

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE  
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report**  
**Phase 2**  
**Implementation of the Standard**  
**in Practice**

**UGANDA**





# **Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Uganda 2016**

PHASE 2:  
IMPLEMENTATION OF THE STANDARD IN PRACTICE

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: Uganda 2016: Phase 2: Implementation of the Standard in Practice*, OECD Publishing, <http://dx.doi.org/10.1787/9789264266209-en>

ISBN 978-92-64-26619-3 (print)  
ISBN 978-92-64-26620-9 (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](http://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](mailto: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](mailto:info@copyright.com) or the Centre français d'exploitation du droit de copie (CFC) at [contact@cfcopies.com](mailto:contact@cfcopies.com).

---

## *Table of Contents*

<b>About the Global Forum</b> .....	5
<b>Abbreviations</b> .....	7
<b>Executive summary</b> .....	9
<b>Introduction</b> .....	13
Information and methodology used for the peer review of Uganda .....	13
Overview of Uganda .....	14
<b>Compliance with the Standards</b> .....	21
<b>A. Availability of information.</b> .....	21
Overview .....	21
A.1. Ownership and identity information .....	24
A.2. Accounting records .....	52
A.3. Banking information .....	60
<b>B. Access to information</b> .....	65
Overview .....	65
B.1. Competent Authority’s ability to obtain and provide information .....	66
B.2. Notification requirements and rights and safeguards. ....	73
<b>C. Exchanging information</b> .....	75
Overview .....	75
C.1. Exchange of information mechanisms .....	76
C.2. Exchange of information mechanisms with all relevant partners .....	85
C.3. Confidentiality .....	86
C.4. Rights and safeguards of taxpayers and third parties. ....	89
C.5. Timeliness of responses to requests for information .....	91

<b>Summary of determinations and factors underlying recommendations . . . . .</b>	<b>97</b>
<b>Annex 1: Jurisdiction’s response to the review report . . . . .</b>	<b>101</b>
<b>Annex 2: List of all exchange-of-information mechanisms in force . . . . .</b>	<b>103</b>
<b>Annex 3: List of all laws, regulations and other material consulted. . . . .</b>	<b>108</b>

## 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](http://www.oecd.org/tax/transparency) and [www.eoi-tax.org](http://www.eoi-tax.org).





## Abbreviations

<b>AMATM</b>	ATAF Agreement on Mutual Assistance in Tax Matters
<b>AML</b>	Anti-Money laundering
<b>ATAF</b>	African Tax Administration Forum
<b>BOU</b>	Bank of Uganda
<b>CDD</b>	Customer due diligence
<b>EAC</b>	East African Community
<b>CMA</b>	Capital Markets Authority
<b>CTF</b>	Counter Terrorism Financing
<b>DTC</b>	Double Tax Conventions
<b>EOI</b>	Exchange of information
<b>FATF</b>	Financial Action Task Force
<b>FIA</b>	Financial Intelligence Authority
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>SRL</b>	Society with Restricted Liability
<b>TIEA</b>	Tax Information Exchange Agreement
<b>TIN</b>	Tax Identification Number
<b>URA</b>	Ugandan Revenue Authority
<b>URSB</b>	Uganda Registration Services Bureau



## Executive summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in Uganda, 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 with its exchange of information (EOI) partners. Uganda has a well-developed legal and regulatory framework, although the report identifies some areas where its legal infrastructure could be improved to more effectively implement the international standard. The recommendations that have been made are mainly in regards to the availability of ownership and accounting information for all entities and the renegotiation, signing and ratification of EOI agreements with all relevant partners. The assessment of effectiveness in practice has been performed in relation to a three-year period: from 1 July 2012 to 30 June 2015.

2. Uganda is an emerging economy located in East Africa with approximately 37 million inhabitants and a GDP in the year 2015/2016 of 26.13 billion USD. The economy can be broadly divided into three sectors: agriculture, industry and services. Over the past five years, agriculture has contributed approximately 25% of GDP, while the industrial and service sectors have contributed approximately 20% and 47% respectively. The confirmed discoveries of commercial oil in Western Uganda, along with Uganda’s transition from oil exploration to oil production expected in 2020 is fuelling business confidence. Uganda has a fully developed tax system including an income tax and a value added tax.

3. Relevant entities include companies, partnerships, trusts and co-operative societies. Companies and co-operative societies are required to maintain a register of members and in most cases the list of members must be furnished to the authorities on a regular basis. Compliance with these requirements is checked by the tax authorities through desk and field audits and is further secured by penalties that have been applied in practice. Partnerships must be registered with the tax authorities and details of each partner must

be provided upon registration. Subsequent changes must also be submitted. Compliance is reviewed within the course of regular tax proceedings, e.g. during a tax audit, similarly to compliance in respect of companies as stated above. Ownership and identity information on companies, partnerships and co-operative societies is therefore generally available. However, some improvements are needed to Uganda's legal and regulatory framework with respect to the availability of ownership and identity information in the case of share warrants to bearer in public companies. No issues in this respect came up in practice. Furthermore, in respect of nominees, Uganda introduced legislative amendments in 2016 requiring companies to register ownership and identity information in respect of nominee shareholders. Although a positive step, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of nominees and take measures to address any identified deficiencies.

4. All trusts that are tax resident in Uganda have to be registered for tax purposes and submit an annual tax return. Trustees may also be subject to common law fiduciary duties which include the maintenance of trust ownership information and ownership information is also maintained pursuant to the anti-money laundering (AML) regime.

5. All legal and natural persons that carry on a business in Uganda are obliged to maintain a full range of accounting records. As of July 2016, the Tax Procedures Code Act of Uganda provides for a sufficient legal basis on which taxpayers are required to keep underlying documentation for every kind of tax purpose. Furthermore, Uganda introduced legislative amendments in 2016 in respect of accounting records and underlying documentation requiring companies to keep and maintain proper records of all the affairs of the company including accounting records, agreements, memoranda, minutes, resolutions, decisions or other company related documents for at least seven years. Nevertheless, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of accounting records and underlying documentation and take measures to address any identified deficiencies.

6. Compliance with the requirement to maintain accounting records and underlying documentation by companies is monitored by the Ugandan Revenue Authority (URA), as well as the the Uganda Registration Services Bureau (URSB) in respect of public companies.

7. Full bank information, including all records pertaining to account holders as well as related financial and transaction information, is required to be kept by Ugandan banks under AML and banking legislation. Compliance by banks in respect of customer identification obligations and record

keeping obligations is checked and supervised by the Bank of Uganda (BOU). Through their inspections, it has been established that banks keep the required information on their clients and transactions.

8. Over the period of review Uganda has received in total 9 requests for information. Requests received asked for a variety of information, including the physical addresses of individuals (3 requests); a proof of residence of individuals, income and capital of listed individuals, property ownership of individuals among others (5 requests), as well as information related to a Mutual Agreement Procedure Information (this relates to one case). Ownership and identity information, accounting or banking information has not been requested in the three-year review period. Requests could be responded to in almost all cases from information available in the internal databases and tax returns, as well as taxpayers' information that is at the disposal of the EOI Unit or held at file at the tax office.

9. In respect of access to information, the URA has a range of powers under the Income Tax Act to obtain relevant information from taxpayers and from third parties both for domestic purposes and in response to an EOI request. These powers include search and seizure powers and enforcement of these provisions is secured by the existence of penalties for non-compliance. In terms of rights and safeguards, information can be obtained directly by the URA and there is no requirement to notify the taxpayer.

10. The Ugandan competent authority has direct access to a wide range of information collected as part of the registration and filing requirements applicable in Uganda and stored in the Tax Authority's institutional (E-tax) databases. During the review period, the Ugandan competent authority was able to access information to reply to EOI requests concerning various types of information in respect of individuals, including physical addresses, proof of residence, income and capital statements, as well as property ownership.

11. Uganda's network of EOI agreements covers 102 jurisdictions. Uganda's EOI network includes 12 bilateral Double Tax Conventions (DTCs), a multilateral DTC between members of the East African Community and the ATAF Agreement on Mutual Assistance in Tax Matters (AMATM). Nine of these agreements are in force and meet the internationally agreed standard containing sufficient provisions to enable Uganda to exchange all relevant information. Uganda signed the AMATM agreement on 26 March 2014 and ratified the agreement within one year and deposited its instrument of ratification on 7 August 2015. Uganda also signed and ratified the Multilateral Convention and deposited its instrument of ratification on 26 May 2016. The Multilateral Convention entered into force on 1 September 2016 and will provide Uganda with an EOI network that covers more than 100 jurisdictions. The Multilateral Convention will also be a complementary basis for exchanging information with jurisdictions with which Uganda is already

linked by a bilateral EOI instrument. In the case of Uganda, the entry into force of this instrument will bring EOI with 95 of its 102 partners in line with the standard.

12. In Uganda, the Competent Authority designated in DTCs is the Minister of Finance, however for the DTCs with Mauritius and South Africa, the Commissioner General is designated as the Competent Authority. As of March 2014, the Minister of Finance delegated competent authority power to the Commissioner General of the Uganda Revenue Authority for all DTCs indicating the Minister of Finance as competent authority. At the same time Uganda streamlined its EOI processes and created a specific EOI unit within the Intelligence division of Tax Investigation Department of the URA.

13. Uganda still has fairly limited experience in respect of incoming EOI requests but it is considered by its EOI partners to be an important partner. Over the period of review from 1 July 2012 to 30 June 2015 Uganda has received 9 requests for information. Including the time taken by the requesting jurisdiction to provide additional information, the requested information was provided within 90 days in all cases.

14. Overall, Uganda has a legal and regulatory framework in place that generally supports the availability, access and exchange of all relevant information for tax purposes in accordance with the international standard. Uganda has in place appropriate organisational processes to ensure effective exchange of information. Recommendations have been made where elements of Uganda's EOI regime have been found to be in need of improvement.

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

16. A follow up report on the steps undertaken by Uganda to answer these recommendations should be provided to the PRG within twelve months after the adoption of this report.

## Introduction

### Information and methodology used for the peer review of Uganda

17. The assessment of the legal and regulatory framework of Uganda as well as its practical implementation was based on the international standards of transparency and exchange of information as described in the Global Forum’s *Terms of Reference*, and was prepared using the *Methodology for Peer Reviews and Non-Member Reviews*. The assessment has been conducted in two stages: the Phase 1 review assessed Uganda’s legal and regulatory framework for the exchange of information as at 22 May 2015, while the Phase 2 review assessed the practical implementation of this framework during a three year period (1 July 2012 to 30 June 2015) as well as amendments made to this framework since the Phase 1 review up to 11 August 2016. The following analysis reflects the integrated Phase 1 and Phase 2 assessments.

18. The assessment was based on the laws, regulations and exchange of information mechanisms in force or effect as at 11 August 2016, other information, explanations and materials supplied by Uganda, and information supplied by partner jurisdictions and explanations provided by Uganda during the on-site visit that took place from 29-31 March 2016 in Kampala, Uganda. During the on-site visit, the assessment team met a wide range of officials and representatives of the Ministry of Finance and the Uganda Revenue Authority (URA) as well as representatives of the Uganda Registration Services Bureau, the Financial Intelligence Authority and the representatives of the Bank of Uganda, among others.

19. The *Terms of Reference* (“ToR”) 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) exchanging information. This review assesses Uganda’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 Uganda’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 standards (see the Summary of Determinations and Factors Underlying Recommendations at the end of this report). A summary of the findings against the elements is set out at the end of this report.

20. The Phase 1 and Phase 2 assessments were conducted by assessment teams comprising expert assessors and representatives of the Global Forum Secretariat. The 2015 Phase 1 assessment was conducted by a team which consisted of two expert assessors and a representative of the Global Forum Secretariat: Mr. Thanduxolo Twala, Manager: International Development and Treaties, South African Revenue Service, South Africa; Meritxell Salvat Perarnau, International Relations Specialist, Ministry of Finance, Andorra and Ms. Kathryn Dovey from the Global Forum Secretariat. For the Phase 2 assessment Ms. Kathryn Dovey was replaced by Mr. Boudewijn van Looij, also from the Global Forum Secretariat.

## Overview of Uganda

### *Governance and Economic Context*

21. Uganda is a unitary state located on the East coast of Africa. It has been a sovereign state since gaining independence from the British Crown in 1962. The country covers an area of approximately 199 810 square kilometres bordering United Republic of Tanzania (Tanzania) to the South, Rwanda to the South West, Democratic Republic of Congo to the West, South Sudan to the North and Kenya to the East. The country is made up of 112 districts and the capital and main commercial centre is Kampala. The two official working languages are Swahili and English. The Uganda shilling (UGX) is the national currency. As at 20 July 2016, UGX 3364 = USD 1.<sup>1</sup>

22. The Ugandan economy can be broadly divided into three sectors: agriculture, industry and services. In recent years the services sector has become increasingly dominant, surpassing the agricultural sector. Over the past five years, agriculture has contributed approximately 25% of GDP, while the industrial and service sectors have contributed approximately 20% and

---

1. [www.oanda.com/currency/converter/](http://www.oanda.com/currency/converter/); furthermore, one currency point is equivalent to twenty thousand Uganda Shillings (about USD 5.90).



47% respectively. Within the agricultural sector, cash crops and food crops constitute approximately 7% and 50%, respectively, while livestock and fishing constitute approximately 17% and 7%, respectively of the overall output of the sector. Forestry constitutes approximately 18%. The industrial sector is composed of mining and quarrying, manufacturing, electricity and water supply, and construction. Over the last five years, construction and manufacturing have constituted approximately 38% and 46%, respectively of the total industrial output. The other sub-sectors combined, constitute approximately 16% of the overall output of the industrial sector.

23. Gross Domestic Product (GDP) in Uganda expanded by 3.43% in the first quarter of 2016 as compared to the same quarter in 2015. The GDP Annual Growth Rate in Uganda averaged 6.02% from 2009 until 2016, reaching an all-time high of 16.12% in the first quarter of 2009 and a low of 1.13% in the second quarter of 2012<sup>2</sup>. The main imports into Uganda are oil, pharmaceutical products and capital goods. Uganda's main import partners are China, India, Kenya and the United Arab Emirates. Uganda's main exports are agricultural products which make up 80% of total exports, followed by coffee, tea, cotton, copper and fish. Uganda's main export partners are Sudan, Kenya, South Sudan, Democratic Republic of the Congo, Netherlands, Italy, Germany, South Africa and Rwanda.

24. Uganda is a member of the East African Community (EAC), the Common Market for East and Central Africa (COMESA), the Intergovernmental Authority on Development (IGAD), the United Nations (UN), the World Customs Organization (WCO) and the World Trade Organization (WTO), among others. Since October 2012, Uganda has been a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

### ***Legal and Regulatory context***

25. Uganda is a common law jurisdiction which derives its laws from English common law and Ugandan statutes.

26. Uganda acquired independence from the United Kingdom in 1962. The Constitution of Uganda (Constitution) established a unitary state with an elected president as head of state. The Government takes the form of a parliamentary and executive democracy. Among the written laws are the Constitution, legislation enacted by the Parliament, and subsidiary legislation made by bodies in accordance with the powers conferred upon them by Acts of Parliament. Any law, including customary law that is inconsistent with the

---

2. The GDP Annual Growth Rate in Uganda is reported by the Uganda Bureau of Statistics.

Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.

27. The Constitution establishes the three arms of government. Article 77 establishes the Parliament and article 79(2) gives it legislative authority and exclusive powers to make provisions having force of law. Article 98 creates the office of the president in whom executive authority is vested. Article 126 of the Constitution creates the Judiciary and article 128 establishes the independence of the judiciary which shall not be subject to the control and or direction of any person or authority.

28. In terms of hierarchy, section 14 of the Judicature Act Cap 13, as read together with the Constitution, provides that the Constitution is the supreme law followed by written law, including any law in force immediately before the commencement of the Judicature Act, the common law and the doctrines of equity, any established and current custom or usage, the powers vested in, and the procedure and practice observed by the High Court.

29. Furthermore, a law of a higher rank will prevail over a law of a lower rank when they concern the same subject matter, and a law which is later in time will prevail over an older law of equal hierarchy. International treaties and conventions on tax matters will always prevail over domestic tax law, provided that they do not violate the Constitution (s. 88 of the Income Tax Act).

### ***Financial sector***

30. Uganda has a well-developed financial sector regulated under the Financial Institutions Act 2004. The Central Bank of Uganda (Central Bank) is established under the Bank of Uganda Act. The main objectives of the Central Bank are to formulate and implement monetary policy by issuing legal tender, maintaining external reserves and promoting the stability of the currency and a sound financial structure conducive to a balanced and sustained rate of growth of the economy. The banking sector is made up of 25 licensed commercial banks, five licensed credit institutions, 224 licensed forex bureaux, 49 licensed money remitters and three licensed microfinance deposit-taking institutions. The total assets held by banks in Uganda as at the end of December 2015 were UGX 21.72 trillion (USD 6.46 billion). The minimum capital requirement for banks is 1 250 000 currency points (UGX 25 000 000 000 [USD 7 431 629]); for credit institutions 50 000 currency points (UGX 1 000 000 000 [USD 297 265]) and for Micro Finance Deposit Taking Institutions (MDIs) 25 000 currency points (UGX 500 000 000 [USD 148 633]).

31. The Anti-Money Laundering Act, 2013 (AMLA) created the Financial Intelligence Authority (FIA, Uganda's Financial Intelligence Unit) and a Financial Intelligence Board. The FIA is responsible for ensuring compliance with the AMLA, collecting information on money laundering made available to it by competent authorities and exchanging the information in accordance with the international agreements in place. The FIA requires any “accountable person” to carry out a risk based assessment of his or her customers as may be prescribed by regulations made under the AMLA. The FIA issued guidelines on reporting standards to all accountable persons to ensure compliance with guidelines which must be adhered to, and provided trainings and sensitisation. Regarding supervisory activities regarding “accountable persons”, including service providers (more specifically: lawyers, accountants, other legal professionals as well as the board of executors or a trust company) the FIA makes use of reports from Bank of Uganda and Capital Markets Authority (CMA) since they are licensing authorities in Uganda. The CMA is mandated and required to supervise all its licensees and so is the Bank of Uganda (BOU). The CMA and BOU have compliance and inspection programme in place. The FIA is yet to roll out compliance and inspection programme.

32. Capital markets in Uganda are regulated by the CMA which is a semi-autonomous body responsible for promoting, developing and regulating the capital markets industry in Uganda, with the overall objectives of investor protection and market efficiency. Its mandate is the development of all aspects of the capital markets with particular emphasis on the removal of impediments to, and the creation of incentives for longer term investments in productive enterprises. This includes creation, maintenance and regulation, through implementation of a system in which the market participants are self-regulatory to the maximum practicable extent, and of a market in which securities can be issued and traded in an orderly, fair and efficient manner; the protection of investor interests and the operation of an Investor Compensation Fund. The governing Act is the Capital Markets Authority Act Cap 84.

33. The Capital market institutions include stockbrokers, investment banks, investment advisers, fund managers, authorised depositories (all authorised depositories are licenced banks), approved collective investment schemes and other approved institutions. The securities exchange in Uganda is called the Uganda Securities Exchange (USE).

34. The insurance industry in Uganda is regulated and supervised by the Insurance Regulatory Authority (IRA) under the Insurance Act Cap 213. The authority is responsible for the licensing of insurance companies, medical insurance providers, brokers, agents, insurance surveyors, insurance investigators and claim settling agents. As at July 2016 there are 29 insurance companies, one reinsurance company, 29 insurance brokers, nine loss assessors, nine insurance adjusters in Uganda.

35. Relevant professionals in Uganda include accountants and lawyers who are regulated under the Accountants Act Cap 266 and Advocates Act Cap 267. The Accountants Act establishes an Institute of Certified Public Accountants of Uganda (ICPAU) which provides for a council responsible for the management of the institute, for the requisition and control of accountants along with the disciplining of accountants and the maintenance of professional standards. Section 7 of the act sets out the procedure for disqualification from registration which includes instances where a person is convicted by a court in Uganda of an offence involving fraud or dishonesty. Part X of the act provides for disciplinary provisions and section 38 provides for professional misconduct. The Advocates Act Cap 267 sets out the requirements for admission as an advocate in part IV of the act and part V deals with offences and the discipline of advocates and clerks.

### ***Taxation and international co-operation***

36. The Uganda Revenue Authority (URA) was established by the Uganda Revenue Authority Statute of 1991 and set up in September of the same year as a central body for assessment and collection of specified revenue, to administer and enforce the laws relating to such revenue and to provide for related matters. The Commissioner General is the head of the URA and is appointed by the Minister of Finance.

37. Uganda taxes resident companies and individuals on their worldwide income. Non-resident companies and individuals are taxed only on Uganda-sourced income. Both resident and non-resident companies are charged corporate tax at a rate of 30%, and mining companies at a rate ranging from 25-40%. A company is deemed to be tax resident in Uganda if it is incorporated under Ugandan law; if the management and control of its affairs are carried out in Uganda; or if the majority of its operations are carried out in Uganda. The law governing income taxation is the Income Tax Act Cap 340 (ITA) and income tax is charged on a residency and source basis (s. 17 ITA). Value Added Tax is charged under the VAT Act (Cap 349) and customs duties are levied under East African Community Customs Management Act 2004 (EACMA). Excise Tax is levied under the Excise Tariff Act Cap 338. Dividends are taxed at the corporate tax rate but they are exempt if a recipient company that is resident in Uganda controls at least 25% of the voting power of a payer company resident in Uganda. Furthermore, foreign-source dividends are taxable in Uganda. There is a withholding tax of 15% applied to dividends paid to a non-resident company in situations where the rate is not reduced under a tax treaty. The standard rate of VAT is 18% which is uniform across all industries. Financial services are exempt from VAT (section 1 (c) and 2 (b) under the 2nd Schedule of the VAT Act Cap 349).

38. In September 2014 the Parliament of Uganda passed the Tax Procedures Code Act (TPCA). The phase 1 Report noted that the TPCA will come into force once a statutory instrument has been issued by the Minister responsible. This statutory instrument was issued in March 2016. Following this, the TPCA entered into force as of 1 July 2016. The Tax Procedures Code repeals relevant sections of the Income Tax Act and Value Added Tax Act and regulates the procedures for the administration of specified tax laws in Uganda in order to harmonise and consolidate the tax procedures that were previously dealt with under these separate tax laws.

39. Uganda has signed 12 DTCs, of which 9 are in force, and two multilateral agreements, no TIEAs have been signed to date. As noted, Uganda signed the Multilateral Convention in November 2015. Uganda ratified the Multilateral Convention and deposited its instrument of ratification on 26 May 2016. The Multilateral Convention entered into force on 1 September 2016. Uganda also ratified the ATAF Agreement on Mutual Assistance in Tax Matters (AMATM). Uganda deposited its instrument of ratification in respect of the AMATM agreement on 7 August 2015. The Competent Authority designated in Uganda's agreements is the Minister of Finance, however for the DTCs with Mauritius and South Africa the Commissioner General is designated as the Competent Authority. As of March 2014, the Minister of Finance delegated competent authority power to the Commissioner General of the Uganda Revenue Authority for all DTCs indicating the Minister of Finance as competent authority.

40. Section 88 of the ITA provides for the operationalisation of international agreements. International agreements are defined as including DTCs and bilateral or multilateral administrative agreements which would include TIEAs (s. 88(6)). Pursuant to this section, when a DTC or TIEA is in force, it takes precedence over all other sections of the ITA in cases of inconsistency.



## Compliance with the Standards

### A. Availability of information

#### Overview

41. 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 information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority may not be able to obtain and provide it when requested. This section of the report describes and assesses Uganda's legal and regulatory framework on availability of information as well as its application in practice.

42. Availability of ownership and identity information in respect of companies is generally ensured by the requirement to keep an up to date register of members. In practice, the Registrar of Companies verifies the completeness and the correctness of the register of shareholders of companies at the time of registration and after that on an annual basis as part of the filing of annual returns. The requirement to file annual returns indicating both old and new shareholders and the mandatory nature of those returns helps to ensure that companies keep updated their register of shareholders/members. In addition, ownership information regarding shareholders who held at least 10% of the company's shares during the particular income year is required to be included in the tax return. Compliance with these requirements is checked by the tax authorities through desk and field audits and is further secured

by penalties that have been applied in practice. However, public companies may issue share warrants to bearer and no requirements exist to identify the owners. While there is no evidence of any share warrants to bearer in existence and there are merely 556 Public Companies registered in Uganda, there are currently insufficient mechanisms in place to ensure the availability of identity information regarding the owners of such share warrants. A recommendation has been made in respect of this deficiency. No issues in this respect came up in practice.

43. In respect of nominee ownership information, service providers that are subject to the AML regime in Uganda are obliged to maintain beneficial ownership information if they establish a business relationship with a company. No issues in this respect came up during the period under review. Uganda introduced legislative amendments to the Companies (general) Regulations 2016 requiring companies to register particulars regarding the ownership and identity in respect of nominee shareholders including a number of enforcement provisions. Although a positive step, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of nominees and take measures to address any identified deficiencies.

44. Partnerships must be registered with the tax authorities and details of each partner must be furnished upon registration. Any change in this respect must also be submitted, ensuring the availability of up to date ownership information on partnerships. In respect of supervision and overview, all measures to ensure compliance with registration, filing and payment requirements by companies apply to partnerships similarly. Co-operative societies are required to keep an up to date register of members, and a list of members must also be provided to the Registrar of Companies. Compliance with these requirements is checked through off-site and on-site inspections and is further secured by penalties. Uganda reports that in practice advice is given on the importance of maintaining an up-to-date members' register. No issues came up in respect of EOI in practice.

45. Where a trust is tax resident in Uganda then the trust, trustee and beneficiaries must be registered for tax purposes and the trust must file a tax return. Under common law, trustees may have the obligation to maintain certain trust information. In addition, under AML legislation where certain businesses and professionals act as trustees or provide services to a trust, they will have the obligation to identify their customer and the beneficial owner. Compliance with these requirements is checked by the URA through desk and field audits and is further secured by penalties. No issues came up in practice



46. Over the period of review, Uganda has received in total 9 requests for information. However, ownership and identity information, accounting or banking information has not been requested in the three-year review period.

47. All legal and natural persons that carry on business in Uganda are obliged to maintain accounting records for a period of ten years. The Phase I Report noted that, other than provisions in the Value Added Tax Act, there is no general requirement on entities to hold underlying records and a recommendation has been made in this respect. In this respect it can be noted that Uganda introduced legislative amendments to s15(2) of the Tax Procedures Code Act As of July 2016, which provides for a sufficient legal basis on which taxpayers are required to keep underlying documentation for every kind of tax purpose. Uganda also amended the Companies (general) Regulations 2016 requiring companies to keep and maintain proper records of all the affairs of the company including the register of members, accounting records, agreements, memoranda, minutes, resolutions, decisions or other company related documents for at least seven years, including a number of enforcement provisions. Although a positive step, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of accounting records and underlying documentation and take measures to address any identified deficiencies.

48. In respect of bank information, the AML and banking legislation ensures that all records pertaining to the accounts as well as to related financial and transactional information are required to be kept by Ugandan banks. Compliance by banks in respect of these legal obligations is checked by the Bank of Uganda. Through their inspections, it has been established that banks keep the required information on their clients and transactions. In practice, no issues in respect of availability of bank information have been indicated by the Ugandan authorities or their peers.

49. Enforcement provisions are in place in respect of the relevant obligations to maintain ownership and identity, accounting, and banking information for all relevant entities and arrangements. These enforcement provisions are adequately applied in practice and generally ensure that ownership information with regard to the relevant entities is available.

## A.1. Ownership and identity information

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

### *Companies (ToR A.1.1)*

50. The Companies Act (CA) is the central piece of legislation governing the establishment of and further arrangements with respect to companies. Under the CA, three types of companies may be incorporated in Uganda (s. 4 CA):

- Companies limited by shares: the liability of the members of this type of company is limited to the amount unpaid (if any) on their shares.
- Companies limited by guarantee: the liability of the members of this type of company is limited to the amount defined in the memorandum of the company that the members undertake to contribute to the assets of the company if it is wound up.
- Unlimited companies: there is no limit on the liability of the members.

51. A company can also be either a private or a public company. Private companies must have no more than 100 members, must restrict the right to transfer shares and other securities in their articles and cannot invite the public to subscribe for any shares or debentures of the company (s. 5 CA). As of 30 March 2016, there were approximately 218 806 private companies registered in Uganda. A public company is defined as any company that does not meet the definition of a private company (s. 6 CA). As of 30 March 2016, there were 556 public companies registered in Uganda. In total there were 219 362 registered companies in Uganda as at 30 March 2016.

52. The rules described below on the availability of ownership information apply to all companies, unless indicated otherwise.

53. All companies incorporated under the CA are required to indicate in the memorandum of association that the registered office of the company is to be in Uganda (s. 7 CA). The company must have a registered office and a registered postal address within 14 days of incorporation (s. 115(1) CA). If this is not complied with the Registrar of Companies may deregister the company, furthermore fines may be imposed on the company and the company officers of twenty five currency points (UGX 500 000 or USD 149) (s. 115(4) and (5) CA).

*Ownership information held by companies*

54. All companies incorporated under the CA are required to keep a register of members. This requirement applies to companies with a share capital and those without a share capital. This register should contain the following information (s. 119 CA):

- a. the names and postal addresses of the members;
- b. the date on which each person was entered in the register of members; and
- c. the date on which any person ceased to be a member.

55. If the company has a share capital, a statement of shares held by each member shall be entered into the register, distinguishing each share by its number and the amount paid or agreed to be paid. Section 119(2) of the CA provides that the register of members shall be kept at the registered office of the company however it is also possible to keep it at another office of the company or, if another person handles the register, at the office of that other person. In any case, the register must always be kept in Uganda. The company is required to send notice to the Registrar of Companies of the place where the register is kept and to inform of any change (s. 119(3)). Not keeping a register of members can lead to a daily fine of twenty five currency points (UGX 500 000 or USD 149) being enforced on the company and any officer in default (s. 119(6)). If a company does not have a share capital but has more than one class of members, the class to which each member belongs is required to be entered in the register, in addition to the information set out above. Failure to comply with this provision for a period of 14 days can lead to a daily fine of twenty five currency points (UGX 500 000 or USD 149) being enforced on the company and any officer in default (s. 119(6) CA).

56. A company which has more than fifty members is required to keep an index of the names of the members of the company if the register itself is not in the form of an index. Any changes in the register must be made to the index within 14 days after the date on which the change occurs (s. 120(1) CA). The index must be kept in the same place as the register of members (s. 120(3) CA). Failure to comply with these provisions can lead to a daily fine of twenty five currency points (UGX 500 000 or USD 149) being enforced on the company and any officer in default (s. 120(4) CA).

57. Transfers of shares will be registered by a company in Uganda only upon delivery of a proper instrument of transfer to the company (s. 85 CA). Furthermore, a certificate of transfer confirms that the transferee has title to the shares (s. 90 CA) and companies are required within 2 months after lodging a transfer of shares to deliver the certificate for all shares (s. 91 CA).

58. The organisation that is enforcing compliance with the obligation to keep updated registers of shareholders and members is the Uganda Registration Services Bureau (URSB, see below). URSB relies on document checks at the time of registration and filing of annual returns. The requirement to file annual returns indicating both old and new shareholders and the mandatory nature of those returns helps to ensure that companies keep updated their register of shareholders/members.

### *Ownership information held by the authorities*

#### Companies law

59. All companies incorporated under the CA are required to file their memorandum and articles of association (if any) with the Registrar of Companies, who will retain these documents, register them and assign a registration number to each company so registered (s. 19 CA). The entity responsible for registering companies in Uganda is the Uganda Registration Services Bureau as established by the 2004 Uganda Registration Services Bureau Act Cap 210.<sup>3</sup> The memorandum for companies with a share capital (whether limited by shares, limited by guarantee or unlimited) must contain the names and addresses of the initial members of the company and the number of shares they own (s. 7 and Second schedule, Tables B, D and E, CA). For companies without share capital, there is no requirement for the names of members to be included in the memorandum in section 7 although the example format provided for in Table C in the Second Schedule to the CA requires subscribers to be identified.

60. Companies must also file an annual return with the Registrar of Companies within 42 days of the annual general meeting (ss. 132 and 133 CA). For companies with a share capital the return must contain details of the registered office of the company, the register of members and debenture holders, shares and debentures indebtedness, past and present members and directors and secretary (s. 132 CA). Consequently, the annual return shows any changes in the shareholding of the company. In respect of companies not having a share capital there is no obligation to include information on its members in the return. Although the return must state the address of the registered office or in the case of the register of members being kept elsewhere,

---

3. The Uganda Registration Services Bureau (URSB) is a semi-autonomous statutory body established by the URSB Act, Cap 210 and responsible for registration of businesses, civil events and intellectual property rights. The Bureau was created to take over the functions of the Registrar General's Office under the Ministry of Justice and Constitutional Affairs. The URSB Act came into force on 16 August, 2004 and the self-accounting status was granted in July, 2010.

the address of where it is kept must be provided (s. 133 CA). Such companies are nevertheless required to hold a register which will include the names and addresses of the members. Non-compliance with the provisions to file an annual return can lead to a fine being imposed on the company and the company officers of twenty five currency points (UGX 500 000 or USD 149) (ss. 132(4) and 133(3) CA).

61. Private companies limited by shares and companies limited by guarantee with a share capital are required to file a return with the Registrar of Companies following any allocation of shares. This needs to be done within 60 days of the allocation. The return should include the number and nominal amount of the shares, the names, addresses and descriptions of the recipients and the amount (if any) paid or due and payable on each share (s.61 CA). Failure to comply with this provision is punishable on any officer of the company with a fine of twenty five currency points (UGX 500 000 or USD 149) and an additional fine of five currency points (UGX 100 000 or USD 30) for every day during which the default continues (s. 61(3) CA).

62. As noted, the URSB requires all companies and partnerships to file annual returns. A company or partnership has to be up to date with the filing of all its annual returns, in order to be able to register a change of ownership, allotment of shares or any other company particulars with the Registrar. This requirement imposes a duty on these entities and arrangements to provide updated information on their affairs, including updated ownership and identity information. The annual return includes details ownership information<sup>4</sup>.

63. The URSB audits its register of companies in Uganda annually and comes up with a list of companies that have failed to comply with the requirement to file annual returns. If for five consecutive years, a company fails to comply with filing requirements, it can be struck off the list of registered companies.

64. The URSB publishes a list of companies that have failed to comply with the provisions of the Companies Act<sup>5</sup>. This concerns a variety of companies' obligations, including the requirement to file annual returns. In 2014, a total of 1731 companies were published as having failed to file annual returns for five consecutive years (2010-14) and so were asked to show cause or be struck off the list of registered companies. In total three companies have been struck off the list of registered companies as a result of failure to comply with these filing requirements.

- 
4. Other obligations concern filing returns of allotment, notification of the situation (location) of registered office and postal address and of any changes therein, as well as the filing of annual returns regarding particulars of directors and secretaries of the company.
  5. The list is published in print and on the URSB official website.

65. The URSB carries out investigations into the registration details of a company. This is generally triggered by a complaint, for instance lodged by a competitor or one or more of shareholders in the company itself. The URSB also supports the investigation function of other organisations by providing them with the necessary information on shareholders and registration information for example the Tax Investigation Department of the Uganda Revenue Authority.

### Tax law

66. When companies register with the URA they are required as part of the application to submit their certificate of incorporation, details of directors and secretaries and details of any name change of the company but not their articles or memorandum of association (the URA relies on the URSB database in the event of the need for articles and memorandum of association). Registration takes place on-line. Upon registration, the Commissioner General issues a Tax Identification Number (TIN) to every taxpayer registered (s.5 TPCA).

67. To ensure that all the information provided is correct, a number of checks are conducted in the course of the online registration. This includes a series of duplicity checks by a system known as “e-tax” (to check for instance whether information matches with other information in the system regarding an employer, or information regarding a company). After passing the duplicity check, an officer will perform some additional checks to verify the correctness of the information (for instance whether the contact details that are provided correspond with a company’s physical address) and, in cases where a risk has been identified, an inspection is initiated or physical verification is carried out in respect of the applicant. At this stage of the application process, the applicant is required to submit physical documents to the nearest URA officer. The applicant has to sign a declaration form that binds him or her to the accuracy of the information provided to URA. After verification of the documents for authenticity and accuracy, a Tax Identification Number (TIN) is generated and a certificate is printed and handed over by the service desk officer.

68. At the same time, the URA schedules an on-site visit to establish the existence of the company, review their books of accounts to ensure that they keep proper records, and to establish that the taxpayer is eligible to register for taxes. The officer analyses the taxpayer’s sales to determine at what moment they became eligible to apply for taxes in line with their applications. The registered taxable person is under obligation to maintain up-to-date details of their tax profile. Furthermore, upon submission of an application for amendment of registration details, the applicant is required to submit a copy of a valid form of identification to the URA representation in the tax district.

69. As noted, all companies, partnerships and co-operatives are required to file annual returns without which no changes can be made on the company file. This requirement imposes a duty on them to provide updated information on their affairs and also provide required information both for tax purposes and regulatory purposes.

70. For companies resident in Uganda, income is taxable on a worldwide basis; for non-resident persons, only Uganda-source income is taxable (s. 17(2) ITA). Taxpayers are required to furnish annual tax returns within six months of the end of the income year (s. 16(8)(a) TPCA). The different types of tax returns include Pay As You Earn (PAYE) which is filed monthly, withholding tax return which is also filed monthly, individual income return which is filed annually, partnership return which is filed annually and income tax non-individual return which is filed annually. Failure to furnish a monthly return to the URA within fifteen days of the deadline of the end of the month to which it relates is an offence and is punishable with a fine of twenty five currency points (UGX 500 000 or USD 149). If the person convicted fails to furnish the return within the period specified by the court, that person commits an offence and is liable on conviction to a fine not exceeding fifty currency points (UGX 1 000 000 or USD 298) (s. 137 ITA). Furthermore, the failure to file can lead to a penalty of the greater of 2% of the tax payable or 10 currency points (UGX 200 000 or USD 59) per month for the period the return is outstanding (s. 48 TPCA). Ownership information regarding the directors who held office in the company and shareholders who held at least 10% of the company's shares during the particular income year is required to be included in the tax return. This provision applies to both domestic and foreign companies resident in Uganda. In case of false or misleading returns and in case of fraud or willful neglect, there are administrative penalties that can be imposed on the taxpayer as well as prosecution in the courts of law.

71. Actions carried out by the URA to enhance compliance with taxpayer registration requirements include the use of a computer system called *Dynamic Reports*. The system correlates transactions between companies in terms of purchases and sales. These reports together with other URA systems like *Asycuda* (a web-based customs management system that supports paperless cargo submission and processing through the use of electronic documents) and *e-tax form* (a web-based solution designed to reduce manual filing of documents and replaces them by the e-filing and e-payment processes cuts down the time to minutes instead of days) are designed to limit the possibilities to (commercially) operate in Uganda without the proper tax registration.

72. To ensure that companies report all the requested information, they are (desk) audited and onsite-visits are carried out on selected taxpayers in a given sector. Uganda confirms that ownership/shareholders details are

checked in the course of these audits and on-site visits. Through these efforts, the auditors interface with taxpayers and analyse their transactions. If at any time during the (desk) audits or the field visits, the officer gets additional information concerning non-compliance by the taxpayer, he is mandated by the law to carry out a forced registration or amendment. This additional information can be a physical address, additional sources of income, additional types of tax or any other information that affects tax.

73. The following statistics represent the cases that have been investigated or audited and where penalties have been levied. These statistics are combined for various offenses which include failure to maintain proper records. Although this number increased from 2135 in 2013/2014 to 3233 in the period 2014/2015, the number of penalties levied decreased from 461 to 378. In this respect Uganda notes that it introduced a self-disclosure regime during this period. If specific requirements are met, taxpayers are not penalised regarding their (former) non-compliance, even if the disclosure takes place at the start of an investigation.

**Number of cases investigated and audited,  
and number of penalties levied by the URA**

Year	Number of investigations and audits	Number of penalties levied
2013/2014	2 135	461
2014/2015	3 233	378
Total	5 368	839

74. The URA may carry out an audit for a taxpayer in a broad variety of situations, for instance where a taxpayer fails to submit a return of income, the Commissioner General is not satisfied with the return submitted by the taxpayer, or in case of any other reason.

75. In the situation where the taxpayer fails to comply with the audit requirements and there are incidences of fraud or willful neglect cited in his dealings, then they are recommended for an investigation by the Investigative wing of the Uganda Revenue Authority. The URA can also carry out distress proceedings on the taxpayer to recover any taxes from them. However, voluntary compliance is encouraged. For this reason the taxpayer is issued with three reminders to file their return and pay.

*Ownership information held by service providers*

76. Service providers in Uganda are governed by the Anti-Money Laundering Act 2013 (AMLA). According to this act, all “accountable persons” are required to undertake customer due diligence measures including obtaining, recording and verifying the identity of the client in order to be able



to enter into a business with the client or carry out a transaction for the client (s.6 AMLA). Accountable persons are defined to include financial institutions, advocates, notaries, accountants, other legal professionals, a board of executors or a trust company or any other person that invests, keeps in safe custody, controls, or administers trust property within the meaning of the Trustees Act, casinos, real estate agents, dealers in precious metals and gems, trust and company service providers, brokers, dealers, investment advisors, insurance companies, licensing authorities in Uganda, NGOs, churches and other charitable organisations along with all other persons conducting the business of private banking, lending, financial leasing, etc. (Second Schedule AMLA). If the client is acting on behalf of another person, the service provider must obtain, record and verify the identity of the other person, similarly if another person is acting on behalf of the client the same requirement applies (s. 6 AMLA).

77. All “accountable persons” are required to hold the information obtained regarding the true identity of the person on whose behalf a business relationship is initiated or a transaction is conducted for at least ten years (s. 7 AMLA), similarly records relating to business relations should be held for at least ten years after their conclusion. Records on customer identification, account files, and business correspondence should be held for at least five years after the account has been closed. Furthermore, there is a requirement to hold records to enable the reconstruction of transactions that need to be reported under the act for at least ten years after the conclusion of the transaction. Such records include the parties to the transaction and their addresses, date of the transaction, types of currency involved, the accounts involved and the documents obtained to verify the identity of the client (s. 7 AMLA).

78. The AMLA does not designate any agency to be responsible for AML/CFT supervision. However, in practice AML/CTF supervision in Uganda is shared between supervisory authorities (including the BOU and the CMA) and the FIA which is responsible for entities which do not have a supervisory authority.<sup>6</sup>

79. The FIA is a newly established authority that came into operation in 2014 after the AMLA was passed into law and as such it is just in the phase of rolling out its processes. Therefore no penalties have been meted out to any accountable person because sensitisation and awareness are being carried out.

80. The FIA with the support of the Financial Intelligence Board supervises the activities of service providers and other accountable persons. As noted the FIA is yet to roll out compliance and inspection programme.

---

6. Reference can also be made to the section “Financial sector” (paragraphs 30-35) in the overview above.

However, guidelines are issued, and most recently the Anti-Money Laundering Regulations 2015 have been issued to guide accountable persons.

81. Service providers and all accountable persons are required to provide reports to FIA. The FIA can also obtain information through information sharing agreements, requests for information from counter FIUs as well as commercial data bases.

82. Accountable persons are required to have in place a policy and procedures in relation to;

- Identification of Customers;
- Record Keeping;
- Reporting Suspicious Transactions and Large Cash Transactions;
- Internal Controls and Compliance Management; and
- Education and Training of Employees.

83. The FIA has issued guidelines on reporting standards that must be adhered to by all accountable persons to ensure compliance. The AML Regulations require accountable persons to register. For this purpose accountable persons have to fill in the so-called registration Form 1 that they submit physically to the FIA.

84. In all, Uganda's AML/CFT regime is relatively new, with the enactment of the AMLA in late 2013 and the FIA being established in 2014. As such most of the reporting entities are in the very early stages of designing and implementing the preventive measures prescribed by the AMLA. Nevertheless, it can be noted that in practice the availability of ownership and identity information on relevant entities and arrangements is not depending on the information that is available with service providers.

### *Foreign companies*

85. According to the *Terms of Reference*, where a company or body corporate has a sufficient nexus to another jurisdiction (for example, because it is resident by reason of having its place of effective management or administration there), that other jurisdiction will also have the responsibility of ensuring that ownership information is available.

86. In Uganda a foreign company is defined as a company incorporated outside of Uganda that establishes a place of business in Uganda (s.251 CA). A "place of business" is defined in section 261 of the CA to include a share transfer or share registration office. The Ugandan authorities give the term "place of business" a wide definition which would include a local

representative office of the company. All foreign companies must register at the Registrar of Companies within 30 days of establishment of a place of business (s. 252 CA). As at March 2016, there were 3500 foreign companies registered with the Registrar of Companies in Uganda.

87. The registration process with the Registrar of Companies includes the furnishing of certain information (s. 252(1) CA) including:

- a certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and, where the instrument is not written in the English language, a certified translation of the instrument;
- a list of the directors and secretary of the company including name and address;
- a statement of all subsisting charges created by the company;
- the name and postal address of one or more persons resident in Uganda authorised to accept service of process or notices on behalf of the company; and
- the address of the registered or principal office.

88. Any change in these details must be notified to the Registrar of Companies within 60 days (s. 254(1) CA). Registration at the Registrar of Companies does not require the furnishing of ownership information at the time of registration, but such information may be provided by submitting the memorandum of the company; it would then depend on the law of the jurisdiction where the company was incorporated whether its memorandum contains ownership information. Nevertheless, ownership information in respect of shareholders holding at least 10% of the company would be available through the tax return as set out below. Furthermore, the CA provides that if the law in any part of the Commonwealth allows companies incorporated under that law to keep branch registers in Uganda of their members resident in Uganda, the Minister may order such branch registers to be kept in Uganda and for the penalties associated with not keeping a register in Uganda to apply (s. 123 and s. 131 CA).

89. When foreign companies register with the URA they are required as part of the application to submit their certificate of incorporation, details of directors and secretaries and details of any name change of the company but not their articles or memorandum of association. Registration takes place on-line. As noted above, it would then depend on the law of the jurisdiction where the company was incorporated whether or not its memorandum contains ownership information.

90. Therefore, while registration at the URA does not require the furnishing of ownership information, such information may be included in the memorandum of the company. Similarly, as is the case for domestic companies, foreign companies that are tax resident in Uganda will be required to submit to the tax authorities an annual tax return containing ownership information in respect of directors and shareholders holding at least 10% of the shares of the company. Foreign companies that are managed and controlled in Uganda will be considered tax resident in Uganda (s. 10 ITA).

91. Any changes in information submitted must be notified to the Registrar of Companies on the relevant company forms, as is the case for local companies. Failure to do so can result in a fine being imposed on the company and officers in default of up to 25 currency points (UGX 500 000 or USD 149). In addition, any changes following the registration of the company with the URA must be notified to the Commissioner General. The company is required to amend registration details using the registration amendment form and attach the relevant forms, for instance if it relates to a change in director – company form 8 must be attached; if it relates to a change in address – the rental agreement must be attached.

92. Uganda did not receive any requests regarding foreign companies during the period under review, and consequently no issues came up in this respect in practice.

### *Nominees*

93. The *Terms of Reference* require that jurisdictions ensure that information is available to their competent authorities that identifies the owners of companies and any bodies corporate. Owners include legal owners, and, in any case where a legal owner acts on behalf of another person as a nominee or under a similar arrangement, that other person, as well as persons in an ownership chain, to the extent that it is held by the jurisdiction's authorities or is within the possession or control of persons within the jurisdiction's territorial jurisdiction.

94. In respect of nominees, the 2015 Phase I Report noted that there was no requirement for any nominee shareholders to retain identity information on the persons for whom they act as legal owner.

95. However, Uganda introduced legislative amendments in 2016 requiring companies to register ownership and identity information in respect of nominee shareholders. Although a positive step, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of nominees and take measures to address any identified deficiencies.

96. In addition to the recently introduced requirements under the Companies Act, there are certain requirements under the AML framework for the identification of persons on whose behalf nominees act. First, nominees that are “accountable persons” for the purposes of the AMLA are obliged to conduct customer due diligence (CDD) on their customers and thus maintain full information on the persons on whose behalf they hold an interest in the company. In addition, if the client is acting on behalf of another person, the service provider must obtain, record and verify the identity of the other person, similarly if another person is acting on behalf of the client the same requirement applies (s. 6 AMLA).

97. Documentation in respect of the CDD carried out must be maintained for at least ten years after the end of the business relationship with the person for whom they act (s. 7 AMLA).

98. The FIA requires any “accountable person” to carry out a risk based assessment of his or her customers as may be prescribed by regulations made under the AMLA. This includes service providers such as lawyers, accountants and other legal professionals. However, as noted above, the AML/CFT regime is relatively new, with the enactment of the AMLA in late 2013 and the FIA being established in 2014. As such most of the reporting entities are in the very early stages of designing and implementing the preventive measures prescribed by the AMLA.

99. Furthermore, in the context of Phase 1 it was noted that the CDD requirements under the AMLA only apply to “accountable persons” and will not apply to those nominees that do not fall into this category. In practice, no issues regarding professional or non-professional nominees came up. Furthermore, as noted above, Uganda introduced legal amendments recently that requires companies to register ownership and identity information in respect of nominee shareholders.

100. In practice peers did not flag any issues regarding professional or non-professional nominees during the period under review. The Ugandan competent authority, from its end, confirms that it did not encounter any requests for this type of ownership information or any other practical difficulties in this respect either.

### *Conclusion and practice*

101. All companies incorporated under the CA are required to keep a register of members, this applies to companies with a share capital and those without a share capital. In addition, the Registrar of Companies keeps a register of all companies and the information available includes ownership information where the company has a share capital. Foreign companies must be registered with the Registrar of Companies when establishing a place of

business in Uganda or when they are managed and controlled in Uganda. The URA also maintains a register on all companies chargeable to tax and information must be included in the tax return concerning shareholders that own at least 10% of the company's shares. Foreign companies chargeable to tax must also register for tax purposes and file an annual return.

102. In practice, the Registrar of Companies verifies the completeness and the correctness of the register of shareholders of companies at the time of registration and after that on an annual basis as part of the filing of annual returns. The requirement to file annual returns indicating both old and new shareholders and the mandatory nature of those returns each year before any change can be registered by the Registrar on the company file helps to ensure that companies keep updated their register of shareholders/members. In addition, ownership information regarding shareholders who held at least 10% of the company's shares during the particular income year is required to be included in the tax return. The URA carries out desk audits and onsite-visits on selected taxpayers and penalties have been levied to ensure compliance.

103. Uganda did not receive any request related to ownership information in respect of companies during the review period. Accordingly, no issue in respect of availability of ownership information regarding companies was reported by peers.

104. Uganda introduced legislative amendments in 2016 requiring companies to register ownership and identity information in respect of nominee shareholders. Although a positive step, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of nominees and take measures to address any identified deficiencies.

### ***Bearer shares (ToR A.1.2)***

105. In Uganda it is not possible to own shares in a company without having the shareholders name entered in the register of members. Membership (being a shareholder) of a company is limited to the subscribers of the memorandum, whose names shall be entered in the register of members, and every other person who agrees to become a member and whose name is entered in the register of members. Thus bearer shares as such do not exist.

106. However, section 95 of the CA provides that a company limited by shares may, if so authorised by its articles of association, issue share warrants to bearer. This form of share warrant is issued with respect to any fully paid-up share and entitles the bearer thereof to the shares specified. It also may provide for the payment of future dividends by means of coupons or otherwise. The bearer of a share warrant may, if the articles of association of the company so provide, be deemed to be a member of that company

(s. 121(5) CA). Upon delivery of the warrant, the bearer will receive the shares specified and the warrant is cancelled (s. 121(2) CA).

107. There is no requirement in Uganda for the register of members of the company to indicate that a share warrant to bearer has been issued. Although it is possible in accordance with section 181 of the CA for the Registrar of Companies to appoint one or more competent inspectors to investigate and report on the membership of any company in order to determine the true persons who are financially interested in the success or failure of the company or who are able to control or materially influence the policy of the company. This does not, however, ensure the availability of information on the owners of share warrants to bearer. Therefore, these characteristics mean that share warrants to bearer as permitted by public companies in Uganda may present the same (tax) risks as bearer shares.

108. With regards to private companies, while the law does not expressly prohibit bearer share warrants, it follows from a number of sections of the CA that private companies are not permitted to issue share warrants to bearer. First, the issuance of share warrants to bearer by a private company is prohibited in view of the restriction on the transfer of shares by private companies under section 85 of the CA. This section provides that the delivery of a proper instrument of transfer to the company is required for the company to register the share transfer. Shares, which are transferred by simple delivery of a share warrant, would be in conflict with this restriction. Secondly, Table A in the Second Schedule to the CA contains regulations for private companies and specifically provides that private companies do not have the power to issue share warrants to bearer. Although it is not mandatory for a company to adopt these regulations, they represent the recommended form as set out in the CA. The Registrar of Companies has also reported that no private company has been found in Uganda with articles of association permitting the issuance of share warrants to bearer.

109. Public companies, however, may issue share warrants to bearer. As at 15 March 2016, there were 556 public companies registered in Uganda representing approximately 0.4% of the total registered companies in Uganda. A total of 16 public companies are listed on the Uganda Securities Exchange and subject to disclosure requirements set out in the Uganda Securities Exchange Listings Rules 2003. Pursuant to the requirements as set out under the Third Schedule of the CA, the annual return must specify the total amount of shares for which share warrants to bearer are outstanding since the date of the last return and the total amount of share warrants to bearer issued and surrendered since the date of the last return. While there is no requirement for ownership information on the share warrants to be provided, this requirement ensures that the Registrar of Companies is aware of all share warrants that have been issued and that are in existence in Uganda. The Registrar has reported that, in a comprehensive search of public companies, none were found to

have provision for the issuance of bearer share warrants in their Articles of Association. This has been (re)confirmed in the context of Phase 2.

110. Further, the Ugandan authorities have confirmed that the provision allowing for the issuance of share warrants to bearer is due to be abolished following legal reforms. However, at present, no provisions exist to identify the owners of share warrants to bearer, with the result that ownership information in respect of public companies is currently not ensured in Uganda. While there is no evidence of any share warrants to bearer in existence, it is recommended that Uganda introduces legal requirements to ensure the availability of ownership information in respect of bearers of share warrants in all cases.

111. In practice peers did not flag any issues regarding share warrants to bearer in respect of Public Companies during the period under review. The Ugandan competent authority, confirms that it did not encounter any requests for this type of ownership information or any other practical difficulties in this respect either.

### *Partnerships (ToR A.1.3)*

112. Under the Partnership Act a partnership is defined as “the relation which subsists between persons carrying on a business in common with a view of profit” (s. 2(1) Partnership Act). In Uganda there is currently one form of partnership available and it is not possible to create limited liability partnerships.

113. In a partnership in Uganda, every partner is liable jointly with the other partners for all debts and obligations of the firm (partnership) incurred while he or she is a partner (s. 10 Partnership Act).

### *Registration of partnerships*

114. Partnerships are required to register with the Registrar which is provided by the Uganda Registration Services Bureau and upon doing so must submit a statement of particulars containing the following information as set out in section 4 of the Business Names Registration Act Cap 109 (1919):

1. Name of the partnership;
2. Principal place of business;
3. Name, former name, age, nationality, usual place of residence and any other business occupation of the partners;
4. Where a corporate is a partner – corporate name and registered or principal office will be declared;
5. Date of commencement of the partnership.



115. As of 15 March 2016, there were 47 701 Partnerships registered in Uganda. If there is a change in any of the details registered in respect of the partnership, the partnership must send a written statement to the Registrar setting out the change and the date of the change within 14 days. If this is not done, every partner in the firm commits an offence and is liable to a daily penalty of UGX 150 (USD 0.045), similarly the court can order a statement of the change to be sent to the Registrar within a certain time period (s. 8 Business Names Registration Act Cap 109 (1919)).

116. These registration requirements and the obligation to submit any change ensure the availability of ownership information in respect of partnerships formed under Ugandan law and carrying on a business in Uganda. Regarding supervision and oversight by the Registrar reference can be made to the procedures for companies as discussed above.

### *Tax law*

117. Partnerships are considered transparent for tax purposes, which means that the partners are taxed separately for their share in the partnership's income and will be required to file an annual tax return in respect of this income (s. 67 ITA). The gross income of a resident partner for a year of income includes the partner's share of partnership income for that year and the gross income of a non-resident partner includes the share attributable to sources in Uganda (s. 67 (1) and (2) ITA). The partnership is also required to file a tax return but is not liable to pay tax on the income (s. 65(3) ITA). Information contained in the partnership return includes details of the identity of the partners (age, gender, profession, permanent address, telephone and place of residence.) A partnership is considered resident in Uganda if at any time during the assessment year a partner of the partnership was resident in Uganda (s. 12 ITA). A non-resident (foreign) partnership carrying on business in Uganda would be required to comply with the same tax filing requirements applicable to resident partnerships. Regarding supervision and oversight by the URA reference can be made to the procedures for companies as discussed above.

### *Conclusion and practice*

118. All partnerships carrying on a business in Uganda (including foreign partnerships carrying on business in Uganda) must be registered with the Registrar and details of all partners must be submitted.

119. All partnerships must be registered for tax purposes and are subject to annual tax return filing requirements. These obligations ensure that ownership information regarding all partnerships incorporated in Uganda,

carrying on business, or with income, deductions or credits for tax purposes will be made available.

120. Uganda did not receive any request related to ownership information of a partnership during the review period. Accordingly, no issue in respect of availability of ownership information regarding partnerships was reported by peers.

### *Trusts (ToR A.1.4)*

121. Trusts are recognised in Uganda under both common and statutory law. At common law, trusts are generally created when assets are transferred by a person (the settlor) to a trustee for the benefit of another person (the beneficiary). There are no prohibitions for a Ugandan resident to act as a trustee or otherwise in a fiduciary capacity in relation to a trust formed in Uganda or under foreign law. Likewise, there are no apparent prohibitions for a resident of Uganda from administering a trust or acting as a protector of a trust governed under foreign law. The law of trusts in Uganda is derived from the common law and the United Kingdom Trustees Act of 1860. Trust law was developed by the English Courts of equity and is a part of the common law which evolved into the laws of Uganda and is still retained as part of the existing law (s. 14 Judicature Act Cap 13).

122. The other statutes concerning trusts in Uganda are the Trustees Incorporation Act Cap 154 (1939)<sup>7</sup>, The Trustees Act Cap 164 (1954)<sup>8</sup>, Public Trustee Act Cap 161 (1937). The Public Trustee Act regulates the public trustee managed at the Administrator General's office<sup>9</sup>. As a general rule, for any trust business conducted in Uganda, the same legal and regulatory framework applies regardless of whether the settlors are resident or non-resident, or whether assets settled in the trust are located within Uganda or outside.

- 
7. The Trustees Incorporation Act provides for the incorporation of the trustees of certain bodies and associations of persons. Trustees may be appointed by any body or any association of persons established for any religious, educational, literary, scientific, social or charitable purpose and may apply to the Minister for a certificate of registration of the trustees or trustee as a corporate body.
  8. The Trustee Act sets out the powers that may be exercised by Ugandan resident trustees administering trusts in Uganda. These powers include the power to sell trust property, employ agents and to delegate trust functions.
  9. The Public Trustee Act creates the office of the Public Trustee and provides the holder with corporate status. The Public Trustee then operates as a trustee empowered by the Minister to administer the properties of mentally incapacitated persons. If the trust instrument does not state all the powers of the trustee and the rights of the beneficiaries, the Courts are left to follow English common law on trusts.

### *Tax Filing*

123. The income of a trust is taxed either on the trustees or the beneficiaries (s. 71(1) ITA). All trusts that are resident in Uganda are taxable on the worldwide income for that year; all foreign trusts are taxable on any Ugandan-source income for that year (s. 72(6) and (7) ITA). A trust is considered resident in Uganda if it was established (i.e. created) in Uganda, if a trustee of the trust was resident in Uganda or if the trust has its management and control exercised in Uganda (s. 11 ITA). Upon registration with the URA, the trust deed must be attached which contains details of the settlors, trustees, beneficiaries of the trust or the class of beneficiaries, along with the subject matter of the trust. As of November 2014, there were 1 047 trusts registered with the URA.

124. The income of trusts is deemed to be income of the trustee, with the tax on this income payable either by the trustee or the beneficiaries (s. 71(1) ITA). Section 16(8)(a)TPCA obliges all persons with chargeable income to file an annual tax return with the URA. Trustees are required to file returns in accordance with the general provision of the TPCA 16(8)(a) TPCA). The return must state the trust's income for the year and include the names and addresses of the beneficiaries. In addition, all beneficiaries of resident or foreign trusts who receive an income from the trust would also be required to submit an annual tax return to the URA (s. 16(8)(a)TPCA).

125. Failure to furnish a return to the URA within fifteen days of the deadline is an offence and is punishable with a fine of fifteen currency points (UGX 300 000 or USD 89). If the person convicted fails to furnish the return within the period specified by the court, that person commits an offence and is liable on conviction to a fine not exceeding twenty five currency points (UGX 500 000 or USD 149) (s. 54(2) TPCA). Furthermore, a penal tax equal to the greater of 2% of the tax payable or ten currency points per month (UGX 200 000 or USD 59) is chargeable (s. 48 TPCA). Regarding supervision and oversight by the URA reference can be made to the procedures and practices in respect of companies as discussed above.

### *Trust ownership and identity information required to be held by the trust*

126. There are no statutory obligations imposed in respect of trusts for any person such as the trustee to maintain any particular identity or ownership information relating to the trust including its settlors or beneficiaries.

127. Uganda has confirmed that English common law relating to trusts and the fiduciary duties of the trustee as applicable to trustees operating in Uganda is followed and this is also set out under statute (Judicature Act). Pursuant to English common law requirements, for a trust to be valid, the trust needs to meet the three certainties: the certainty of intention, the

certainty of subject matter and the certainty of object. This means that a trust is only valid if evidenced by a clear intention on behalf of the settlor to create a trust, clarity as to the assets that constitute the trust property and identifiable beneficiaries (*Knight v. Knight* (1849) 3 Beav 148). A written declaration of trust may not exist or not identify the settlor on the face of the document. However, trustees have a duty of care to act in accordance with the wishes of the settlor. As a matter of good practice trustees would keep sufficient records to enable them to perform their duties.

128. Trustees should obtain “good receipt” from beneficiaries when they distribute trust property. This requires trustees *inter alia* to establish that the person receiving the trust property is the correct beneficiary of the trust property being distributed (*Evans v. Hickson* (1861) 30 Beav 136). The trustee is obligated to administer the trust solely in the interests of the beneficiaries. Therefore, as a matter of good practice, it is likely that the beneficiaries of the trust or the class of beneficiaries will have to be made clearly identifiable in the trust deed.

129. In the event of non-compliance with these duties by the trustee, beneficiaries have the right to enforce the trust (*Beswick v Beswick* [1968] AC 58). In such circumstances, the settlor or beneficiaries can commence legal proceedings against the trustee. In the case of foreign trusts having a trustee resident in Uganda, it is not certain whether the law of the trust would conform with the common law obligations under Ugandan law. Ugandan authorities have indicated that they are not aware of any (foreign) trusts being active in Uganda.

### *Information held by service providers*

130. The AMLA defines service providers as financial institutions, advocates, notaries, accountants, other legal professionals, a board of executors or a trust company or any other person that invests, keeps in safe custody, controls, or administers trust property within the meaning of the Trustees Act, casinos, real estate agents, dealers in precious metals and gems, trust and company service providers, brokers, dealers, investment advisors, insurance companies, licensing authorities in Uganda, NGOs, churches and other charitable organisations along with all other persons conducting the business of private banking, lending, financial leasing, etc. (Second Schedule AMLA). As such, all trustees acting in a professional capacity would be caught by the provisions of the AMLA. Service providers that come within the scope of the AML regime (see section A.1.1 *Ownership information held by service providers*) are obliged to undertake customer due diligence to verify the identity of the beneficial owner of the account in the case of legal persons and other arrangements (s. 6(c)(ii) AMLA). In addition, service providers are required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting a transaction for an occasional customer (s. 6(d) AMLA).

131. All such service providers are required to hold information obtained regarding the true identity of the person on whose behalf a business relationship is initiated or a transaction is conducted for at least ten years (s. 7 AMLA), similarly records relating to business relations should be held for at least ten years after their conclusion. Records on customer identification, account files, and business correspondence should be held for at least five years after the account has been closed. Furthermore, there is a requirement to hold records to enable the reconstruction of transactions that need to be reported under the act for at least ten years after the conclusion of the transaction. Such records include the parties to the transaction and their addresses, date of the transaction, types of currency involved, the accounts involved and the documents obtained to verify the identity of the client (s. 7 AMLA). The requirement under the AMLA for service providers covered by the AMLA to identify the beneficial owners of a trust ensures that identity information regarding the settlors and beneficiaries of the trust would be available.

132. As noted above, AML-accountable persons must in all cases perform ongoing monitoring of customers' business relationships as well as regularly review and update identity information held on their customers. AML-related supervision on trust and company service providers is exercised by the FIA. This includes requirements to verify the identity of their customers through CDD. However, as noted above in respect of supervision on service providers in respect of nominees, the AML/CFT regime is relatively new, with the enactment of the AMLA in late 2013 and the FIA being established in 2014. As such most of the reporting entities are in the very early stages of designing and implementing the preventive measures prescribed by the AMLA. As noted, these measures and related supervision activities therefore remain to be sufficiently tested. Uganda should monitor the implementation of the AML legislation and take measures to address any identified deficiencies.

133. Non-professional trustees of foreign trusts are not covered under Uganda's AML laws. However, Ugandan officials report not having seen (foreign) trusts or related services in Uganda. Peer input did not indicate any issue in this respect either. Ugandan authorities have indicated, and feedback from peers has confirmed, that there have been no requests for this type of information during the review period.

### *Conclusion and practice*

134. All Ugandan trusts and foreign trusts chargeable to tax in Uganda must be registered for tax purposes and file the trust deed which includes information on the settlors, trustees and beneficiaries, in addition they must file an annual tax return with the URA detailing ownership information in respect of the beneficiaries. Trustees may also be under a common law duty to be able to identify the settlors and beneficiaries of the trust. In many cases,

the identity of beneficiaries and settlors would have to be established by the trustee because the trustee acts in a professional capacity and is subject to the AML regime or where they transact with or engage a service provider subject to the AML regime. As such, ownership information in respect of trusts would generally be available in Uganda.

135. Where a trust is created under the laws of Uganda which has no other connection with Uganda, there may be no information about the trust available in Uganda. In these situations trust information should be available in the jurisdiction where the trustee is located as the relevant records would be situated there.

136. In practice AML-related supervision on company service providers is in the hands of the FIA. This includes requirements to verify the identity of their customers through CDD.

137. However, as noted above, the AML/CFT regime is relatively new, with the enactment of the AMLA in late 2013 and the FIA being established in 2014. As such most of the reporting entities are in the very early stages of designing and implementing the preventive measures prescribed by the AMLA. These measures and related supervision activities therefore remain to be sufficiently tested. Uganda should monitor the implementation of the AML legislation and take measures to address any identified deficiencies.

138. Ugandan officials report not having seen (foreign) trusts or related services in Uganda. Peer input did not indicate any issue in this respect either. Ugandan authorities have indicated, and feedback from peers has confirmed, that there have been no requests for this type of information during the review period.

### ***Foundations (ToR A.1.5)***

139. The Ugandan legal and regulatory framework does not provide for the establishment of foundations. Consequently no issues came up in practice.

### ***Other relevant entities and arrangements***

140. Under the Co-operative Societies Act Cap 112 (CSA), co-operative societies can be established for the promotion of the welfare and economic interests of their members. The following types of co-operative societies can be formed in Uganda:

- Primary society: a registered society under the terms of the CSA, the membership of which is restricted to individual persons and must consist of at least 30 members;
- Secondary society: a society formed by two or more primary societies;

- Apex society: a society formed by two or more secondary societies;
- Co-operative union: a registered society under the terms of the CSA, the membership of which is restricted to primary societies

141. As at 31 December 2015, there were 16 603 co-operative societies registered in Uganda.

142. According to section 15 of the CSA, no company incorporated or registered under the Companies Act and no unincorporated body of persons can become a member of a registered society, except with permission of the Registrar of co-operative societies. No member is permitted to be a member of more than one registered society with unlimited liability.

143. Co-operative societies are required to maintain a register of members and any such register or list of members or of shares which is kept by any registered society is evidence of the date on which the person was entered in the register or list of members, or the date on which such person ceased to be a member (s. 39 CSA).

144. Primary co-operative societies must have at least thirty members, who must be individuals over eighteen years of age and resident within or in occupation of land within the society's area of operation as prescribed by the relevant bylaw (s. 13 CSA). The word "co-operative" has to form part of the name of the co-operative society (s. 11 CSA) and only co-operative societies that have been given approval via the Registrar of co-operative societies may trade or carry on a business under any name that includes the word "co-operative" (s. 78 CSA). Therefore, all co-operative societies must be registered and must have as their objective to promote the economic and social interests of their members in accordance with the co-operative principles (s. 3 CSA).

145. If the Registrar of co-operative societies is satisfied that a society has complied with the CSA and regulations made under it and that its proposed bylaws are not contrary to the provisions of the CSA, he or she will register the society and its bylaws on probation for a period not exceeding twenty-four months. If at the expiration of twenty-four months the Registrar of co-operative societies is satisfied with the performance of the society, he or she will register the society permanently. If not, the Registrar of co-operative societies can either cancel the registration or extend the probationary period by a further 12 months. If after extension, the Registrar of co-operative societies is still not satisfied, he or she will cancel the registration. The society registered on probation is required to indicate this in all official publications and outside any premises, failure to do so is an offence and the society and any officer operating on its behalf is liable to a fine of maximum UGX 10 000 (USD 3) and in the case of a continuing offence a further daily fine of UGX 1 000 (USD 0.30). Failure to register a co-operative society amounts to an offence

by the society, officer or member and a possible fine of maximum UGX 5 000 (USD 1.50) or imprisonment of maximum six months (s. 80 CSA).

146. Co-operative societies must submit a registered address at the time of registration and must notify the Commission of any changes to this address within one month from the date of the change (s. 20 CSA). Co-operative societies are obliged to keep a list of members at their registered address which is open to inspection by any person free of charge at all times during business hours (s. 21 CSA).

147. In addition, the register of members of a co-operative society must contain details of the date on which any person became a member and the date on which they ceased to be a member (s. 39 CSA) (although there is no requirement to indicate the number of shares held by each member). Any changes to membership must therefore be recorded.

148. To ensure that co-operatives keep up to date information, they are required to file annual returns with the Registrar of co-operative societies. These returns are a basis for off-site and on-site inspections which are carried out to check for compliance. In situations where some co-operatives are found to be non-compliant, letters/circulars are sent to affected societies, with emphasis on the areas of non-compliance and its implications (S.80 CSA, Regulations 12(2), 37 of the Co-operative Societies Regulation, 1992. Uganda reports that no penalties have been registered but advice is given on the importance of maintaining an up-to-date members' register.

149. Uganda was able to provide statistical information regarding inspections and audits that were carried out for the year 2015. This included the following actions:

- 21 inspections were carried out on Co-operative Societies and respective reports presented to the Boards and members at their general meetings.
- 4 audits were carried out on Co-operatives and reports presented to members at their Annual general meeting.
- Special investigations in 2 Societies were carried out and reports produced.

150. For tax purposes, co-operative societies are treated the same as companies and will therefore be subject to the penalties for non-registration and non-filing of tax returns under the TPCA as set out above. Regarding supervision and oversight by the URA reference can be made to the procedures and practices in respect of companies as discussed above.

151. Uganda did not receive any request related to ownership information of a co-operative society during the review period. Accordingly, no issue in



respect of availability of ownership information regarding co-operative societies was reported by peers.

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

152. Jurisdictions should have in place effective enforcement provisions to ensure the availability of ownership and identity information, one possibility among others being sufficiently strong compulsory powers to access the information. This subsection of the report assesses whether the provisions requiring the availability of information with the public authorities or within the entities reviewed in section A.1 are enforceable and failures are punishable.

153. Companies and co-operative societies are required to keep a register of members. For companies, not keeping a register of members can lead to a daily fine of twenty five currency points (UGX 500 000 or USD 149) being enforced on the company and any officer in default (s. 119(6)). The obligation by companies to keep a register of members is monitored by the Uganda Registration Services Bureau (URSB). No specific statistics are available regarding the number of cases where this specific penalty has been applied by the URSB in practice. However, as noted above, the URSB publishes print and electronic media and on its website a list of companies that have failed to comply with the provisions of the Companies (filing Returns of Allotment, notification of the situation of registered office and postal address and of change therein, complete and file annual returns of particulars of directors and secretaries). This also includes ownership information. The Register of Legal Entities requires all registered entities to file an annual return indicating address, situation of registers of Members and Debenture – holders, share capital and debentures issued, particulars of indebtedness, list of past and present members, particulars of directors and secretaries as well as certificates and other documents accompanying the annual return. Therefore, details of ownership information are covered under these requirements. In 2014, a total of 1731 companies were published as having failed to file annual returns for five consecutive years and so were asked to show cause or be struck off the list of registered companies. In total three companies have been struck off the list of registered companies as a result of failure to comply with these filing requirements.

154. The Co-operatives are governed by the Registrar of Co-operative Societies. The Registrar of Co-operatives monitors compliance to maintain a register of members assisted by District Commercial and Co-operative Officers. He maintains a register of all registered co-operatives, and a register of annual returns from which off-site inspection is carried out to check for compliance. In situations where some co-operatives are found to be

non-compliant, letters/circulars are sent to affected societies, with emphasis on the areas of non-compliance and its implications (S.80 CSA, Regulations 12(2), 37 of the Co-operative Societies Regulation, 1992). Uganda reports that no penalties have been registered but advice is given on the importance of maintaining an up-to-date members' register. Uganda was able to provide statistical information regarding inspections and audits that were carried out for the year 2015. This included the following actions:

- 21 inspections were carried out on Co-operative Societies and respective reports presented to the Boards and members at their general meetings.
- 4 audits were carried out on Co-operatives and reports presented to members at their Annual general meeting.
- Special investigations in 2 Societies were carried out and reports produced.

155. Foreign companies are also under an obligation to register with the Registrar of Companies, failure to do so or failure to provide details of changes to the charter, statutes or memorandum and articles of association; to the details of the directors or secretary; to the name or address of the persons authorised to accept service on behalf of the company or to the address of the registered office of the company within 60 days can lead to a fine of 1 000 currency points (UGX 20 000 000 or USD 5 945) being imposed on the company and officer in default. If the offence continues, a daily fine of five currency points (UGX 100 000 or USD 30) can be imposed (ss. 254 and 260 CA). The authority that monitors compliance with the obligations by foreign companies to register is the URSB. To ensure compliance with the obligation the URSB requires all companies to file annual returns without which no changes can be made on the company file. This requirement imposes a duty on them to provide updated information on their affairs and also provide required information both for tax purposes and regulatory purposes. Regarding monitoring actions and enforcement reference can be made to the procedures and practices in respect of companies as discussed above.

156. Where a co-operative society does not comply with the requirement to maintain a register of members, a fine of maximum UGX 5 000 (USD 1.50) or imprisonment of six months maximum can be imposed on the co-operative society and any officer or member in default (s.80 CSA). The Registrar of Co-operatives monitors compliance with the obligation to maintain a register of members assisted by District Commercial/Co-operative Officers Regarding monitoring actions and enforcement reference can be made to the procedures and practices in respect of co-operatives as discussed above.

157. A company which has more than fifty members is required to keep an index of the names of the members of the company if the register itself

is not in the form of an index. Any changes in the register must also be reflected in the index within 14 days after the date on which the change occurs (s. 120(1) CA). The index must be kept in the same place as the register of members (s. 120 (3) CA). Failure to comply with these provisions can lead to a daily fine of twenty five currency points (UGX 500 000 or USD 149) being enforced on the company and any officer in default (s. 120(4) CA). The authority that monitors compliance with the obligations by companies to register is the URSB. To ensure compliance with the obligation the URSB requires all companies to file annual returns without which no changes can be made on the company file. This requirement imposes a duty on them to provide updated information on their affairs and also provide required information both for tax purposes and regulatory purposes. Regarding monitoring actions and enforcement, reference can be made to the procedures and practices in respect of companies as discussed above.

158. Domestic companies must also provide an annual return containing updated information on members to the Registrar of Companies. For companies that do not comply with annual filing requirements, this can lead to a default fine being imposed on the company and any officer in default of twenty five currency points (UGX 500 000 or USD 149) (sections 132(4) and 133(3) CA). If a company does not submit annual returns for a period of over five years, the Registrar of Companies will require the company to file a statement of insolvency and ask the company to demonstrate why it should not be struck off the register (s. 134(5) CA) if the company does not demonstrate why it should not be struck off the register, the Registrar of Companies will publish in the press the details of the striking off of the company from the register. Regarding monitoring actions and enforcement, reference can be made to the procedures and practices as described in the previous paragraph.

159. Companies must register their initial members with the URA. Foreign companies must also register for tax purposes and submit their memorandum at the time of registration which may contain membership information. Additionally, domestic companies and foreign companies that are tax resident in Uganda must file an annual tax return which contains ownership information in respect of shareholders holding at least 10% of the company's shares. Failure to file a tax return amounts to an offence and will lead to a penalty of the greater of 2% of the tax payable or 10 currency points (UGX 200 000 or USD 59) per month for the period the return is outstanding (s. 48 TPCA). The URA monitors compliance with the obligations to register for tax purposes. Although no specific statistics are available regarding the penalties levied on the basis of s. 48 TPCA, Uganda was able to present a broader picture of how registration and filing of tax returns are ensured in practice, including ways to enhance voluntary compliance. Regarding monitoring actions and enforcement reference can be made to the procedures and practices in respect of companies as discussed under element A.1.1 above.

160. Partnerships must register with the Uganda Registration Services Bureau. Upon registration details of each partner must be furnished. Changes are required to be updated. Partnerships also have to register for tax purposes and will be subject to annual filing requirements with updated ownership information. Failure to file a tax return amounts to an offence and will lead to a penalty of the greater of 2% of the tax payable or 10 currency points (UGX 200 000 or USD 59) per month for the period the return is outstanding (s. 48 TPCA). The URA monitors compliance with the obligations to register for tax purposes and to file tax returns in the same way as for companies.

161. All trustees subject to tax are under an obligation to file an annual tax return. Failure to file a tax return amounts to an offence and will lead to a penalty of the greater of 2% of the tax payable or 10 currency points (UGX 200 000 or USD 69) per month for the period the return is outstanding (s. 151 ITA). In respect of trustees of ordinary trusts, in the event of non-compliance with their duties under common law, the settlor or beneficiaries can commence legal proceedings which may result in fines or other penalties such as injunctions being enforced on the trustee. The URA monitors compliance with the obligations to register for tax purposes and to file tax returns.

162. Service providers that come within the scope of the AML regime (see section A.1.1 *Ownership information held by service providers*) are obliged to undertake customer due diligence to verify the identity of the beneficial owner of the account in the case of legal persons and other arrangements (s. 6 AMLA). Failure to carry out CDD or to maintain the documentation for at least seven years can lead to imprisonment for up to five years or a fine of up to 33 000 currency points (UGX 660 000 000 or USD 196 195) or both (s. 120 and 136 AMLA). Where the offence is committed by a legal person, punishment is in the form of a fine of up to 70 000 currency points (UGX 1 400 000 000 or USD 416 171) (s. 136 AMLA). As noted, Uganda's AML/CFT regime is relatively new, with the enactment of the AMLA in late 2013 and the FIA being established in 2014. As such most of the reporting entities are in the very early stages of designing and implementing the preventive measures prescribed by the AMLA. For this reason no penalties have yet been meted out to any accountable person as sensitisation and awareness are being carried out. This has been described in more detail in the context of element A.1.1 above. As noted there, these measures and related supervision activities remain to be sufficiently tested, and Uganda should therefore monitor the implementation of the AML legislation and take measures to address any identified deficiencies.

163. All co-operative societies must be registered. Any person carrying on business as a co-operative society without registration shall be subject to penalties. Failure to register a co-operative society amounts to an offence by the society, officer or member and a possible fine of maximum UGX 5 000 (USD 1.50) or imprisonment of six months maximum (s. 80 CSA). The

Registrar of Co-operatives is mandated to monitor and regulate the activities of Co-operatives in Uganda. In practice, the Department of Co-operatives within the Ministry of Industry, Trade and Co-operatives holds the function of Registrar of Co-operative Societies. To ensure that co-operatives keep up to date information, they are required to file annual returns with the Registrar of Co-operative Societies. These returns are a basis for off-site and on-site inspection which is carried out to check for compliance. Regarding monitoring actions and enforcement, reference can be made to the procedures and practices in respect of co-operatives as discussed at the beginning of this section and under element A.1.5 above. As noted there audits and inspections have been carried out. No penalties have been registered in these cases, but concrete actions have been taken in these cases to enhance voluntary compliance.

164. Enforcement provisions are in place in respect of the relevant obligations to maintain ownership and identity information for all relevant entities and arrangements. Enforcement provisions are adequately applied in practice and generally ensure that ownership information with regard to the relevant entities is available.

#### Determination and factors underlying recommendations

Phase 1 determination	
<b>The element is in place, but certain aspects of the legal implementation of the element need improvement.</b>	
Factors underlying recommendations	Recommendations
Although bearer shares cannot be issued, the issuance of share warrants to bearer is allowed by public companies. There are currently no legal requirements to identify the owners of share warrants to bearer in public companies.	Uganda should ensure the availability of ownership information in respect of bearers of share warrants in all cases.
Phase 2 rating	
<b>Largely Compliant</b>	
Factors underlying recommendations	Recommendations
Uganda introduced legislative amendments in 2016 requiring companies to register ownership and identity information in respect of nominee shareholders.	Uganda should monitor the implementation of the newly introduced legislation in respect of nominees and take measures to address any identified deficiencies

## A.2. Accounting records

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

165. A condition for exchange of information for tax purposes to be effective is that reliable information, foreseeably relevant to the tax requirements of a requesting jurisdiction, is available, or can be made available, in a timely manner. This requires clear rules regarding the maintenance of accounting records.

### *General requirements (ToR A.2.1)*

166. The Companies Act 2012 provides for accounting and auditing requirements for all private and public companies. On this basis, every company is responsible for ensuring that proper books of account are kept that explain all monies received and expended by the company and the matters in respect of which the receipt and expenditure takes place, all sales and purchases of goods by the company and its assets and liabilities (s. 154(1) CA). Such books of account must give a true and fair view of the state of the company's affairs and must explain its transactions (s. 154(2) CA). The books of account must be maintained at the registered office of the company or at such other place in Uganda as the directors think fit and shall at all times be open to inspection by the directors (s. 154(3) CA). If a director of a company fails to take all reasonable steps to comply with these obligations, he/she is subject to a fine not exceeding 100 currency points (UGX 2 000 000 or USD 594) or to imprisonment not exceeding one year, or both (s. 154(4) CA) however imprisonment will only be applied if the offence is committed wilfully (s. 154(5) (b) CA). The act indicates that it will be a defence for a company director to prove that he or she had reasonable grounds to believe and did believe that a competent and reliable person was charged with the duty of seeing that the requirements were complied with and was in a position to discharge that duty (s. 154(5)(a) CA).

167. Company directors are required to annually prepare a profit and loss account and balance sheet for the general meeting. Not complying with this requirement can lead to imprisonment of up to five years or a fine of up to 1 000 currency points (UGX 20 000 000 or USD 5 945), or both (s. 155 CA). Section 256(1) of the CA provides that every foreign company shall, in every calendar year, make out a balance sheet and profit and loss account and deliver copies of those documents to the registrar for registration. There is an exception to this provision in s.256(2) which states that a foreign company does not have to comply with s.256(1) if it was incorporated in any part of the Commonwealth. As such, section 256(2) implies that a foreign company

incorporated in any part of the Commonwealth is not legally obliged to keep books of accounts nor to prepare a balance sheet, in accordance with section 154 and 155 of the CA. However, as for domestic companies, companies incorporated in the Commonwealth that are managed and controlled in Uganda will be considered tax resident in Uganda (s. 10 ITA) and therefore required to submit accounting information with their tax returns. As such the information will be available in Uganda.

168. Where the Registrar of Companies has reasonable cause to believe that any provisions of the Act, including the obligation to maintain accounting records, is not being complied with, it may call on the company to produce this information, including accounting records, for inspection at any time (s. 172(1) CA), any refusal to do so can result in a penalty of 100 currency points (UGX 2 000 000 or USD 594) or imprisonment of up to one year. If the Registrar of Companies finds the information or explanation provided to be unsatisfactory, the circumstances of the case will be reported to the court (s. 172(5) CA).

169. Every partner in a partnership is bound to render true accounts and full information of all things affecting the partnership to any partner or his or her legal representatives (s. 31 PA). Partners that fail to maintain accounting records are subject to the penalties set out under S.48 TPCA (see section *Tax law obligations* below).

170. At common law, all trustees of Ugandan trusts are subject to a fiduciary duty to the beneficiaries to keep proper records and accounts of their trusteeship. In addition, all resident trusts in Uganda will be subject to statutory requirements to maintain accounting records necessary for computing tax as prescribed by the ITA and set out below. Pursuant to the Judicature Act, the principles set out under English common law, including those pertaining to the fiduciary duties of trustees, are followed in Uganda. Under common law, all trustees are subject to a fiduciary duty to the beneficiaries to keep proper records and accounts of their trusteeship. Uganda has reported that the common law requirements are those principles as set out under English common law. It is a well-established principle of English common law that it is the “duty of a trustee to keep clear and distinct accounts of the property he administers and to be constantly ready with his accounts”. These accounts should be open for inspection at all times by the beneficiary and should trustees default in rendering their accounts, the beneficiary is entitled to have the accounts seized by the court. In that event, trustees would be held liable for paying the costs of the order and in certain cases may also be removed. Furthermore, where trustees are found guilty of active breaches of trust or wilful default or omission, they may be held personally liable for any loss. In practice the Uganda Revenue Authority is the supervisory body that monitors whether relevant tax payers, including trusts in Uganda maintain

proper records for purposes of computing tax as prescribed by the ITA and TPCA. Ugandan officials report not having seen trusts or related services in Uganda. Peer input did not indicate any issue in this respect either. Ugandan authorities have indicated, and feedback from peers has confirmed, that there have been no requests for this type of information during the review period

171. In addition, all co-operative societies with income deemed to have accrued in or to be derived from Uganda will be subject to statutory requirements to maintain accounting records as prescribed by s. 15 TPCA and set out below. The accounts of every co-operative society must be audited by an approved auditor annually (s. 22(1) CSA) and must file a copy of the balance sheet and audited accounts to the Registrar of co-operative societies within three months after the end of the financial year (s. 22(5) CSA). Failure to have these accounts audited shall result in the committee of that society being deemed to have relinquished its office. The Registrar of co-operative societies will then convene a special general meeting to elect a new committee unless the registrar is satisfied that the failure was due to circumstances beyond the committee's control (s. 22(5) CSA).

172. Co-operatives fall under the ambits of the Registrar of Co-operatives. In practice, the Department of Co-operatives within the Ministry of Industry, Trade and Co-operatives holds the function of Registrar of Co-operative Societies and will also provide audit related services to co-operatives that are in need of such assistance. As noted, co-operatives do file annual returns with the Registrar of Co-operative Societies, including a copy of the balance sheet and audited accounts. These returns are a basis for off-site inspections which are carried out to check for compliance. The Registrar also carries out on-site inspection to check for compliance. These inspections follow a basic check list. This list includes a check of the Audited financial statements of the previous financial years. In cases of non-compliance, letters/circulars are written to affected societies, with emphasis on the areas of non-compliance and its implications. No penalties have been registered but advice is given on the importance of maintaining an up-to-date members' register. Uganda was able to provide further statistics regarding supervisory actions that were undertaken in 2015, including:

- 21 inspections were carried out on Co-operative Societies and respective reports presented to the Boards and members at their general meetings.
- 4 audits were carried out on Co-operatives and reports presented to members at their Annual general meeting.
- Special investigations in 2 Societies were carried out and reports produced. This enabled the members to make informed decisions.



173. With these supervisory actions, in combination with the audit service provided by the Department of Co-operatives within the Ministry of Industry, it is sufficiently ensured that accounting records and underlying documentation in respect of co-operatives are available. No issues in this respect came up in practice.

### *Tax law obligations*

174. Any person carrying on business will be subject to the requirement to file a tax return (s. 16 TPCA). The tax return contains a section for income statements and balance sheet line items which must be completed. Similarly, up until July 2016, section 129 of the ITA provided that that all taxpayers are required to keep in Uganda such records as may be necessary to explain the information provided in a tax return or to enable an accurate determination of the tax payable by the taxpayer. The TPCA entered into force as of 1 July 2016 and repealed relevant sections of the ITA, including section 129 of the ITA, and consolidated the tax procedures that were previously dealt with under various tax laws. Section 15 of the TPCA provides that all taxpayers are required to keep such records as may be necessary to explain the information provided in a tax return or to enable an accurate determination of the tax payable by the taxpayer.

175. Any person who contravenes this requirement is liable to a penalty not exceeding 100 currency points (UGX 2 000 000 or USD 686) (s. 54 TPCA).

176. Similar to companies, partners will be also subject to the obligations as outlined above to maintain accounting records for tax purposes. Partners who contravene this requirement are liable to a penalty not exceeding 25 currency points (UGX 2 000 000 or USD 686) (s. 49 TPCA) for failure to file returns and a penalty not exceeding 48 currency points (UGX 960 000 or USD 285) for failure to keep records.

### *Underlying documentation (ToR A.2.2)*

177. The accounting record keeping obligations under the CA requires proper books of account to be kept with respect to (s. 154(1) CA):

- Sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- Sales and purchases of goods by the company; and
- Assets and liabilities of the company.

178. The 2015 Phase 1 report noted that there was no requirement under the CA for companies to maintain underlying documents to accounts and returns. It noted that this represents a gap in the availability of accounting information in Uganda. Companies must be obliged to maintain documents such

as invoices, contracts, receipts, etc. Uganda is recommended to introduce consistent obligations for companies to maintain underlying documents in all cases. However, Uganda introduced legislative amendments to the Company Act in 2016 in respect of accounting records and underlying documentation requiring companies to keep and maintain proper records of all the affairs of the company including accounting records, agreements, memoranda, minutes, resolutions, decisions or other company related documents for at least seven years. Nevertheless, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of accounting records and underlying documentation and take measures to address any identified deficiencies.

179. The Partnerships Act does not define accounting records and there is no explicit provision requiring partnerships to hold underlying records. Similarly the Trustees Act does not require underlying documents to be held by the trustee. As such, Uganda is recommended to introduce consistent obligations for partnerships and trusts to maintain underlying documents in all cases.

180. In respect of co-operative societies, the accounts must be audited by an independent auditor (s. 22 CSA). The auditor is required to have access at all times to all books, accounts, papers and securities of the society and every officer of the society is required to furnish such information in regard to the transactions and working of the society as the auditor may require. Therefore, it may be expected that where there is an obligation to have the accounts audited and access to detailed documentation permitted, sufficient underlying documentation is kept in respect of all co-operative societies in Uganda.

### *Tax law obligations*

181. As indicated above, section 129 of the ITA required all taxpayers to retain in Uganda such records as may be necessary to explain the information provided in a tax return or to enable an accurate determination of the tax payable by the taxpayer. Although this provision was included almost unchanged in the TPCA, the TPCA also introduced a specific provisions (s. 3 TPCA) to clarify that the term records also includes:

- a. a book of account, document paper, register, bank statement, receipt, invoice, voucher, contract and agreement, or Customs declaration; or
- b. any information or data stored on a mechanical or electronic data storage device.

Therefore, this provision does include specific reference to underlying documents. Consequently, as of July 2016, the Tax Procedures Code Act of Uganda provides for a sufficient legal basis on which taxpayers are required

to keep underlying documentation for every kind of tax purpose. In the light of this amendment, as well as the amendment to the Companies Act described above, the factor underlying the recommendation could be removed and the element is determined to be “in place”. Nevertheless, as noted, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of accounting records and underlying documentation and take measures to address any identified deficiencies.

### ***5-year retention standard (ToR A.2.3)***

182. The tax law contains the explicit requirement that the records required to be kept must be retained for at least five years (s. 15(c) TPCA). These requirements will cover all Ugandan incorporated companies, foreign companies, co-operative societies, partnerships (including foreign partnerships) and trusts (including foreign trusts with a resident trustee) in Uganda (see also section A.2.2).

### ***Conclusions on A.2 and practice***

183. The Companies Act, the Co-operative Societies Act and the Partnership Act contain obligations for companies, partnerships and co-operative societies respectively to keep accounting books and records. Whilst the entity acts do not specify a time retention period for accounting documents to be retained, there is a clear requirement for companies, partnerships, and co-operative societies in Uganda to keep reliable accounting records for at least five years under the tax law.

184. Regarding the requirement to keep underlying documentation, it can be noted that Uganda introduced legislative amendments in 2016 requiring companies to keep and maintain proper records of all the affairs of the company including accounting records, agreements, memoranda, minutes, resolutions, decisions or other company related documents for at least seven years. Nevertheless, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested. Uganda should therefore monitor the implementation of the newly introduced legislation in respect of accounting records and underlying documentation and take measures to address any identified deficiencies. However, the scope of this amendment is limited to companies, it does not introduce a requirement on partnerships or trusts to keep underlying records. Nevertheless, as described above, as of July 2016, the Tax Procedures Code of Uganda provides for a sufficient legal basis on which taxpayers are required to keep underlying documentation for all kind of tax purposes. In the light of this amendment, as well as the amendment to the Companies Act, the factor underlying the recommendation could be removed and the element is determined to be “in place”.

185. Compliance with the requirement to maintain accounting records and underlying documentation by companies is monitored by the tax authority (URA), as well as the Registrar of Companies in respect of public companies. The Companies Act 2012 requires every company to appoint an auditor and be audited. Co-operatives fall under the ambits of the registrar of Co-operatives.

186. As noted, because of a statutory obligation, a large portion of all relevant entities and arrangements must have their accounts audited. The audits are to be carried out by licensed auditors who possess the relevant qualifications. Auditors in respect of companies are supervised by the Institute of Certified Public Accountants of Uganda (ICPAU), a professional self-governing body. In practice a number of audit reviews are conducted by a small team.

187. In addition, as noted, all companies must also file an annual return with the Registrar of Companies within 42 days of years end (ss. 132 and 133 CA). Public companies are required to submit these returns together with a balance sheet and auditors' report. The Registrar performs certain checks whether companies have failed to comply with the requirement to file annual returns. If for five consecutive years, a company fails to comply with filing requirements, it can be struck off the list of registered companies. Private companies, however, are not required to file their financial statements with the Registrar of Companies. Consequently, the Registrar is not in a position to monitor compliance with the requirement to maintain accounting records in respect of these companies.

188. However, as noted, all persons carrying on business will also be subject to the requirement to file a tax return. The tax return contains a section for income statements and balance sheet line items which must be completed. Section 15 of the TPCA provides that all taxpayers are required to keep such records as may be necessary to explain the information provided in a tax return or to enable an accurate determination of the tax payable by the taxpayer. The accounting information provided (balance sheet, income statement, tax computation/calculation) as part of the tax return can be uploaded online and flows into the so-called Integrated Tax Administration System (e-Tax). This information may be checked as part of a desk audit. Furthermore, URA may carry out an audit for a taxpayer in cases where:

- A taxpayer fails to submit a return of income;
- The Commissioner General is not satisfied with the return submitted by the taxpayer;
- In case of any other reason.

189. In case of false or misleading returns and in case of fraud or wilful neglect, there are administrative penalties that can be imposed on the taxpayer as well as prosecution in the courts of law. Investigations are carried out by the Investigative wing of the Uganda Revenue Authority before prosecution can ensue.

190. The following statistics represent the cases investigated as well as those that were presented for audit purposes. These statistics are combined for various offenses which include failure to maintain proper records. Although this number increased from 2135 in 2013/2014 to 3233 in the period 2014/2015, the number of penalties levied decreased from 461 to 378. In this respect Uganda notes that it introduced a self-disclosure regime during this period. If specific requirements are met, taxpayers are not penalised for their (former) non-compliance, even if the disclosure takes place at the start of an investigation.

Year	Number of investigations and audits	Number of penalties levied
2013/2014	2 135	461*
2014/2015	3 233	378
Total	5 368	839

\* From these penalties around 90% related to VAT cases.

### *Conclusion*

191. Compliance with the requirement to maintain accounting records and underlying documentation by companies is monitored by the tax authority (URA), as well as the Registrar of Companies in respect of public companies.

#### **Determination and factors underlying recommendations**

<b>Phase 1 determination</b>	
<b>The element is in place</b>	
<b>Phase 2 rating</b>	
<b>Largely Compliant</b>	
<b>Factors underlying recommendations</b>	<b>Recommendations</b>
Uganda introduced legislative amendments in 2016 in respect of accounting records and underlying documentation requiring companies to keep and maintain proper records of all the affairs of the company including accounting records, agreements, memoranda, minutes, resolutions, decisions or other company related documents for at least seven years. Nevertheless, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested.	Uganda should monitor the implementation of the newly introduced legislation in respect of accounting records and underlying documentation in respect of companies and take measures to address any identified deficiencies.

### A.3. Banking information

Banking information should be available for all account-holders.

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

193. No person is allowed to engage in deposit-taking or any other financial institution business without a licence issued by the Bank of Uganda (s. 4(1) Financial Institutions Act 2004 (FIA)). The Central Bank is the regulatory and supervisory body for the Ugandan banking industry. There are 30 banks in Uganda of which 25 are licensed commercial banks and five are licensed credit institutions. Of the 30 banks, 20 are foreign-owned and ten are locally owned. The BoU is the regulatory and supervisory body for the Ugandan banking industry.

194. In December 2015, the BoU estimated the total of all commercial bank assets in the country at UGX 21.72 trillion (USD 6.46 billion).

#### *Record-keeping requirements (ToR A.3.1)*

195. All financial institutions are required to keep in Uganda financial ledgers and other financial records which show a complete, true and fair state of its affairs and explain its transactions and financial position to enable the BoU to determine whether the financial institution is complying with the act (s. 46(1) and s. 46(4) FIA). These records are to be held for a period of at least ten years (s. 46(6) FIA). Similarly, banks and other financial institutions defined as “accountable persons” under the AMLA are obliged to keep records of all transactions for a period of at least ten years from the date the relevant business or transaction was completed (s. 7 AMLA).

196. Section 7 of the AMLA requires all reporting institutions to keep records of the following information in respect of all transactions:

- a. The amounts involved;
- b. The types of currency involved;
- c. The parties to the transaction and their addresses;
- d. The accounts involved;
- e. The nature of the transaction;
- f. The manner in which the identity of the client and the person acting on behalf the client was established;
- g. The name of the person who obtained the information; and
- h. The documents obtained to verify identity.

197. These records must be maintained for a period of at least ten years after termination of the business relationship.

198. The FIA is mandated to monitor compliance in respect of AML requirements by all accountable persons. The Bank of Uganda (BOU) is required to supervise all its licensees.<sup>10</sup>

199. The BoU requires banks to carry out two forms of Customer Due Diligence that is;

- Enhanced Customer Due Diligence (ECDD);
- Simplified Customer Due Diligence (SCDD)

200. Enhanced Customer Due Diligence is required of service providers for higher risk business relationships. Accountable persons are required to apply additional measures as appropriate. Some of the entities/persons that may be a target of ECDD include Politically Exposed Persons (PEPs); Non-face to face customers and Businesses originating from jurisdictions blacklisted by Financial Action Task Force (FATF)

201. Simplified Customer Due Diligence, on the other hand is required for lower risk customers, some of which may include public listed companies and Regulated Financial Institutions.

202. Most Banks have implemented or are in the process of implementing automated monitoring systems to assist in performing on-going transaction and account monitoring aimed at identifying reportable transactions. This offsite Bank Supervision Application (the BSA) is used to submit electronic returns at specified periods for continuous monitoring of the developments in each supervised institution.

203. Onsite inspections/audits are carried out in cases where problems or issues have been identified through analysis of returns or through market intelligence. These onsite visits/audits are conducted at least once a year for each supervised institution. During the period 2013 to 2015, BOU conducted on-site examinations of all the licensed commercial banks. The supervisory approach followed in the review of prudential risks by the BoU is drawing information from different sources within the BoU to come-up with a risk-rating for each bank. AML/CFT inspections, however, do not follow the same process, as inspections focus mostly on KYC requirements. The inspection team from the central bank adopts a checklist of the minimum requirements for verification of customer identity as laid down (previously) in the Anti-Money Laundering Regulations 2010 and as of 2015 in the Anti-Money Laundering Regulations in 2015.

---

10. The FIA came into force in 2014 after the AMLA was passed into law and as such it is currently in the phase of rolling out its processes like sensitisation and raising awareness.

204. The Bank of Uganda carried out on-site visits of all licensed commercial banks, credit institutions and Microfinance Deposit-taking Institutions. In addition, the Market Intelligence division of the central bank does a risk assessment of financial institutions. Their results provide input for the Bank Supervision division to carry out additional spot checks on highlighted financial institutions. The statistics from the Bank of Uganda Supervision reports are as follows;

Year	Number of on-site visits undertaken		
	Commercial banks	Credit Institutions	MDIs
2015	25	3	3
2014	24	2	3
2013	24	3	3
2012	20	2	4

205. In addition to the supervision of the BoU, all accountable persons, including Banks are required to provide reports to FIA. The FIA can also obtain information through information sharing agreements, requests for information from FIUs as well as commercial data bases.

Accountable persons are required to have in place a policy and procedures in relation to:

- Identification of Customers;
- Record Keeping;
- Reporting Suspicious Transactions and Large Cash Transactions;
- Internal Controls and Compliance Management; and
- Education and Training of Employees.

206. The following monitoring and enforcement provisions have been put in place and are derived from the powers and functions of the FIA as provided for in the AMLA;

- Issuance of production orders (s. 44 AMLA)
- Use of document search warrants (s. 44 AMLA)
- Emergency searches (s. 67 AMLA)
- Confiscation (s. 86 AMLA)

207. Failure to carry out CDD or to maintain the documentation for ten years is considered an offence (s. 120 AMLA) and can lead to imprisonment for up to five years or a fine of up to 33 000 currency points



(UGX 660 000 000 or USD 196 195) or both (s.136 AMLA). However, the relevant AML legislation (AMLA) only came into force in 2014. Following that the FIA was established as an oversight authority. As such it is just in the phase of rolling out its processes like sensitisation and raising awareness.

208. During the three-year review period, no bank information was requested by peers. Consequently no issues came up in practice.

### *Conclusion and practice*

209. The customer identification obligations and record keeping obligations set out under the AML regime require banking information to be available in Uganda for all transactions by all account holders. Compliance by banks in respect of these legal obligations is checked by the Bank of Uganda. Through their inspections, it has been established that banks keep the required information on their clients and transactions. In practice, no issues in respect of availability of bank information have been indicated by the Ugandan authorities or their peers.

#### **Determination and factors underlying recommendations**

<b>Phase 1 determination</b>
<b>The element is in place.</b>
<b>Phase 2 rating</b>
<b>Compliant</b>



## B. Access to information

### Overview

210. A variety of information may be needed in respect of the administration and enforcement of relevant tax laws and jurisdictions should have the authority to access all such information. This includes information held by banks and other financial institutions as well as information concerning the ownership and accounting information of companies or the identity of interest holders in other persons or entities. This section of the report examines whether Uganda's legal and regulatory framework gives to its competent authority access powers that cover all relevant persons and information, and whether the rights and safeguards that are in place would be compatible with effective exchange of information. It also assesses the effectiveness of this framework in practice.

211. The URA has broad access powers derived from a number of general provisions within the ITA as well as under section 41 of the TPCA which permit the Commissioner to obtain ownership, banking and accounting information. The power to search buildings and seize documents is also provided for. In addition, penalties including imprisonment and administrative fines may be imposed where a person fails to produce the information requested. Any secrecy obligations, including bank secrecy, are waived when a person is asked to produce information. Attorney-client privilege as defined in the law must be respected but there is an exception to privilege set out in the access powers of the tax administration which ensures that this is in line with the international standard.

212. During the review period, the Ugandan competent authority was able to access information to reply to EOI requests concerning a variety of information, including the physical addresses of individuals (3 requests); a proof of residence of individuals, income and capital of individuals, property ownership of individuals (5 requests), as well as information related to a Mutual Agreement Procedure Information (1 case). The requested information was provided within 90 days in all cases

213. Ownership and identity information, accounting or banking information has not been requested in the three-year review period. Requests could be responded to in almost all cases from information available in the internal databases and tax returns, as well as taxpayers' information that is at the disposal of the EOI Unit or held at file at the tax office. Information was also obtained from other Government entities like the Ministry of Lands and the Ministry of Internal Affairs.

214. There are no statutory secrecy provisions in Ugandan law that impede effective exchange of information in tax matters and all rights and safeguards are compatible with effective exchange of information. Consequently no issues in this respect came up in practice.

### **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).

215. In Uganda, the Competent Authority designated in DTCs is the Minister of Finance, however for the DTCs with Mauritius and South Africa, the Commissioner General is designated as the Competent Authority. As of March 2014, the Minister of Finance delegated competent authority power to the Commissioner General of the Uganda Revenue Authority for all DTCs indicating the Minister of Finance as competent authority.

216. In 2014 Uganda streamlined its EOI processes and created a specific EOI unit within the Intelligence division of Tax Investigation Department of the URA. The personnel working in the Tax Investigation Department are considered skilled and experienced in working with Uganda's access powers and collecting information. All staff that's currently working in the EOI Unit was selected from this Department. The assessment team's general impression is that Uganda has put a lot of effort to understand and include best practices in creating the EOI Unit and to ensure that its processes are fully in line with the international standard.

#### ***Ownership and identity information (ToR B.1.1) and Accounting records (ToR B.1.2)***

217. The URA has broad access powers to obtain bank, ownership and identity information and accounting records from any person for domestic tax purposes as provided for in the ITA.

218. Section 41 of the TPCA provides that the Commissioner has full and free access to any premises, place, book, record or computer “for the purpose of administering any provision of tax law”. Section 42 states that the Commissioner can by notice in writing require any person (whether or not liable for tax) to furnish any information required by the notice within a time period set out in the notice. The Commissioner may also require any person to attend an examination on oath regarding their income or the income of any other person (s. 42(3)). Section 42(4)(a) notes that the access provisions have effect notwithstanding any law relating to privilege or the public interest in relation to the production of or access to documents, including in electronic format. Failure to comply with this provision is an offence and can result in a fine of 100 currency points (UGX 2 000 000 or USD 686).

219. In practice the EOI Unit has been able to collect all information for EOI purposes from the URA’s internal sources or by using section 42 of the TPCA; there was no need to carry out any enforcement actions that are provided under Section 41 of the TPCA. The information is requested by way of notice in writing by the commissioner to a third party requiring to provide information to URA. The notice will generally mention that the information is requested for a “compliance review”, and not that it is gathered for the purpose of EOI. Furthermore, section 18(2)(a) of the TPCA provides that the Tax Commissioner may require by written notice the tax payer or the tax payer’s representative (i.e. trustee), to provide a tax return by the date specified in the notice. This provision has not been applied in practice since no requests have been received from treaty partners on trusts during the three year review period.

### *Bank information*

220. The powers described above in regards to ownership and identity information apply equally where banking information must be obtained. Bank confidentiality in Uganda is provided for based on the common law principles set out in the case of *Tournier v. National Provincial and Union Bank of England*. However, the access powers of the tax administration as set out in sections 41 and 42 of the TPCA allow for sufficiently broad access to banking information and as such, banking information is accessible in Uganda.

221. Banks submit the requested information upon a written notice sent by the EOI unit. Uganda stated that it would not face any difficulties in obtaining this type of information from the banks in cases where the EOI request would have sufficient details to identify the bank as well as the person involved (either a name or an account number). In addition, Uganda also has the possibility to gather this type of information through the FIA (see below).

222. Uganda has not received any request in relation to bank information during the review period. Nevertheless, Uganda stated that it is used to request this type of information for domestic purposes almost on a daily basis and in a significant number of cases (“thousands of cases”).

### *Accounting records*

223. The powers described under the previous paragraphs apply equally where accounting information must be obtained. In practice Uganda has not received any request in relation to accounting information.

### *Gathering information in practice*

224. All EOI requests are handled by the EOI Unit. In practice several methods of gathering information for EOI purposes may be used in order to provide a reply to one request, e.g. data from the tax authorities’ database and information from third sources such as a bank, etc.

The main sources of information for the tax administration are:

- The tax databases – the main source of information of the tax administration. The EOI Unit has full access to all URA databases, known as “*e-tax*” and “*Asycuda*”. *E-tax* contains information concerning taxpayers’ registrations, tax returns including accounting records (balance sheet and profit and loss account), assessments and reports/documents regarding the taxpayer, as well as details regarding payments and tax collection. Furthermore, the database holds information regarding a variety of taxes including PAYE and VAT, amongst others. *Asycuda* is a database used by Uganda’s customs authority that contains details concerning imports and exports. It takes approximately 1-5 days for this type of information to be collected.
- Uganda Registration Services Bureau (URSB) – This typically concerns (ownership) information on companies and partnerships. The information is obtained from URSB under request using a formal letter. However, an MOU has been signed between URA and URSB further facilitating the collection of information. The URA has a specific contact person in URSB to ensure a quickened process of information gathering. The plan is to give URA access on line hence allow the EOI unit staff to access ownership information without having to request the same from the URSB contact first which is further expected to quicken the EOI request process.
- Banks (in the case of banking information) – Banks are the main source of banking information and submit the requested information

upon the request of the tax office In addition to the possibility to ask for information from the FIA.

- The taxpayer’s file at the tax office – includes tax returns, financial reports, communication between the taxpayer and assessing officer and original documentation obtained from the taxpayer or audit reports; This mainly concerns the situation where hardcopy documents are required which are kept or stored by another department or registry within URA. In these cases an internal memorandum is sent requesting for the information.
- The taxpayer – the taxpayer is typically contacted in case where the information cannot be gathered from the internal databases or other information sources. This could for instance be the case if accounting information is required. In some cases (details regarding) bank information can also be requested.
- Financial Intelligence Authority (FIA) – The FIA is mandated to implement the AML law, it has powers to obtain information concerning large amounts of cash and suspicious transactions. Through the FIA, URA can obtain all banking information and any reports submitted to FIA by the banks. Nevertheless, the EOI Unit can also collect some of this information directly from the Banks (see further below). There is an existing MOU with the FIA that allows exchanges through the identified contact persons. Uganda states that relations between URA and FIA have been good and resulted into quick and effective communication.
- Other sources such as the Ministry of Lands as well as the Minsitry of Internal Affairs.

225. The Ugandan authorities have explained that in practice several ways of gathering information for EOI purposes may be used in order to provide a reply to one request, e.g. data from the tax authorities’ database, information from third sources, etc. However, most EOI requests could be responded to based on information available in the databases or from the file kept by the local tax office. In a number of cases information was gathered from other authorities, third parties or the tax payer. In these cases information is requested by using section 42 of the TPCA. This means that a notice in writing is sent by the commissioner requiring to provide information to URA. The request specifies that the information has to be provided within seven (7) days. In case of delay an extra time period of twenty one (21) days are granted.

226. The Ugandan competent authority and the tax offices involved were able to access information to reply to EOI requests concerning a variety of information, including the physical addresses of individuals (3 requests); a proof of residence of individuals, income and capital of individuals, property

ownership of individuals among others (5 requests), as well as information related to a Mutual Agreement Procedure Information (this regarded 1 case). Ownership and identity information, accounting or banking information has not been requested in the three-year review period. Requests could be responded to in almost all cases from information available in the internal databases and tax returns, taxpayers' information that is at the disposal of the EOI Unit or held at file at the tax office, as well as governmental sources such as the Ministry of Lands as well as the Ministry of Internal Affairs.

227. Peers were satisfied with the timeliness and completeness of the responses received from Uganda.

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

228. 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. The international standard requires a jurisdiction to be able to use its information gathering powers, notwithstanding that it may not need the information for its own tax purposes.

229. Uganda’s access powers are set out in section 41 of the TPCA which provides for full and free access to any premises, place, book, record or computer “for the purpose of administering any provision of a tax law ” and section 42 of the TPCA whereby a notice may be issued by the Commissioner in order to obtain information from any person “whether or not liable for tax”.

230. Section 88 of the ITA stipulates that DTCs and TIEAs will take precedence over the ITA or any other law of Uganda dealing with matters covered by the agreement. Uganda made an amendment to the ITA in 2014 for the purposes of enabling effective EOI to ensure that TIEAs as well as DTCs would prevail over the ITA and other laws covered by the agreement (s. 88(6)(b)).

231. In light of this, although it is unclear whether section 41 of the TPCA could be used for accessing information for EOI purposes, according to the Ugandan authorities it is possible that section 88 of the ITA which allows for DTCs and TIEAs to prevail over domestic law could be relied upon to use section 41 for EOI purposes. Notwithstanding this, section 42 of the TPCA sets out sufficiently broad powers of the tax administration to access information which would include for EOI purposes.

232. With respect to the period under review the Competent Authority reports that it did not encounter any practical difficulties with the application of access powers employed for EOI purposes.



***Compulsory powers (ToR B.1.4)***

233. Jurisdictions should have in place effective enforcement provisions to compel the production of information. As previously described, the URA has powers to compel the production of information from natural and legal persons, whether or not liable to tax under the ITA, in response to an exchange of information request.

234. Search and seizure powers under the supervision of a judge are also provided for under the TPCA. According to s. 41 TPCA, in order to enforce a provision of the TPCA, the Commissioner may seize any book or record that in their opinion amounts to material evidence in determining tax liability. Failure to comply with this provision is an offence and can result in a fine of 100 currency points (UGX 2 000 000 or USD 686).

235. Uganda clarified that in practice, all information requested has been provided without the need to carry out any enforcement actions. Similarly there has been no need to the use of the measure to search and seize for EOI purposes, although Uganda notes that it has a broad experience using these powers in domestic situations. In this respect they note that the Tax Investigations Department within the URA has fully assigned police officers that accompany the investigators during such an operation. Nevertheless, as noted, in practice there has been no need to use these measures for EOI purposes.

***Secrecy provisions (ToR B.1.5)***

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

***Bank secrecy***

237. The powers described above in regard to ownership and identity information apply equally where banking information must be obtained. There are no secrecy provisions in Uganda which limit the competent authority's ability to respond to an EOI request.

238. Bank confidentiality in Uganda is provided for based on the common law principles set out in the case of *Tournier v. National Provincial and Union Bank of England*. According to this case, banks owe their customers a contractual duty of confidentiality. However, the access powers of the tax administration as set out in sections 41 and 42 of the TPCA allow for sufficiently broad access and the common law provision would not be a barrier to this access for EOI purposes. In addition, the Ugandan authorities confirmed that they access banking information for domestic purposes on a regular basis

and use the access powers set out in section 42 of the TPCA for this purpose which override the common law principle of bank secrecy.

239. A specific provision exists in the Bank of Uganda Act requiring the Bank of Uganda to not “publish or disclose any information regarding the affairs of a financial institution unless the consent of the institution or the customer has been obtained.” (s. 40(3)) however this specific provision only applies to the central bank. The Ugandan authorities confirmed that there are no limitations on the ability of the competent authority to obtain, directly or indirectly, information held by a bank or other financial institution in response to a request for information.

240. Banks submit the requested information upon a written notice sent by the EOI unit or the URA. It is not a requirement to detail name and account number in order to accept a request relating to banking details. However, for faster processing of the request, these details are preferred. Uganda has not received any request in relation to bank information during the review period.

#### *Legal privilege (attorney-client privilege)*

241. Attorney-client privilege in Uganda is set out in the Advocates (Professional Conduct) Regulations S.I. 267-4 which came into force in 1977 under the Advocates Act Cap 267. These regulations provide in Rule 7 that “an advocate shall not disclose or divulge any information obtained or acquired as a result of his or her acting on behalf of a client except where this becomes necessary in the conduct of the affairs of the client, or otherwise required by law.” Although the provision is broad, the exception would ensure it is in line with the international standard. A further exception to the use of professional privilege exists in the access powers of the tax administration which are set out in section 42 of the TPCA. The exception in section 41(7) (a) provides that “[t]his section has effect notwithstanding any law relating to privilege or the public interest with respect to the giving of information or the production of any record, including in electronic format; or any contractual duty of confidentiality.” As such, although the definition of attorney-client privilege in Uganda is broad, the exceptions provided for in the regulations and in the access powers of the tax administration ensure that it is in line with the international standard.

242. As Uganda explained, there was no case during the period under review where the requested information was covered or might have been covered by the attorney-client privilege and no issues in this respect came up in practice.

**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.

243. Rights and safeguards should not unduly prevent or delay effective exchange of information. For instance, notification rules should permit exceptions from prior notification (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).

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

244. The URA is not obliged to inform any persons that are the subject of an EOI request of the existence of the request or to notify them prior to contacting third parties to obtain information. The procedure to obtain information is described under section B.1.

245. There is no requirement in Uganda’s domestic legislation that the taxpayer under investigation or examination must be notified of a request. There is an appeal procedure set out under part VII of the TPCA however this appeal procedure will only apply in the case of a notice of assessment and not in relation to any notice requiring information in response to an EOI request. Consequently these issues did not come up in practice in the context of Exchange of Information.

246. Peer input did not identify any issues during the period under review and the Uganda authorities did not mention any issue in this respect.

**Determination and factors underlying recommendations**

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



## C. Exchanging information

### Overview

247. Jurisdictions generally cannot exchange information for tax purposes unless they have a legal basis or mechanism for doing so. In Uganda, the legal authority to exchange information derives from its EOI agreements. This section of the report examines whether Uganda has a network of information exchange agreements that would allow it to achieve effective exchange of information in practice.

248. Uganda's network of EOI agreements covers more than 100 jurisdictions. Uganda's EOI network includes 12 bilateral DTCs, a multilateral DTC between members of the East African Community and the ATAF Agreement on Mutual Assistance in Tax Matters (AMATM). Together these agreements cover 18 jurisdictions. Nine of these agreements are in force and meet the internationally agreed standard containing sufficient provisions to enable Uganda to exchange all relevant information. Uganda signed the AMATM agreement on 26 March 2014 and ratified the agreement within one year and deposited its instrument of ratification on 7 August 2015. Uganda also signed and ratified the Multilateral Convention and deposited its instrument of ratification on 26 May 2016. The Multilateral Convention entered into force on 1 September 2016 and provides Uganda with an EOI network that covers more than 100 jurisdictions. The Multilateral Convention will also be a complementary basis for exchanging information with jurisdictions with which Uganda is already linked by a bilateral EOI instrument. In the case of Uganda, the entry into force of this instrument will bring EOI with 11 of its 18 existing EOI (DTC) partners in line with the standard and will bring the possibility to exchange information in line with the standard with an EOI network that covers a total of more than 100 jurisdictions. In all, the entry into force of this instrument will bring EOI with 95 of its 102 partners in line with the standard.

249. All EOI articles in Uganda's agreements contain confidentiality provisions which meet the international standard and its domestic legislation also contains relevant confidentiality provisions and enforcement measures for tax officials to keep information secret and confidential. While some of

the articles vary slightly in wording, these provisions generally contain all of the essential aspects of Article 26(2) of the OECD Model Tax Convention. Breach of this confidentiality obligation is an offence and may lead to the enforcement of fines or imprisonment.

250. All of Uganda’s DTCs protect rights and safeguards in accordance with the standard, by ensuring that the parties are not obliged to provide information that would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy.

251. There are no restrictions on the ability of Uganda’s competent authority to respond to requests within 90 days of receipt by providing the information requested or by providing an update on the status of the request. During the review period Uganda received 9 requests and responded to all of them within 90 days

### C.1. Exchange of information mechanisms

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

252. To date, Uganda has concluded 12 double tax conventions (DTCs), nine of which are in force<sup>11</sup>, as well as being a signatory since 2010 to the Multilateral East African Community (EAC) tax treaty<sup>12</sup> with four other members of the EAC and to the ATAF Agreement on Mutual Assistance in Tax Matters (AMATM) since March 2014. The AMATM Agreement has been signed and ratified by Lesotho, Mozambique and South Africa to date and it will enter into force 30 days after five ATAF member states submit their instruments of ratification. In total, Uganda’s network of signed agreements covers 102 jurisdictions (see Annex 2). No TIEAs are presently under negotiation. This section of the report explores whether the EOI agreements allow Uganda to effectively exchange information.

253. Under article 123(1) of the 1995 Constitution of Uganda, the President or a person authorised by the President is able to make treaties, conventions, agreements or other arrangements between Uganda and any other country. The

11. Three DTCs are not in force. This regards Belgium, People Republic of China and United Arab Emirates. However, it can be noted that Uganda is linked with the first two jurisdictions on the basis of the Multilateral Convention.
12. The “East African Community treaty” is an economic treaty including double tax and exchange of information provisions between member states of the East African Community (EAC); its full title is: Treaty for the Establishment of the East African Community. The other member states are Burundi, Kenya, Rwanda and Tanzania.

law governing ratification of treaties in Uganda is the Ratification of Treaties Act Cap 204 which came into force in 1998. Under the Constitution, treaties must be read, perused and approved for clearance by the Attorney General (Article 119(4)(b)) before being passed to Cabinet for approval and subsequently laid before Parliament. Following this the instrument of ratification is signed, sealed and deposited by the Minister responsible for Foreign Affairs.

254. Section 88 of the ITA stipulates that international agreements providing for relief from double taxation and the prevention of fiscal evasion along with international bilateral or multilateral agreements providing for administrative assistance in tax matters will take precedence over the ITA or any other law of Uganda dealing with matters covered by the agreement.

255. As regards EOI requests and provision of information, the competent authority under Uganda’s EOI agreements and domestic laws is the Minister of Finance who has delegated this role to the Commissioner General of the URA. An exception is found in the DTCs with Mauritius and South Africa where the Commissioner General has been designated directly as the Competent Authority. As noted, as of March 2014, the Minister of Finance delegated competent authority power to the Commissioner General of the Uganda Revenue Authority for all DTCs indicating the Minister of Finance as competent authority. At the same time Uganda also communicated this to their treaty partners notifying them about the delegation of competent authority powers for exchange of information to the Commissioner General.

### ***Foreseeably relevant standard (ToR C.1.1)***

256. The international standard for exchange of information envisages information exchange to the widest possible extent. Nevertheless it 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, set out below:

“The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for 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 of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.”

257. The 2012 commentary to Article 26(1) of the OECD Model Tax Convention refers to the standard of “foreseeable relevance” and states that the

Contracting States may agree to an alternative formulation of this standard that is consistent with the scope of the Article, for instance by replacing “foreseeably relevant” with “necessary”. The DTC signed with People’s Republic of China (China) which is not yet in force expressly provides for the exchange of information which is “foreseeably relevant for the carrying out of the provisions of the agreement or for the administration or enforcement of the domestic laws concerning taxes of every kind” thus meeting the international standard. A further eleven<sup>13</sup> DTCs signed by Uganda along with the AMATM Agreement provide for exchange of information that is either “necessary” or “relevant” for “carrying out the provisions of this Convention or for the administration or enforcement of domestic laws” or contain language which has similar meaning. The Ugandan authorities have confirmed that the terms “necessary” and “relevant” under these EOI agreements is interpreted in accordance with Commentary to Article 26(1) of the OECD Model Tax Convention. Therefore, these eleven DTCs also meet the foreseeably relevant standard.

258. Nevertheless, Uganda also signed and ratified the Multilateral Convention and deposited its instrument of ratification on 26 May 2016. The Multilateral Convention entered into force on 1 September 2016 and will provide Uganda with an EOI network that covers 102 jurisdictions. The Multilateral Convention will also be a complementary basis for exchanging information with jurisdictions with which Uganda is already linked by a bilateral EOI instrument. In the case of Uganda, the entry into force of this instrument will bring EOI with 11 of its 18 existing EOI (DTC) partners in line with the standard and will bring the possibility to exchange information in line with the standard with an EOI network that covers a total of 102 jurisdictions. In all, the entry into force of this instrument will bring EOI with 95 of its 102 partners in line with the standard.

259. The EAC agreement and the DTC with Mauritius contain a provision allowing the competent authorities, through consultation, to develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance. The EAC agreement is not yet in force and so no such consultations have taken place. With regards the Mauritius agreement, Uganda and Mauritius have held EOI interactions and consultative engagements intended to facilitate working together. In addition, Mauritius has asked Uganda to amend Article 26 of the DTC to bring it into conformity with the amended OECD Model Tax Convention. However, as of 1 September 2016 Uganda can exchange

---

13. DTCs signed with Belgium, Denmark, the East African Community (Burundi, Kenya, Rwanda and Tanzania), India, Italy, Mauritius, Netherlands, Norway, South Africa, United Arab Emirates and the United Kingdom.



information with Mauritius in line with the standard under the Multilateral Convention. Therefore this issue can be considered solved.

260. No requests for information received during the period under review were declined by Uganda on the basis that the requested information was not foreseeably relevant, and no clarifications in this respect were asked. Furthermore, no issue in respect of the interpretation of the foreseeable relevance was reported by peers.

***In respect of all persons (ToR C.I.2)***

261. For EOI to be effective it is necessary that a jurisdiction’s obligations to provide information are 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 for EOI envisages that EOI mechanisms will provide for exchange of information in respect of all persons.

262. Article 26(1) of the OECD Model Tax Convention indicates that “[t]he exchange of information is not restricted by Article 1”, which defines the personal scope of application of the Convention and indicates that it applies to persons who are residents of one or both of the Contracting States. Eleven<sup>14</sup> of Uganda’s 13 DTC agreements contain this sentence, allowing for EOI in respect of all persons. The AMATM Agreement also provides for exchange of information in respect of all persons.

263. The DTCs with the United Kingdom and Zambia do not specifically include a provision which extends the scope of the exchange of information article to persons other than residents of one of the Contracting States. The DTC with the United Kingdom provides for the exchange of information as is necessary for carrying out the provisions of the convention, or of the domestic laws of the Contracting States concerning taxes covered by the Convention. The DTC with Zambia provides for exchange of information which is available under the respective taxation laws of the contracting states, as is necessary for the carrying out of the provisions of the convention. To the extent that the domestic (tax) laws are applicable to non-residents as well as to residents, information under these agreements can be exchanged in respect of all persons, and the agreements meet the standard.

264. In practice, no issues restricting exchange of information in respect of the residence or nationality of the person to whom the information relates or of the holder of the information has been indicated by the Ugandan authorities or their peers.

14. Belgium, China, Denmark, East African Community (Burundi, Rwanda, Kenya and Tanzania), India, Italy, Mauritius, Netherlands, Norway and South Africa.

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

265. 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, as well as ownership information. Both the OECD Model Convention (Article 26(5)) and the OECD Model TIEA (Article 5(4)), 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.

266. As several of Uganda's agreements were concluded before the update of the OECD Model Tax Convention in 2005, they generally do not contain a provision corresponding to Article 26(5), which was introduced at that update. Only the DTC with China which is not yet in force contains such a provision. However, the absence of this provision does not automatically create restrictions on the exchange of information held by banks, other financial institutions, nominees, agents and fiduciaries, as well as ownership information. The Commentary to Article 26(5) indicates that while paragraph 5 represents a change in the structure of the Article, it should not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of such information. Uganda's domestic laws allow it to access and exchange bank information even in the absence of such provision in the DTC. Nevertheless, Uganda is encouraged to ensure all future DTCs conform to Article 26.

267. However, it can be noted that Uganda ratified the Multilateral Convention and deposited its instrument of ratification on 26 May 2016. The Multilateral Convention entered into force on 1 September 2016. Since the Multilateral Convention will also be a complementary basis for exchanging information with jurisdictions with which Uganda is already linked by a bilateral EOI instrument, exchange of information with all these jurisdictions will in practice be covered.

268. As some of Uganda's EOI partners (Burundi, Rwanda, Tanzania and Zambia) are no signatories of the Multilateral Convention and have not been assessed for compliance with the international standard, it is unclear as to whether some of these countries have restrictions to the access of bank information in their domestic law. Uganda should continue to renegotiate its DTCs to include a provision similar to Article 26(5) of the OECD Model Tax Convention and ensure that negotiations are carried out expeditiously.

269. The AMATM Agreement contains a provision similar to Article 5(4) of the OECD Model TIEA, which ensures that the requested jurisdiction shall not decline to supply the information requested solely because it is held by

a financial institution, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person.

270. In practice, Uganda has not received or a request relating to information held by a bank, other financial institution, nominees or persons acting in an agency or fiduciary capacity t.

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

271. 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. A refusal to provide information based on a domestic tax interest requirement is not consistent with the international standard. Jurisdictions must be able to use their information gathering measures even though invoked solely to obtain and provide information to the requesting jurisdiction.

272. As several of Uganda’s DTCs were concluded before the update of the OECD Model Tax Convention in 2005, they generally do not contain a provision corresponding to Article 26(4), which was introduced at that update and which stipulates that a domestic tax interest may not be a reason to decline an information request. Only the DTC with China which is not yet in force contains such a provision. However, the absence of this provision does not automatically create restrictions on the exchange of information. The Commentary to Article 26(4) indicates that paragraph 4 was introduced to express an implicit obligation to exchange information also in situations where the requested information is not needed by the requested State for domestic tax purposes. However, as noted, Uganda has the possibility to exchange information under the Multilateral Convention as of 1 September 2016. Since the Multilateral Convention will also be a complementary basis for exchanging information with jurisdictions with which Uganda is already linked by a bilateral EOI instrument, exchange of information regardless of a domestic tax interest with all these jurisdictions will in practice be covered. Ugandan domestic law allows the Ugandan authorities to use the same powers to gather and exchange information with foreign partners as those conferred on them for domestic purposes (see B.1). Uganda can therefore exchange information with its partners even if it has no domestic tax interest in doing so and without any explicit reference to the concept of domestic tax interest in its agreements.

273. The DTC with Zambia applies to information that is “available” under the respective taxation laws of the contracting parties as is necessary for the carrying out of the Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the Convention. However, Uganda regards

all information that can be obtained by virtue of their access powers as information that is available under its taxation laws. Nevertheless, there is a possibility that the language may be interpreted more restrictively by Zambia which has not yet been reviewed by the Global Forum and as such Uganda should take steps to ensure the language is in line with the international standard.

274. In practice no issues or difficulties were reported regarding the application of access powers employed for EOI purposes.

#### ***Absence of dual criminality principles (ToR C.1.5)***

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

276. None of the agreements concluded by Uganda apply the dual criminality principle to restrict the exchange of information. Accordingly, there has been no case where Uganda declined a request because of a dual criminality requirement.

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

277. 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”).

278. All of the EOI agreements concluded by Uganda provide for the exchange of information in both civil and criminal tax matters in all cases. Most of Uganda’s DTCs and the AMATM Agreement contain a similar wording to the one used in Article 26(1) of the OECD Model Tax Convention, which refers to information foreseeably relevant “for carrying out the provisions of this Convention or to the administration and enforcement of the domestic [tax] laws”, without excluding either civil nor criminal matters. In addition, the agreements with Belgium, the EAC, India, Italy, Mauritius, Norway, South Africa and Zambia specifically mention that the information exchange will occur including for the prevention of fraud and/or evasion in relation to taxes.

279. It is nevertheless noted that the confidentiality provision in Uganda’s DTC with Zambia does not expressly provide that the competent authority may disclose the information received to other persons or authorities concerned with the enforcement or prosecution in respect of taxes. Nor does the provision expressly mention courts as being an authority to which information may be disclosed. However, the DTC does provide for the disclosure of information to “persons...concerned with the assessment or collection of the taxes which are subject to this Convention, or with the determination of appeals in relation thereto”. This wording appears wide enough to extend to the use of information for tax related court proceedings concerning both civil and criminal matters. Therefore, this wording permits the exchange of information in both civil and criminal tax matters.

280. In practice, there has been no case where Uganda declined a request because it related to a criminal tax matter, and no peers have raised any issues in this regard.

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

281. In some cases, a Contracting State may need to receive information in a particular form to satisfy its evidentiary or other legal requirements. Such forms may include depositions of witnesses and authenticated copies of original records. Contracting States should endeavour as far as possible to accommodate such requests. The requested State 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 or administrative practice. A refusal to provide the information in the form requested does not affect the obligation to provide the information.

282. No restrictions apply in any agreement concluded by Uganda regarding the specific form in which information may be provided. Accordingly, there has been no case when Uganda declined to provide the requested information in adequate form and no issue in this respect has been reported.

***In force (ToR C.1.8)***

283. Exchange of information cannot take place unless a jurisdiction has EOI arrangements in force. Where such arrangements have been signed, the international standard requires that jurisdictions must take all steps necessary to bring them into force expeditiously.

284. Uganda’s network of EOI agreements covers 102 jurisdictions, including jurisdictions with which Uganda has an EOI relationships based on the Multilateral Convention. The signed agreements include 12 bilateral DTCs, a multilateral DTC between members of the East African Community

and the ATAF Agreement on Mutual Assistance in Tax Matters (AMATM). Nine of these agreements are in force. Agreements with Belgium (2007), China (2012), the EAC (2010) and the AMATM (2014) are not yet in force, although it should be noted that Uganda on its part ratified AMATM agreement and deposited its instrument of ratification on 7 August 2015.

285. On analysis of the Ugandan treaty network, it can be seen that the time taken between the signature of an EOI arrangement and its entry into force can be quite long. In the case of the DTC with Italy, ratification took over five years and the DTC with South Africa took almost four years. Of the signed agreements, the DTC with Belgium was signed in 2007 and is still not ratified. Nevertheless, as noted Uganda ratified the Multilateral Convention. As of 1 September exchange of information with Belgium and China will therefore be covered under the Convention. Therefore, of the 14 EOI agreements (covering 18 jurisdictions) signed by Uganda, only three agreements remain that have to enter into force to enable exchange of information to take place. One of these agreements (with the UAE) was been signed mid-2015. The remaining two agreements are the multilateral DTC between members of the East African Community (EAC) and the ATAF Agreement on Mutual Assistance in Tax Matters (AMATM). In respect of the EAC agreement Uganda deposited its instrument of ratification on 11 August 2016. In respect of the AMATM agreement Uganda signed the agreement on 26 March 2014 and ratified the agreement within one year and deposited its instrument of ratification on 7 August 2015. Furthermore, it is important to note that Uganda signed the Multilateral Convention on 4 November 2015 and deposited the instrument of ratification on 26 May 2016. Consequently, the Multilateral Convention entered into force on 1 September 2016. This is well within one year after signing the Convention. These actions demonstrate that Uganda has taken meaningful steps that ensure a timely ratification of its agreements. Be given effect through domestic law (ToR C.1.9).

286. For information exchange to be effective, the parties to an EOI arrangement need to enact any legislation necessary to comply with the terms of the arrangement.

287. Under article 123(1) of the 1995 Constitution of Uganda, the President or a person authorised by the President is able to make treaties, conventions, agreements or other arrangements between Uganda and any other country. The law governing ratification of treaties in Uganda is the Ratification of Treaties Act Cap 204 which came into force in March 1998. Under the Constitution, the treaties must be read, perused and approved for clearance by the Attorney General (Article 119(4)(b)) before being passed to Cabinet for approval and subsequently laid before Parliament. Following this the instrument of ratification is signed, sealed and deposited by the Minister responsible for Foreign Affairs.

288. Section 88 of the ITA stipulates that international agreements providing for relief from double taxation and the prevention of fiscal evasion along with international bilateral or multilateral agreements providing for administrative assistance in tax matters will take precedence over the ITA or any other law of Uganda dealing with matters covered by the agreement. Section 88(6) defines international agreements to include DTCs and TIEAs. With regard to the period under review, there has been no case where any issue in this regard came up, and no peers have raised any issues in this regard either.

289. All of Uganda's DTCs that are in force have been given effect in the manner described above.

#### **Determination and factors underlying recommendations**

<b>Phase 1 determination</b>
<b>The element is in place.</b>
<b>Phase 2 rating</b>
<b>Compliant</b>

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

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

290. Ultimately, the international standard requires that jurisdictions exchange information with all relevant partners, meaning those partners that 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.

291. Uganda has DTCs in force with nine jurisdictions, including five of its main trading partners (India, South Africa, Netherlands, United Kingdom and Mauritius). All of these agreements allow for exchange of information according to the international standard.

292. Uganda ratified the Multilateral Convention and deposited its instrument of ratification on 26 May 2016. Consequently the Convention entered into force on 1 September 2016. Furthermore, since the Multilateral Convention,

once in force for these jurisdictions, will also be a complementary basis for exchanging information with jurisdictions with which Uganda is already linked by a bilateral EOI instrument, exchange of information in line with the standard with all these jurisdictions will in practice be covered. In addition, Uganda also signed the ATAF Agreement on Mutual Assistance in Tax Matters (AMATM) on 26 March 2014 and ratified the agreement within one year and deposited its instrument of ratification on 7 August 2015<sup>15</sup>. It can therefore be concluded that Uganda has taken steps to expand its treaty network.

293. No jurisdiction has advised that Uganda had refused to enter into negotiations or conclude an EOI agreement.

#### Determination and factors underlying recommendations

Phase 1 determination	
The element is in place.	
Factors underlying recommendations	Recommendations
	Uganda should continue to develop its EOI 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)*

294. 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.

15. The AMATM Agreement has been signed and ratified by Lesotho, Mozambique, South Africa and Uganda to date and it will enter into force 30 days after five African Tax Administration Forum member states submit their instruments of ratification. Consequently this situation has not materialised yet.



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, under domestic law.

295. All of the arrangements for the exchange of information concluded by Uganda contain a provision ensuring the confidentiality of information exchanged and limiting the disclosure and use of information received, which has to be respected by Uganda as a party to these agreements.

### *Exchange of information agreements*

296. All of Uganda's DTCs have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the DTCs. While each of the EOI provisions might vary slightly in wording, these provisions generally contain all of the essential aspects of Article 26(2) of the OECD Model Tax Convention and specifically spell out to whom the information exchanged can be disclosed and the purposes for which the information can be used. The AMATM Agreement ensures confidentiality of the information provided in line with the standard as set out in Article 8 of the agreement.

### *Domestic law*

297. All staff of the Uganda Revenue Authority are required to take an oath of secrecy on commencement of their official duties. Furthermore, Uganda's domestic law contains confidentiality requirements as set out in section 47 of the TPCA. This section provides that tax officials are obliged to regard and deal with all documents and information which may come to their possession or knowledge in connection with the performance of their official duties under the act as secret and are obliged to not disclose any information or document except in accordance with the provisions in the act. Section 47(3) (e) of the TPCA provides an exception to this rule for the provision of information to the competent authority of the government of another country with which Uganda has entered into a DTC or a TIEA.

298. As such, documents and information related to EOI are treated as confidential pursuant to the provisions of Section 47 of the TPCA and section 47(e) of the same Act which incorporates international agreements into Uganda's domestic law. As a result information which is received from a treaty partner cannot be divulged beyond the extent permitted under the international agreement. The penalty for breaching the confidentiality provision is a fine of up to 25 currency points (UGX 500 000 or USD 149) and/or imprisonment for a maximum term of one year.

299. Furthermore, section 88 of the ITA includes a provision that DTCs and TIEAs override domestic tax legislation. Therefore, if a DTC or TIEA establishes confidentiality requirements which are stricter than those set forth under the ITA, the DTC or TIEA will take precedence over domestic tax law.

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

300. Confidentiality rules should apply to all types of information exchanged, including information provided in a request, background documents to such requests, and any other documents or communications reflecting such information.

301. The confidentiality provisions in Uganda'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*

302. All officials dealing with information on taxpayers are obliged to keep all the information confidential. The confidentiality rules are provided mainly in the Income Tax Act (Cap 340 under section 157), as well as in the provisions on confidentiality contained in bilateral agreements. They are also part of the Multilateral Convention.

303. The requests received by the EOI office are registered in a database, which is accessible only by authorised officials. All EOI related information is kept separately and treated as confidential. Paper documents are safely stored in secure cabinets in the EOI Unit. Access to files is restricted to authorised officials only. All officials undergo a background check to ensure they are responsible employees who do not represent any security risk. Information obtained from a treaty partner, including the EOI request itself, is never disclosed to the taxpayer.

304. Entry to the premises of the EOI Unit is restricted and guarded. Information obtained in relation to requests that is kept in the respective taxpayer's file can be accessed only by the authorised assessing officer responsible for the respective taxpayer's assessment. It can be distinguished from information obtained from domestic sources and is clearly identifiable.

305. The information provided to the holder of information when he/she is asked by the EOI Unit to provide the information which is requested by a

treaty partner is limited to a minimum amount necessary such as a description of the information requested and the circumstance that the information is requested for “compliance review” purposes, without mentioning that it is gathered for the purpose of EOI. The information sent by e-mail is encrypted with a password.

306. No breach of confidentiality was encountered during the last three years either in a domestic or in an exchange of information context.

#### **Determination and factors underlying recommendations**

<b>Phase 1 determination</b>
<b>The element is in place.</b>
<b>Phase 2 rating</b>
<b>Compliant</b>

### **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)***

307. 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 listed secret may arise. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege. Attorney-client privilege is a feature of the legal systems of many jurisdictions. However, communications between a client and an attorney or other admitted legal representative are, generally, only privileged to the extent that the attorney or other legal representative acts in his or her capacity as an attorney or other legal representative.

308. Where attorney-client privilege is more broadly defined it does not provide valid grounds on which to decline a request for exchange of information. To the extent, therefore, that an attorney acts as a nominee shareholder, a trustee, a settlor, a company director or under a power of attorney to represent a company in its business affairs, exchange of information resulting from and relating to any such activity cannot be declined because of the attorney-client privilege rule.

309. The EOI agreements concluded by Uganda meet the standards for protection of rights and safeguards of taxpayers and third parties, which are provided in Article 26(3) of the OECD Model Tax Convention. That is, information which is subject to legal privilege; which would disclose any trade, business, industrial, commercial or professional secret or trade process; or which would be contrary to public policy, is not required to be exchanged.

310. Attorney-client privilege in Uganda is set out in the Advocates (Professional Conduct) Regulations S.I. 267-4 which came into force in 1977 under the Advocates Act Cap 267. These regulations provide in Rule 7 that “an advocate shall not disclose or divulge any information obtained or acquired as a result of his or her acting on behalf of a client except where this becomes necessary in the conduct of the affairs of the client, or otherwise required by law.” Although the provision is broad, the exception would ensure it is in line with the international standard. A further exception to the use of professional privilege exists in the access powers of the tax administration which are set out in section 41(7)(a) of the TPCA. The exception in section 41(7)(a) provides that “[t]his section has effect notwithstanding any law relating to privilege or the public interest with respect to the giving of information or the production of any record, including in electronic format; or any contractual duty of confidentiality.” As such, although the definition of attorney-client privilege in Uganda is broad, the exceptions provided for in the regulations and in the access powers of the tax administration ensure that it is in line with the international standard.

311. In respect of its DTCs, Uganda relies on the guidance in the commentary of Article 26 of the OECD Model Tax Convention to determine circumstances where requests for exchange of information should be declined.

312. Uganda reports that, during the period under review, there have been no instances where professional privileges or any other exceptions have been claimed in Uganda in order not to provide information to the tax authorities in cases related to exchange of information.

#### **Determination and factors underlying recommendations**

<b>Phase 1 determination</b>
<b>The element is in place.</b>
<b>Phase 2 rating</b>
<b>Compliant</b>

## 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)*

313. In order for exchange of information to be effective it needs to be provided in a timeframe which allows the 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.

314. There are no specific legal or regulatory requirements in place which would prevent Uganda from responding to a request for information by providing the information requested or providing a status update within 90 days of receipt of the request.

315. The Ugandan competent authority and the tax offices involved were able to access information to reply to EOI requests concerning a variety of information, including the physical addresses of individuals (3 requests); a proof of residence of individuals, income and capital of individuals, property ownership of individuals among others (5 requests), as well as information related to a Mutual Agreement Procedure Information (this regarded 1 case). Ownership and identity information, accounting or banking information has not been requested in the three-year review period. Requests could be responded to in almost all cases from information available in the internal databases and tax returns, as well as taxpayers' information that is at the disposal of the EOI Unit or held at file at the tax office.

316. During the period of review from 1 July 2012 to 30 June 2015 Uganda received 9 requests for information. Including the time taken by the requesting jurisdiction to provide additional information, the requested information was provided within 90 days in all cases.

317. The following table shows the time taken to send the final response to incoming EOI requests including the time taken by the requesting jurisdiction to provide clarification (if asked) over the 3 year period from 1 July 2012 to 30 June 2015.

**Response times for requests received during the three-year review period**

	1 July-31 Dec 2012		2013		2014		1 Jan-30 June 2015		Total	
	num.	%	num.	%	num.	%	Num.	%	Num.	%
	Total number of requests received	-	-	-	-	4	100%	5	100%	9
Full response: ≤90 days	-	-	-	-	4	100%	5	100%	9	100%
≤180 days (cumulative)	-	-	-	-	-	-	-	-	-	-
≤1 year (cumulative)	-	-	-	-	-	-	-	-	-	-
>1 year	-	-	-	-	-	-	-	-	-	-
Declined for valid reasons	-	-	-	-	-	-	-	-	-	-
Failure to obtain and provide information requested	-	-	-	-	-	-	-	-	-	-
Requests still pending at date of review	-	-	-	-	-	-	-	-	-	-

*Notes:* The total number of requests was established by counting the number of letters relating to different issues or involving different entities.

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

318. As the table shows, the number of requests increased during the period under review from 4 in 2014 to 5 in the first half of 2015. Most requests were received from European countries UK, Norway, Netherlands and Denmark (in order of significance).

319. Uganda provided the requested information within 90 days for all the cases. Consequently, there were no requests pending at the date of the on-site visit, or requests that were delayed and took a longer period to respond.

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

320. As regards EOI requests and provision of information, the competent authority under Uganda's EOI agreements and domestic laws is the Minister of Finance who has delegated this role to the Commissioner General of the URA.

321. As of March 2014, the Minister of Finance delegated competent authority power to the Commissioner General of the URA for all DTCs indicating the Minister of Finance as competent authority.

322. Contact information for Uganda's competent authority is fully identifiable on the Global Forum website. The competent authority details have also been uploaded on the ATAF database and on the URA website. Moreover, in March 2014 Uganda communicated to its treaty partners notifying them about the delegation of competent authority powers for exchange of

information to the Commissioner General. Uganda generally also provides the contact information of its competent authority to treaty partners when finalising treaty negotiations.

323. Up until March 2014 responsibilities regarding exchange of information were not co-ordinated by a specific unit, but dealt with on an ad hoc basis, mainly by staff working in the Tax Investigation Department of the URA. However, as of March 2014, a specific EOI unit was created within the Intelligence division of Tax Investigation Department. The EOI unit is currently staffed with 3 officials in total. All staff that's currently working in the EOI Unit were selected from this Department and are considered skilled and experienced in working with Uganda's access powers and collecting information.

324. Out of the 3 employees working within the EOI Unit (including the head of unit and his deputy) all are dealing with direct taxes and exchange of information on request, as well as spontaneous exchange of information.

325. All international requests for information are handled and processed by the EOI Unit. The EOI Unit is responsible for communication with the other competent authorities and for the administration of gathering the requested information. This includes checking whether the responses include all the requested information and are in the requested format, and, if the requested information cannot be provided, ensuring that the tax office provides an explanation as to why it was not able to provide all the requested information.

### *Handling of EOI requests*

326. Once an EOI request is received the request will first be stamped and registered in the EOI Unit's specific Excel database. All EOI related information is kept separately and treated as confidential. Access to the files is restricted to authorised officials only.

327. After registering, the management of the EOI Unit checks whether the request meets all legal and procedural requirements under the EOI agreement. In cases where a request is unclear or incomplete, additional clarification or information is always asked from the requesting jurisdiction, if necessary. After a thorough checking, an acknowledgement is sent to the requesting jurisdiction, and the request is allocated to one of the officials in the EOI office that will be responsible for handling and processing the request. The request is treated as confidential and appropriate security precautions are in place.

### *The actual processing of the request involves the following steps:*

328. First a staff member of the EOI office assesses the request to see whether a reply to the request can be prepared on the basis of information that is available in the internal EOI databases. If that is the case the staff member

collects requested information from the databases. If banking information is requested the staff member sends a request to the bank to provide it.

329. After the information is collected a staff member will prepare a reply to be forwarded to the EOI Office. The reply is co-ordinated with the contact person involved and he also checks whether the response is correct and complete. The staff member stamps and registers an outgoing reply in the database. After final signature by the management of the EOI Office, the requested information is sent by encrypted mail or by registered mail to the requesting jurisdiction.

330. A request for information will be regarded as finalised if all information has been obtained and send to the requesting jurisdiction or part of the information has been obtained and the remainder of information cannot be obtained. The final response will indicate that the URA considers the case closed and if so, a statement will be made that any follow up requests will be regarded as a new request.

### *Internal deadlines*

331. The EOI manual sets deadlines within which the EOI office is required to provide the requested information to the requesting jurisdiction. After receiving the request, the EOI office must confirm receipt of the request to the other state without undue delay and no later than within seven working days after receiving the request. The EOI office must provide the requested information within two months after receiving the request. However, this period is extended to five months if the EOI office is not in possession of the requested information. The EOI manual further sets out that if the EOI office is unable to provide the requested information within this timeframe, it will notify the requesting state within three months from the date of receipt of the request, of the reasons for non-provision of the information and of the date when it can be expected that it will provide the requested information. No official further time frames and deadlines are provided for the individual steps regarding handling of requests and obtaining information.

332. Uganda explains that their internal procedures are designed in such a way that a reply is sent within a timeframe of five months. Ugandan statistics demonstrate that Uganda was able to give a full response to EOI requests within 90 days in all the cases during the period under review.

### *IT tools, monitoring, training*

333. The main IT tool used for tracking cases/requests is the special registration database. Every incoming piece of information is registered. The database is specifically developed for international information exchange and



mutual assistance cases and access to it is granted to a very limited number of staff.

334. All information received in the context of EOI receives a special case number, and is registered as being in respect of exchange of information. In addition a number of other case specific details are registered, such as the legal basis for the request, the requesting country, the taxpayer (companies/individuals) involved in the request, the staff member in charge of the request, and the deadline for the request.

335. After the initial registration of the request itself, all follow up actions concerning each specific case are registered in the special registration database. Additional information received within the context of the original case is treated as the same request.

336. The Ugandan authorities explained that the Database can produce a number of different reports. Staff is able to easily monitor the handling of requests, check the deadlines for replies and to produce various pieces of statistics.

337. At the level of the EOI office and the Department, performance is looked at each month for all staff.

338. Officers of the EOI Unit are well trained and appropriately educated. All officers receive regular training on internal guidelines and directives. Staff is informed through regular meetings about important changes or any other relevant news in the area of mutual assistance. Daily problems are discussed and best practice shared. No formal training is provided for a new employee of the EOI Unit in respect of exchange of information. However, as all staff is selected from the Tax Investigation Department each new staff member has a solid background within the URA in general and tax related investigation in particular.

339. Officers in the EOI Unit also attend international fora on EOI (e.g. Global Forums Competent Authority and plenary meetings, ATAF meetings) so as to keep up-to-date with global developments as well as establish network of personal contacts for more effective exchanges.

### ***Absence of restrictive conditions on exchange of information (ToR C.5.3)***

340. 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 legal and regulatory requirements in place which impose restrictive conditions on Uganda's exchange of information practice.

**Determination and factors underlying recommendations**

<b>Phase 1 determination</b>
<b>This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.</b>
<b>Phase 2 rating</b>
<b>Compliant</b>

## Summary of determinations and factors underlying recommendations

Overall Rating		
<b>LARGELY COMPLIANT</b>		
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> )		
<b>Phase 1 determination: The element is in place, but certain aspects of the legal implementation of the element need improvement.</b>		
	Although bearer shares cannot be issued, the issuance of share warrants to bearer is allowed by public companies. There are currently no legal requirements to identify the owners of share warrants to bearer in public companies.	Uganda should ensure the availability of ownership information in respect of bearers of share warrants in all cases.
<b>Phase 2 rating: Largely Compliant</b>	Uganda introduced legislative amendments in 2016 requiring companies to register ownership and identity information in respect of nominee shareholders.	Uganda should monitor the implementation of the newly introduced legislation in respect of nominees and take measures to address any identified deficiencies
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements ( <i>ToR A.2</i> )		
<b>Phase 1 determination: The element is in place.</b>		

Determination	Factors underlying recommendations	Recommendations
<b>Phase 2 rating: Largely Compliant.</b>	Uganda introduced legislative amendments in 2016 in respect of accounting records and underlying documentation requiring companies to keep and maintain proper records of all the affairs of the company including accounting records, agreements, memoranda, minutes, resolutions, decisions or other company related documents for at least seven years. Nevertheless, these measures and related supervision activities are very recent and therefore remain to be sufficiently tested.	Uganda should monitor the implementation of the newly introduced legislation in respect of accounting records and underlying documentation in respect of companies and take measures to address any identified deficiencies.
Banking information should be available for all account-holders ( <i>ToR A.3</i> )		
<b>Phase 1 determination: The element is in place.</b>		
<b>Phase 2 rating: Compliant.</b>		
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> )		
<b>Phase 1 determination: The element is in place.</b>		
<b>Phase 2 rating: Compliant.</b>		
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> )		
<b>Phase 1 determination: The element is in place.</b>		
<b>Phase 2 rating: Compliant.</b>		

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should allow for effective exchange of information ( <i>ToR C.1</i> )		
<b>Phase 1 determination:</b> <b>The element is in place.</b>		
<b>Phase 2 rating:</b> <b>Compliant.</b>		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners ( <i>ToR C.2</i> )		
<b>Phase 1 determination:</b> <b>The element is in place.</b>		Uganda should continue to develop its EOI network with all relevant partners.
<b>Phase 2 rating:</b> <b>Compliant.</b>		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received ( <i>ToR C.3</i> )		
<b>Phase 1 determination:</b> <b>The element is in place.</b>		
<b>Phase 2 rating:</b> <b>Compliant.</b>		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties ( <i>ToR C.4</i> )		
<b>Phase 1 determination:</b> <b>The element is in place.</b>		
<b>Phase 2 rating:</b> <b>Compliant.</b>		
The jurisdiction should provide information under its network of agreements in a timely manner ( <i>ToR C.5</i> )		
<b>Phase 1 determination:</b> <b>This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.</b>		
<b>Phase 2 rating:</b> <b>Compliant.</b>		



## **Annex 1: Jurisdiction’s response to the review report<sup>16</sup>**

The Republic of Uganda wishes to express their sincere gratitude and appreciation to the Assessment team and the Peer Review Group for their time and tireless effort during the evaluation and concluding the Phase 2 Peer Review Report. Uganda is committed to the international standards for transparency and exchange of information and regards the report as a reflection of its situation. It reaffirms its commitment to the global standards for transparency and exchange of information in tax matters as well as effective implementation of the standards in practice.

Uganda takes note of the recommendations made and looks forward to closely working with the Global Forum to continue implementing further improvements in EOI frame work and practice.

During the period of review, Uganda has had a number of developments that include;

- The signing, ratifying and deposit of the OECD Convention on Mutual Administrative Assistance Convention and by September 2016 allowed for exchange information.
- The signing, ratifying and deposit of the African Tax Administration Forum (ATAF) on mutual Administrative Assistance,
- The signing, ratifying and deposit of the East African Community (EAC) Agreement.
- The Tax Procedures Code that came into force on 1 July 2016.

The agreements/conventions signed above allows and gives a wide coverage of over 100 Jurisdictions for Uganda’s treaty network for particularly exchange of information. It is believed that with the operationalization of the above, Uganda will be able to effectively commit to and implement global standards for transparency and exchange of information in tax matters

---

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

This shall be enhanced by the recommended amendments and improvements to Uganda's domestic Legal frame work that were adhered to. These included amendments to the Companies Act of 2015, the Companies (General) Regulations of 2016, the Financial Institutions (Anti Money Laundering) Regulations. The Tax Procedure Code that repealed procedural provisions from the tax laws and consolidated them as procedural provisions in the Tax Procedural Code of 2016.

Most importantly, Uganda is pleased that her efforts to prepare for the second peer review resulted in to having several elements in place, and further appreciates the very professional working relationship with the assessment team that was led by Boudewijn van Looij as well as the commitments of the PRG team from whom Uganda learnt several invaluable lessons.



## Annex 2: List of all exchange-of-information mechanisms in force

List of EOI agreements signed by Uganda as at April 2015, including 12 bilateral Double Tax Conventions (DTCs) and one multilateral Double Tax Convention. Uganda is a party to the EAC multilateral DTC signed on 30 November 2010, which provides for the necessary legal basis to enhance co-operation and EOI among the five revenue authorities under its Article 27. Furthermore, a “Memorandum of Understanding on the Exchange of Information on Tax Expertise and Other Related Matters” (MoU) was signed on 10 November 2010 by the five revenue authorities which provides for detailed rules and procedures for EOI on tax matters, in line with the 2002 OECD Model TIEA.

Uganda signed the Convention on Mutual Administrative Assistance in Tax Matters, as amended (Multilateral Convention) on 4 November 2015 and deposited the instrument of ratification on 26 May 2016. Consequently, the Multilateral Convention entered into force on 1 September 2016. The respective entry into force dates included in the table below reflect when the Multilateral Convention became effective between Uganda and the respective jurisdiction. Uganda signed the African Tax Administration Forum Agreement on Mutual Assistance in Tax Matters (AMATM) on 26 March 2014 and ratified the agreement within one year and deposited its instrument of ratification on 7 August 2015. The AMATM Agreement has been signed and ratified by Lesotho, Mozambique, South Africa and Uganda to date and it will enter into force 30 days after five African Tax Administration Forum member states submit their instruments of ratification. The AMATM Agreement is open to all ATAF members to sign.

	Jurisdiction	Type of agreement	Signature <sup>a/</sup> Territorial scope	Date of entry into force/Status
1	Albania	Multilateral Convention	Signed	01 Sept 2016
2	Andorra	Multilateral Convention	Signed	Not yet in force in Andorra
3	Anguilla <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
4	Argentina	Multilateral Convention	Signed	01 Sept 2016

	Jurisdiction	Type of agreement	Signature <sup>a/</sup> Territorial scope	Date of entry into force/Status
5	Aruba	Multilateral Convention	Extended	01 Sept 2016
6	Australia	Multilateral Convention	Signed	01 Sept 2016
7	Austria	Multilateral Convention	Signed	01 Sept 2016
8	Azerbaijan	Multilateral Convention	Signed	01 Sept 2016
9	Barbados	Multilateral Convention	Signed	01 Nov 2016
10	Belgium	Multilateral Convention	Signed	01 Sept 2016
		DTC	26 July 2007	Not in force
11	Belize	Multilateral Convention	Signed	01 Sept 2016
12	Bermuda <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
13	Brazil	Multilateral Convention	Signed	01 Oct 2016
14	British Virgin Islands <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
15	Bulgaria	Multilateral Convention	Signed	01 Sept 2016
16	Burundi	EAC DTC	30 November 2010	Not in force
17	Cayman Islands <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
18	Cameroon	Multilateral Convention	Signed	01 Sept 2016
19	Canada	Multilateral Convention	Signed	01 Sept 2016
20	Chile	Multilateral Convention	Signed	01 Nov 2016
21	China (People's Republic of)	Multilateral Convention	Signed	01 Sept 2016
		DTC	11 January 2012	Not in force
22	Colombia	Multilateral Convention	Signed	01 Sept 2016
23	Costa Rica	Multilateral Convention	Signed	01 Sept 2016
24	Croatia	Multilateral Convention	Signed	01 Sept 2016
25	Curacao <sup>b</sup>	Multilateral Convention	Extended	01 Sept 2016
26	Cyprus <sup>d</sup>	Multilateral Convention	Signed	01 Sept 2016
27	Czech Republic	Multilateral Convention	Signed	01 Sept 2016
28	Denmark	Multilateral Convention	Signed	01 Sept 2016
		DTC	14 January 2000	8 May 2001
29	El Salvador	Multilateral Convention	Signed	Not yet in force in El Salvador
30	Estonia	Multilateral Convention	Signed	01 Sept 2016
31	Faroe Islands <sup>e</sup>	Multilateral Convention	Extended	01 Sept 2016
32	Finland	Multilateral Convention	Signed	01 Sept 2016
33	France	Multilateral Convention	Signed	01 Sept 2016

	Jurisdiction	Type of agreement	Signature <sup>a/</sup> Territorial scope	Date of entry into force/Status
34	Gabon	Multilateral Convention	Signed	Not yet in force in Gabon
35	Georgia	Multilateral Convention	Signed	01 Sept 2016
36	Germany	Multilateral Convention	Signed	01 Sept 2016
37	Ghana	Multilateral Convention	Signed	01 Sept 2016
38	Gibraltar <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
39	Greece	Multilateral Convention	Signed	01 Sept 2016
40	Greenland <sup>e</sup>	Multilateral Convention	Extended	01 Sept 2016
41	Guatemala	Multilateral Convention	Signed	Not yet in force in Guatemala
42	Guernsey <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
43	Hungary	Multilateral Convention	Signed	01 Sept 2016
44	Iceland	Multilateral Convention	Signed	01 Sept 2016
45	India	Multilateral Convention	Signed	01 Sept 2016
		DTC	30 April 2004	27 August 2004
46	Indonesia	Multilateral Convention	Signed	01 Sept 2016
47	Ireland	Multilateral Convention	Signed	01 Sept 2016
48	Isle of Man <sup>e</sup>	Multilateral Convention	Extended	01 Sept 2016
49	Israel	Multilateral Convention	Signed	Not yet in force in Israel
50	Italy	Multilateral Convention	Signed	01 Sept 2016
		DTC	6 October 2000	21 January 2006
51	Jamaica	Multilateral Convention	Signed	01 Sept 2016
52	Japan	Multilateral Convention	Signed	01 Sept 2016
53	Jersey**	Multilateral Convention	Extended	01 Sept 2016
54	Kazakhstan	Multilateral Convention	Signed	01 Sept 2016
55	Kenya	Multilateral Convention	Signed	Not yet in force in Kenya
		EAC DTC	30 November 2010	Not in force
56	Korea	Multilateral Convention	Signed	01 Sept 2016
57	Latvia	Multilateral Convention	Signed	01 Sept 2016
58	Lesotho	AMATM	15 May 2014	Not in force
59	Liechtenstein	Multilateral Convention	Signed	Not yet in force in Liechtenstein
60	Lithuania	Multilateral Convention	Signed	01 Sept 2016

	<b>Jurisdiction</b>	<b>Type of agreement</b>	<b>Signature<sup>a/</sup> Territorial scope</b>	<b>Date of entry into force/Status</b>
61	Luxembourg	Multilateral Convention	Signed	01 Sept 2016
62	Malta	Multilateral Convention	Signed	01 Sept 2016
63	Mauritius	Multilateral Convention	Signed	01 Sept 2016
		DTC	19 September 2003	21 July 2004
64	Mexico	Multilateral Convention	Signed	01 Sept 2016
65	Moldova	Multilateral Convention	Signed	01 Sept 2016
66	Monaco	Multilateral Convention	Signed	Not yet in force in Monaco
67	Montserrat <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
68	Morocco	Multilateral Convention	Signed	Not yet in force in Morocco
69	Mozambique	AMATM	7 November 2014	Not in force
70	Netherlands	Multilateral Convention	Signed	01 Sept 2016
		DTC	31 August 2004	10 September 2006
71	New Zealand	Multilateral Convention	Signed	01 Sept 2016
72	Nigeria	Multilateral Convention	Signed	01 Sept 2016
73	Niue	Multilateral Convention	Signed	01 Oct 2016
74	Norway	Multilateral Convention	Signed	01 Sept 2016
		DTC	7 September 1999	16 May 2001
75	Philippines	Multilateral Convention	Signed	Not yet in force in Philippines
76	Poland	Multilateral Convention	Signed	01 Sept 2016
77	Portugal	Multilateral Convention	Signed	01 Sept 2016
78	Romania	Multilateral Convention	Signed	01 Sept 2016
79	Russia	Multilateral Convention	Signed	01 Sept 2016
80	Rwanda	EAC DTC	30 November 2010	Not in force
81	Saint-Maarten <sup>b</sup>	Multilateral Convention	Extended	01 Sept 2016
82	Saint-Marino	Multilateral Convention	Signed	01 Sept 2016
83	Saudi Arabia	Multilateral Convention	Signed	01 Sept 2016
84	Senegal	Multilateral Convention	Signed	Not yet in force in Senegal
85	Seychelles	Multilateral Convention	Signed	01 Sept 2016
86	Singapore	Multilateral Convention	Signed	01 Sept 2016
87	Slovak Republic	Multilateral Convention	Signed	01 Sept 2016
88	Slovenia	Multilateral Convention	Signed	01 Sept 2016

	Jurisdiction	Type of agreement	Signature <sup>a/</sup> Territorial scope	Date of entry into force/Status
89	South Africa	Multilateral Convention	Signed	01 Sept 2016
		DTC	27 May 1997	9 April 2001
		AMATM	1 September 2013	Not in force
90	Spain	Multilateral Convention	Signed	01 Sept 2016
91	Sweden	Multilateral Convention	Signed	01 Sept 2016
92	Switzerland	Multilateral Convention	Signed	Not yet in force in Switzerland
93	Tanzania	EAC DTC	30 November 2010	Not in force
94	Tunisia	Multilateral Convention	Signed	01 Sept 2016
95	Turkey	Multilateral Convention	Signed	Not yet in force in Turkey
96	Turks & Caicos <sup>c</sup>	Multilateral Convention	Extended	01 Sept 2016
97	Ukraine	Multilateral Convention	Signed	01 Sept 2016
98	Uruguay	Multilateral Convention	Signed	Not yet in force in Uruguay
99	United Arab Emirates	DTC	08 June 2015	Not in force
100	United Kingdom	Multilateral Convention	Signed	01 Sept 2016
		DTC	23 December 1992	21 December 1993
101	United States	Multilateral Convention (unamended)	Signed	01 September 2016
102	Zambia	DTC	24 August 1968	1 April 1964

Notes: a. For signature dates of the Multilateral Convention, see: [www.oecd.org/ctp/exchange-of-tax-information/Status\\_of\\_convention.pdf](http://www.oecd.org/ctp/exchange-of-tax-information/Status_of_convention.pdf).

b. Extension by the Kingdom of the Netherlands.

c. Extension by the United Kingdom.

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

Note by all the European Union Member States of the OECD and the European Commission: 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.

e. Extension by the Kingdom of Denmark.

## **Annex 3: List of all laws, regulations and other material consulted**

### **Commercial laws**

- Companies Act (2012)
- Cooperative Societies Act Cap 112 (1991)
- Business Names Registration Act Cap 109 (1918)
- Partnership Act Cap 114 (1950)
- Public Trustee Act Cap 161 (1937)
- Trustees Act Cap 164 (1954)
- Trustees Incorporation Act Cap 154 (1939)
- Uganda Registration Services Bureau Act Cap 201 (2004)

### **Financial sector laws**

- Accountants Act Cap 266 (2013)
- Anti-Money Laundering Act (2013)
- Bank of Uganda Act Cap 51 (1993)
- Capital Markets Authority Act Cap 84 (1996)
- Financial Institutions Act (2004)
- Financial Institutions (Anti-Money Laundering) Regulations, 2010 statutory instrument No. 46 of 2010.
- Insurance Act Cap 213 (2011)
- Uganda Securities Exchange Listing Rules (2003)

**Taxation laws**

Income Tax Act Cap 340 (1997)

Tax Procedures Code Act (2014)

Uganda Revenue Authority Act Cap (1991)

**Miscellaneous**

Advocates Act Cap 267 (1970)

The Constitution of the Republic of Uganda (1995)

Judicature Act Cap 13 (1996)

Non-Governmental Organisations Act Cap 113 (1989)

The Ratification of Treaties Act Cap 204 (1998)

Uganda Registration Services Bureau Act Cap 210 (1998)





## **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, PHASE 2: UGANDA

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

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 130 jurisdictions which participate in the work of the Global Forum on an equal footing.

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

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

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction’s legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 plus Phase 2 – reviews. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

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

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please visit [www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency) and [www.eoi-tax.org](http://www.eoi-tax.org).

Consult this publication on line at <http://dx.doi.org/10.1787/9789264266209-en>.

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

Visit [www.oecd-ilibrary.org](http://www.oecd-ilibrary.org) for more information.

