GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

CANADA

2017 (Second Round)

OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Canada 2017 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 140 jurisdictions participate on an equal footing.

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

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

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, please visit www.oecd.org/tax/transparency.

Abbrevations and acronyms

AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CBCA	Canada Business Corporations Act
CDD	Customer Due Diligence
CRA	Canada Revenue Agency
DNFBP	Designated Non-Financial Business or Profession as defined in the Glossary to the FATF Recommendations
DTC	Double Tax Convention
EOIR	Exchange of information on request
FINTRAC	The Financial Transactions and Reports Analysis Centre
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
ITA	Income Tax Act
Multilateral Convention (MAC)	The Multilateral Convention on Mutual Administrative Assistance in Tax Matters
PCMLTFA	Proceeds of Crime (Money Laundering) and Terrorist Financing Act
PCMLTFR	Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations
PRG	Peer Review Group of the Global Forum
SCC	Supreme Court of Canada
TIEA	Tax Information Exchange Agreement
VAT	Value Added Tax

2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.
2016 Methodology	2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015.
2016 Terms of Reference (ToR)	Terms of Reference related to Exchange of Information on Request (EOIR), as approved by the Global Forum on 29-30 October 2015.

Executive summary

1. In 2011, the Global Forum evaluated Canada for its implementation of the standard, against the 2010 Terms of Reference, for both the legal implementation of the standard as well as its operation in practice and concluded that Canada was rated Compliant overall. This second round report analyses Canada's legal framework as of 26 May 2017, its implementation in practice over the last three years and Canada's EOIR practice during the period of 1 July 2013 to 30 June 2016. The second round assessment is made against the 2016 Terms of Reference which contain more rigorous rules than the 2010 Terms of Reference and in particular require availability of beneficial ownership information. This second round report assigns Canada an overall rating of Largely Compliant.

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

	Element	First Round Report (2011)	Second Round Report (2017)
A.1	Availability of ownership and identity information	LC	PC
A.2	Availability of accounting information	C	LC
A.3	Availability of banking information	C	C
B.1	Access to information	C	C
B.2	Rights and Safeguards	C	C
C.1	EOIR Mechanisms	C	C
C.2	Network of EOIR Mechanisms	C	C
C.3	Confidentiality	C	C
C.4	Rights and Safeguards	C	C
C.5	Quality and timeliness of responses	C	C
	OVERALL RATING	C	LC

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

Progress made since previous review

3. The 2011 report recommended improvement in respect of four areas. As these issues did not have serious impact on the compliance with the 2010 ToR, all elements were rated Compliant except for element A.1 dealing with availability of ownership information which was rated as Largely Compliant. Since the first round review two gaps have been addressed and two remain to be acted upon.

4. The first identified gap was in respect of nominee shareholders that are not required to maintain ownership and identity information in respect of all persons for whom they act as nominees. Since the first round review there has been no change in the relevant rules and the identified gap remains to be addressed. The matter is receiving consideration in Canada. More particularly, in March 2017, the Government of Canada tabled a plan in Parliament which contained a commitment to implement strong standards for corporate and beneficial ownership transparency to address this concern.

5. The second identified gap related to bearer shares. In order to address the recommendation, Canada carried out a detailed review of federal and provincial corporate laws governing issuance of shares. Although there has been no change in the respective rules it has been clarified that Canadian law generally does not allow for issuance of bearer shares but does allow their existence where they have been already issued by a corporation before its continuation into Canada. It is concluded that certain corporate laws allow for the existence of bearer shares or share warrants to bearer in certain forms and limited circumstances which vary across provinces. The materiality of the gap is very limited and Canada has tabled in Parliament a bill amending the CBCA to address this concern at the federal level.

6. The third issue was in relation to DTCs which limited exchange of information as a result of provisions in the EOI partner's domestic legislation. Since the first round review all seven DTCs found not in line with the standard have been brought in line with the standard, except for two DTCs, one of which is currently being renegotiated. Nevertheless, Canada can exchange information in line with the standard with the later partner under the Multilateral Convention. Further, since the first round review Canada has brought the Multilateral Convention in force. As a result of the developments after the first round review out of 143 Canada's EOI relations only one does not provide for exchange of information up to the standard and the number of relations which may be potentially restricted by provisions in the domestic legislation of Canada's treaty partners is reduced to 19 partners. Consequently, the first round recommendation is deleted from the table of recommendations.

7. The fourth issue concerned practical exchange of information. The 2011 report recommended that Canada improve its processes and, in particular, set internal deadlines to respond to EOI requests in a more timely manner. Since the first round review Canada has taken measures which fully address the recommendation. Canada's EOI tracking system has been modified and internal procedures have been changed so that obtaining information pursuant to EOI requests is now directly handled by the EOI officers in the majority of cases. As a result, the average response times have improved since the first round of review despite increases in the number and complexity of incoming requests. The recommendation has been acted upon and is deleted.

Key recommendation(s)

8. Key issues where improvement is recommended relate to the availability of beneficial ownership information. The 2016 ToR introduced a requirement under which beneficial ownership on relevant entities and arrangements should be available in Canada. Although there are several legal requirements to maintain beneficial ownership information in Canada and these requirements are generally well implemented in practice, improvements are needed in respect of the legal framework. However, Canada faced no practical barriers to sharing beneficial ownership information during the review period. Availability of beneficial ownership information is required under Canada's AML/CFT law. Further, Canadian tax rules and common law obligations in respect of trusts result in certain information relevant to the identification of beneficial owners being required to be available. However, only financial institutions are obligated to identify beneficial owners in line with the standard. This results in the availability of beneficial ownership information in Canada if relevant entities and arrangements engage a financial institution in Canada. If they do not deal with a Canadian financial institution then, beneficial ownership information as required under the standard may not be available in respect of all of them. These issues are subject to recommendations under element A.1 and result in a rating impact for element A.1.

9. As noted above, two recommendations from the first round concerning availability of legal ownership information (A.1) remain to be addressed even though it is noted that the materiality of the gap concerning bearer shares is limited.

10. Further, three unrelated recommendations are made in respect of the retention of accounting records after dissolution of the entity or arrangement (A.2), supervision of accounting obligations of partnerships and trusts which do not file tax returns or have limited or no tax liability in Canada (A.2) and in respect of legal professional privilege (B.1). The technical legal

requirements in respect of the retention requirements for accounting records and a concern regarding practical availability of accounting records of certain partnerships and trusts may limit availability of the requested information in some cases. However, these issues have had only limited impact on EOI practice so far as reflected in the impact on the rating of element A.2. The legal professional privilege appears to be in line with the standard but given recent SCC decisions its application in practice should be monitored.

Overall rating

11. Canada was rated Compliant in the first round review. The 2016 ToR introduced new requirements mainly in respect of availability of beneficial ownership information. In light of these changes, it is recommended that Canada make improvements to ensure compliance with the new standard. The introduction of heightened standard and the few issues which remain to be addressed from the first round review are the main factors impacting the overall rating. While it is recognised that certain progress has occurred in Canada, impact of these issues on ratings for particular elements of the 2016 ToR result in Canada's overall rating of Largely Compliant. A follow up report on the steps undertaken by Canada to address the recommendations made in this report should be provided to the PRG no later than 30 June 2018 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
Legal and regulatory framework determination: The element is in place but certain aspects of the legal implementation of the element need improvement.	Nominees that are not subject to AML/CFT laws are not required to maintain ownership and identity information in respect of all persons for whom they act as legal owners.	An obligation should be established for all nominees to maintain relevant ownership information where they act as the legal owners on behalf of any other person.
	Although the materiality of the issue seems very limited Canadian law, with the exception of three provinces, permits the existence of bearer shares or share warrants to bearer in certain forms and circumstances which vary across provinces.	Canada should take measures to ensure that owners of bearer shares and share warrants to bearer are identified in all cases.

Determination	Factors underlying recommendations	Recommendations
Legal and regulatory framework determination: The element is in place but certain aspects of the legal implementation of the element need improvement. *(continued)*	Certain information relevant for identification of beneficial owners is required to be available mainly based on tax and AML/CFT obligations. However, only financial institutions are obligated to identify beneficial owners of companies and partnerships in line with the standard and (i) domestic companies, (ii) foreign companies with sufficient nexus which engaged a relevant DNFBP in Canada, (iii) domestic partnerships and (iv) foreign partnerships that carry on business in Canada or have taxable income therein are not legally required to engage a financial institution in Canada in all cases.	Canada should ensure that beneficial owners of all relevant entities are required to be identified in line with the standard.
	The identification of beneficial owners of trusts is required based on AML/CFT obligations. However, acting as a trustee does not in of itself trigger such obligations. Consequently, the identification of beneficial owners is not required in respect of all express trusts administered in Canada or in respect of which a trustee is resident in Canada unless the trustee is an AML/CFT obligated financial institution or such financial institution is engaged by the trust.	Canada should ensure that identification of beneficial owners of all express trusts administered in Canada or with a trustee resident in Canada is available as required under the standard.
EOIR rating: Partially Compliant		

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
Legal and regulatory framework determination: The element is in place but certain aspects of the legal implementation of the element need improvement.	In addition to the obligation under the tax law to keep accounting records for two years after dissolution of the entity Canada's laws typically provide for retention rules which require the person who has been granted the custody of the documents of the dissolved company to keep these documents for at least six years after the dissolution. Although such requirement is contained in provincial laws regulating the majority of companies not all provinces have such a rule. Further, it may not be always clear by whom these records are kept and it is not required that these records are available in Canada in all cases. In addition, no such retention rules which would complement the two year retention period under the tax law exist for dissolved partnerships and trusts which ceased to exist.	Canada should strengthen the existing retention requirements so that accounting records are required to be available in Canada after dissolution of an entity or arrangement in all cases.

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Largely Compliant	Supervision of accounting requirements is carried out mainly through tax audits and tax filing obligations. Although this supervision is generally adequate, supervision of accounting obligations of partnerships and trusts which do not file tax returns or have limited or no tax liability in Canada does not fully reflect the importance of tax supervision for guaranteeing availability of accounting information on these entities or arrangements and practical difficulties in ensuring it.	Canada should take measures to ensure that accounting records including underlying documentation in respect of partnerships and trusts is available in practice in all cases.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
Legal and regulatory framework determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Compliant	In June 2016 the Supreme Court ruled that the tax authority's access powers are unconstitutional in respect of notaries and lawyers acting in their capacity as legal advisers. The decision raises uncertainty in respect of practical ability of the tax authority to access information held by lawyers and notaries in accordance with the standard in an efficient manner.	Canada should monitor the exercise of the tax authority's access powers in respect of information held by lawyers and notaries and if necessary take measures to ensure that the requested information can be accessed in line with the standard.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework determination:	**The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the implementation of EOIR in practice.**	
EOIR rating: Compliant		

Preface

12. This report provides the outcomes of the second peer review of Canada's implementation of the EOIR standard conducted by the Global Forum. Canada previously underwent the EOIR peer review in 2011 (Combined Peer Review) conducted according to the ToR approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews. The combined review assessed Canada's legal framework as of January 2011 as well as its EOIR practice in the period from 2007 to 2009. The peer review report providing its outcomes was adopted by the Global Forum in April 2011 (the 2011 Report).

13. The current evaluation was based on the 2016 ToR, and was prepared using the 2016 Methodology. The evaluation was based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 26 May 2017, Canada's EOIR practice in respect of EOI requests made and received during the three year period from 1 July 2013 until 30 June 2016, Canada's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Canada during the on-site visit that took place from 17 to 20 January 2017 in Ottawa, Canada.

14. The evaluation was conducted by an assessment team consisting of two expert assessors and one representative of the Global Forum Secretariat: Mrs. Audrey S. Christian, Income Tax Division, Isle of Man; Mrs. Melisande Kaaij, Ministry of Finance, the Netherlands; and Mr. Radovan Zídek from the Global Forum Secretariat.

15. The report was tabled for approval at the PRG meeting on 17-20 July 2017 and was adopted by the Global Forum on [date].

16. For the sake of brevity, on the topics where there has not been any material change in the situation in Canada or in the requirements of the ToR, this evaluation does not repeat the analysis conducted in the previous evaluation, but summarises the conclusions and includes a cross-reference to the detailed analysis in the previous reports.

17. Information on each of Canada's reviews are listed in the table below.

Review	Assessment team	Period under review	Legal framework as of (date)	Date of adoption by Global Forum
2011 report	Ms. Petra Koerfgen, the Competent Authority with respect to exchange of information, Germany; Ms. Evelyn Lio, Inland Revenue Authority of Singapore, Singapore; and Ms. Caroline Malcolm from the Global Forum Secretariat.	1 January 2007 to 31 December 2009	January 2011	April 2011
2017 report	Mrs. Audrey S. Christian, Income Tax Division, Isle of Man; Mrs. Melisande Kaaij, Ministry of Finance, the Netherlands; and Mr. Radovan Zídek from the Global Forum Secretariat.	1 July 2013 to 30 June 2016	26 May 2017	[August 2017]

Brief on 2016 ToR and methodology

18. The 2016 ToR as adopted by the GF in October 2015, break down the standard 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 Canada's legal and regulatory framework and the implementation and effectiveness of this framework against these elements and each of the enumerated aspects. In respect of each essential element (except element C.5 *Exchanging Information*, which uniquely involves only aspects of practice) a determination is made regarding Canada's legal and regulatory framework 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. In addition, to assess Canada's EOIR effectiveness in practice a rating of either: (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant is assigned to each element. These determinations and ratings are accompanied by recommendations for improvement where appropriate. An overall rating is also assigned to reflect Canada's overall level of compliance with the standard.

19. In comparison with the 2010 ToR, the 2016 ToR includes new aspects or clarification of existing principles with respect to:

- the availability of and access to beneficial ownership information;
- explicit reference to the existence of enforcement measures and record retention periods for ownership, accounting and banking information;
- clarifying the standard for the availability of ownership and accounting information for foreign companies;

- rights and safeguards;
- incorporating the 2012 update to Article 26 of the OECD Model Tax Convention and its Commentary (particularly with reference to the standard on group requests); and
- completeness and quality of EOI requests and responses.

20. Each of these amendments to the ToR have been analysed in detail in this report.

Brief on consideration of FATF evaluations and ratings

21. The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating the financing of terrorism (AML/CFT) standards. Its reviews are based on a country's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

22. The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as that definition applies to the standard set out in the 2016 ToR (see 2016 ToR, annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combatting money-laundering and terrorist financing) are different from the purpose of the standard on EOIR (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

23. While on a case-by-case basis, an EOIR assessment may use some of the findings made by the FATF, the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

24. These differences in the scope of reviews and in the approach used may result in differing outcomes.

Overview of Canada

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

Legal system

26. Canada is a constitutional monarchy with a parliamentary democratic system of governance. It is a federal state comprised of 10 provinces and three territories.[1] Canada's supreme law is its Constitution which is comprised of Constitutional documents and accepted conventions. The federal legal system, as well as the legal system in each of the provinces, is based on common law with the exception of Quebec. Quebec has a hybrid arrangement where private law follows civil law whilst public law follows the common law tradition.

27. Primary legislation is in the form of statutes. Secondary legislation is in the form of regulations. Instruments of international law including international treaties providing for exchange of information are brought into force through a ratification process in Canada. Tax treaties (conventions) are incorporated into Canada's domestic law through an Act of Parliament. Subject to the Income Tax Conventions Interpretation Act, in the event of any inconsistency between a tax treaty and the provisions of any other domestic law, including the ITA, the provisions of the tax treaty prevail to the extent of the inconsistency.

28. The division of responsibilities between the federal and provincial levels of government is established by the Constitution. Unrestricted taxation powers and international relations are under the federal jurisdiction, whilst provinces may impose direct and indirect taxes applicable only within the particular province. The establishment of corporations is regulated at the

1. References in this report to "provinces" or to "provincial law" should be taken to include a reference to the ten provinces and three territories in Canada.

federal level as well as at the provincial level in respect of corporations which operate in a certain province. Regulation of legal relationships or arrangements such as partnerships or trusts is generally at the provincial level. Main AML/CFT rules are contained in the federal legislation.

Tax system

29. Canada imposes a variety of taxes comprising of direct and indirect taxes levied at the federal and provincial level. In addition to individual and corporate income taxes, other taxes imposed in Canada include a federal goods and services tax (GST), the harmonised sales tax (HST), excise taxes or property taxes.

30. At the federal level, income tax is imposed under the ITA. Income taxes are also imposed by all provinces. Income taxes apply to individuals, corporations and trusts. Tax residents are subject to tax on worldwide income. Tax residency of individuals is determined by several factors which include place of residence, and social and economic relationships in Canada. For corporations, residency is determined by place of incorporation or is based on the common law definition of residency centred around the concept of central management and control.

31. Individuals are subject to income tax on a progressive scale, both at the federal and the provincial level. The corporations statutory income tax rate at the federal level is 38%. However, a lower statutory rate applies to specific Canadian-controlled private corporations. Tax integration rules generally result in inter-corporate dividends being received on a tax-free basis. However, dividends are ultimately taxed when they are paid out to an individual. A partnership is an arrangement without legal personality which is transparent for tax purposes. Although a trust is not considered a legal entity, for income tax purposes trusts are deemed to be individuals and are liable to tax in their own right. A trust is considered resident in Canada if its trustee resides in Canada (or if it is otherwise administered in Canada).

32. The Canada Revenue Agency (CRA) collects federal tax and administers income tax for all provinces except for Quebec which administers its personal and corporate taxes and Alberta which administers its corporate taxes.

Financial services sector

33. Canada has a large and highly developed financial services sector which includes banks, trust and loan companies, credit unions, caisses populaires, property and casualty insurance, life and health insurance, and the pension fund industry. Responsibility for regulation of these industries

varies according to whether the relevant institution is federally or provincially constituted. Canadian financial institutions provide substantial services to non-residents.

34. Canada's financial sector manages assets of approximately CAD 10 trillion (EUR 7.1 trillion). The financial system is dominated by banks that total 42% of the financial sector assets. Six main domestic banks hold 93% of all bank assets. All banks are required to be incorporated federally and licenced by the Office of the Superintendent of Financial Institutions (OSFI).

35. Trust and loan companies are financial institutions that offer similar services to banks, including accepting deposits and making personal and mortgage loans. Trust companies can also administer estates, trusts, pension plans and agency contracts. There are 63 federally regulated trust and loan companies operating in Canada, with total assets of approximately CAD 335 billion (EUR 239 billion). Of these, about 20 are trust companies that are subsidiaries of large Canadian banks, and most large deposit-taking trust and loan companies are owned by banks. In addition, there are 12 provincially regulated trust and loan companies. The majority of trust companies focus on fiduciary activities. Trust and loan companies are regulated at the federal level by OSFI in similar manner to banks.

36. The legal profession in Canada is governed by the laws, rules and regulations of the provincial law society of which a legal professional is a member. Lawyers are required to be licensed with a law society in order to provide professional legal assistance and appear before court. Lawyers are supervised by their self-regulatory bodies (i.e. provincial law societies) in the province where they are licensed. The Federation of Law Societies of Canada is the national co-ordinating body of the 14 law societies in Canada (one for each of the 10 provinces except Québec, which has two societies and one for each of the three territories). Individuals seeking to become lawyers must have a common law degree or, in Quebec, a civil law degree. Following university, prospective lawyers must complete a provincial bar admission course and pass the accompanying examination(s). There are approximately 117 000 lawyers operating in Canada.

37. Notaries are licensed and supervised by their provincial self-regulatory bodies. Notaries in provinces other than Québec and British Columbia are restricted to oath taking and document certification, except in Prince Edward Island where the profession is prohibited by law. Notaries in the province of Québec are also allowed to provide legal advice. Notaries in British Columbia do not provide legal advice but are allowed to hold trust accounts to carry out their duties. There are about 4 500 of notaries operating in Canada.

38. Professional accountants are primarily regulated by provinces. Accountants are required to be licensed by their respective provincial

accounting associations in order to provide public accounting services. Provincial accounting associations enforce the by-laws, codes of ethics and rules of professional conduct established by each designation. The accounting industry consists of firms and individuals providing a range of accounting services, which include auditing and reviewing financial records, preparing financial statements and accounting reports, providing advice on accounting matters as well as bookkeeping and payroll services, tax return preparation and management consulting and insolvency services. There are about 150 000 professional accountants accredited in Canada.

39. The Fourth Round of Mutual Evaluation of Canada's compliance with the AML/CFT standard was conducted by the International Monetary Fund (IMF) in 2016. The IMF report provides a summary of the AML/CFT measures in place in Canada as at the date of the onsite visit in November 2015. Immediate Outcome 5 concerning the implementation of rules ensuring availability of beneficial ownership information in respect of legal persons and arrangements was rated Low. Compliance with FATF's recommendations 22 and 25 is rated Non-compliant, with recommendation 24 Partially Compliant and with recommendation 10 Largely Compliant. The FATF report identified several issues in respect of Canada's compliance with the FATF recommendations concerning availability of ownership information. The identified issues mainly related to the limited coverage of DNFBPs by AML/CFT obligations and gaps in respect of availability of beneficial ownership information in respect of legal entities. The report noted relatively good level of implementation of existing CDD requirements by financial institutions. Nevertheless, improvement is recommended in certain areas concerning the implementation of AML/CFT obligations. The assessment has been published and is available at *(*www.fatf-gafi.org/publications/mutualevaluations/documents/mer-canada-2016.html*)*.

Recent developments

40. Subsequent to an amendment to the ITA, the CRA began receiving reports by certain financial institutions on incoming and outgoing international electronic funds transfers of CAD 10 000 (EUR 7 170) or more. The amendment became effective on 1 January 2015.

41. On 28 September 2016, Bill C-25 was tabled in Parliament. The purpose of the bill is to clarify that federally incorporated corporations are prohibited from issuing share certificates and warrants, in bearer form. Bill C-25 has received the approval of the House of Commons and is in first reading in the Senate of Canada.

42. On 15 December 2016, the ITA was amended to implement the Common Reporting Standard (CRS).

43. On 29 June 2016, the Government of Canada published regulatory amendments to the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) to close certain gaps in Canada's AML/CFT regime. This is done by clarifying the application to online casinos operated by provinces to have anti-money laundering and anti-terrorist financing measures, by expanding the concept of politically exposed persons (PEPs) to include domestic PEPs and heads of international organisations, by clarifying the type of customer information reporting entities must obtain and keep as part of the customer due diligence process and by clarifying obligations to assess and document the risks associated with new technologies used by reporting entities. Some of these came into force immediately and others came into force on 17 June 2017. On 29 June 2017, FINTRAC issued revised guidance for the implementation of PCMLTFR in relation to the performance of CDD measures and the use of attestations (self-certifications). As the revision was issued after the cut-off date of the review it was not taken into account in the current evaluation.

44. The Government of Canada is preparing a second package of AML/CFT regulatory amendments which will include further measures to close gaps in Canada's regulation. These amendments would bring various new products and services, such as foreign money service businesses and dealers in virtual currency into the AML/CFT regime.

45. On March 22, 2017, the Government of Canada tabled a Budget Plan that made strengthening corporate and beneficial ownership transparency in the context of a commitment to maintain a resilient financial sector a priority. More specifically, it committed to implement "strong standards for corporate and beneficial ownership transparency that provide safeguards against money laundering, terrorist financing, tax evasion and tax avoidance, while continuing to facilitate the ease of doing business in Canada". The Government also announced that it will collaborate with Canadian provinces and territories to put in place a national strategy to strengthen the transparency of legal persons and legal arrangements and improve the availability of beneficial ownership information. And, insofar as trusts are concerned, there is a commitment to examine ways to enhance the tax reporting requirements for trusts in order to improve the collection of beneficial ownership information.

Part A: Availability of information

46. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of bank information respectively. Each section below gives a brief summary of the main issues found in the first round report and analyses changes made since that report. Each section further analyses implementation of the relevant obligations in practice during the reviewed period. This is completed by a table of recommendations made in this report, showing the changes from the first round report, where applicable.

A.1. Legal and beneficial ownership and identity information

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

47. Canada's law generally requires the availability of legal ownership information in line with the standard. The availability of legal ownership information in respect of companies is based on the obligation to keep a shareholder register and is supported by tax filing obligations which require all resident companies including foreign companies with place of effective management in Canada to provide the identification of all shareholders who directly own 10% and more of the shares in the company. The availability of legal ownership in respect of partnerships is mainly ensured through tax filing and registration obligations. Information on settlors, trustees and beneficiaries of trusts is required to be available based on common law and tax obligations.

48. The 2011 report concluded that legal and regulatory requirements concerning legal ownership are in place but need an improvement in respect of nominee shareholders not subject to AML/CFT laws and in respect of the identification of holders of bearer shares. Since the first round review there has been no change in the rules ensuring the availability of ownership information and the identified gaps remain. Regarding bearer shares it is nevertheless clarified that Canadian law generally does not allow for issuance of

bearer shares. However, corporate laws with the exception of three provinces allow for the existence of bearer shares or share warrants to bearer in certain forms and limited circumstances which vary across provinces. It is acknowledged that the materiality of this gap is limited.

49. In terms of implementation of the requirements to keep legal ownership information in practice, the 2011 Report concluded that they are properly implemented to ensure the availability of the required information in line with the standard. There has been no relevant change in this respect since the first round review.

50. Under the 2016 ToR, beneficial ownership on companies should be available. The main source of beneficial ownership information in Canada are requirements under the AML/CFT law. Certain information relevant for the identification of beneficial owners also has to be available under certain tax rules. However, a specific obligation to identify beneficial owners in line with the standard covers only financial institutions. Since relevant companies and partnerships are not legally required to engage a financial institution in Canada a gap exists. Canada is therefore recommended to ensure that beneficial owners of all relevant entities are required to be identified in line with the standard. A similar gap arises in respect of trusts with resident trustees. Considering that the identification of beneficial owners of trusts is required based on AML/CFT obligations; acting as a trustee does not in of itself trigger such an obligation and a trust need not engage a financial institution covered by these AML/CFT obligations, legal requirements in Canada do not necessarily result in the identification of beneficial owners of all trusts administered in Canada as required under the standard. Canada is therefore recommended to address this gap as well.

51. Supervision of AML/CFT obligations is generally adequate to ensure financial institutions' compliance with their CDD obligations.

52. During the review period about 25% of the received requests were related to ownership information. Out of 214 requests for ownership information 91 were related to corporations, 10 to trusts, two to partnerships and 111 requested information on ownership held by specified individuals. Out of 214 requests for ownership information, beneficial ownership information was requested in 53 cases. The requested information was provided in all cases except for a few cases representing less than 1% of the received requests where the information holder was not contactable as he/she was living abroad or it was not possible to locate the requested information (see further section C.5.1). The availability of ownership information in Canada was also confirmed by peers who did not report any specific concerns in this respect.

53. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	Nominees that are not subject to AML/CFT laws are not required to maintain ownership and identity information in respect of all persons for whom they act as legal owners.	An obligation should be established for all nominees to maintain relevant ownership information where they act as the legal owners on behalf of any other person.
	Although the materiality of the issue seems very limited, Canadian law, with the exception of three provinces, permits the existence of bearer shares or share warrants to bearer in certain forms and circumstances which vary across provinces.	Canada should take measures to ensure that owners of bearer shares and share warrants to bearer are identified in all cases.
	Certain information relevant for identification of beneficial owners is required to be available mainly based on tax and AML/CFT obligations. However, only financial institutions are obligated to identify beneficial owners of companies and partnerships in line with the standard and (i) domestic companies, (ii) foreign companies with sufficient nexus which engaged a relevant DNFBP in Canada, (iii) domestic partnerships and (iv) foreign partnerships that carry on business in Canada or have taxable income therein are not legally required to engage a financial institution in Canada in all cases.	Canada should ensure that beneficial owners of all relevant entities are required to be identified in line with the standard.

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework *(continued)*	The identification of beneficial owners of trusts is required based on AML/CFT obligations. However, acting as a trustee does not in itself trigger such obligations. Consequently, the identification of beneficial owners is not required in respect of all express trusts administered in Canada or in respect of which a trustee is resident in Canada unless the trustee is an AML/CFT obligated financial institution or such financial institution is engaged by the trust.	Canada should ensure that identification of beneficial owners of all express trusts administered in Canada or with a trustee resident in Canada is available as required under the standard.
Determination: The element is in place, but certain aspects of the legal implementation need improvement.		

Practical implementation of the standard
Rating: Partially Compliant

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

54. Companies in Canada can be incorporated under either provincial or federal law. There were about 2.5 million companies incorporated in Canada as of December 2016. Out of these about 90% are incorporated federally or in the four provinces listed in the table below.

Jurisdiction	Proportion of business numbers
Ontario	35.8%
Quebec	18.2%
British Columbia	13.5%
Alberta	12.3%
Federally (Corporations Canada)	10.3%

55. Although the corporation laws on the provincial level may differ, the relevant rules for availability of ownership information are similar or not

significantly different from the rules contained in the CBCA. Nevertheless where the rules do differ this is pointed out below.

56. The main obligation ensuring the availability of ownership in respect of companies is the obligation under the corporate law to keep a shareholder register which obligation applies to all companies regardless whether they are incorporated at the federal or provincial level. This obligation is supported by a tax filing obligation which requires all resident companies including foreign companies with a place of effective management in Canada to provide the identification of all shareholders who directly own 10% and more of the company's shares. Accordingly, the 2011 report concluded that legal requirements in respect of legal ownership are generally in place but recommended an improvement in respect of nominee shareholders not subject to AML/CFT laws and holders of bearer shares. Since the first round review there has been no change in the rules ensuring the availability of ownership information and the identified gaps remain. In respect of bearer shares it is nevertheless clarified that Canadian law generally does not allow for issuance of bearer shares but does allow their existence. It is concluded that Canadian corporate laws with exception of three provinces do allow for the existence of bearer shares or share warrants to bearer in certain forms and circumstances which vary across provinces. It is acknowledged that the materiality of this gap appears to be limited.

57. In terms of implementation of the requirements to keep legal ownership information in practice, the 2011 Report concluded that they are properly implemented to ensure the availability of the required information in line with the standard. There has been no relevant change in this respect since the first round review.

58. Under the 2016 ToR, beneficial ownership on companies should be available. The main source of beneficial ownership information in Canada are requirements under the AML/CFT law. Certain information relevant for the identification of beneficial owners also has to be available based under the tax rules. However, a specific obligation to identify beneficial owners of companies in line with the standard only covers financial institutions. In this regard, it is noted that domestic companies as well as foreign companies with sufficient nexus with Canada are not legally required to engage a financial institution in Canada in all cases.

59. Supervision of AML/CFT obligations is generally adequate to ensure financial institutions' compliance with their CDD obligations. However some financial institutions' reliance on customers' self-declaration and limited verification measures raise a concern in respect of the quality of beneficial ownership information kept by these institutions.

Legal ownership and identity information requirements

60. Companies in Canada can be incorporated under either provincial or federal law. At the federal level, key incorporating statutes are the Canada Business Corporations Act (CBCA), the Canada Cooperatives Act (Coop Act), and the Canada Not-for-Profit Corporations Act (CNFP Act). About 10% of all corporations are incorporated federally. Most federally incorporated corporations are created under the CBCA. Further, each province regulates domestic and foreign corporations that carries on activities in their jurisdiction and have corporate laws that are generally similar to those that exist at the federal level. Corporations incorporated in a province can only operate in Canada in that province, unless they register in any other province in which they want to operate. A corporation incorporated in a province can also operate abroad.

61. The first round report concluded that the legal and regulatory framework for the maintenance of ownership and identity information is in place in Canada with the exception of laws applicable to nominee shareholders. Since the first round of review there has been no change in the relevant obligations. Nominees that are not subject to AML laws are not required to maintain ownership and identity information in respect of all persons for whom they act as legal owners. The gap therefore remains to be addressed.

62. All corporations incorporated either federally or provincially are required to keep an up-to-date register of shareholders. The register has to include (i) the names and the latest known address of each person who is or has been a security holder; (ii) the number of securities held; and (iii) the date and particulars of the issue and transfer of each security. The securities register may be kept outside of Canada if it is accessible in Canada through contacting the corporation at its registered address in Canada. Sanctions are applicable in case of failure to keep the corporation's records including the shareholder register.

63. Obligations to keep shareholder register are further supported by filing obligations under the tax law. All private corporations (i.e. corporations not listed on a stock exchange) including foreign-incorporated private corporations carrying on business or being tax resident in Canada are required to include with their return Schedule 50 containing the name of any person directly holding 10% or more of share capital. Failure to file the required information with the tax authority triggers sanctions under the ITA.

64. Filing obligations with corporate registers are not directly relevant for availability of legal ownership information as they do not require the provision of up dated ownership information. Corporate registers in Alberta and Quebec nevertheless require the provision of the five biggest shareholders and three biggest shareholders respectively. The information required to

be provided to corporate registers always includes address of the corporation and names and addresses of its representatives (including directors) and is required to be kept updated.

65. Shareholder information is required to be kept for at least five years from the period to which it relates. Laws in Canada typically require corporations to maintain a shareholder register throughout the period of existence of the corporation. They also require that the person responsible for keeping corporate records (including the shareholder register) at the time of the dissolution of the corporation to be able to produce any such records for at least six years after the company's dissolution. The corporate records retention periods are stipulated in the relevant corporate laws of the provinces and the CBCA. Further, under subparagraph 5800(1)(a)(iii) of the Income Tax Regulations, the retention period for any record of a corporation containing details with respect to the ownership of the shares of the capital stock of the corporation (and any transfers thereof) is two years after the corporation is dissolved. Therefore legal regulations contain a general obligation to maintain the shareholder information kept by a corporation for at least five years regardless of the dissolution of the corporation. However these legal regulations do not specify who is the person responsible for keeping these records after the dissolution and whether this person is required to remain contactable in Canada in all cases. At the federal level and in Alberta the address of the person keeping the records is required to be entered into the corporate register however this is not consistently required in all provinces. Canada should therefore consider to strengthen rules governing availability of corporate records after the dissolution of a corporation. It is nevertheless noted that a substantive amount of ownership information on corporations is available with the tax authority based on annual tax filing obligations. Annual returns received by the CRA are subject to a minimum retention period of 10 years. This period can be extended at the request of various CRA operational areas (e.g. audit or appeals functions). In practice corporate records are typically kept by directors of the dissolved corporation or by its other liquidators who are frequently law firms in Canada (see also section A.2.2).

Implementation of obligations to keep legal ownership information in practice

66. The 2011 report concluded that the relevant legal requirements are properly implemented in practice and consequently no recommendation was given. There has been no change in Canada's practices since then.

67. The main source of legal ownership information in practice is the information kept by the corporation or filed with the tax administration.

(a) Practical availability of information with companies

68. The main supervisory measure in respect of ownership information required to be kept by companies are tax audits. Ownership information required to be kept by corporations is routinely requested and reviewed during all tax audits. Taxpayers are advised at the outset of an audit that an auditor will review the shareholder register and other relevant corporate records such as general meeting minute records. The tax authority conducted 65 703 corporate income tax audits in fiscal year 2013/2014, 57 083 in 2014/2015 and 52 861 in 2015/2016. This means that on average about 3% of corporate taxpayers are subject to a tax audit annually. These figures only include comprehensive audits and do not include other supervisory activities such as desk audits, investigations or other validation activities that the CRA conducts.

69. Further, information contained in the shareholder register is relied upon by interested parties (i.e. shareholders, directors, creditors or liquidators) who are entitled to inspect the register. Therefore the corporations themselves have vested interest to keep the shareholder register updated in order to manage their relations with these shareholders and other parties. The obligation to keep the shareholder register is also indirectly supervised mainly through tax filing requirements (see further below).

(b) Practical availability of information with the tax administration

70. All corporations incorporated in Canada and foreign companies carrying on business in Canada or being tax resident therein are required to register with the tax authority and file annual tax returns. Upon registration with the tax authority a corporation receives a Business Number which serves as a unique identifier with government authorities and it is used as identifier also by business partners and service providers such as banks. Issuance of a Business Number by the CRA is fully integrated with the registration in the corporate register in six provinces.[2] In these provinces once registered with the corporate registry, corporations will automatically receive a Business Number and a corporate income tax account number with the CRA. Corporations operating in provinces that have not adopted the Business Number as the common business identifier have the capability to register for a Business Number with the CRA via the Business Registration online service, by phone, mail or fax. The information provided upon registration for the Business Number includes identification of companies' directors and registered address but it does not include legal ownership information.

2. These six provinces are British Columbia, Manitoba, Ontario, Nova Scotia, New Brunswick and Saskatchewan.

71. To ensure the data integrity of the tax system, specific programmes in the CRA focus on the risk assessment of newly-registered Business Numbers. Two such programmes are the Business Number Review programme and the GST/HST Enhanced Registration Review programme. The CRA review programmes also conduct risk assessments of Business Numbers to identify cases with high risk for identify theft and fraud, as well as specific characteristics that are indicative of non-compliant behaviour.

72. Corporate tax returns are filed through e-filing system. Paper based filing of corporate tax returns is extremely rare. All electronic tax returns are automatically vetted by the system so that the provided information is not obviously erroneous and the return is completed. If the necessary information is not provided then the return is not accepted. Upon submission, information from tax returns is automatically extracted from the tax database for further validation and analysis. The table below indicates the total number of corporations filing their tax returns during the last three years:

Tax year	Number of corporate income tax returns filed	Number of Schedule 50 received
2013	2 075 900	1 894 880
2014	2 059 330	1 890 260
2015	1 731 080	1 609 385

73. Figures for tax years 2014 and 2015 are not yet final and may increase. Although there is no central corporate register it can be calculated that from the estimated total of 2.5 million corporations registered in Canada (whether they be active or inactive) about 80% file tax returns. Out of the filed tax returns 91% contain legal ownership information (Schedule 50) as required under the ITA.

74. The CRA's Non-Filer programme facilitates and enforces filing for individuals, businesses, and trusts. It uses a risk-based approach to influence filing behaviour and addresses non-compliance through targeted strategies, automated systems, call centres, and field operations. In cases of failure to submit the corporate income tax returns, sanctions under section 162 of the ITA apply. The following table summarises application of these sanctions during the last three years for which information is available:

Tax year	Total number of cases where penalties under s. 162 of the ITA	The total amount of fines applied under s. 162 of the ITA (EUR)
2013	587 015	269 million
2014	513 362	209 million
2015	356 706	68 million

(c) Practical availability of information with the registration authority

75. As already mentioned above, companies can be incorporated at the federal as well as at the provincial level. Corporations Canada is responsible for federal incorporation. Further each province has a corporate registry that is responsible for the incorporation of businesses in its jurisdiction. Foreign companies are required to register with the provincial corporate register in the province where they conduct business. There is no central database containing the information filed with all provincial corporate registers.

76. Corporate registers do not contain complete legal ownership information in respect of registered corporations. In addition to the obligation to keep the provided information updated, all corporations are also required to file annual returns. These returns must be filed with the appropriate provincial or territorial registry, except in the case of Ontario, which requires the information to be filed with the CRA as part of their tax filing process. Annual returns include updates of the corporation's address and directors. Filed returns are reviewed for completeness and information contained in these returns is crosschecked with already filed information.

77. The focus of corporate registers is on making up-to-date corporate information publicly available in order to provide the marketplace with easy, efficient access to information as well as to facilitate the self-enforcing nature of corporate law statutes. Corporate registers encourage voluntary compliance through education, corporate filer services and assistance. These activities are supplemented by desk audits of corporate files where inconsistencies were found or where the company fails to submit the annual return. If failures or inconsistencies are discovered the corporation is requested to correct them. The federal register conducts review of about 4 000 annual returns. Based on results of these audits the estimated compliance rate across the federal corporate register is between 83% and 85%. Based on the information provided by the Canadian authorities it is expected that similar compliance rates generally apply also in respect of provincial registers.

78. Federal, as well as provincial corporate registers, have in place "struck-off" policies in respect of corporations which remain in breach of their filing obligations. Failure to submit annual returns for two consecutive years will typically trigger an automatic struck-off from the register. On average about 2% of corporations registered in the particular register are struck-off annually but the exact proportions vary among provinces.

Beneficial ownership information

79. Under the 2016 ToR, beneficial ownership on companies should be available. The main source of beneficial ownership information in Canada are

requirements under the AML/CFT law. Certain information relevant for the identification of beneficial owners has to be available also based on tax rules.

AML/CFT law requirements

80. The AML/CFT law requires financial institutions to obtain and maintain identification of beneficial owners of their clients in line with the standard. These AML/CFT obligations cover banks, credit unions, trust and loan companies, life insurance companies, money services businesses and securities dealers (s. 5 PCMLTFA). When required to confirm the existence of an entity (such as when an account is opened), financial institutions are required to obtain the following information:

- For corporations, the name of all directors of the corporation and the name and address of all persons who own or control, directly or indirectly, 25% or more of the shares of the corporation;
- For trusts, the names and addresses of all trustees and all known beneficiaries and settlors of the trust;
- For entities other than corporations or trusts (typically, a partnership fund or unincorporated association or organisation), the name and address of all persons who own, directly or indirectly, 25% or more of the entity; and
- In all cases, information establishing the ownership, control, and structure of the entity (s. 11.1(1) PCMLTFR).

81. Further, financial institutions are required to take reasonable measures to confirm the accuracy of the information obtained on beneficial ownership (s. 11.1(2) PCMLTFR). The identification and verification measures include identification of a natural person exercising control over the legal person or arrangement through other means than ownership or formal control and identification of the relevant natural person who holds the position of senior managing official. OSFI Guideline B-8 indicates that "reasonable measures" to identify ultimate beneficial owners could include not only requesting relevant information from the entity concerned, but also consulting a credible public or other database or a combination of both. If the AML/CFT obligated entity cannot establish the beneficial ownership information in accordance with the prescribed measures, it is required to treat the client as high risk and take prescribed enhanced due diligence measures (subsection 11.1(4) PCMLTFR) (see also section A.3).

82. In Canada, the beneficial ownership requirements changed in February 2014 from a risk-based approach to a rules-based approach. Prior to this change, financial institutions were required to take reasonable measures to obtain beneficial ownership information. After this change, financial

institutions are required to identify the beneficial owner in all cases and take reasonable measures to confirm the accuracy of the obtained information. The strengthened CDD obligations apply to all clients, whether or not they were clients at the date of new CDD obligations coming into force. In obtaining beneficial ownership on all their pre-existing accounts financial institutions were required to prioritise accounts based on their risk assessment. According to the FINTRAC guidance banks are required to update their records on all accounts at least once every two years. It is therefore understood that beneficial ownership information in respect of the vast majority of pre-existing accounts is now available. Nevertheless, Canada should ensure that the new rules are swiftly implemented in respect of all pre-existing accounts where it has not yet been done so.

83. Financial institutions (including security dealers) can rely on a third party to meet their client identification obligations only if the third party is affiliated or part of the same association. Where a financial institution relies on a third party, it must enter into a written agreement with the third party ensuring that the required CDD measures are properly carried out and the beneficial ownership information will be provided to the financial institution without delay. Information obtained from the third party for the identification of the customer and its beneficial owners must be obtained pursuant to CDD measures and requirements under the PCMLTFR. Relying financial institutions are accountable for meeting these requirements (s. 64.1 PCMLTFR). Certain risk exists in respect of business introduced to security dealers as there is no explicit requirement to have the necessary CDD information provided to them by the relied-upon entity or that the relied-upon entity is subject to supervision of its compliance with CDD and record-keeping obligations. According to FINTRAC the lack of an explicit requirement has had limited impact in practice as the required CDD information is available with the AML/CFT obligated entity and reliance on third parties in general is of limited practical application. Further, the Canadian authorities are of the view that the issue relates only to mutual funds established by securities dealers regulated under the Canadian law. The matter therefore seems to have only limited relevance for the current evaluation.

84. Identification of beneficial owners is required to be kept updated. Under the PCMLTFR the AML/CFT obligated entities are required to conduct ongoing monitoring of their business relationships which includes monitoring on a periodic basis, according to assessed risk, for the purpose of (i) detecting transactions that must be reported to FINTRAC; (ii) keeping client identification information up to date; (iii) reassessing levels of risk associated with clients' transactions and activities; and (iv) determining whether transactions or activities are consistent with the information (s1(2) PCMLTFR).

85. Records are required to be kept by the AML/CFT obligated entity for a period of at least five years following completion of the transaction or termination of the business relationship (s. 69 PCMLTFR). In case of breach of the AML/CFT obligated entity's obligations sanctions apply. The PCMLTF Administrative Monetary Penalties (AMP) Regulations describe the classification of different offenses under the PCMLTFA and the Regulations. These Regulations classify violations as minor, serious, and very serious, each with a varying range of monetary penalties, up to CAD 500 000 (EUR 358 680). In addition to monetary penalties for non-compliance criminal sanctions are applicable in case of very serious breaches.

86. The AML/CFT obligations to identify beneficial owners however do not cover DNFBPs including lawyers, accountants or other trust and corporate service providers. Accountants, British Columbia notaries, casinos, dealers in precious metals and stones and real estate agents are only required under specified conditions to confirm the existence of and ascertain the name and address of every corporation or other entity on whose behalf a transaction is being undertaken, and in the case of a corporation, the names of its directors (ss.59.1, 59.2(1), 59.3, 59.5, 60 PMCLTFR). Lawyers and Quebec notaries are exempted from any AML/CFT requirements as these requirements were found to breach the constitutional right to attorney-client privilege by the SCC in February 2015.[3] Considering the important role of legal professionals and accountants in corporate formation and in providing corporate services the lack of requirement to obtain beneficial ownership significantly limits the scope of beneficial ownership information which could have been available based on AML/CFT obligations.

Tax obligations

87. In addition to AML/CFT obligations, certain information which may be relevant for identification of beneficial owners is required to be available to the tax administration in order to administer Canada's tax laws. The relevant tax obligations mainly include:

- reporting ownership and control information in schedules to corporate annual tax returns (T2):
    - related and associated corporations (Schedule 9): corporations are related or associated through control. Corporations are related if controlled by the same or related persons. Two individuals are related through blood relationship, marriage or common-law partnership or adoption. Control can be exerted either directly or

3. Attorney General of Canada v. Federation of Law Societies of Canada et al. 2015 SCC 7.

indirectly. A corporation can be controlled by one or a group of persons. The controlling person can be either an individual or a corporation. Control includes both formal and informal control. Formal control is the right of control that depends on a person owning enough shares of a corporation to give that person a majority of the voting power. Informal control occurs when a corporation is subject to any direct or indirect influencing that, if exercised, would result in actual control being exerted (ss.251(2) and 251.1 ITA);

- investment in foreign affiliates (Schedule 28): a foreign affiliate is defined as a non-resident corporation in which the taxpayer's equity percentage is not less than 1%, and the total of the equity percentages in the corporation of the taxpayer and of each person related to the taxpayer is not less than 10% (s. 95(1) ITA);

- filing reports to the CRA on several types of payments:
  - dividends paid to non-residents (NR4 Statement of amounts paid or credited to non-residents of Canada);
  - dividends paid to residents (T5 Statement of Investment Income);
  - received dividends (Schedule 3 of T2 return form);
- application for a refund on withholding tax remitted in respect of a dividend paid to a beneficial owner who is resident in a country with which Canada has a DTC. (Refunds can arise since Canada's DTCs allow for reduced withholding tax rates in respect of dividends compared to Canada's statutory rates.) In this context the beneficial owner can be also a legal person;
- other information contained in the tax database: the tax administration has at its disposal a vast amount of information obtained through the observance of tax filing obligations, during tax audits or from government and third party's sources. This information includes legal ownership information, identification of representatives of the taxpayer which will typically include identification of the chief executive officer (CEO) or chief financial officer (CFO) or other persons holding position in senior management of the taxpayer, accounting and certain transaction records. The tax authority can also retrieve information from public sources and websites (see further section B.1.1).

88. Foreign companies with their place of effective management in Canada are considered tax residents and the same tax rules as in respect of domestic companies apply. Further, the same AML/CFT obligations apply in respect of foreign and domestic companies.

89. In conclusion, certain information relevant for identification of beneficial owners is required to be available mainly based on tax and AML/CFT obligations. However, a specific obligation to identify beneficial owners of companies in line with the standard covers only financial institutions and domestic companies as well as foreign companies with sufficient nexus with Canada which have a relationship with an AML-obligated service provider that is relevant for the purposes of EOIR are not legally required to engage a financial institution in Canada in all cases. Nevertheless this is not an issue in respect of foreign companies with sufficient nexus which have a relationship with a financial institution in Canada as the financial institution is required to identify their beneficial owners in line with the standard. Consequently, the identification of beneficial owners is not required to be available in respect of all domestic companies and foreign companies with sufficient nexus which engaged a relevant DNFBP in Canada as required under the standard. It is therefore recommended that Canada ensures that identification of beneficial owners of all domestic companies and foreign companies with sufficient nexus which engaged a relevant DNFBP in Canada is available in Canada as required under the standard. It is nevertheless noted that the scope of the AML/CFT coverage of tax resident corporations is arguably significant as most of them would be expected for practical business reasons to have a bank account in Canada (although not legally required).

Implementation of obligations to keep beneficial ownership information in practice

90. FINTRAC is the AML/CFT supervisor for all reporting entities subject to the PCMLTFA. FINTRAC is an independent agency acting as Canada's financial intelligence unit. It ensures reporting entities' compliance with legislative requirements under the PCMLTFA, including the requirements with respect to the availability of beneficial ownership information. A range of supervisory tools is used by FINTRAC to discharge its supervisory responsibilities. A case management tool determines the level and extent of supervision to be applied to sectors and individual reporting entities scoping specific areas for examinations, recording supervisory findings and managing follow-up activities. In 2014/2015, there was 79 full-time staff employed in FINTRAC's supervisory programme. Of this complement, 57 staff members were involved in direct enforcement activities.

91. FINTRAC undertakes on-site and office examinations to assess whether a reporting entity is meeting its obligations under the legislation. FINTRAC applies a risk-based approach to select reporting entities for compliance examinations. This selection is based on various risk assessment methodologies and strategies employed by FINTRAC. By using this approach, FINTRAC ensures that compliance activities are commensurate

with the risk and potential impact of non-compliance. Compliance activities include examinations (desk based and on-site), follow-up examinations, supervisory letters (outlining findings and results of examinations), compliance assessment reports (questionnaires that reporting entities are required to complete electronically as they self-assess their compliance across the main categories of PCMLTFA requirements, including record keeping and ascertaining identification requirements), observation letters (outline specific issues identified by FINTRAC and for which the reporting entity is responsible to demonstrate its compliance), voluntary self-disclosures of non-compliance by reporting entities, and other awareness and assistance activities such as guidance and outreach tailored to specific reporting entities or sectors. The table below gives an overview of AML/CFT examinations carried out during the last three years for which the statistics are available:

Sector	Number of reporting entities	FINTRAC/OSFI examinations			
		2012/2013	2013/2014	2014/2015	Total
Banks	81	10	19	16	45
Trust and loan companies	75	7	6	7	20
Credit unions	699	301	170	165	636
Life insurance	89	13	123	61	197
Money service businesses	850	222	161	143	526
Securities dealers	3 829	129	167	85	381
Total FIs	*5 629*	*682*	*646*	*477*	*1 805*
Total DNFBPs	*25 630*	*487*	*492*	*164*	*1 143*

92. Areas of review under a FINTRAC compliance examination always include the implementation of a compliance regime, client identification and record keeping requirements. During on-site controls representative sample of CDD documentation is always examined. Examiners review the documentation kept identifying the beneficial owners as well as how the identification was verified. The obliged entities are expected to document which measures were taken to identify the beneficial owner.

93. Based on the FINTRAC's findings, the six main banks' compliance with the AML/CFT records keeping requirements is at a satisfactory level. These six banks hold 93% of all bank assets. Compliance of smaller banks may however vary. The main concerns in this respect relate to the limited verification measures taken by some financial institutions to confirm accuracy of the identification of the beneficial owner. It appears based on FINTRAC's findings that beneficial ownership would generally be obtained through self-disclosure by the customer, and, in some instances, be followed by an open data search to confirm the accuracy of the information provided. Some financial institutions do not require the customer to provide official

documents to establish the identity of the beneficial owners, nor carry out any independent verification measures other than the open data search although it remains the responsibility of the reporting entity to confirm the accuracy of the information. If a customer provides a false self-declaration to a financial institution it would be reported by the financial institution as suspicious activity and could be sanctioned under criminal law. Although the supervisory measures carried out by the FINTRAC appear adequate, over-reliance on customers' self-disclosure and limited verification measures by some financial institutions represent a concern in respect of the financial sector generally. The importance of appropriate verification measures is further heightened by the use of nominee shareholders and nominee directors who may also not be residents in Canada and the use of intermediaries introducing the customer to the financial institution. Reliance on customers' self-declaration raises a concern in respect of the quality of beneficial ownership information kept by some financial institutions, i.e. that the beneficial ownership information is adequate, accurate and up to date. Canada is therefore recommended to address this issue. It is nevertheless noted that the issue is of concern with respect to the beneficial ownership information kept by some smaller financial institutions.

94. Once a deficiency is identified, FINTRAC assesses which measures are the most efficient to remedy the failure and prevent it from happening again. Enforcement measures mainly consist of supervisory letters requesting remedy of the identified deficiencies with a specified deadline and follow-up process. Administrative monetary penalties are levied where FINTRAC is determined that doing so is the most appropriate course of action to address a reporting entity's non-compliance. Following the issuance of a penalty, FINTRAC may return to the entity, after a reasonable amount of time has elapsed, to conduct a follow-up examination to ensure that the penalty has achieved its purpose. FINTRAC issued 16 monetary penalties in 2013-14 and further 16 in 2014-15. In about ten cases during the same period an entity was publicly named for breaches of its AML/CFT obligations. FINTRAC's enforcement measures seem to have positive impact on the supervised entities compliance as the identified deficiencies were remedied in all cases.

95. Certain information relevant for the identification of beneficial owners is required to be available based on tax obligations. Supervision of tax obligations is carried out by the CRA. As described above, tax obligations are properly implemented to ensure availability of the required information in line with the standard. Cases where information relevant for the identification of the beneficial owner is available with the tax administration to a certain degree mitigate concerns related to the scope and level of implementation of AML/CFT obligations. However, it is noted that about 20% of companies in Canada do not file their tax returns as required under the ITA. The figure of companies

which fail to file a return includes also corporations which attempted to file their return electronically but whose return was rejected.

96. To sum up, supervision of AML/CFT obligations is generally adequate to ensure financial institutions' compliance with their CDD obligations. However some financial institutions' reliance on customers' self-declaration and limited verification measures raise a concern in respect of the quality of beneficial ownership information kept by these institutions. It is therefore recommended that Canada strengthens its measures to ensure that the beneficial ownership information kept in practice is adequate, accurate and up to date.

ToR A.1.2: Bearer shares

97. The 2011 report concluded that Canada allows for the issuance of bearer shares for all types of companies (federal and provincial) with the exception of companies incorporated in Quebec and British Columbia. Where referring to the CBCA, the 2011 report noted that the possibility to issue such shares is not unambiguously provided for. Further, the report referred to the FATF Mutual Evaluation of Canada of February 2008 and the practical exchange of information where no instances of bearer shares being issued have been found.

98. In order to address the first round recommendation through a legal amendment, Canada carried out a detailed review of federal and provincial corporate laws governing the issuance of shares and found that the conclusion of the first round review is inaccurate. Canadian authorities pointed mainly at the inconsistency between the assessment of the shares regulation in British Columbia and other provinces and the difference between the possibility to issue bearer shares and the continuation of bearer shares when they are issued under the laws of a jurisdiction outside of Canada.

99. Four groups of corporate regulations at the federal and provincial level concerning the possibility of bearer shares can be distinguished:

- clearly prohibiting the issuance of bearer shares – Quebec, Ontario and Prince Edward Island;
- providing for the obligation to enter all shareholders in the register of shareholders (without any mention of bearer shares) – British Columbia, New Brunswick and Nova Scotia;
- allowing the existence of bearer shares already issued by an extra-provincial corporation before its continuation in the province (under the respective corporation act) including the possibility to issue bearer shares in conversion of already issued registered shares if the registered shares contained a privilege to convert them in bearer shares – Alberta, Manitoba, Newfoundland and Labrador, Northwest Territories, Nunavut, Saskatchewan and Yukon;

- allowing the existence of bearer shares in respect of extra-provincial corporations as in the third group of these four bullets but in addition allowing issuance of bearer securities – federal corporate regulation in the CBCA.

100. Further, the Companies Act in Nova Scotia allows for issuance of share warrants to a bearer. A share warrant entitles their bearer to the shares specified therein and the shares may be transferred by delivery of the warrant. The bearer of a share warrant is, subject to the memorandum of association of the company, entitled, on surrendering it for cancellation, to have the bearer's name entered as a member in the register of members (s. 47 Companies Act).

101. Several corporate acts also allow for issuance of a bearer certificate for a fractional share or of a scrip certificate in bearer form that entitle their holder to receive a certificate for a full share by exchanging scrip certificates aggregating a full share. Such or similar provisions are contained in the corporate acts of Manitoba, New Brunswick, Newfoundland and Labrador, Ontario, Saskatchewan and in the CBCA.

102. As concluded in the 2011 report and in the IMF's Fourth Round Mutual Evaluation Report on Canada in 2016, instances where bearer shares are in circulation in Canada seem very rare in practice as was also confirmed by the Canadian authorities. This appears to be caused by several reasons: (i) there are only rather limited circumstances in which they can exist, (ii) Canada's largest economic centres do not allow their existence or issuance, (iii) issuance of bearer securities brings compliance costs associated with securities regulations, (iv) bearer shares and share warrants to bearer are not practically useful in the Canadian economy, (v) there are risksassociated with losing a bearer shares and (vi) their use brings reputational risks. During public consultation on the CBCA reforms, questions related to bearer shares were asked. While Canada received a lot of responses in connection with the consultation, only one comment was received in connection with bearer share which was a simple notation that none had been seen in practice. The low materiality of the issue was also confirmed in the EOI context as there has been no request received during current or previous period which would relate to a company with bearer shares.

103. In conclusion, the materiality of the issue seems very limited and Canadian law generally does not allow for issuance of bearer shares but does allow their existence where they have been already issued by a corporation before its continuation into Canada. It is concluded that certain corporate laws allow for the existence of bearer shares or share warrants to bearer in certain forms and limited circumstances which vary across provinces. It is therefore recommended that Canada takes measures to ensure that owners of these bearer instruments can be identified in all cases.

104. It is noted that in September 2016 the Government tabled Bill C-25 in Parliament amending the CBCA and certain other statutes. The purpose of the bill is to clarify that corporations incorporated or continued under the CBCA are prohibited from issuing share certificates and warrants, in bearer form.

ToR A.1.3: Partnerships

105. In Canada, partnerships are governed by provincial laws. Canada's laws recognise (i) general partnerships, where each partner has unlimited liability, (ii) limited liability partnerships (LLPs) which are generally limited to practicing certain professions (with the exception of British Columbia allowing LLPs also in certain other cases) and (iii) limited partnerships (LPs) which consist of at least one general partner (with unlimited personal liability) and one limited partner (with liability limited to the amount contributed to the partnership). There were about 10 000 general partnerships, about 1 700 LLPs and about 18 000 LPs registered with the CRA as of September 2016.

Legal ownership and identity information requirements

106. The 2011 report concluded that the rules regarding the maintenance of legal ownership information in respect of partnerships in Canada are in compliance with the standard. There has been no change in the legal framework or its implementation in practice since the first round review.

107. In the common law provinces all types of partnerships (including foreign partnerships) must register with the provincial register under the relevant Business Names Act if they carry on business in that province. This includes a requirement to make an annual declaration that includes the name and address of each partner. In Quebec, partnerships formed in Quebec or carrying on an activity in Quebec are required to register and make an annual declaration that includes the name and address of each partner. Sanctions are available in cases of failure by partnerships with their filing requirements with provincial registers.

108. Under the tax law, every person who is a partner of a partnership must file an information return if that partnership carries on a business in Canada, or is a Canadian partnership, or a SIFT partnership ("Specified Investment Flow Through" partnership, commonly known as a publicly-traded partnership). The information return filed by a partner must include the identification of each partner and his/her share in the partnership. Further, certain partnerships with one or more Canadian partners are required to file an annual information return (Form T5013) which includes the identification of all partners in the partnership and their interests in the partnership.

109. In addition to the registration requirements in order to conduct business and tax obligations described above, LPs are formed only when a declaration signed by each of the general partners is filed with the provincial registrar. To use Ontario as an example, the declaration must include the full name and address of each of the general partners, and the LP's principal place of business in the province. Any change to the information filed in the declaration will not have effect until it is advised to the Registrar, except for changes of address which must be notified to the Registrar within 15 days. Further, the general partner of a LP must maintain an up to date record of limited partners and this record must be kept at the partnership's principal place of business within the province where it is registered.

Implementation of obligations to keep legal ownership information in practice

110. The 2011 report did not identify an issue in respect of their implementation in practice and concluded that they are properly implemented to ensure availability of the relevant information in practice. There has been no change reported in Canada's practice concerning implementation of these rules.

111. Implementation of the relevant obligations in practice is ensured in the same way as in the case of companies. The focus of provincial registers is on making up-to-date corporate information publicly available. Provincial registers encourage voluntary compliance through education, corporate filer services and assistance. These activities are supplemented by desk audits of corporate files where inconsistencies were found or where the company fails to submit the annual return. If failures or inconsistencies are discovered the partners are requested to correct them. Provincial registers have in place struck-off policies in respect of corporations which remain in breach of their filing obligations.

112. Another source of supervision is through tax filing requirements and audits carried out by the tax authority. Out of about 29 700 partnerships registered with the CRA 26 320 filed their tax returns for tax year 2013, 26 310 for 2014 and 26 343 for 2015 resulting in an average compliance of 89%. The CRA has in place robust tax supervision programme which includes comprehensive on-site audits, desk audits, tax investigations or other validation activities (see further section A.1.1). Although the exact figure of supervisory activities carried out specifically in respect of partnerships (or their partners) is not available, partnerships' compliance with their tax return filing obligations gives assurance that the documentation required to be kept under the tax law is actually available.

113. In addition to partnerships which carry on business in Canada and therefore are required to register with a provincial register and the tax

authority there are partnerships without a resident partner that do not carry on business in Canada and which are not party to a transaction with Canadian tax implications. In these cases, the practical availability of ownership information on these partnerships is reliant on records required to be kept by the partnership's partners. It is also noted that LPs are required to register in the provincial register to be formed and have to identify general partners upon registration and subsequently. The identification of limited partners is required to be available only with general partners at the partnership's place of business in the province of its registration. Supervision of partners' obligation to keep the information available in Canada in the above scenario is rather limited as the supervision through tax and register obligations do not apply. Canada is therefore recommended to take measures to address this concern (see further section A.2).

Beneficial ownership information

114. As in the case of companies, the main source of beneficial ownership information in respect of partnerships are requirements under the AML/CFT law and information relevant for identification of beneficial owners has to be available also based on certain tax rules.

115. The AML/CFT law requires financial institutions to obtain and maintain identification of beneficial owners of their clients in line with the standard. In respect of partnerships financial institutions are required to maintain the name and address of all persons who own, directly or indirectly, 25% or more of the shares of the entity and information establishing the ownership, control, and structure of the entity (s. 11.1(1) PCMLTFR). Further, financial institutions are required to take reasonable measures to confirm the accuracy of the information obtained on beneficial ownership (s. 11.1(2) PCMLTFR). Identification of beneficial owners is required to be kept updated and maintained at least for five years following completion of the transaction or termination of the business relationship (s. 1(2) and s. 69 PCMLTFR). In the case of breach of the AML/CFT obligated entity's obligations sanctions apply.

116. Certain information relevant for the identification of the beneficial owners may be available under the tax law however this will typically not go beyond legal ownership information and identification of representatives of the partnership. This information mainly includes information contained in the tax database obtained through tax filing obligations, during tax audits or from government and third party's sources. This will represent legal ownership information, identification of representatives of the taxpayer which will typically include identification of the CEO or CFO or other persons holding position in senior management of the taxpayer, and accounting and certain transaction records.

117. To sum up, information relevant for the identification of beneficial owners is required to be available mainly based on AML/CFT obligations. A specific obligation to identify beneficial owners of partnerships in line with the standard covers financial institutions. However domestic partnerships as well as foreign partnerships that carry on business in Canada or have taxable income therein are not legally required to engage a financial institution in Canada in all cases. Consequently, the identification of beneficial owners is not required in respect of all relevant partnerships as required under the standard. It is therefore recommended that Canada ensures that identification of beneficial owners of all domestic partnerships and foreign partnerships that carry on business in Canada or have taxable income therein is available in Canada as required under the standard. As in the case of companies, it is nevertheless noted that the scope of the AML/CFT coverage of tax resident partnerships is arguably significant as most of them have a bank account in Canada (although not legally required).

Implementation of obligations to keep beneficial ownership information in practice

118. Implementation of the rules concerning availability of beneficial ownership information is supervised in the same way as in the case of companies.

119. AML/CFT obligations of all reporting entities subject to the PCMLTFA are supervised by FINTRAC. FINTRAC undertakes on-site and desk-based examinations on a risk based basis. Areas of review always include implementation of client identification and record keeping requirements. During on-site examinations, a representative sample of CDD documentation is always examined. Examiners are reviewing the documentation kept that identifies the beneficial owners as well as how the identification was verified. The AML/CFT obligated entities are expected to document which measures were taken to identify the beneficial owner.

120. As already stated in section A.1.1, certain concerns relate to the limited verification measures taken by some financial institutions to confirm accuracy of the identification of the beneficial owner. It appears that beneficial ownership would generally be obtained through self-disclosure by the customer, and, in some instances, be followed by an open data search to confirm the accuracy of the information provided. Some financial institutions would not require the customer to provide official documents to establish the identity of the beneficial owners, nor carry out any independent verification measures other than the open data search although it remains the responsibility of the reporting entity to confirm the accuracy of the information. Importance of appropriate verification measures is also heightened by the use of nominees and intermediaries introducing the customer to the financial institution. Reliance on customers' self-declaration raises a concern in respect

of the quality of beneficial ownership information kept by some financial institutions in practice. Canada is therefore recommended to address this issue. It is nevertheless noted that the issue is of concern with respect to the beneficial ownership information kept by some smaller financial institutions.

121. The tax law obligations are properly implemented to ensure availability of the required information in line with the standard mainly through tax filings and tax audits (see further above and section A.1.1).

ToR A.1.4: Trusts

122. Trusts can be formed in Canada's common law provinces (which will be subject to both statutory and common law obligations) and in Quebec under the Civil Code.

Legal ownership and identity information requirements

123. The 2011 report concluded that the legal and regulatory framework requires availability of legal ownership information in respect of trusts in line with the standard and that this framework is properly implemented in practice. Since then there has been no change in these obligations or Canada's practices ensuring their implementation.

124. Domestic and foreign trusts are required to be registered in the province(s) in which they carry on a business. Trusts' registration requires the name of the trustee to be provided to the corporate register. Availability of information identifying settlors, trustees and beneficiaries of a trust is ensured mainly through common law and tax law obligations. Under the common law, trustees have a duty to disclose accounts and information and must keep information regarding the trust, so it would be readily available to those who have an interest in the trust, whether as a beneficiary or creditor. Further, foreign trusts as well as trusts created under the domestic law are required to file a tax return where the trust is (i) resident in Canada (i.e. it is administered by resident trustee), or it is (ii) a non-resident trust with Canadian taxable source income from trust property and satisfies an additional element, such as that the trust has tax payable; has a taxable gain or has disposed of capital property; or has received income gain or profit paid or payable to a beneficiary. When a trust files its first tax return, a copy of the trust deed must be attached which will usually provide the identity of the settlor(s), the trustee(s) and beneficiary(ies). Where income has been allocated to a beneficiary, the beneficiaries' identification number must be provided. If return is not provided, penalties apply.

125. If a trustee is a company it will be regulated under the federal or a provincial trust and loan companies legislation. In such a case, or if the trustee is otherwise an AML/CFT obligated financial institution, the trustee

will have an obligation to identify persons associated with the trust including its beneficial owners (see further below). Information on settlors, trustees and beneficiaries of trusts is also required to be available with an AML/CFT obligated financial institution if engaged in Canada by the trust.

126. In practice, enforcement of trustees' obligation under the common law will be through courts based on applications by the concerned parties. Additional supervision of trustees' obligations to keep legal ownership information is carried out by the CRA in the context of verification of trustees' compliance with tax law obligations. Trustees tax obligations are supervised by the CRA in the same manner as in respect of other taxpayers (see further section A.1.1).

127. The cumulative number of trusts ever registered with the CRA is slightly above two million. Out of these under one million trusts' tax accounts have been closed as of the end of 2015. The reference to the number of accounts closed as of the end of 2015 indicates a cumulative number over all prior years. Accounts are closed if a trust files a final tax return. As such, approximately one million trusts may currently have annual tax filing requirements. Of these, the CRA received 273 290 returns in 2015. The number of annual trust returns filed is significantly lower than the number of potential filers, however, it is noted that trusts are only required to file tax returns if they meet the requirements under the ITA summarised above. It is not clear what proportion of tax audits is focused on trusts compliance. Based on the available figures it is difficult to conclude on trust's level compliance with their tax record keeping obligations nevertheless given important role of tax supervision for ensuring availability of trusts' ownership information in practice Canada should consider measures how to strengthen its supervision of trusts record keeping requirements (see further section A.2).

128. Further, where a trustee is an AML/CFT obligated person, his/her CDD obligations will be subject to the AML/CFT supervision by FINTRAC. Supervision of trustees AML/CFT obligations is the same as in respect of other financial institutions and is further described below and in section A.1.1.

Beneficial ownership information

129. The identification of the beneficial owners of trusts in line with the standard is required to be available if the trustee is an AML/CFT obligated financial institution or the trust has engaged such financial institution. Acting as a trustee does not in itself trigger AML/CFT obligations.

130. If a trustee is an AML/CFT obligated financial institutions (i.e. banks, credit unions, trust and loan companies, life insurance companies, money services businesses and securities dealers) it is required to obtain upon establishment of the trust the names and addresses of all trustees, all known beneficiaries, all settlors and information establishing the ownership, control,

and structure of the arrangement (s. 11.1(1) PCMLTFR). Further, it is required to take reasonable measures to confirm the accuracy of the obtained information (s. 11.1(2) PCMLTFR). Identification of beneficial owners is required to be kept updated and retained for at least for five years following completion of the transaction or termination of the business relationship (s. 1(2) and s. 69 PCMLTFR). In the case of breach of these obligations sanctions apply.

131. The same obligations cover an AML/CFT obligated financial institution if engaged by the trust.

132. As described above, information identifying settlors, trustees and beneficiaries of a trust is required to be available based on common law and tax obligations. However, common law and tax obligations do not go as far as to require identification of any other natural person exercising ultimate effective control over the trust including through a chain of control/ownership.

133. To sum up, identification of beneficial owners of trusts is required to be available if the trustee is an AML/CFT obligated financial institution or the trust has engaged such financial institution as acting as a trustee does not in of itself trigger AML/CFT obligations. Consequently, the identification of beneficial owners is not required to be available in respect of all express trusts administered in Canada or in respect of which a trustee is resident in Canada. It is therefore recommended that Canada ensures that identification of beneficial owners of all these trusts is available in Canada as required under the standard. As in the case of legal entities, it is nevertheless noted that the scope of the AML/CFT coverage of resident trusts is arguably significant as most of them have a bank account in Canada (although not legally required).

134. In practice, implementation of the rules concerning availability of beneficial ownership information is supervised in the same way as in the case of legal entities (see further section A.1.1). As already stated above, certain concerns relate to the limited verification measures taken by some financial institutions to confirm accuracy of the identification of the beneficial owner. Reliance on customers' self-declaration raises a concern in respect of the quality of beneficial ownership information kept by some financial institutions. Canada is therefore recommended to address this issue. It is nevertheless noted that the issue is of concern with respect to the beneficial ownership information kept by some smaller financial institutions.

ToR A.1.5: Foundations

135. As already concluded in the first round review, there are no legislation or common law principles that permit the establishment of foundations in Canada. The term "foundation" is a categorisation used for not for profit entities usually established for charitable purposes which are not of relevance for the current assessment.

A.2. Accounting records

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

136. The 2011 report concluded that the legal and regulatory framework requires availability of accounting records including the underlying documentation in line with the standard. Since then there has been no change in the relevant obligations.

137. The main rules ensuring availability of accounting information in line with the standard are contained in the tax law and commercial laws. Although these laws provide for a general retention period in line with the standard retention requirements in respect of dissolved entities and trusts which ceased to exist should be further strengthened so that that all relevant accounting records are required to be available in Canada in all cases. It is nevertheless noted that basic accounting information is required to be filed with the CRA together with tax returns and that certain underlying documents should be available with the CRA based on VAT requirements. It is also noted that the identified issue has had so far only limited impact on EOI practice

138. Implementation of accounting requirements in practice continues to be generally adequate and ensures availability of accounting records in line with the standard in respect of the majority of relevant entities and arrangements. Supervision of accounting requirements is carried out mainly through tax audits and tax filing obligations. During tax audits, the CRA closely examines the books and records of a taxpayer to make sure they fulfil their obligations and apply tax laws correctly. Availability of accounting records is also indirectly supervised by tax filing requirements as basic accounting information has to be filed with the annual corporate income tax returns. Cases where accounting records are found not be kept are very rare in practice. However, supervision of accounting obligations of certain partnerships and trusts which do not file tax returns or have limited or no tax liability in Canada raises concerns that it does not fully reflect the importance of tax supervision for guaranteeing availability of accounting information on these entities or arrangements and practical difficulties in ensuring it. Canada is therefore recommended to take measures to address this concern.

139. Overall availability of accounting information was confirmed in Canada's EOI practice. During the review period about 40% of received requests related accounting information. Out of the 342 requests for accounting information, 179 related to accounting information of companies, 142 of individuals, 20 of trusts and one request related to accounting information of a partnership. The requested information is in the majority of cases obtained

from the respective entity unless it is contained in the person's tax return. The requested accounting information was provided in all cases except for a few cases during the period under review representing less than 1% of received requests. In these cases, the information holder was not contactable as he/she was living abroad or it was not possible to locate the requested information (see also section C.5.1). No specific issue regarding availability of accounting information in Canada was reported by peers.

140. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	In addition to the obligation under the tax law to keep accounting records for two years after dissolution of the entity Canada's laws typically provide for retention rules which require the person who has been granted the custody of the documents of the dissolved company to keep these documents for at least six years after the dissolution. Although such requirement is contained in provincial laws regulating the majority of companies not all provinces have such a rule. Further, it may not be always clear by whom these records are kept and it is not required that these records are available in Canada in all cases. In addition, no such retention rules which would complement the two year retention period under the tax law exist for dissolved partnerships and trusts which ceased to exist.	Canada should strengthen the existing retention requirements so that accounting records are required to be available in Canada after dissolution of an entity or arrangement in all cases.
Determination: The element is in place, but certain aspects of the legal implementation need improvement.		

Practical implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice	Supervision of accounting requirements is carried out mainly through tax audits and tax filing obligations. Although this supervision is generally adequate, supervision of accounting obligations of partnerships and trusts which do not file tax returns or have limited or no tax liability in Canada does not fully reflect the importance of tax supervision for guaranteeing availability of accounting information on these entities or arrangements and practical difficulties in ensuring it.	Canada should take measures to ensure that accounting records including underlying documentation in respect of partnerships and trusts is available in practice in all cases.
Rating: Largely Compliant		

ToR A.2.1: General requirements

141. The 2011 report concluded that the legal and regulatory framework requires availability of accounting records in line with the standard. Since then there has been no change in the relevant obligations. Under Canadian law there are two main sources of accounting obligations. These are contained in the tax law and laws regulating the particular entity or arrangements.

142. Each person who carries on a business, or who is required to pay, or collect taxes or other amounts is required under income tax laws to keep "books and records" at their place of business or residence in Canada. These books and records shall be in such form, and containing such information as would enable the taxes payable or other amounts that are, or should have been, deducted, withheld or collected to be determined. These books and records are to be kept for a minimum of 6 years from the end of the tax year to which they relate. In case of breach of these obligations sanctions under the ITA and in serious cases under the criminal law apply.

143. Corporations are required to maintain adequate accounting records or corporate accounting records and they must also table annual financial statements at each annual general meeting. These accounting records are to be kept at the registered office of the company or such other place designated by the directors or the principal officer or chief agent. If records are maintained outside of Canada such records must be accessible within Canada. Sanctions are available in case of breach of these obligations.

144. Partners in a partnership have a duty to "render true accounts and full information of all things affecting the partnership" to any partner or their legal representative. Further, books and records relating to the partnership are to be kept at the principal place of business of the partnership. In case of breach of these obligations enforcement provisions apply.

145. The 2011 report noted that considering the obligations under provincial partnership laws and the ITA, it is not clear that limited partnerships formed under Canadian law which do not have any Canadian resident partners, which do not carry on business in Canada or which are not otherwise subject to income tax law obligations, are subject to record-keeping requirements in line with the standard. It was then concluded that unless it can be demonstrated that this issue is not material, Canada should clarify the accounting obligations for limited partnerships. It is difficult to conclude on the exact materiality of the gap given that there is no central database of partnerships registered in Canada. As already pointed out in section A.1.3, there are about 18 000 LPs filing with the CRA but it appears that the number of LPs registered with provincial registers is higher than the number of partnerships registered with the tax authority. Considering that it is not possible to demonstrate that the issue is not material, Canada is recommended to clarify accounting obligations for limited partnerships. It is also acknowledged that Canadian authorities have no information to indicate that this issue is a material concern and further pointed out that accounting obligations of a limited partnership under provincial laws continue to apply irrespective of tax liability of the partnership.

146. Availability of accounting information in respect of trusts is required based on tax law obligations and common law. Under the common law, trustees have a duty to disclose accounts and information to beneficiaries of the trust and therefore there is a corresponding duty to have accounts ready and to give full information whenever required. In Quebec, administrators of trusts have a duty to render a summary account of the trust to its beneficiaries at least once a year which should be sufficiently detailed in order to allow verification of its accuracy.

Implementation of general accounting requirements in practice

147. The 2011 report did not identify an issue concerning the implementation of accounting requirements in practice and concluded that they are appropriately implemented to ensure the availability of accounting records in line with the standard.

148. Supervision of accounting requirements is carried out mainly through tax audits and tax filing obligations. During tax audits, the CRA closely examines the books and records of a taxpayer to make sure they fulfil their

obligations and apply tax laws correctly. Accounting records are reviewed during every audit to determine their reliability for assessing tax compliance. About 3% of corporate taxpayers are subject to a comprehensive tax audit annually. In addition the CRA carries out other supervisory activities such as desk audits, investigations or other validation activities (see also section A.1.1).

149. If a taxpayer has failed to keep adequate books and records, the CRA will ordinarily request a written agreement that books and records will be maintained as required. The CRA will follow up the request by letter or visit within a reasonable period of time (usually not less than a month) to ensure compliance. If the required accounting information is not made available, the taxpayer is subject to administrative sanctions or ultimately a criminal penalty.

150. Availability of accounting records is also indirectly supervised by tax filing requirements as basic accounting information has to be filed with the annual corporate income tax returns. As already described in section A.1.1 out of the estimated total of 2.5 million corporations registered in Canada about 80% file their tax returns as required under the ITA. In case of failure to do so sanctions are applied.

151. In addition to the supervision through tax obligations, there are certain self-regulatory features contained in the corporate laws. As stated above, directors must table annual financial statements of corporations at each annual general meeting. Further, shareholders and other interested parties may commence civil or criminal actions if the corporation or co-operative fails to maintain accounting records. Annual financial statements of listed companies are required to be filed with provincial securities commissions.

152. As in the case of corporations, implementation of accounting obligations of partnerships is mainly ensured through supervision by the tax authority. There are two concerns which rise in this respect. Firstly, the scope of coverage of partnerships by tax obligations and consequent tax supervision. As already mentioned above in respect of legal obligations, it is difficult to quantify how many partnerships formed under Canadian law do not have tax implications in Canada. Nevertheless, there is limited supervision of their accounting obligations required to be kept under the provincial law. Secondly, although partners in a partnership have an obligation to render true accounts to other partners in the partnership and partnerships, including LPs, are required to keep certain partnership documents at its place of business in the province where it is registered, the documents required to be kept at the place of business do not explicitly include accounting records and therefore they may be primarily kept with partners who can be all non-residents. In these situations supervision of partnerships' accounting obligations may be difficult in particular where the non-resident partner is not contactable or denies conducting any business.

153. Similar concern arises in respect of the supervision of accounting obligations of trusts. As pointed out in section A.1.4 about 27% of trusts with open account status at the CRA file a tax return. It is unclear what portion of the non-filing trusts are not created under the Canadian law, are not administered in Canada or do not have a resident trustee therein and therefore are of limited relevance for the current assessment of the standard. However, the relatively low number of tax returns filed by trusts heightens the reliance on other supervisory measures such as tax audits to ensure trusts' compliance with their record keeping obligations. Based on the available figures it is not clear that the importance of these supervisory measures is properly reflected in the CRA's practice. It is however noted that the concern is to a certain degree mitigated by trustees' obligations under the common law and, where applicable, by AML/CFT record keeping requirements and resulting AML/CFT supervision by FINTRAC.

154. To sum up, supervision of accounting requirements is carried out mainly through tax audits and tax filing obligations. Supervision of accounting obligations of corporations is adequate to ensure their implementation in line with the standard. However, supervision of accounting obligations of certain partnerships and trusts which do not file tax returns in Canada raises concerns that it does not fully reflect the importance of tax supervision for guaranteeing availability of accounting information on these entities or arrangements and practical difficulties in ensuring it. Canada is therefore recommended to take measures to address these concerns.

ToR A.2.2: Underlying documentation

155. The 2011 report concluded that all relevant legal entities and arrangements are required to maintain underlying documentation in line with the standard. The required source documents must include sales/purchase invoices, cash register receipts, formal written contracts, credit card receipts, delivery slips, deposit slips, work orders, dockets, cheques, bank statements, tax returns and general correspondence. The detailed requirements are contained in the tax law and supplemented with requirements in laws regulating the particular entity or arrangement. There has been no change since the first round in this respect.

156. The retention period for accounting records including underlying documents under the tax law is generally at least 6 years from the end of the tax year to which they relate (s. 230(4) to (7) of the ITA and s. 5800 Income Tax Regulations). The tax retention period is supported by retention requirements under the commercial laws which generally mirror the six year period under the ITA.

157. The tax law and commercial laws also contain several rules concerning the retention of accounting documents including underlying documentation after the dissolution of the entity. Under the Income Tax Regulations the general ledger or other book of final entry containing the summaries of the year-to-year transactions of a corporation, and any special contracts or agreements necessary to an understanding of the entries in the general ledger or other book of final entry has to be kept for two years after the day that the corporation is dissolved (s. 5800(1)(a) Income Tax Regulations). Although this rule alone would not ensure that all accounting records of dissolved entities are kept in line with the standard commercial laws provide further rules which typically require the person who has been granted custody of the documents and records of the dissolved company to keep these documents for at least six years after the company is dissolved. However specific retention periods after dissolution of the company are not provided in British Columbia, Prince Edward Island, Manitoba and Nova Scotia. Further, the retention rules applicable after the dissolution of a company do not specify who is the person responsible for keeping these documents beyond stating that it is the person who has been granted custody of the documents. It also remains unclear whether this person is required to remain contactable in Canada. Information on who is keeping these records and where is also not consistently required to be filed with the corporate register or the CRA. According to the Canadian authorities in practice these documents are typically kept by former directors of the dissolved company or lawyers acting as liquidators. However it is not required in all provinces that at least one director of a company has to be resident in Canada.[4] No specific retention rules exist for dissolved partnerships and trusts which ceased to exist which would complement the two year retention period under the tax law. In view of these inconsistencies it is recommended that Canada strengthens document retention rules so that accounting records are required to be available also after dissolution of the entity or arrangement in all cases. It should be nevertheless noted that basic accounting information is required to be filed with the CRA together with tax returns and that certain underlying documents should be available with the CRA based on VAT requirements. It is also noted that so far the identified issue has had only limited impact on EOI practice (see further section C.5.1 and A.1).

158. Practical availability of underlying documentation is supervised by the tax administration through tax audits together with availability of other accounting records. The same supervisory and enforcement measures apply as outlined above. Based on the tax audit findings the compliance level with the underlying documentation requirements is high also due to

4. Requirement to have at least one resident director exists in corporate laws of Alberta, Manitoba, Newfoundland and Labrador, Ontario, Saskatchewan and under the federal CBCA.

several regulatory requirements to keep such documentation such as the VAT. Although there were no serious cases identified by the tax administration during the reviewed period that would indicate systemic issue in respect of practical availability of the underlying documentation in Canada concerns regarding supervision of accounting information in respect of certain partnerships and trusts raised in section A.2.1 remain.

A.3. Banking information

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

159. The 2011 report concluded that banks' record keeping requirements and their implementation in practice are in line with the standard. There has been no change in the relevant provisions or practice since the first round review. The relevant provisions are contained in the AML/CFT law and banking laws and are supervised by FINTRAC together with OSFI.

160. Banks' obligation to identify beneficial owners of their account holders is part of their AML/CFT requirements. AML/CFT rules require banks to obtain and maintain identification of beneficial owners of their clients in line with the standard. In the case of breach of these obligations administrative and criminal sanctions apply. Supervision of banks' CDD obligations is carried out in the same manner as in respect of other financial institutions and is generally adequate (see also section A.1).

161. General availability of banking information was also confirmed in EOI practice. During the review period Canada received 124 requests related banking information. There was no case where the information was not provided because the information required to be kept was not available with the bank. No concerns in this respect were reported by peers either.

162. The new table of determinations and ratings is as follows:

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

ToR A.3.1: Record-keeping requirements

163. The 2011 report concluded that banks' record keeping requirements and their implementation in practice are in line with the standard. There has been no change in the relevant provisions or practice since the first round review.

164. The main record keeping requirements are contained in the AML/CFT law and banking laws. Under the AML/CFT law banks are required to keep records concerning the account that include deposit slips, every debit and credit memo, a copy of every account statement that it sends to a client, every cleared cheque, every client credit file or a transaction ticket in respect of every foreign currency exchange transaction. Under the banking law banks are required to maintain records for each customer showing the daily transactions of each customer and the balance owed to or by the bank. Under the AML/CFT law the records are required to be kept for at least five years after the end of the business relation. Failure to maintain these records can result in a criminal penalty for non-compliance in the form of a fine of up to CAD 500 000 and/or up to five years imprisonment. Alternatively, FINTRAC may impose an administrative monetary penalty. Sanctions for failure are available also under the banking law.

165. Supervision of banks' record keeping requirements is mainly carried out by FINTRAC together with the supervision of their AML/CFT obligations (see further below). In March 2013, FINTRAC and prudential supervisor of banks (OSFI) entered into an agreement to conduct concurrent examinations to improve the effectiveness and cohesion of supervision and allocation of resources. Based on the findings from inspections, the five main banks' compliance with their record keeping requirements is at a satisfactory level but compliance of smaller banks may vary. Where deficiencies are identified FINTRAC takes the most efficient measures to remedy the failure and prevent it from happening again. Enforcement measures mainly consist of supervisory letters however administrative monetary penalties are also levied (see further section A.1.1).

ToR A.3.1: Beneficial ownership information on account holders

166. Banks' obligation to identify beneficial owners of the account holders is contained in the AML/CFT requirements. As described in section A.1.1, AML/CFT rules require banks to obtain and maintain identification of beneficial owners of their clients in line with the standard.

167. Financial institutions are required upon establishing a business relationship to identify beneficial owners of their clients and to take reasonable measures to confirm the accuracy of the obtained information (s. 11.1 PCMLTFR). If the AML/CFT obligated entity cannot establish the identity

of the client in accordance with the prescribed measures it is prohibited to open an account for the client (s. 9.2 PCMLTFA) (see further section A.1.1).

168. The beneficial ownership requirements changed in February 2014 from a risk-based approach to a rules-based approach where the identification of beneficial owners is required in respect of all account holders regardless of their risk profile. The strengthened CDD obligations apply to all clients, whether or not they were clients at the date of new CDD obligations coming into force. In obtaining beneficial ownership on all their pre-existing accounts financial institutions were required to prioritise accounts based on their risk assessment. According to the FINTRAC guidance banks are required to update their records on all accounts at least once every two years depending on their risk assessment. Considering that more than two years already passed since the current CDD rules came into force it is understood that the vast majority of pre-existing accounts is already brought in line with the current regulation. Nevertheless should there be any remaining accounts where beneficial owners were not yet identified in line with the current regulation steps should be taken to ensure that they are swiftly updated to comply with the current regulation.

169. Banks can rely on a third party to meet their client identification obligations only if the third party is affiliated or part of the same association. Where a bank relies on a third party, it must enter into a written agreement with the third party ensuring that the required CDD measures are properly carried out and the beneficial ownership information will be provided to the bank without delay. The relying bank must immediately obtain from the third party the identification of the customer and its beneficial owners obtained pursuant to CDD measures and requirements under the PCMLTFR continue to apply to the relying bank (s. 64.1 PCMLTFR).

170. Identification of beneficial owners is required to be periodically updated and the obtained records are required to be kept for at least five years following completion of the transaction or termination of the business relationship (s. 69 PCMLTFR). Non-compliance with the legislation may lead to administrative or criminal sanctions.

Implementation of obligations to keep beneficial ownership information in practice

171. Supervision of the implementation of the obligation to obtain and maintain beneficial ownership information on account holders is carried out by FINTRAC. Supervision of banks' CDD obligations is carried out generally in the same manner as in respect of other financial institutions as described in section A.1.1.

172. A range of supervisory tools is used to ensure banks compliance with their CDD obligations. A risk based approach is used to determine the level and extent of supervision to be applied. FINTRAC undertakes on-site and office examinations to assess whether a reporting entity is meeting its obligations under the legislation. Compliance activities include desk based and on-site examinations, supervisory letters outlining findings and results of examinations, compliance assessment reports and other awareness and assistance activities.

173. With regard to examining banks, during 2012/2013 FINTRAC conducted ten examinations, during 2013/2014 19 and during 2014/2015 16 examinations. These examinations include on-site and off-site examinations. According to FINTRAC the level of thoroughness and scope of review during on-site and off-site examination are very similar and lead to comparable results. Over the last six years all banks were subject to an AML/CFT examination by FINTRAC.

174. As already pointed out in section A.1.1, based on the FINTRAC's findings, the six main banks' compliance with the AML/CFT records keeping requirements is at a satisfactory level. Six main domestic banks hold 93% of all bank assets. Compliance of smaller banks may however vary. The main concerns in this respect relate to the limited verification measures taken by some financial institutions to confirm accuracy of the identification of the beneficial owner. Based on the FINTRAC's findings, it appears that beneficial ownership would generally be obtained through self-disclosure by the customer, and, in some instances, be followed by an open data search to confirm the accuracy of the information provided. Some financial institutions would not require the customer to provide official documents to establish the identity of the beneficial owners, nor carry out any independent verification measures other than the open data search although it remains the responsibility of the reporting entity to confirm the accuracy of the information. Although the supervisory measures carried out by the FINTRAC appear adequate, over-reliance on customers' self-disclosure and limited verification measures by financial institutions represent a concern in respect of some of the banks as was also reported by the FINTRAC. Importance of appropriate verification measures is also heightened by the use of nominee shareholders and nominee directors who may also not be residents in Canada and the use of intermediaries introducing the customer to the financial institution. Reliance on customers' self-declaration raises a concern in respect of the quality of beneficial ownership information kept by some financial institutions, i.e. that the beneficial ownership information kept by these financial institutions is adequate, accurate and up to date. Canada is therefore recommended to address this issue. It is nevertheless noted that the issue is of concern with respect to the beneficial ownership information kept by some smaller financial institutions.

175. Enforcement measures mainly consist of supervisory letters requesting remedy of the identified deficiencies within a specified deadline and follow-up process. In most cases the deficiencies are remedied as prescribed and within the deadline. FINTRAC also applies administrative monetary penalties. Following the issuance of a penalty, FINTRAC may return to the entity, after a reasonable amount of time has elapsed, to conduct a follow-up examination to ensure that the penalty has achieved its purpose. FINTRAC issued 16 monetary penalties in 2013-14 and a further 16 in 2014-15. FINTRAC's enforcement measures seem to have positive impact on the supervised entities compliance as the identified deficiencies were remedied in all cases.

176. To sum up, supervision of AML/CFT obligations is generally adequate to ensure banks' compliance with their CDD obligations. However as already pointed in section A.1.1 banks' reliance on customers' self-declaration and limited verification measures raise a concern in respect of the quality of beneficial ownership information kept by some of these institutions. It is therefore recommended that Canada strengthens its measures to ensure that the beneficial ownership information kept by all banks is adequate, accurate and up to date.

Part B: Access to information

177. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information; and whether rights and safeguards are compatible with effective EOI.

B.1. Competent authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

178. As was already concluded in the 2011 report, the tax authority has broad access powers to obtain all types of relevant information including ownership, accounting and banking information from any person both for domestic tax purposes and in order to comply with obligations under Canada's EOI agreements. These powers mainly include the requirement power under section 231.2 of the ITA and the audit power under section 231.1 of the ITA. Where the requested information is required as evidence for criminal tax purposes Canada normally proceeds by way of search warrants and production orders under the Criminal Code. The tax authority's broad access powers can be used also for EOI purposes and regardless of domestic tax interest. In case of failure to provide the requested information the tax authority has adequate powers to compel the production of information.

179. The tax authority access powers are also effectively used in practice. The requested information is typically obtained through the requirement notice under section 231.2 of the ITA. Since the first round review the EOI process has been modified so that in the majority of cases requirement notices are issued by the Competent Authority. Consequently, the requested information is obtained directly by the EOI Unit in about 80% of cases.

180. In June 2016, the SCC declared the power to issue requirements under section 231.2(1) of the ITA unconstitutional in respect of notaries and lawyers acting in their capacity as legal advisers. The decision raises uncertainty in respect of the practical ability of the tax authority to access information held by lawyers and notaries in accordance with the standard in an efficient manner as it is unclear how the procedural principles stipulated by the SCC will be applied in domestic and EOI practice and what will be the judicial practice in issuing authorisations to access the information. In view of these uncertainties it is therefore recommended that Canada monitor the exercise of the tax authority's access powers in respect of information held by lawyers and notaries and if necessary takes measures to ensure that the requested information can be accessed and provided in line with the standard. The case nevertheless did not have any negative impact on Canada's ability to provide the requested information in an effective manner during the period under review.

181. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Determination: In Place		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	In June 2016 the Supreme Court ruled that the tax authority's access powers are unconstitutional in respect of notaries and lawyers acting in their capacity as legal advisers. The decision raises uncertainty in respect of practical ability of the tax authority to access information held by lawyers and notaries in accordance with the standard in an efficient manner.	Canada should monitor the exercise of the tax authority's access powers in respect of information held by lawyers and notaries and if necessary take measures to ensure that the requested information can be accessed in line with the standard.
Rating: Compliant		

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

182. The tax authority has broad access powers to obtain all types of relevant information including ownership, accounting and banking information from any person both for domestic tax purposes and in order to comply with obligations under Canada's EOI agreements.

183. The 2011 report concluded that appropriate access powers are in place for exchange of information purposes. There has been no change in the relevant provisions of the ITA since then.

184. The tax authority's access powers relevant for EOI practice are the below two powers:

- an "audit" power under section 231.1 of the ITA: the tax authority may inter alia inspect, audit or examine the books, records or any document of a taxpayer, or of any other person that relates or may relate to information that is or should be in the books or records of the taxpayer or to any amount payable by the taxpayer under the ITA. This includes the power to enter into any premises or place in connection with any business or where any property is kept which does or should relate to the taxpayer's records or books and may also be used to require a person to provide assistance and answer questions.
- a "requirement" power under section 231.2 of the ITA: the tax authority may by a notice (known as a "requirement") require that any person provide, within a reasonable time stipulated in the notice (usually 30 days), any information or additional information or any document, for any purpose relating to the administration or enforcement of the ITA, a comprehensive tax information exchange agreement or a tax treaty.

185. The tax authority's broad access powers can be used also for EOI purposes. There are no specific information gathering powers granted solely for EOI.

186. Where information is sought from a third party in respect of one or more unnamed persons (for instance, an unnamed but ascertainable person or class of person), the requirement under section 231.2 of the ITA has to be authorised by a judge (s. 231.2(3) ITA). The judge authorises the requirement if he/she is satisfied by information on oath that the person or group is ascertainable and that the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under the ITA (s. s. 231.2(3) ITA). In the EOI context this has been interpreted as that the information provided to the CRA must be sufficient to satisfy a judge that the information requested is not a fishing expedition, but rather meets the foreseeably relevant test set out in the particular treaty (see also section C.1.1).

187. As already described in the 2011 report, where the requested information has to be obtained for the predominant purpose of a criminal tax investigation which may lead to a criminal prosecution, the audit and requirements powers in sections 231.1 and 231.2 of the ITA are not available.[5] In those cases, in consultation with the Public Prosecution Service of Canada, the CRA must obtain judicial authorisation to gather evidence for such matters by way of search warrants and production orders under the Criminal Code (see further section C.1.6).

Access to ownership, accounting and banking information in practice

188. In order to access information in the EOI context the most frequently used power is the requirement under section 231.2 of the ITA. Since the first round review the EOI process has been modified so that in the majority of cases requirements (including to banks) are issued directly by the Competent Authority. Information is requested to be provided by the local Tax Services Offices only in cases where a tax audit for domestic purposes is already launched or a physical contact with the taxpayer is required. Where a more complex search of the CRA databases is required the EOI Unit may request assistance from the CRA research team. Consequently, the requested information is obtained directly by the EOI Unit in about 80% of cases (see further section C.5.2).

189. The main sources of ownership and accounting information in EOI practice are the CRA databases and records kept by taxpayers. The CRA databases are directly accessible by the EOI Unit and contain information obtained for domestic tax purposes on the federal as well as on the provincial level (except for certain information filed for provincial taxes in Alberta, Quebec and British Columbia). The contained information mainly includes self-reported information from taxpayers/registrants and information from tax audits. If the requested information is not already available with the CRA the tax authority will most frequently request the information from a Canadian taxpayer who is usually a third party information holder. Certain ownership and accounting information can be retrieved from provincial business registers, federal and provincial court records (e.g. wills, probate documents or legal filings), provincial and federal regulatory bodies (e.g. registers of motor vehicles, marine vessels, patents or trademarks), commercial databases (e.g. Standard & Poor's, Capital IQ, Cyberbahn or D & B Access) and from public sources. Banking information is typically obtained from banks by the EOI Unit. Certain information on bank accounts of Canadian taxpayers is contained also in the CRA databases. Only where specific information is

5. *Jarvis v. the Queen* et al. (2002 SCC 73).

not available in the CRA databases or with the bank the tax authority would approach a taxpayer to provide the requested banking information.

190. According to the Canadian authorities it is difficult to quantify in how many cases the requested information is already in the hands of the CRA as one request usually relates to different types of information which has to be obtained from different sources. Nevertheless part of the requested information is frequently already available in the CRA databases and in these cases partial replies are provided before the complete information is obtained.

191. There has been no case during the reviewed period where the scope of access powers would limit obtaining information for EOI purposes. No concerns in respect of the CRA's access powers were reported by peers either.

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

192. 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.

193. The 2011 report concluded that access powers of Canada's tax authority are not curtailed by any requirement that its power may only be exercised where there is a domestic tax interest. There has been no change in the legal regulation in this respect since the first round review.

194. Use of domestic access powers for exchange of information purposes is not limited by the statute of limitations as it was also confirmed in practice. Information can be requested even if the relevant taxable period is considered closed for domestic tax purposes or the retention period for the requested information has expired.

195. According to the Canadian authorities Canada frequently receives EOI requests where the requested information is not relevant for its domestic tax purposes. During the period under review there was no case where the CRA's access powers would not be applicable due to lack of domestic tax interest. Canada's ability to access information regardless of domestic tax interest has been also confirmed by peers.

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

196. Jurisdictions should have in place effective enforcement provisions to compel the production of information.

197. The 2011 report concluded that Canada's tax authority has adequate powers to compel the production of information in line with the standard.

There has been no change in the legal or regulatory framework since then. Failure to provide information requested pursuant to section 231.2 of the ITA may lead to application of administrative and criminal sanctions. In addition, the CRA may also refer the matter to the Department of Justice (DoJ) which will make an aapplication to the court for a compliance order under section 231.7 of the ITA. If a person fails to comply with a compliance order, the person may be held in contempt of court and further sanctions apply.

198. In practice the CRA prefers the use of compliance order to compel the production of information than application of sanctions. A compliance order can be issued in matter of days once the judge is satisfied that the person failed to comply with an access power and the information is not protected by solicitor-client privilege (s. 231.7 ITA). Cases where a person fails to provide information pursuant to sections 231.1 or 231.2 of the ITA are very rare in the EOI context. During the current period under review in about five cases the requested information was provided after the person was informed that the matter would be referred to the court for issuance of a compliance order and there has been no case where a contactable person failed to provide the requested information if the information was required to be available. No concern in respect of the tax authority's powers to compel the production of information was reported by peers either. It can be therefore concluded that the tax authority's enforcement powers are applied effectively in practice.

ToR B.1.5: Secrecy provisions

Bank secrecy

199. The tax authority's access powers provide for access to banking information in line with the standard as was already concluded in the 2011 report. There has been no change since the first round review in this respect.

200. In practice banking information is typically obtained directly by the Competent Authority in a similar way as other types of information. In order to access the requested banking information the Competent Authority issues a requirement under subsection 231.2(1) of the ITA and banks are given 30 days to respond. Banking information can be obtained also by the local Tax Services Offices where the EOI request is referred to them. If it is determined that the predominant purpose of the EOI request is to gather information to use as evidence in a criminal investigation and subsequent prosecution, the CRA will obtain such information by way of a judicially authorised production order or search warrant (see further section B.1.1 and C.1.6).

201. The identification of the account holder can be done by provision of one or more identifiers which allow unique identification of the person. This

can be done through provision of his/her Tax Identification Number (TIN), name, address, date of birth, a bank account number or a bank card number. The more information provided by the requesting jurisdiction the easier and faster is to find and retrieve the requested information.

202. As already stated under section B.1.1, there has been no case during the reviewed period where the scope of access powers would limit obtaining information for EOI purposes and no concerns in this respect were reported by peers either.

Legal professional privilege

203. The 2011 report concluded that Canadian law does not include secrecy or confidentiality provisions which restrict the tax authority's above access powers except for restrictions against accessing communications subject to solicitor-client privilege. The scope of this privilege was found in line with the standard as it covers only confidential communications between admitted legal representatives and their clients related to providing legal advice and information brought into existence with the dominant purpose of using it in the conduct of litigation. It was concluded that the privilege does not cover information obtained by legal professionals while acting 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.

204. In June 2016, (i.e. after the first round review and at the end of the current period under EOIR review) the SCC declared the power to issue requirements under section 231.2(1) of the ITA unconstitutional and inapplicable in respect of notaries and lawyers acting in their capacity as legal advisers.[6] The court noted that the tax authority's power to approach a notary or a lawyer for the provision of information related to their clients may result in the breach of the legal professional privilege under the Canadian law. The court noted that the right of protection of information belongs to lawyers' and notaries' clients as the protected information relates to their matters and therefore that it is not primarily up to the lawyer or notary (or the tax authority) to claim or decide the scope of the privilege. Consequently, the court stated that the appropriate approach would be to obtain information from alternative sources or first approach the person on whom the information is requested. Nevertheless, in order to approach a lawyer or a notary the tax authority should be able to demonstrate that the information cannot be obtained from alternative sources and issuance of such a requirement should be subject to judicial authorisation where the requested information may be covered by the legal professional privilege.

6. Attorney General of Canada and Canada Revenue Agency v. Chambre des notaires du Quebec and Barreau du Quebec et al. 2016 SCC 20.

205. When assessing the impact of the SCC decision there appear to be two main areas to consider. Firstly, what is the impact of the decision on the scope of professional legal privilege and secondly, what are the consequences of the decision on the tax authority's practice of accessing information held by lawyers and notaries. Regarding the first question, the decision does not seem to broaden the scope of the protected information as it is focused on the procedural aspects of accessing it. On the other hand, the SCC ruled in June 2016 that section 232(1) of the ITA which excepts accounting information from the scope of protected information is unconstitutional as accounting information may include information subject to legal professional privilege and in February 2015 the SCC ruled that CDD and document retention requirements under the AML/CFT Act provide inadequate protection of legal professional privilege and therefore do not apply with respect to lawyers and notaries (see also section A.1.1).[7] Regarding the second question, the decision impacts the tax authority's access powers as it has invalidated the tax authority's access powers in respect of lawyers and notaries when they act in their capacity as legal advisers. It is nevertheless noted that the CRA can still obtain non-privileged information directly from other sources and requirements can be issued directly to the "client", foregoing the need to obtain the information from the lawyers or notaries.

206. Where information cannot be obtained directly from the "client" or other alternative sources, the court decision raises uncertainty in respect of the practical ability of the tax authority to access information held by lawyers and notaries in accordance with the standard in an efficient manner as it is unclear how the procedural principles stipulated by the SCC will be applied in domestic and EOI practice and what will be the judicial practice in issuing authorisations to access the information. In view of these uncertainties it is therefore recommended that Canada monitors the exercise of the tax authority's access powers in respect of information held by lawyers and notaries and if necessary takes measures to ensure that the requested information can be accessed and provided in line with the standard. Regardless of these uncertainties, the Canadian authorities are of the view that accounting records, transaction plans and other business records relevant for tax purposes are not protected by legal privilege and that they can often be obtained from alternative sources, including the taxpayer/client.

207. During the period under review there were cases where information was obtained from lawyers and notaries in the EOI context and so far legal professional privilege has not been an impediment to obtaining the requested information. Since the delivery of the SCC decision, the tax authority obtained information from lawyers and notaries in several domestic cases and

7. Attorney General of Canada v. Federation of Law Societies of Canada et al. 2015 SCC 7 and Minister of National Revenue v. Duncan Thompson et al. 2016 SCC 21.

the Canadian authorities pointed out three court decisions where the government was successful in requiring the non-privileged information be turned over to the tax authorities or a co-operating law enforcement official.[8] No concern in respect of Canada's ability to access information held by lawyers or notaries was reported by peers but it is noted that the period under review ended in June 2016.

B.2. Notification requirements, rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

208. Rights and safeguards contained in Canada's law are compatible with effective exchange of information.

209. Canada's law does not require notification of the persons concerned prior or after providing the requested information to the requesting jurisdiction. There has been no change in this respect since the first round review.

210. Obtaining and providing the requested information can be subject to a judicial review remedies applicable under the principles of administrative law. Appeal rights are expressly foreseen in respect of access powers pursuant to a requirement to a third party related to unnamed persons or in respect of a requirement to provide foreign-based information.

211. In practice, exercise of appeal rights (including the judicial review process) in the context of EOI is rare and does not unduly prevent effective exchange of information. During the period under review there was only one case where obtaining the requested information was subject to the judicial review. Compatibility of Canada's appeal rights with effective exchange of information was also confirmed by peers as no concerns in this respect were raised.

212. The new table of determinations and ratings is as follows:

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

8. Redhead Equipment v. Canada (Attorney General), 2016 SKCA 115; Canada (National Revenue) v. Revcon Oilfield Constructors Inc. v. Canada (National Revenue), 2017 FCA 22 and Iggillis Holdings Inc v. Canada (National Revenue), 2016 FC 1352.

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

213. The rights and safeguards that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

214. There is no requirement to notify the person who is the object of the request of any steps in obtaining the requested information unless the person is the information holder from which the information is requested (see further section B.1.1 and C.3.1). There has been no change in the applicable rules since the first round review.

215. In respect of appeal procedures applicable in the context of exchange of information the 2011 report concluded that they are compatible with effective exchange of information. Since then there has been no change in these rules. There are no specific review or appeal rights provided for in the ITA in respect of access powers under sections 231.1, 231.2, 231.3 or 231.4 of the ITA. In those instances, a person has access to general judicial review remedies applicable under the principles of administrative law, for example that the Minister has exercised the power unreasonably, or ultra vires. Application for judicial review has to be filed within 30 days after the notice has been communicated to the person. The procedural steps provided by the court rules are the same for domestic and EOI cases and typically take more than 90 days depending on the particular case. In practice, when a taxpayer contests CRA's demand for information, the judicial review process from start to finish (launching the judicial review application to receiving a Court decision) normally takes about six months. If subject to the judicial review execution of the access power in respect of the applicant is put on hold.

216. Appeal rights are expressly foreseen by the ITA in respect of access powers pursuant to a requirement to a third party to provide information or documents which relates to unnamed persons under section 231.2(3) of the ITA or in respect of a requirement to provide foreign-based information under section 231.6 of the ITA. To date, powers under section 231.6 of the ITA have not been used in the EOI context. The requirement to provide information in respect of unnamed persons has been used for EOI purposes in three cases during the current period under review and in one case in the first round review period. There was no instance during these periods where the requirement was appealed.

217. In practice, use of appeal rights (including the judicial review process) in the context of EOI is rare and does not unduly prevent effective exchange of information. During the period under review there was only one case where obtaining the requested information was subject to the judicial review in addition to the one case reported in the first round review. In the one case the judicial review in Canada was held in abeyance during the review period with

the agreement of the treaty partner as litigation had been launched in both jurisdictions. The treaty partner subsequently obtained the requested information through domestic judicial proceedings and the request was withdrawn. Compatibility of Canada's appeal rights with effective exchange of information was also confirmed by peers as no concerns in this respect were raised. Nevertheless, given the relatively broad grounds for an application to the court, the possible length of the judicial procedure and fact that an application to the court suspends exercise of access powers Canada's appeal rights may be open to abuse and therefore Canada should consider monitoring of their use in the EOI context and if necessary take measures to prevent that they unduly delay effective exchange of information in the future.

Part C: Exchanging information

218. Sections C.1 to C.5 evaluate the effectiveness of Canada's EOIR practice by reviewing its network of EOI mechanisms – whether these EOI mechanisms cover all its relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether it respects the rights and safeguards of taxpayers and third parties and whether Canada could request and provide information under its network of agreements in an effective manner.

C.1. Exchange of information mechanisms

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

219. Canada has broad network of EOI agreements in line with the standard. At the time of the first round review Canada had signed agreements with 105 jurisdictions, 90 of which were in force. Of these, seven agreements were found not in line with the standard and some others may have restricted exchange of information due to domestic tax interests or secrecy provisions in the domestic laws of Canada's treaty partners. Consequently, a recommendation to address this concern was included in the table of recommendations.

220. Since the first round review, the number of Canada's EOI partners has increased by 38 jurisdictions and now total 143 partners. All seven DTCs found not in line with the standard have been brought in line with the standard except for one DTC which is currently being renegotiated. It is noted that Canada can nevertheless exchange information in line with the standard with this partner under the Multilateral Convention. Further, the number of jurisdictions with which Canada may not be able to exchange information in line with the standard due to the domestic laws of Canada's treaty partners has been significantly reduced by 42 jurisdictions with which Canada can now exchange information also under the Multilateral Convention. In addition, since the first round review Canada has signed four new DTCs and 11 TIEAs which all meet the international standard. As a result out of 143 Canada's EOI relations only one does not provide for exchange of information up to the standard and 19 relations may be restricted by domestic provisions in the

laws of Canada's treaty partners. Given that all seven DTCs found not in line with the standard during the first round review were amended except for one DTC which is being renegotiated and considering the increased number of jurisdiction covered under the Multilateral Convention the first round recommendation is deleted from the table of recommendations.

221. In practice, Canada's EOI agreements are applied in line with the standard. No issue in this respect was identified in the first round review and no issue was identified during the current period under review either. Canada provides information to the widest possible extent including pursuant to group requests as was also confirmed by peers.

222. The new table of determinations and ratings is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework		
Determination: In Place		
Practical implementation of the standard		
Rating: Compliant		

ToR C.1.1: Foreseeably relevant standard

223. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. All of Canada's EOI agreements provide for exchange of information in line with the standard of foreseeable relevance.

224. In respect of its DTCs, Canada's agreements are generally patterned on the OECD Model Tax Convention. DTCs initially signed or amended after 2005 use the foreseeably relevant standard whilst older treaties tend to use the words "as is necessary" in place of "as is foreseeably relevant". These terms are recognised in the commentary to Article 26 of the OECD Model DTC as allowing for the same scope of exchange. All Canada's TIEAs meet the "foreseeably relevant" standard as described in the 2005 Commentary to Article 26 of the OECD Model Tax Convention and the 2002 Commentary to the OECD Model TIEA. Canada can also exchange information in line with the standard of foreseeable relevance under the Multilateral Convention.

225. The 2011 report concluded that an interpretative protocol to Canada's DTC with Switzerland includes additional requirements for the requesting jurisdiction which are not in line with the standard. Since then Canada and Switzerland have amended the interpretative protocol to ensure that the interpretation of the EOI provision is consistent with the standard. The amendment came into force in October 2013.

226. The 2011 report further noted that Canada's TIEAs with Saint Kitts and Nevis and with Bermuda contain a requirement for establishing a valid request which are in addition to those set out in Article 5(5) of the OECD Model TIEA. The report concluded that those variations to Article 5(5) of the Model TIEA nevertheless appear to be in line with the standard. Since the first round review the Multilateral Convention came into force in respect of Canada, Saint Kitts and Nevis and Bermuda and therefore in addition to exchange of information under TIEAs Canada can also exchange information with these two partners under the Multilateral Convention. In practice, no issue in respect of the application of the criteria of foreseeable relevance under the two TIEAs has been reported by Canada or the two partners.

227. Concerning the practical application of the criteria of foreseeable relevance the 2011 report did not identify an issue as information required by Canada to be included in incoming requests does not go beyond what is required under Article 5(5) of the Model TIEA. No change has been encountered in this respect since the first round review as was also confirmed by peers.

228. Canada does not require a specific template to be used for incoming requests, however, a request should contain enough information to allow Canada to locate the person in possession of the information, the tax involved so that it is ensured that it is covered by the relevant treaty, the years under investigation and clear indication of what information is being requested. Also, there ought to be sufficient background information to allow the Canadian Competent Authority to obtain the information that will be useful to the requesting jurisdiction. Identification of the taxpayer can be done by providing a number of indicators. Typically more than one identifiers are necessary to uniquely identify the taxpayer such as the name and date of birth or address.

229. Where clarifications are needed Canada tries to arrange a conference call with the other party to obtain the clarification so that the request can be handled without delay. Where this is not possible Canada will request formal clarification. This was the case in about 20 cases during the period under review representing about 2% of all received requests. Reasons for these clarifications vary. Frequently, the request was not clear mostly due to language issues and it was difficult to understand what information was requested. In other cases, it was not clear for what type of tax the request was made. Further in a few cases the request was not signed by the respective competent authority. There were only two cases during the reviewed period where Canada did

not receive clarification from the requesting jurisdiction. After a period of about six months the cases were closed and the information was not provided.

Group requests

230. None of Canada's EOI agreements contains language prohibiting group requests. No such provision is contained in Canada's domestic law either. Canada interprets its agreements and domestic law as allowing to provide information requested pursuant to group requests in line with Article 26 of the OECD Model Tax Convention and its commentaries.

231. The procedures for accessing information pursuant to group requests differ slightly from taxpayer-specific requests. As already described in the 2011 report, in order to access information in respect of an unnamed person the CRA must issue a judicially-authorised unnamed person requirement under subsection 231.2(2) of the ITA (see further section B.1.1). For that purpose the information provided to the CRA must be sufficient to satisfy a judge that the information requested is not a "fishing expedition", but rather meets the foreseeably relevant test set out in the particular treaty. Accordingly, the unnamed person requirement does not create any additional threshold to the foreseeable relevance criteria contained in the respective treaty and in the OECD Commentary to Article 26 in respect of group requests and this was also confirmed by the Canadian authorities.

232. During the period under review, Canada received three group requests. No difficulties in answering these requests were encountered by Canada or reported by peers. Two requests have been already responded to and the third was withdrawn by the requesting jurisdiction as the information was no longer needed. It is also noted that Canada has broad experience with the application subsection 231.2(2) of the ITA in respect of unnamed persons in the domestic context and the same criteria apply as in the case of EOI group requests.

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

233. All of Canada's treaties allow for exchange of information with respect to all persons. Where some of its DTCs do not explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered), Canada has advised that they interpret the EOI provision to allow exchange with respect to all persons.

234. The 2011 report noted that the DTC with Barbados is restricted as a result of the interpretation by Barbados of the terms of the treaty: information pertaining to or held by entities that are excluded from treaty benefits, such as Barbadian International Business Companies and offshore banks, are interpreted to be outside the application of the EOI provision. Since then the

EOI provision of the DTC has been renegotiated to provide for exchange of information in line with the standard. The amending protocol came into force in December 2013. In addition, Canada can exchange information in line with the standard with Barbados under the Multilateral Convention.

235. During the period under review there was no instance where Canada refused to exchange information on the basis that the person on whom the information is requested is not covered by the EOI provision of the treaty. Accordingly no issue in this respect has been indicated by peers either.

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

236. The 2011 report concluded that Canada's DTCs with Austria, Belgium, Luxembourg, Malaysia and Switzerland are limited as a result of banking secrecy provisions in the partner jurisdiction and that exchange of information under Canada's DTC with Barbados is restricted by Barbados' interpretation of the treaty which excluded exchange of banking information held by a Barbadian offshore bank. Consequently, a recommendation was included in the box. Since the first round review, all six DTCs were amended through a protocol to bring them in line with the standard except for the DTC with Malaysia. Renegotiation of the DTC with Malaysia is currently in progress. It is also noted that Canada can exchange information in line with the standard with all six partners under the Multilateral Convention.

237. All Canada's DTCs and TIEAs signed since the first round review contain wording akin to Model Article 26(5) of the OECD Model Tax Convention and provide for exchange of all types of information in line with the standard.

238. Canada's DTCs signed before 2005 typically do not include provision akin to Model Article 26(5). However as discussed under element B.1, there are no limitations in Canada's laws or practices with respect to access to bank information, information held by nominees, and ownership and identity information and therefore the absence of such provision in the EOI agreement may restrict exchange of information only if such restriction exists in the domestic law of Canada's treaty partner. Such restriction exists in the case of Trinidad and Tobago which is also not a Party to the Multilateral Convention and therefore Canada's EOI relation with this partner is not in line with the standard and should be renegotiated. Further, there are another 19 jurisdictions whose EOI relation with Canada is also solely based on a DTC without Model Article 26(5) and which may have restrictions in access to certain types of relevant information but have not been reviewed by the Global Forum.[9] This is however not a concern in practice as Canada's powers

9. These 19 jurisdictions are Armenia, Bangladesh, Ecuador, Egypt, Guyana, Jordan, Kyrgyzstan, Mongolia, Oman, Papua New Guinea, Côte d'Ivoire, Sri Lanka,

to access and provide the relevant information are not constrained by a reciprocity requirement. Moreover, from an administrative perspective Canada does not apply a strict reciprocity requirement.

239. In practice, Canada received 146 requests for banking information during the period under review. There was no case where the requested information was not provided because it was held by a bank, another financial institution, a nominee or person acting in an agency or a fiduciary capacity or because it related to ownership interests in a person. No issue has been reported by peers in this respect either.

ToR C.1.4: Absence of domestic tax interest

240. The 2011 report noted that Canada's DTC with Singapore does not provide for exchange of information in line with the standard as the requested information cannot be obtained from Singapore unless there is a domestic interest as the DTC was concluded prior to the 2010 changes to Singapore's law allowing such information to be obtained for EOI purposes. Since the first round review the DTC was amended through a protocol to bring it in line with the standard. It is also noted that Canada can exchange information in line with the standard with Singapore under the Multilateral Convention.

241. All Canada's DTCs and TIEAs signed since the first round review contain wording akin to Model Article 26(4) of the OECD Model Tax Convention and provide for exchange of information regardless of domestic tax interest.

242. Similarly to the situation described above in section C.1.3, some of Canada's DTCs signed prior to 2005 do not include a provision akin to Model Article 26(4). However, as discussed under element B.1, there are no limitations in Canada's laws or practices with respect to access to information regardless of domestic tax interest and therefore the absence of such provision in the EOI agreement may restrict exchange of information only if such restriction exists in the domestic law of Canada's treaty partner. Such restriction exists in the case of Trinidad and Tobago which is also not a Party to the Multilateral Convention and therefore Canada's EOI relation with this partner is not in line with the standard and should be renegotiated. Further, there are another nine jurisdictions whose EOI relation with Canada is also solely based on a DTC without Model Article 26(4) and which may have restrictions in accessing information regardless of domestic tax interest but have not been reviewed by the Global Forum.[10] This is, however, not a concern in

Tanzania, Thailand, Uzbekistan, Venezuela, Viet Nam, Zambia and Zimbabwe.

10. These nine jurisdictions are Bangladesh, Egypt, Guyana, Oman, Papua New Guinea, Côte d'Ivoire, Sri Lanka, Thailand and Zambia.

practice as Canada's powers to access and provide relevant information are not constrained by a reciprocity requirement. Moreover, from an administrative perspective Canada does not apply a strict reciprocity requirement.

243. In practice, Canada frequently receives requests where it has no domestic tax interest in obtaining the requested information. Most of these requests relate to banking or accounting information. In none of these cases was the issue of domestic tax interest raised during the reviewed period and accordingly no issue in this respect was reported by peers either.

ToR C.1.5: Absence of dual criminality principles

244. There are no dual criminality provisions in any of Canada's EOI agreements. Accordingly, there has been no case where Canada declined a request because of a dual criminality requirement as has been confirmed by peers.

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

245. All of Canada's EOI agreements provide for exchange of information in both civil and criminal tax matters. As already pointed out in the 2011 report, processing of EOI requests where the predominant purpose of the request relates to the gathering of evidence for the possible imposition of criminal sanctions requires a slightly different process for accessing the requested information (see further section B.1).

246. In practice, Canada provides exchange of information assistance in both civil and criminal tax matters. During the period under review more than 5% of received request related to criminal tax matters. There has been no case where Canada declined to provide information because the requested information could not be provided for criminal tax purposes. In the majority of the cases the requested information was already in the hands of the CRA. No peer reported any concerns regarding Canada's ability to exchange information relevant to criminal tax matters.

ToR C.1.7: Provide information in specific form requested

247. As already concluded in the first round review, there are no restrictions in the exchange of information provisions in Canada's EOI agreements that would prevent Canada from providing information in a specific form, as long as this is consistent with the Canadian law and its administrative practices. In addition several of Canada's older DTCs contain language obliging the requested jurisdiction to provide information in the form requested by the requesting jurisdiction if the provision of information in such form is in

line with the laws and administrative practices of the requested jurisdiction in respect to its own taxes.

248. In practice, Canada's competent authority provides information in the requested form in line with the standard. There are no impediments in Canadian law which would prevent the information being obtained in a requested form for example as an authenticated copy of an original document or as a witness deposition. Input received from peers confirms that Canada is able to respond to requests in accordance with the standard and no issue in respect of the form of the provided information has been indicated.

ToR C.1.8: Signed agreements should be in force

249. Canada's EOI network covers 143 jurisdictions through 96 DTCs, 24 TIEAs and the Multilateral Convention. Out of these 143 jurisdictions Canada has an EOI instrument in force with 140 of them.

250. The first round report noted that at the time of the review five signed DTCs and 11 signed TIEAs were not in force. Since then all these agreements have come into force except for two DTCs. The DTC with Lebanon was signed in December 1998 and the DTC with Namibia in March 2010. Both DTCs have been ratified by Canada but the DTCs are not in force as the respective treaty partners have not completed their ratification processes. It is also noted that Canada and Lebanon are both Parties of the Multilateral Convention.

251. In addition to the DTC with Namibia, Canada currently does not have in force a signed EOI instrument constituting its EOI relation with Cook Islands and Madagascar. A TIEA with Cook Islands was signed in June 2015 and has not yet been ratified by Canada but the ratification process is underway. Canada advised that the TIEA with the Cook Islands was tabled in Parliament on 11 April 2017 for the mandatory 21-sitting-day-period. Ratification is expected to take place this summer. Considering that more than two years passed since its signing Canada is recommended to ratify and take steps to bring the TIEA into force expeditiously. A DTC with Madagascar was signed only in November 2016 and the ratification process in Canada is ongoing.

252. Canada signed a DTC protocol with Belgium in April 2014. The protocol is not yet in force pending completion of the ratification process in Belgium. It is noted that Canada can nevertheless exchange information in line with the standard with Belgium under the Multilateral Convention.

Bilateral EOI Mechanisms

A	Total Number of DTCs/TIEAs	A = B+C	120
B	Number of DTCs/TIEAs signed but not in force	B = D+E	4
C	Number of DTCs/TIEAs signed and in force	C = F+G	116
D	Number of DTCs/TIEAs signed (but not in force) and to the Standard	D	4
E	Number of DTCs/TIEAs signed (but not in force) and not to the Standard	E	0
F	Number of DTCs/TIEAs in force and to the Standard	F	115
G	Number of DTCs/TIEAs in force and not to the Standard	G	1

ToR C.1.9: Be given effect through domestic law

253. Canada has in place domestic legislation necessary to comply with the terms of its EOI agreements.

254. Effective implementation of EOI agreements in domestic law has been also confirmed in practice as there was no case encountered where Canada was not able to obtain and provide the requested information due to unclear or limited effect of an EOI agreement in Canada's law. Accordingly no issue in this regard was reported by peers.

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

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

255. Canada has an extensive EOI network covering 143 jurisdictions through 96 DTCs, 24 TIEAs and the Multilateral Convention. Canada's's EOI network encompasses a wide range of counterparties, including all of its major trading partners, all EU member states, all the G20 members and all OECD members.

256. The first round review did not identify any issue in respect of the scope of Canada's EOI network or its negotiation policy.

257. Since the cut-off date of the first round review in January 2011, Canada's treaty network has been broadened from 105 jurisdictions to 143. This is through the significant increase in the number of the Multilateral Convention parties and the broadening of the network of Canada's bilateral treaties. Since the first round review Canada has signed four DTCs and 11 TIEAs with jurisdictions previously without an EOI relation.[11] The number of signatories to the

11. Four new DTCs are with Hong Kong (China); Madagascar, Serbia and a DTC arrangement between the Canadian Trade Office in Chinese Taipei and the Chinese Taipei Economic and Cultural Office in Canada. 11 new TIEAs are with Aruba,

Multilateral Convention rose from 23 in January 2011 to 111 in May 2017 which further broadened Canada's treaty network by 23 jurisdictions.

258. Canada has in place a negotiation programme which includes renegotiating of existing DTCs to ensure that they are up to date and in line with international standards and expansion of already existing treaty network so that all relevant partners are covered. Negotiations or renegotiations of DTCs are currently ongoing with five jurisdictions and TIEA negotiations have been substantially concluded with further four jurisdictions. As the standard ultimately requires that jurisdictions establish an EOI relationship to the standard with all partners who are interested in entering into such relation Canada is recommended to maintain its negotiation programme so that its exchange of information network continues to cover all relevant partners.

259. Canada's willingness to enter into EOI agreements without insisting on additional conditions was also confirmed by peers as no jurisdiction has indicated that Canada had refused to enter into or delayed negotiations of an EOI agreement.

260. The new table of determinations and ratings is as follows:

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

C.3. Confidentiality

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

261. The 2011 report concluded that all of Canada's EOI agreements have confidentiality provisions in line with the standard. This is also the case for all Canada's EOI agreements and Protocols signed since the first round review.

262. Further, as already concluded in the first round review, there are strict confidentiality provisions protecting tax information under Canada's domestic tax laws and these also apply to information in respect of EOI requests. Communications between Competent Authorities are treated as confidential and are subject to confidentiality rules contained in the respective EOI agreement under which they were received.

Bahrain, British Virgin Islands, Brunei, Cook Islands, Costa Rica, Guernsey, Isle of Man, Liechtenstein, Panama and Uruguay.

263. Accordingly, the EOI letter and supporting documentation are confidential and are not disclosed unless specifically requested by the taxpayer subject of the request and approved by the requesting jurisdiction. Certain facts obtained through exchange of information can nevertheless be disclosed to the taxpayer to the extent they are relevant for his/her tax assessment in Canada. Notices requesting the provision of information do not contain identification of the requesting competent authority or any details from the EOI letter or supporting documentation which would necessarily go beyond description of the requested information needed for obtaining it.

264. The applicable rules are properly implemented in practice to ensure confidentiality of the received information. The CRA has in place policies and procedures to ensure that confidential information is clearly labelled and stored. The received information is kept either physically in locked cabinets of the Competent Authority or stored electronically in secure network locations with access restricted to authorised officers. Access to CRA's IT environments is restricted to authorised personnel only and access is logged. All CRA's systems are monitored. Accordingly, no case of breach of confidentiality has been encountered in the EOI context and no such case or concerns have been reported by peers either.

265. The new table of determinations and ratings is as follows:

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

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

266. The 2011 report concluded that all of Canada's EOI agreements have confidentiality provisions in line with Article 26(2) of the OECD Model Tax Convention. This is also the case for all Canada's EOI agreements and Protocols signed since the first round review.

267. As already concluded in the first review, there are strict confidentiality provisions protecting tax information under Canada's domestic tax laws, and these also apply to information in respect of EOI requests. Breach of the ITA confidentiality provisions is an offence punishable on summary conviction by a fine of up to CAD 5 000 (EUR 3 570) and imprisonment for up to 12 months. In addition, CRA employees must observe the laws governing the CRA and other relevant legislation such as the Canada Revenue Agency Act, the Criminal Code, the Privacy Act, the Excise Tax Act, the Excise Act and the Financial Administration Act. A violation of the confidentiality provisions of these laws may be referred to the appropriate law enforcement authority, and may result in

disciplinary action up to and including termination of employment. There has been no change in these domestic rules since the first round review.

268. Communications between Competent Authorities are treated as confidential in the same manner as information obtained under Canada's taxation laws, and are subject to the relevant confidentiality provisions contained in Canada's DTCs, TIEAs and the Multilateral Convention.

269. Any information obtained in confidence from a treaty partner under an EOI Article is further protected from disclosure under section 19 of the Privacy Act and section 13 of the Access to Information Act. Paragraph 13(1)(a) of the last mentioned Act states that the Competent Authority shall refuse to disclose any record requested under this Act that contains information that was obtained in confidence from the government of a foreign state. Furthermore, the Access to Information Act provides that the Competent Authority may refuse to disclose any record that contains information that could reasonably be expected to harm the conduct of international affairs. Consequently, the EOI letter and its supporting documentation are considered confidential and are not disclosed unless specifically requested by the taxpayer subject of the request and approved by the requesting jurisdiction. During the period under review in one case the taxpayer under investigation requested to consult the supporting documents accompanying the EOI request and after consultation with the requesting jurisdiction the supporting documents were disclosed as the taxpayer in Canada was the subject of the investigation of the requesting jurisdiction. Further, certain facts obtained through exchange of information are disclosed to the taxpayer to the extent they are relevant for his/her tax assessment in Canada. The EOI letter itself however does not represent such information.

270. The EOI letter may be disclosed to the taxpayer under investigation or the information holder when requested by these persons in the context of judicial appeal (see further section B.2). In this case the Competent Authority will first consult the requesting jurisdiction whether the EOI letter can be disclosed or not. If the requesting jurisdiction indicates that the EOI request should not be disclosed the judge will be informed accordingly and will decide on the basis of the applicable domestic law (e.g. Access to Information Act described above) and Canada's treaty obligations. In the view of the Canadian authorities the applicable provisions give sufficient basis to conclude that in such situation the EOI request will not be disclosed. If a judge decides that the request letter must be disclosed to the appellant, the judge may decide which portions of the request could be made available to the public and which portions would be sealed for use by the court only. In any case the requesting jurisdiction would be informed before the request would be disclosed which may result in withdrawal of the EOI request. As described in section B.2, cases where obtaining and providing the requested information resulted in judicial appeal are rare

in practice and there was also no case during the period under review where disclosure of the EOI letter was requested in the context of judicial appeal.

271. Notices requesting the provision of information under section 231.2 of the ITA include the legal reference granting the access power, the name of the tax treaty under which the information is sought, a description of the requested information and the identification of the party about whom information is sought. The notice does not contain the identification of the requesting competent authority (except for identifying the treaty under which the information is requested) or any details from the EOI letter or supporting documentation which would go beyond the description of the requested information necessary for obtaining it. According to the Canadian authorities the identification of the party about whom information is sought is included in the notice in cases where it is necessary in order to identify the information needed and to avoid provision of information which is not requested. The identification of the party is therefore provided only to the extent necessary to provide the requested information.

Practical measures to ensure confidentiality of the received information

272. The CRA has in place policies and procedures to ensure that confidential information is clearly labelled and stored. In addition to the usual document classification label, treaty exchanged documents, both paper and electronic, are stamped with a treaty confidentiality caution stating: "This information is furnished under the provisions of an Income Tax Treaty/Tax Information Exchange Agreement with a foreign government. Its use and disclosure must be governed by the provisions of that Treaty/Agreement." The received information is kept either physically in locked cabinets of the Competent Authority or stored electronically in secure network locations with access restricted to authorised officers. The CRA buildings are closed off, with alarm systems and are protected by security guards. The tax authority's offices are only accessible with an ID card and a personal entry card which every employee has to have to enter the office.

273. When exchanged information is transmitted to a tax services office by the Competent Authority, a cover memo makes the office aware that the information has been received pursuant to an international agreement, is confidential, can only be used for the purpose(s) for which it was requested and should not be released to anyone without first consulting the competent authority to ensure that the disclosure rules within the specific agreement are respected. Attachments to a request for information received in connection with an exchange on request (or a spontaneous exchange) are provided to the tax services offices only if necessary.

274. The CRA implements multi-layered security controls at the network perimeter and host devices (servers, workstations, mobile devices) that

protect CRA's IT infrastructure from virus, phishing, and other malicious activity. Network perimeter controls include firewalls, load balancers, intrusion detection system (IDS), intrusion prevention systems (IPS), antivirus, content analysis and filtering, and encrypted communications. Device controls include firewalls, anti-virus, IPS/IDS, and encrypted data at rest. Physical access to CRA's IT environments is restricted to authorised personnel only and access is logged. All systems are monitored. Security incidents are addressed through CRA's Incident Management process and steps are taken to prevent their repetition.

275. No case of breach of the confidentiality obligation in respect of the exchanged information has been encountered by the Canadian authorities and no such case or concern in this respect has been indicated by peers either. Opportunities for in-transit loss or interception of information shared between tax administrations nevertheless exist in both the international and domestic context. The CRA's risk mitigation strategies are robust and have successfully averted the unauthorised disclosure of taxpayer information.

ToR C.3.2: Confidentiality of other information

276. The confidentiality provisions in Canada's EOI 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 information, background documents to such requests, and any other documents reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction. In practice, the same confidentiality measures are applied in respect of all types of information received from Canada's treaty partners.

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

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

ToR C.4.1: Exceptions to requirement to provide information

277. All of Canada's EOI agreements contain provisions on the rights and safeguards of taxpayers and third parties in line with the standard wording. The 2011 report noted that each of Canada's DTCs and TIEAs include wording equivalent to Article 26(3)(c) of the OECD Model DTC or Articles 7(2) and 7(3) of the Model TIEA which allow that the EOI partners may decline to exchange information where the information is covered by solicitor client privilege, a trade, business industrial, commercial or professional secret, or

information the disclosure of which would be contrary to public policy (ordre public). This is the case also for DTCs and TIEAs signed after the first round review and the Multilateral Convention.

278. As discussed in section B.1.5, Canada's domestic law does not include secrecy or confidentiality provisions which restrict the tax authority's access powers except for restrictions against accessing communications subject to solicitor-client privilege. The scope of this privilege was found in line with the standard. In June 2016, the SCC issued a decision which declared the power to issue requirements under subsection 231.2(1) of the ITA inapplicable in respect of notaries and lawyers acting in their capacity as legal advisers. This decision raises uncertainty in respect of the practical ability of the tax authority to access information held by lawyers and notaries in accordance with the standard in an efficient manner. Nevertheless since the delivery of the SCC decision, the tax authority obtained information from lawyers and notaries in several domestic cases and the Canadian authorities pointed out three court decisions where the government was successful in requiring the information be turned over to the tax authorities or a co-operating law enforcement official (see further section B.1.5).

279. During the period under review there were cases where information was obtained from lawyers and notaries in the EOI context and so far legal professional privilege has not been an impediment to obtaining the requested information. Canada also did not decline to provide the requested information during the period under review because it is covered by legal professional privilege or any other professional secret and no peer indicated any issue in this respect.

280. The table of determinations and ratings therefore remains unchanged as follows:

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

C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner.

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

- *Responding to requests*: Jurisdictions should be able to respond to requests within 90 days of receipt by providing the information requested or provide an update on the status of the request.
- *Organisational processes and resources*: Jurisdictions should have appropriate organisational processes and resources in place to ensure quality of requests and quality and timeliness of responses.
- *Restrictive conditions*: EOI assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions

282. The 2011 report concluded that Canada's domestic procedures for handling EOI requests, in particular the long internal timelines allocated for responding to requests, appeared to inhibit expedient responses to EOI requests and Canada was recommended to ensure that EOI Services sets appropriate internal deadlines to be able to respond to EOI requests in a timely manner.

283. Since the first round review Canada has taken measures which address the recommendation:

- The internal deadlines were adjusted to conform to the standard. The EOI tracking system has been modified to track the 90 days period and to automatically alert employees where the deadline is about to be breached. If the 90 day period lapses the EOI tracking system automatically alerts the responsible EOI officer handling the case and an update email is sent to the requesting jurisdiction. Timely provision of information in line with the 90 day standard has also been added to the performance indicators of each employees working on EOI.
- Internal procedures for handling EOI requests have been changed so that obtaining information pursuant to EOI requests is now directly handled by the officers in the EOI Unit in the vast majority of cases. The Competent Authority is now issuing requirements to the information holders (including banks) and information is therefore directly received by the Competent Authority. Information is requested to be provided by the Tax Services Offices only in cases where a tax audit for domestic purposes is already launched or a physical contact with the taxpayer is required.

284. Measures taken by Canada since the first round review have been effective and address the recommendation made in the first round review. The average response times has improved since the first round of review despite a slight increase in the number and complexity of incoming requests. The efficiency of Canada's EOI processes in respect of incoming as well as outgoing requests has been demonstrated in Canada's EOI practice during the current review period and confirmed by peers.

285. The new table of determinations and ratings is as follows:

Determination: The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the implementation of EOIR in practice.		
	Underlying Factor	**Recommendation**
Deficiencies Identified in the Implementation of EOI in Practice		
Rating: Compliant		

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

286. Over the period under review (1 July 2013 to 30 June 2016), Canada received a total of 858 requests for information. For these years, the number of requests where Canada answered within 90 days, 180 days, one year or more than one year, are tabulated below.

	1st year		2nd year		3rd year		Total	
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	169	100	372	100	317	100	858	100
Full response: ≤ 90 days	91	54	248	67	95	30	434	51
≤ 180 days (cumulative)	127	75	293	79	147	46	567	66
≤ 1 year (cumulative)	149	88	350	94	181	57	680	79
> 1 year	9	6	13	3	5	2	27	2
Declined for valid reasons	7	3	3	1	4	1	14	2
Status update provided within 90 days (for responses sent after 90 days)	57	78	58	48	166	75	281	68
Requests withdrawn by requesting jurisdiction	1	1	3	1	2	1	6	1
Failure to obtain and provide information requested	3	2	1	0	1	0	5	1
Requests still pending at date of review	0	0	2	1	124	39	126	15

Requests are counted as per the number of taxpayers subject of the request. If a request relates to one taxpayer it is counted as one even where more than one piece of information is requested.

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

287. The average response times has improved since in the first round of review from about 42% of requests responded within 90 days in the first round to 51% in the current period under review. The proportion of requests responded within 180 days has also slightly improved from about 64% in the first round to 66% in the current review period. If response times are counted based on the total of requests which were considered valid and not withdrawn the proportion of requests responded within 90 days is 51.7%. The response

times have improved despite a slight increase in the number and complexity of incoming requests reported by Canada.

288. There does not appear to be a relationship between the type of information requested and the ability to fulfil the request within 90 days. It is however noted that about 35% of requests received during the period under review were complex requests which generally require more time to be responded. These complex requests typically related to detailed transfer pricing information or other information which is not routinely available to the CRA and its provision required use of the CRA's access powers to gather large scale of information from multiple sources which may have related to several persons.

289. During the period under review Canada declined 14 requests representing 2% of all received requests. Five requests were declined because they concerned Value Added Taxes and inheritance taxes which were not covered under the relevant bilateral instrument. One request was rejected because the information was requested for the purposes of a divorce case, not for tax purposes. Two requests were declined based on lack of foreseeable relevance. In both cases the purpose for which information was sought was not provided and therefore Canada requested a clarification. As the clarification has not been provided both requests are currently considered closed. In one case the requested information was at the disposal of the CRA through exchange of information with another jurisdiction which did not authorise provision of this information to a third jurisdiction. Two requests are declined because the requesting jurisdiction did not provide clarification of the requested information necessary in order to obtain it. In two cases Canada requested confirmation of the identity of requesting Competent Authority and its authority to make the request and no such confirmation has been received. Finally, one request was considered a fishing expedition. The requesting jurisdiction was asking for the identity and contact details of all persons of that jurisdiction's origin who are registered with the CRA without providing further specification. The requesting jurisdiction was informed about the reasons for not providing the information but no further request in this matter has been received.

290. Canada provides status updates in cases where the requested information cannot be provided within 90 days. In order to ensure that measures have been taken since the first round review the EOI tracking system has been modified to track the 90 days and to automatically alert the responsible EOI officer handling the case where the 90 day period lapses. After lapse of every 90 days an update email is sent to the requesting jurisdiction indicating the reasons for the delay and the expected time frame the response will be provided. The obligation to provide status update is also formalised in section 3.2 of the EOI Reference Guide. Systematic provision of status updates

by Canada was also confirmed by peers. Nevertheless, the figures of provided status updates reported by Canada and contained in the above table do not fully match with the number of cases where status updates should have been provided. There does not appear to be a particular reason why in some cases status updates were not provided within 90 days. Canada should therefore ensure that status updates are actually provided in all cases as required under its policy and procedures. It is nevertheless noted that a full response or a status update was provided within 90 days in 85% of requests processed during the reviewed period and an additional 8% of cases received a full response or a status update within 100 days after receipt of the request.

291. In six cases during the period under review a received request was withdrawn by the requesting jurisdiction as the requested information was obtained from domestic sources or became not relevant anymore. No peer input received indicated that any of the withdrawals was caused by Canada's inability to provide the requested information.

292. Canada did not provide the requested information in five cases during the period under review representing 1% of received requests. In these cases the information holder was not contactable as he/she was living abroad or it was not possible to locate the requested information. The CRA used all measures to obtain the information including repeated notifications, search in corporate registers, government databases and open sources. In the very limited number of cases where Canada is not able to provide the requested information Canada responds with an explanation of the steps taken and why the requested information is not provided. Where possible Canada also provides other relevant information which is available to facilitate the investigation in the requesting jurisdiction.

293. Fifteen percent of requests received during the period under review are still being processed. Fourteen of the outstanding requests relate to requests for information on trusts from one treaty partner. The information holder questions whether the taxation of trusts in the requesting jurisdiction is contrary to the DTC under which the information is requested and therefore whether the information as requested can be provided. Both competent authorities are closely co-operating to resolve the issue. Ninety-one requests all of the same type and from one treaty partner are pending outcome of a court case in the requesting jurisdiction. The court in the requesting jurisdiction has ruled that the requesting jurisdiction has no treaty right to tax and the matter remains under appeal. Out of the remaining 21 pending requests all where received in the second half of the review period. The information is being gathered. In some cases the requested information is more than five years old and provision of the information by the information holder proceeds slowly.

Issues covered under other essential elements

294. The timeliness of the handling of requests may be affected by aspects of a jurisdiction's system other than the organisation of the EOI function itself that are dealt with in the essential element C.5. In particular, rules and procedures analysed under elements B.1 and B.2 may have impact on timeliness of responses and are dealt with in these sections. Nevertheless no issues were identified under these elements that would have clear negative impact on EOI practice as covered under element C.5.

ToR C.5.2: Organisational processes and resources

295. The 2011 report concluded that Canada's domestic procedures for handling EOI requests, in particular the long internal timelines allocated for responding to requests, appears to inhibit expedient responses to EOI requests and Canada was recommended to ensure that EOI Services sets appropriate internal deadlines to be able to respond to EOI requests in a timely manner.

296. Since the first round review Canada has taken measures which address the recommendation:

- The internal deadlines were adjusted to conform to the standard. Timely provision of information in line with the 90 day standard has been added to the performance indicators of each employees working on EOI. The EOI tracking system has also been modified to track the 90 days and to automatically alert employees where the deadline is about to be breached. If the information is already in the hands of the tax authorities EOI officers have 30 days from date of receipt to respond to a request. In cases where information is not already at the CRA disposal typically a requirement under 231.2 of ITA is issued and in most cases the person has 30 days to comply. The person can ask for an extension if the volume of documents is high and will take longer to gather.
- Internal procedures for handling EOI requests have been changed so that the requests to obtain information from taxpayers or third parties are no longer referred to the Tax Services Offices but are now directly handled by the officers in the EOI Unit. The Competent Authority is now issuing requirements to provide the requested to the information holders (including banks) and information is therefore directly received by the Competent Authority. This procedural change accelerates the processing of and responses to requests. Information is requested to be provided by the Tax Services Offices only in cases where a tax audit for domestic purposes is already launched or a physical contact with the taxpayer is required. Consequently, the requested information is obtained directly by the EOI Unit in about 80% of

cases. Where more complex search of the CRA databases is required the EOI Unit may request assistance from the CRA research team.

Incoming requests

297. The first review concluded that Canada's organisational processes and resources in respect of handling incoming request are compliant with the international standard. Except for the measures described above the organisation of EOI work and resources devoted to it remain stable over the years. Processes for handling EOI requests are formalised in detail in EOI Services Reference Guide and the EOI Manual. All officers handling EOI requests are experienced and well trained in handling EOI cases. However considering that the staffing of the EOI Unit remained almost unchanged over the years despite an increasing EOI workload Canada should continue to monitor that appropriate resources are devoted to its EOI programme.

298. The process to gather information where the predominant purpose of the request is to obtain evidence for use in a criminal tax investigation differs from obtaining information in the civil tax context. In criminal cases information must be gathered by judicially authorised means such as a search warrant or production order under the Criminal Code. The same process is used as in domestic criminal tax investigations. When deciding to seek a search warrant or production order the CRA consults with the Public Prosecution Service of Canada, where appropriate. Although the process appears more laborious than in civil matters no unnecessary delays in obtaining information for criminal tax purposes were encountered during the period under review (see further section C.1.6).

Outgoing requests

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

300. Canada has a substantive experience with requesting information pursuant to its EOI instruments. EOIR is frequently used to obtain the tax relevant information and Canada has developed an efficient EOI programme for that purpose. During the period under review Canada sent 294 requests for information related to direct taxes. The number of requests is counted per the number of taxpayers concerned.

Processing outgoing requests

301. Most outgoing requests are initiated by an auditor in a Tax Services Office or in the CRA's headquarters. The CRA has a reference guide for auditors, investigators, and officers who want information from a treaty or TIEA

partner. The reference guide gives general guidelines for all types of information requests. The reference guide includes request templates. The requestor completes a Specific Request for Information Form. The EOI officer will complete a thorough review of the request to assess its merit against CRA's guidelines and the applicable EOI agreement. This review process includes communications with the requestor and/or his/her team, the EOI legal team, fellow EOI officers and senior EOI officers as needed. Once the EOI officer has completed his/her thorough review, the request will be forwarded to the EOI manager for review. As outgoing requests require the Competent Authority director signature and approval, another final review phase is thus implemented prior to the request actually being forwarded to Canada's treaty partner.

302. EOI request procedures and guidelines are all referenced on the CRA internal website. Auditors can contact EOI officers directly should they need any further information or clarification. In addition, the EOI Unit performs outreach programmes and presentations to all areas in CRA.

303. In cases where the requested jurisdiction asks for a clarification, the EOI officer who prepared the request is tasked with providing the response immediately after receipt of such request. In cases where clarification cannot be provided by the EOI Unit the EOI officer directly contacts the auditor who initiated the request. This is usually done through phone calls or email. If the requested clarification is already at the disposal of the EOI Unit it can be provided within days. In cases where the local auditor has to be contacted provision of the requested clarification may take a few weeks. In most cases Canada prefers to organise a conference call with the other jurisdiction to clarify and then follow up with written clarification, if that is required. Canada also frequently organises bilateral meetings with its important EOI partners to discuss outstanding cases.

Information to be included in outgoing requests

304. Canada has developed a template for outgoing requests which is akin to the model request developed by the OECD and requires that information as outlined in Article 5(5) of the Model TIEA is included in outgoing requests. Required content of an outgoing request is also confirmed in the EOI Reference Guide. Where requested, the Competent Authority uses also jurisdiction specific template letters when making requests to these treaty partners.

305. During the period under review Canada received requests for clarification in about 5% of outgoing requests. There appears to be no systemic pattern in the need for these clarifications. Some clarifications relate to the identification of the taxpayer under investigation or request to provide more information on the expected holder of the information. Several requests for

clarification related to complex cases where closer co-operation between the competent authorities was required. Based on the available information Canada responded to all requests for clarification during the period under review. No concerns were reported by peers as they are satisfied with quality of Canada's requests.

Communication

306. Canada accepts requests in English or French. If the request is not in one of these languages, Canada undertakes the translation into English or French. Requests received in English or French do not need to be translated and are immediately processed by the EOI Unit, whereas requests in other languages are actioned subsequent to being translated. Canada sends outgoing requests in English or in French depending on the preferred language of its treaty partner.

307. Official internal communication within the tax administration is carried through encrypted emails or via secure internal post if hardcopies of documents need to be transmitted.

308. Communication tools used for external communication with other Competent Authorities differ depending on the partner jurisdiction. The EOI Unit maintains a master list of treaty partners mailing preferences. Requests and responses are sent via email, registered post or courier. Emails are sent encrypted from the central mailbox. When sending information by registered post or courier, any CDs or other electronic media are also encrypted. In its communication Canada asks its treaty partners to acknowledge receipt of the EOI request or of Canada's response by sending an email to Canada's central mailbox. EOI officers follow up if no acknowledgment is received within a reasonable time. Canadian authorities inform that they have implemented certain treaty exchanges via electronic transmission and are committed to joining the OECD's Common Transmission System. The CRA welcomes the move to electronic transmission solutions and looks forward to further progress in this regard.

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

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

Annex 1: Jurisdiction's response to the review report[12]

Canada would like to express its appreciation for the work of the assessors, the Global Forum secretariat, and the Peer Review Group in monitoring the implementation of the international standards for exchange of information on request (EOIR) for tax purposes.

Canada welcomes the work of the Global Forum in assisting countries to adhere to the key principles of transparency and exchange of tax information. Canada values international cooperation and the effective exchange of tax information as key to protecting the integrity of tax systems by ensuring jurisdictions have access to the information necessary to enforce tax laws.

Canada has a long history of exchanging information for tax purposes and a broad network; today 140 jurisdictions are part of Canada's extensive exchange of information (EOI) network.

We are pleased that the report recognizes that Canada responded to over 700 requests for information during the review period and the progress we have made since the Global Forum's 2011 Peer review Report on Canada. Improvements since the 2011 report include more timely Canadian response times to EOI requests, the expansion of Canada's EOI network, and that more Canadian tax treaties have been updated to the international standard.

Canada's overall rating of "largely compliant" is a grading against a new more rigorous terms of reference reflecting a desirable increased standard with respect to the availability of beneficial ownership information. The report importantly notes that Canada did not face practical barriers to sharing beneficial ownership information during the review period; having provided beneficial ownership information on 52 occasions (in response to 53 requests).

In fact, Canada demonstrates a leading level of cooperation relative to the nine other jurisdictions assessed to date. This success traces to strong administrative practices at the Canada Revenue Agency (CRA) coupled with

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

a broad legal framework which provides significant reporting and controls, such as very broad access powers to compel persons to provide information. This underscores the importance for the Global Forum to recognize the powers of tax authorities and the track record of jurisdictions in making exchanges.

The report notes the decision made in Canada's 2017 federal budget to improve certain legal frameworks. Through Budget 2017 and subsequent work the Government made clear that uncovering beneficial ownership is vital to protect the integrity of the tax and financial systems. Work to strengthen the transparency of legal persons and arrangements to improve the availability of beneficial ownership information is underway in consultation with provinces and territories.

The Government has made cracking down on offshore tax avoidance and evasion a priority through additional investments and tightening legislation. The constructive recommendations of the Global Forum will help focus this effort, and importantly not towards a prescriptive set a measures, but laying out areas for action that leave scope for Canada to build solutions that best fit the Canadian context.

Canada is committed to the work of the Global Forum and wishes to thank it again for its dedicated efforts to improve international tax cooperation not only in respect of EOIR, but more broadly.

Annex 2: List of Jurisdiction's EOI mechanisms

1. Bilateral international agreements for the exchange of information

EOI partner	Type of agreement	Date signed	Date entered into force
Algeria	DTC	28-Feb-99	26-Dec-00
Anguilla	TIEA	28-Oct-10	12-Oct-11
Argentina	DTC	29-Apr-93	30-Dec-94
Armenia	DTC	29-Jun-04	24-Jan-06
Aruba	TIEA	20-Oct-11	01-Jun-12
Austria	DTC EOI Protocol EOI Protocol	09-Dec-76 15-Jun-99 09-Mar-12	16-Feb-81 29-Jun-01 01-Oct-13
Australia	DTC	21-May-80	29-Apr-81
Azerbaijan	DTC	07-Sep-04	14-Feb-06
Bahamas	TIEA	17-Jun-10	17-Nov-11
Bahrain	TIEA	05-Jun-13	03-Apr-14
Bangladesh	DTC	15-Feb-82	18-Jan-85
Barbados	DTC EOI Protocol	22-Jan-80 08-Nov-11	22-Dec-80 17-Dec-13
Belgium	DTC EOI Protocol	22-May-02 01-Apr-14	06-Oct-04 Not yet in force
Bermuda	TIEA	14-Jun-10	01-Jul-11
Brazil	DTC	04-Jun-84	23-Dec-85
British Virgin Islands	TIEA	21-May-13	11-Mar-14
Brunei	TIEA	09-May-13	26-Dec-14
Bulgaria	DTC	03-Mar-99	25-Oct-01
Cameroon	DTC	26-May-82	16-Jun-88

EOI partner	Type of agreement	Date signed	Date entered into force
Cayman Islands	TIEA	24-Jun-10	01-Jun-11
Chile	DTC	21-Jan-98	28-Oct-99
China (People's Republic of)	DTC	12-May-86	29-Dec-86
Colombia	DTC	21-Nov-08	15-Jul-12
Cook Islands	TIEA	15-Jun-15	Not yet in force
Costa Rica	TIEA	11-Aug-11	14-Aug-12
Côte d'Ivoire	DTC	16-Jun-83	19-Dec-85
Croatia	DTC	09-Dec-97	23-Nov-99
Curacao	TIEA	29-Aug-09	01-Jan-11
Cyprus [1]	DTC	02-May-84	03-Sep-85
Czech Republic	DTC	25-May-01	28-May-02
Denmark	DTC	17-Sep-97	02-Mar-98
Dominica	TIEA	29-Jun-10	10-Jan-12
Dominican Republic	DTC	06-Aug-76	23-Sep-77
Ecuador	DTC	28-Jun-01	20-Dec-01
Egypt	DTC	30-May-83	02-Oct-84
Estonia	DTC	02-Jun-95	28-Dec-95
Finland	DTC	20-Jul-06	17-Jan-07
France	DTC EOI Protocol EOI Protocol	02-May-75 30-Nov-95 02-Feb-10	29-Jul-76 01-Sep-98 27-Dec-13
Gabon	DTC	14-Nov-02	22-Dec-08
Germany	DTC	19-Apr-01	28-May-02
Greece	DTC	29-Jun-09	1-Jan-11
Guernsey	TIEA	19-Jan-11	18-Dec-11
Guyana	DTC	15-Oct-85	04-May-87
Hong Kong (China)	DTC	11-Nov-12	29-Oct-13
Hungary	DTC	15-Apr-92	01-Oct-94
Iceland	DTC	19-Jun-97	30-Jan-98
India	DTC	11-Jan-96	06-May-97
Indonesia	DTC	16-Jan-79	23-Dec-80
Ireland	DTC	08-Oct-03	12-Apr-05

EOI partner	Type of agreement	Date signed	Date entered into force
Isle of Man	TIEA	17-Jan-11	19-Dec-11
Israel	DTC	21-Sep-16	21-Dec-16
Italy	DTC	03-Jun-02	25-Nov-11
Jamaica	DTC	30-Mar-78	02-Apr-81
Japan	DTC	07-May-86	14-Nov-87
Jersey	TIEA	12-Jan-11	19-Dec-11
Jordan	DTC	06-Sep-99	24-Dec-00
Kazakhstan	DTC	25-Sep-96	30-Mar-98
Kenya	DTC	27-Apr-83	08-Jan-87
Korea	DTC	05-Sep-06	18-Dec-06
Kuwait	DTC	28-Jan-02	26-Aug-03
Kyrgyzstan	DTC	04-Jun-98	04-Dec-00
Latvia	DTC	26-Apr-95	12-Dec-95
Lebanon	DTC	29-Dec-98	Not yet in force
Liechtenstein	TIEA	13-Jan-13	26-Jan-14
Lithuania	DTC	29-Aug-96	12-Dec-97
Luxembourg	DTC EOI Protocol	10-Sep-99 08-May-12	17-Oct-00 10-Dec-13
Madagascar	DTC	24-Nov-16	Not yet in force
Malaysia	DTC	15-Oct-76	18-Dec-80
Malta	DTC	25-Jul-86	20-May-87
Mexico	DTC	12-Sep-06	12-Apr-07
Moldova	DTC	04-Jul-02	13-Dec-02
Mongolia	DTC	27-May-02	20-Dec-02
Morocco	DTC	22-Dec-75	09-Nov-78
Namibia	DTC	25-Mar-10	Not yet in force
Netherlands	DTC EOI Protocol	27-May-86 25-Aug-97	21-Aug-87 15-Jan-99
New Zealand	DTC	13-May-80	29-May-81
Nigeria	DTC	04-Aug-92	16-Nov-99
Norway	DTC	12-Jul-02	19-Dec-02
Oman	DTC	30-Jun-04	27-Apr-05
Pakistan	DTC	24-Feb-76	15-Dec-77

EOI partner	Type of agreement	Date signed	Date entered into force
Papua New Guinea	DTC	16-Oct-87	21-Dec-89
Panama	TIEA	17-Mar-13	06-Dec-13
Peru	DTC	20-Jul-01	17-Feb-03
Philippines	DTC	11-Mar-76	21-Dec-77
Poland	DTC	04-May-87	30-Nov-89
Portugal	DTC	14-Jun-99	24-Oct-01
Romania	DTC	08-Apr-04	31-Dec-04
Russia	DTC	05-Oct-95	05-May-97
Saint Lucia	TIEA	18-Jun-10	08-Aug-12
San Marino	TIEA	27-Oct-10	20-Oct-11
Senegal	DTC	02-Aug-01	07-Oct-03
Serbia	DTC	27-Apr-12	31-Oct-13
Singapore	DTC EOI Protocol	06-Mar-76 29-Nov-11	23-Sep-77 31-Aug-12
Sint Maarten	TIEA	29-Aug-09	01-Jan-11
Slovak Republic	DTC	22-May-01	20-Dec-01
Slovenia	DTC	15-Sep-00	12-Aug-02
South Africa	DTC	27-Nov-95	30-Apr-97
Spain	DTC EOI Protocol	23-Nov-76 18-Nov-14	26-Dec-80 12-Dec-15
Sri Lanka	DTC	29-Jun-82	09-Jun-86
St. Kitts and Nevis	TIEA	14-Jun-10	21-Nov-11
St. Vincent and the Grenadines	TIEA	22-Jun-10	06-Oct-11
Sweden	DTC	27-Aug-96	23-Dec-97
Switzerland	DTC EOI Protocol	05-May-97 22-Oct-10	21-Apr-98 16-Dec-11
Chinese Taipei	DTC	15-Jan-16	23-Dec-16
Tanzania	DTC	15-Dec-95	29-Aug-97
Thailand	DTC	11-Apr-84	16-Jul-85
Trinidad and Tobago	DTC	11-Sep-95	08-Feb-96
Tunisia	DTC	10-Feb-82	04-Dec-84
Turkey	DTC	14-Jul-09	04-May-11
Turks and Caicos	TIEA	22-Jun-10	06-Oct-11

EOI partner	Type of agreement	Date signed	Date entered into force
Ukraine	DTC	04-Mar-96	29-Apr-97
United Arab Emirates	DTC	09-Jun-02	25-May-04
United Kingdom	DTC EOI Protocol EOI Protocol	08-Sep-78 07-May-03 21-Jul-14	17-Dec-80 04-May-04 18-Dec-14
United States	DTC EOI Protocol EOI Protocol	28-Sep-80 17-Mar-95 21-Sep-07	16-Aug-84 09-Nov-95 15-Dec-08
Uruguay	TIEA	05-Feb-13	27-Jun-14
Uzbekistan	DTC	17-Jun-99	14-Sep-00
Venezuela	DTC	10-Jul-01	05-May-04
Viet Nam	DTC	14-Nov-97	16-Dec-98
Zambia	DTC	16-Feb-84	28-Dec-89
Zimbabwe	DTC	16-Apr-92	15-Dec-94

Note: 1. Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

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

2. Convention on Mutual Administrative Assistance in Tax Matters (amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the amended Convention).[13] The Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

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

Canada signed the 1988 Convention on 28 April 2004 and the Protocol amending the 1988 Convention on 3 November 2011. The Convention and its amending Protocol entered into force for Canada on 1 March 2014.

Currently, the amended Convention is in force in respect of the following jurisdictions[14]: Albania, Andorra, Anguilla (extension by the United Kingdom), Argentina, Aruba (extension by the Kingdom of the Netherlands), Australia, Austria, Azerbaijan, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Costa Rica, Croatia, Curacao (extension by the Kingdom of the Netherlands; Curaçao used to be a constituent of the "Netherlands Antilles", to which the original Convention applies as from 01-02-1997), Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands (extension by the Kingdom of Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by the Kingdom of Denmark), Guernsey (extension by the United Kingdom), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, the Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Poland, Portugal, Romania, Russia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten (extension by the Kingdom of the Netherlands; Sint Maarten used to be a constituent of the "Netherlands Antilles", to which the original Convention applies as from 01-02-1997), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Kingdom and Uruguay.

14. This list includes State Parties to the Convention, as well as jurisdictions, which are members of the GFTEI or that have been listed in Annex B naming a competent authority, to which the application of the Convention has been extended pursuant to Article 29 of the Convention.

In addition, the following are the jurisdictions that have signed the amended Convention, but where it is not yet in force: Burkina Faso, Cook Islands, Dominican Republic, El Salvador, Gabon, Guatemala, Jamaica, Kenya, Kuwait, Morocco, Philippines, Saint Lucia, Turkey, United Arab Emirates and the United States (the 1988 Convention in force on 1 April 1995, the amending Protocol signed on 27 April 2010).

Annex 3: List of laws, regulations and other material received

Federal legislation

The Constitution Act
Bank Act
Canada Business Corporations Act
Canada Cooperatives Act
Canada Corporations Act
Canada Evidence Act
Canada Not-for-profit Corporations Act
Canada Revenue Agency Act
Canadian Bill of Rights
Cooperative Credit Associations Act
Criminal Code
Income Tax Act
Insurance Companies Act
Mutual Legal Assistance in Criminal Matters Act
Office of the Superintendent of Financial Institutions Act
Proceeds of Crime (Money Laundering) and Terrorist Financing Act
Trust and Loan Companies Act

Regulations

Bank Act: Access to Basic Banking Services Regulations
Income Tax Regulations

Provincial legislation

Alberta

Business Corporations Act
Companies Act
Cooperatives Act
Credit Union Act
Loan and Trust Corporations Act
Partnership Act
Securities Act
Trustee Act

British Columbia

Business Corporations Act
Business Number Act
Company Act
Cooperative Association Act
Credit Union Incorporation Act
Financial Institutions Act
Partnership Act
Securities Act
Trustee Act

Manitoba

Business Names Registration Act
Cooperatives Act
Corporations Act
Credit Unions and Caisses Populaires Act
The Partnership Act
Securities Act
Trustee Act

New Brunswick

Business Corporations Act

Companies Act

Co-operative Associations Act

Corporations Act

Credit Unions Act

Limited Partnership Act

Loan and Trust Companies Act

Partnership Act

Partnerships and Business Names Registration Act

Securities Act

Trustees Act

Newfoundland and Labrador

Co-operatives Act

Corporations Act

Credit Union Act

Limited Partnership Act

Partnership Act

Securities Act

Trust and Loan Corporations Act

Trustee Act

Nova Scotia

Companies Act

Co-operative Associations Act

Corporations Miscellaneous Provisions Act

Corporations Registration Act

Credit Union Act

Limited Partnerships Act

Partnership Act

Partnerships and Business Names Registration Act

Securities Act

Trust and Loan Companies Act

Trustee Act

Ontario

Business Corporations Act

Business Names Act

Co-operative Corporations Act

Corporations Act

Credit Unions and Caisses Populaires Act

Extra-Provincial Corporations Act

Limited Partnerships Act

Loan and Trust Corporations Act

Partnerships Act

Securities Act

Trustee Act

Prince Edward Island

Companies Act

Co-operative Associations Act

Credit Unions Act

Extra-Provincial Corporations Registration Act

Limited Partnerships Act

Partnership Act

Securities Act

Trust and Fiduciary Companies Act

Trustee Act

Quebec

Business Corporations Act

An Act respecting the Caisse de dépôt et placement du Québec

An Act respecting certain caisses d'entraide économique

An Act respecting the caisses d'entraide économique

Civil Code of Québec

Companies Act

An Act respecting the Compilation of Québec Laws and Regulations

Cooperatives Act

An Act respecting the legal publicity of enterprises

An Act respecting the Legal publicity of sole proprietorships, partnerships and legal persons

Securities Act

An Act respecting Trust companies and savings companies

Saskatchewan

Business Corporations Act

Business Names Registration Act

Companies Act

Co-operatives Act

Credit Union Act

Partnership Act

Securities Act

Trust and Loan Corporations Act

The Trustee Act

Territories

Northwest Territories

Business Corporations Act

Business Licence Act

Co-operative Associations Act

Credit Union Act
Partnership Act
Securities Act
Societies Act
Trustee Act, R.S.N.W.T.
Nunavut
Business Corporations Act
Business Licence Act
Companies Act
Co-operative Associations Act
Credit Union Act
Partnership Act
Securities Act
Societies Act
Trustee Act
Yukon
Business Corporations Act
Cooperative Associations Act
Partnership and Business Names Act
Securities Act
Societies Act
Trustee Act

Annex 4: Authorities interviewed during on-site visit

Canada Revenue Agency

Department of Finance

Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)

Innovation, Science and Economic Development Canada (ISED)

Representatives of provincial corporate registers of Alberta, Ontario, Nova Scotia and Quebec

Annex 5: List of in-text recommendations

The assessment team or the PRG may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, there may be a concern that the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, such recommendations should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be mentioned in the text of the report. A list of such recommendations is presented below.

- Section A.1.1: Canada should consider to strengthen rules governing availability of corporate records after the dissolution of a corporation.
- Section A.1.1 and A.3: Canada should ensure that the new CDD rules are swiftly implemented in respect of all pre-existing accounts where it has not yet been done so.
- Section A.1.1, A.1.3, A.1.4 and A.3: Canada should strengthen its measures to ensure that the beneficial ownership information kept in practice is adequate, accurate and up to date.
- Section A.1.3: Canada is recommended to strengthen supervision of partners' obligation to keep the information identifying partners in a partnership available in Canada in cases where the supervision through tax and register obligations do not apply.
- Section A.1.4: Canada should consider measures how to strengthen its supervision of trusts record keeping requirements.
- Section A.2.1: Canada is recommended to clarify accounting obligations for limited partnerships formed under Canadian law which do not have any Canadian resident partners, which do not carry on business in Canada or which are not otherwise subject to income tax law obligations.
- Section B.2.1: Canada should consider monitoring exercise of appeal rights in the EOI context.

- Sections C.1.3 and C.1.4: Canada should renegotiate its EOI instrument with Trinidad and Tobago.
- Section C.1.8: Canada is recommended to ratify and take steps to bring into force the TIEA with Cook Islands expeditiously.
- Section C.2: Canada is recommended to maintain its negotiation programme so that its exchange of information network continues to cover all relevant partners.
- Section C.5.1: Canada should ensure that status updates are provided in all cases as required under its policy and procedures.
- Section C.5.2: Canada should continue to monitor that appropriate resources are devoted to its EOI programme.

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GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request CANADA 2017 (Second Round)

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 140 jurisdictions participate on an equal footing.

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

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

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