs with Brunei Darussalam and the Czech Republic. The DTC with Brunei Darussalam was signed in November 2008 and the DTC with the Czech Republic in May 2014. In both cases more than 18 months lapsed since their signing. Pakistan is therefore recommended to ratify them and take measures to bring them into force expeditiously.

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

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

253. As discussed in section B, Pakistan has the legislative and regulatory framework in place to give effect to all its current agreements.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Factors underlying recommendations	Recommendations
Out of Pakistan's 65 EOI agreements four do not meet the international standard and only one contains OECD model wording including Articles 26(4) and 26(5).	Pakistan should continue to renegotiate its older treaties and bring all of them in line with the international standard.
Phase 2 rating	
Compliant.	

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

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

254. 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.

255. Pakistan has EOI network covering 68 jurisdictions through 64 DTCs and the SAARC Agreement. Pakistan's EOI network covers all of its significant partners including its main trading partners. Pakistan does not have EOI relation with 11¹⁴ out of 34 OECD members and with five¹⁵ out of G20 countries.

256. 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.

14. These countries are Australia, Chile, Estonia, Greece, Iceland, Israel, Luxembourg, Mexico, New Zealand, the Slovak Republic and Slovenia.

15. These countries are Argentina, Australia, Brazil, Mexico and Russia.

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

257. Pakistan 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. Pakistan advises that it is currently negotiating or renegotiating EOI agreements with 15 jurisdictions. In addition, Pakistan applied to be invited to become a party to the Multilateral Convention in April 2014. Becoming a party to the Multilateral Convention will significantly broaden its EOI network. Pakistan’s application is currently under review by the Convention’s Coordinating Body.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Factors underlying recommendations	Recommendations
	Pakistan should continue to develop its network of EOI mechanisms 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)

258. 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

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

260. Pakistan's DTCs with Germany, Libya, Malaysia, Malta, Philippines, Poland, Switzerland and the United States state that any exchanged information shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the treaty. These provisions do not specify that such persons may use the exchanged information only for the specified purposes. Although such wording is not in line with the Model Article 26 it appears that such persons are expected to use the information only for the specified purposes as they are bound by their internal confidentiality rules. Nevertheless Pakistan is recommended to renegotiate these provisions.

261. DTCs with Bosnia and Herzegovina, Denmark, Kyrgyzstan and Norway condition confidentiality of the exchanged information by requirement that the information has to be confidential in the party providing the information. Such a condition is not contained in the Model Article 26 wording and may allow disclosure which goes beyond the standard if such disclosure is allowed in the sending jurisdiction. Pakistan is therefore recommended to renegotiate these provisions to bring them in line with the model Article 26.

262. Pakistan's DTC with Germany includes Protocol containing personal data protection safeguards. Mainly the taxpayer has a right to be informed of the information stored on him and its planned use to the extent this is allowed under the domestic law of the party where the taxpayer applied for this right. Further, such disclosure is not obligatory if on balance it appears that the public interest in withholding it outweighs the interest of the person concerned in receiving it. In practice there was no exchange of information under the DTC with Germany during the reviewed period. According to the Pakistani authorities they will always first consult its treaty partner before taking further steps if a taxpayer claims his/her right under the Protocol. Further, according to the Pakistani authorities the exchanged information will never be disclosed if its disclosure hinders the purpose of the request or ongoing investigation. The data safeguards contained in the treaty therefore appear to be compatible with confidentiality of information.

263. Pakistan's DTC with Hungary signed in 1992 conditions confidentiality of the received information by request from the jurisdiction providing the information. This is not in line with the standard and Pakistan should renegotiate the respective provision.

264. In practice, there was no exchange of information under the referred treaties with the exception of the DTCs with Norway and the United States. No issue in respect of confidentiality was highlighted by peers or by the Pakistani authorities. Exchanges under these two treaties were handled according to the usual procedure as applied in respect of other treaties.

Pakistan's domestic law

265. Under Pakistan's domestic law all information obtained under the Income Tax Ordinance for the purposes of tax administration is considered confidential and can be disclosed only in the specified cases which include the following

- to any person acting in the execution of the Income Tax Ordinance, where it is necessary for the purposes of the Ordinance;
- to any person authorised by the Tax Commissioner where it is necessary to disclose the information to such person for the purposes of processing of data and preparation of computer printouts relating to returns of income or calculation of tax;
- where the disclosure is necessary for the service of notices or the recovery of tax claims under the Ordinance;
- to the Auditor-General for the purpose of his functions under the Constitution;
- to any officer of the Federal Government or a Provincial Government authorised by such Government for the purpose of enabling that Government to levy or recover any tax imposed by it;
- to any authority exercising powers under the Federal Excise Act, the Sales Tax Act, the Wealth Tax Act, the Stamp Act or the Customs Act as may be necessary to exercise its duties under these acts;
- to the State Bank of Pakistan to enable it to compile financial statistics of international investment and balance of payment;
- as may be required by any order made under the Foreign Exchange Regulation Act, or for the purposes of any prosecution under that Act;
- to the Securities and Exchange Commission or the Monopolies Control Authority for the purposes of the Securities and Exchange Ordinance, the Monopolies and Restrictive Trade Practices Ordinance, the Companies Ordinance or the Securities and Exchange Commission of Pakistan Act as the case may be;

- relevant to any inquiry into a charge of misconduct in connection with income tax proceedings against a legal practitioner or an accountant;
- to a Civil Court in any suit or proceeding to which the Federal Government or any income tax authority is a party which
- for the purposes of a prosecution for any offence under the Pakistan Penal Code in respect of offences under the Income Tax Ordinance;
- to an authorised officer of the government of any country outside Pakistan with which the Government has entered into an agreement under section 107 of the Tax Income Ordinance for the avoidance of double taxation and the prevention of fiscal evasion; or
- to the Federal Tax Ombudsman
- information decided to be published with the prior approval of the Federal Government (ss.216(3) and 216(4) Income Tax Ordinance).

266. A person who discloses any information in contravention of section 216 of the Income Tax Ordinance commits an offence punishable on conviction with a fine of up to PKR 500 000 (EUR 4 280) or imprisonment for a term not exceeding one year, or both (s. 198 Income Tax Ordinance).

267. The disclosure of information under Pakistan's tax law is too broad and goes beyond the standard. Nevertheless, based on section 107(2) of the Income Tax Ordinance in case of conflict agreements for the avoidance of double taxation or exchange of information (including the Multilateral Convention) prevail over Pakistan's domestic law. In July 2015 Pakistan amended the Income Tax Ordinance in order to ensure confidentiality of information exchanged under all EOI agreements as recommended in the Phase 1 Peer Review. The recent amendment broadens the treaty prevails rule contained in section 107 to all agreements which provide for exchange of information regardless of their form. However, in the newly introduced section 107(1B) it further states that any information exchanged under a treaty should be kept confidential subject to section 216(3) of the Income Tax Ordinance. As described above the domestic confidentiality rules contained on the referred section go beyond what is allowed under the standard and may therefore lead to disclosure which is not in line with the respective treaty under which the information was exchanged (e.g. disclosure of information to the State Bank, SECP or the Monopolies Control Authority). It is further noted that section 216(3) has not been amended to include exception for provision of confidential information under agreements which do not provide for avoidance of double taxation. Nevertheless, despite rules in section 107(1B), section 107(2) containing general treaty prevails rule still applies and therefore it is not clear which section of the domestic law will prevail or to which extent. Consequently, confidentiality regime of information received under

Pakistan's agreements (regardless of their form) is not unambiguously provided in cases where there is a contradiction between section 216(3) and the respective agreement under which the information was exchanged. Pakistan is therefore recommended to address this ambiguity. Pakistani authorities acknowledge this issue and the draft amendment addressing it is under the legislative procedure.

268. Information exchanged under EOI agreement should not be disclosed under freedom of information rules. Section 15(1) of the Freedom of Information Ordinance exempts such information the disclosure of which may potentially cause damage to the interests of Pakistan in the conduct of international relations. According to Pakistan authorities the disclosure of information exchanged under EOI agreements would potentially cause such a damage (e.g. by termination of the international treaty) and therefore cannot be disclosed.

269. In practice, EOI requests received from treaty partners are handled only by authorised persons within the FBR dealing with the particular case. All received requests and supporting documentation are kept in electronic format in the EOI database and in physical files kept in the EOI archive. Only persons authorised by the Competent Authority can access the EOI database or the EOI archive. Currently there are three such officials. Each access to the EOI database is traceable and the person accessing it is always uniquely identified. The archive is kept under a lock in the main FBR building and a key is given only to the authorised official handling the particular case. Requests are normally received in paper and then scan uploaded to the EOI database. The original request including attachments is stored in the EOI archive. Copy of the request and of supporting documentation necessary to obtain the information is provided to the local tax office if requested to gather the information (see further section C.5.2). All persons dealing with information obtained from treaty partners at the local level are tax officials bound by confidentiality rules detailed above and in the case of their breach sanctions will apply. The exchanged information is kept in the tax file of the respective taxpayer and is clearly marked as obtained pursuant to an international agreement governing its use. Entry to the tax authority premises is always restricted, protected by an electronic code and a security guard is present at all times. There was no case reported by the Pakistani authorities or by peers where exchanged information was unlawfully disclosed during the period under review.

270. One peer indicated that it did not receive any response to its queries. According to files of the Pakistani Competent Authority it did receive one request from the peer however the other requests have not reached the Competent Authority. The fact that these requests have not been received by the Competent Authority creates a confidentiality risk. The Pakistani

authorities tried to locate the requests however without any success. It is also not clear if they actually reached Pakistan at all. To avoid these situations in the future the contact details of the Competent Authority have been made available through the Global Forum Competent Authority database, the FBR website and have been communicated to peers. The contact details also provide for generic email address as well as postal address where requests can be sent (see further section C.5).

271. Pakistan's tax law does not specify which information is required to be included in notices to the information holder requesting him to provide the information. In order to open an audit the tax authority is required to state in written notice a reason for the audit. According to Pakistani authorities the holder of the information should be 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). This is also confirmed in practice as no case was identified where information, further than indicated as above, had been contained in the notice to the taxpayer. Nevertheless, the issue should be monitored by Pakistan to ensure that no further information than indicated is provided to the holder of the information. Pakistan may also consider whether to issue official guidance to the FBR's field offices providing explicit rules in this respect.

272. The Income Tax Ordinance does not provide rules on which information can be disclosed to the person object of the EOI request or to the information holder. As described in section B.2 no appeal rights can be exercised against obtaining and providing the requested information to the requesting competent authority unless constitutional rights are infringed which would require disclosure of certain exchanged information to the person concerned to substantiate its appeal. Further, in majority of EOI cases no Pakistan tax assessment leading to an administrative decision is issued therefore motivation of the information holder to inspect the exchanged information may be limited. According to Pakistani authorities the EOI request and attached documentation does not form part of the taxpayer's file which can be inspected by the taxpayer and these documents are kept separate from the information obtained domestically. In practice, there was no case during the period under review known to the Pakistani authorities where a taxpayer would request to inspect the exchanged information. If such a case were to happen the field office is required to contact the FBR and the FBR will consult the requesting jurisdiction before taking further steps. The Pakistani authorities further stated that no information will be disclosed if the requesting jurisdiction indicates that it should not be disclosed or such disclosure would hinder an ongoing investigation. Although current practice appears to be in line with the international standard Pakistan is encouraged to issue official guidance to provide explicit rules in this respect.

All other information exchanged (ToR C.3.2)

273. The confidentiality provisions in Pakistan’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. No distinction in handling different types of information and documents received from Pakistan’s treaty partners exists in practice. The same confidentiality rules and practices described above apply in respect of all exchanged information.

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
A small number of Pakistan’s DTCs may allow disclosure of exchanged information which goes beyond the standard.	Pakistan should ensure that all of its agreements meet the standard concerning confidentiality of information received.
Confidentiality rules regarding information exchange under Pakistan’s agreements are not unambiguously provided in cases where there is a contradiction between section 216(3) of the Income Tax Ordinance and the treaty under which the information is exchanged.	Pakistan should remove any potential ambiguity concerning confidentiality rules applicable to exchange of information under its agreements.
Phase 2 rating	
Largely compliant.	

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)

274. 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.

275. All but six of Pakistan's EOI agreements contain OECD model wording of the 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.

276. The DTCs with Germany, Ireland, Malaysia, Poland, Switzerland and the United States contain wording stating that no information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process. This wording seems to prohibit exchange of information which is covered by these secrets and suggests that providing such information may be beyond scope of the treaty. The model wording leaves it at the discretion of the requested jurisdiction whether such information should be provided and in cases where it is provided such provision is in accordance with the treaty. As these secrets are not defined in any of the treaties their interpretation will depend on domestic laws of the respective party providing the requested information. Considering that the scope of such protection may be relatively broad and that the information covered by these secrets cannot be provided strict interpretation of these treaties may lead to restrictions in effective exchange of information with some jurisdictions. Pakistan should therefore consider to renegotiate the treaties to remove these ambiguities.

277. Pakistan's domestic law does not allow for exception from obligation to provide information requested for tax purposes (see further section B.1.5). Therefore information covered by trade, business, industrial, commercial or professional secrets (including information covered by legal professional privilege) should be obtainable by the Pakistan competent authority and can be provided in line with the international standard. Accordingly, there was no case during the period under review where the requested information was not provided because it would be covered by trade, business, industrial, commercial or professional secrets. Nevertheless, it is noted that 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. No issue in respect of application of exceptions from the requirement to provide the requested information was reported by peers either.

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
Phase 2 rating
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)

278. 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.

279. None of Pakistan's DTCs require the provision of request confirmations, status updates or the provision of the requested information within the timeframes foreshadowed in Article 5(6) of the OECD Model TIEA. There appear to be no legal restrictions on the Pakistan's competent authority's ability to respond to EOI requests in a timely manner either.

In practice

280. Pakistan received 16 requests related to direct taxes over the period 1 January 2012 to 31 December 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).

	2012		2013		2014		Total	
	num.	%	num.	%	num.	%	num.	%
Total number of requests received	4	100	3	100	9	100	16	100
Full response: ≤ 90 days	0	0	1	33	1	11	2	12.5
≤ 180 days (cumulative)	3	75	1	33	2	22	6	37.5
≤ 1 year (cumulative)	4	100	1	33	3	33	8	50
> 1 year	0	0	2	67	6	67	8	50
Declined for valid reasons	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	0	0	0	0	0	0	0	0
Requests still pending at date of review	0	0	0	0	0	0	0	0

281. As the table shows there is a slight increase in the number of received requests per year during the period under review. The length of Pakistan's response times slightly deteriorated throughout the reviewed period. Most requests over the reviewed period were received from the United Kingdom, the United States and Norway. The largest number of requests related to accounting information and underlying accounting documentation. During the same period Pakistan sent 10 requests related to direct taxes out of which four were sent in the last year under review.

282. 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 by field offices. The main difficulties Pakistani authorities are confronted with when obtaining the requested information are cases where the holder of the information is not identifiable, obstructs the course of the investigation or cases where information has to be obtained through co-operation with other government authorities which requires approval by representatives of the respective authority. Another factor which negatively contributed to timeliness of responses was a lack of rigorous monitoring of deadlines and follow-up on pending cases by the FBR and administrative delays caused by transfer of cases between field offices. These factors resulted in timeliness statistics which are not fully compatible with effective exchange of information. Pakistan is therefore recommended to limit any unnecessary delays in obtaining and providing the requested information so that it improves timeliness of its responses.

283. Pakistan exchanges information with its treaty partners to the widest possible extent. Accordingly, there was no case during the period under review where Pakistan declined a request. Pakistan requested clarification in five cases over the period under review (31% of requests received). In all these cases the provided information did not allow identification of the

taxpayer even after Pakistan used its domestic resources to supplement the information as the provided identifiers match with different taxpayers or no taxpayer could be identified. Pakistan does not require specific identifier information to be provided if the taxpayer can be identified (see further section C.1.1).

284. There was no case during the period under review where Pakistan failed to provide the requested information. Nevertheless, in one case a peer did not identify the Competent Authority and therefore did not send the intended request for information. In another case other peer indicated that it did not receive any response to its queries. According to files of the Pakistani Competent Authority it did receive one request from the peer however the other requests have not reached the Competent Authority. Both cases highlighted by peers refer to issues related to accessibility of the Pakistani Competent Authority. Since then the contact details of the Competent Authority have been made available through the Global Forum Competent Authority database, the FBR website and have been communicated to peers. These contact details also provide for generic email address as well as postal address where requests can be sent (see further section C.5.2).

285. No request received during the period under review is pending. One peer indicated that at the time of providing the input its request has been pending for more than a year. The referred request related to accounting information which was needed to be obtained from the taxpayer. Since then the requested information has been provided to the peer.

286. During the period under review Pakistan 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 has been only recently introduced in the Competent Authority's EOI guidelines approved in April 2016. Pakistan also recently put in place a new EOI database which will facilitate monitoring of deadlines and provision of status updates. As the new rule is not sufficiently tested in practice it is recommended that Pakistan monitors its implementation so that status updates are provided to the requesting jurisdiction in all cases where the response takes more than 90 days.

Organisational process and resources (ToR C.5.2)

Organisation of EOI practice

287. It is important that a jurisdiction has appropriate organisational processes and resources in place to ensure a timely response. The government authority responsible for exchange of information in tax matters in Pakistan is the FBR. The FBR is headed by a Chairman and 10 members of the FBR.

Member of the FBR board responsible for Inland Revenue Policy acts as the Competent Authority for exchange of information. The Competent Authority is supported by the Chief (International Taxes), an official at the level of Secretary within the International Taxes department who is practically handling EOI requests and 11 supporting staff. This set up is responsible for handling incoming and outgoing requests for exchange of information in the field of direct taxes.

288. In most cases the requested information is obtained through field formations of the FBR seated in Pakistan's regions. There are 18 regional offices and four large taxpayer units. If the requested information is already contained in the tax database it is obtained through FBR IT department. Information may be also requested from other agencies such as from the National Database Registration Authority (NADRA) if information regarding the identification or address of a person is sought, from the SECP if information concerning ownership and accounting information of corporate taxpayers is requested, from banks or the State Bank of Pakistan (SBP) if banking information is requested or from the relevant Registrar or Sub-Registrar of properties if information regarding property ownership is requested. In response to EOI requests regarding criminal matters, assistance can be requested from the law enforcement agencies, e.g. Police, Federal Investigation Agency (FIA) and National Accountability Bureau (NAB).

289. Since March 2016, contact details of Pakistan's competent authority are available in the Global Forum's Competent Authority database¹⁶ and on the FBR public website¹⁷. The contact details are also communicated to Pakistan's EOI partners through meetings and telephone contacts. Two peers reported problems in contacting the Competent Authority during the period under review, i.e. before March 2016. It is important that the Competent Authority's contact details are readily available to Pakistan's EOI partners and are kept updated. Pakistan should therefore continue paying attention to this.

Handling of EOI requests

290. All requests are at first received by the central receiving desk of the FBR and then are directed to the addressee. Once the request is received by the Competent Authority (Member of the FBR – Inland Revenue Policy) it is recorded into the FBR document tracking system e-Dox and submitted to the Chief (International Taxes) who examines its contents and forwards it to the Secretary handling EOI issues for further handling. The Secretary enters the EOI request into the EOI database and into the physical file kept

16. <http://www.oecd.org/secure/sites/gfcompetentauthorities/>

17. <http://eoi.fbr.gov.pk/?view=ExternalLink&ActionID=&ArticleID=>

on the request. The Secretary then examines the contents of the EOI request, taking into consideration the comments of the Chief (International Taxes) and the nature of information sought before determining what further steps to take. After the examination, the EOI request is discussed with the Chief (International Taxes) and it is decided whether the EOI request is valid or otherwise. If missing information cannot be substituted, a clarification is requested from the requesting jurisdiction (see further section C.1.1). If a request is found to be invalid, the requesting jurisdiction is informed of the reasons. If the EOI request is valid and complete, the request is sent to the concerned field office together with instructions and a deadline in which the information should be provided. If information is already contained in the tax database it is requested from the FBR IT department. If simple information is held by another agency (e.g. the verification of an identity or address) the Secretary requests the information directly through a written letter. In cases of delay, reminders are sent. When the response is received it is examined as to whether it answers the question and is complete. In the case of any deficiency or shortcoming, the field formations are asked to remove the deficiency or provide additional information. Once the response is ready, it is submitted to the Competent Authority for approval. Once approved, the response is sent to the requesting jurisdiction by the Secretary on behalf of the Competent Authority.

291. Banking information is obtained in the same way as any other type of information. If banking information forms only part of a request, or the requested banking information may be relevant for domestic Pakistan taxes, it is obtained by field offices. In other cases, banking information can be obtained directly by the FBR Secretary handling the EOI request at the central level.

292. According to internal guidelines approved in April 2016, all EOI requests should be responded by providing the requested information within three months. All requests involving information which can be retrieved from Federal Board of Revenue (FBR)'s own database should be disposed of within one month and requests which involve greater complexity and voluminous information have to be responded within six months. The requested field office or a person holding the requested information is given 15 days to respond unless the requested information is complex and obtaining it may require the launch of a tax audit or co-ordination with other agencies. In these cases, the deadline can be extended for up to three months. If the requested information is not provided within the deadline, the Secretary issues a reminder letter addressed to the requested field office or information holder. The reminder letter is frequently accompanied by email communication and phone calls. Provision of information in a timely manner requires obtaining and providing the requested information as soon as possible and without unnecessary delays. It is therefore important to ensure that the

deadlines applied in practice fit to a particular case and require the tax office obtaining the information to provide it as soon as possible and without delay (e.g. caused by waiting for the deadline).

293. During the period under review, monitoring of deadlines was performed through manual checks of the EOI database where all incoming and outgoing requests are recorded. Since the end of the period under review, a new EOI database was put in place which generates automatic reminders on requests when a deadline is breached. The EOI database includes information on the date of receipt of the request, subject of the request, steps taken and current status of the request. The new EOI database further allows preparation of different reports on the status of requests, for example based on date of receipt, type of requested information and average response times. If further details on a request are needed, the Secretary can consult the physical file of the request which contains all the related documentation and communications and which is kept in the EOI archive. The Secretary updates the EOI database on a daily basis. The Chief (International Taxes) manually checks the current state of received requests every two or three days. Outstanding requests where a response has not been provided within the deadline are discussed with the Secretary on a weekly basis. The Competent Authority request updates on EOI requests on a monthly basis and ad hoc. If necessary, the Competent Authority gets involved in handling the EOI request to streamline obtaining and providing the particular information.

294. Internal official communication with the field offices or other information holders is carried out through letters sent by post. Official communication with Pakistan's EOI partners is carried out through standard or registered post as well. This is the preferred way of communication by Pakistan as it allows clear tracking of the document circulation and conforms with its administrative rules. Nevertheless, the use of post might lead to delays in providing the requested information to its EOI partners and does not protect confidentiality of exchanged information in all cases. Pakistan is therefore encouraged to use more effective communication tools with its treaty partners such as emails with encrypted attachments.

295. Pakistan accepts requests in English or Urdu. 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.

296. Staff responsible for handling EOI requests at the central level are well trained to handle the current amount of EOI requests. The FBR recently launched specialised training courses for the staff handling EOI matters. The IT Wing of the FBR organises training whereby field offices staff handling EOI issues are trained and sensitised regarding internal processing of EOI requests and maintenance of confidentiality. Currently, eight officials have been trained and others will follow in the next sessions. Further, FBR

organised SAARC seminar on “Exchange of Information/Large Taxpayers Unit” from 7 to 11 April 2014 where, eleven officers of the FBR got training on exchange of information in addition to participants from other SAARC countries. In addition, six officers of the FBR involved in handling EOI requests have attended Global Forum/OECD sponsored EOI workshops during the last three years.

Conclusion

297. Pakistan has generally in place organisational processes and resources to ensure effective exchange of information. However, improvements should continue to be done in certain areas to ensure that the requested information is provided in a timely manner as pointed out by peers. These areas include (i) proper implementation of the recently introduced EOI guidelines which among other matters provide for internal deadlines and the provision of status updates, (ii) ensuring that contact details of the Competent Authority are available to all Pakistan’s treaty partners and the Competent Authority can be effectively reached through post or email and (iii) maintenance of the new EOI database supported by follow up action on reminders where deadlines where breached. It is therefore recommended that Pakistan monitors recently introduced measures and takes further action where necessary to ensure that responses are provided in a timely manner.

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

298. 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 Pakistan’s laws or practices that restrict effective exchange of information in Pakistan.

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

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 (<i>ToR A.1</i>).		
Phase 1 determination: The element is in place.		
Phase 2 rating: Partially compliant.	Ownership information on certain companies and partnerships is available with financial institutions, if engaged by the company or partnership, or with the entities themselves. However the low compliance rate with filing obligations in combination with limited inspection of ownership information and enforcement (which also does not include striking off of non-compliant entities) do not ensure that the information is available as required under the law in all cases.	Pakistan should take measures to ensure that ownership information in respect of the relevant entities is practically available as required under the international standard.

Phase 2 rating: Partially compliant <i>(continued)</i>	Information required to be held by trustees is mainly supervised by AML supervisory authorities, however, the supervisory and enforcement system has not yet been set up for trustees who are not financial institutions.	Pakistan should take the necessary supervisory and enforcement measures to ensure that information on settlors and beneficiaries of trusts operated by Pakistan resident trustees is available in all cases.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>).		
Phase 1 determination: The element is in place.		
Phase 2 rating: Largely compliant.	Although Pakistani authorities carry out supervisory and enforcement measures focused on availability of accounting information these do not result in sufficient levels of compliance to ensure that the relevant accounting information (including underlying documentation) is in all cases available in practice.	Pakistan should take further measures to ensure that accounting information in respect of the relevant entities and arrangements is practically available as required under the international standard.
Banking information should be available for all account-holders (<i>ToR A.3</i>).		
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) (<i>Tor B.1</i>).		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>).		
Phase 1 determination: The element is in place.		

Phase 2 rating: Compliant.		
Exchange of information mechanisms should allow for effective exchange of information (<i>ToR C.1</i>).		
Phase 1 determination: The element is in place.	Out of Pakistan's 65 EOI agreements four do not meet the international standard and only one contains OECD model wording including Articles 26(4) and 26(5).	Pakistan should continue to renegotiate its older treaties and bring all of them in line with the international standard.
Phase 2 rating: Compliant.		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>).		
Phase 1 determination: The element is in place.		Pakistan should continue to develop its network of EOI mechanisms 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 (<i>ToR C.3</i>).		
Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.	A small number of Pakistan's DTCs may allow disclosure of exchanged information which goes beyond the standard.	Pakistan should ensure that all of its agreements meet the standard concerning confidentiality of information received.
	Confidentiality rules regarding information exchange under Pakistan's agreements are not unambiguously provided in cases where there is a contradiction between section 216(3) of the Income Tax Ordinance and the treaty under which the information is exchanged.	Pakistan should remove any potential ambiguity concerning confidentiality rules applicable to exchange of information under its agreements.
Phase 2 rating: Largely compliant.		

The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>).		
Phase 1 determination: The element is in place.		
Phase 2 rating: Compliant.		
The jurisdiction should provide information under its network of agreements in a timely manner (<i>ToR C.5</i>).		
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: Partially compliant.	Pakistan was not able to respond in a timely manner in several cases with half of the requests responded to after a year. The main deficiencies relate to handling of requests at the local level and lack of rigorous monitoring and follow-up action by the FBR in cases where information is not provided within the prescribed deadline.	Pakistan should limit any unnecessary delays in obtaining and providing the requested information so that it improves the timeliness of its responses.
	Pakistan recently introduced new measures to improve its EOI processes including obligation to systematically provide status updates. However, certain improvements should continue to be done to ensure that the requested information is provided in a timely manner.	Pakistan should monitor recently introduced measures and take further action where necessary to ensure that responses are provided in a timely manner.

Annex 1: Jurisdiction’s response to the review report¹⁸

Pakistan expresses its profound gratitude to the assessment team for the tremendous work in its phase-2 peer review and for being thoroughly professional and balanced in the approach.

Pakistan is fully aware of its responsibilities towards transparency and exchange of information in tax matters. Pakistan has a broad EOI network and is soon to become Party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and a BEPS Associate. Pakistan has always been forthcoming on adopting the best practices and meeting the international standards on tax matters in general, and exchange of information in particular.

As the peer review report suggests, the information on ownership and accounting has always been available to Pakistan and provided to its treaty partners on request. There has not been a single instance, in the period under review and afterwards, that the ownership or accounting information was not available, even if the concerned entities had not met the filing obligations. Pakistan is currently working on a Virtual One Stop Shop for the simultaneous registration of companies with Federal Board of Revenue and the Securities Exchange Commission of Pakistan so that the relevant information remains available all the time to both the Authorities. Both these organisations have also signed a Memorandum of Understanding to reinforce information sharing in the areas of common interest.

Pakistan is fully aware of how confidentiality of information is being valued worldwide and there has never been any instance that due regard has not been given to this factor. In C.3, Pakistan’s rating as Largely Compliant has mainly been attributed to certain ambiguity in the confidentiality rules. Pakistan has recently issued Confidentiality Guidelines to reinforce the confidentiality provisions and ensure that the Global Forum standard is fully met. The Finance Bill 2016 further amends confidentiality laws in line with GF standards. The Finance Bill is being passed by the Parliament on 22 June

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

2016 and likely to be published in the official gazette in a couple of days. As such, when it comes to C.3, it is now a matter of few days that Pakistan is fully compliant.

Pakistan has complied with every single request for information in tax matters received during the period under review. After the period under review, Pakistan has taken further initiatives to provide information to its partners in a timely manner. The Competent Authority has issued specific EOI Guidelines to delineate all the required processes and lay down time-lines for finalizing the responses, including the 90 days status updates. These measures are now bearing fruit. For instance, Pakistan has replied all the requests received in 2015 and has also responded to one third of the requests of 2016 till date whereas the remaining requests have just been received.

Pakistan has established an EOI portal <http://eoi.fbr.gov.pk/> and a new EOI database for inward and outward EOI requests which is protected for the confidential data. The advantage of this database is that status of all the pending cases are now monitored on regular basis and reminders generated when a particular response is not made. The contact details of Pakistan's Competent Authority have also been put on the EOI portal, on the Global Forum website and have been emailed individually to the contracting partners. Pakistan has now a robust system in place to stay connected to its treaty partners and provide them the requested information in a timely manner.

It may be concluded that the peer review process has afforded Pakistan an opportunity to analyze its legal framework and the practical aspects of its exchange of information. Pakistan has made many improvements after the period under review and remains committed to the internationally agreed standards on transparency and exchange of information. Pakistan is looking forward to more interactive cooperation with its treaty partners and an active participation in the Global Forum.

Annex 2: List of Pakistan’s exchange of information mechanisms

Bilateral agreements

The table below contains the list of bilateral agreements providing for exchange of information in tax matters signed by Pakistan as of May 2016. Pakistan has signed 64 DTCs all of which except for two are in force (see the table below).

For jurisdictions with which Pakistan has several agreements, a reference to all those EOI instruments is made.

Multilateral agreements

Pakistan is a Party to the Multilateral Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in tax matters signed by the SAARC countries, that is, Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The SAARC Multilateral Agreement provides for administrative assistance between member countries including exchange of information.

Table of Pakistan’s exchange of information relations

The table below summarises Pakistan’s EOI relations with individual jurisdictions established through international agreements allowing for exchange of information upon request in the field of direct taxes.

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
1	Afghanistan	SAARC Limited Multilateral Agreement on Avoidance of Double Taxation and Mutual Administrative Assistance in Tax Matters (SAARC)	13-11-2005	19-05-2010
2	Austria	Double Tax Convention (DTC)	04-08-2005	03-01-2006
3	Azerbaijan	DTC	10-04-1994	24-07-1999
4	Bahrain	DTC	27-06-2005	25-09-2009
5	Bangladesh	DTC	15-10-1981	08-07-1987
		SAARC	13-11-2005	19-05-2010
6	Belarus	DTC	23-07-2004	30-08-2006
7	Belgium	DTC	17-03-1980	01-07-1981
8	Bhutan	SAARC	13-11-2005	19-05-2010
9	Bosnia and Herzegovina	DTC	24-08-2004	07-02-2006
10	Brunei Darussalam	DTC	20-11-2008	
11	Canada	DTC	24-02-1976	15-12-1977
12	China, People's Republic of	DTC	15-11-1989	27-12-1989
13	Czech Republic	DTC	02-05-2014	
14	Denmark	DTC	22-10-1987	01-01-1988
15	Egypt	DTC	16-12-1995	23-03-2001
16	Finland	DTC	30-12-1994	10-04-1996
17	France	DTC	15-06-1994	01-10-1991
18	Germany	DTC	14-06-1994	30-12-1995
19	Hungary	DTC	24-02-1992	06-02-1994
20	India	SAARC	13-11-2005	19-05-2010
21	Indonesia	DTC	07-10-1990	28-02-1991
22	Iran	DTC	27-05-1999	24-04-2004
23	Ireland	DTC	13-04-1973	20-12-1974
24	Italy	DTC	22-06-1984	27-02-1992
25	Japan	DTC	23-01-2008	01-11-2008
26	Jordan	DTC	09-03-2006	31-07-2007
27	Kazakhstan	DTC	23-08-1995	29-01-1997

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
28	Korea	DTC	13-04-1987	20-10-1987
29	Kuwait	DTC	30-06-1998	28-05-2002
30	Kyrgyzstan	DTC	18-01-2005	12-03-2012
31	Lebanon	DTC	31-08-2005	26-06-2008
32	Libya	DTC	09-01-1975	01-03-1976
33	Malaysia	DTC	29-05-1982	12-04-1983
34	Maldives	SAARC	13-11-2005	19-05-2010
35	Malta	DTC	08-10-1975	20-12-1975
36	Mauritius	DTC	30-09-1994	08-12-1994
37	Morocco	DTC	18-05-2006	28-10-2009
38	Nepal	DTC	25-01-2001	13-07-2010
		SAARC	13-11-2005	19-05-2010
39	Netherlands	DTC	24-03-1982	04-10-1982
40	Nigeria	DTC	10-10-1989	10-01-1990
41	Norway	DTC	07-10-1986	18-02-1987
42	Oman	DTC	12-06-1999	28-09-2009
43	Philippines	DTC	22-02-1980	24-06-1981
44	Poland	DTC	25-10-1974	24-11-1975
45	Portugal	DTC	23-06-2000	24-07-2007
46	Qatar	DTC	06-04-1999	06-04-2000
47	Romania	DTC	27-06-1999	23-02-2001
48	Saudi Arabia	DTC	02-02-2006	15-11-2006
49	Serbia	DTC	30-09-2010	09-07-2011
50	Singapore	DTC	13-04-1993	08-09-1993
51	South Africa	DTC	26-01-1998	09-03-1999
52	Spain	DTC	02-06-2010	26-10-2011
53	Sri Lanka	DTC	05-10-1981	18-06-1983
		SAARC	13-11-2005	19-05-2010
54	Sweden	DTC	22-12-1985	30-06-1986
55	Switzerland	DTC	19-06-2005	20-12-2008
56	Syria	DTC	16-03-2001	18-12-2002
57	Tajikistan	DTC	13-05-2004	30-06-2005
58	Thailand	DTC	14-08-1980	07-01-1981

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
59	Tunisia	DTC	18-04-1996	05-08-1997
60	Turkey	DTC	14-11-1985	08-08-1988
61	Turkmenistan	DTC	26-02-1995	01-07-1998
62	Ukraine	DTC	23-12-2008	26-10-2011
63	United Arab Emirates	DTC	07-02-1993	30-11-1994
64	United Kingdom	DTC	24-12-1986	08-12-1987
65	United States	DTC	01-07-1957	21-05-1959
66	Uzbekistan	DTC	22-05-1995	12-09-1996
67	Viet Nam	DTC	25-03-2004	01-07-2005
68	Yemen	DTC	02-03-2004	06-01-2006

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

Commercial laws

Companies Ordinance 1984
Partnership Act 1932
Societies Registration Act 1864
Trusts Act 1882
Securities and Exchange Commission Act 1997

Taxation laws

Income Tax Ordinance 2001
Income Tax Rules 2002

Banking laws

The Banking Companies Ordinance 1962
State Bank of Pakistan Act 1956
Foreign Exchange Regulation Act 1947

Anti-money laundering laws

Anti-Money Laundering Act 2010
Anti-Money Laundering and Combating the Financing of Terrorism
Regulations for Banks and Development Finance Institutions 2012

Other

Freedom of Information Ordinance, 2002

Government Servants Efficiency and Discipline Rules 1973

Government Servants Conduct Rules 1964

Civil Servants Act 1973

Mussalman Wakf Act 1923

Penal Code 1860

The Constitution of the Islamic Republic of Pakistan 1973

Copies of tax treaties

Annex 4: Authorities interviewed during the on-site visit

Company Registration Office Islamabad
Federal Board of Revenue

Financial Monitoring Unit

Security and Exchange Commission of Pakistan
State Bank of Pakistan

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Publishing disseminates widely the results of the Organisation's statistics gathering and research on economic, social and environmental issues, as well as the conventions, guidelines and standards agreed by its members.

Global Forum on Transparency and Exchange of Information for Tax Purposes

PEER REVIEWS, PHASE 2: PAKISTAN

This report contains a “Phase 2: Implementation of the Standards in Practice” review, as well as revised version of the “Phase 1: Legal and Regulatory Framework review” already released for this country.

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 130 jurisdictions which participate in the work of the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the 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, which has been incorporated in 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 plus Phase 2 – reviews. 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 visit www.oecd.org/tax/transparency and www.eoi-tax.org.

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