

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report Combined: Phase 1 + Phase 2, incorporating Phase 2 ratings

BULGARIA



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

COMBINED: PHASE 1 + PHASE 2,
INCORPORATING PHASE 2 RATINGS

November 2016
(reflecting the legal and regulatory framework
as at August 2016)

This work is published on the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of the OECD or of the governments of its member countries or those of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Please cite this publication as:

OECD (2016), *Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Bulgaria 2016: Combined: Phase 1 + Phase 2, incorporating Phase 2 ratings*, OECD Publishing.
<http://dx.doi.org/10.1787/9789264265790-en>

ISBN 978-92-64-26578-3 (print)
ISBN 978-92-64-26579-0 (PDF)

Series: Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews
ISSN 2219-4681 (print)
ISSN 2219-469X (online)

Corrigenda to OECD publications may be found on line at: www.oecd.org/publishing/corrigenda.

© OECD 2016

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.

Table of Contents

About the Global Forum	5
Abbreviations	7
Executive summary	9
Introduction	13
Information and methodology used for the peer review of Bulgaria	13
Overview of Bulgaria	14
Recent developments	19
Compliance with the Standards	21
A. Availability of information	21
Overview	21
A.1. Ownership and identity information	24
A.2. Accounting records	59
A.3. Banking information	66
B. Access to information	71
Overview	71
B.1. Competent Authority’s ability to obtain and provide information	72
B.2. Notification requirements and rights and safeguards	81
C. Exchanging information	83
Overview	83
C.1. Exchange of information mechanisms	85
C.2. Exchange of information mechanisms with all relevant partners	94
C.3. Confidentiality	95
C.4. Rights and safeguards of taxpayers and third parties	101
C.5. Timeliness of responses to requests for information	102

Summary of determinations and factors underlying recommendations	113
Annex 1: Jurisdiction’s response to the review report	117
Annex 2: List of Bulgaria’s exchange of information mechanisms	118
Annex 3: List of all laws, regulations and other relevant material	127
Annex 4: Authorities interviewed during the on-site visit	129

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.

Abbreviations

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CCN	Common Communication Network
CDD	Customer Due Diligence
CRS	Common Reporting and Due Diligence Standard for Automatic Exchange of Information
DNFBP	Designated Non-Financial Businesses and Professions
DTC	Double Tax Convention
EEIC	European Economic Interest Grouping
EOI	Exchange of information for tax purposes
FATCA	Foreign Account Tax Compliance Act
FID-SANS	Financial Intelligence Directorate – State Agency for National Security
IOTA	Intra-European Organisation of Tax Administrations
Multilateral Convention	OECD Convention on Mutual Administrative Assistance in Tax Matters
LLC	Limited Liability Company
STR	Suspicious Transaction Report
TIEA	Tax Information Exchange Agreement
UIC	Unified Identification Code

Executive summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in Bulgaria 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. Bulgaria is middle size state located in South-eastern Europe with a population of about 7.1 million. Bulgaria’s GDP was about EUR 42 billion in 2014. Sixty-seven percent of the GDP is produced in the service sector, followed by industry with 27% and agriculture 6%. Two thirds of the GDP represent exports. Tourism, information technology and telecommunications, agriculture, pharmaceuticals and textiles are Bulgaria’s leading industries. Bulgaria joined the EU in January 2007 and it is a member of many international organisations including Council of Europe, the World Trade Organization and Moneyval. Bulgaria is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes since October 2015.

3. The Bulgarian legal and regulatory framework ensures availability of ownership information in line with the standard with exceptions in respect of (i) limited number of companies which issued bearer shares, (ii) foreign companies and foreign partnerships and (iii) Bulgarian resident trustees of foreign trusts. Ownership information in respect of domestic companies is required to be available through filing obligations with the Commercial Register or based on obligation to keep and maintain an up to date register of shareholders. Partnerships incorporated in Bulgaria are required to submit information on all their partners to the Commercial or BULSTAT Register and report any subsequent changes thereof. Foundations and associations are required to register with district courts and the BULSTAT Register and they are entities covered by anti-money laundering (AML) obligations under the AML Act. Information on members and representatives of a co-operative is required to be available primarily with the co-operative through the register of members, statutes of association and minutes of general meetings.

4. As indicated above Bulgarian law provides for issuance of bearer shares by joint stock companies and partnerships limited by shares. There are several mechanisms which allow identification of holders of these shares, however, these measures are linked to certain conditions or situations and do not require identification of holders of bearer shares in all cases. It is however noted that the possibility to issue bearer shares does not have negative systemic impact on practical availability of ownership information in Bulgaria as bearer shares were issued by 555 joint stock companies and 5 partnerships representing 0.1% of all companies and ownership information is available in respect of 440 of them.

5. The application of relevant legal mechanisms ensures that ownership information in respect of relevant entities is generally available in practice in accordance with the legal requirements. Supervisory and enforcement measures taken by the tax administration appear appropriate to ensure availability of the tax relevant information in practice. Enforcement and supervisory measures taken by the AML supervisory authorities ensure that the obliged entities are adequately carrying out their AML and customer due diligence (CDD) obligations. The main source of ownership information in practice is the Commercial or BULSTAT Register or alternatively the entity itself. The Bulgarian law contains several safeguards which motivate compliance of the registered entities with their filing obligations, nevertheless, there is a room for improvement in respect of supervisory and enforcement measures taken by the Registry Agency especially in respect of identification of cases of non-compliance and application of sanctions including striking off. During the review period Bulgaria received 132 requests for ownership information and there was no case where the requested information was not available.

6. All relevant Bulgarian entities as well as Bulgarian resident trustees and foreign entities performing economic activities in Bulgaria are required to keep accounting records and underlying documentation in accordance with the standard. All obligated persons under the Accounting Act are required to keep records which correctly explain the entity's transactions, enable it to determine the entity's financial position with reasonable accuracy at any time and allow financial statements to be prepared. The requirements under the Accounting Act are supplemented by obligations imposed by the tax law which require all taxpayers including permanent establishments of all foreign persons to substantiate their tax liability through accounting records kept in accordance with accounting law. Bulgaria's legal and regulatory framework is adequately implemented to ensure availability of accounting information in respect of all relevant entities in practice. Supervision of accounting obligations is conducted on several levels mainly through obligations to file accounting information with the tax administration and the Commercial Register and through verification of tax obligations carried out during on-site inspections and tax audits. Availability of accounting information in Bulgaria

has been also confirmed by EOI practice. Bulgaria received 102 requests for accounting information. There was no case where a person would not provide the requested accounting information because it was not available.

7. Bulgarian AML and accounting law imposes appropriate obligations to ensure that all records pertaining to customers' banks accounts as well as related financial and transactional information are available. Banks are required to identify their clients which includes verification of his/her identity and if it is a legal person identification of its beneficial owner. Banks are also obliged to keep records of all data and documents on all transactions performed under a business relationship. The practical availability of banking information in line with the standard is ensured by the respective Bulgarian supervisory authorities mainly through supervision and enforcement of banks' AML obligations. During the period under review Bulgaria received 32 requests for banking information and there was no case where the requested information was not available.

8. The tax administration has broad access powers to obtain and provide requested information held by persons within its territorial jurisdiction. The tax administration can use this access powers also for exchange of information purposes regardless of domestic tax interest. Bulgaria has also in place appropriate enforcement provisions to compel the production of information including search and seizure power. Secrecy provisions contain exceptions to allow the tax authority access to the relevant information in line with the standard. There was no case during the period under review where information was not provided due to the lack of access powers. The information already at the disposal of the tax administration is broad and can be provided directly by the EOI Unit. If the requested information is not already at the disposal of the tax administration it is in most cases obtained through a written notice by local tax offices. Bulgaria's law does not require notification of the persons concerned prior or after providing the requested information to the requesting jurisdiction. Appeal rights contained in Bulgarian law are in line with the standard.

9. Bulgaria has an extensive EOI network covering 118 jurisdictions including its main trading partners, all OECD members and all G20 countries. Bulgaria is also a Party to the Convention on Mutual Administrative Assistance in Tax Matters, as amended (Multilateral Convention). Only Bulgaria's EOI relation with Lebanon does not provide for exchange of information in line with the standard and exchange of information with Serbia and Montenegro may be restricted to civil tax matters. All Bulgaria's EOI agreements including the Multilateral Convention are in force except for one agreement. There was no case where application of Bulgaria's treaties unduly restricted exchange of information during the period under review.

10. All Bulgaria's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. Bulgarian domestic law permits disclosure of information which goes beyond the use of information permitted under the international standard. However, the provisions of Bulgaria's ratified EOI agreements override domestic laws. Confidentiality rules are properly implemented in practice. Information obtained under EOI instruments is classified as information for limited use only and must be stamped with confidentiality warning. Access to the information is granted only the tax official responsible for the particular case.

11. All Bulgaria's EOI relations allow 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. No issue of application of exceptions from the obligation to provide information came up in practice during the reviewed period and such an exception was never invoked by Bulgarian information holders or by Bulgaria as the requested jurisdiction.

12. The Tax Treaties Directorate of the National Revenue Agency is acting as the Bulgarian competent authority for EOI purposes. Bulgaria received 219 requests related to direct taxes over the period 1 July 2012 to 30 June 2015. 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 44%, 76% and 92% of the time respectively. Bulgaria has in place appropriate organisational processes to ensure effective exchange of information in the majority of cases. Nevertheless certain room for improvement remains in monitoring of deadlines, provision of status updates and efforts should be also put to decrease response times in cases where information is obtained by local tax offices.

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

14. Recommendations have been made where elements of Bulgaria's EOI regime have been found to be in need of improvement. A follow-up report on the measures taken by Bulgaria 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 Bulgaria

15. The assessment of the legal and regulatory framework of the Republic of Bulgaria (hereafter Bulgaria) as well as its practical implementation and effectiveness were based on the international standards for transparency and exchange of information as described in the Global Forum’s Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information For Tax Purposes, and was prepared using the Global Forum’s Methodology for Peer Reviews and Non-Member Reviews. The assessment was based on the laws, regulations, and exchange of information mechanisms in force or effect as at 19 August 2016, Bulgaria’s responses to the Phase 1 and Phase 2 questionnaires, other information, explanations and materials supplied by Bulgaria and information supplied by partner jurisdictions. The on-site visit took place in Sofia, Bulgaria, on 29 March-1 April 2016. During the on-site visit, the assessment team met with officials and representatives of relevant Bulgarian government agencies, including the Ministry of Finance, the National Revenue Agency and Bulgarian Registry Agency (see Annex 4).

16. 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 Bulgaria’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 Bulgaria’s practical application of each of the essential elements and a rating of either: *(i)* Compliant, *(ii)* Largely Compliant, *(iii)* Partially Compliant, or *(iv)* Non-Compliant is assigned to each element. As outlined in the Note on Assessment Criteria, an overall “rating” is applied to reflect the jurisdiction’s level of compliance with

the Standard. A summary of findings of the review is set out at the end of this report (see Summary of Determinations and Factors Underlying Recommendations).

17. The assessment was conducted by a team which consisted of two expert assessors: Mr. Richard Carter, Income Tax Division, Isle of Man and Mr Davit Chitaishvili, Revenue Service, Georgia; and a representative of the Global Forum Secretariat: Mr. Radovan Zidek.

Overview of Bulgaria

18. Bulgaria is middle size state located in South-eastern Europe. Bulgaria borders with Romania to the north, Serbia and the Former Yugoslav Republic of Macedonia (FYROM) to the west, Greece and Turkey to the south. Bulgaria's population is about 7.2 million (July 2015 est.), of which roughly three quarters live in urban areas. The capital city is Sofia with a population of about 1.3 million. The official language is Bulgarian with about 8% of the population speaking Turkish. The official currency is the Bulgarian Lev (BGN).

19. Bulgaria is classified by the World Bank as an industrialised upper-middle-income country. Its economy is based on free market principles with a relatively small public sector. Bulgaria's GDP was about EUR 42.8 billion in 2014. Sixty-six percent of the GDP is produced in the service sector, followed by industry with 28% and agriculture 6%. About two thirds of the GDP represent exports. Tourism, information technology and telecommunications, agriculture, pharmaceuticals and textiles are leading industries. Bulgaria also produces consumer goods, textiles, chemical products and machinery equipment. The main trading partners of Bulgaria are EU member states. In terms of exports the main partners are Germany, Italy, Turkey, Romania and Greece. Main importing partners are Russia, Germany, Italy, Romania and Turkey.

20. Bulgaria joined the EU in January 2007 and it is a member of many international organisations including Council of Europe, the World Trade Organization, Moneyval, UNESCO, World Health Organisation and others. Bulgaria is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes since October 2015.

General information on the legal system and the taxation system

Governance and the legal system

21. Bulgaria is a parliamentary democratic republic with a multi-party system. The legislative power is represented by the unicameral parliament (Narodno Sabranie). The National Assembly (Parliament) enacts laws, approves the budget, schedules presidential elections, selects government ministers and

ratifies international agreements (including agreements providing for exchange of information in tax matters). The Parliament has 240 members elected for a four-year term based on proportional representation system. In addition to the ordinary National Assembly, a Grand National Assembly (Veliko Narodno Sabranie) may be convened in matters of special jurisdiction such as adoption or amendment of the Constitution. The executive branch consists of the Prime Minister and the Council of Ministers. The president is the head of state and is directly elected by absolute majority vote through a two-round system for a period of five years. The Council of Ministers is headed by the Prime Minister. The Council of Ministers is elected by the Parliament. The judicial branch is independent of the legislative and executive branches of the state and consists of the system of civil and criminal courts and administrative courts. The civil and criminal justice system has three levels, i.e. trial courts (local courts and district courts), appellate courts and the Supreme Court of Cassation. The administrative justice system has two levels, i.e. specialised administrative courts and the Supreme Administrative Court. Tax matters are within the jurisdiction of administrative courts. The Supreme Administrative Court and the Supreme Court of Cassation are the final courts of appeal. The Constitutional Court interprets the Constitution and decides on matters of constitutionality of laws and international agreements.

22. Bulgaria is a unitary state with 28 administrative divisions. Each administrative division is a self-governing unit which can issue regulations and decisions with sub-law regulatory power. Matters of taxation are subject of the laws approved by the Parliament and cannot be regulated by decisions of administrative divisions with the exception of local taxes and fees.

23. The legal system of Bulgaria is based on civil law and relies on a single national law. The hierarchy of law consists of the Constitution, laws approved by the Parliament and regulations of the Council of Ministers or Ministers. International treaties which have been ratified in accordance with the constitutional procedure form part of the legislation of the State and have primacy over any conflicting provision of the domestic law (s. 5(4) Constitution).

The tax system

24. Bulgaria has a comprehensive tax system comprising direct and indirect taxes, fees and duties. Main tax regulations are contained in laws dealing with the respective particular tax, e.g. in the Corporate Income Tax Act, Income Taxes on Natural Persons Act or Value Added Tax Act. Main procedural rules are stipulated by the Tax and Social Security Procedure Code. More detailed rules are further contained in by-law regulations and ordinances or decisions issued by the Council of Ministers, the Ministry of Finance or tax authorities responsible for administration of the particular tax.

25. The tax system consists of direct taxes (corporate income tax, personal income tax), indirect taxes (value added tax (VAT), insurance premium tax, excise duties) and local taxes and fees (real estate tax, inheritance tax, property acquisition tax, donation tax, vehicle tax or tourist tax).

26. The corporate income tax base is based on accounting results adjusted in accordance with the tax rules. The corporate income tax rate is 10%. Withholding tax is due on Bulgaria sourced income when payable to a non-resident person. Income subject to withholding tax includes dividends, interest, royalties, consultancy and management services fees or capital gains. Withholding tax rates are 5% on the gross amount of dividends and liquidation quotas (0% for distributions to EU/EEA entities), 0% on interest and royalties accrued to related party legal entities resident in the European Union (under certain conditions) and 10% on the gross amount for all other taxable income. Certain expenses such as representative or social expenses are subject to one-off corporate tax. Special corporate tax regimes are applicable to commercial maritime shipping companies, gambling businesses and some other entities (e.g. state bodies). These tax regimes do not have impact on the taxpayer's registration and tax return filing obligations which remain the same as in the case of other corporate taxpayers. Also the same accounting rules apply to all entities conducting economic activity in Bulgaria. Individuals' taxable income is subject to a flat rate of 10%.

27. Bulgaria taxes its residents (companies and individuals) on their worldwide income. All companies established under Bulgarian law and registered in Bulgaria are considered as resident in Bulgaria. A permanent establishment of a foreign company is treated as Bulgarian taxable person and is liable to tax from Bulgarian source income and worldwide income attributable to the permanent establishment (s.4 Corporate Income Tax Act). Individuals are considered Bulgarian tax residents if they have stayed in Bulgaria for more than 183 days in any 12-month period, the centre of their vital interests is in Bulgaria, they have a permanent address in Bulgaria or when the person and his/her family is sent abroad by the State or by a Bulgarian enterprise. Non-resident companies carrying on activity in Bulgaria (not through a permanent establishment) and non-resident individuals working in Bulgaria are subject to tax only on their Bulgarian source income.

Exchange of information for tax purposes

28. Exchange of information for tax purposes (EOI) is regulated by the Tax and Social Security Procedure Code (Tax Procedure Code). The Tax Procedure Code provides tax procedures which apply also in respect of EOI. These rules apply to EOI based on international agreements providing for EOI and EU legislation.

29. The Competent Authority of Bulgaria for exchange of information in tax matters is the Minister of Finance, the National Revenue Agency or an authorised representative. The Minister of Finance and the Executive Director of the National Revenue Agency authorised the director of Tax Treaties Directorate within the National Revenue Agency to act as the Competent Authority for exchange of information under all Bulgaria’s EOI instruments.

30. Bulgaria provides international co-operation in tax matters based on international bilateral and multilateral instruments and EU law. Bulgaria’s international agreements providing for EOI are DTCs, a TIEA and the Multilateral Convention. The relevant EU legislation includes the EU Council Directive 2011/16/EU on administrative co-operation in the field of taxation (as amended), the EU Council Directive 2014/107/EU on administrative co-operation in the field of direct taxation providing for automatic exchange of financial account information between Member States, Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, Council Regulation (EU) No. 904/2010 on administrative co-operation and combating fraud in the field of value added tax and Council Regulation (EU) 389/2012 on administrative co-operation in the field of excise duties. These co-operation mechanisms involve exchange of information on request, spontaneous and automatic, multilateral controls and recovery assistance.

31. Bulgaria is also able to exchange information with jurisdictions with which it does not have EOI agreements based on its domestic law. Under the Tax Procedure Code Bulgaria will provide the requested information to the requesting jurisdiction if (i) there is reciprocity, (ii) the requesting jurisdiction commits itself to use the received information only for the purposes in accordance with Article 26(2) of the OECD Model Tax Convention, (iii) the requesting jurisdiction displays willingness to eliminate any possible double taxation, and (iv) providing the information is in accordance with Article 26(3) of the OECD Model Tax Convention (ss.143(2) and 143(3) Tax Procedure Code). Information was exchanged under this mechanism in one case during the period under review. The information was provided upon verification with the requesting jurisdiction that the above requirements are met. The exchanged information was public information available in the Commercial Register.

Overview of the financial sector and relevant professions

32. Bulgarian financial sector is dominated by the banking sector. There are 27 credit institutions, out of which five are foreign bank branches. Foreign-owned banks, mainly subsidiaries of EU cross-border banking groups, constitute a substantial part of the banking system. The total value of assets in the Bulgarian banking sector is EUR 44.8 billion as at December

2015. The biggest five banks control 57.3% of the total banking assets. The ratio of bank deposits to GDP is 86.3% in January 2016. The funding structure is dominated by residents' deposits. Banking business model is traditional and is mainly focused on channelling deposits and borrowed funds into credits. Banks do not rely on sophisticated financial products or wholesale exposures.

33. The Bulgarian financial market is part of the EU single market and is open to credit and other financial institutions that offer cross-border financial services in line with the principle of the free movement of financial services. Important role in the financial sector is played by investment intermediaries, investment management companies and the insurance sector. As of December 2015, there are 67 Bulgarian investment intermediaries, 25 of which are banks. There are also 30 management companies which manage 110 collective investment schemes. General (non-life) insurance (29 entities) represents the largest share (80%) of the insurance market in Bulgaria.

34. Designated Non-Financial Businesses and Professions (DNFBPs) are mainly represented by casinos, lawyers, notaries, accountants, auditors, real estate agents and dealers in precious metals. Persons registered as company service providers have been established only in extremely limited number and only as representative offices of foreign company service providers. No trust service provider has been registered in Bulgaria. The Supreme Bar Council is the highest authority of self-governance and self-regulation of the Bulgarian Bar. As of January 2016, there are 13 016 lawyers and 560 law firms registered in Bulgaria. Notaries are regulated by the Notaries Chamber. Notarial activities are mainly related to certifying deals (e.g. deals in real estate), but also include the provision of legal advice to the clients, execution of a will or management of property. There were 664 notaries registered in Bulgaria in January 2016. The Institute of Certified Accountants is the professional organisation of certified accountants in Bulgaria (including and largely coinciding with auditors).

35. Anti-money laundering and combating financing of terrorism in Bulgaria is primarily regulated by the Law on Measures against Money Laundering (AML Act) and the Law on Measures against the Financing of Terrorism (CFT Act). These laws implemented the EU Third Money Laundering Directive and other related EU Regulations and Directives¹ into

1. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing; Commission Directive 2006/70/EC of 1 August 2006, laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of “politically exposed person” and the technical criteria for simplified

Bulgarian domestic law. The primary responsibility for implementation and supervision of AML obligations in respect of all obliged persons lies with Financial Intelligence Directorate of the State Agency for National Security (FID-SANS). In addition, the AML supervision of the financial sector is performed by the Bulgarian National Bank in respect of banks and by the Financial Supervision Commission in respect of all other financial institutions except for the exchange offices which are supervised by the National Revenue Agency. Bulgaria's AML framework is evaluated by MONEYVAL. The latest mutual evaluation report on Bulgaria was adopted in September 2013. The report noted improvement in recent years nevertheless certain deficiencies remain to be addressed also in respect of availability of the relevant ownership information.

Recent developments

36. Bulgaria signed the Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) on 26 October 2015 and ratified it on 5 February 2016. The Multilateral Convention comes into force in Bulgaria on 1 July 2016.

37. As a member of the “Early Adopters Group” Bulgaria signed on 29 October 2014 a multilateral competent authority agreement to automatically exchange information based on the Multilateral Convention with commitment to start first exchanges in September 2017. On 1 January 2016, the Tax Procedure Code was amended to implement Directive 2014/107/EU amending Directive 2011/16/EU as regards mandatory automatic exchange of financial account information. The same provisions also govern the implementation of the FATCA IGA and the CRS. Bulgaria is currently in the process of implementation of the Council Directive 2015/2376/EU and Council Directive 2016/881/EU amending Council Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

38. Bulgaria adopted a new Accounting Act which came into force on 1 January 2016. The new Accounting Act systematises and clarifies rules already contained in the previous legal accounting regulations. The new Accounting Act was drawn up in relation to the transposition of Directive 2013/34/EU of 26 June 2013 on the annual financial statements, consolidated

customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis; Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community and Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.

financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (Accounting Directive).

39. An amendment of the Act on the Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions came into force in July 2016 according to which information about companies registered in preferential tax regime jurisdictions, the persons controlled by them and their beneficial owners should be registered with the Commercial Register if such companies directly or indirectly carry out specified activities in Bulgaria. These activities include participating in obtaining licenses for credit institutions, for carrying out insurance business, operating on financial instrument markets or for radio or television broadcasting, participating in public procurement or privatisation transactions or acquiring contracts for water supply, waste collection, communication networks.

40. Bulgaria is currently working on transposition of the fourth EU AML Directive (EU Directive 2015/849 of 20 May 2015) which among other requires EU members to undertake measures to prevent the misuse of bearer shares. Two interagency working groups were established in October 2015 and May 2016 for the task of the transposition of the AML Directive into Bulgarian domestic law. During meetings of these working groups it was decided to abolish all bearer shares. Working groups are also discussing measures to ensure availability of beneficial ownership information in respect of foreign trusts operated by Bulgarian resident trustees. The respective legal amendments are expected to come into force by the end of 2016.

41. An amendment of the Corporate Income Tax Act has been submitted to the Parliament which requires a foreign legal entity carrying on activity in Bulgaria through a permanent establishment to provide in its annual tax returns identification of its owners or shareholders whose participation in the entity is above 10%. The amendment is expected to come into force in September 2016.

Compliance with the Standards

A. Availability of information

Overview

42. 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 authority² may not be able to obtain and provide it when requested. This section of the report describes and assesses Bulgaria's legal and regulatory framework for availability of information and its implementation in practice.

43. The Bulgarian legal and regulatory framework ensures availability of ownership information in line with the standard with exceptions in respect of the following:

- bearer shares – Bulgarian law provides for issuance of bearer shares by joint stock companies and partnerships limited by shares. There are several mechanisms which allow identification of holders of these shares notably through tax obligations of the company and

2. 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.

the transferor, requirement to provide list of shareholders present at general meetings to the Commercial Register or an obligation to have annual accounts audited by a registered auditor who is an AML obligated person. However these measures are linked to certain conditions or situations and do not require identification of holders of bearer shares in all cases. It is also questionable how these rules can be enforced if a person holding these shares prefers to remain unknown for certain period of time. It is nevertheless noted the possibility to issue bearer shares currently does not have negative systemic impact on availability of ownership information in Bulgaria as these were issued by 555 joint stock companies and 5 partnerships representing 0.1% of all companies and ownership information is available in respect of 440 of them (78.6%).

- foreign companies and partnerships – Ownership information in respect of foreign companies with place of effective management in Bulgaria or partnerships carrying on business therein is required to be available based on obligations towards the BULSTAT Register and to a certain extent based on tax and AML law. However if a foreign company or partnership conducts business in Bulgaria through a branch ownership information in respect of such foreign entity may not be available in all cases.
- Bulgarian resident trustees of foreign trusts – Information identifying parties of a foreign trust is not relevant for the determination of tax position of the Bulgarian trustee. Further, a Bulgarian trustee will in majority of the cases fall under one of the categories of AML obligated persons due to being a professional covered by the AML Act however acting as a trustee may not necessarily trigger AML obligations under the Bulgarian law and there is no further guidance or practice to clarify this.

44. Ownership information in respect of domestic companies is required to be available through filing obligations with the Commercial Register or based on obligation to keep and maintain an up to date register of shareholders. Partnerships incorporated in Bulgaria are required to submit information on all their partners to the Commercial or BULSTAT Register and report any subsequent changes thereof. Foundations and associations are required to register with district courts and the BULSTAT Register and they are obligated entities under the AML Act and therefore required to understand their ownership structure and identify their beneficial owners. Information on members and representatives of a co-operative is required to be available primarily with the co-operative through the register of members, statutes of association and minutes of general meetings.

45. The application of relevant legal mechanisms ensures that ownership information in respect of relevant entities is generally available in practice in accordance with the legal requirements. Supervisory and enforcement measures taken by the tax administration appear appropriate to ensure availability of the tax relevant information in practice. The tax administration carries out several types of supervisory measures including (i) preventive programmes, (ii) verification checks, (iii) on-site inspections and (iv) tax audits. On-site inspections and tax audits cover about 5% of corporate taxpayers annually. The compliance rate with tax returns filing obligation remains above 75% over the last three years. In cases of non-compliance sanctions are applied by the tax administration. Enforcement and supervisory measures taken by the AML supervisory authorities ensure that the obliged persons are adequately carrying out their AML and CDD obligations. The main source of ownership information in practice is the Commercial or BULSTAT Register or alternatively the entity itself. The Bulgarian law contains several safeguards which motivate compliance of the registered entities with their filing obligations, nevertheless, there is a room for improvement in respect of supervisory and enforcement measures taken by the Registry Agency especially in respect of identification of cases of non-compliance and application of sanctions including striking off. Bulgaria is therefore recommended to address this concern. During the review period Bulgaria received 132 requests for ownership information. All requests related to companies. There was no case where the requested information was not available. Accordingly, no issue of availability of ownership information in Bulgaria was raised by peers.

46. All relevant Bulgarian entities as well as Bulgarian resident trustees and foreign entities performing economic activities in Bulgaria are required to keep accounting records and underlying documentation in accordance with the standard. Domestic entities and certain foreign entities conducting economic activities in Bulgaria which are not covered by the exception for foreign entities established in the EU or in another state which is a party to the Agreement on the European Economic Area are covered by obligations of the Accounting Act. The requirements under the Accounting Act are supplemented by obligations imposed by the tax law which require all taxpayers including permanent establishments of all foreign persons to substantiate their tax liability through accounting records kept in accordance with accounting law.

47. Supervision of accounting obligations is conducted on several levels mainly through obligations to file accounting information with the tax administration and the Commercial Register and through verification of tax obligations carried out during on-site inspections and tax audits. As in the case of ownership information, these measures include on-site inspections and application of sanctions in cases where breach of accounting or record keeping obligations are identified. Bulgaria received 102 requests for

accounting information. There was no case where a person would not provide the requested accounting information because it was not available. Further, no peer reported an issue regarding availability of accounting information in Bulgaria.

48. Bulgarian AML and accounting law imposes appropriate obligations to ensure that all records pertaining to customers' bank accounts as well as related financial and transactional information are available. Banks are expressly prohibited from establishing business relationships with or carrying out transactions for anonymous or fictitious customers. Banks are required to identify their clients which includes verification of his/her identity and if it is a legal person identification of its beneficial owner. Banks are also obliged to keep records of all data and documents on all transactions performed under a business relationship.

49. The practical availability of banking information in line with the standard is mainly through supervision and enforcement of banks' AML obligations. Bulgaria received 32 requests for banking information over the reviewed period and there was no case where the requested information was not available. No issue in respect of availability of information with banks was also indicated by peers.

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 (ToR³ A.1.1)

Types of companies

50. The following types of companies can be established under Bulgarian law:

- **limited liability company** – Limited liability company (LLC) is the most common legal form for business entity in Bulgaria. LLCs are separate legal entities with equity capital made up of contributions paid by their owners (s.63 Commerce Act). Shares of LLCs are not publicly tradable (s. 110(1) Public Offering of Securities Act). LLC may be formed by one or more legal or natural persons which shall be liable for the company's obligations with their contributions to the company's equity capital (s. 113 Commerce Act). The minimum amount of equity

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

capital of LLC is BGN 2 (EUR 1) (s.117(1) Commerce Act). There were 513 617 LLCs registered in Bulgaria as at 31 December 2015. Out of these 363 741 are LLCs held by one person;

- **joint stock company** – A joint-stock company is a company which equity capital is divided into shares (s. 158 Commerce Act). A joint-stock company may be founded by one or more natural or legal persons (s. 159(1)). Shareholders are liable for the obligations of the company up to the nominal value of their shares (ss.64(3) and 158(1)). The equity capital of a joint stock company may not be less than BGN 50 000 (EUR 25 560) (s. 161). There are no restrictions regarding the number of shareholders. There were 11 555 joint stock companies registered in Bulgaria as at 31 December 2015. Out of these 2 533 were solely owned by one shareholder;
- **partnership limited by shares** – A partnership limited by shares is a hybrid company with certain features of a limited partnership. A partnership limited by shares may be formed by founding partners who have the right to select limited partners of the partnership (s.254(1) Commerce Act). The founding partners act as directors of the partnership and cannot take part in the decision making of the limited partners at general meetings of shareholders (ss.257 and 258). The provisions for the joint-stock companies apply equally to partnerships limited by shares (s. 253(2)). There were 14 partnerships limited by shares registered in Bulgaria as at 31 December 2015.
- **European Company** – European Companies are regulated by Council Regulation (EEC) 2157/2001 on Statute for a European Company which permits the creation and management of companies with a European dimension, free from the territorial application of national company law. The minimal capital is EUR 120 000 (Art.4 of the Council Regulation). The rules that apply to European Companies are the same as applicable to joint stock companies in Bulgaria (Art. 10). There were two European Companies registered in Bulgaria as at 31 December 2015;

51. All types of companies are founded and obtain legal personality at the moment they are entered in the Commercial Register (s.67 Commerce Act). In order to set up a company the founders must, among other requirements, prepare and sign the Memorandum of Association, set up administrative institutions of the company, pay at least 70% of the equity capital of the LLC or at least 25% of the nominal value of shares of a joint stock company and submit an application to the respective office of the Registry Agency operating the Commercial Register (ss.119 and 174).

*Information kept by public authorities***Commercial Register**

52. All types of companies have to be entered in the Commercial Register. The Commercial Register is kept and administered by the Registry Agency. The Registry Agency forms organisational part of the Ministry of Justice.

53. Upon incorporation managers of all types of companies have to provide to the Registry Authority among other the Memorandum of Association (s. 119(1) Commercial Act). The Memorandum of Association and its accompanying documents have to include:

- the company's trade name, seat, and head-office address;
- names and addresses of representatives of the company authorised to act on its behalf;
- the purposes and the time period for which the company is being set up;
- the amount of the company's capital;
- any privileges and other rights and obligations of any member of the company; and
- in the case of LLCs, the name or the trade name, the seat and the standard identification code, as well as the address of each member of the company and the amount of their shares (ss.115 and 119 Commerce Act);

54. All changes in the Memorandum of Association and its accompanying documents have to be provided to the Registry Agency by all types of companies within seven days after the change occurs (s.6(2) Commercial Register Act). The seven day deadline applies also on changes in members of the LLC as they are included in the company's Memorandum of Association. In addition, transfer of membership in LLC has to be entered in the Commercial Register in order to have legal effect (s. 140(4) Commerce Act).

55. The Memorandum of Association of joint stock companies, partnerships limited by shares and European companies does not have to include identification of shareholders of the company (s. 165 Commerce Act). However, these companies (i.e. joint stock companies, partnerships limited by shares and European companies) are required to hold a constitutive general meeting of founding shareholders and the minutes of this meeting, which have to include a list of all persons who have subscribed shares of the company, has to be attached to the registration application (ss.163 and 174(2)). Further, all these companies have to hold general meetings of shareholders at least once

a year. The first general meeting shall be held within 18 months of incorporation and subsequent regular meetings shall be held not later than six months after the end of the reporting year (s. 222). The list of all shareholders attending the general meeting has to be filed with the Registry Agency and available in the Commercial Register together with the minutes of the meeting (s. 24(3) Ordinance 1 for Keeping, Maintenance and Access to the Commercial Register). In addition, where all shares of a joint stock company, a partnership limited by shares or a European company are acquired by a single person, the sole shareholder has to be recorded in the Commercial Register (s. 174(2) Commerce Act). All these companies are also required to keep register of shareholders (see further section on information held by companies).

56. The Commercial Register is an electronic database storing information provided by registered entities (s. 2 Commercial Register Act). According to the Ordinance 1 for Keeping, Maintenance and Access to the Commercial Register information provided to the Register has to be kept indefinitely and regardless of whether the entity has been liquidated (s. 100). All information submitted after January 2008 is stored in electronic format. Information on legal owners, managers of the company, its Memorandum of Association, financial statements and subsequent changes contained in the Register can be accessed on line⁴. Other documents contained in the file of the company can be accessed upon obtaining digital identification certificate.

In practice

57. Supervision and enforcement of obligations towards the Commercial Register is the responsibility of the Registry Agency. The Registry Agency is further responsible for maintenance a supervision of the BULSTAT Register (see further below), Property Register and the Register of Property Relationships of Spouses. The Registry Agency has 113 local registration offices located in the headquarters of the District courts staffed with about 500 officers.

58. The Commercial Register is a centralised electronic database. All entries are required to be made in electronic form since January 2008 allowing searchability of the entered information. Since January 2012 joint stock companies and partnerships limited by shares are required to file their documents with the Register electronically (s. 17(2) Commercial Register Act). Other entities can choose whether to file their submissions electronically or in paper form. In practice most entities prefer electronic submissions.

59. The legal framework contains safeguards which motivate obligated persons to submit information to the Commercial Register and keep the

4. <http://brra.bg/>.

information updated. Where the entry into the Register has legally constitutive effect (which is the case also for establishing a legal person, transfers of membership in LLCs and identification of the entity's representatives) the circumstance shall be considered legally not existing unless duly entered in the Register. In cases where the entry has declarative effect third persons are entitled to rely on the information in the Register and consider the facts which are not entered as if they have not occurred (providing the third person acts in a good faith). Further, any concerned person as well as the prosecutor may request deletion or correction of the information contained in the Register through a court order (s. 29 Commercial Register Act).

60. All applications for entry into the Commercial Register are obligatorily checked. It is always verified if the application is in the required form, if the declared circumstance is subject to entering, if it is submitted by an authorised person, if the required documents evidencing the facts are submitted, if the existence of the declared circumstance and its compliance with the law is established and if the application includes a declaration of the correctness of the declared circumstances. Therefore entries of non-existing or invalid information should be prevented and the provided information should be documented in the form as required under the law. Where not all required documents have been submitted or where no due fee has been paid, the registry official gives instructions to the applicant to correct his application in a fixed term. In the case of persistent non-compliance with the requirements the registry official refuses the application. The refusal can be appealed before the District court at the seat of the trader (s. 25 Commercial Register Act).

61. Upon registration all legal entities receive Unified Identification Code (UIC) automatically generated by the Registry Agency. UIC serves as a unique identifier of the entity in its contact with government authorities including the tax administration and with its business partners.

62. The number of all applications for entries of information into the Commercial Register has risen slightly over the years generally corresponding to the mild increase of newly registered legal entities. As of July 2016, there were 803 061 legal entities and persons (including sole entrepreneurs) registered in the Commercial Register. In 2013 the Commercial Register received 495 143 applications for entries of new information (including on changes in already entered information), in 2014 506 540 and in 2015 528 157 applications.

63. Entities which do not keep information entered in the Commercial Register updated are deemed inactive. However there are only a few supervisory measures carried out by the Registry Agency to limit the number of such non-compliant entities. These measures are linked to verification of the submitted information and are not primarily targeted at identification of cases

where an entity fails to comply with its filing obligations. Notably the process of striking off of non-compliant entities is very laborious and may not be possible in all cases where entities remain in breach of their filing obligations. The process requires co-operation with the state prosecutor and issuance of a court order. A single digit number of entities was involuntarily dissolved on application by the Registry Agency during the last three years however these cases related also to other breaches of law. It is further noted that no sanctions for breach of filing obligations were applied over the last three years (see also section A.1.6).

64. All registered entities were required to re-register in the period from January 2008 till December 2011 as the registration system was transformed from paper based files kept by District courts to a central electronic database. Out of 296 519 companies registered prior to January 2008 212 982 re-registered representing 67.5% of the companies registered prior to January 2008. The remaining 83 537 companies which did not re-register cannot conduct economic activities and are in the process of liquidation (ss.5, 5a,5b,5c,5d,5e Transitional and Concluding Provisions of the Commercial Register Act). The length of the liquidation process depends on complexity of the particular case and may require several months. Although there are no exact statistics available on the number of non-compliant or inactive entities the above number gives an estimate of the proportion of companies which become non-compliant over the years despite legal safeguards and supervision by the Registry Agency.

65. It is noted that the Bulgarian law contains several safeguards which motivate compliance of the registered entities nevertheless there is a room for improvement in respect of supervisory and enforcement measures which should be taken to ensure compliance where legal safeguards did not work. These are mainly (i) more proactive measures to identify noncompliance with filing obligations (e.g. regular desk audits) especially considering that other government authorities are not obligated to report discrepancies in the information entered in the Register, (ii) efficient application of sanctions in cases where noncompliance is identified and (iii) striking off entities which remain non-complaint despite application of other measures. Bulgaria is therefore recommended to make progress in these areas.

Information provided to tax administration

66. All companies entered in the Commercial Register are automatically registered with the tax administration (s. 82(3) Tax Procedure Code). All information submitted to the Commercial Register upon registration and subsequently is directly available to the tax administration.

67. All companies are required to submit annual tax returns to the tax administration (s. 2 Corporate Income Tax Act). Companies which carry out

taxable activity during the year are further required to file an activity report together with the annual tax return (s. 92(3) Corporate Income Tax Act and s. 1.56 Additional Provisions of the Corporate Income Tax Act). The activity report has to include identification of related parties. Further, certain tax positions require that the company discloses its ownership structure to the tax administration (e.g. transfer pricing or exemption of dividend payments). Although these tax positions are according to the Bulgarian authorities frequent in practice they do not necessarily cover all companies.

In practice

68. Compliance with the abovementioned obligations is ensured by the tax administration (i.e. the National Revenue Agency). The National Revenue Agency is an independent government body under the responsibility of the Ministry of Finance. The National Revenue Agency is responsible for collection and administration of direct and indirect state taxes and obligatory social security contributions. The National Revenue Agency consists of headquarters located in Sofia, five appeals directorates, five territorial directorates, one large taxpayers' directorate and one medium taxpayers' directorate within the territorial directorate of Sofia. The National Revenue Agency is staffed with 7 479 employees out of which 932 are located in the headquarters. The tax administration carries out several types of supervisory measures including (i) preventive programmes, (ii) verification checks, (iii) on-site inspections and (iv) tax audits.

69. The National Revenue Agency's preventive programmes include communication and information campaigns. In 2015 a programme to inform specific target groups of their tax obligations covered 36 959 taxpayers and resulted in additionally declared tax in the amount of BGN 12.5 million (EUR 6.4 million). The taxpayers are notified by e-mail before the deadline for submitting annual tax returns expires about their obligation to submit their tax returns. In 2015 the National Revenue Agency issued 88 press releases and organised a press conference marking the start of a public campaign for voluntary payment of taxes and social security contributions. The campaign included sending e-mails to particular taxpayers informing them of their obligations and changes in the legal regulation. The tax administration's website is kept updated to reflect recent changes and contain current declarations, forms and other submissions.

70. Upon expiry of the deadline for filing annual tax returns a check is made to identify taxpayers who failed to submit their tax returns. These taxpayers are notified and reminded of their obligations to submit the annual tax return. If a taxpayer refuses to submit the tax return or denies facts and circumstances established by the revenue officials the respective revenue office undertakes control actions including on-site inspections and tax audits. At the

same time theme-based checks are performed regarding correct assessment of advance payments and other tax declarations crosschecking it with the net sales income and the tax profit of the taxpayers. If any discrepancies are detected the abovementioned actions are undertaken against the respective taxpayers.

71. In order to check discrepancies in the submitted information and already at the disposal of the tax administration or to verify certain facts the tax administration launches on-site inspections. In 2013, 2014 and 2015 the tax administration conducted 28 960, 19 665 and 16 697 on-site inspection respectively. On-site inspections cover about 4% of corporate taxpayers annually. In addition to on-site inspections focused on verification of specific information or facts the tax administration carries out tax audits usually verifying overall tax compliance of a specific taxpayer for determined tax period. The table below shows number of carried out tax audits and the amount of additionally levied tax as their consequence:

Year	Total number of conducted audits	Additional corporate income tax levied (EUR million)
2013	3 436	120.3
2014	3 856	179.4
2015	3 400	144.1

72. The compliance rate with obligation to file corporate income tax return is shown in the below table:

	2013	2014	2015
Number of entities obliged to file tax returns under s.92 of CITA	505 254	546 767	590 910
Number of entities which filed their tax returns	403 492	430 054	451 815
Number of entities which failed to file their tax returns	101 762	116 713	139 095
Compliance rate	79.9%	78.7%	76.5%

73. Supervisory and enforcement measures taken by the tax administration appear to be appropriate to ensure availability of tax relevant information in practice. All companies which are registered with the Commercial Register are required to file annual tax returns. This obligation is monitored and supervisory and enforcement measures are taken in case of non-compliance (see further section A.1.6).

Information held by companies

74. Ownership information required to be kept by LLCs is contained in the Memorandum of Association, book of membership interests and minutes of general meetings. As described above the Memorandum of Association of an LLC has to contain identification of each member of the company and

the amount of their shares (s.115 Commerce Act). Any changes in ownership of LLC become legally effective in respect of the company and third parties only through amendment of the Memorandum of Association by resolution of the General Meeting and subsequent entry into the Commercial Register (ss.137(1) and 140(4)). LLCs further have to keep book of membership interests. The book has to contain identification of each member of the company and value of his/her share. The book should be kept continuously and has to include any changes in the recorded information (s. 143(2)). Finally, companies are required to keep minutes of general meetings which include resolutions of the meeting and the list of participating shareholders (s. 143(1)). Although Bulgarian law does not explicitly prescribe where and for how long these documents should be kept it is the responsibility of the management of the company to make them available to members of the company for inspection (ss.123 and 143(3)). It is also noted that the Memorandum of Association and minutes of general meetings have to be filed to the Commercial Register and therefore should be available there.

75. Ownership information required to be kept by joint stock companies, partnerships limited by shares and European companies is contained in the register of shareholders. The management of the joint-stock company is required to keep a shareholders register containing the names, addresses and identification numbers of the owners of registered shares and the type, nominal value and issue price, quantity and serial numbers of the shares owned by them (s. 179(1) Commerce Act). Transfer of shares (with exception of bearer shares) becomes legally effective in respect of the company upon entry in the register of shareholders (s. 185(2)). The transferee and the acquirer have to notify the company of the transfer within seven days from its execution in order to enter the transfer into the register of shareholders (s. 185(4)). Bulgarian law does not explicitly prescribe where and for how long the register of shareholders should be kept nevertheless the register have to be available to members of the company for general meetings (s. 224). Further, as in the case of LLCs, joint stock companies, partnerships limited by shares and European companies are required to keep minutes of general meetings which include resolutions of the meeting and the list of shareholders participating in the meeting (s. 232(3)). The minutes and their attachments have to be kept by the company for at least five years and any shareholder has the right to inspect them on request (s. 232(5)). In case of breach of these obligations sanctions under the Commerce Act apply.

76. Shareholder register of joint stock companies which issued dematerialised shares (i.e. shares without physical certificates) is kept by the Central Depository (s. 136(2) Public Offering of Securities Act). Ownership of dematerialised shares is constituted by record in the securities account kept by the Central Depository (s. 138). The Central Depository has to maintain an archive of all records for an unlimited period of time (s. 134(1)).

77. Bulgarian law does not provide clear rules for maintaining ownership information kept by companies after they ceased to exist. This is not a concern in respect of LLCs which have to provide ownership information into the Commercial Register and companies which issued dematerialised shares, nevertheless, lack of clear rules may be a concern in respect of register of shareholders kept by joint stock companies, partnerships limited by shares and European companies which did not issue dematerialised shares. According to the Bulgarian authorities it is the responsibility of the liquidator, who is frequently also the manager of the company, to transfer these documents to the National Archive for permanent storage. It is however not clear whether the liquidator is legally obliged to do so in respect of companies without state or municipal participation and what sanctions would be applicable in the case of failure. Bulgaria should therefore clarify its law to address this issue. It is nevertheless noted that ownership information in respect of no longer existing companies can also be accessed from alternative sources, e.g. from the Commercial Register based on the requirement to file minutes of general meetings, during a tax audit which is mandatorily required before liquidation of a company or from AML obligated persons if engaged by the company.

In practice

78. Companies' compliance with their requirement to keep ownership information is ensured mainly through legal safeguards, filing requirements with the Commercial Register and tax supervision.

79. As described above, any changes in ownership of LLC become legally effective only through amendment of the Memorandum of Association and subsequent entry into the Commercial Register. Transfer of shares (with exception of bearer shares) of joint stock companies, partnerships limited by shares and European companies becomes legally effective upon entry in the register of shareholders. Companies are therefore required to maintain these documents which constitute ownership in the company in order to handle relations with their members and shareholders. Further, Memorandum of Association of an LLC and any changes in it including changes in membership of an LLC have to be submitted to the Commercial Register and in order to do that a company has to keep these documents. The same applies in respect of minutes of general meetings and their attachments containing information on participating members and shareholders. Although there is a room for improvement in respect of supervision and enforcement of filing obligations with the Commercial Register these filing obligations represent important additional level of indirect supervision. Finally, ownership information is subject to tax supervision during tax inspections and companies which do not maintain their ownership information in accordance with the

law may be sanctioned under section 261 and 273 of the Tax Procedure Code (see further section A.1.6 and B.1.4). About 4% of corporate taxpayers are subject to on-site inspections annually and about 0.6% are audited.

Information held by service providers and other persons

80. The AML Act which regulates AML rules in Bulgaria is a transposition of the 3rd EU Money Laundering Directive. AML Act requires obliged entities to perform CDD. The obliged entities under the AML Act include:

- professionals providing legal advice in cases where they
 - participate in deals or transactions concerning:
 - purchase or sale of a real property or transfer of a merchant's business;
 - management of cash, securities, or other financial assets;
 - opening or operating a bank account or a securities account;
 - incorporation or management of a company or another legal person;
 - fiduciary property management;
 - act for the account or on behalf of their client in any financial or real property transaction;
- persons whose profession is to provide
 - an address or office for the purpose of legal person registration;
 - registration services for legal entities;
 - fiduciary property management or fiduciary services for legal entities;
- public notaries
- persons providing professional advice in tax matters
- persons providing accounting services
- registered auditors
- the Central Depository or
- not for profit legal entities (s. 3(2) AML Act)

81. The obliged person is required to identify a customer prior to establishing a business relationship or prior to performing an individual transaction if the amount of the transaction is equivalent to or exceeds BGN 30 000 (EUR 15 340) (s.4(1) AML Act) or prior to making a cash operation in the amount exceeding BGN 10 000 (EUR 5 110). If the obliged person is not able

to properly identify the customer it is prohibited to enter into a business relationship with such customer or to perform the transaction or if it already has a business relationship with such customer it should terminate it (s. 4(4)).

82. A natural person shall be identified by verifying his or her identity according to the personal identification document where the given name, surname, personal identity number (or equivalent including date of birth in case of non-residents) is provided. For the identification of a legal person documents attesting registration, the address of the registered office and identity of persons who are entitled to represent of the customer should be requested (s. 6(1) AML Act).

83. The obliged person is further required to determine a beneficial owner of the customer and to take appropriate measures to verify his/her identification (ss.3(1) and 6(2) AML Act). The beneficial owner is defined as a natural person who directly or indirectly owns more than 25% of shares or of the capital of the legal entity or other arrangement or the natural person(s) who exercise direct or indirect control over it (s. 3(5) Rules on Implementation of the AML Act).

84. The obliged person is required to ensure regular updating of the documents, data and information obtained in the process of the customer due diligence and this documentation must be stored for at least for five years following the end of the business relationship (ss.3(4) and 8(1) AML Act).

In practice

85. The supervision and enforcement of AML obligations is mainly the responsibility of the Financial Intelligence Directorate – State Agency for National Security (FID-SANS). FID-SANS is performing inspections over all AML obliged persons including DNFBPs. The FID-SANS has wide-ranging supervisory powers and can directly impose sanctions. In addition to supervision by the FID-SANS, other supervision authorities, including the Bulgarian National Bank, the Financial Supervision Commission, the National Revenue Agency and the State Commission on Gambling conduct checks for compliance with the AML/CTF measures within their regular inspections of the obliged persons. The abovementioned authorities are obliged to provide information to the FID-SANS if they find operations and transactions rising suspicion for money laundering or encounter non-compliance with the obligations under AML Act. Joint inspections between the prudential supervisors and FID-SANS are also carried out.

86. Between 2013 and 2015 the FID-SANS has performed 297 on-site inspections on entities and persons other than banks. During each on-site inspection FID-SANS provides methodological assistance to the obliged persons on the implementation of AML and CDD requirements. This assistance

also includes recommendations, which are described in details in the protocols of findings of the conducted inspections. The established violations within the DNFBP sector are mainly related to failures to adopt Internal Rules and Procedures for Control and Prevention of the Money Laundering and Financing of Terrorism, failures to properly establish the origin of the funds where this is required, violation of the STRs reporting requirements, record keeping violations and in certain cases failure to identify the beneficial owner/s of their clients. Remedial actions have been taken in all of the aforementioned cases and sanctions were imposed for each individual violation found (see further section A.1.6).

87. The Bulgarian Financial Supervision Commission conducted 171 on-site inspections between 2013 and 2015 in respect of insurance companies, insurance agents, investment intermediaries and management companies. All of the inspections include checks of AML obligations. In the same period the National Revenue Agency acting as a supervision authority has performed 50 targeted on-site inspections of the exchange offices for compliance with the AML/CTF obligations including 22 joint inspections with FID-SANS. The State Commission on Gambling has performed 929 regular on-site inspections of the obliged persons between 2013 and 2015 including 11 joint inspections with FID-SANS. In cases of non-compliance FID-SANS was informed and remedial actions were taken.

88. The analyses based on the supervisory activity of the FID-SANS show that the obliged persons are adequately carrying out their AML and CDD obligations. The obliged persons keep the necessary CDD documentation and they are familiar with the beneficial owners of their clients although deficiencies may be found in certain cases especially in respect of formal requirements and completeness of such documentation.

Nominee identity information

89. A concept of a nominee shareholder is not recognised by the Bulgarian law nevertheless such an arrangement is not prohibited either. According to the Bulgarian law a person entered in the Commercial Register as the shareholder is the legal owner of the shares and there is no legally enforceable basis for any other person to claim ownership of the respective shares. According to Article 26 of the Obligations and Contracts Act a contract which contravenes or circumvents the law, as well as a contract which infringes upon good morals shall be null and void. According to the Bulgarian authorities a nominee contract should be considered as circumvention of the Commercial Register Act (ss. 2a and 10) and therefore should be considered null and void and cannot create legal consequences. Accordingly, it is impossible to enforce such a contract in the court and a person behind the shareholder cannot claim any rights on the property of the entity.

90. The Bulgarian law nevertheless provides for similar concept to a nominee which is called a mandate contract (s.280-292 Obligation and Contracts Act). A mandate contract is defined as a contract under which a person, called “mandatary”, carries out on behalf of “mandator” acts for which he is commissioned by the mandator. The concept of mandate contract is however limited to arrangements concerning single transactions (e.g. commission arrangements, shipping or consignment) and does not apply under the company law.

91. The AML Act covers legal professionals, tax advisors, notaries, auditors, accountants or professionals providing fiduciary property management services or fiduciary services for legal entities. Apparently providing nominee or similar services will trigger AML obligations requiring the service provider to keep information identifying person on whose behalf he/she acts. This interpretation was also confirmed by the Bulgarian authorities. Nevertheless as there is no further guidance on what is meant by providing fiduciary property management services Bulgaria should consider to clarify its law in this respect. It is however noted that given legal uncertainty related to any potential nominee shareholding arrangement the materiality of this issue appears to be limited.

92. In practice, where a person becomes an AML obligated person compliance with his/her AML obligations is supervised by the FID-SANS and other supervisory authorities as described above. Obligations under the mandate contract are not supervised by a government authority as it is a civil contract however its breach can be subject to a court appeal. According to the Bulgarian authorities no person acting under a nominee shareholder contract has been encountered yet as informal ways to hide control over entities are used more often than legal arrangements.

Foreign companies

93. Foreign legal entities conducting business in Bulgaria are required to register in the Commercial Register or in the BULSTAT Register. If a foreign entity conducts business in Bulgaria through a branch it is required to register in the Commercial Register. In other cases including where a company has place of effective management in Bulgaria (without having branch therein) they are required to register in the BULSTAT Register. BULSTAT Register is kept and administered by the Registry Agency as well as the Commercial Register.

94. A branch of a foreign entity shall be registered in the Commercial Register upon application by authorised representatives and submission to the Registry Agency of information which includes the following:

- the legal form and the name of the foreign person;
- the register and number, under which the foreign person was incorporated;

- the names of persons which represent the foreign person and their manner of representation as recorded in the register where the entity is incorporated;
- the founding act, articles or statute of association of the foreign person and all their amendments and attachments;
- annual financial statements of the foreign person for years after its branch has been registered in Bulgaria (ss.17(2) and 17a(2) Commerce Act).

95. The information which has to be provided to the BULSTAT Register contains similar information as in the case of registration of a branch with the Commercial Register but in addition it is expressly required that the foreign entity provides its ownership structure and identification of all partners or owners of the legal entity (s. 7(1) BULSTAT Register Act). Foreign companies established in another EU Member State or in another state which is a party to the Agreement on the European Economic Area and which pursue business activities in Bulgaria solely under the terms of free provision of services under this agreement⁵ are not required to register with the BULSTAT Register (s. 3(4) BULSTAT Register Act). The exception applies to temporary or one-off provision of services and does not cover situation where a company's presence in Bulgaria gives rise to a permanent establishment (s. 4 Law on the Activities of Provision of Services implementing Directive 2006/123/EC). The location of a company's head office or headquarters in Bulgaria, by virtue of its degree of permanency, gives rise to a permanent establishment and the foreign company will be required to register with the BULSTAT Register and provide ownership information.

96. Changes in the provided information to the Commercial or BULSTAT Register have to be reported by representatives of the foreign entity within seven days since they occur (s. 12(4) BULSTAT Register Act and s. 6(2) Commercial Register Act).

97. A company registered under foreign law cannot become tax resident in Bulgaria and no criteria of place of effective management or management and control is used to establish tax residency therein. However, the location of a company's head office or headquarters in Bulgaria will give rise

5. Article 37 of the Agreement on the European Economic Area states that services shall be considered to be "services" within the meaning of the Agreement where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons. "Services" shall in particular include (a) activities of an industrial character; (b) activities of a commercial character; (c) activities of craftsmen; (d) activities of the professions.

to a permanent establishment (s. 1(5) Supplementary Provisions of the Tax Procedure Code). The foreign person is registered by the tax administration automatically based on registration in the Commercial or BULSTAT Register. The same tax and accounting rules apply in respect of the permanent establishment as for domestic companies. A permanent establishment is required to file an activity report together with its annual tax return (s. 92(3) Corporate Income Tax Act and s. 1.56 Additional Provisions of the Corporate Income Tax Act). The activity report has to include identification of related parties. Further, the ownership structure of the foreign person with permanent establishment will be provided to the tax administration in certain tax positions (e.g. transfer pricing or exemption of dividend payments).

98. Foreign legal entities engaged in business activities in Bulgaria through a permanent place of business are required to keep accounting records in accordance with the Bulgarian Accounting Act (s. 2 Accounting Act). Annual financial statements of these entities have to be audited by registered auditors (s. 37(1)). As registered auditors are obliged persons under the AML Act they are required to conduct CDD in respect of these entities and therefore to identify their ownership structure. This obligation does not apply in respect of small enterprises⁶ which do not need to have their annual financial statements audited and foreign companies established in another EU Member State or in another state which is a party to the Agreement on the European Economic Area which pursue business activities in Bulgaria solely under the terms of free provision of services under this agreement (ss. 37(1) (1) and 2(7)).

99. To the extent that a foreign person engages the services of other AML obligated persons (such as banks with which the foreign company maintains an account), ownership information will be collected with respect to the foreign person, by virtue of CDD conducted by that AML obligated person.

100. Ownership information in respect of foreign companies with place of effective management in Bulgaria is required to be available based on obligations towards the BULSTAT Register and to a certain extent based on tax and AML law. However if a foreign company conducts business in Bulgaria through a branch ownership information in respect of such foreign company may not be available in all cases. Although the remaining obligations under the tax and AML law still apply they do not ensure that all of these

6. Small enterprises are defined as enterprises which at 31 December of the reporting period meet at least two of the following indicators: a) book value of their assets does not exceed BGN 2 million (EUR 1.23 million), b) net sales revenue does not exceed BGN 4 million (EUR 2.04 million); c) average number of employees for the reporting period does not exceed 50 (s. 37(1)(1) Accounting Act).

companies are required to keep ownership information under the Bulgarian law as they are linked to certain conditions and situations. Bulgaria is therefore recommended to address this limited gap. It is noted that Bulgarian authorities are already taking steps to address this issue. An amendment of the Corporate Income Tax Act has been submitted to the Parliament which requires a foreign legal entity carrying on activity in Bulgaria through a permanent establishment to provide in its annual tax returns identification of its owners or shareholders whose participation in the entity is above 10%. The amendment is expected to come into force in September 2016.

101. In practice, the same supervisory and enforcement measures are used by the Registry Agency, the National Revenue Agency and the AML supervisory authorities as in respect of domestic companies. The tax administration conducted 313 on-site inspections and 30 tax audits of permanent establishments of foreign companies between 2013 and 2015. There are no specific statistics readily available in respect of compliance of foreign companies with their legal obligations to file ownership information with the BULSTAT Register or in respect of their compliance with obligations under the tax law however there is no indication that their level of compliance should significantly differ from domestic companies. According to the Bulgarian authorities ownership information in respect of foreign companies is in the vast majority of cases available in the Commercial or BULSTAT Register and in companies' annual financial statements. During the period under review Bulgaria did not receive any request for ownership information in respect of foreign companies.

Conclusion

102. The Bulgarian legal and regulatory framework ensures that ownership information regarding domestic companies is available except for a limited number of companies which issued bearer shares (see further section A.1.2). LLCs are required to provide information on their members upon registration with the Commercial Register and report any changes in shareholders subsequently. Joint stock companies, partnerships limited by shares and European companies are not required to report changes in their ownership to the Registry, however they are required to keep and maintain an up to date register of shareholders. Ownership information in respect of foreign companies with place of effective management or headquarters in Bulgaria is required to be available based on obligations towards the BULSTAT Register and to a certain extent based on tax and AML law. However if a foreign company conducts business in Bulgaria through a branch ownership information in respect of such foreign company may not be available in all cases. Bulgaria is therefore recommended to address this limited gap.

103. The application of relevant mechanisms ensures that ownership information regarding companies is generally available (see further section A.1.6). During the review period Bulgaria received 132 requests for ownership information in respect of companies and there was no case where the requested information was not available. The main source of ownership information in practice is the Commercial Register. The Bulgarian law contains several safeguards which motivate compliance of the registered entities with their filing obligations, nevertheless, there is a room for improvement in respect of supervisory and enforcement measures which should be taken to ensure compliance where legal safeguards did not work especially in respect of identification of cases of non-compliance and application of sanctions including striking off companies. Bulgaria is therefore recommended to address this concern. As an alternative source the ownership information is requested directly from the company. Companies' compliance with their requirements to keep ownership information is ensured mainly through legal safeguards, filing requirements with the Commercial Register and tax supervision. Information held by AML obligated persons can be an important alternative source particularly in respect of information held by banks operating bank accounts of the respective entity (see further section A.3) nevertheless it is rarely used by the tax administration as a source of ownership information in respect of legal entities.

Bearer shares (ToR A.1.2)

104. Joint stock companies and partnerships limited by shares can issue bearer shares under the Bulgarian law (ss.178 and s.253(2) Commerce Act). Bearer shares are transferrable by delivery of the physical certificate and holders of these shares are not entered in the register of shareholders kept by the company (ss.179 and 185(1)).

105. Bulgarian law however provides for several measures that allow identification of holders of bearer shares:

- Information on the founders of joint stock companies or partnerships limited by shares is contained in the list of persons who have subscribed shares (including bearer shares) at the time of the constituent meeting. The types of shares and the persons who have subscribed them at the time of the constituent meeting has to be entered in the Commercial Register (ss.165(3) and 174(2) Commerce Act).
- Joint stock companies and partnerships limited by shares are required to keep minutes of general meetings which include resolutions of the meeting and the list of all participating shareholders including holders of bearer shares (s.232(3) Commerce Act). The general meeting has to be held at least once a year (s.222(1)). At least half of the

capital equity of the company or partnership has to be represented at the general meeting for passing resolutions on amending the Articles of Association, on change of the equity capital or on transformation or dissolution of the company (s.227(2)). The list of all shareholders attending the general meeting has to be filed with the Registry Agency together with the minutes of the meeting (s. 24(3) Ordinance 1 for Keeping, Maintenance and Access to the Commercial Register).

- When shares in a company or partnership are acquired by a single person the name and the Unified Identification Code of the person has to be reported by him/her to the management of the entity and then entered in the Commercial Register (s. 174(2) Commerce Act).
- Every company may stipulate in its statutes special conditions for transfers of shares including bearer shares which may require for example prior approval of the transfer by other shareholders or management of the company (s. 165(3) Commerce Act).
- Information on the owner of bearer shares has to be available to the company upon distribution of dividends and to determine their taxation regime. Further if a shareholder is a foreign person it has to identify itself to apply tax relief under a DTC or the domestic legislation.
- Profit from selling shares including bearer shares is taxable and has to be reported by the transferor (s. 50 Personal Income Tax Act, s. 12 Corporate Income Tax Act). Although the declaration does not include identification of the acquirer the transferor will be required to provide such information if requested by the tax administration.
- AML obligated service providers in particular banks and auditors are prohibited from entering into business contracts with customers unless they are able to conduct proper CDD which includes understanding their ownership structure and identification of beneficial owners. This is especially relevant for auditors as the annual financial statements of joint-stock companies and partnerships limited by shares have to be compulsorily audited by an independent registered auditor (with exception of companies or partnerships which have not carried out any activity during the reporting period) (s.37(2) Accounting Act).

106. Out of 11 555 joint stock companies (2.2% of all companies) which can issue bearer shares 555 companies actually issued these shares (4.8% of joint stock companies and 0.1% of all companies). Out of these complete ownership information is available in the Commercial Register in respect of 437 companies. The source of this information is lists of participants in general meetings filed with the Commercial Register which include name, address, TIN, passport number, signature and the number and value of

shares of each shareholder. In respect of the remaining 118 companies the Commercial Register does not contain complete ownership information for 2015 (1% of joint stock companies and 0.02% of all companies). Out of these 118 three are in insolvency proceedings and nine in liquidation.

107. Out of the 555 joint stock companies which have issued bearer shares 64 have stipulated special conditions in their statutes related to the transfer of bearer shares. According to the Bulgarian authorities in the majority of cases the holder of bearer shares is obliged to announce before the Board of Directors his intention to transfer his/her bearer shares, to receive the Board consent and/or to offer the bearer shares to the other shareholders of the company. In some cases the statutes also provide for a special book of shareholders with bearer shares that has to be updated in case of transfer of bearer shares.

108. Out of 14 partnerships limited by shares five have issued bearer shares and complete ownership information is available in the Commercial Register in respect of three of them.

109. To sum up, Bulgarian law provides for issuance of bearer shares by joint stock companies and partnerships limited by shares. There are several mechanisms which allow identification of holders of these shares however they are linked to certain conditions or situations and do not require identification of holders of bearer shares in all cases. It is also questionable how these rules can be enforced if a person holding these shares prefers to remain unknown for certain period of time. Bulgaria is therefore recommended to address this gap and take measures ensuring identification of holders of bearer shares in all cases. It is nevertheless noted that from the practical perspective the possibility to issue bearer shares currently does not have negative systemic impact on availability of ownership information in Bulgaria. There was also no case during the period under review where a received EOI request related to a company which have issued bearer shares. Bulgarian authorities acknowledge the issue and indicated that a legal amendment abolishing bearer shares is drafted and will be submitted to the Parliament soon.

Partnerships (ToR A.1.3)

110. Bulgarian law recognises four types of partnerships:

- **general partnerships:** A general partnership is a legal person which has two or more partners undertaking business activities under a common business name based on a partnership agreement. All partners are entitled to act on behalf of the partnership and are jointly and severally liable for the debts/obligations of the partnership (s. 76 Commerce Act). There were 6 855 general partnerships registered in Bulgaria as at 31 December 2015;

- **limited partnerships:** A limited partnership is a legal person which has one or more partners with liability for the obligations of the partnership limited to their contributions (limited partners) and one or more partners with full liability for the obligations of the partnership (general partners) (s.99(1) Commerce Act). Unless provided otherwise the same rules as for general partnerships apply in respect of limited partnerships (s.99(2)). A limited partnership is managed and represented by the general partners (s.105). There were 150 limited partnerships in Bulgaria as at 31 December 2015; and
- **European Economic Interest Groupings (EEIGs):** The EEIG is a European form of partnership in which companies or partnerships from different European countries (the partners in the EEIG) can co-operate. It must be registered in the EU State in which it has its official address. EEIGs are regulated under Council Regulation (EEC) No.2137/85 of 25 July 1985 on the European Economic Interest Grouping. EEIGs are subject to the same requirements as general partnerships (Council Regulation (EEC) No.2137/85 of 25 July 1985 on the European Economic Interest Grouping). There was no EEIG registered in Bulgaria as at 31 December 2015.
- **civil partnerships:** Civil partnerships are legal arrangements without legal personality where two or more persons agree to unite their activities for achieving a common objective (s.357 Obligations and Contracts Act). Assets contributed to the partnership or newly acquired by the partnership are jointly owned by the partners (ss.358 and 359). The decisions concerning the partnership's affairs shall be passed with consent of all partners, except if the memorandum of association provides for a majority vote (s.360). Unless otherwise provided profits and losses shall be distributed among partners pro rata to their contribution to the partnership (s.361). There were 23 698 civil partnerships registered in Bulgaria as at 31 December 2015.

Information kept by public authorities

Registry Agency

111. Legal regulation of general and limited partnerships and EEIGs obligations towards the Registration Authority follows that of companies. A general or limited partnership or EEIG obtains legal personality upon entry in the Commercial Register (s.67 Commerce Act).

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

- the name and domicile or the trade name, the seat and unified identification code, as well as the address of each partner;
- the trade name, the seat, the head-office address, and the purposes of the partnership;
- the manner of management and representation of the partnership (s. 79(2) Commerce Act).

113. The application for registration of a partnership has to be signed by all partners (s. 79(1) Commerce Act). The application has to include the articles of association of the partnership which have to contain names and addresses of all partners in the partnership (s. 78(1)). The articles of association have to be drawn up in writing with notarised signatures of all partners (ss.78).

114. Civil partnerships have to be registered in the BULSTAT Register (s.3(1) BULSTAT Register Act). Information contained in the register have to include identification of all partners in the partnership and the partnership contract (s. 7(1)). If the partnership contract foresees transfer of immovable property as part of the partner's participation it has to be in a notarised form (s. 18 Obligations and Contracts Act).

115. Changes in the information provided to the Commercial Register or BULSTAT have to be reported by representatives of the registered partnerships within seven days since they occur (s. 12(4) BULSTAT Register Act and s.6(2) Commercial Register Act).

116. Foreign partnerships established under the laws of another jurisdiction can conduct commercial activities in Bulgaria as branches or permanent establishments. The same requirements apply as in respect of foreign companies, i.e. if a foreign partnership carries out business in Bulgaria through a branch it is required to register with the Commercial Register and no ownership information is required to be provided; if a foreign partnership carries out business in Bulgaria through permanent establishment without establishing a branch identification of all partners in the partnership has to be provided to the BULSTAT Register (s. 7(1) BULSTAT Register Act).

117. In practice, the same procedures as in respect of companies apply in respect of partnerships (see section A.1.1). Supervision and enforcement of partnerships' filing obligations towards the Commercial Register and the BULSTAT Register are responsibility of the Registry Agency. BULSTAT and Commercial Register are organised in the same way. All applications for entry into a register are obligatorily checked and it is verified if they are in accordance with the law. The legal framework contains certain safeguards which motivate obligated persons to submit information to the Commercial or BULSTAT Register and keep the information updated. However, as in the

case of companies there is a room for improvement in respect of supervisory and enforcement measures which should be taken to ensure compliance especially in respect of identification of cases of non-compliance and application of sanctions including striking off. Bulgaria is therefore recommended to address this concern.

Information provided to tax administration

118. Registration of partnerships for tax purposes is carried out in the same way as in respect of companies. Partnerships with legal personality (i.e. general and limited partnerships and EEIGs) are required to be registered with the Commercial Register and subsequently are automatically registered with the tax administration (s. 82(3) Tax Procedure Code). Civil partnerships are entered in the BULSTAT Register and automatically registered for tax purposes as well. All information submitted to the Commercial or BULSTAT Register upon registration and subsequently is directly available to the tax administration including information on partners in a partnership.

119. Domestic and foreign partnerships are taxed in the same manner as companies regardless whether they have legal personality or not. All partnerships are required to submit annual tax returns to the tax administration (s. 2 Corporate Income Tax Act). Partnerships which carry out taxable activity during the year are further required to file an activity report together with the annual tax return (s. 92(3) Corporate Income Tax Act and s. 1.56 Additional Provisions of the Corporate Income Tax Act). The activity report has to include identification of related parties. Further, certain tax positions require that the partnership discloses its ownership structure to the tax administration (e.g. transfer pricing or exemption of dividend payments).

120. In practice, compliance with tax obligations of partnerships is supervised by the National Revenue Agency in the same manner as in respect of companies (see further section A.1.1). The tax administration carries out several types of supervisory measures including (i) preventive programmes, (ii) verification checks, (iii) on-site inspections and (iv) tax audits. Supervisory and enforcement measures taken by the tax administration appear to be appropriate to ensure availability of tax relevant information in practice.

Information held by the partners and service providers

121. 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 articles of association which should be available with the partnership or to the partners as parties of the contract.

122. To the extent that any partnership engages the services of an AML obligated person the beneficial owners of the partnership (i.e. partners that own or control more than a 25% stake in the partnership) would be identified through CDD (see A.1.1). As in the case of companies, annual financial statements of partnerships classified as large or medium enterprises have to be audited by registered auditors (s.37(1) Accounting Act). As registered auditors are obliged persons under the AML Act they are required to conduct CDD and therefore identify ownership structure of the audited enterprises. The obligation to have financial statements audited however does not cover foreign partnerships established in another EU Member State or in another state which is a party to the Agreement on the European Economic Area and which pursue business activities in Bulgaria solely under the terms of free provision of services under this agreement (s.2(7) Accounting Act). Further, information on partners in a partnership may be available with notaries especially if the partnership contract foresees transfer of immovable property.

123. In practice, the articles of association are available to the partners and held by the domestic partnership in order to conduct its business and manage relation among partners in the partnership. Information on partners in the partnership has to be provided typically through the articles of association upon opening a bank account, having annual accounts audited or, purchasing a real estate property. Partnerships' compliance with their requirement to keep ownership information is further required by filing requirements with the Commercial or BULSTAT Register and through tax supervision during on-site inspections and tax audits.

Conclusion

124. The legal and regulatory framework in Bulgaria ensures that ownership information regarding domestic partnerships is available. Partnerships incorporated in Bulgaria are required to submit information on all their partners to the Commercial or BULSTAT Register and report any subsequent changes thereof. As in the case of companies, ownership information in respect of foreign partnerships with place of effective management or headquarters in Bulgaria is required to be available based on obligations towards the BULSTAT Register and to a certain extent based on tax and AML law. However if a foreign partnership conducts business in Bulgaria through a branch it is required to register with the Commercial Register and ownership information in respect of such partnership may not be available in all cases. Bulgaria is therefore recommended to address this limited gap. It is nevertheless noted that Bulgarian authorities are already taking steps to address this issue and an amendment of the Corporate Income Tax Act for this purpose has been submitted to the Parliament.

125. The application of relevant mechanisms ensures that ownership information regarding partnerships is generally available (see further section A.1.6). The same supervisory and enforcement measures are used as in respect of companies. During the review period Bulgaria did not receive any request for ownership information in respect of partnerships. The main source of ownership information in domestic practice is the Commercial or BULSTAT Register. The Bulgarian law contains several safeguards which motivate compliance of the registered entities with their filing obligations, nevertheless, there is a room for improvement in respect of supervisory and enforcement measures especially in respect of identification of cases of non-compliance and application of sanctions including striking off partnerships. Bulgaria is therefore recommended to address this concern.

Trusts (ToR A.1.4)

126. Bulgarian law does not recognise the concept of a trust and Bulgaria is not a party to the Hague Convention on the Law Applicable to Trusts and on their Recognition⁷. However, there are no restrictions for a resident of Bulgaria to act as trustee, protector or administrator of a trust formed under foreign law.

Tax legislation

127. Bulgarian law does not recognise the concept of a trust and therefore split between legal and beneficial ownership as stipulated by the trust deed is not relevant for the Bulgarian tax law. Consequently, the Bulgarian trustee will be taxed in respect of the income generated by the trust as the legal owner of the trust's assets and income regardless of provision of the trust deed or any other documentation identifying parties of the trust. There is no practical evidence or further guidance to confirm this, however, according to the Bulgarian authorities it is very unlikely that the provision of a trust deed (or any documentation identifying the settlor and beneficiaries of the trust) would be considered relevant for the determination of trustee's tax position as the trustee will be the legal owner of the trust's assets and taxable in respect of income generated by these assets.

128. In practice, there has been no case encountered by the Bulgarian authorities where a Bulgarian person acted as a trustee in domestic or exchange of information context.

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

AML legislation

129. It is expected that a trustee will in majority of the cases fall under one of the categories of obligated persons due to being a professional covered by the AML Act. As detailed in section A.1.1, the AML Act covers legal professionals, tax advisors, notaries, auditors, accountants or professionals providing fiduciary property management services or fiduciary services for legal entities but does not specifically cover provision of trust services as such.

130. Ownership information in respect of a trust administered by a Bulgarian resident trustee may be further available with a service provider who is an AML obligated person if engaged by the Bulgarian trustee. In such a case the obliged person will be required to conduct CDD and identify beneficial owner(s) of the trust which according to the Bulgarian authorities includes identification of the settlor, trustee and beneficiaries (if already known) of the trust.

131. As indicated above there has been no case encountered in practice where a Bulgarian person acted as a trustee.

Conclusion

132. Information identifying parties of a foreign trust is not relevant for the determination of tax position of the Bulgarian trustee as the trustee is considered the legal owner of the trust's assets and will be taxed in respect of the trust's income regardless of the fact that he acts as a trustee. A Bulgarian trustee will apparently fall under one of the categories of AML obligated persons due to being a professional covered by the AML Act in majority of the cases however there is no further guidance or practice to confirm this. Information on parties of a trust may be further available with a service provider who is an AML obligated person if engaged by the Bulgarian trustee. Although these obligations require identification of the settlor, trustee and beneficiary of a trust administered in Bulgaria in some cases they do not ensure that the information will be available in respect of all trusts administered by Bulgarian resident trustee. It is therefore recommended that Bulgaria takes measures to address this gap. Law amendment for this purpose is currently under discussion and it is expected to come into force by the end of 2016.

133. There is no experience in practice in respect of availability of the relevant information on foreign trusts. Accordingly, no request related to trusts was received by Bulgaria during the reviewed period either.

Foundations (ToR A.1.5)

134. Bulgarian law provides for two types of non-profit legal entities. These are foundations and associations (s. 1(2) Non-profit Legal Entities Act). A foundation is established based on a will or a deed of its founders and does not have members (s. 33). A foundation is run by a managing board obliged to administer it in accordance with the foundation deed or will (s. 35). A founder or founders can reserve a right to participate in governance of the foundation (s. 36). An association is established by at least three members through articles of association (ss.19 and 20). Members of the association are liable for its obligations to the amount of their contributions (s. 21(4)). Changes in members of association are subject to approval by the general meeting or the association's board if stipulated by the articles of association (s. 25). As of December 2015 there were 6 405 foundations and 34 622 associations entered in the BULSTAT Register.

135. Non-profit legal entities can conduct business activities in accordance with their founding documents (s.3 Non-profit Legal Entities Act). Foundations and associations can be established for public or private benefit purposes (s. 3). Public benefit purposes are defined by the law as including development and strengthening of spiritual values, the civil society, health care, education, science, culture, engineering, technology or physical culture, assistance to the socially disadvantaged, the disabled or the persons in need of care, support of social integration and personal realisation, protection of human rights or the environment (s. 38(1)). Upon dissolution entities established for public benefit cannot distribute their assets in any way to their current or former members, founders or representatives (s. 43(2)). Public benefit entities are entitled to tax benefits after scrutiny and registration into the Central register of non-profit organisations kept by the Ministry of Justice (s. 2(3)). Foundations and associations established for public benefit purposes therefore do not appear to be of relevance for the current assessment.

136. Foundations and association are required to register with the District Court in order to obtain legal personality (s. 6(1) Non-profit Legal Entities Act). Upon registration with the Court they are required to provide their founding documents, their address, names and positions of persons representing the non-profit legal person, their main activities and number of initial property contributions (s. 18(1)). Both entities are further required to register with the BULSTAT Register in order to obtain unique registration number which has to be included in all their official communication (s. 9). Similar information as provided to the Court registry has to be provided to the BULSTAT Register, however, in addition the registered entity has to provide information on its ownership structure and identification of its members (s. 7(1) BULSTAT Register Act).

137. Non-profit legal entities are obliged entities under the AML Act (s.3(2)(17) AML Act). Representatives of foundations and associations are therefore required to understand their ownership structure and identify their beneficial owners which according to the Bulgarian authorities includes identification of their founders, members and beneficiaries.

138. To the extent that any foundation or association engages the services of an AML obligated person ownership structure and beneficial owners of the entity would be identified by the obligated person through CDD measures (see A.1.1). This is especially the case with notaries as the foundation deed has to be notarised (s.33(2) Non-profit Legal Entities Act).

139. The same general tax rules apply also in respect of non-profit entities. Upon registration with the BULSTAT Register a foundation or association is automatically registered also with the tax administration and all information provided in to the BULSTAT Register is available to it. Once registered both entities have to file annual tax returns when they perform economic activity (s.2 Corporate Income Tax Act). Private benefit foundations and associations which carry out economic activity during the year are further required to file an activity report together with the annual tax return (s.92(3) Corporate Income Tax Act and s.1.56 Additional Provisions of the Corporate Income Tax Act). The activity report has to include information on their beneficiaries upon distribution.

In practice

140. The same procedures as in respect of other entities apply in respect of foundations and associations (see section A.1.1). Although there is no centrally available information on measures taken by district courts upon registration all foundations and associations are required to register also with the BULSTAT Register and the information provided is entered into the central electronic database. The BULSTAT register issues an UIC without which a legal entity cannot operate as it is required to be included in contact with government authorities including the tax administration and with its business partners. As already pointed out, the Bulgarian legal framework contains certain safeguards which motivate obligated persons to submit information to the BULSTAT Register and keep the information updated. However, there is a room for improvement in respect of supervisory and enforcement measures which should be taken to ensure compliance especially in respect of identification of cases of non-compliance and application of sanctions including striking off. Bulgaria is therefore recommended to address this concern.

141. Measures taken by the tax administration in respect of private benefit foundations and associations do not differ from other legal entities which appear to be appropriate to ensure availability of tax relevant information in practice (see further section A.1.1 and A.1.6).

142. As all foundations and associations are AML obligated person they are subject to AML supervision by the FID-SANS. FID-SANS conducted four on-site visits in respect of non-profit legal entities in 2013, nine on-site visits in 2014 and one in 2015. As a result, one written warning was issued in 2013 and sanctions were applied in two cases in 2013 with the total amount of EUR 2 045, in three cases in 2014 in the total amount of EUR 3 068 and in six cases in 2015 with the total amount of EUR 6 146. The most common deficiencies related mainly to failures to adopt Internal Rules and Procedures for Control and Prevention of the Money Laundering and Financing of Terrorism, failures to properly establish the origin of the funds and violations of the STRs reporting requirements however only formal deficiencies were identified in respect of identification of beneficial owners and proper measures. The level of compliance with AML requirements nevertheless seems rather low considering the number of cases where deficiencies were identified during on-site inspections. Bulgaria should therefore consider measures to improve the level of compliance including strengthening supervision of these entities. It is however noted that the identified deficiencies do not relate to the complete lack of the ownership information required to be kept and that there are other sources of such information available mainly through the BULSTAT Register.

Conclusion

143. Bulgaria's legal and regulatory framework ensures the availability of information on the foundation's or association's founders or members, members of the executive board (or any other person with the authority to represent the entity) and beneficiaries. Non-profit entities are required to register with district courts and the BULSTAT Register and provide there their foundation documents and identification of their representatives. Foundations and association are obligated entities under the AML Act and therefore their representatives are required to understand their ownership structure and identify their beneficial owners. Further, private benefit foundations and associations which carry out taxable activity during the year are required to file together with the annual tax return an activity report which includes information on their beneficiaries upon distribution to them.

144. The application of relevant mechanisms ensures that ownership information regarding foundations and associations is generally available. The same supervisory and enforcement measures are used as in respect of other legal entities. During the review period Bulgaria did not receive any request for ownership information in respect of foundation or associations. The main source of ownership information is the BULSTAT Register. As already indicated, there is a room for improvement in respect of supervisory and enforcement measures taken by the Registry Agency especially in

respect of identification of cases of non-compliance and application of sanctions including striking off and Bulgaria is recommended to address this.

Other relevant entities and arrangements

Cooperatives

145. Bulgarian law provides for establishment of European Cooperative Societies (European co-operative) and co-operatives. Rules governing European co-operatives are contained in the Council Regulation No. 1435/2003 on the Statute for a European Cooperative Society and are similar to those governing domestic co-operatives. As of December 2015 there was one European co-operative and 3 625 co-operatives registered in Bulgaria.

146. A co-operative under Bulgarian law is a legal person defined as a voluntary association of natural persons with variable equity and a variable number of members who through mutual assistance and co-operation carry out commercial activity in order to fulfil their economic, social and cultural interests (s. 1 Co-operatives Act). A member of a co-operative is liable for its obligations to the extent of his/her equity contributions (s. 32(2)). A co-operative obtains legal personality upon entry into the Commercial Register (s. 4).

147. The statutes of a co-operative have to include

- the name, seat, registered management address and the subject of activity;
- conditions for admission of members, their rights and obligations;
- bodies of the co-operative and their scope of rights and obligations;
- the size of the founding members' equity contributions; or
- the grounds and procedure for termination of membership (s. 2(3) Co-operatives Act).

148. The statutes have to be signed by all founding members of the co-operative and provided to the Commercial register together with notarised samples of the signatures of representatives of the co-operative (ss. 2(6) and 3(1) Co-operatives Act). Changes in the provided information have to be reported to the Register within 14 days since they occur (s. 3(4)).

149. A co-operative has to keep register of members. The register has to contain the name and address of each member, the date of beginning and termination of his/her membership, the grounds for termination, as well as the type and amount of contributions and the date of its payment (s. 8(5) Co-operatives Act). Becoming a new member in a co-operative is subject to approval by the managing board and the General Meeting (s. 8).

The President of the co-operative is responsible for keeping of records of all General Meeting sessions in a book of minutes. Any resolutions adopted by the General Meeting including admission of new members has to be recorded in the minutes and kept by the President of the co-operative (s. 18(5)).

150. Each member of a co-operative has a right to inspect the register of members or any information that may affect his interests, as well as the interests of the co-operative (s. 9 Co-operative Act). Therefore it can be concluded that the register and other relevant information has to be kept in Bulgaria and remain available for the existence of the co-operative. Bulgarian law does not provide clear rules for maintaining the relevant ownership information after a co-operative ceased to exist. According to the Bulgarian authorities it is the responsibility of the liquidator to transfer these documents to the National Archive for permanent storage. It is however not clear whether the liquidator is legally obliged to do so and what sanctions would be applicable in the case of failure. Bulgaria should therefore clarify its law to address this limited issue. It is nevertheless noted that certain ownership information in respect of co-operatives can also be accessed from the Commercial Register, during a tax audit which is mandatorily required before liquidation of a co-operative or from AML obligated persons if engaged by the co-operative.

151. Co-operatives are taxed in the same manner as companies, i.e. they are automatically registered through the Commercial Register, required to submit annual tax returns and provide an activity report together with the annual tax return if carrying out taxable activity (ss.2 and 92(3) Corporate Income Tax Act and s. 1.56 Additional Provisions of the Corporate Income Tax Act). The activity report has to include identification of related parties. Further, certain tax positions require that the co-operative discloses its ownership structure to the tax administration (e.g. transfer pricing or exemption of dividend payments).

152. To the extent that a co-operative engages an AML obligated person the beneficial owners of the co-operative would be identified through CDD (see A.1.1). This is especially the case with notaries as co-operatives' statutes have to be notarised and auditors as large and medium enterprises have to be audited by registered auditors (s. 37(1) Accounting Act).

153. To sum up, information on members and representatives of a co-operative should be available primarily with the co-operative through the register of members, statutes of association and minutes of general meetings. Certain ownership information should be also available with the Commercial Register, tax administration and service providers if engaged by the co-operative.

154. In practice, the application of relevant mechanisms ensures that ownership information regarding co-operatives is generally available. The same supervisory and enforcement measures are used as in respect of other

legal entities. During the review period Bulgaria did not receive any request for ownership information in respect of co-operatives. The main source of ownership information in respect of these entities is the Commercial Register. As already pointed out, there is a room for improvement in respect of supervisory and enforcement measures taken by the Registry Agency especially in respect of identification of cases of non-compliance and application of sanctions including striking off non-compliant entities. Bulgaria is therefore recommended to address this concern.

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

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

156. Transfer of shares (with exception of bearer shares) becomes legally effective in respect of the company upon entry in the register of shareholders. It is the responsibility of the management of the company to maintain the register of shareholders and keep it up to date (s. 179 Commerce Act). Breach of this obligation is subject to a fine from BGN 100 (EUR 50) to BGN 500 (EUR 255) (s. 284(5) Commerce Act). The fine is applicable directly by the Registry Agency. No fines were however applied over the last three years. A person may claim damages caused by inaccurate information contained in the register in civil court procedure. Statistics on number of such claims are not centrally available however according to the Bulgarian authorities it is expected that they are not common.

157. Representatives of a registered entity are responsible for providing updated information to the Commercial Register. Their failure to do so is subject to a fine of BGN 500 (EUR 255) to BGN 1 000 (EUR 510). The fine can be applied repeatedly each month of the default (s. 40(1) Commercial Register Act). In practice the fine was not applied during the last three years. As already discussed, the legal framework contains safeguards which motivate obliged persons to submit information to the Commercial Register and keep the information updated. Despite these safeguards there are certain cases where information contained in the register may be inaccurate or outdated but currently there are limited measures to identify these cases. The procedure for struck off non-compliant entities or entities deemed inactive was used only in very limited number of cases and therefore does not appear to be sufficiently efficient. Bulgaria is therefore recommended to address these issues.

158. A failure to provide updated information into the BULSTAT Register is subject to a fine of up to BGN 700 (EUR 360) for natural persons or a sanction of up to BGN 1 000 (EUR 510) for legal persons. If the failure continues a fine between BGN 50 (EUR 25) and BGN 3 000 (EUR 1 535) can be applied repeatedly (s.45 BULSTAT Register Act). As in the case of Commercial Register no sanction was applied over the last three years and only a very limited number of persons was struck off from the register. The overreliance on legal safeguards and limited use of strike off procedure in respect of deemed inactive entities or persons may have a negative impact on accuracy of information contained in the register and Bulgaria is recommended to address this concern.

159. Any taxpayer who fails to submit a tax return or which fails to state or misstates any particulars or circumstances leading to underassessment of the tax due is liable to a pecuniary penalty of BGN 500 (EUR 255) to BGN 3 000 (EUR 1 535). Any repeated violation is punishable by a fine of BGN 1 000 (EUR 510) to BGN 6 000 (EUR 3 070) (s.261 Corporate Income Tax Act). Any taxpayer who fails to submit any supplement to the tax return or which states inaccurate information in such supplement is liable to a fine of BGN 100 (EUR 50) to BGN 1 000 (EUR 510). Repeated violation is punishable by a fine of BGN 200 (EUR 100) to BGN 2 000 (EUR 1 025) (s.262). Further, monetary and criminal sanctions are linked to the amount of evaded tax. The above fines were applied in 2 568 cases in 2013, in 2 335 cases in 2014 and in 3 735 cases in 2015. The amount of these fines applied in 2013, 2014 and 2015 was BGN 958 970 (EUR 490 650), BGN 917 164 (EUR 469 260) and BGN 2.2 million (EUR 1.1 million) respectively. Further, the tax administration can also file notifications to the Prosecutors' office to apply criminal sanctions. The tax administration filed 632 of such notifications in 2013, 756 in 2014 and 740 in 2015. The notifications covered wide range of irregularities such as understatement of tax liability, use of forged documents, companies without a manager, unannounced insolvency or suspicion of money laundering.

160. Failure to obtain and maintain information required under the AML law is punishable by a fine of BGN 2 000 (EUR 1 025) to BGN 50 000 (EUR 25 580) in respect of an individual or a legal person (s.23(4) AML Act) or by criminal sanctions under Article 253b of the Criminal Code if such an offence constitutes a crime. Under the Criminal Code the responsible person can be sanctioned by imprisonment of up to three years and a fine of up to BGN 3 000 (EUR 1 535) (s.253b Criminal Code). The administrative fine was applied in respect of financial institutions in 32 cases in 2013, in 46 cases in 2014 and in 18 cases in 2015 and in respect of non-financial sector in 63 cases in 2013, in 57 cases in 2014 and in 51 cases in 2015. The total amount of the applied fines was in respect of financial institutions EUR 48 574 in 2013, EUR 46 219 in 2014 and EUR 18 153 in 2015 and in respect of non-financial sector EUR 43 715 in 2013, EUR 57 217 in 2014 and EUR 68 534 in 2015. Criminal sanctions are rarely used in practice as most of the violations

established are minor and cannot be qualified as criminal. In 2015 the FIU disseminated to the Prosecutor’s Office information on one case where while performing its supervisory functions a suspicion of criminal violation arose.

Conclusion

161. Bulgarian law provides for sanctions in respect of key obligations to maintain ownership information. However administrative penalties under the Commerce Act, Commercial Register Act and BULSTAT Register Act appear to be rather low and Bulgaria may consider their strengthening especially in cases of continuous default.

162. In practice, enforcement provisions are generally applied to ensure availability of the relevant ownership information. However, there is a room for improvement in respect of enforcement measures taken by the Registry Agency which is the most important source of ownership information in practice. The legal framework contains safeguards which motivate obliged persons to submit information to the Commercial or BULSTAT Register but currently there are limited measures in place to identify cases where the required information is not provided, sanctions are not adequately applied and the procedure for struck off non-compliant entities or persons is not efficiently used to limit the number of entities which remain registered despite being non-compliant or inactive. Bulgaria is therefore recommended to address this issue.

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
Bulgarian law provides for issuance of bearer shares by joint stock companies and partnerships limited by shares. There are several mechanisms which allow identification of holders of these shares however they do not require identification of holders of bearer shares in all cases. Out of 11 555 joint stock companies (2.2% of all companies) which can issue bearer shares 555 companies actually issued these shares (0.1% of all companies).	Bulgaria should take measures to ensure that appropriate mechanisms are in place to identify the owners of bearer shares in all cases.

Phase 1 determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Ownership information in respect of foreign companies and partnerships is required to be available based on obligations towards the BULSTAT Register and to a certain extent based on tax and AML law. However these obligations do not cover all foreign companies with place of effective management or headquarters in Bulgaria and partnerships carrying on business or deriving taxable income therein.	Bulgaria should ensure that ownership information on foreign companies with sufficient nexus with Bulgaria and on foreign partnerships carrying on business in Bulgaria or deriving taxable income is available in all cases.
A Bulgarian resident trustee of a foreign trust will in majority of the cases fall under one of the categories of AML obligated persons and therefore required to keep information on settlors and beneficiaries of the trust. However, acting as a trustee may not necessarily trigger AML obligations in Bulgaria and there are no other requirements to ensure that identification of settlors, trustees and beneficiaries of foreign trusts which have Bulgarian resident trustees or are administered in Bulgaria is available in Bulgaria.	Bulgaria should ensure that information is maintained on beneficiaries and settlors of all foreign trusts which have Bulgarian resident trustees or are administered in Bulgaria.
Phase 2 rating	
Partially compliant.	
Factors underlying recommendations	Recommendations
Although Bulgarian law contains several safeguards which motivate compliance with filing obligations towards the Commercial and BULSTAT Register there is a room for improvement in respect of supervisory and enforcement measures which should be taken to ensure compliance where legal safeguards did not work.	Bulgaria should strengthen supervisory and enforcement measures taken by the Registry Agency to ensure that the required information in respect of all relevant entities is in all cases available in accordance with the law.

A.2. Accounting records

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

163. 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)

164. The general accounting obligations are stipulated by the Accounting Act. The Accounting Act applies to all relevant entities including all domestic legal entities, civil partnerships and other persons conducting economic activity in Bulgaria with exception of entities established in another EU Member State or in another state which is a party to the Agreement on the European Economic Area and which pursue business activities in Bulgaria solely under the terms of free provision of services under this agreement (s.2 Accounting Act).

165. All obligated persons have to keep accounts of (i) all business transactions resulting in changes in their property and financial position, (ii) financial results of their operations and (iii) have to be able to prepare financial statements which give a true and fair view of the property and financial position and financial performance of the enterprise, its cash flows and equity (ss.3 and 24 Accounting Act).

166. All obligated persons have to keep their accounts on the basis of documentary justification of business transactions and facts. Obligated persons are required to keep their accounts using double entry method with the exception of sole traders with net sales revenue for the previous accounting period not exceeding BGN 50 000 (EUR 25 580) (s.3 Accounting Act). An accounting documentation must include

- primary documents carrying information about a business transaction to be recorded (see further section A.2.2);
- secondary documents carrying processed (summarised or differentiated) information derived from primary accounting documents; and

- ledgers presenting chronologically systematised information about business transactions derived from primary and/or secondary accounting documents (s. 4).

167. In establishing and maintaining its accounting system, an obligated person must ensure a comprehensive and chronological registration of all accounting transactions, preparation of analytical and summary information representing most accurately and appropriately its financial position and interim and annual closing of accounting records (s. 11 Accounting Act).

168. Financial statements of the obligated persons should be kept in accordance with principles and requirements of the Bulgarian and International Accounting Standards (s.26(2) Accounting Act). The annual financial statements for all obligated persons have to comprise at least a balance sheet, a profit and loss account and explanatory notes (s.29(1)).

169. Joint stock companies, partnerships limited by shares and all other obligated persons with the exception of small enterprises and certain small non-profit legal entities established for public benefit have to have their annual financial statements independently audited by registered auditors (s. 37 Accounting Act). All obligated persons with the exception of small enterprises and non-profit legal entities established for public benefit have to submit their annual financial statements together with full audit reports and annual management reports adopted by the general meeting to the Commercial Register by 30 June of the year following end of the financial period (s. 38(1)).

170. Compliance with accounting requirements of the obligated person is the responsibility of its management (s. 16 Accounting Act). The Accounting Act prescribes fines for various breaches of obligation under the Act. The applicable fines range from BGN 200 (EUR 100) to BGN 15 000 (EUR 7 670). A manager who records certain transactions outside accounting books or records or records fictitious or insufficiently identified transactions, non-existent expenses and liabilities of inaccurately identified subject is punishable by a fine of BGN 500 (EUR 255) to BGN 5 000 (EUR 2 560) and the enterprise shall be penalised by a pecuniary sanction in the amount of BGN 2 000 (EUR 1 025) to BGN 10 000 (EUR 5 115). In the event of repeated violation a fine of double this amount shall be imposed (s.68). A failure to publish financial statements is penalised by a fine ranging from BGN 200 (EUR 100) to BGN 3 000 (EUR 1 535) applicable in respect of the responsible individual and the enterprise is penalised by a sanction ranging from 0.1% to 0.5% of the net sales revenue for the reporting period for which the unpublished financial statements refer but not less than BGN 200. In the event of repeated violation a fine of double this amount shall be imposed (s.74). A failure to conduct independent financial audit is penalised by a fine ranging from BGN 500 (EUR 255) to BGN 5 000 (EUR 2 560) applicable in respect of the responsible individual and the enterprise shall be penalised by a pecuniary sanction

ranging from BGN 2 000 (EUR 1 025) to BGN 10 000 (EUR 5 115). In the event of repeated violation a fine of double this amount shall be imposed (s.75). The respective fines are directly applicable by the national Revenue Agency and by the Public Financial Inspection Agency

171. Taxable income of taxpayers (tax residents and permanent establishments) is based on the amount of profit or loss, prior to the calculation of corporate income tax, as set out in the profit or loss account in an annual financial statement drawn up in accordance with the accounting rules (s. 18(1) Corporate Income Tax Act). Taxpayers are then required to maintain accounting records of business revenues and expenditures to substantiate their tax liability (ss.37 and 38 Tax Procedure Code). Such records must include records and documents required by accounting law (s. 10 Corporate Income Tax Act). Accounting results must also be filed in the taxpayer's tax returns. If the taxpayer fails to provide accounting records or provides false information to the tax authority a fine shall be imposed in an amount of BGN 100 (EUR 50) to BGN 1 000 (EUR 510). Repeated violation is punishable by a fine of BGN 200 (EUR 100) to BGN 2 000 (EUR 1 025) (s.262). Further, monetary and criminal sanctions are linked to the amount of evaded tax.

172. The accounting obligations described above apply also to trustees who act in a business capacity. Acting as a trustee represents economic activity under the Commerce Act and therefore a Bulgarian trustee of a foreign trust is required to keep full accounting records and underlying documents for all operations of the trust (not simply for his/her own income derived from the trust) in line with the accounting standards. It follows from accounting principles embodied within these standards that the trustee must keep segregated accounts in respect of assets managed on behalf of third parties and his/her own assets (s. 26(1) Accounting Act and s. 1(8) Additional Provisions to the Accounting Act). Further, all resident trustees have to keep the necessary accounting records to substantiate their tax liability for income from assets of the trust. Finally, majority of Bulgarian resident trustees are expected to be professionals covered by AML obligations such as lawyers, auditors, tax advisors or accountants and therefore required to keep documentation of all transactions of the trust. In addition, transactions of a trust administered by trustee who is not AML obligated person will be subject to AML requirements if, for example, the trustee (*i*) opens an account or establishes a relationship related to the trust with a bank in Bulgaria or other fiduciaries subject to AML legislation; or (*ii*) purchases or sells any real property for the trust via a lawyer or other professional who would also be subject to the AML/CFT framework.

In practice

173. Supervision of accounting obligations is conducted on several levels mainly through obligations to file accounting information with the Commercial Register and the tax administration and through verification of tax obligations carried out during on-site inspections and tax audits. Obligation to keep transactional information by AML obligated person is supervised by the FID-SANS and other AML supervisory bodies.

174. As described above all obligated persons with the exception of small enterprises and non-profit legal entities established for public benefit have to submit their complete annual financial statements to the Commercial Register. The compliance rate with this obligation was 66.2% in 2013, 64.3% in 2014 and 62.2% in 2015. The accounting results are basis for tax assessment and main accounting results must be included in corporate income tax returns. The compliance rate with tax returns filing obligation was 79.9% in 2013, 78.7% in 2014 and 76.5% in 2015. The tax administration is taking several actions to increase tax filing compliance including sending reminders to taxpayers and application of sanctions (see further section A.1). Checks and tax audits are launched in respect of taxpayers who do not file their tax returns on risk based analyses.

175. Compliance with accounting obligations is directly verified by the tax administration during on-site inspections and tax audits. Annually about 4% of corporate taxpayers is subject to on-site inspection and another 0.6% is subject to a tax audit. In cases where non-compliance with accounting obligations is established administrative fines for failure to provide the requested information apply and if the breach has tax liability consequences further sanctions apply. The tax administration applied sanctions for violations of obligations under the Accounting Act in 155 cases in 2013, in 170 cases in 2014 and in 223 cases in 2015. The tax administration also applies sanctions for failure to file accounting information with the Commercial Register. These sanctions were applied in 41 cases in 2013, in 54 cases in 2014 and in 142 cases in 2015.

176. Between 2013 and 2015 the FID-SANS has performed 297 on-site inspections on entities and persons other than banks. Another 1 150 inspections were carried out by the other AML supervisory bodies. The established violations mainly related to failures to adopt internal rules, to properly establish the origin of the funds or violations of the STRs reporting requirements and in certain cases also to record keeping failures. Remedial actions have been taken in all of the aforementioned cases and sanctions were imposed for each individual violation found (see further section A.1.6).

Conclusion

177. All relevant Bulgarian entities as well as Bulgarian resident trustees and foreign entities involved in economic activities in Bulgaria are required to keep accounting records in accordance with the standard. Domestic entities and foreign entities conducting economic activities which are not covered by the exception for entities established in the EU or in another state which is a party to the Agreement on the European Economic Area are covered by obligations of the Accounting Act. Under the Accounting Act obligated persons are required to keep records which correctly explain the entity's transactions, enable it to determine the entity's financial position with reasonable accuracy at any time and allow financial statements to be prepared. The requirements under the Accounting Act are supplemented by obligations imposed by the tax law which require all taxpayers including permanent establishments of all foreign persons to substantiate their tax liability through accounting records kept in accordance with accounting law. The third layer of accounting obligations is contained in the AML law requiring all obligated persons to keep transactional records.

178. Bulgaria's legal and regulatory framework is adequately implemented to ensure availability of accounting information in respect of all relevant entities. The tax administration and AML supervisory authorities take appropriate supervisory and enforcement measures ensuring availability of the information in practice. Availability of accounting information in Bulgaria has been also confirmed by EOI practice. Bulgaria received 102 requests for accounting information during the period under review. There was no case where the requested information was not provided because it was not available with the information holder. However, in six cases (5.8%) the information holder was not contactable and therefore only accounting information already at the disposal of the tax administration or contained in government registers was provided (see further section C.5.1). Further, no peer reported an issue regarding availability of accounting information in Bulgaria.

Underlying documentation (ToR A.2.2)

179. All relevant Bulgarian entities as well as foreign entities involved in economic activity in Bulgaria with exception of entities established in another EU Member State or in another state which is a party to the Agreement on the European Economic Area and which pursue business activities in Bulgaria solely under the terms of free provision of services under this agreement are required to keep underlying accounting documentation under the Accounting Act. This documentation must include contracts, invoices and other documents which have to be reflected in the entity's accounting records. Accounting records are based on accounting entries. Each accounting entry must be supported by a primary accounting document (s.3(3)

Accounting Act). A primary document is a document attesting the existence of the economic transaction of the accounting entity and must include at least the following information:

- the name of the document;
- identification of its author through its name, address and registration number;
- date of issue of the document;
- subject, value and other quantification of the transaction (s.6 Accounting Act).

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

181. The tax law requires taxpayers to keep evidence providing information regarding income and expenses as well as assets and liabilities (s. 37 Tax Procedure Code). The Bulgarian authorities advise that this includes keeping copies of original documents, including invoices and contracts. Further, as mentioned above, AML law requires obliged persons to keep documentation for transactions with their clients (ss.3(4) and 6(5) AML Act).

182. Practical availability of underlying documentation is supervised by the tax administration together with availability of accounting records. The same supervisory and enforcement measures apply as outlined above. In addition to usual on-site inspections and tax audits several on-site inspections were specifically targeted at verification of compliance with obligations to keep underlying records. The tax administration conducted 1 007 such inspections in 2013, 1 073 in 2014 and 1 236 in 2015 covering about 0.2% of corporate taxpayers annually. Where the tax administration identified deficiencies sanctions were applied (see above and in section A.1.6). However there were no such serious cases identified by the tax administration during the reviewed period that would indicate systemic issue in respect of practical availability of the relevant information in Bulgaria.

Conclusion

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

184. The supervisory and enforcement measures taken mainly by the tax administration together with the level of compliance with tax filing

obligations ensures that such information is practically available in Bulgaria. As stated above, Bulgaria received 102 requests concerning accounting information including requests for underlying accounting documentation. There was no case during the period under review where the requested information was not provided because it was not available with the information holder. In six cases only information available from alternative sources was provided as the information holder was not contactable (see further section C.5.1). No issue in respect of availability of underlying accounting information in Bulgaria was indicated by peers.

5-year retention standard (ToR A.2.3)

185. The Bulgarian law requires that accounting records and underlying documentation must be kept for at least five years since the end of the period to which the document relates. Under the Accounting Act retention period starts from the end of the financial year to which the document relates and varies depending on the type of the document

- payrolls must be kept by the obligated persons for 50 years;
- accounting ledgers, financial statements and underlying documents must be kept for 10 years; and
- all other information carriers are required to be kept for three years (s. 12 Accounting Act).

186. Taxpayers are required for the purpose of substantiating the accuracy of tax liabilities to retain documents supporting revenues and expenditures relating to financial and business activities and other documents supporting their tax position for at least five years regardless of liquidation or dissolution of the taxpayer (s. 38(1) Tax Procedure Code).

187. Persons obliged under AML rules to maintain transaction records are required to store them at least for five years following the end of business relationships. The retention period may be further extended up to seven years based on a written instruction of the Director of the Financial Intelligent Directorate of the State Agency of National Security (s. 8 AML Act).

188. In addition, annual financial statements filed with the Commercial Register are required to be kept in the Register for an unlimited period of time (s. 100 Ordinance 1 for Keeping, Maintenance and Access to the Commercial Register).

189. In practice, the tax administration has not encountered issues regarding failure to retain accounting documents for the required period. If the accounting records are not available sanctions as indicated in section A.2.1 apply. There was also no case during the period under review where the

requested information was not provided because of the failure to retain accounting information for the required period.

Determination and factors underlying recommendations

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

A.3. Banking information

Banking information should be available for all account-holders.

190. 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)

191. Under Bulgarian law banks are prohibited from opening and keeping anonymous accounts or accounts opened under fictitious names (s.4(1) AML Act). Further, banks have to identify their clients upon establishing a business relationship, including when opening an account, when executing a transaction or concluding a deal of a value exceeding BGN 30 000 (EUR 15 330) and in the case of any cash transaction exceeding BGN 10 000 (EUR 5 110). These thresholds also apply to transactions or deals which separately does not exceed the threshold but available data suggest that they are related (ss.4(1) and 4(2)). If banks are not able to properly identify the customer they are prohibited to enter into a business relationship with such customer or to perform the transaction or if it already has a business relationship with such customer they should terminate it (s. 4(4)).

192. Identification of a client includes verification of his/her identity and if it is a legal person identification of its beneficial owner (see further section A.1.1). Banks are further required to ensure regular updating of the documents, data and information obtained in the process of the customer due diligence and this documentation must be stored for at least five years following the end of the business relationship (ss.3(4) and 8(1) AML Act). Banks are obliged to keep records of all data and documents on all transactions performed under a business relationship (ss.3(4) and 6(5) AML Act). The scope of records to be kept is broad and comprises information on the nature and date of transactions, type and amount of currency involved, and the type and

identifying number of any account involved in the transaction. The transaction records and underlying documentation must be kept for at least five years (s. 8(1)). Failure to obtain and maintain information required under the AML law is punishable by a fine of BGN 2 000 (EUR 1 025) to BGN 50 000 (EUR 25 580) in respect of an individual or a legal person (s. 23(4)) and criminal sanctions in respect of its officials can be applied.

193. Under the Law on Credit Institutions banks are required to create, maintain and update an information system containing among other:

- accounting information showing clearly and accurately the type, amount and grounds of any transactions as concluded;
- information on clients, stating particulars of any transactions concluded therewith or for the account thereof, and of the credit and debit balances thereof;
- the general terms, which the bank applies in regard to its banking transactions, as amended;
- detailed records of financial contracts whereto the bank is a party;
- files on each credit contract stating particulars of the client, the grounds, the terms and conditions and amount of the loan and the security furnished thereon, the decision of the competent body to grant the credit, and any other particulars related to the conclusion and performance of the agreement (ss.67 and 68 Law on Credit Institutions).

194. In the case of failure to comply with the banking law requirements banks are subject to variety of enforcement measures and sanctions applicable by the central bank including issuing a written order to cease the violations, restricting the business of the bank, prohibiting it from effecting specified transactions, imposing forced administration over the bank and ultimately delicensing it (s. 103(2) Law on Credit Institutions).

195. Further, all banks are considered accounting entities under the Accounting Act and as such are obliged to keep accounts in line with the accounting standards of other relevant entities (see section A.2). A bank's accounting should give a true and fair view of the property, financial position and financial performance of the enterprise, its cash flows and equity (s.24 Accounting Act). Accounting entries must be supported by primary documents attesting the existence of the economic transaction (s. 4). Such documents must include identification of its author, date of issue, subject, value and other quantification of the transaction (s.6). Accounting records and underlying documentation must be kept for at least five years (s. 12). Heads of banks who have allowed violations of the accounting requirements are liable to fines under the Accounting Act and in case of severe violations under the Criminal Code.

196. In addition, banks are required to maintain adequate records in order to fulfill tax requirements under the EU Savings Directive to report automatically the identity and residence, the account number and information concerning the interest payment to account holders that are not resident in Bulgaria but are residents in other EU member states (ss.143r-143z Tax Procedure Code). Since January 2016 banks are further collecting information for the purpose of the CRS, FATCA and Directive 2014/107/EU. The first reporting under the FACTA IGA was completed in June 2016.

In practice

197. Banks obligations to maintain clients' identification and transactional information is supervised by the Bulgarian National Bank and the FID-SANS. The National Bank performs examinations in banks to inspect the adequacy and effectiveness of the policies and procedures, including "know your customer" rules. The banks are subject to regular or triggered on-site AML/CFT inspections by the central bank or by the FID-SANS separately or jointly. During each inspection the adequacy of the controls and systems are checked including sample of client's files and transactional documentation. The cycle for a regular on-site inspection in a bank by the National Bank is 1.5-2 years, according to the bank risk profile. The table below shows number of on-site inspections and enforcement measures carried out in respect of banks by the FID-SANS during the last three years:

	Total number of on-site inspections carried out	Number of on-site inspections having identified AML/CFT infringements	Type of sanction/measure applied			Number of sanctions taken to court (if applicable)
			Written warning	Fines		
				Number	Amount (EUR)	
2013	8	2	0	7	7 130	1
2014	5	3	0	8	7 669	1
2015	12	7	4	34	129 868	6

198. The increase of supervisory and enforcement measures taken in 2015 related to a case of one bank where several infringements were found mainly related to suspicious transaction reporting requirements under the AML legislation.

199. According to the Bulgarian authorities the banking sector is well familiar with its AML/CFT obligations and in majority of the cases banks properly identify their clients and possess all the necessary CDD documentation (including in relation to the beneficial owners of their clients – legal entities). Violations of the abovementioned requirements appear to be only isolated cases mainly related to complex legal structures spread over several jurisdictions.

200. The National Bank applied enforcement measures in respect of credit institutions in ten cases in 2013, in three cases in 2014 and in ten cases in 2015. In the majority of cases recommendations made to banks to take corrective actions related to malpractices in the management of different types of risks.

201. Based on the Law on Credit Institutions annual financial statements of each has to be audited and certified by a specialised auditing company which is a registered auditor under the Law on the Independent Financial Audit (s. 76 Law on Credit Institutions). Auditors are required in their report to render an opinion whether the bank's property and financial position, and its financial result have been truly presented. Auditors are also required to review and express an opinion on the reliability of internal control systems, as well as the compliance of the bank's annual financial statements and supervisory reports with the requirements of the Law on Credit Institutions and the ordinances for its implementation. Violations of the Accounting Act are only rarely identified and consequently sanctions under the Accounting Act were applied by the National Revenue Agency only in one case in 2015.

Conclusion

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

203. The practical availability of banking information in line with the standard is ensured by the respective Bulgarian supervisory authorities mainly through supervision and enforcement of banks' AML obligations. Availability of banking information has been confirmed also in Bulgaria's EOI practice. Bulgaria received 32 requests for banking information over the reviewed period and there was no case where the requested information was not available with the bank. No issue in respect of availability of information with banks was also indicated by peers.

Determination and factors underlying recommendations

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

B. Access to information

Overview

204. 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 Bulgaria's legal and regulatory framework and its implementation in practice give the authorities access powers that cover the right types of persons and information and whether rights and safeguards are compatible with effective exchange of information.

205. The tax administration has broad access powers to obtain and provide requested information held by persons within its territorial jurisdiction. The tax administration can use this access powers also for exchange of information purposes regardless of domestic tax interest. These powers include right to enter premises and request information from all persons which the tax authority deems relevant. Bulgaria has also in place appropriate enforcement provisions to compel the production of information including search and seizure power. Secrecy provisions contain exceptions to allow the tax authority access to the relevant information in line with the standard.

206. There was no case during the period under review where information was not provided due to the lack of access powers. The information already at the disposal of the tax administration is broad and can be provided directly by the EOI Unit. If the requested information is not already at the disposal of the tax administration it is in most cases obtained through a written notice by local tax offices. There was no case where banking information was not obtainable through a court order or directly from the taxpayer. Compulsory measures are rarely needed to be used for exchange of information purposes as in the vast majority of cases the requested person provides the information. During the period under review it was demonstrated that Bulgaria provides information regardless of domestic tax interest. There was also no

issue encountered in respect of accessing information subject to professional privileges or other secrets.

207. Bulgaria’s law does not require notification of the persons concerned prior or after providing the requested information to the requesting jurisdiction. Appeal rights contained in Bulgarian law are in line with the standard. There was no case during the period under review where obtaining or providing of the requested information was appealed.

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).

208. The Minister of Finance is the Bulgarian Competent Authority for exchange of information under DTCs. The Executive Director of the National Revenue Agency is the Competent Authority under EU Directives. Both of them are the Competent Authority under the Multilateral Convention. Practical handling of EOI requests is delegated to the Tax Treaties Directorate of the National Revenue Agency. The National Revenue Agency is an administrative organisation within the competency of the Ministry of Finance. Its main responsibility is to implement tax regulations and regulations concerning the payment of compulsory social security contributions. The Bulgarian competent authority has wide powers to obtain information requested for exchange of information purposes. These powers are supported by possible application of coercive measures and enforcement provisions as described further below.

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

209. The tax administration has wide information gathering powers which entitle it to the following:

- to conduct examinations and audits;
- to require from any person, central-government and municipal authorities to provide data, information, documents, papers, materials, items of property, statements of account, information sheets and other data mediums as are necessary for the performance of tax administration responsibilities;
- to require and collect original documents, data, information, papers, items of property, statements of account, information sheets and

other data mediums for the purpose of ascertaining obligations and liabilities for taxes and compulsory social-insurance contributions, and establishing any violations of the tax and social-insurance legislation; require certified copies of written documents and certified printouts of data from machine-readable data mediums;

- to access premises;
- to require a person to declare their bank accounts in the country and abroad;
- to establish the properties, financial resources and tangible assets owned, claims and securities held;
- to perform steps to gather evidence, including the sealing of safes, warehouses, workshops, office premises, shops and other facilities subject to control;
- to request the disclosure of official, bank or insurance secrets according to a procedure provided for by a law;
- to gain access to public registers;
- to require written explanations (s. 12(1) Tax Procedure Code).

210. The general power to request from any person information necessary for the performance of tax administration responsibilities is further detailed mainly in sections 37, 56 and 57 of the Tax Procedure Code. Section 37 stipulates that the tax administration have the right to require in writing any person to present the requested information within 14 days after receipt of the request (ss.37(3) and 37(5) Tax Procedure Code). Sections 56 and 57 of the Tax Procedure Code detail the power to request written explanations from any persons on facts and circumstances relevance for the performance of the tax administration's responsibilities. These powers include a possibility to summon a person (s. 56(1))

211. All these powers can be used also for EOI purposes. There are no specific information gathering powers granted solely for EOI. There are also no specific procedures or additional conditions for use of information gathering powers in respect of different types of information except for banking information.

In practice

212. In most cases the requested information is obtained through a written notice under section 37 of the Tax Procedure Code. Other access powers are used if specific or more complex information is requested. The requested information is provided directly by the EOI unit in cases where the requested

information is already at the disposal of the tax administration or can be retrieved from other available sources. This was the case in about half of the requests received during the reviewed period.

213. The information already at the disposal of the EOI Unit is broad and includes ownership information (direct access to the Commercial Register), accounting information (tax returns, financial statements, other tax declarations, results of tax audits), property information (direct access to the property register) and information contained in the civil register database.

214. The main source of ownership information in the exchange of information practice is the Commercial Register. Certain ownership information is also available in the register and databases maintained by the National Revenue Agency. In case of civil partnerships, the main source of ownership information is the BULSTAT register. The main sources of information on non-profit legal entities is the BULSTAT Register, the databases of the National Revenue Agency or the register of the non-profit legal entities kept by the district court at the location of the legal entity. The main sources of accounting information are the databases of National Revenue Agency, the Commercial Register and the entities themselves.

Access to banking information

215. Access to banking information for tax purposes including EOI is regulated under the Tax Procedure Code and the Law on Credit Institutions. The Tax Procedure Code provides general access powers to banking information under section 37(6) which states that upon request by the tax administration and in accordance with section 12(1) of the Tax Procedure Code the requested persons are obligated to disclose the requested official, bank or insurance secret.

216. Further rules are provided specifically for access to information held by banks in the context of exchange of information. Section 143(4) and section 143f(6) stipulate that upon receipt of a request for exchange of information from another country an authorised person may approach the court for disclosure of information constituting a bank secret within the meaning given by the Law on Credit Institutions where the facts set forth in the request for exchange of information make clear that the said request is made in compliance with the requirements for exchange of information in the relevant international treaty or instrument. The court order is required in order to access banking information if the information is not already at the disposal of the tax administration (see further below) or the requested information cannot be obtained directly from banks because it is covered by banking secrecy, i.e. information which goes beyond the name of the account holder and the bank account number.

217. The obligation to provide information covered by banking secrecy pursuant to a court order is mirrored in the Law on Credit Institutions. Section 62(6) of the Law on Credit Institutions provides exceptions from obligation to keep banking information secret pursuant to a court order. One of the reasons for granting a court order is an application from the Minister of Finance, the National Revenue Agency or an authorised person under section 143(4) or section 143f(6) of the Tax Procedure Code. Section 62(7) of the Law on Credit Institutions further states that the district court shall rule on the motion in camera by delivering a reasoned decision within 24 hours after the submission of the application. The decision has to include a deadline for disclosure of the requested information and cannot be appealed (s. 62 Law on Credit Institutions).

218. Certain banking information is required to be provided by banks to the tax administration spontaneously. All banks are obliged to provide within seven days to the National Revenue Agency information on any bank account they open or close belonging to sole traders, domestic legal persons, branches of foreign persons or foreign legal persons carrying out economic operations in Bulgaria including through a permanent establishment (s. 25 National Revenue Agency Act).

In practice

219. During the period under review (i.e. 1 July 2012-30 June 2015) Bulgaria received 32 requests for banking information. There was no case where the requested banking information could not be accessed. In 12 cases the information was obtained from banks through a court order. In other cases the banking information was obtained from a taxpayer.

220. If the EOI request relates only to banking information it is handled directly by the EOI Unit. In cases where the requested banking information is already at the disposal of the tax administration, i.e. information on existence of bank accounts of reported persons conducting business in Bulgaria (including the bank account numbers), the information is directly provided to the requesting jurisdiction. If the information is not already at the disposal of the tax administration it may be obtained directly from banks or through a court order. Information which can be obtained directly from banks is identification of the account holder upon provision of a bank account number or provision of a bank account number upon provision of the name of the bank account holder. If further information is requested the tax administration has to apply to a District Court. The Court decides whether there is a valid legal basis for disclosure of the information. In the case of exchange of information the legal basis is section 143(4) or section 143f(6) of the Tax Procedure Code in combination with the EOI instrument in force and a valid EOI request. According to the Bulgarian authorities the court is not in a position

to question validity of the request if the Competent Authority confirms its conformity with the legal requirements as it is upon the Competent Authority to decide validity of the request. This has been also confirmed in practice as there was no case where the court would reject to grant access to banking information in the exchange of information context under section 143(4) or section 143f(6). No restriction was also encountered in respect of types of banking information which can be obtained. The court order is usually received and served to the bank in about three to five days. Banks are normally prescribed 14 days by the court to provide the requested information and the deadline is respected.

221. Bulgaria is in the process of implementation of a Central Register of Bank Accounts which will be held by the Bulgarian National Bank. The Central Register should be in place since January 2017 and will allow the tax administration to identify account holders of all bank accounts opened by each bank operating in Bulgaria.

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

222. 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.

223. Use of domestic access powers for EOI is explicitly provided for in section 143 of the Tax Procedure Code for EOI under international treaties and in section 143f of the Tax Procedure Code for EOI under the EU Directive⁸. Section 143(1) states that the Competent Authority may exchange information with other jurisdictions necessary for the application of legislation in relation to taxation according to the concluded international treaties whereto the Republic of Bulgaria is a party. Similar rule is contained in section 143f(3) stating that the Competent Authority shall provide the information it has in its possession or shall arrange for carrying out of any administrative proceedings, as specified in the Tax Procedure Code, to collect and communicate information which exchange is covered under the EU Directive.

224. These provisions are supported by sections 37, 56 and 57 of the Tax Procedure Code detailing the tax administration’s access powers to request information. The use of these access powers is very broad and is not limited to cases with domestic tax interest as they do not refer to a taxpayer, taxes or

8. EU Council Directive 2011/16/EU on administrative co-operation in the field of taxation (as amended).

obligations under the Tax Procedure Code. It is also put beyond doubt by sections 143 and 143f that obtaining and providing information for EOI purposes falls within the responsibility of the tax administration.

225. Use of domestic access powers for exchange of information purposes is not limited by the statute of limitations as was confirmed in practice. Information can be requested even if the relevant taxable period is considered closed for domestic tax purposes or due to a completed tax audit. In such cases the five year retention period under the Tax Procedure Code may be lapsed nevertheless the requested person is still obliged to provide the requested information if it is at his disposal.

226. During the period under review Bulgaria received several requests which related to a person who was not a Bulgarian taxpayer. These cases mainly concerned information on bank accounts, property information and ownership of companies. In none of these requests the issue of domestic tax interest was raised and accordingly no issue in this respect was reported by peers.

Compulsory powers (ToR B.1.4)

227. Jurisdictions should have in place effective enforcement provisions to compel the production of information. The Bulgarian law provides for administrative sanctions in case of non-compliance with obligation to provide the requested information. In addition to summoning the taxpayer the tax administration can request use of search and seizure powers.

228. Any person who refuses to co-operate with the tax administration is liable to a fine of BGN 250 (EUR 130) to BGN 500 (EUR 255). In the event of a repeated violation, the sanction is doubled (s. 273 Tax Procedure Code). If a person refuses to provide written explanations he or she may be summoned to testify before the court (s. 57(3)). If the requested information is not provided within the prescribed time limit, the tax administration may assume the facts and circumstances as proven or not proven in accordance with its own reasoning (s. 56(2)).

229. If an examined person refuses to afford the tax administration access to a facility subject to the control or refuses to present papers or other data mediums, the tax administration may request co-operation from the authorities of the Ministry of Interior including for conduct a search or seizure in accordance with the procedure established in the Criminal Procedure Code (s.42 Tax Procedure Code). If a person continues to refuse to provide the relevant information criminal sanction are applicable.

230. Tax administration's compulsory powers seem adequate however financial sanctions applicable directly by the tax administration appear low

especially in cases of continuous refusal to provide the requested information. Bulgaria may therefore consider their strengthening.

231. In practice, compulsory measures are rarely needed to be used for exchange of information purposes as in the vast majority of cases the requested person provides the information. In cases where the person refuses to co-operate the tax administration uses its compulsory powers. Search and seizure power was not needed to be used during the period under review although in a few cases fines were applied and in one case the tax administration asked for co-operation of the Ministry of Interior to escort a person to the tax office for an oral statement.

Secrecy provisions (ToR B.1.5)

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

Bank secrecy

233. Bulgarian law provides for bank secrecy which is defined as the facts and circumstances concerning balances and operations on accounts and deposits held by clients of the bank (s.62(2) Law on Credit Institutions). No bank employee, member of the management and supervisory bodies of a bank, BNB office holder, liquidator or any other person working for a bank may disclose or use for their own benefit information constituting bank secrecy (s. 62(1)). No bank may disclose any information covered by bank secrecy except (i) with the consent of the client concerned, (ii) pursuant to a court order or (iii) under a special procedure where bank is undergoing bankruptcy proceedings (s. 62(5)).

234. As described in section B.1.1 and B.1.2, one of the grounds for disclosing information covered by banking secrecy through a court order is gathering information in response to a valid EOI request.

235. Accessibility of information subject to banking secrecy was also confirmed in practice. As described in section B.1.1 Bulgaria received 32 requests for banking information during the review period and there was no case where the requested banking information was not accessible.

Professional secrecy

236. Attorneys acting in their capacity as admitted legal representatives in court proceedings or the like are obligated to keep the secrets of their clients without limitation in time. Attorneys shall not be entitled, in their capacity of witnesses, to unveil circumstances that have been disclosed before them in their capacity of attorneys by clients or by another attorney which are of

concern to a client (s. 45 Bar Association Act). Such protection of information is in line with the standard as it covers only information provided to an attorney acting in his/her capacity of an admitted legal representative in relation to a legal litigation or provision of a legal advice.

237. Based on the Law on Notaries a notary must safeguard the secrecy of any circumstances which come to his/her knowledge in connection with the practice thereof, and may not use the said knowledge to his/her or another party advantage. (s. 26(1) Law on Notaries). Notaries are qualified legal professionals registered by the Bulgarian Chamber of Notaries (s. 8). A notary is prohibited to among other be employed under an employment relationship, practice other legal profession than a notary and engage in commercial business, be a managing director or a member of supervisory, management or controlling bodies of any commercial corporations or co-operatives (s. 9(1)). The protection of information held by notaries appears to be in line with the standard as it covers only information obtained by them while acting in their capacity as notaries and does not seem to cover purely factual information such as accounting records or ownership information which is required to be provided to government registers or other third parties under the Bulgarian law. It is also noted that the protection of information held by notaries does not explicitly prohibits disclosure of such information to government authorities if requested for reasons authorised by law.

238. Registered auditors are bound by ethical principles contained in the Independent Financial Audit Act. One of the principles is to protect confidentiality of the information about the activity of the client obtained during the audit (s. 4(4) Independent Financial Audit Act). The protection of information however does not include disclosure of information for the purposes of the public oversight system. According to the National Revenue Authority Act the tax administration has several oversight responsibilities mainly in respect of taxes and social security contributions. It can be therefore concluded that a request from the National Revenue Authority to disclose information relevant to tax matters should fall within this exception and therefore the requested information should be disclosed by the auditor as was confirmed by the Bulgarian authorities. As there is no practical basis to confirm this Bulgaria should consider clarifying its law in this respect.

239. In practice, the tax administration requests information from the taxpayer who is obliged to provide the requested information. Accordingly, there was no case when the information needed to be requested from an attorney, notary or other professional not acting on behalf of his/her client under the power of attorney and there was also no case when a person refused to provide the information requested because of professional privilege. It is however common that the information is received from legal professionals acting on behalf of their clients as their legal representatives.

Business secrecy

240. The Tax Procedure Code provides for access to information held by investment intermediaries and the Central Depository through the same procedure as in the case of banking information. The Tax Procedure Code states that upon receipt of a valid request for exchange of information the Competent Authority may approach the court for disclosure of information constituting a secret within the meaning of section 35(2) of the Markets in Financial Instruments Act and section 133 of the Public Offering of Securities Act or within the meaning given by another provision of Bulgarian legislation on safeguarding the confidentiality of pecuniary funds, financial assets and other property (ss.143(4) and 143f(6) Tax Procedure Code). The authorisation to access information under the Tax Procedure Code is mirrored in section 35(6) of the Markets in Financial Instruments Act and section 133(5) of the Public Offering of Securities Act but no such mirroring provision is contained in respect of information covered by the protection of information under the Insurance Code. Although the referred act contains general exception for information requested by the court or prosecution authorities Bulgaria should consider to clarify its law in this respect to put beyond any potential doubt access to information as required under section 143(4) and 143f(6) of the Tax Procedure Code. According to the Bulgarian authorities clarifying provisions are drafted and will be submitted to the Parliament soon.

241. There was no case where the requested information needed to be obtained from sources covered by the above protection. As already described, the requested information is obtained from the Commercial Register, BULSTAT Register, from the databases maintained by the National Revenue Agency or if it is not contained there from the taxpayers themselves.

Conclusion

242. The Bulgarian competent authority has broad access powers to obtain and provide requested information held by persons within its territorial jurisdiction. Information gathering powers which can be used for domestic purposes can be used also for EOI purposes regardless whether there is a domestic tax interest. Bulgaria has in place enforcement provisions to compel the production of information, including search and seizure power. Secrecy provisions contained in Bulgarian law are compatible with effective exchange of information.

243. There was no case during the period under review where information was not provided due to the lack of access powers. If the requested information is not already at the disposal of the tax administration it is in most cases obtained through a written notice. The requested information is provided

directly by the EOI unit in cases where the requested information is already at the disposal of the tax administration or can be retrieved from other available sources. Banking information was obtained by the tax administration from banks based on a court order or directly from the taxpayer. Compulsory measures are rarely needed to be used for exchange of information purposes as in the vast majority of cases the requested person provides the information. During the period under review it was demonstrated that Bulgaria provides information regardless of domestic tax interest. There was also no issue encountered in respect of accessing information subject to professional privileges or other secrets.

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)

244. 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).

245. Bulgaria's law 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).

246. Obtaining and providing the requested information cannot be appealed unless a tax decision concerning taxpayer's tax liability in Bulgaria or on application of sanctions is issued. Consequently, information gathering measures under section 37 of the Tax Procedure Code cannot be appealed as

such (s. 144 Tax Procedure Code). The person requested to provide the information may however administratively appeal launch of a tax audit and an audit act within 14 days after receipt of a notice launching the audit (s. 152). An appeal generally does not suspend enforcement of the notice (s. 153(1)). An appeal has to be considered by the tax authority within 60 days since its receipt (s. 155(1)). The decision on the appeal can be subject to judicial review which follows generally the same rules and timelines as an administrative appeal (s. 156). It should be nevertheless noted that also other access powers than tax audit can be used to obtain the requested information such as written notice under section 37 of the Tax Procedure Code.

247. During the period under review there was no case where obtaining or providing of the requested information was appealed.

248. Considering the above, rights and safeguards contained in Bulgarian law do not unduly prevent or delay exchange of information and are therefore in line with the standard.

Determination and factors underlying recommendations

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

C. Exchanging information

Overview

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

250. Bulgaria has an extensive EOI network covering 118 jurisdictions through 68 DTCs, one TIEA, the Multilateral Convention and EU mechanisms for exchange of information. Out of these 118 EOI relations only the EOI relation with Lebanon does not provide for exchange of information in line with the standard and exchange of information with Serbia and Montenegro may be restricted to civil tax matters. All Bulgaria's EOI agreements including the Multilateral Convention are in force except for one agreement. There was no case where application of Bulgaria's treaties unduly restricted exchange of information during the period under review. No issue in respect of application of Bulgaria's treaties was indicated by peers either.

251. Bulgaria's EOI network covers all of its significant partners including its main trading partners, all OECD members and all G20 countries. Nevertheless, Bulgaria should continue its programme of updating its older agreements and entering into new agreements with all partners who invite negotiations for an agreement that provides for EOI in line with the standard. During the course of the assessment, three jurisdictions have advised that Bulgaria had not responded to a proposal to enter into negotiations to conclude an EOI agreement. With all three jurisdictions Bulgaria has now an EOI relation in force.

252. All Bulgaria's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons

authorised by the agreements. Bulgarian domestic law permits disclosure of information which goes beyond the use of information permitted under the international standard. However, the provisions of Bulgaria's ratified EOI agreements override domestic laws, meaning that the confidentiality provisions present therein have full legal effect in Bulgaria. Rules regarding information provided to information holders or disclosed to taxpayers are properly implemented in practice. Confidentiality rules are properly implemented in practice. Information obtained under EOI instruments is classified as information for limited use only and must be locked and stamped with confidentiality warning. Access to the information is granted only to the tax official responsible for the particular case. Access to the stored information is granted only on a need-to-know basis.

253. All Bulgaria's EOI relations allow 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. As described in section B.1, protection of information held by attorneys, notaries, auditors or accountants under Bulgaria's domestic law is in line with the standard and therefore does not unduly restrict effective exchange of information. No issue of application of exceptions from the obligation to provide information came up in practice during the reviewed period and such an exception was never invoked by Bulgarian information holders or by Bulgaria as the requested jurisdiction.

254. The Tax Treaties Directorate of the National Revenue Agency is acting as the Bulgarian competent authority for EOI purposes. There are no legal restrictions on the ability of Bulgaria'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. Bulgaria received 219 requests related to direct taxes over the period 1 July 2012 to 30 June 2015. 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 44%, 76% and 92% of the time respectively. Bulgaria has in place appropriate organisational processes to ensure effective exchange of information in the majority of cases. Nevertheless certain room for improvement remains in monitoring of deadlines, provision of status updates and efforts should be also put to decrease response times in cases where information is obtained by local tax offices. It is therefore recommended that Bulgaria addresses these issues.

C.1. Exchange of information mechanisms

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

255. The international treaties providing for EOI require ratification by the Parliament (Art. 85(1) Constitution). Where a ratified international treaty conflicts with domestic law the treaty prevails over domestic law (Art. 5(4) Constitution).

256. Bulgaria has in total 118 EOI relationships. These relationships are based on bilateral treaties, i.e. DTCs and TIEAs, the Multilateral Convention and the EU Directive. Bulgaria has signed 68 DTCs and one TIEA. All of them are in force except for one. Bulgaria signed the Multilateral Convention on 26 October 2015 and it entered into force in Bulgaria on 1 July 2016.

Foreseeably relevant standard (ToR C.1.1)

257. 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.

258. All but three Bulgaria’s DTCs provide for exchange of information that is “foreseeably relevant”, “necessary” or “relevant” to the administration and enforcement of the domestic laws of the contracting parties concerning taxes covered in the DTCs. This scope is set out in the EOI Article in the relevant DTCs and is consistent with the international standard.⁹

9. 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”.

259. Bulgaria's DTCs with Luxembourg, Malta and the Netherlands 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 Bulgaria is recommended to renegotiate them. It is nevertheless noted that Bulgaria has an EOI relation in line with the standard with these partners under the EU Directive and the Multilateral Convention and therefore this is not a concern in practice.

260. Under the TIEA with Guernsey the requested party is under no obligation "to provide information which is neither held by the authorities nor in the possession of nor obtainable by persons who are within its territorial jurisdiction" (emphasis added). Thus, it uses the words "obtainable by" instead of the expression "in control of" used in Article 2 of the OECD Model TIEA. This deviation is not considered to be inconsistent with the standard. The TIEA with Guernsey includes a provision which varies from Article 5(5) (g) of the OECD Model TIEA. The provision allows the competent authority of the requesting party to make a request only when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty. Guernsey has advised that it does not intend to interpret the words in a restrictive way and so far there has been no case indicated by Guernsey's treaty partners that the provision has been applied to refuse or deny the validity of an EOI request on this basis in respect of the requests made to date. No exchange of information requests have been sent under the treaty to verify its application in practice it is therefore recommended that Bulgaria monitors its implementation.

261. The Multilateral Convention and the EU Administrative Cooperation Directive provide for exchange of information in line with the foreseeable relevance criteria.

262. In practice, Bulgaria did not decline any request for information during the period under review on the basis that the requested information was not foreseeably relevant. However, in one case Bulgaria declined to provide the requested information as the requested information is subject to automatic exchange of information and it was not yet readily available. In this case the requesting jurisdiction requested information on all its residents who receive pension income in Bulgaria. In response to this request Bulgaria stated that it is currently not able to retrieve all the requested information however it will be provided based on automatic exchange of information under the EU Directive. No further request in this matter was received from the requesting jurisdiction.

263. No supporting documentation is specifically required by Bulgaria in order to demonstrate the tax purpose for which information is sought. Only if the information included in the request is not sufficient to obtain the requested information or to consider its validity and such information cannot be supplemented the Competent Authority will ask for clarification. This was the case in about 5% of received requests. In most of these cases the information provided did not allow identification of the person concerned or did not include a statement that the requesting jurisdiction pursued all means available to obtain the information except those that would give rise to disproportionate difficulty. No issue in respect of Bulgaria's interpretation of the criteria of foreseeable relevance was indicated by peers. It can be therefore concluded that Bulgaria's interpretation of foreseeable relevance does not prevent effective exchange of information and is in line with the standard.

In respect of all persons (ToR C.1.2)

264. 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.

265. Out of Bulgaria's 68 DTCs 33 explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered).¹⁰ The remaining 35 of Bulgaria's DTCs do not contain such explicit wording nevertheless all of them except for three 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 Bulgaria has advised that it interprets the EOI provision to allow exchange of information with respect to all persons. The three DTCs which do not provide for exchange of information in respect of all persons are with Luxembourg, Malta and the Netherlands and Bulgaria is recommended to bring them in line with the standard. It is nevertheless noted that Bulgaria has an EOI relation in line with the standard with these partners under the EU Directive and the Multilateral Convention and therefore this is not a concern in practice.

10. These are the DTCs with Albania, Armenia, Bahrain, Canada, Croatia, Czech Republic, Denmark, Estonia, Germany, Greece, Hungary, Ireland, Israel, Italy, Kazakhstan, Korea, Kuwait, Morocco, Norway, Latvia, Poland, Portugal, Qatar, Romania, Slovak Republic, Slovenia, South Africa, Spain, Switzerland, Syria, the United Kingdom, the United States, Zimbabwe.

266. The TIEA with Guernsey contains a provision concerning jurisdictional scope which is equivalent to Article 2 of the OECD Model TIEA. The Multilateral Convention and the EU Administrative Cooperation Directive provide for exchange of information in respect of all persons.

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

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

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

269. Out of Bulgaria's 68 DTCs:

- Nine DTCs¹¹ contain language akin to the Article 26(5) of the OECD Model Tax Convention providing for the obligations of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information;
- the DTC with Luxembourg prohibits exchange of information which would disclose any trade, banking, industrial or business secret. Bulgaria is recommended to bring this agreement in line with the standard, nevertheless, it is noted that Bulgaria has an EOI relation in line with the standard with Luxembourg under the EU Directive and the Multilateral Convention and therefore this is not a concern in practice.
- Bulgaria's other 58 DTCs do not contain language akin to Article 26(5) of the OECD Model Tax Convention.

270. The absence of the language akin to Article 26(5) of the OECD Model Tax Convention 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 however not

11. The DTCs with Bahrain, Estonia, Germany, Norway, Qatar, Romania, Switzerland, the United Kingdom and the United States.

be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information.

271. As noted in section B.1 of this report, there are no bank secrecy provisions or other domestic law restrictions on Bulgaria's powers to access bank information for EOI purposes. As such, the exchange of bank information in the absence of language akin to the Article 26(5) of the OECD Model Tax Convention in respect of the 58 DTCs will be subject to reciprocity and will depend on the domestic limitations (if any) in the laws of some of these treaty partners. Out of the 59 jurisdictions covered by these DTCs¹², 40 jurisdictions are covered by the Multilateral Convention and/or the EU Directive, which ensure that the requested jurisdiction shall not decline to supply the information requested solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person.

272. Therefore the pre-2005 wording of DTCs may be a concern in respect of the remaining 19 jurisdictions. Out of these 19 jurisdictions, three have been reviewed by the Global Forum.¹³ In case of two jurisdictions the peer review concluded that they have no legal restrictions under their domestic laws to access bank information and therefore they may exchange bank information even in the absence of a treaty provision akin to Article 26(5) of the OECD Model Tax Convention. In the case of Lebanon the peer review concluded that due to domestic restrictions it cannot exchange banking information under its EOI treaties in line with the standard. The other 16 jurisdictions have not undergone peer reviews and may have legal restrictions to access bank information for EOI purposes under their domestic laws.¹⁴ It is, therefore, recommended that Bulgaria works with these 16 EOI partners to renegotiate these DTCs to ensure that their EOI relations are to the standard.

273. A TIEA concluded by Bulgaria contains a provision similar to Article 5(4) of the OECD Model TIEA explicitly providing for obligation to exchange information held by financial institutions, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

274. As described in section B.1.1, Bulgaria received 32 requests for banking information during the review period and there was no case where

12. The DTC signed by Bulgaria with Serbia and Montenegro in December 1998 is now applicable to both States (i.e. to Serbia and to Montenegro).

13. These three jurisdictions are FYROM, Lebanon, UAE.

14. These 16 jurisdictions are Algeria, Armenia, Belarus, Egypt, Iran, Jordan, Democratic People's Republic of Korea, Kuwait, Mongolia, Montenegro, Serbia, Syria, Thailand, Uzbekistan, Viet Nam, Zimbabwe.

the requested banking information was not accessible. Bulgaria’s practical ability to exchange banking information under its EOI instruments was also confirmed by peers.

Absence of domestic tax interest (ToR C.1.4)

275. 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.

276. Out of Bulgaria’s 68 DTCs:

- 10 DTCs¹⁵ contain provisions similar to Article 26(4) of the OECD Model Tax Convention, which oblige the contracting parties to use their information gathering measures to obtain and provide information to the requesting jurisdiction even in cases where the requested party does not have a domestic interest in the requested information;
- 58 DTCs do not contain explicit provisions obliging the contracting parties to use information-gathering measures to obtain and exchange requested information without regard to a domestic tax interest; and
- There is no DTC signed by Bulgaria which prohibits use of information gathering powers in cases where there is no domestic tax interest in the requested information.

277. There are no domestic tax interest restrictions on Bulgaria’s powers to access information for EOI purposes (see Section B.1 above). As such, the exchange of information in the absence of domestic interest in respect of the 58 DTCs will depend on the domestic limitations (if any) in the laws of some of these partners. Out of the 59 jurisdictions covered by these DTCs 40 jurisdictions are covered by the Multilateral Convention and/or the EU Directive, which 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.

278. Therefore the pre-2005 wording of DTCs may be a concern in respect of the remaining 19 jurisdictions. Out of these 19 jurisdictions, three have

15. The DTCs with Canada, Bahrain, Estonia, Germany, Norway, Qatar, Romania, Switzerland, the United Kingdom and the United States.

been reviewed by the Global Forum.¹⁶ In case of two jurisdictions the peer review concluded that they have no legal restrictions under their domestic laws to use their access powers regardless of domestic tax interest and therefore they may exchange information regardless of domestic tax interest even in the absence of a treaty provision akin to Article 26(4) of the OECD Model Tax Convention. In the case of Lebanon the peer review concluded that due to domestic restrictions it is unclear if it can exchange information regardless of domestic tax interest. The other 16 jurisdictions have not undergone peer reviews and may have legal restrictions to exchange information regardless of domestic tax interest under their domestic laws.¹⁷ As Bulgaria does not require reciprocity in respect of exchange of information regardless of domestic tax interest (s. 143(4) Tax Procedure Code) this is not a concern in practice and Bulgaria is able to provide the requested information in line with the standard also under these DTCs.

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

280. In practice, Bulgaria is able to use all its domestic information gathering measures for EOI purposes regardless of a domestic tax interest (see part B.1.3). During the period under review Bulgaria received several requests which related to a person who was not a Bulgarian taxpayer. In none of these requests the issue of domestic tax interest was raised and accordingly no issue in this respect was reported by peers.

Absence of dual criminality principles (ToR C.1.5)

281. 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.

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

16. These three jurisdictions are FYROM, Lebanon, UAE.

17. These 16 jurisdictions are Algeria, Armenia, Belarus, Egypt, Iran, Jordan, Democratic People's Republic of Korea, Kuwait, Mongolia, Montenegro, Serbia, Syria, Thailand, Uzbekistan, Viet Nam, Zimbabwe.

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

283. 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”).

284. None of Bulgaria’s EOI instruments explicitly limits exchange of information only to civil or criminal tax matters. However, Bulgaria’s DTCs with Belgium, Japan, Serbia and Montenegro limit the disclosure of exchanged information only to persons or authorities involved in assessment or collection of taxes (see further section C.3). This wording may be interpreted to prohibit use of exchanged information for criminal tax purposes and therefore limit exchange of information under these agreements only to civil matters which would be not in line with the standard. It is nevertheless noted that Bulgaria has EOI relation in line with the standard with Belgium and Japan under the EU Directive and/or under the Multilateral Convention and therefore this wording is a not a concern in practice in respect of these two partners. The wording of the DTC signed with Serbia and Montenegro may however restrict exchange of information in criminal tax matters and Bulgaria is therefore recommended to renegotiate it.

285. Bulgaria does not require information from the requesting competent authority as to whether the requested information is sought for criminal or civil tax purposes and no peer input indicated any issue in this respect. The same procedures apply in respect of exchange of information for civil and criminal tax matters. Bulgarian authorities confirmed that Bulgaria will not require use of specific instrument for exchange of information in criminal matters even if the requesting jurisdiction indicates that the information will be used in criminal tax proceedings.

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

286. 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.

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

In force (ToR C.1.8)

288. 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.

289. EOI agreements must be ratified by the Bulgarian Parliament (Art. 85(1) Constitution). The draft agreement is signed upon approval of the Cabinet of Ministers. Upon signing, the agreement together with supporting documentation and incorporating law is submitted to the Parliament for approval. The domestic ratification process is completed after the signed agreement is approved. The Ministry of Foreign Affairs subsequently informs the agreement party thereof.

290. All Bulgaria’s EOI agreements are in force except for a TIEA with Guernsey signed in May 2015. The agreement is ratified by both parties, however, official notifications have not yet been exchanged due to administrative reasons. According to the Bulgarian authorities this will be done soon.

291. Coming into force of a few DTCs took more than three years, however, most of these agreements were signed in the 1990s and since then the period between signing and coming into force has significantly shortened. It is also noted that all recent Bulgarian agreements were ratified by Bulgaria within one year and the Multilateral Convention within five months.

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

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

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

Determination and factors underlying recommendations

Phase 1 determination
The element is in place.
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.

294. 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.

295. Bulgaria has an extensive EOI network covering 118 jurisdictions through 68 DTCs, one TIEA, the Multilateral Convention and EU mechanisms for exchange of information. Bulgaria's EOI network covers all of its significant partners including its main trading partners, all OECD members and all G20 countries.

296. Ultimately, the international standard requires jurisdictions to exchange information with their relevant partners, meaning those partners who are interested in entering into an exchange of information agreement. During the course of the assessment, three jurisdictions have advised that Bulgaria had not responded to a proposal to enter into negotiations to conclude an EOI agreement. With all three jurisdictions Bulgaria has now an EOI relation in place after Bulgaria joined the Multilateral Convention. Negotiation of international tax treaties is within the responsibility of the Tax Treaties Directorate of the National Revenue Agency. The Directorate is also responsible for carrying out all types of exchange of information in direct taxes including mutual agreement procedures and transfer pricing cases and implementation of EU and OECD corporate tax policies. The Directorate is currently staffed with 10 employees which may lead to work overload and in certain cases to lack of responsiveness as experienced by the three peers. It is therefore advisable that Bulgaria considers measures to optimise workload of the Department so that situations as reported by the three peers are avoided in

the future and all requests for negotiation of an EOI instrument are properly adhered to (see further section C.5.2).

297. Bulgaria does not consider it a priority to negotiate additional EOI instruments with jurisdictions already Parties to the Multilateral Convention or covered by it through a territorial extension. However, if approached by a jurisdiction not covered by the Multilateral Convention Bulgaria is ready to conclude a bilateral EOI agreement. According to the Bulgarian authorities Bulgaria will conclude a TIEA even if it has strong economic interest to conclude a DTC if a TIEA is specifically requested by the partner. There are also no practical or legal obstacles to conclude a TIEA although historically a DTC was preferred as it covers broader aspects of taxation and tax co-operation than a TIEA.

298. Bulgaria has in place an on-going negotiations programme which includes plans for renegotiation of DTCs which do not contain the OECD Model Article 26. Bulgaria advises that it is currently negotiating or renegotiating EOI agreements with seven jurisdictions including one TIEA.

Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Factors underlying recommendations	Recommendations
	Bulgaria should continue to develop its exchange of information network with all relevant partners.
Phase 2 rating	
Compliant.	

C.3. Confidentiality

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

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

299. 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

300. All Bulgaria's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. As Bulgaria's DTCs were concluded over several decades their wording slightly varies however majority of the treaties contains wording akin to the Model Article 26(2).

301. Bulgaria's DTCs with Finland and Sweden state that the received information should be treated as secret in the same manner as information obtained under the domestic laws of the receiving party. Similar provisions are contained in Bulgaria's DTCs with Indonesia and India which in addition include the Model Article 26 confidentiality wording, however, its application is conditioned by the exchanged information being regarded as secret in the transmitting party. DTCs with Belgium, France, Japan and Luxembourg do not contain specific reference to the purposes for which the exchanged information can be used by the authorised persons or authorities.

302. Bulgaria's DTCs with Belgium, Japan, Serbia and Montenegro limit the disclosure of exchange information only to persons or authorities involved in assessment or collection of the taxes covered by the Convention. This wording may be interpreted as not including use of the exchanged information for criminal tax purposes which would be not in line with the standard.

303. The variations in wordings of the above treaties have rather limited potential to lead to disclosure of information which would not be allowed under the standard, however, their strict interpretation may lead to unnecessary uncertainty or disputes. This is especially a concern in respect of DTCs with Belgium, Japan, Serbia and Montenegro which have the potential to limit use of exchanged information only to civil tax matters. Bulgaria is therefore recommended to renegotiate the above mentioned provisions. It is nevertheless noted that Bulgaria can exchange information in line with the standard with all these partners except for Serbia and Montenegro under the Multilateral Convention and/or the EU Directive.

Bulgaria's domestic law

304. Tax administration officials and all other persons who have been provided or have become familiar with the information covered by the confidentiality protection are obligated to respect the confidentiality of the said

information and not to use it for any other purposes other than the direct discharge of their official duties (s. 73(1) Tax Procedure Code). Information covered by the confidentiality protection is defined as

- any bank accounts;
- any amount of income;
- the amount of taxes and compulsory social-insurance contributions as charged, assessed or paid, the rebates enjoyed, tax exemptions and tax retentions, the amount of the tax credit and the tax withheld at the source of income;
- the data on commercial activity, the value and type of the various assets and liabilities or properties, constituting a commercial secret;
- all other data received, certified, prepared or collected by a revenue authority or an official of the National Revenue Agency in the discharge of the powers thereof containing any of the above information (s. 72(1)).

305. The confidentiality rules contain an explicit exception for exchange of information under all Bulgarian EOI instruments in force including the Multilateral Convention (s. 73(2)(3)). Confidentiality rules contained in the EU Directive are specifically implemented into the Bulgarian domestic law in section 143o of the Tax Procedure Code.

306. The domestic confidentiality rules contain a number of exceptions where protected information can be disclosed to other bodies or authorities or through a court order which in certain cases go beyond the disclosure of information provided under the Model Article 26(2) (e.g. use of information for social security purposes, criminal investigation not related to tax crimes or disclosure of information upon a request from the Bulgarian president) (ss. 74 and 75 Tax Procedure Code). However, these exceptions are not applicable for information exchanged under Bulgarian EOI agreements as agreements limitations for the use of the information override provisions of the domestic law which are in contradiction with them. The treaty prevails principle is set out in Article 5(4) of the Constitution of the Republic of Bulgaria and restated in section 2(2) of the Tax Procedure Code. The obligation to treat exchanged information in line with the treaty under which it was obtained is also explicitly mentioned in the official EOI Guidance (see further section C.5.2).

307. Bulgarian law provides for administrative and criminal sanctions in the case of breach of the confidentiality obligation. Any person who unlawfully discloses, provides, publishes, uses or otherwise disseminates any facts and circumstances covered under the confidentiality protection is liable to a fine of BGN 1 000 (EUR 510) up to BGN 10 000 (EUR 5 105). In addition,

the respective person can be disqualified from occupying the relevant position for a period of one to three years (s. 270 Tax Procedure Code). Intentional breach of the confidentiality rules can be also sanctioned under the Penal Code by imprisonment of up to two years or probation period (s. 284(1) Penal Code). During the period under review no case of confidentiality breach was identified and therefore there was no case where these sanctions needed to be applied.

308. The law does not specify information which has to be included in a notice to the information holder requesting provision of the relevant information. According to the Bulgarian authorities the information holder is provided only with the information necessary to obtaining it, i.e. the notice contains reference to provisions of the domestic Bulgarian law and a description of the requested information. If a tax audit is launched, the audit order has to identify the auditee, the auditing authority, the time limit for conduct of the audit, the period audited, the types of audited obligations and other circumstances of relevance to the audit (s. 113(1) Tax Procedure Code). As in the case of written notice to provide information, no direct reference to the EOI request letter is made and the EOI request or its supporting documentation are not provided to the taxpayer. There is no case known where it was otherwise and no concern in this respect was indicated by peers either.

309. A taxpayer has a right to inspect and object evidence forming basis of a tax decision (s. 17(2) Tax Procedure Code). However communication between competent authorities including the EOI request and supporting documentation which does not contain such evidence are considered internal communication and should not be disclosed to the taxpayer. According to the Bulgarian authorities communication between the competent authorities including the EOI request and supporting documentation are not part of the taxpayer file and is not provided to him/her at any stage of obtaining or providing of the requested information.

In practice

310. Confidentiality of information and protection against its misuse is ensured through several measures. The information exchanged under Bulgaria's EOI instruments is received directly by the Directorate responsible of exchange of information and it is stored there. Access to the information is granted only the EOI official dealing with the particular case. The physical EOI files are kept in the Tax Treaty Directorate under lock and accessible only through the clerk of the Directorate. The closed EOI cases are generally kept in the Directorate or sent to the archives of the National Revenue Agency. In order to access any electronic information every official has an individual username and password to identify and authenticate him/her. The password is required to be changed periodically and the protection of the confidentiality

of the password is monitored. The National Revenue Agency has user defined profiles that define the necessary rights for each position and role in the organisation. The principle is that by default nobody has right to access and the principle of need-to-know is applied in granting user rights. All the National Revenue Agency's information systems with confidential information provide an audit trail of the users' activities. The audit logs are stored locally on each information system and are kept for 10 years to assist in possible investigations. A special unit is mandated to monitor audit logs and report suspicious operations to the Agency's management. The Information Security Policy provides detailed procedures for reporting incidents by the employees and also provides examples which may be considered breaches of information security. The National Revenue Agency has defined an Information Security Management System (ISMS) which is aimed at protecting the confidentiality, the integrity and the availability of the information within the National Revenue Agency. There is an on-going programme for obtaining the ISO 27001 certification for the entire National Revenue Agency by the end of 2018.

311. There are various measures in place to enhance the physical security of the National Revenue Agency's premises. Besides features such as security guards as well as 24 hours surveillance cameras, there are rules in place to define the security zones in the headquarters. The storage of physical documents in the National Revenue Agency follows a policy set for the whole lifecycle of documents, whereby files with tax information must be kept under lock when not in active use. The National Revenue Agency has introduced a clean desk policy and offices are locked when unattended.

312. Information obtained under EOI instruments (including EOI requests letters) is classified as information for limited use only. Such information must be locked, encrypted and stamped with confidentiality warning indicating limited permitted use. In case where Bulgaria is the requested jurisdiction, the EOI request and supporting documentation stays in the Tax Treaties Directorate. If the information has to be obtained through a local tax office the local tax office is provided with an instruction letter in Bulgarian which contains description of the requested information, deadline for its provision and short background information necessary for its obtaining if available. In case where Bulgaria is the requesting jurisdiction, information received pursuant to an EOI request is submitted to the local tax office requesting the information and forms part of the taxpayer's tax file kept by the local office. The information is stamped with confidentiality warning stating that its use is governed by the treaty under which it was obtained.

Conclusion

313. Bulgarian legal framework ensures confidentiality of exchanged information in line with the standard. All Bulgaria's EOI agreements have

confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. Bulgarian domestic law permits disclosure of information which goes beyond the use of information permitted under the international standard. However, the provisions of Bulgaria's ratified EOI agreements override domestic laws, meaning that the confidentiality provisions present therein have full legal effect in Bulgaria. Rules regarding information provided to information holders are properly implemented in practice to ensure that only information necessary to obtain the requested information is provided to the information holder. The EOI request and supporting documentation which does not contain evidence forming basis of a tax decision are not disclosed to the taxpayer.

314. Confidentiality rules contained in the Bulgarian legal framework are properly implemented in practice and ensure confidentiality of the exchanged information. Information obtained under EOI instruments (including EOI requests letters) is classified as information for limited use only and must be locked, encrypted and stamped with confidentiality warning. Access to the information is granted only the tax official responsible for the particular case. The National Revenue Agency has in place an Information Security Management System. Access to the stored information is granted only on a need-to-know basis and access history is available for the stored information.

All other information exchanged (ToR C.3.2)

315. The confidentiality provisions in Bulgaria's exchange of information agreements and domestic law do not draw a distinction between information received in response to requests or information forming part of the requests themselves. As such, these provisions apply equally to all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction. In practice, the same confidentiality rules apply in respect of all information received from Bulgaria's treaty partner.

Determination and factors underlying recommendations

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

316. 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.

317. All Bulgaria's DTCs except for one contain provision allowing the contracting parties not to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy. The DTC with Luxembourg contains provision allowing the contracting parties not to provide information which would be obtained through administrative measures at variance with its own laws and administrative practice or its sovereignty, its security or its general interest or with public order (*ordre public*). As this wording does not explicitly allow the contracting parties not to provide information which would disclose trade, business, industrial, commercial or professional secret or trade process it may create ambiguity and should be renegotiated. However, Bulgaria has EOI relation with Luxembourg under the EU Directive and the Multilateral Convention which both provide for exchange of information in line with the standard and therefore this wording is not a concern in practice.

318. The term "professional secret" is not defined in the EOI agreements and therefore it derives its meaning from Bulgaria's domestic law. As described in section B.1.5 of this report, protection of information held by attorneys, notaries, auditors or accountants under Bulgaria's domestic law is in line with the standard and therefore does not unduly restrict effective exchange of information.

319. The TIEA with Guernsey contains a deviation from the Model TIEA wording. The TIEA states that information relating to communications between advocates, attorneys, solicitors or other admitted legal representatives in their role as such and their clients does not have to be provided to the extent that the communications are protected from disclosure under the laws of each Contracting Party instead of providing a definition of the protected information as contained in the Model wording of Art. 7(3). This approach limits application of a treaty prevails rule to obtain information held by these professionals, however, it is in line with other EOI instruments where the term "professional secret" is not defined and derives its meaning from domestic law of contracting parties. Therefore this wording, found in most of Guernsey's TIEAs, is consistent with the standard.

320. In practice, no issue of application of exceptions from the obligation to provide information came up and such an exception was never invoked by Bulgarian information holders or by Bulgaria in the position of the requested jurisdiction. As described in section B.1.5, there was no case during the period under review where the information needed to be requested from an attorney or other legal professional not acting on behalf of his/her client under the power of attorney nor from any other professional covered by secrecy obligations. Accordingly, there was also no case when a person refused to provide the information requested because of professional privilege or other secrecy protection.

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)

321. 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.

322. None of Bulgaria'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. The TIEA with Guernsey requires that the competent authority of the requested jurisdiction confirms receipt of a request; notifies any deficiencies in the request within 60 days; and, if unable to obtain and provide the requested information within 180 days, informs the requesting jurisdiction and explains the reason for its inability, the nature of the obstacles or the reasons for refusing to provide information (Art. 5(6)(b)). The Multilateral Convention obliges treaty parties to provide the requested information as soon as possible.

323. There appear to be no legal restrictions on the Bulgarian competent authority's ability to respond to EOI requests in a timely manner. Procedural rules for handling incoming EOI requests including deadlines for provision of the requested information are contained in the "Procedures for exchange of information in direct tax matters on request by a foreign tax administration" (SIDDO 3). SIDDO 3 applies in respect of all exchange of information in direct taxes irrespective of the form of the EOI instrument. The SIDDO 3 requires that if the information is in the hands of the tax authorities and therefore no further action for obtaining the information is required the requested information should be provided as soon as possible but no later than the two-month after receipt of the request. If obtaining the information requires use of access powers the requested information is required to be provided within one to three months depending on the complexity of the case (see further section C.5.2).

In practice

324. Bulgaria received 219 requests related to direct taxes over the period 1 July 2012 to 30 June 2015. Requests are counted as per the number of taxpayers subject of the request letter. If additional questions arise concerning details of the same case regarding the same request letter the request is not counted as a new request. The following table shows the time needed to send the final response to incoming EOI requests including the time taken by the requesting jurisdiction to provide clarification (if asked).

	Jul-Dec 2012		2013		2014		Jan-Jun 2015		Total	Average
	num.	%	num.	%	num.	%	num.	%		
Total number of requests received	51	100%	65	100%	73	100%	30	100%	219	100%
Full response: < 90 days	21	41%	33	51%	32	44%	10	33%	96	44%
≤ 180 days (cumulative)	41	80%	53	82%	55	75%	18	60%	167	76%
≤ 1 year (cumulative)	47	92%	60	92%	66	91%	28	94%	201	92%
> 1 year+	1	2%	2	3%	6	8%	0	0%	9	4%
Declined for valid reasons	1	2%	1	2%	0	0%	0	0%	2	1%
Failure to obtain and provide information requested	2	4%	2	3%	1	1%	1	3%	6	3%
Requests still pending at date of review	0	0%	0	0%	0	0%	1	3%	1	0%

325. As the table shows the number of received requests remains relatively stable over the period under review. There is also no apparent change in the length of response times. Most requests over the reviewed period were received from Germany, the United Kingdom, France, Greece and Austria. Majority of requests requested ownership and accounting information in

respect of companies. Bulgaria sent about the same number requests related to direct taxes during the reviewed period.

326. Most of the requests where a response was not provided within 90 days were related to requests for accounting underlying documentation and verification of transactions where information was obtained directly from the taxpayer or through a tax audit by the local tax office. The main difficulties Bulgarian authorities are confronted with when obtaining the requested information are cases where the representatives of a company are not contactable, holder of the information is not identifiable, or complex cases where information is obtained by tax control measures requiring co-operation with the taxpayer.

327. Over the reviewed period Bulgaria declined two requests for information. In one case it was not possible to verify whether the request was sent by the authorised Competent Authority and in the other case the requesting jurisdiction requested information on all its residents who receive pension income in Bulgaria. In response to this request Bulgaria stated that it is currently not able to retrieve all the requested information however it will be provided based on automatic exchange of information under Article 8 of the EU Directive. No further request in this matter was received by the requesting jurisdiction (see also section C.1.1).

328. Bulgaria failed to provide the requested information in six cases over the reviewed period. In all these cases the requested accounting information needed to be obtained from the taxpayer, however, the taxpayer or his representatives were not contactable, i.e. the taxpayer was not found at the registered address or was no longer present in Bulgaria (see also section A.2). Most of these cases related to inactive companies owned by foreign persons (see also section A.1.1). The tax authority used all measures available to contact the information holder including written letters, repeated visits of the registered address, issuing a subpoena and requesting assistance from other authorities such as Police or local authorities. As the person remained not contactable, information available through alternative sources, i.e. filed with the tax administration or contained in government registers, was provided.

329. One request received during the period under review has not yet been responded. In this case the requested information has not yet been obtained from the taxpayer and consequently administrative proceedings against the taxpayer were initiated.

330. During the period under review Bulgaria did not systematically provide status updates in cases where the requested information was not provided within 90 days. Peers indicated that status updates were rarely provided automatically however in most cases Bulgaria provided partial replies within 90 days or responded to requests for a status update. Bulgarian

authorities indicated that the procedure for systematic provision of status updates was put in place only in the second half of 2015 and therefore after the period under review. Provision of status updates will be also facilitated by implementation of the new EOI database which will automatically monitor deadlines and generate reminders to provide status updates in cases where information was not provided within 90 days. Nevertheless it is noted that the procedure for systematic provision of status updates is not yet part of the formal EOI procedure (SIDDO 3). It is therefore recommended that Bulgaria finalises measures taken to ensure that status updates are provided in all cases where information is not provided within 90 days.

Organisational process and resources (ToR C.5.2)

Organisation of EOI practice

331. It is important that a jurisdiction has appropriate organisational processes and resources in place to ensure a timely response. Practical handling of EOI requests is delegated to the Tax Treaties Directorate of the National Revenue Agency.

332. The Tax Treaties Directorate is administering all types of exchange of information in respect of direct taxes under Bulgaria's EOI instruments including automatic exchange of information. It is also responsible for mutual agreement procedures and transfer pricing cases and implementation of EU and OECD corporate tax policies. The Directorate is staffed with ten employees out of which seven are responsible for exchange of information in the field of direct taxes. The director of the Tax Treaties Directorate is directly subordinated to the Deputy Executive Director of the National Revenue Agency.

333. Several National Revenue Agency departments or other government authorities may be involved in preparation of responses to EOI requests. All requests are received by the Tax Treaties Directorate. If obtaining the requested information requires direct contact with the taxpayer in vast majority of the cases the information is obtained through a local tax office which can request the information through a written notice or take other information gathering measures including launching a tax audit. In many cases the requested information is already at the disposal of other government authority and can be requested directly by the Competent Authority. The National Revenue Agency has concluded more than 200 agreements with various governmental bodies and agencies and private institutions for closer co-operation and assistance. The main partners are the Customs Agency, the Registry Agency, the National Social Security Institute, Ministry of Interior, the municipalities and the Prosecutor's office. The National Revenue Agency has also agreements with pension funds, banks and some other financial

institutions. These agreements are intended to further facilitate and extend co-operation within the boundaries set by the law.

334. Contact details of Bulgaria’s competent authority are available to competent authorities of EU Member states through the CIRCA database. In respect of competent authorities of non-EU jurisdictions contact details of the Competent Authority are available on the National Revenue Agency website¹⁸ and in the Global Forum’s Competent Authority database.¹⁹ The Competent Authority contact details are regularly communicated to Bulgaria’s treaty partners through letters upon conclusion of an EOI agreement and through face to face meetings.

Handling of EOI requests

335. Procedures for handling incoming EOI requests are detailed in SIDDO 3 (“Procedures for exchange of information in direct tax matters on request by a foreign tax administration”). SIDDO 3 is approved by the Executive Director of the National Revenue Agency and provides binding rules for all staff processing EOI requests.

336. All EOI requests are received by the Competent Authority through the CCN-mail in case the request is sent by an EU Member State or usually by regular post in all other cases. Every day an authorised officer from the Tax Treaties Directorate checks the CCN-mail whether a new request is received. Those requests are printed and handed to the Director. An acknowledgment for the successful receipt of the request is provided to EU member states in all cases and to non-EU jurisdictions upon request. Bulgaria is recommended to adjust its practice in respect of non-EU jurisdictions so that acknowledgment of receipt is provided in all cases. The requests received by mail are handed unopened directly to the Director by the Front Desk Office that is handling all the correspondence of the National Revenue Agency. The Director subsequently verifies whether the request is received from a Competent Authority and if so assigns the case to a particular officer, gives specific instructions if needed and defines the provisional time period for completion of the case. After that the request is entered in the file registering system of the Directorate, receives reference number and is handed over to the official handling the request.

337. The officer then analyses the case and verifies validity of the request and determines whether additional background information or clarifications are needed. If so prepares additional background information request which is submitted for approval to the Director. If the request is complete and

18. www.nap.bg/en/page?id=530.

19. www.oecd.org/securesites/gfcompetentauthorities/.

correct the official determines how to proceed with obtaining the requested information. If the information (or its part) could be retrieved from the tax registers or other databases accessible by the agency or the request relates only to banking information the official directly gathers the information and prepares a reply for approval by the Director. If the information is not directly gathered by the official he/she prepares a letter to the local tax office with instructions what information should be collected and a deadline in which the information should be provided. The letter is approved by the Director of Tax Treaties Directorate and signed by the Deputy Executive Director of the agency.

338. Based on the letter the local revenue officers carry out the necessary information gathering measures to obtain the information. After obtaining the information a response is prepared by the local officer and registered in the file system of the agency.

339. After receipt of the response the EOI Unit official analyses the response in order to verify whether it is complete and responsive to the EOI request. If he/she finds that the information is not sufficient, prepares and sends a new request to the local authorities for collection of the missing/additional information. The new request is also approved by the Director of Tax Treaties Directorate and signed by the Deputy Executive Director of the agency. Often the responsible officers specify some details or missing information with the local authorities over the phone. If the information is sufficient the EOI Unit officer prepares a reply which is submitted for approval to the Director. After the reply is signed by the Director it is registered into the file registering system and sent to the requesting Competent Authority either by CCN or regular post.

Internal deadlines

340. Deadlines for steps in obtaining and providing the requested information are contained in SIDDO 3. If the information is already at the disposal of the tax administration the responsible officer is expected to prepare the reply as soon as possible but no later than two month after receipt of the request. If the information is held by another governmental body or institution the prescribed deadline in which the requested information should be provided to the officer is 14 days. If the information is held by a taxpayer the responsible officer prepares a letter to the local tax office with instructions including deadline in which the information should be provided. The determination of the deadline should reflect all facts and circumstances and the complexity of the case but generally should not be longer than three months. However longer deadlines may be allowed in special complex cases where big amount of information needs to be gathered and which require co-operation of several tax offices and authorities.

341. The EOI Unit official is responsible to ensure compliance with the prescribed deadlines. If the deadlines are breached a reminder letter approved by the Director of Tax Treaties Directorate and signed by the Deputy Executive Director of the agency is sent to the respective local office requesting provision of the information or asking for status update. The letter is usually followed by phone calls or emails where necessary. In case of lack of responsiveness of the local official a disciplinary proceeding can be launched. As noted above, most requests where response was not provided within 90 days related to requests where information was obtained directly from the taxpayer by the local tax office. It is acknowledged that these cases frequently involve obtaining complex information which may require longer response times, however, considering the overall timeliness statistics regarding requests where information needed to be obtained through local tax offices it seems advisable to consider efforts how to decrease time needed for obtaining information directly from the taxpayer, e.g. through further sensitisation of the local tax officials, strengthened communication and follow-up action where the deadline is breached or adjustment of workload.

Communication

342. Bulgaria accepts requests in English or Bulgarian. If the request is not in one of these languages the requesting competent authority will be asked to translate the request.

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

344. The CCN network is used for communication with competent authorities of EU Member states ensuring prompt and secure information exchange. For communication with competent authorities from non-EU jurisdictions standard post is used. Use of standard post might lead to delays in providing the requested information and does not protect confidentiality of exchanged information in all cases. Bulgaria is therefore encouraged to use more effective communication tools with its treaty partners outside of EU such as emails with encrypted attachments or registered post. Bilateral meetings where open requests or pending clarifications can be discussed may also further facilitate efficient communication with Bulgaria's treaty partners.

345. Official communication between the Tax Treaties Directorate and other departments of the National Revenue Agency is carried out through internal postal service. Communication with other government bodies or institutions is carried out through registered post. It is noted that use of paper

letters is foreseen by administrative rules however email communication especially with local tax offices may contribute to improvement in timeliness of provided responses.

IT tools, monitoring, training

346. All incoming and outgoing requests are entered into the EOI database. The EOI database is an in-house made file registering system with web-based interface. The database allows basic functions for registering exchanges of information as well as for provision of reports on those exchanges. The database contains reference number, date of registration, requesting country, taxpayers concerned, deadline for preparation of the reply, responsible officer, status of the request, date of closing the case and field for additional information. The database also performs queries for searching of information based on the fields indicated above. A new database is in the testing process and should be fully operational shortly. The new system will allow customised and complex searches, production of detailed statistics and will allow automatic monitoring of deadlines during each step of handling an EOI request including automatic reminders. Implementation of the new database will improve monitoring of handling of EOI request and deadlines and therefore it is advisable to put it into full operation soon.

347. During the period under review, monitoring of deadlines required manual checks of the EOI database where all incoming requests are recorded. The database is updated by the responsible EOI Unit officials on a daily basis. The Director of the Tax Treaties Directorate checks manually the current state of received requests every week. Outstanding requests where a response has not been provided within the deadline are discussed with the EOI Unit on a weekly basis. Manual monitoring of deadlines does not prove to be the most efficient way of monitoring of handling of all requests considering their volume and workload of the EOI officials. The issue should be solved once the new EOI database is fully operational.

348. All members of the EOI team are trained upon starting his/her career and subsequently. Each employee is trained in the principles of exchange of information, secrecy of the information exchanged and limitations for the use and disclosure of such information. In addition, all employees of the National Revenue Agency receive mandatory training for newly-hired civil servants. The members of the EOI team regularly attend various seminars, trainings and workshops concerning exchange of information, double tax treaties and other issues related to international taxation organised by the OECD, the European Union and IOTA. The EOI officials regularly attend the annual CLO workshops organised by the European Commission under the FISCALIS programme.

349. In 2014 Guidance on the exchange of information was published for internal use. The purpose of the Guidance is to create a better understanding of the local revenue officers as well as the newly-hired members of the EOI team about the basic principles of EOI, the various types of EOI and other forms of administrative co-operation, and to assist them in preparing the requests. The Guidance is available on the intranet web page. The EOI team provides consultations to the local tax officers and remains at their disposal should they have questions. To facilitate co-operation between the EOI team and the local tax offices and to further sensitise local tax offices to the importance of effective exchange of information Bulgaria may consider conducting further EOI training to the local tax officers, e.g. through regular seminars.

Conclusion

350. Bulgaria has in place organisational processes to ensure provision of responses in a timely manner in the majority of cases as was demonstrated over the reviewed period. Bulgaria is also considered by peers an important and reliable EOI partner. Certain room for improvement however remains in monitoring of deadlines for each step in handling EOI requests and provision of status updates. Efforts should be also put to decrease response times in cases where information has to be obtained by local tax offices. It is nevertheless acknowledged that these cases frequently involve obtaining complex information which may require longer response times. Improvement in these areas may be facilitated by adjustment of the workload of the officials handling EOI requests. Considering the above it is recommended that Bulgaria addresses these issues to ensure that information can be provided in a timely manner in all cases.

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

351. 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 Bulgaria's laws or practices that restrict effective exchange of information.

Determination and factors underlying recommendations

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

Phase 2 rating	
Largely compliant.	
Factors underlying recommendations	Recommendations
Bulgaria has in place organisational processes to ensure provision of responses in a timely manner in the majority of cases. However certain room for improvement remains in (i) monitoring of deadlines, (ii) provision of status updates and (iii) decreasing of response times in cases where information is obtained by local tax offices.	Bulgaria should ensure that it is able to respond to exchange of information requests in a timely manner in all cases, by providing the information requested within 90 days of receipt of the request, or if it has been unable to do so, to provide a status update.

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>		
<p>Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.</p>	<p>Bulgarian law provides for issuance of bearer shares by joint stock companies and partnerships limited by shares. There are several mechanisms which allow identification of holders of these shares however they do not require identification of holders of bearer shares in all cases. Out of 11 555 joint stock companies (2.2% of all companies) which can issue bearer shares 555 companies actually issued these shares (0.1% of all companies).</p>	<p>Bulgaria should take measures to ensure that appropriate mechanisms are in place to identify the owners of bearer shares in all cases.</p>

<p>Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement <i>(continued).</i></p>	<p>Ownership information in respect of foreign companies and partnerships is required to be available based on obligations towards the BULSTAT Register and to a certain extent based on tax and AML law. However these obligations do not cover all foreign companies with place of effective management or headquarters in Bulgaria and partnerships carrying on business or deriving taxable income therein.</p>	<p>Bulgaria should ensure that ownership information on foreign companies with sufficient nexus with Bulgaria and on foreign partnerships carrying on business in Bulgaria or deriving taxable income is available in all cases.</p>
	<p>A Bulgarian resident trustee of a foreign trust will in majority of the cases fall under one of the categories of AML obligated persons and therefore required to keep information on settlors and beneficiaries of the trust. However, acting as a trustee may not necessarily trigger AML obligations in Bulgaria and there are no other requirements to ensure that identification of settlors, trustees and beneficiaries of foreign trusts which have Bulgarian resident trustees or are administered in Bulgaria is available in Bulgaria.</p>	<p>Bulgaria should ensure that information is maintained on beneficiaries and settlors of all foreign trusts which have Bulgarian resident trustees or are administered in Bulgaria.</p>
<p>Phase 2 rating: Partially compliant.</p>	<p>Although Bulgarian law contains several safeguards which motivate compliance with filing obligations towards the Commercial and BULSTAT Register there is a room for improvement in respect of supervisory and enforcement measures which should be taken to ensure compliance where legal safeguards did not work.</p>	<p>Bulgaria should strengthen supervisory and enforcement measures taken by the Registry Agency to ensure that the required information in respect of all relevant entities is in all cases available in accordance with the law.</p>

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: Compliant.		
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.		
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.		Bulgaria should continue to develop its exchange of information network with all relevant partners.
Phase 2 rating: Compliant.		

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received. <i>(ToR C.3.)</i>		
Phase 1 determination: The element is in place.		
Phase 2 rating: 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: Largely compliant.	Bulgaria has in place organisational processes to ensure provision of responses in a timely manner in the majority of cases. However certain room for improvement remains in <i>(i)</i> monitoring of deadlines, <i>(ii)</i> provision of status updates and <i>(iii)</i> decreasing of response times in cases where information is obtained by local tax offices.	Bulgaria should ensure that it is able to respond to exchange of information requests in a timely manner in all cases, by providing the information requested within 90 days of receipt of the request, or if it has been unable to do so, to provide a status update.

Annex 1: Jurisdiction’s response to the review report²⁰

The Republic of Bulgaria is very grateful to the Global Forum Secretariat for the continuous support and timely provided technical assistance which was vital for the successful preparation for the combined peer review.

The Republic of Bulgaria would like to thank the Assessment Team for their tremendous and highly competent work. Their objective approach and kind cooperation marked the whole peer review process and helped them make balanced and comprehensive analysis of the Bulgarian legal and regulatory framework and practices in the field of administrative cooperation.

The Republic of Bulgaria would like to express its appreciation to the Peer Review Group for its active participation and fair assessment which helped to improve further the report.

The Republic of Bulgaria is satisfied with the findings of the report and considers that it properly reflects the Bulgarian legal and regulatory framework related to the exchange of information.

The Republic of Bulgaria will put its efforts to ensure that all recommendations are properly addressed and its legal framework and practices are in line with the international standards for transparency and exchange of information.

The Republic of Bulgaria is one of the newest members of the Global Forum but nevertheless it has always been a reliable partner and fully committed to the international standards.

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

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

European Union exchange of information mechanisms

Bulgaria exchanges information with EU members under:

- the EU Council Directive 2011/16/EU of 15 February 2011 on administrative co-operation in the field of taxation. This Directive came into force on 1 January 2013. It repeals Council Directive 77/799/EEC of 19 December 1977 and provides inter alia for exchange of banking information on request for taxable periods after 31 December 2010 (Article 18). All EU members were required to transpose it into national legislation by 1 January 2013. The current EU members, covered by this Council Directive, are: Austria, Belgium, Bulgaria, Croatia, Cyprus²¹, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.
- EU Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments. This Directive aims to ensure that savings income in the form of interest payments generated in an EU member state in favour of individuals or residual

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

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

entities being resident of another EU member state are effectively taxed in accordance with the fiscal laws of their state of residence. It also aims to ensure exchange of information between member states.

- Council Regulation (EU) No. 904/2010 of 7 October 2010 on administrative co-operation and combating fraud in the field of value added tax (recast of the Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative co-operation in the field of value added tax);
- Council Regulation (EU) No. 389/2012 of 2 May 2012 on administrative co-operation in the field of excise duties.

Multilateral and bilateral exchange of information agreements

- Bulgaria signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as well as its 2010 Protocol on 26 October 2015. The instrument of ratification of the Multilateral Convention was deposited by Bulgaria on 14 March 2016 and the Convention entered into force in Bulgaria on 1 July 2016. The status of the Multilateral Convention as at 19 August 2016 is set out in the table below.²² The table also includes territories to which the Multilateral Convention applies based on territorial extension declared by a state party.
- Bulgaria has signed 68 DTCs and one TIEA all of which except for one are in force (see the table below).

Table of Bulgaria's exchange of information relations

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

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

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
1	Albania	DTC	09-Dec-1998	05-Jul-1999
		Multilateral Convention	Signed	01-Jul-2016
2	Algeria	DTC	25-Oct-1998	11-Apr-2005
3	Andorra	Multilateral Convention	Signed	Not yet in force in Andorra
4	Anguilla	Multilateral Convention ^a	Extended	01-Jul-2016
5	Argentina	Multilateral Convention	Signed	01-Jul-2016
6	Armenia	DTC	10-Apr-1995	01-Dec-1995
7	Aruba	Multilateral Convention ^b	Extended	01-Jul-2016
8	Australia	Multilateral Convention	Signed	01-Jul-2016
9	Austria	DTC	20-Jul-2010	03-Feb-2011
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
10	Azerbaijan	DTC	12-Nov-2007	25-Nov-2008
		Multilateral Convention	Signed	01-Jul-2016
11	Bahrain	DTC	26-Jun-2009	06-Oct-2010
12	Barbados	Multilateral Convention	Signed	01-Nov-2016
13	Belarus	DTC	09-Dec-1996	17-Feb-1998
14	Belgium	DTC	25-Oct-1988	28-Nov-1991
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
15	Belize	Multilateral Convention	Signed	01-Jul-2016
16	Bermuda	Multilateral Convention ^a	Extended	01-Jul-2016
17	Brazil	Multilateral Convention	Signed	01-Oct-2016
18	British Virgin Islands	Multilateral Convention ^a	Extended	01-Jul-2016
19	Cameroon	Multilateral Convention	Signed	01-Jul-2016
20	Canada	DTC	03-Mar-1999	25-Oct-2001
		Multilateral Convention	Signed	01-Jul-2016
21	Cayman Islands	Multilateral Convention ^a	Extended	01-Jul-2016
22	Chile	Multilateral Convention	Signed	01-Nov-2016
23	China (People's Republic of)	DTC	06-Nov-1989	24-May-1990
		Multilateral Convention	Signed	01-Jul-2016
24	Colombia	Multilateral Convention	Signed	01-Jul-2016
25	Costa Rica	Multilateral Convention	Signed	01-Jul-2016

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
26	Croatia	DTC	15-Jul-1997	30-Jul-1998
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
27	Curaçao	Multilateral Convention ^b	Extended	01-Jul-2016
28	Cyprus ^d	DTC	30-Oct-2000	03-Jan-2001
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
29	Czech Republic	DTC	09-Apr-1998	02-Jul-1999
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
30	Denmark	DTC	02-Dec-1988	23-Mar-1989
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
31	Dominican Republic	Multilateral Convention	Signed	Not yet in force in Dominican Republic
32	Egypt	DTC	05-Jun-2003	11-May-2004
33	El Salvador	Multilateral Convention	Signed	Not yet in force in El Salvador
34	Estonia	DTC	13-Oct-2008	30-Dec-2008
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
35	Faroe Islands	Multilateral Convention ^c	Extended	01-Jul-2016
36	Finland	DTC	25-Apr-1985	21-Apr-1986
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
37	France	DTC	14-Mar-1987	01-Jun-1988
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
38	Former Yugoslav Republic of Macedonia	DTC	22-Feb-1999	24-Sep-1999
39	Gabon	Multilateral Convention	Signed	Not yet in force in Gabon
40	Georgia	DTC	26-Nov-1998	01-Jul-1999
		Multilateral Convention	Signed	01-Jul-2016

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
41	Germany	DTC	25-Jan-2010	21-Dec-2010
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
42	Ghana	Multilateral Convention	Signed	01-Jul-2016
43	Gibraltar	Multilateral Convention ^a	Extended	01-Jul-2016
44	Greece	DTC	18-Jul-2000	22-Jan-2002
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
45	Greenland	Multilateral Convention ^c	Extended	01-Jul-2016
46	Guatemala	Multilateral Convention	Signed	Not yet in force in Guatemala
47	Guernsey	TIEA	11-Jun-2015	
		Multilateral Convention ^a	Extended	01-Jul-2016
48	Hungary	DTC	08-Jun-1994	07-Sep-1995
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
49	Iceland	Multilateral Convention	Signed	01-Jul-2016
50	India	DTC	26-May-1994	23-Jun-1995
		Multilateral Convention	Signed	01-Jul-2016
51	Indonesia	DTC	11-Jan-1991	25-May-1992
		Multilateral Convention	Signed	01-Jul-2016
52	Iran	DTC	28-Apr-2004	29-Jun-2006
53	Ireland	DTC	05-Oct-2000	05-Jan-2001
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
54	Isle of Man	Multilateral Convention ^a	Extended	01-Jul-2016
55	Israel	DTC	18-Jan-2000	31-Dec-2002
		Multilateral Convention	Signed	Not yet in force in Israel
56	Italy	DTC	21-Sep-1988	10-Jun-1991
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
57	Jamaica	Multilateral Convention	Signed	Not yet in force in Jamaica

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
58	Japan	DTC	07-Mar-1991	08-Aug-1991
		Multilateral Convention	Signed	01-Jul-2016
59	Jersey	Multilateral Convention ^a	Extended	01-Jul-2016
60	Jordan	DTC	09-Nov-2006	14-Feb-2008
61	Kazakhstan	DTC	13-Nov-1997	24-Jul-1998
		Multilateral Convention	Signed	01-Jul-2016
62	Kenya	Multilateral Convention	Signed	Not yet in force in Kenya
63	Korea	DTC	11-Mar-1994	22-Jun-1995
		Multilateral Convention	Signed	01-Jul-2016
64	Democratic People's Republic of Korea	DTC	16-Jun-1999	07-Jan-2000
65	Kuwait	DTC	29-Oct-2002	23-Feb-2004
66	Latvia	DTC	04-Dec-2003	18-Aug-2004
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
67	Lebanon	DTC	01-Jun-1999	10-Nov-2001
68	Liechtenstein	Multilateral Convention	Signed	Not yet in force in Liechtenstein
69	Lithuania	DTC	09-May-2006	27-Dec-2006
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
70	Luxembourg	DTC	27-Jan-1992	15-Mar-1994
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
71	Malta	DTC	23-Jun-1986	01-Jan-1988
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
72	Mauritius	Multilateral Convention	Signed	01-Jul-2016
73	Mexico	Multilateral Convention	Signed	01-Jul-2016
74	Moldova	DTC	15-Sep-1998	24-Mar-1999
		Multilateral Convention	Signed	01-Jul-2016

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
75	Monaco	Multilateral Convention	Signed	Not yet in force in Monaco
76	Mongolia	DTC	28-Feb-2000	17-Feb-2003
77	Montenegro	DTC	14-Dec-1998	10-Jan-2000
78	Montserrat	Multilateral Convention ^a	Extended	01-Jul-2016
79	Morocco	DTC	22-May-1996	06-Dec-1999
		Multilateral Convention	Signed	Not yet in force in Morocco
80	Nauru	Multilateral Convention	Signed	01-Oct-2016
81	Netherlands	DTC	06-Jul-1990	11-May-1994
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
82	New Zealand	Multilateral Convention	Signed	01-Jul-2016
83	Nigeria	Multilateral Convention	Signed	01-Jul-2016
84	Niue	Multilateral Convention	Signed	01-Oct-2016
85	Norway	DTC	22-Jul-2014	30-Jul-2015
		Multilateral Convention	Signed	01-Jul-2016
86	Philippines	Multilateral Convention	Signed	Not yet in force in Philippines
87	Poland	DTC	11-Apr-1994	10-May-1995
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
88	Portugal	DTC	15-Jun-1995	18-Jul-1996
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
89	Qatar	DTC	22-Mar-2010	23-Dec-2010
90	Romania	DTC	24-Apr-2015	29-Mar-2016
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
91	Russian Federation	DTC	08-Jul-1993	08-Dec-1995
		Multilateral Convention	Signed	01-Jul-2016
92	San Marino	Multilateral Convention	Signed	01-Jul-2016
93	Saudi Arabia	Multilateral Convention	Signed	01-Jul-2016

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
94	Senegal	Multilateral Convention	Signed	Not yet in force in Senegal
95	Serbia	DTC	14-Dec-1998	10-Jan-2000
96	Seychelles	Multilateral Convention	Signed	01-Jul-2016
97	Singapore	DTC	13-Dec-1996	26-Dec-1997
		Multilateral Convention	Signed	01-Jul-2016
98	Sint Maarten	Multilateral Convention ^b	Extended	01-Jul-2016
99	Slovak Republic	DTC	12-Nov-1999	02-May-2001
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
100	Slovenia	DTC	20-Oct-2003	04-May-2004
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
101	South Africa	DTC	29-Apr-2004	27-Oct-2004
		Multilateral Convention	Signed	01-Jul-2016
102	Spain	DTC	06-Mar-1990	14-Jun-1991
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
103	Sweden	DTC	21-Jun-1988	28-Dec-1988
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
104	Switzerland	DTC	19-Sep-2012	18-Oct-2013
		Multilateral Convention	Signed	Not yet in force in Switzerland
105	Syria	DTC	20-Mar-2001	04-Oct-2001
106	Thailand	DTC	16-Jun-2000	13-Feb-2001
107	Tunisia	Multilateral Convention	Signed	01-Jul-2016
108	Turkey	DTC	07-Jul-1994	17-Sep-1997
		Multilateral Convention	Signed	Not yet in force in Turkey
109	Turks & Caicos Islands	Multilateral Convention ^a	Extended	01-Jul-2016
110	Uganda	Multilateral Convention	Signed	01-Sep-2016
111	Ukraine	DTC	10-Sep-1996	01-Jun-1999
		Multilateral Convention	Signed	01-Jul-2016

No.	Jurisdiction	Type of EOI agreement	Date signed	Date in force
112	United Arab Emirates	DTC	26-Jun-2007	16-Nov-2008
113	United Kingdom	DTC	26-Mar-2015	15-Dec-2015
		Multilateral Convention	Signed	01-Jul-2016
		EU Directive	15-Feb-2011	01-Jan-2013
		DTC	23-Feb-2007	15-Dec-2008
114	United States	Multilateral Convention (Unamended)	Signed	01-Jul-2016
		Multilateral Convention	Signed	Not yet in force in Uruguay
115	Uruguay	Multilateral Convention	Signed	Not yet in force in Uruguay
116	Uzbekistan	DTC	24-Nov-2003	21-Oct-2004
117	Viet Nam	DTC	24-May-1996	04-Oct-1996
118	Zimbabwe	DTC	12-Oct-1988	29-Jan-1990

Notes: a. Extension by United Kingdom.

b. Extension by the Netherlands.

c. Extension by Denmark.

d. See footnote 21.

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

Commercial laws

Accounting Act
Commerce Act
Commercial Register Act
BULSTAT Register Act
Cooperatives Act
Non-profit Legal Entities Act
Markets in Financial Instruments Act
Public Offering of Securities Act
Financial Supervision Commission Act
Insurance Code

Taxation laws

Corporate Income Tax Act
Personal Income Tax Act
Value Added Tax Act
National Revenue Agency Act
Tax and Social Security Procedure Code

Banking laws

Bulgarian National Bank Act
Law on Credit Institutions

Other

Law on Measures against Money Laundering
Obligations and Contracts Act
Bar Act
Law on Notaries
Independent Financial Audit Act
The Constitution of the Republic of Bulgaria

Copies of tax treaties

Annex 4: Authorities interviewed during the on-site visit

Ministry of Finance

National Revenue Agency

Ministry of Justice

Registry Agency

Bulgarian National Bank

Bar Association

Chamber of Accountants

FID-SANS (FIU)

Financial Supervision Commission

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, Latvia, 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, COMBINED: PHASE 1 + PHASE 2, incorporating Phase 2 ratings – BULGARIA

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.

Consult this publication on line at <http://dx.doi.org/10.1787/9789264265790-en>.

This work is published on the OECD iLibrary, which gathers all OECD books, periodicals and statistical databases.

Visit www.oecd-ilibrary.org for more information.

