

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information
on Request

CAYMAN ISLANDS

2017 (Second Round)



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

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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as at May 2017)

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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.

Abbreviations and acronyms

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CDD	Customer Due Diligence
CFATF	Caribbean Financial Action Task Force
CRS	Common Reporting Standard
DTC	Double Tax Convention
EOI	Exchange of information
EOIR	Exchange of information on request
FATCA	Foreign Account Tax Compliance Act
First Round	First round of EOIR reviews which was carried out from 2010-16
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
Multilateral Convention	OECD Convention on Mutual Administrative Assistance in Tax Matters
PRG	Peer Review Group of the Global Forum
TIEA	Tax Information Exchange Agreement
Second Round	Second round of EOIR reviews to be carried out from 2016-20
2010 Terms of Reference (ToR)	Terms of Reference related to Exchange of Information on Request (EOIR), as approved by the Global Forum in February 2010.
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.

Terms specific to the Cayman Islands

AML Guidance Notes	The CIMA's Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands dated August 2015
CIMA	Cayman Islands Monetary Authority
CITIA	Cayman Islands Tax Information Authority
DCI	The Cayman Islands Department of Commerce and Investment
DITC	Department for International Tax Cooperation
FRA	The Cayman Islands Financial Reporting Authority established under Section 3 of the Proceeds of Crime Law (2016 Revision)
Financial Services Provider	Any business carrying on relevant financial business and subject to regulation by the Cayman Islands Monetary Authority
Registrar	Cayman Islands Registrar of Companies, Partnerships and Trusts
TBLB	Trade and Business Licensing Board
TIA Law	Tax Information Authority Law
2010 Report	Cayman Islands Phase 1 Report assessing the legal implementation of the standard for transparency and exchange of information in tax matters which was adopted and published by the Global Forum in September 2010.
2011 Report	Cayman Islands supplementary Phase 1 Report assessing both the legal implementation of the standard for transparency and exchange of information in tax matters and, in particular, the amendments that had been effected since the 2010 Report, which was adopted and published by the Global Forum in August 2011.

2013 Report

Cayman Islands Phase 2 Report assessing both the legal implementation and the effectiveness in practice of the standard for transparency and exchange of information in tax matters which was adopted and published by the Global Forum in March 2013.

Executive summary

1. During the First Round, the peer review process of the Cayman Islands was undertaken across three reports: the 2010 Report, the 2011 Report and the 2013 Report. The 2010 and 2011 Reports assessed the legal and regulatory framework of the Cayman Islands for compliance with the international standard for transparency and exchange of information against the 2010 ToR. The 2013 Report was evaluated against the 2010 ToR for both the legal implementation of the EOIR standard as well as its operation in practice. The 2013 Report concluded that the Cayman Islands was rated Largely Compliant overall. This report analyses the implementation of the EOIR standard by the Cayman Islands in respect of EOI requests processed during the period of 1 April 2013-31 March 2016 against the 2016 ToR. This report concludes that the Cayman Islands continues to be rated overall as Largely Compliant.

2. The following table shows the comparison with the results from the Cayman Islands 2013 Report:

**Comparison of ratings for Phase 2 Review (2013) and
Current EOIR Review (2017)**

Element	Combined Report (2013)	EOIR Report (2017)
A.1 Availability of ownership and identity information	LC	LC
A.2 Availability of accounting information	LC	LC
A.3 Availability of banking information	C	C
B.1 Access to information	C	LC
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 requests and responses	C	C
OVERALL RATING	LC	LC

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

Progress made since previous review

3. The 2013 Report made recommendations in respect of two essential elements: elements A.1 and A.2. The two recommendations for elements A.1 concerned immobilised bearer shares held by recognised custodians outside of the Cayman Islands and the implementation of a regular system of monitoring for ownership information. There was also a recommendation issued regarding a system of oversight for accounting record requirements in element A.2.

4. The Cayman Islands has taken action to address some of the recommendations in the 2013 Report. First, in respect of element A.1, *Legal and beneficial ownership and identity information*, in May 2016, the Cayman Islands introduced legal amendments abolishing all bearer shares and requiring any bearer shares to be converted to registered shares by 13 July 2016. Any company that had bearer shares was required to file a declaration with the Registrar by 31 January 2017 identifying any bearer shares that were converted to registered shares. As of May 2017, 12 companies have filed such a declaration.

5. The A.1 recommendation relating to the monitoring of legal ownership information has been addressed by a combination of monitoring activities commenced over the review period by the Registrar and the DCI (as the oversight body for those entities that are registered with the TBLB). In 2013, the Registrar commenced converting all manual files to electronic copies and in the course of this process has commenced a programme of desktop inspections and onsite visits. The DCI also implemented an onsite inspection programme over the review period.

Key recommendations

6. Since the 2013 Report the Cayman Islands' legal framework continues to be determined to be in place in respect of all elements. In respect of the practical implementation of the standard, elements A.3, B.2, C.1, C.2, C.3, C.4 and C.5 continue to be rated as Compliant and elements A.1, A.2 and B.1 are rated as Largely Compliant, with recommendations.

7. In regards to the recommendation under element A.1, the 2016 ToR introduced a requirement under which beneficial ownership on relevant entities and arrangements should be available. Over the review period, there were several legal requirements to maintain beneficial ownership information in the Cayman Islands and these requirements are generally well implemented in practice. However, in the case of domestic companies, of which there are approximately 11 000 out of a total of approximately 110 000 registered entities, a direct obligation for the maintenance of beneficial ownership

information only came into force in March 2017, the practical implementation of which will be monitored by the Registrar from July 2017 onward. Therefore, the system of monitoring of the new specific requirement for all companies to maintain beneficial ownership information remains untested in practice. The Cayman Islands is recommended to monitor the 2017 amendments to its company laws to ensure that beneficial ownership information is available for all relevant entities. As a result, element A.1 remains determined to be in place and rated as Largely Compliant.

8. In respect of the recommendation under element A.2 pertaining to the availability of accounting information, although there are sound legal requirements in place for all entities to maintain accounting information, the lack of oversight and non-enforcement of the accounting obligations led to issues in practice in providing accounting information in one case over the review period. Therefore, a recommendation remains that the Cayman Islands implement an effective system of oversight to support the legal requirements which ensure the availability of accounting information in all cases. As a result, element A.2, continues to be determined to be in place and rated as Largely Compliant.

9. In regards to element B.1, in one case over the review period, a Cayman Islands entity refused to provide information in response to a notice from the Competent Authority requesting information that was not held in the Cayman Islands. Although the Competent Authority referred this case to the Director of Public Prosecutions, the case was not pursued. No other enforcement actions were taken. Therefore, in those cases where information is not maintained in the Cayman Islands, the Cayman Islands should ensure that its enforcement powers are sufficiently exercised to ensure that it has access to all information in all cases. As a result, element B.1 is determined to be in place and is now rated as Largely Compliant.

Overall rating

10. The Cayman Islands was rated overall as Largely Compliant in the First Round of reviews. Given the recent amendments in respect of the availability of beneficial ownership information that are too new to evaluate for element A.1; the oversight and provision of accounting information where not held onshore, which has an effect on element A.2; and the issues with enforcement of its access powers as described for element B.1, the overall rating in the second round of reviews remains Largely Compliant. A follow up report on the steps undertaken by the Cayman Islands to address the recommendations made in this report should be provided to the PRG no later than 30 June 2018 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 (<i>ToR A.1</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Largely Compliant	Over the review period, whilst the Cayman Islands had a legal framework in place for beneficial ownership information to be maintained by almost all entities, there may have been a gap regarding a small number of ordinary resident and non-resident companies that did not engage a service provider. In 2017, the Cayman Islands introduced legal amendments to its company laws clarifying that all companies are now required to maintain beneficial ownership information.	The Cayman Islands is recommended to monitor the practical implementation of the 2017 amendments to its company laws to ensure that beneficial ownership information is available for all relevant entities.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
Legal and regulatory framework determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Largely Compliant	Except for those entities that are subject to licensing with the CIMA, no system of monitoring of compliance with accounting record keeping requirements is in place. In one case over the review period, the Cayman Islands was unable to access accounting information that was held outside the Cayman Islands by an exempted entity to provide to its treaty partner. Therefore, the lack of a comprehensive system of oversight of accounting obligations for all entities may not ensure that accounting information will be available in all cases.	The Cayman Islands is recommended to implement an effective system of oversight and enforcement to support the legal requirements which ensure the availability of accounting information in all cases.
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
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) (<i>ToR B.1</i>)		
Legal and regulatory framework determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Largely Compliant	In one case over the review period, the CITIA was unable to access accounting information where the information was not held in the Cayman Islands and no one within the Cayman Islands was obliged to provide it. Although the CITIA successfully accessed and exchanged all of the requested information in all other cases over the review period, as the Cayman Islands did not make use of its enforcement powers, this could become a wider problem in practice.	In those cases where information is not maintained in the Cayman Islands, the Cayman Islands should ensure that its enforcement powers are sufficiently exercised to ensure that it can access all information in all cases.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
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 (<i>ToR C.2</i>)		
Legal and regulatory framework determination: The element is in place.		

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
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 (<i>ToR C.4</i>)		
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 (<i>ToR C.5</i>)		
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

11. This report is the fourth review of the Cayman Islands conducted by the Global Forum. The Phase 1 Report, as adopted in June 2010, assessed the Cayman Islands in respect of its legal and regulatory framework. Subsequent to its Phase 1 report, the Cayman Islands underwent a Phase 1 supplementary report to reflect improvements with respect to its accounting requirements. The Phase 1 supplementary report was adopted in August 2011. The Phase 2 Report which assesses both the legal implementation of the standards and the effectiveness in practice was adopted in March 2013 (reflecting the legal and regulatory framework in place as of January 2013).

12. The Phase 2 review was 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 2013 Report was published without rating of the individual essential elements or any overall rating, as the Global Forum waited until a representative subset of reviews from across a range of Global Forum members had been completed in 2013 to assign and publish ratings for each of those reviews. Cayman Islands' 2013 Report was part of this group of reports. Accordingly, the 2013 Report was republished in November 2013 to reflect the ratings for each element and the overall rating for Cayman Islands. Information on the previous reviews is listed in the table below.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of (date)	Date of adoption by Global Forum
Phase 1 Report	Laurence Simon-Michel, Senior Tax Inspector in the French tax administration (Direction Générale des Finances Publiques); Oshna Maharaj, Manager of International Development and Treaties for the South African Revenue Service; and Caroline Malcolm (Global Forum Secretariat)	N/A	June 2011	June 2010

Review	Assessment team	Period under review	Legal framework as of (date)	Date of adoption by Global Forum
Supplementary	Laurence Simon-Michel, Senior Tax	N/A	May 2011	August 2011
Phase 1 Report	Inspector in the French tax administration (Direction Générale des Finances Publiques); Oshna Maharaj, Manager of International Development and Treaties for the South African Revenue Service; and Caroline Malcolm (Global Forum Secretariat)			
Phase 2 Report	Philippe Cahanin, from the French Tax Administration (Direction Générale des Finances Publiques); Oshna Maharaj, Manager of International Development and Treaties for the South African Revenue Service; and Mary O’Leary and Mikkel Thunnissen (Global Forum Secretariat)	1 Jan 2009-31 Dec 2011	18 January 2013	March 2013
EOIR Report	Virginia Tarris, Internal Revenue Service (IRS), United States; Mukhta Toofanee, International Taxation Section, Mauritius; and Mary O’Leary (Global Forum Secretariat)	1 April 2013-31 March 2016		[August] 2017

13. This evaluation is based on the 2016 ToR, and has been prepared in accordance with the 2016 Methodology. The evaluation is based on information available to the assessment team including the EOI arrangements signed, laws and regulations in force or effective as at 24 May 2017, Cayman Islands’ EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2013-31 March 2016, Cayman Islands’ responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Cayman Islands’ authorities during the on-site visit that took place from 9-11 January, 2017 in George Town, Cayman Islands. The report was then discussed and approved by the PRG at its meeting in July 2017 and adopted by the Global Forum in August 2017.

14. For the sake of brevity, on those topics where there has not been any material change in the legal implementation or in its practice in the Cayman Islands or in the requirements of the Global Forum ToR since the 2013 Report, this evaluation does not repeat the analysis conducted in the previous evaluation, but summarises the conclusions and includes a cross-reference to the paragraphs where a detailed analysis is provided in the previous 2013 Report.

Brief on 2016 ToR and methodology

15. The 2016 ToR were adopted by the Global Forum in October 2015. The 2016 ToR 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 the Cayman Islands’ legal and regulatory framework and the implementation and effectiveness of this framework against these elements and each of the enumerated aspects.

16. In respect of each essential element (except element C.5 *Exchanging Information*, which uniquely involves only aspects of practice) a determination is made regarding Cayman Islands’ legal and regulatory framework that: (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 Cayman Islands’ EOIR effectiveness in practice a rating of: (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 Cayman Islands’ overall level of compliance with the EOIR standard.

17. In comparison with the 2010 ToR, the 2016 ToR includes new principles with respect to:

- beneficial ownership information;
- coverage of enforcement measures and record retention periods for ownership, accounting and banking information;
- 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; and
- completeness and quality of outgoing EOI requests and responses.

18. Each of these new requirements are analysed in detail in this report as set out below.

Brief consideration of FATF evaluations and ratings

19. The FATF evaluates jurisdictions for compliance with AML/CFT standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

20. 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 recognise 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 ToR, annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combatting AML/CFT) 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 2016 ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

21. 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.

22. Nevertheless, it is noted that these differences in the scope of reviews and in the approach used may result in differing outcomes.

Overview of Cayman Islands

23. The Cayman Islands is a self-governed overseas territory of the United Kingdom located in the Caribbean, about 240km south of Cuba. This overview provides some basic information about the Cayman Islands 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 the Cayman Islands' legal, commercial or regulatory systems.

Legal system

24. The Cayman Islands is a parliamentary democracy with judicial, executive and legislative branches. Under the Cayman Islands (Constitution) Order 2009, the Head of State is the Queen of England, who is represented by a Governor. The Governor, as well as presiding over the Executive (known as the Cabinet), retains fundamental reserve powers and responsibility for defense, external relations and internal security. In addition to the Governor, the Cabinet is comprised of six elected Ministers, and two non-voting ex officio members being the Attorney General and Deputy Governor. The Premier, who is also a member of Cabinet, is the political leader and head of the elected government leading the majority party and/or coalition. The other branches of government include: a unicameral legislature known as the Legislative Assembly that is comprised of 18 elected members and the judiciary.

25. The Cayman Islands is a common law jurisdiction deriving its law from both English common law and Cayman Islands' statutes. Decisions of English Courts or statutes are regarded as highly persuasive on the jurisdiction's courts. Whilst rarely exercised, the U.K. Government also retains power to pass legislation binding on the jurisdiction.

26. The judicial system is comprised of four tiers, the first three of which sit in the Islands. The Summary Court is presided over by a magistrate or justices of the peace. The Grand Court is the permanent court of record. The Court of Appeal is the superior court of record consisting of a president and no fewer than two other Justices of Appeal. The final right of appeal on a

point of law and with the leave of the Court of Appeal rests with the Judicial Committee of the Privy Council, which sits in London, United Kingdom.

27. A complete list of all the relevant legislation and regulations, as well as non-binding statements of guidance and principles is set out in Annex 3.

28. International instruments such as TIEAs, DTAs and the Multilateral Convention which provide for exchange of information are incorporated into domestic law by being added as schedules to the TIA Law by an affirmative act of the legislature. Domestic law must be construed in a manner consistent with the terms of these scheduled instruments and does not override them. In the legal hierarchy they are regarded as being at the same level as domestic law.

Tax system

29. The Cayman Islands tax system is predominantly based on indirect taxes, as there is no direct tax on income, capital gains or sales. Therefore, there is neither a domestic tax database nor a central tax administration for domestic purposes in the Cayman Islands. Government revenues are derived from the imposition of fees on the financial services industry, custom duties, work permit fees, and tourist accommodation charges. In 2014, the tax to GDP ratio was 21.1%.

30. The EOI for tax purposes legally rests with the CITIA, which is responsible for all aspects of international co-operation in tax matters pursuant to the TIA Law. Under the TIA Law, the CITIA has been granted powers to access relevant information for the purposes of responding to an EOI request. The CITIA's responsibilities include managing the Cayman Islands' reporting obligations pursuant to the EU Savings Directive, the U.S. FATCA, a similar regime for the U.K. and its Crown Dependencies and the OECD Common Reporting Standard. The functions of the CITIA are carried out by the Director and staff of the DITC under delegated authority from the Minister for Financial Services.

Financial services sector

31. The Cayman Islands economy is a service-based economy dependent on the industries of tourism and financial services. The jurisdiction's GDP per capita was USD 56 129 in 2014. Since 2010, the central government's outstanding debt to GDP ratio has consistently declined falling to 18.5% in 2015. The currency is the Cayman Islands dollar, fixed at KYD 1 = USD 1.20.

32. The Cayman Islands financial sector comprises banks and deposit-taking institutions (credit unions and building societies), insurance, investment

funds, companies, partnerships, trusts, structured finance, vessel and aircraft registration and remittances services. In terms of contribution to GDP, the financial services industry contributed 41.2% to the Cayman Islands GDP in 2015. At the end of 2015, there were 175 banks registered in the Cayman Islands. As of December 2015, there were 10 940 registered mutual funds with “master funds” (being a subset of the mutual funds) totalling 2 805. As of December 2016, listing on the Cayman Islands Stock Exchange stood at 1 046 with a market capitalisation of USD 195.3 billion.

33. The Cayman Islands remains the second largest offshore captive insurance domicile in the world with 739 licensed insurers in 2015. The net worth of international insurers stood at USD 15.5 billion.

34. In 2014, the Cayman Islands attracted foreign capital of at least USD 4 100 billion in the form of banking assets, direct investment and portfolio investment. It is noted that:

- 98% of the total consolidated claims of USD 1 074 on Cayman Islands banks are made by banks from other jurisdictions and originate from ten jurisdictions, with the United States accounting for 32%;
- 96% of the total inward direct investment of USD 557 billion originated from ten jurisdictions, with the United States accounting for 52%; and
- 90% of the total inward portfolio investment of USD 2 575 billion originated from five jurisdictions, with the United States accounting for 46% of all total foreign capital investment.

35. As of April 2017, there were 49 190 Cayman Islands Reporting Financial Institutions registered on the IRS FATCA FFI Registration System pursuant to the Tax Information Authority (International Tax Compliance) (United States of America) Regulations 2014. This figure currently represents 17.5% of the global total, making the Cayman Islands the principle jurisdiction for FATCA registrations.

36. The CIMA, established by the Monetary Authority Law oversees the regulatory framework for financial sector services, including licensing and supervision. In addition to implementing and administering the relevant statutes, regulations and rules, the CIMA has also developed non-binding statements of guidance and principles to assist those working in the industry to meet their legal obligations on obtaining, updating and retaining relevant information and records concerning ownership, identity, accounting and bank information.

37. The Monetary Authority Law (2016 Revision) establishes the CIMA as the regulator of various financial services businesses as listed in the table below.

CIMA Regulated entities

CIMA-regulated entities (31/3/2017)			
Banks	Class A (Domestic)	Branches	0
		Subsidiaries	9
		Privates and Affiliates	2
	Class B (Offshore)	Branches	10
		Subsidiaries	32
		Privates and Affiliates	15
		TOTAL	68
Trust companies	Unrestricted		57
	Restricted		61
	Nominee		28
	Controlled subsidiaries		37
	Private trust companies		119
		TOTAL	302
Company managers	Company managers		113
	Corporate services providers		23
		TOTAL	136
Building societies			1
Co-operative societies			2
Money services			5
Mutual funds	Registered		7 218
	Master		2 810
	Administered		346
	Licensed		89
		TOTAL	10 463
Mutual fund administrators	Full		81
	Restricted		21
	Exempted		1
		TOTAL	103
Securities investment business	Licensees		35
	Excluded persons		2 516
		TOTAL	2 551

CIMA-regulated entities (31/3/2017)			
Insurers	Class A (Domestic)	Locally incorporated	9
		Approved external	20
	Class B (Offshore)	Captives	684
	Class C		25
	Class D		3
Insurance managers			29
		TOTAL	770
Overall number of entities under CIMA supervision			14 393

38. In respect of its AML framework, the CFATF, in the course of carrying out its third round of mutual evaluations, last published a Mutual Evaluation Report for the Cayman Islands in November 2007. A series of follow up reports were subsequently published detailing the actions that the Cayman Islands had taken to address the recommendations in the 2007 Report. The CFATF shall be conducting the next mutual evaluation review of the Cayman Islands commencing in the fourth quarter 2017 and the plenary discussion of the report is expected to take place in November 2018.

Recent developments

39. In March 2017, the Cayman Islands enacted amendments to its Company Law, Limited Liability Company Law and Company Management Law explicitly requiring all companies in the Cayman Islands to maintain an updated register of beneficial ownership. These legal amendments also provide for the implementation of a centralised platform of beneficial ownership to be in place by June 2017.

Part A: Availability of information

40. 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 in the Cayman Islands.

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.

41. The 2013 Report found that element A.1 was determined to be In place. The Cayman Islands continues to have a sound legal framework for ownership information to be made available in respect of all relevant entities through a combination of the various entity laws as well as the AML regime. All of the legal obligations are supported by adequate sanctions in the case of non-compliance.

42. In respect of the practice for element A.1, two recommendations were issued in the 2013 Report and as a result, element A.1 was rated Largely Compliant. The two recommendations for element A.1 concerned the enforcement of penalties for non-compliance in those cases where bearer shares were held by an overseas custodian and the implementation of a regular system of monitoring compliance with the rules for ownership for those cases where the entity was not covered by the oversight programme of the CIMA.

43. The Cayman Islands has addressed the two A.1 recommendations as follows. First, in May 2016, the Cayman Islands introduced legal amendments abolishing all bearer shares and requiring any bearer shares to be converted to registered shares by 13 July 2016. Any company that had bearer shares was required to file a declaration with the Registrar by 31 January 2017 identifying any bearer shares that were converted to registered shares. In regards to monitoring of legal ownership information for entities other than those regulated by the CIMA, this recommendation has also been addressed by a combination of monitoring activities implemented by the Registrar as well as

the DCI (as the oversight body for those entities that are registered with the TBLB), since the time of the 2013 Report.

44. In addition to the requirements for legal ownership information to be available, the 2016 ToR now require that beneficial ownership information be held. All entities covered by the AML Regime are required to maintain beneficial ownership on behalf of all of those clients for whom they act. Whilst this generally extended to most entities, there nevertheless may have been a possible deficiency in respect of a small number of ordinary resident and non-resident companies as well as general partnerships which did not need to hold a business licence nor enter into a relationship with a service provider covered by the due diligence requirements set out under the AML Regulations.

45. As a result, legislative amendments were passed in March 2017 to ensure that all companies are now obliged to maintain an updated register of beneficial ownership. These amendments also facilitate the implementation of a centralised platform of beneficial ownership information by the end of June 2017 which shall be maintained by the Registrar. This platform will provide timely access to adequate, accurate, and current beneficial ownership information on corporate and legal entities in the Cayman Islands. Whilst a small gap may continue to exist in regards to beneficial ownership for general partnerships, as most of those will be required to obtain a business licence with the TBLB in order to carry on business and/or enter into a relation with a service provider covered by the due diligence requirements set out under the AML Regulations, this will ensure that beneficial ownership is maintained. Nevertheless, in cases where a general partnership carries on an activity (local agricultural and artisanal industries) whereby it is not required to be licensed by the TBLB, and therefore beneficial ownership information may not be known, an in-text recommendation has been made in this regard.

46. Although the legal framework is now in place for beneficial ownership, in practice, as the legal requirements only came into force in March 2017, and the centralised platform of beneficial ownership information is not due to be fully implemented until June 2017, the practical implementation of the legal amendments could not be assessed. A monitoring recommendation in respect of these legal requirements has been made in this regard. As a result, element A.1 is determined to be In place but continues to be rated as Largely Compliant.

47. During the current peer review period the Cayman Islands received 161 requests, and authorities have confirmed that many of these related to ownership information with both legal and beneficial ownership information being requested. Over the review period, the Cayman Islands did not maintain a detailed statistical breakdown of its EOI requests. However, for the purposes of this review, the Cayman Islands analysed the requests received from its two principal requesting partners (which together represent

approximately 53% of all requests received over the review period), and determined that 50% of those requests related to ownership and identity information. Peer analysis indicates a high level of satisfaction with the information received. In particular, peers indicated that the Cayman Islands was expressly asked to provide beneficial ownership information on at least two occasions and this information was provided to the satisfaction of the requesting peers.

48. The updated 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		
	Underlying Factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice	Over the review period, whilst the Cayman Islands had a legal framework in place for beneficial ownership information to be maintained by almost all entities, there may have been a gap regarding a small number of ordinary resident and non-resident companies that did not engage a service provider. In 2017, the Cayman Islands introduced legal amendments to its company laws clarifying that all companies are now required to maintain beneficial ownership information.	The Cayman Islands is recommended to monitor the practical implementation of the 2017 amendments to its company laws to ensure that beneficial ownership information is available for all relevant entities.
Rating: Largely Compliant		

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

49. The Companies Law (2016 Revision) (Companies Law) is the central piece of legislation governing the establishment and management of corporations in the Cayman Islands. Although the Companies Law was revised in 2016, the legal basis on which companies are incorporated remains the same and is set out at paragraphs 41-46 of the 2013 Report.

50. In the Cayman Islands, companies are classified as follows:

- Ordinary Resident – business is conducted mainly within the Cayman Islands. As of March 2017, there were 6 057 ordinary resident companies registered.
- Non-resident – business is conducted mainly outside of the Cayman Islands, however some limited business may be conducted within the Cayman Islands. As of March 2017, there were 4 454 non-resident companies registered.
- Exempted – these companies are restricted from trading in the Cayman Islands except in furtherance of business carried on outside of the Cayman Islands. Operating as an exempted company allows an entity to obtain a certificate exempting it from any future Cayman Islands tax for up to 30 years. As of March 2017, there were 81 489 exempted companies registered.
- Limited Liability Company (LLC) – Since the 2013 Report, the Cayman Islands enacted the Limited Liability Company Law (LLC Law) 2016. This structure is effectively a hybrid of the entities incorporated under the Companies Law and the Exempted Limited Partnerships Law. As it is a feature of the LLC that it has separate legal entity status, the members of the company cannot be held personally liable for the company's debts or liabilities. As of March 2017, there were 321 LLCs registered.

51. There is also the possibility for foreign incorporated companies to carry on business in the Cayman Islands. As of March 2017, there were 4 366 foreign companies registered.

Legal ownership and identity information requirements

52. In the Cayman Islands, legal ownership information is available through a combination of requirements under company laws and regulatory laws. In addition, ownership information must be provided when a company registers with the Registrar and where a company carries on business in the Cayman Islands and must obtain a business license from the TBLB.

A summary of the requirements under each of these categories is outlined below. The following table¹ shows a summary of the legal requirements to maintain legal ownership information in respect of companies:

Legislation regulating legal ownership information of companies

Type	Company Law and LLC Act	Tax Law	Licensing requirements	AML Law
Ordinary resident companies	All	None	Some	Some
Non-resident companies	All	None	Some	Some
Exempted companies	All	None	Some	All
LLCs	All	None	Some	All

Company law

53. As described in the 2013 Report (see paragraphs 53-63), legal ownership and identity requirements for companies are mainly found in the Companies Law. Ordinary resident and non-resident companies as well as exempted companies are all subject to the Companies Law and are required to maintain an updated register of members that contains the identity of the members and details concerning when they became or ceased to be members. This register must be kept at the company’s registered office in the Cayman Islands, unless it is an exempted company, in which case it may be kept at any place, within or outside of the Cayman Islands. In all cases, penalties are provided for companies that fail to maintain an updated register of ownership.

54. In the case of LLCs, there is a clear requirement for all LLCs to maintain a register of members at its registered office in the Cayman Islands and all changes must be updated within 21 days (s. 61(1), LLC Law).

55. Under the Companies Law, all companies are required to maintain all books and records for a period of five years from the date on which they are prepared (s. 59(3), Companies Law and s. 63(5), LLC Law).

56. In the case of a company being dissolved, the liquidator as the company’s representative would be required to ensure that this requirement is complied with and that all records, including shareholder registers, could

1. The table shows each type of entity and whether the various rules applicable require availability of information for “all” such entities, “some” or “none”. “All” in this context means that every entity of this type created is required to maintain ownership information for all its owners (including where bearer shares are issued) and that there are sanctions and appropriate retention periods. “Some” in this context means that an entity will be required to maintain information if certain conditions are met.

be made available in those cases. In the case of liquidation of a company, the liquidator as the company's representative is required to ensure that this requirement is complied with and that all ownership information will be made maintained for a period of five years. While it is not mandatory for a Caymanian company to engage a liquidator in the Cayman Islands, in practice, this is likely to be the case. In any event, as all liquidators are obliged to file notices related to the liquidation of a Cayman entity in the official Gazette, all liquidators will be known to the Cayman authorities.

57. Further, it is noted that the Registrar also maintains copies of all documents for a period of ten years from when they have been filed.

Regulatory requirements

58. All companies, including foreign companies, (with the exception of ordinary resident and non-resident companies) are mandated to have a registered agent within the Cayman Islands, which is a licensed and regulated service provider. The Registrar has reported that, in practice, around 50% of ordinary resident companies also have a registered agent which is a licensed and regulated service provider. With the Companies Amendment Law now requiring ordinary resident and non-resident companies to maintain their beneficial ownership with either a local service provider or with the Registrar, the number of ordinary resident and non-resident companies engaging a service provider may increase. Such service providers are subject to the AML Regulations which require updated ownership information on all clients to be maintained. A comprehensive analysis of the requirements of the AML Regime is set out at paragraphs 89-97 of the 2013 Report and a summary is provided below.

59. The AML Regulations are legally binding and set out the general obligations on Financial Service Providers. The Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Finance in the Cayman Islands (AML/CFT Guidance Notes), issued by the CIMA, provide more detailed guidance on what is required to meet the standards. Whilst the AML/CFT Guidance Notes are nonbinding on prosecution for non-compliance with the Money Laundering Regulations, pursuant to Regulation 5(4) of the AML Regulations, a Court is required to take into account any relevant supervisory or regulatory guidance as well as any other relevance guidance issued by a body (principally, the CIMA) that regulates a profession, business or employment carried on by that person.

60. The AML Regulations contain the rules relating to the requirement to maintain legal ownership information via the CDD procedures which are applicable to all types of companies that provide "relevant financial business". Pursuant to section 4(1) of the AML Regulations, all legal entities and

persons carrying on a “relevant financial business” are defined as a “Service Provider”. Financial Service Providers include licensed banking and trust businesses, insurance, investment management and company management businesses. It is noted that all registered agents are licensed and regulated service providers in the Cayman Islands.

61. Regulation 7 provides that, as soon as reasonably practicable after contact by a potential client, a Financial Services Provider must identify the client. To comply with this requirement, the client must produce satisfactory evidence of his identification. This requirement applies both in the case of a particular business and for a one-off transaction.

62. Under Regulation 5(3), a Service Provider who contravenes the AML Regulations including the obligations in respect of identity information and record-keeping, is liable on summary conviction to a fine not exceeding KYD 5 000 (USD 6 000) or, on conviction on indictment to a fine, and imprisonment not exceeding two years.

63. In general, the record-keeping procedures require a person to maintain the identification information for at least five years commencing with the date of completion of the relevant business or of all activities taking place in the course of the transaction in question.

Companies Registrar

64. The 2013 Report noted that all companies incorporated in the Cayman Islands as well as foreign companies which are carrying on business in the Cayman Islands, must register with the Registrar and provide an annual return. However, only in the case of ordinary resident companies is ownership information required to be filed. Nevertheless, every company is required to maintain a register of members that contains the identity of the members and details concerning when they became or ceased to be members. In all cases, penalties are provided for failure by companies to register, provide an annual return or maintain an updated register of ownership. While the Companies Law does not set out a requirement for foreign companies to maintain ownership information, this is secured by the requirement for all foreign companies to engage the services of a registered agent who will be subject to the CDD requirements of the AML regime to maintain updated ownership information.

65. Section 159 of the Companies Law permits any member or creditor of a company to apply to the court for re-instatement for a period of up to ten years. Therefore, in practice, this will extend to requirements for all information filed throughout the life of a company to be maintained for a period of ten years from the date at which the company leaves the register, regardless of when the document was created and filed.

Trade and Business Licensing Board

66. Generally, all local business, other than financial services which are licensed and regulated by the CIMA, is licensed and regulated by the Trade and Business Licensing Board (TBLB) which is a function of the Department of Commerce and Investment (DCI). Every person carrying on a trade or business mentioned in the Schedule to the Trade and Business Licensing (TBL) Law (2007 Revision) must, unless exempted from this requirement, take out an annual license in respect of each place where such business is carried on. In addition, in cases where the company is less than 60% Caymanian owned and controlled they will also require a Local Companies (Control) Licence issued under the Local Companies (Control) Law.

67. In respect of exemptions whereby a licence shall not be required, pursuant to section 3 of the TBL Law, the law shall not apply to:

- a. any trade or business licensed or registered to be carried on as a trade or business under another Law without reference to this Law, including where that other Law exempts a person to whom it applies from registering, being licensed or paying a fee;
- b. the sale of agricultural products by the Caymanian producers;
- c. artisans, craftsmen and other persons who do not carry on a business of their own but are themselves employed by other persons;
- d. self-employed Caymanian fishermen; or
- e. any corporation or body which satisfies the TBLB that it has been formed for purposes of social or public welfare, religion, charity, art or science and that it applies its income and profits solely for promoting such purposes and does not permit the payment of any dividends to its members.

68. A trade and business licence is a licence issued by the TBLB which allows a person (including a company) to “carry on business” in the Cayman Islands other than a business which is subject to licensing by the CIMA. Licensing by the TBLB is only exempted for those cases where the local company is carrying on business in a sector already regulated by the CIMA, or for local agricultural producers, fishermen, and organisations formed for charitable purposes. Therefore, in practice those companies subject to licensing by the TBLB are usually local businesses outside of the financial and corporate service sectors (such as contractors, restaurants and small trading premises).

69. As at March 2017 there were 5 414 businesses with a trade and business licence. By entity type, the DCI reports that 2 983 are companies, 2 427 are sole proprietorships and 4 are general partnerships.

70. Any company applying for a licence from the TBLB must provide ownership information at the time of application. Updated ownership information must also be provided annually upon renewal of the licence. A person who contravenes this requirement is subject to a fine and will be liable upon summary conviction to a fine of KYD 10 000 (USD 12 000) or to a term of imprisonment of one year or both (s. 17(2), TBLB Act).

Legal ownership information – Enforcement measures and oversight

71. The 2013 Report affirmed that the CIMA carries out an active oversight of the legal obligations to maintain ownership information of companies. Nevertheless, it was found that there may remain a narrow category of companies (ordinary resident and non-resident companies that do not engage a service provider) that will not be subject to any oversight by the CIMA. In addition, the 2013 Report found that, while the penalties for failure to maintain an updated register of members under the Companies Law had been recently amended, these were untested in practice. Therefore, it was recommended that the Cayman Islands should ensure that its monitoring and enforcement powers were sufficiently exercised in practice to support the legal requirements ensuring the availability of ownership and identity information in all cases.

72. Since the time of the 2013 Report, the CIMA continues to have a comprehensive system of oversight in place. In addition, the Registrar and the DCI have also implemented oversight and monitoring activities in respect of the requirement under the Companies Law that companies maintain ownership information. The oversight activities carried out by each of the CIMA, the Registrar and the DCI are set out below.

Oversight by regulator

73. As at the time of the 2013 Report, the CIMA, being the financial regulator, continues to have a comprehensive system of oversight of the legal obligations to maintain ownership information with respect to companies operating in regulated industries within the Cayman Islands. Regulated sectors include banking, fiduciary services (which includes trust business services providers and in particular, registered agents (with the exception of individuals and “private trust companies”), and corporate management and corporate service providers), insurance services, investment funds and funds administrators and securities and investment business. As of March 2017, 14 393 entities were licensed with the CIMA.

74. As the licensing body for all of the regulated industries in the Cayman Islands, the CIMA is responsible for monitoring the compliance of its licensees with the applicable licensing laws. Further, all CIMA licensees are considered “finance service providers” for the purpose of the

AML regime and the CIMA has a statutory duty to supervise and enforce compliance by its licensees in respect of the requirements imposed by the Cayman Islands' AML regime. The oversight system in place by the CIMA encompasses oversight for both legal and beneficial ownership information requirements. Therefore, the oversight programme is discussed in detail below under Enforcement measures and oversight of beneficial ownership information.

Oversight activities by the Registrar

75. After implementation of a system of online registration in 2013, the Registrar recognised the need to convert existing manual records to electronic format in order to provide a seamless online service to service providers. As a result, the Registrar initiated a process of converting all of its previously held manual company files to an electronic format. In addition, an objective of this process was to facilitate the timely sharing of information with law enforcement and regulatory agencies from whom an increase in requests had been noted (such as from the CITIA).

76. Subsequently, in late 2014, the Registrar commenced its plans for the conversion project with a view for all manual records held to be converted to electronic format. A project pilot was undertaken in mid-2016 which projected that it would take 3-5 years to convert 100 000 files or approximately 2 000 000 documents for the companies register. The department opted to use its employees in order to minimise cost but contracted the services of an expert project manager.

77. In preparation for the commencement of the project some 7 000 plus companies were identified as being non-compliant for fees, returns, not having a registered office (such as due to resignation of its service provider). These companies were removed from the register by way of strike-off during the course of 2016. As of May 2017 this process is still on-going.

78. In the course of this process, officials from the Registrar have reported checking each file to verify compliance with filing requirements and where required, obligations to submit ownership information (in the case of ordinary resident companies). Officials from the Registrar have reported an 80% compliance rate with annual return filing obligations over the review period (April 2013-March 2016).

79. Further, officials from the Registrar have confirmed that in those cases where a company has engaged a company registered agent, annual returns are filed in batches as the agent may represent many clients. In those cases the Registrar will also engage in spot checks of the information that has been submitted. Where it has been found that all of the requested information (such as an updated register of members for ordinary resident companies)

has not been provided, the staff member will reject the entire batch of annual returns from that agent. Once correct information is filed, the agent will then resend all of the batch and it will be uploaded.

80. In cases where companies were found to be in default of these obligations, officials from the Registrar have reported that in certain cases, fines have been imposed. While the review period for this report covers the period April 2013 – March 2016, the Registrar maintains the number of entities it has struck off by periods ending Jan, May, and October of each year. Therefore, over the review period, the number of companies struck off for non-compliance with registration or filing requirements in the order maintained by the Registrar was as follows:

Company strike-offs by Registrar over review period

	2013	2014	2015	2016
January	12	0	4 227	101
May	49	139	12	117
October	357	371	291	7 401

81. The large number of strike offs for the period ending October 2016 is accounted for by the fact that many of those companies were struck off due to retrospective checking of their files. The subsequent striking off of many entities resulted from non-compliance even in previous years and not just for that period. The types of breaches and corresponding penalties imposed for such breaches over the review period are set out in the table below.

Breaches encountered and penalties imposed by Registrar

Penalty type	Number of penalties imposed	KYD amount
Failure to file the register of Directors and Officers	4467	2 643 670
Not maintaining threshold level of share capital	292	112 747
No registered office	396	179 275

Oversight activities by the DCI

82. In addition to the oversight activities that were implemented by the Registrar over the review period for those entities that are licensed by the TBLB, the DCI (as the body responsible for oversight of entities licensed with the TBLB) conducted 206 on-site visits to ensure compliance with the various laws and also conducted verification checks. In the event of non-compliance, the TBLB deferred and/or refused applications. Using a two-tiered internal audit system, the DCI processes all applications to ensure compliance with requirements. This internal system provides a level of compliance in addition

to the final fortnightly review by the Registrar or DCI. The TBL law allows limited administrative fines for non-compliance in some circumstances specific to this law. All sanctions recorded are filed electronically and manually. The DCI has also conducted a number of public awareness campaigns and sessions informing licensees of the requirements of their licence including requirements to maintain updated ownership information.

Availability of legal ownership information in practice

83. During the current review period the Cayman Islands received 161 requests, and authorities have confirmed that many of these related to ownership information with both legal and beneficial ownership information being requested. Over the review period, the Cayman Islands did not maintain a detailed statistical breakdown of the types of information requested. However, for the purposes of this review, by conducting a sample analysis of its two principal requesting partners (which together represent approximately 53% of all requests received over the review period), it can be shown that 50% of those requests related to ownership and identity information.

84. Therefore, in view of the combination of the above legal requirements that continue to ensure the availability of legal ownership information, the oversight activities in place by the CIMA, the Registrar and the DCI as well as the positive practice in respect of providing company ownership over the review period, it can be concluded that legal ownership information in respect of all companies is available in the Cayman Islands.

Availability of beneficial ownership information

85. In addition to requirements for legal ownership information to be maintained, the 2016 ToR now requires that beneficial ownership information on all companies is now also available. The legal requirements securing beneficial ownership in respect of all companies are ensured via a variety of mechanisms in the Cayman Islands as set out below.

86. First, over the review period, requirements for beneficial ownership information to be maintained were generally in place for all entities. The vast majority of companies (all exempted and foreign companies and LLCs) in the Cayman Islands are required to engage a licensed service provider, and in those cases beneficial ownership information is required to be maintained under the AML regime. In addition, those companies that carry out local business in the Cayman Islands and that are required to obtain a trade and business licence are required to provide the DCI with a statement of the number and par value of each class of shares beneficially owned by all shareholders at the time of applying for a licence. In the case of any changes to that information, these must be submitted to the DCI. However, it is noted that the

concept of beneficial ownership under the TBL Law may not extend to that required under the 2016 ToR.

87. While local ordinary resident and non-resident companies are not obliged to engage a registered agent, officials from the Cayman Islands have estimated that, in practice, most of them engage a registered agent. In addition, almost all local ordinary resident and non-resident companies will have been obliged to register with the DCI in order to obtain a trade and business licence, which is another mechanism in ensuring the availability of some beneficial ownership information. However, the extent to which the beneficial ownership information collected at the time of registration with the DCI is in line with that required by the standard is unclear.

88. However, in respect of this potential deficiency, pursuant to March 2017 amendments to the Companies Law, beneficial ownership registers are now required to be maintained by all companies including ordinary resident and non-resident companies. In addition to this requirement, the amendments provide for a centralised platform of beneficial ownership, as maintained by the Registrar, to be implemented by June 2017 providing competent authorities with timely access to updated beneficial ownership information on all companies. In regards to the practical implementation of these requirements, the Cayman Islands has reported that the legal requirements are applicable as of March 2017 and while there is a practical staged approach in relation to the modes of access to the beneficial ownership information required to be held, there is no transitional period for the legal requirement to have the information available.

89. An analysis of each of these legal requirements for beneficial ownership to be maintained in the Cayman Islands is documented below.

Entity Laws

90. In March 2017, the Cayman Islands enacted the Companies (Amendment) (No. 2) Law, 2016 (“Companies Amendment Law”) and the Limited Liability Companies (Amendment) Law 2016 (LLC Amendment Law) requiring companies incorporated in the Cayman Islands (with some exceptions) to establish and maintain beneficial ownership registers which may be searched by the competent authority via the operation of a centralised platform of beneficial ownership information. The provisions of the Companies Amendment Law and the LLC Amendment Law are analysed below.

Company Law

91. In regards to scope, section 245 (1) of the Companies Amendment Law set out the scope of the requirement to maintain a beneficial ownership register and applies to all companies registered or incorporated in the Cayman Islands with the *exception* (emphasis added) of legal entities that are:

- a. listed on the Cayman Islands Stock Exchange or an approved stock exchange in Schedule 4;
- b. registered or holding a licence under a “regulatory law” as defined in section 2 of the Monetary Authority Law (2016 Revision);
- c. managed, arranged, administered, operated or promoted by an approved person as a special purpose vehicle, private equity fund, collective investment scheme or investment fund;
- d. a general partner of a vehicle, fund or scheme referred to in paragraph (c) that is managed, arranged, administered, operated or promoted by an approved person; or
- e. exempted by the Regulations.

92. Exemptions to this requirement will occur in those cases where companies are already licenced and regulated by the CIMA. They will not be subject to an additional requirement to maintain a beneficial ownership register as the beneficial ownership information is held by the CIMA or a CIMA regulated entity. In addition, investment funds will also not be subject to this requirement but as all investment funds will be required to engage a licensed service provider, beneficial ownership in respect of those entities will be required under the requirements of the AML regime (see below for further analysis on the beneficial ownership information requirements under the AML regime).

93. Section 247(1) of the Companies Amendment Law sets out that companies to which the law applies shall take reasonable steps to identify any individual who is a beneficial owner of the company. Section 247(2) of the Companies Law sets out that for the purpose of identifying individuals who are beneficial owners under subsection (1), a company is entitled to rely, without further enquiry, on the response of a person to a notice in writing sent in good faith by the company, unless the company has reason to believe that the response is misleading or false.

94. Section 247(3) sets out that an individual shall be considered as the beneficial owner of a company if he/she holds (directly or indirectly) more than 25% of the shares in the company; and/or more than 25% in the voting rights of the company and/or the right to appoint or remove the majority of the board of directors of the company.

95. If no individual is found who meets the conditions listed in section 247(3), an individual shall be found to be the beneficial owner of the company if the individual has the absolute and unconditional legal right to exercise or exercises significant influence or control over the company through the ownership interests other than solely by way of director, advisor or manager (s. 247(4), Companies Amendment Law).

96. In those cases where no individual is found to meet either the conditions of 247(3) or 247(4), but the trustees of a trust or the partners of a partnership meet one of the conditions in relation to the company, then the individual shall be considered as the beneficial owner of the company where the individual has the absolute and unconditional legal right to exercise or exercises significant influence or control over the trust, partnership, or other entity through the ownership interests other than solely by way of director, advisor or manager (s. 247(5), Companies Amendment Law). The Cayman Islands has reported that the language of “absolute and unconditional right” was incorporated to make explicit that the reference is to identification of the individual ultimate beneficial owner and not to someone acting on their behalf.

97. Cayman Islands authorities have reported that this language was incorporated into the Companies Law to reflect the method for verifying beneficial ownership set out under the FATF Guidance Notes to FATF recommendation 10 and 24. In order to be able to properly apply the so termed “cascading measures” as set out under the FATF Guidance Notes, the company must be able to understand and document the ownership structure throughout the chain of owners in all cases including indirect ownership through foreign companies.

98. In those cases where no individual is found to meet either of the conditions set out under 247(3) and (4), in practice, the Cayman Islands has reported that, in practice, the company must identify and submit to the Registrar the relevant natural person who holds the position of senior managing official. The company is required to take all reasonable steps to identify all relevant entities that exist in relation to the company (s. 248(1), Companies Amendment Law). Further, for the purpose of identifying relevant legal entities, a company is entitled to rely, without further enquiry, on the response of a legal entity to a notice in writing sent in good faith by the company, unless the company has reason to believe that the response is misleading or false. Section 248(3) sets out that a “relevant legal entity”, in relation to a company, is a legal entity that:

- a. is incorporated, formed or registered (including by way of continuation or as a foreign company) in the Cayman Islands under the laws of the Cayman Islands; and
- b. would be a beneficial owner of the company if it were an individual.

99. Section 249 sets out that all companies with the obligation to maintain beneficial ownership registers are required to give notice in writing to the beneficial owners, relevant legal entities and any person that it knows or has reasonable cause to believe is a registrable person in relation to it (from here onward all beneficial owners, relevant legal entities and other persons that may come within this obligation are referred to as “registrable persons”).

100. The company must give notice in writing to registrable persons requiring them to correct any particulars that are not correct in respect of ownership information set out in the notice (s. 249, Companies Amendment Law). Pursuant to section 250, if a person knows him/herself/themselves to be a registrable person but believes that the information in the company’s beneficial ownership is not correct and no notice has been received, they are required to inform the company of the error within one month of learning of the error.

101. The Companies Amendment Law 2017 now establishes a requirement for all ordinary resident companies to either engage a corporate service provider or the Registrar in order to assist them in establishing and maintaining their beneficial ownership registers (s. 252(3), Companies Amendment Law). The company is required to determine all particulars of the beneficial owners and provide these particulars in order to maintain the register of beneficial ownership (s. 253(1), Companies Amendment Law).

102. The information that the company will be required to supply in respect of an individual will include the full name, the residential address, date of birth, information identifying the individual from their passport licence, driver’s licence, or other government issued identification and the date on which the person became or ceased being a registrable person of the company (s. 254(1), Companies Amendment Law).

103. Section 255 sets out that the company is required to maintain the register up to date and in the case of a change of the registrable persons, the company must inform its service provider or the Registrar. If a person ceases to be a registrable person in respect of a company, they may be removed from the register on the expiration of five years from the date on which they ceased to be a registrable person in relation to the company.

104. In regards to enforcement of these obligations to provide and maintain an updated beneficial ownership register, where the company has issued a notice to a registrable person and the person does not comply, the company shall send a restrictions notice to the registrable persons whose particulars are missing with regard to the shares or other relevant interest of such registrable persons in the company. The company will also send a copy of the restrictions notice to the competent authority. The effect of a restrictions notice is that:

- a. any transfer or agreement to transfer the interest is void;
- b. no rights are exercisable in respect of the interest;

- c. no shares may be issued in respect of the interest or in pursuance of an offer made to the interest-holder;
- d. except in a liquidation, no payment may be made of sums due from the company in respect of the interest, whether in respect of capital or otherwise; and
- e. other than in a liquidation, an agreement to transfer any of the following associated rights in relation to the relevant interest is void –
 - a. a right to be issued with any shares issued in respect of the relevant interest; or
 - b. a right to receive payment of any sums due from the company in respect of the relevant interest.

105. A person who tries to take certain actions knowing that he/she is subject to the restriction described in the previous paragraph commits an offense. He/she may be liable on conviction to a fine of KYD 5 000 (USD 6 000) (s.268(4), Companies Amendment Law). A person who fails to comply with a requirement to provide information as requested by a notice will be liable on conviction on indictment to a term of two years imprisonment or a fine of KYD 10 000 (USD 12 000) or both or on summary conviction to a term of one year imprisonment or a fine of KYD 5 000 (USD 6 000) or both (s.275(3), Companies Amendment Law).

106. If a company fails to establish or maintain a beneficial ownership register, it shall be deemed to have committed an offence and shall be liable, on conviction to a fine of KYD 25 000 (USD 30 000) and, if the failure continues, to an additional fine of KYD 500 (USD 600) for every day for which the offence continues up to a maximum of KYD 25 000 (USD 30 000) (s.274, Companies Amendment Law). The Registrar, as the authority that presides over the Companies Law shall be the entity responsible for applying the fines set out under the Companies Amendment Law.

LLC Law

107. The LLC Amendment Law was enacted in order to require LLCs incorporated in the Cayman Islands to maintain registers of information concerning their beneficial owners, whether individuals or legal entities. It is noted that even prior to this amendment all LLCs were obligated to have a registered agent in the Cayman Islands who is subject to the CDD requirements of the AML Regime to have beneficial ownership available in respect of the LLC.

108. The amendment provides access to LLC registers by the competent authority designated under the Companies Law (2016 Revision) by means of a

search platform to be established by that authority. Once the platform is fully implemented, searches will be performed in response to a formal request by a senior official of a law enforcement body designated under the Companies Law (2016 Revision) that is certified by that official to meet the search criteria set out in the Law.

109. Pursuant to section 73 of the LLC Amendment Law, all LLCs (with the exception of those LLCs regulated by the CIMA or managed by a regulated entity) are obliged to obtain information about individuals who are beneficial owners of the LLC.

110. Under section 73(3), an individual is defined as a beneficial owner if it meets one or more of the following conditions in relation to the LLC:

- a. holds directly or indirectly, an LLC interest in the company representing a right to share in more than 25% of the capital, or as the case may be, the profits of the company;
- b. holds directly or indirectly, an LLC interest in the company representing more than 25% of the voting rights in the company;
- c. holds the right, directly or indirectly, to appoint or remove a majority of the managers of the company.

111. All LLCs to which the amendment applies are also required to take reasonable steps to identify all relevant legal entities that exist in relation to the LLC (s. 74 LLC Amendment Law). A relevant legal entity is defined as a legal entity that:

- a. is incorporated, formed or registered (including by way of continuation or as a foreign company) in the Cayman Islands under the laws of the Cayman Islands; and
- b. would be a beneficial owner of the LLC if it were an individual.

112. Relevant legal entities only refer to Caymanian entities and individuals. However, where interests are held indirectly via foreign incorporated entities, the beneficial ownership information would be captured where it meets the criteria set out under section 73(3) of the LLC law as set out above. Pursuant to section 75, the LLC is required to inform all beneficial owners and relevant entities via written notice that the persons notified must respond within one month of receipt and state whether they are registrable persons and supply all of the relevant particulars required if that is the case.

113. Registrable persons in relation to an LLC are defined as an individual whom the LLC identifies as a beneficial owner and a relevant legal entity identified by the LLC that holds an LLC interest in the LLC or meets one or more of the specified conditions directly in respect of that LLC; and through

which any beneficial owner or relevant legal entity indirectly owns an LLC interest in the limited liability company (s. 77, LLC Amendment Law).

114. All LLCs to which the amendment applies are required to maintain its register of beneficial ownership at the office of its registered agent and are required to employ the services of a corporate service provider in order to maintain the register (s. 78, LLC Amendment Law).

115. Once this register has been established, the LLC is then required to supply all of the relevant particulars to the corporate service provider. The particulars that are required to be provided in respect of individuals include: the name, residential address, date of birth and information identifying the individual from their passport, driver's licence or government issued identification documentation and the date on which the individual became or ceased to become a beneficial owner in respect of that LLC. In respect of relevant legal entities, the particulars, that are required to be supplied include its legal name, details of its registered office, legal form of the entity and the date on which it became or ceased to become a registrable person in respect of that LLC (s. 80 LLC Amendment Law).

116. In the event that a registrable person does not comply with the notice from the LLC seeking beneficial ownership information, the LLC may issue a restrictions notice on that person effectively restricting any dealings on their rights in the company (e.g. restriction on transfer of right, payments and the right to be issued further shares).

117. In the event of a change of beneficial ownership, there is a requirement to notify the LLC, giving the date on which such change occurred and supplying all of the required information for the beneficial ownership register within one month of such change occurring (s. 83, LLC Amendment Law). The information relating to all persons who are no longer registrable persons for the purpose of the beneficial ownership register must nevertheless be retained on the register for five years. Section 86 of the law sets out the requirement for the establishment of a searchable centralised platform of beneficial ownership information, facilitating access to the information by the competent authority.

118. In the case that an LLC fails to establish or maintain an updated beneficial ownership register, it shall be deemed to have committed an offence and on summary conviction shall be subject to a fine of KYD 25 000 (USD 30 000) and if the failure continues to an additional fine of KYD 500 (USD 600) per day that they are in non-compliance to a maximum of KYD 25 000 (USD 30 000) (s. 100, LLC Amendment Law). Pursuant to section 101, any person that fails to comply with a notice from the LLC requesting the beneficial ownership information may be subject on conviction on indictment to two years imprisonment or to a fine of KYD 10 000 (USD 12 000) or

both or on summary conviction to imprisonment for one year or to a fine of KYD 5 000 (USD 6 000) or both (s. 101, LLC Amendment Law).

AML law requirements

119. The requirement to maintain beneficial ownership information as contained in the AML Regulations is applicable to all types of companies carrying on banking and trust businesses, insurance, investment management and company management businesses. In particular, it applies to registered agents which are required for all exempted and foreign companies in the Cayman Islands. In addition, the amendments to the Companies Law and LLC Law require companies and LLCs to maintain an updated beneficial ownership information register that may be undertaken by either the Registrar or a registered agent. It is anticipated that many ordinary resident and non-resident companies will choose to comply with this requirement via a registered agent.

120. A person who acts as the local registered agent is required to be licensed under the Companies Management Law, and will also be a Service Provider subject to the Money Laundering Regulations regarding ownership and identity information described below. Even in those cases where a registered agent is not acting for a local company, it is now required to maintain an updated beneficial ownership register under the Companies Law securing the availability of beneficial ownership information in those cases.

121. Pursuant to regulation 5(1) of the AML Regulations, when a business is carried out either in or from the Cayman Islands, a service provider who conducts a one-off transaction or forms a business relationship with an applicant will be subject to identification and record-keeping requirements in respect of that applicant and is required to update such information.

122. The Cayman Islands AML law mirrors the FATF definition of beneficial owner. Section 7(7) of the AML Regulations specifically sets out that in those cases where the applicant for a business licence is a legal entity or legal arrangement, evidence of identity must be obtained in respect of:

- the person acting on behalf of, or with the authority of, the applicant for business, together with evidence of such authority; and
- the natural person who ultimately owns or controls the applicant for business.

123. Section 3 of the AML/CFT Guidance Notes sets out the identification procedures in general and in detail for direct personal clients, corporate clients, partnerships/unincorporated businesses, trust and fiduciary clients and not-for-profit associations (including charities). For example, section 3 includes these “look through” rules for service providers to obtain:

- a. in the case of a corporate client, satisfactory evidence of the identity of each of the principal beneficial owners of the corporate client, being any person holding a 10% interest or more or with principal control over the company's assets and any person (or persons) on whose instructions the signatories on the account are to act or may act where such persons are not full time employees, officers or directors of the company;
- b. in the case of a partnership/unincorporated business, identification evidence for at least two partners/controllers and/or authorised signatories, in line with the requirements for direct personal clients.

124. Once this criteria has been met, the above requirements apply equally to both direct and indirect interests in the entity. In general, the identification procedures require a person, as soon as is reasonably practicable after contact is first made between that person and an applicant for business concerning any particular business relationship or one-off transaction, to ensure the production, by the applicant for business, of satisfactory evidence of his identity.

125. Section 3 of the AML/CFT Guidance Notes set out the key principles that Financial Service Providers should follow in applying the identification procedures. The CIMA has specific principles for direct personal clients, corporate clients, partnerships/unincorporated businesses, trust and fiduciary clients, not-for-profit associations (including charities), politically exposed persons, high-risk countries and others (e.g. managed service providers).

Record-keeping procedures

126. In general, the record-keeping procedures require a person to maintain the identification information for at least five years commencing with the date of completion of the relevant business or of all activities taking place in the course of the transaction in question.

127. Pursuant to Regulation 7, as soon as reasonably practicable after contact is first made by an applicant, a Financial Services Provider is required to identify any applicant for business concerning any particular business or one-off transaction and take appropriate measures to require the applicant to produce satisfactory evidence of his identity (s.(7)(1), AML Regulations).

128. In certain specific cases the regulations allow for a simplified set of identity verification obligations to apply. Some of the key exceptions to the requirement to maintain identity information include:

- where the applicant for business (being the client of the introducer) is already a financial services provider as set out under Regulation 5;
- where there are reasonable grounds for believing that the applicant for business carries out an activity regulated by an overseas regulator

and the applicant for business is incorporated in or formed under the law of a jurisdiction specified in Schedule 3 to the regulations;

- the transaction or business relationship is introduced by a third party who is already a finance service provider and subject to the customer identification measures and in this respect provides assurance that all identification measures in respect of that applicant for business have been carried out. In the cases of introduced business, identification information has to be provided.

129. In the above listed cases, the relying service provider in the Cayman Islands remains ultimately responsible for ensuring that in those cases, CDD requirements are still complied with and that in the case of non-compliance, sanctions would be enforceable by the CIMA on the local service provider.

Trade and Business Licensing Law

130. As set out above, every person carrying on a trade or business mentioned in the Schedule to the TBL Law, must, unless exempted from this requirement, take out an annual licence in respect of each place where such business is carried on. Exemptions generally occur in those cases where they are already an entity regulated by the CIMA and therefore subject to the requirements of the AML Regime to maintain ownership information.

131. The requirements for a licence are set out under article 17 which specifies that in cases where the applicant is a company; the application form must provide information on all individuals who “have a legal or beneficial interest in the company”. Nevertheless, the extent to which this will extend to the definition of beneficial ownership information as required under the standard is unknown. Further, the steps which the DCI undertakes to verify this information are unclear. However, it is noted that, pursuant to the March 2017 amendments to the Companies Law, all companies are now subject to explicit requirements under the Companies Law to maintain beneficial ownership information; this will ensure that beneficial ownership information in line with the standard is available.

132. Pursuant to section 18 (6) of the TBL Law, the TBLB is obliged to “carry out due diligence procedures with regards to any director or any person who has a beneficial interest in a trade or business for which an application for the grant or renewal of a licence is made”. This information is required to be updated on an annual basis with the DCI upon renewal of its trade and business licence.

Enforcement measures and oversight of beneficial ownership information

133. The CIMA, being the financial regulator, is the primary repository of beneficial ownership information in the Cayman Islands with respect to companies that fall under the definition of service provider for the purposes of the AML regime. As a standard-setting body, the CIMA is responsible for establishing the rules and guidelines governing the conduct of business in the financial services and global business sectors. The CIMA is also tasked under the AML Law with ensuring that the financial services sector in general, and its licensees in particular, are not used for money laundering and terrorist financing purposes. Management companies acting as corporate trustees or providing management, nominee, or other services to exempted companies, fall into this category of entities as they are required to be licensed by the CIMA.

134. As the licensing body for all of the regulated industries in the Cayman Islands, the CIMA is responsible for monitoring the compliance of its licensees (including management companies) with applicable regulations. Further, all CIMA licensees are considered “finance services providers” for the purpose of AML and the CIMA has a statutory duty to supervise and enforce compliance by its licensees in respect of the requirements imposed by the Cayman Islands AML regime. The CIMA has a total staff of 194. Within each of its regulatory divisions, there is a Supervision Unit, usually comprising 5 or 6 persons with the largest supervision team being in the Mutual Funds division due to its size and importance in the business framework of the Cayman Islands. In addition, in 2015, CIMA implemented a specialised Supervision Unit with a dedicated staff of 6 persons responsible for co-ordinating the supervision programme for each of the regulatory units. The specialised Supervision Unit is responsible for developing an appropriate action plan as to what actions they feel are necessary in the course of the supervision programme of the CIMA.

135. Over the review period, the supervision programme of the CIMA was carried out via a combination of desk based reviews and a systematic programme of onsite inspections. The desktop reviews include a review of all information submitted at the time of licensing as well as the information submitted at the time of filing the annual return. In the case of beneficial ownership information, this includes a review of all identification information submitted as well as the organisation charts of entities detailing the ownership structure.

136. The entities selected for the onsite inspection programme are selected via a risk based analysis using factors such as the size of the entity, the markets they are engaging in, and the type of business and client portfolio. Over the review period, the number of onsite inspections carried out by the CIMA was 100-120 per year and averaging approximately 30 onsite inspections per

regulatory section. During the review period (April 2013 – March 2016), the CIMA carried out a total of 295 onsite inspections across the differing regulatory divisions, set out as follows:

Onsite inspections carried out by CIMA over review period

Supervisory division	Banking	Fiduciary (including all company formation and registered agents)	Insurance	Investment and securities
No. of onsite inspections	87	75	67	66

137. Usually entities are given a few weeks’ notice prior to an onsite inspection. When the notice is sent, the entity is provided with a list of documents (such as internal procedures and guidelines for compliance with its requirements under the regulatory and AML law) to be submitted to the CIMA prior to the onsite inspection. This information is examined and follow-up questions are prepared in those cases where more information is sought or clarifications are required. The onsite inspection itself may take from 3 days to two weeks depending on the size of the entity. During the course of the visit, officials from the CIMA meet with the management of the licensee being inspected whereby they interview the officials, examine all books and records, and take a sample of the client files and procedures. Upon conclusion of this process, the CIMA officials proceed to draft a report where they seek any clarifications as well as provide any recommendations for breaches discovered in the course of the onsite visit. A draft of this report is provided to the licensee, which is given the opportunity to clarify any factual inconsistencies. The CIMA and the licensee will then agree upon the series of requirements and recommendations and the timeline within which these changes are to be effected. This process feeds into the desk based supervision of the licensee whereby monthly reports on the progress of the licensee in addressing the recommendations are filed with the CIMA.

138. In respect of legal and beneficial ownership information, CIMA officials have reported that they review all ownership information via the onsite inspection programme with a random sampling of about 10 to 15% of the licensee’s client files. At the time of reviewing the client files, CIMA officials specifically look at the organisational structure of the entity and review all of the identification information that has been collected in respect of that entity. They also verify the means by which beneficial ownership information was established, how it was verified and what type of person is listed as the ultimate beneficial owner.

139. In respect of verification of beneficial owners, officials from the Compliance Association have reported that service providers routinely adopt the cascading measures approach as set out in the FATF guidance notes, in

particular, in respect of recommendation 10. First they would tend to look for the identity of natural legal persons who ultimately have a controlling interest. For example in the verification of documents, officials from the Compliance Association stated that most service providers have reported having special passport verification machines in place in order to ensure that copies of passports filed are authentic copies. Where doubt may arise as to the natural persons with the controlling interest being the beneficial owners (such as from google searches or use of other software) or where natural person exerts control via ownership, the service provider would then look for the ultimate beneficial owner exercising control via legal persons.

140. In regards to examining the obligations to maintain beneficial ownership information, officials from the CIMA have reported that even in cases where the licensee has relied on exemptions from the requirement to maintain beneficial ownership information (in particular the group business exemption), the beneficial ownership information is still readily available in the Cayman Islands with the group entity. Officials from the CIMA have also reported that in cases where exemptions have been used, it is standard practice in the course of their oversight programme to test the mechanism that the licensee relied on for an exemption from the requirement to provide beneficial ownership information. The CIMA has also reported that Schedule 3 to the AML regime, whereby there are named jurisdictions from which an introducer may operate to depend on exemptions, is regularly reviewed internally and updated based on reports of the robustness of the legal framework of those listed jurisdictions.

141. In regards to the monitoring and enforcement actions that are available pursuant to the Monetary Authority (Amendment) Law 2016 which was enacted in March 2017, the CIMA now has the power to implement administrative fines. There are now a variety of fines within CIMA's regulatory authority. These fines are divided into two categories: non-discretionary and discretionary. Non-discretionary fines are those implemented at the divisional level (e.g. for failure to file an annual return etc.). They generally are imposed in cases of less serious breaches of regulatory laws. Those fines with a discretionary aspect permit the CIMA to take into account the gravity of a breach in order to determine the extent of the fine to be imposed. As this amendment is in the final stages of the process to bring it fully into effect, the practical implementation of these new fines could not be assessed. Nevertheless, as set out above, it is noted that the CIMA had other enforcement powers at its use over the review period which it imposed in practice.

142. Prior to this amendment, the main enforcement action available to the CIMA was the right to impose conditions on the licensee. Therefore, once these fines have been implemented in practice in June 2017, the CIMA will have more flexibility to determine and apply the most appropriate sanction.

Over the review period (April 2013-March 2016), the form and number of sanctions that were imposed by the CIMA were as follows:

Sanctions imposed by CIMA over review period

Sector	Revocations/ cancellations	Appointment of controllers	Winding up	Cease and desist order	Totals
Banking	3	3	3	0	9
Fiduciary	1	0	0	0	1
Insurance	1	0	0	1	2
Investments	23	6	3	0	32
Totals	28	9	6	1	44

143. Therefore, in view of both the system of oversight including desktop audits and onsite visits as well as the enforcement actions that have been taken by the CIMA, the CIMA has a comprehensive system of oversight in place for all regulated entities. Finally, in regards to EOIR, the CIMA received five EOIR requests over the review period. These five requests were sent via notice in the regular manner as for any third party holding information. Therefore, the content of the notice and mode of processing is the same as for all other third party notices issued by the CITIA.

*Availability of beneficial ownership information in practice
(Peer experience)*

144. During the current review period, there were requests for beneficial ownership information, and authorities from the CITIA have reported that they proceeded to serve the service provider and the company. CITIA was able to provide the information, and peer input confirmed that the peers received beneficial ownership information as requested.

Conclusion on the availability of beneficial ownership information

145. In the Cayman Islands, the availability of beneficial ownership information is secured via a variety of legal mechanisms. First, all types of companies, with the exception of ordinary resident companies, are required to engage a registered agent that comes under the scope of the AML regime and is required to ascertain and maintain beneficial ownership information as set out under the AML regime. The definition of beneficial owner is that as set out under the FATF standard and the requirements of the AML guidelines and regulations ensure that all entities subject to the AML regime have comprehensive internal processes in place in order to ascertain the ultimate beneficial owner of any company with whom they do business.

146. In respect of oversight, the CIMA, as the body responsible for oversight of the AML requirements, has a comprehensive system of oversight in place in order to monitor the requirements to maintain beneficial ownership information. In addition to a comprehensive oversight system comprising desktop reviews, onsite inspections and face to face meetings with entities, it also has an array of enforcement powers and has been active in applying sanctions in cases of non-compliance with regulatory requirements over the review period.

147. Most local ordinary resident and non-resident companies that carry on business in the Cayman Islands are also obliged to obtain a trade and business licence from the TBLB at which time beneficial ownership information must be provided. The DCI (the body responsible for administering the TBLB) also has an oversight programme in respect of those requirements in place.

148. In March 2017, the Cayman Islands also amended its Companies Law and LLC Law to require that all local companies (i.e. ordinary resident and non-resident) and LLCs maintain updated registers of beneficial ownership information. Further, the legal amendments require the entities to submit this information into a centralised platform of beneficial ownership information either via a registered agent or the Registrar. This system is due to be in place by June 2017 and filing is expected to be made within 9 months. Local companies and LLCs that do not comply will be listed for strike off. Officials from the Cayman Islands have reported that the Registrar shall be the body responsible for oversight of the maintenance of the centralised platform of beneficial ownership information.

149. Therefore, over the review period, legal mechanisms (and oversight) were generally in place in the Cayman Islands for all companies. However, there may have been a minor deficiency in those cases where ordinary resident companies did not transact with a service provider or obtain a trade and business license. It is noted that the amendments for the implementation of a central platform of beneficial ownership information, including direct requirements for the maintenance of beneficial ownership registers by all companies, were introduced in March 2017 with the oversight by the Registrar to commence in June 2017. Therefore, as the practical implementation of these requirements cannot be tested in practice, the Cayman Islands is recommended to monitor the 2017 amendments to its Companies and LLC Laws to ensure that beneficial ownership information is available for all relevant entities.

150. In regards to practice, the Cayman Islands received at least two requests for beneficial ownership information over the review period, which they were able to provide in both cases. This information was accessed either from the service provider or from the entity itself. Peers have not indicated any issues regarding the availability of beneficial ownership information over the review period and therefore in cases where beneficial ownership

information has been requested both the legal framework and the oversight of these legal obligations ensure that beneficial ownership information will be available in respect of all companies in all cases.

ToR A.1.2: Bearer shares

151. At the time of the 2013 Report, the Companies Law provided for the issuance of bearer shares. A custodian arrangement was in place whereby custodians had to be either “authorised custodians” regulated by the CIMA pursuant to either the Companies Management Law or the Banks and Trust Companies Law or “recognised custodians” who are carrying on business in a specified jurisdiction and who have been approved by the CIMA to act as a custodian of bearer shares. At the time of the 2013 Report, there were 519 Bank and Trust Licensees and 64 Company Management companies acting as custodians for bearer shares issued by Cayman Islands companies.

152. However, it was noted that in cases where recognised custodians operating in countries outside of the Cayman Islands failed to provide information in respect of the bearer shares, given the fact that neither the CITIA or the CIMA had territorial jurisdiction to impose penalties, issues may arise in practice with respect to the availability of information in the Cayman Islands regarding bearer shares that are in the hands of a recognised custodian outside of the Cayman Islands’ jurisdiction. As a result, the Cayman Islands was recommended to ensure that information on the owners of bearer shares is made fully available within the Cayman Islands in all cases.

153. The Companies (Amendment) Law, 2016 was enacted in May 2016 to prohibit the use, and abolish the issue of, any bearer shares as of 13 May 2016. The law requires that any issued bearer shares had to be converted to registered shares by 13 July 2016 and mandated that any bearer shares not converted as required are null and void. Each company that converted bearer shares to registered shares was required to file a declaration with the Registrar by 31 January 2017, confirming that any bearer shares have been converted. In addition, the Companies Management (Amendment) Law was passed in October 2016 to remove references to the management of bearer shares.

154. In practice, in order to notify companies of this legislative amendment and the requirement to file a declaration about all converted bearer share with the Registrar, officials from the Registrar reported that they notified all registered companies via email. The Registrar also issued a template on its website for submission of bearer share information. The final date to comply with this obligation was 31 January 2017 and officials from the Registrar have reported that 12 companies reported that they had converted previously held bearer shares to registered shares. In the event that any

company approaches the Registrar after this time, the shares are considered null and void and instead their value shall be liquidated into the capital of the company. There is no court mechanism by which bearer share holders who had not converted in time may renew their rights pertaining to the previously held bearer shares.

155. During the current review period, although a detailed statistical breakdown of the types of information requested was not strictly maintained, by conducting a sample analysis of its two principal requesting partners (which together represent approximately 53% of all requests received over the review period), the Cayman Islands determined that 50% of those requests related to ownership and identity information. None of Cayman Islands' peers have reported that they have had difficulty obtaining information on the ownership of a company due to the existence of bearer shares. Further, officials from the CITIA have indicated that in accessing ownership information they have never encountered bearer shares having been issued by a Cayman Islands company.

ToR A.1.3: Partnerships

156. There are three types of partnerships in Cayman Islands:

- General Partnerships;
- Limited Partnerships (LPs);
- Exempted Limited Partnerships (ELPs).

157. As noted in the 2013 Report, ownership information in respect of each type of partnership is available as follows:

158. General partnerships: A partnership (or other entity or arrangement) which is not otherwise subject to regulation by the CIMA may only carry on business in the Cayman Islands if it obtains a trade and business license pursuant to the Trade and Business Licensing Law. Upon application for a licence, the partnership must provide the name of the partners and the address in the Islands from which the business is to be carried on. The licensee is required to provide the partners' names upon the annual renewal of the licence. The penalty under s26 for making a false statement including in respect to the true identity of the partners upon conviction is KYD 5 000 (USD 6 000) or imprisonment for 12 months.

159. Where the General Partnership is carrying on a business of a type which is required to be specifically licensed, such as a trust, banking or investment business, then the obligations applicable to licensed entities as well as the Money Laundering Regulations will apply.

160. Limited partnerships (LPs): Upon formation all LPs are required to file ownership information on all partners with the Registrar of Limited Partnerships (Registrar). Any change to the information provided to the Registrar upon formation must be advised to the Registrar by way of declaration by the general partners within 7 days. Failure to file such a declaration will result in every partner thereafter being a general partner subject to a penalty of KYD 500 (USD 600) plus a further KYD 50 (USD 60) per day in default.

161. Exempted Limited Partnerships (ELPs): Upon formation, the general partner of an ELP must file ownership information on all general partners with the Registrar of Limited Partnerships (Registrar) and must update the Registrar in the case of a change. In addition, all ELPs are required to maintain an updated register of all partners. Should a general partner fail to comply with this requirement without reasonable cause, the partnership is subject to a penalty of KYD 500 (USD 600) and a further penalty of KYD 100 (USD 120) per day in default.

162. In respect of oversight, it is noted that all ELPs are required to have a registered agent which is a service provider for the purposes of the AML regime; therefore ownership information must be maintained by the registered agent in respect of all partners. Whilst an LP is not required to have a registered agent, in practice, officials from the Registrar have reported that they do not accept registration of an LP except via a registered agent. Therefore, all LPs in the Cayman Islands will also have a registered agent who will be a service provider for the purposes of the AML regime and ensure that information on all partners is being maintained. In practice, as above noted for companies, the CIMA as regulator for licensed entities in the Cayman Islands is also the body responsible for ensuring that service providers are in compliance with the obligations of the AML regime. As set out above, the CIMA has a comprehensive system of oversight in place ensuring that the requirements for ELPs and LPs are monitored in practice. In addition, all LPs are also overseen by the Registrar whose oversight activities are set out as follows.

163. At the time of the 2013 Report, it was noted that the Registrar did not have a regular system of monitoring of compliance with the requirement to keep ownership and identity information in respect of partnerships. Whilst legislative amendments have increased penalties for non-compliance, these are untested in practice. As noted above for companies, since the time of the 2013 Report, both the Registrar and the DCI (in overseeing the obligations of entities licensed with the TBLB) have implemented oversight activities.

164. As outlined above under *Legal ownership information – Enforcement measures and oversight*, the Registrar is converting all files from paper to soft copy and verifies each entity's compliance with ownership information requirements during the conversion process. The project commenced with

the selection of the Partnership Register for conversion. This register was selected to be converted first because of its low volume of documents. This will allow any previously unidentified issues to be recognised and dealt with in anticipation of the commencement of the conversion of the Companies Register. Since the commencement of the project, over 9 000 partnership documents have been converted, which is approximately 10% of the total manual records held for partnerships.

165. In addition, the DCI has implemented desktop supervision of entities with a local business licence, as well as carrying out 206 onsite visits over the review period, including visits to partnerships carrying on business in the Cayman Islands, although the DCI did not maintain a breakdown of onsite visits according to entity type. In the course of these onsite visits, only minor deficiencies were found and therefore, the imposition of sanctions was not found to be required. Therefore, since the time of the 2013 Report, it is the view of the assessment team that an adequate oversight programme has been implemented in respect of partnerships and that the recommendation regarding monitoring from the 2013 Report has been sufficiently addressed.

166. In addition to requirements for legal ownership information to be maintained, the 2016 ToR now requires that beneficial ownership information for all partnerships is available. The legal requirements to maintain beneficial ownership information in respect of all partnerships is ensured via a variety of mechanisms in the Cayman Islands. As both LPs and ELPs operate through a registered agent that will be a service provider for the purpose of the AML regime, the beneficial ownership information on both LPs and ELPs is secured via the CDD requirements under the AML regime which have been set out above in respect of companies (see section A.1.1 *Beneficial ownership for companies*).

167. In respect of general partnerships, a partnership (or other entity or arrangement) which is not otherwise subject to regulation by the CIMA may only carry on business in the Cayman Islands if it obtains a trade and business licence pursuant to the Trade and Business Licensing Law. As set out above for companies, upon application for a licence, the partnership is obliged to provide beneficial ownership information to the TBLB. This information is required to be updated on an annual basis upon renewal of its licence. Nevertheless, it may be the case that a general partnership may operate in one of the areas exempted by the licensing laws (areas exempted are Caymanian agriculture, Caymanian arts and crafts, and self-employed Caymanian fishermen), in which case beneficial ownership information may not be maintained. Therefore, the Cayman Islands is recommended to ensure that beneficial ownership in respect of all partnerships, and in particular in respect of general partnerships, is being maintained.

168. The oversight for beneficial ownership information on partnerships is undertaken by the CIMA in respect of ELPs and LPs, both of which operate via a registered agent who is a service provider for the purposes of the AML regime and therefore will have all legal and beneficial ownership available via CDD measures set out under the AML regulations. Oversight of general partnerships (where they are required to obtain a business licence) is undertaken by the DCI from whom the general partnerships obtain their trade and business licence. Both the CIMA and the DCI have been found to have satisfactory oversight programmes in place, both of which are outlined above under section A.1.1 *Availability of legal and beneficial ownership information for companies*. Similarly, these oversight programmes have been found to be comprehensive in respect of ensuring that legal and beneficial ownership obligations for all types of partnership are being complied with.

169. During the current review period the Cayman Islands received 161 requests, and authorities have confirmed that many of these related to ownership information with both legal and beneficial ownership information being requested. While a detailed statistical breakdown of the types of information requested was not strictly maintained, the Cayman Islands conducted a sample analysis of its two principal requesting partners (which together represent approximately 53% of all requests received over the review period) and determined that none of those requests related to partnership ownership information. However, given the sound legal basis for both legal and beneficial ownership information to be maintained in respect of almost all partnerships (with the exception of those partnerships that carry on a business whereby a business licence is not required) as well as the comprehensive monitoring activities in respect of those requirements by the CIMA and the DCI, in the case that the Cayman Islands was to receive a request for partnership ownership information, it is likely that this information would be available.

ToR A.1.4: Trusts

170. Deriving from equity under English law, trusts are recognised and can be created under Cayman Islands' law. In addition to the common law principles, trusts are governed by the Trusts Law (2009 Revision), which does not include a definition of a trust or trustee. There are three types of trusts that may be formed in the Cayman Islands: ordinary trusts, Special Trusts Alternative Regime ("STAR") trusts and exempted trusts. A full analysis of each of these types of trust and how the information is secured is set out in the 2013 Report at paragraphs 115-136 and a brief summary of the types of trusts that can be formed in the Cayman Islands and the obligations on each of them to maintain ownership information is set out below.

171. In respect of ordinary trusts, all trustees are subject to the common law requirements to have knowledge of all documents pertaining to the formation and management of a trust. In particular, the fiduciary duties of trustees will ensure that the information relating to the trust is being maintained. First, the trustee is obligated to administer the trust solely in the interests of the beneficiaries and therefore the beneficiaries will have to be made clearly identifiable in the trust deed. Secondly, the trustee owes a duty to manage the trust in accordance with the instructions of the settlor, meaning that the settlor will also have to be clearly identified in the trust deed.

172. The common law rules relating to ordinary trusts are also applicable to STAR trusts to the extent that they are not altered by the STAR provisions of the Trusts Law. At least one trustee of a STAR trust must be a body corporate with an office in the Cayman Islands and must be either licensed to carry on a trust business (therefore subject to licensing and AML obligations) or a Private Trust Company (“PTC”). Further, under the trusts law the trustee is required to maintain ownership and identity information of all trustees, enforcers and settlors of a STAR trust at the Cayman Islands office of the corporate trustee.

173. In regards to exempted trusts, the availability of ownership information is secured via the obligation for exempted trusts to register with the Registrar and to furnish certain information such as accounts, minutes and other information on request. Therefore, the Registrar has the power to ask for any ownership and identity information relating to the exempted trust at any time. Common law obligations will also apply to exempted trusts, and in particular, the fiduciary duties placed on trustees will ensure that ownership and identity information in respect of the exempted trust is being maintained.

174. Whilst there is only a legal obligation for STAR trusts to engage a licensed service provider as professional trustee, officials from the Cayman Islands have reported that, in practice, most trusts engage a professional trustee which will be licensed and regulated by the CIMA. For those trusts that do not engage a service provider, they will still be covered by the obligations of the common law (in the case of ordinary trusts) or the obligations to provide information to the Registrar (in the case of exempted trusts). A company which carries on a trust business is required to be licensed by the CIMA or to be registered as a PTC and will be subject to the requirements of the AML regime to maintain ownership and identity information in respect of those trusts for which they act.

175. In order to carry on a trust business in the Cayman Islands, there are three types of trust licenses:

- Unrestricted trust companies which permits the holder of the licence to act as trustee for all types of trust business including commercial trusts, institutional trusts, family trusts and purpose trusts;
- Restricted trust companies which entitle a trust company to provide trust services to a limited number of persons which are usually named or referred to by a category such as members of a particular family; and
- Nominee trust companies which entitles the holder of the licence to act solely as the nominee of a trust licensee, being the wholly owned subsidiary of that licensee.

176. As of December 2016, the breakdown of the trustee licences as regulated by the CIMA is as follows:

Categorisation of CIMA trustee licence

Licences/Registrations	Scope of trust business	Num.
Unrestricted Trust Licences	No restrictions on trust clients.	60
Restricted Trust Licences	Trust clients restricted to person listed in undertaking accompanying licence application.	62
Nominee Trust Licences	Wholly-owned subsidiary of another licensee whose sole purpose is to act as that licensee's nominee.	30
Registered Controlled Subsidiaries	Wholly-owned subsidiary of another licensee that carries on trust business connected with parent and within scope of parent's Trust Licence.	38
Registered Private Trust Companies	Trust clients must be connected persons, e.g. by familial relationship or corporate group.	123

177. Trustees licensed by CIMA are subject to the AML Regulations and consequently are subject to the AML obligations to conduct CDD on their clients and to have ownership and identity information available. In particular, section 8 of the AML Guidance Notes includes guidance regarding trusts.

178. Therefore, while there was an in-text monitoring recommendation made in the 2013 Report for the Cayman Islands to monitor the effectiveness of the common law obligations in ensuring the availability of information for ordinary trusts, the Cayman Islands was found to have a sound legal framework to ensure the availability of ownership and identity information in respect of all trusts and therefore, this in-text recommendation has been deleted. In practice, these requirements were found to be monitored by both the CIMA (for STAR trusts and in respect of those cases where a licensed PTC is acting as trustee for a trust) and the Registrar (in respect of exempted trusts).

179. Since the time of the 2013 Report, the legal framework continues to be in place in respect of legal ownership information as are the monitoring activities of the Registrar and the CIMA (as outlined above, see section A1.1) to ensure that ownership information is maintained in practice.

Beneficial ownership information on trusts

180. In addition to the requirements for legal ownership information to be available, the 2016 ToR now requires that beneficial ownership information be held on all relevant entities including trusts.

181. For common law trusts, as set out above, all trustees are subject to the common law requirements to have knowledge of all documents pertaining to the formation and management of a trust. The Cayman Islands authorities confirmed that English common law relating to trusts and the fiduciary duties of the trustee is followed in the Cayman Islands. The above-mentioned duties include the obligation to know who the beneficiaries are. However, although the beneficiaries of a trust must be identified with sufficient certainty for the trust to be validly constituted, when a beneficiary is not a natural person the trustee has no obligation at law (and indeed may not in fact be able to trace through a chain of beneficial interests) to identify the ultimate recipient of a distribution it makes to a non-natural person beneficiary.

182. For STAR trusts, as at least one trustee of a STAR trust must be a body corporate with an office in the Cayman Islands which is either licensed to carry on a trust business or a PTC. Both types of companies are subject to licensing and the requirements of the AML regime that ownership and identity information must be made available on their clients in accordance with Regulations 7 and 9 of the AML regime. The trustee of a STAR trusts also required to maintain ownership and identity information of beneficiaries under the trusts law Further, under the trusts law the trustee is required to maintain ownership and identity information of all trustees, enforcers and settlors of a STAR trust at the office in the Cayman Islands of the corporate trustee.

183. In particular, section 3 of the AML Guidance Notes sets out the identification procedures for clients. Section 3 (c) provides that, in the case of trust and fiduciary clients, service providers are required to “obtain identification evidence for the settlor(s), i.e. the person(s) whose property was settled on the trust; and in the case of a nominee relationship, obtain identification evidence for the beneficial owner(s) if different to the settlor(s)”.

184. Exempted trusts must be registered in the Cayman Islands, at which time information on all settlor(s), trustees and beneficiaries is required. Changes to this information must be updated in the Register. However, the extent to which this will extend to a requirement to identify the beneficial

ownership is unclear. Cayman Islands authorities have reported that generally exempted trusts will have a licensed trustee or Private Trust Company acting for the trust who will come under the requirements of the AML regime that ownership and identity information be made available in respect of the trusts.

185. However, there are at least potentially exceptional instances where the existence of the trust could be unknown and unrecorded such as in the case of a non-professional trustee of an ordinary trust or an exempted trust that does not engage the services of a registered agent. While much of the information in respect of the trust would still be required to be maintained under the common law, this may not necessarily include the beneficial ownership information relative to any non-individual settlors or beneficiaries. Therefore, the Cayman Islands should take all reasonable measures to ensure that beneficial ownership information in respect of all trusts, especially in those cases where the trustee is a non-professional trustee, is available.

186. During the current review period the Cayman Islands received 161 requests, and authorities have confirmed that many of these related to ownership information with both legal and beneficial ownership information being requested. While a detailed statistical breakdown of the types of information requested was not strictly maintained, the Cayman Islands conducted a sample analysis of the requests received from its two principal requesting partners (which together represent approximately 53% of all requests received over the review period) and determined that three of those requests related to trust ownership information. The Cayman Islands was fully able to provide this information and of the peer input received, no issues were reported in practice.

ToR A.1.5: Foundations

187. In March 2017, the Cayman Islands enacted the Foundation Companies Law providing for the creation of foundations in the Cayman Islands. Section 3(2) of the Foundation Companies Law sets out that “except insofar as it is inconsistent with this Law, the Companies Law applies to a foundation company”. Therefore, in structure, composition and legal framework, foundation companies are very similar to ordinary companies formed under the Companies Law.

188. For the purpose of this report, it is noted that a foundation company is required to follow the requirements set out under the Companies Law, specifically to submit information about the founding members to the Registrar at the time of incorporation as well as to maintain an updated register of its founders and members. These requirements ensure that both legal and beneficial ownership information in respect of foundation companies is required to be maintained. In terms of oversight of foundations, the Registrar will be

the authority responsible to confirm that foundations are complying with their requirements under the entity acts and will come under the supervisory programme of the Registrar that has been found to have a comprehensive system of oversight in place (for more details on the oversight programme of the Registrar see section A.1.1 *Oversight activities of the Registrar*). Nevertheless, as the Foundations Companies Law was only enacted in March 2017, the Cayman Islands is recommended to monitor the implementation of the Foundations Companies Law to ensure that legal and beneficial ownership for foundations will be available in all cases.

A.2. Accounting records

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

189. The 2013 Report concluded that accounting obligations for all relevant entities were in place in the Cayman Islands via a combination of requirements set out under the entities acts. In respect of that narrow category of trusts with non-professional trustees, common law duties of the trustee were viewed to extend to requirements to maintain accounting records. In addition, the licensing conditions for those entities operating in industries that require licensing also impose additional obligations on licensees in respect of accounting records.

190. However, in respect of oversight of those obligations it was found that, with the exception of those entities that are subject to licensing with the CIMA, no system of monitoring of compliance with accounting record-keeping requirements was in place and the Cayman Islands was recommended to ensure that its monitoring and enforcement powers are sufficiently exercised in practice to support the legal requirements which ensure the availability of accounting information in all cases. Element A.2 was determined to be In Place and rated Largely Compliant.

191. There have been no changes to the legal requirements for accounting records to be maintained since the time of the 2013 Report. In practice, the CIMA continues to be the body responsible for the oversight of accounting record requirements for all licensed entities. However, in practice this will only extend to oversight of the accounting requirements of 14 393 entities out of a total of over 100 000 entities incorporated in the Cayman Islands. There is still no system of oversight of accounting records in place by the Registrar. Therefore, the practical recommendation from the 2013 Report remains and the Cayman Islands is recommended to implement an effective system of oversight to support the legal requirements which ensure the availability of accounting information in all cases.

192. During the current review period, the Cayman Islands received 161 requests. As the Cayman Islands does not impose income tax, there was no domestic need for a detailed statistical breakdown of the EOI requests it received. However, from a sample of the 86 requests received from its two main EOI partners, the Cayman Islands reports that accounting information was requested in 59 of those cases. This represents 68% of the information requested from its two main EOI partners and demonstrates the relevance of accounting information in the Cayman Islands. From the sample taken of its two main treaty partners, company accounting information was requested in 56 cases and trust accounting information was requested in 3 cases, and the accounting information was provided in all of those 59 cases.

193. In almost all cases over the review period, the CITIA was able to access and provide the requested accounting information, even though in many cases it was held outside of the Cayman Islands. However, in one case, where accounting information was held by an exempted company outside of the Cayman Islands, the company did not comply with the notice requesting information from the competent authority. As a result, the Cayman Islands was unable to provide requested information to the treaty partner despite several attempts by the competent authority to access this information from the company.

194. Although this was only one case over the review period, due to the makeup of the legal framework in the Cayman Islands, accounting information will not be held in the Cayman Islands in many cases, nor will there be someone within the Cayman Islands responsible for providing it when requested. In addition, as there is only an oversight programme in place by the regulator (the CIMA) to inspect the maintenance of accounting records, this does not ensure that accounting record requirements are being enforced for all relevant entities.

195. The updated table of determinations and ratings is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendation
Determination: In Place		

Practical implementation of the standard		
	Underlying Factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice	Except for those entities that are subject to licensing with the CIMA, no system of monitoring compliance with accounting record keeping requirements is in place. In one case over the review period, accounting information that was held by an exempted entity was unable to be provided to a treaty partner. Therefore, the lack of a comprehensive system of oversight of accounting obligations for all entities may not ensure that accounting information will be available in all cases.	The Cayman Islands is recommended to implement an effective system of oversight to support the legal requirements which ensure the availability of accounting information in all cases.
Rating: Largely Compliant		

ToR A.2.1: General requirements

196. The 2013 Report noted that accounting records in line with the standard are required to be maintained by all companies, partnerships and trusts. A summary of the requirements for each of those entities is set out below. In addition, since the time of the 2013 Report, the Cayman Islands has also introduced LLCs and Foundations. An analysis of the accounting requirements for LLCs and Foundations are also set out below.

Companies

197. For most companies (ordinary resident, ordinary non-resident and exempt) the requirements to maintain accounting records set out under the Companies Law. The Companies Law specifically requires accounting records as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions. In regards to underlying documentation, section 59 of the Companies Law specifically requires the keeping of contracts and invoices with respect to sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place; all sales and purchases of goods by the company; and the assets and liabilities of the company.

198. If a company keeps its books of account at any place other than at its registered office or at any other place within the Cayman Islands, the company shall make all accounting records available at its registered office, upon service of an order or notice by the CITIA (s. 59 of the Companies Law, as revised by the Companies (Amendment) Law, 2013).

199. In the event of non-compliance with such a notice, the company shall incur a penalty of KYD 500 (USD 600) and a further penalty of KYD 100 (USD 120) for every day during which such non-compliance continues. Further, a company that knowingly and wilfully contravenes the accounting records requirements shall be subject to a penalty of KYD 5 000 (USD 6 000) which penalty shall be a debt due to the Registrar (s. 69(6) Companies Law).

200. All accounting records are required to be retained for a minimum period of five years from the date on which they are prepared. In the case of liquidation of a company, similar to that as set out above for ownership information, the liquidator as the company's representative would be required to ensure that this requirement is complied with and that all accounting information will be made maintained for a period of five years.

201. LLCs were introduced in the Cayman Islands in 2014 and the requirements for accounting records to be maintained are set out under the LLC Law. Pursuant to section 63(1 and 2) all LLCs are required to maintain proper books of account that give a true and fair view of the business and financial condition of the LLC and explain its transactions. The LLC Law specifically provides that underlying documentation shall include contracts and invoices, showing all sums of money received and expended by the LLC and matters in respect of which the receipt and expenditure takes place; all sales and purchases of goods by the LLC; and the assets and liabilities of the LLC.

202. Where the accounting records of the LLC are kept at any place outside of its registered office, the LLC is obliged to make copies of the accounting records available at its registered office in the Cayman Islands upon service of an order or notice by the CITIA.

203. Pursuant to section 69(5) of the LLC law, accounting records have to be retained for a minimum period of five years from the date on which they are prepared. This requirement is equally applicable in cases where the LLC is liquidated, whereby as set out above for companies, the liquidator would be the person responsible for ensuring that the accounting information was available.

Partnerships

204. In the Cayman Islands, general and limited partnerships are subject to the requirements under the Partnerships Law to maintain accounting information. Exempted Limited Partnerships (ELPs) are subject to similar requirements under the ELP Law.

205. Section 28 of the Partnerships Law sets out that one of the partners of the partnership (other than the limited partner) must maintain proper books of account that give a true and fair view of the business and financial condition of the partnership and explain its transactions. In regards to underlying accounting documentation, the Partnerships Law specifically provides that it shall include contracts and invoices, showing all sums of money received and expended by the partnership and matters in respect of which the receipt and expenditure takes place; all sales and purchases of goods by the partnership; and the assets and liabilities of the partnership.

206. All accounting records must be kept for a minimum of 5 years from the date they are created. In the case of non-compliance with the accounting record requirements there is a penalty of KYD 5 000 (USD 6 000) that may be imposed on the partner obliged to maintain the records.

207. Similarly, section 21 of the ELP Law sets out the accounting record requirements for ELPs. Pursuant to section 21 (1 and 2) a general partner is required to maintain proper books of account that give a true and fair view of the business and financial condition of the ELP and explain its transactions. In regards to underlying accounting documentation, the ELP Law specifically provides that it shall include contracts and invoices, showing all sums of money received and expended by the ELP and matters in respect of which the receipt and expenditure takes place; all sales and purchases of goods by the ELP; and the assets and liabilities of the ELP.

208. In cases where the general partner maintains the accounting records at any place other than its registered office, the general partner is obliged to make copies of the requested accounting information available at its registered office when required to produce accounting information subject to an order or a notice by the CITIA.

209. All accounting information is required to be maintained for five years and in cases of non-compliance with the ELP accounting record requirements, a fine of KYD 5 000 (USD 6 000) may be imposed on the general partner.

Trusts

210. In the case of trusts, the 2013 Report noted that ordinary, exempted and STAR trusts are all subject to requirements to maintain accounting records as set out under the Trusts Law. Pursuant to section 27A of the Trusts Law, trustees for ordinary, exempted and STAR trusts must maintain accounts and records (including underlying documentation) for the trust and trust property.

211. All accounts and records are required to be retained for a minimum period of five years from the date on which they are prepared. A trustee who

knowingly and wilfully contravenes the requirement to maintain accounting records is subject to a penalty of KYD 5 000 (USD 6 000).

212. Moreover, trustees will be subject to the common law requirements on trustees, which include a fiduciary duty to the beneficiaries to keep proper records and accounts of their trusteeship. In particular, the common law duty of the trustee “to maintain clear and distinct accounts of the property he administers and to be constantly ready with his accounts” is another legal requirement by which accounting information of trusts is required to be maintained in the Cayman Islands.

Foundations

213. As set out in the Foundation Companies Law (s.3(2) Foundation Companies Law), all foundations in the Cayman Islands are subject to the requirements of the Companies Law, except in those cases where the Foundation Companies Law provides otherwise. Therefore, the comprehensive requirements under the Companies Law for accounting information, including the requirement to maintain all underlying documentation for a period of five years, apply equally to foundations.

214. Further, schedule 2 of the Foundation Companies Law sets out the model Constitution and Articles of Association that a foundation company may take. The type of accounts that must be maintained by a foundation company are set out under Section 13 (“Accounts”).

215. Section 13.1 of the model Articles of Association set out that the directors shall cause proper books of account to be kept for –

- a. all funds received or expended or distributed by the foundation company and the matters in respect of which the receipt or expenditure takes place; and
- b. the assets and liabilities of the foundation company,

and proper books of account shall not be deemed to be kept if there are not kept such books as are necessary to give a true and fair view of the state of the foundation company’s affairs and to explain its transactions. Such books shall be kept at the registered office or such other place as may be determined by special resolution of the foundation company.

216. Section 13.2 sets out that the books of account of the Foundation Company shall be available at any time during ordinary business hours for inspection by the founder, a supervisor, and any other person to whom a right of access has been granted under these articles.

217. Section 13.3 of the model Articles of Association sets out that by notice to the foundation company the founder or a supervisor may call for such reports, accounts, information and explanations from the directors as to the administration of the foundation company as are described in the notice. As the Foundations Law was only enacted in March 2017, the Cayman Islands is recommended to monitor the implementation of the Foundations Law to ensure that accounting information for foundations will be available in all cases.

Accounting records required to be kept by licensed entities

218. In addition to the general rules described above, those entities licensed by the CIMA will also be subject to additional accounting requirements. These are set out in detail in the 2013 Report (see paragraphs 180-185). A summary of those obligations is set out below.

219. Entities conducting business in regulated industries (i.e. banking, fiduciary, insurance, investment and securities businesses) are subject to the obligations set out under the Licensing Laws, which include requirements related to the maintenance of accounting records. The accounting obligations imposed on licensees are generally set out under regulations and guidance issued by the CIMA and require that all licensed entities must:

- provide a compliance certificate signed by the licensee or a director of a corporate licensee, stating that they have complied with the relevant licensing laws. A fine of KYD 5 000 (USD 6 000) may be imposed for non-compliance with this requirement;
- provide an auditor’s certificate confirming that the licensee has “adequate procedures” in place to ensure compliance with any applicable Code of Practice;
- assign an auditor to annually audit their accounts. Details of the auditor must be provided to the CIMA.

220. In addition entities providing management services are required to provide annual audited accounts (in respect of their own business and not that of the clients they manage) to the CIMA.

Accounting records required to be maintained under the AML Regime

221. Guidance under the AML Regime also provides for certain accounting information to be maintained by all Service Providers. In particular, Regulation 12 of the Money Laundering Regulations requires that Service Providers must retain a record of any “relevant” account files and business

correspondence, as well as “details” relating to all transactions. However, the extent to which these requirements will extent to the requirements to maintain accounting information in line with the standard is unclear.

222. Regulation 12(2) of the Money Laundering Regulations provides that accounting records must be retained for a minimum period of 5 years from the date on which the relevant business or transaction was concluded.

223. In the case of liquidated entities, the Cayman Islands has confirmed that the responsibility to ensure that accounting documentation is available would rest with the Cayman Islands liquidator responsible for winding up the entity. The Cayman Islands has reported that over the review period accounting information was requested by one of its treaty partners in respect of a dissolved entity. In that case, the Cayman Islands successfully retrieved all of the requested accounting information from the appointed liquidator in the Cayman Islands.

ToR A.2.2: Underlying documentation

224. As set out above, all of the entities laws require that all relevant entities maintain underlying supporting documentation in line with that set out under the standard.

Oversight and enforcement of requirements to maintain accounting records

225. In the Cayman Islands, the CIMA is responsible for ensuring that accounting information is maintained by regulated entities via their comprehensive onsite inspection programme as set out above (see section A.1 *Enforcement measures and oversight of beneficial ownership information*). In regards to desktop supervision of accounting records, all entities regulated by the CIMA are required to file audited financial statements annually under the relevant regulatory laws. However, this does not include all accounting records as set out under the standard and, in particular, underlying accounting documentation is not required to be filed. Whilst in some cases in the course of reviewing the accounting information that has been submitted, officials from the CIMA may request additional accounting documentation in order to understand certain transactions, this will only occur in exceptional cases.

226. As noted above, the CIMA has a comprehensive regular programme of onsite inspections of entities to evaluate compliance with both the regulatory laws as well as the obligations under the AML regime. In the course of carrying out onsite inspections, officials from the supervision division of the CIMA have confirmed that accounting records maintained in line with

the requirements of the regulatory laws are verified. Whilst the CIMA has indicated that during the course of onsite inspections, accounting records are usually found to be kept in accordance with the obligations as set out under the law, as noted above, neither the accounting requirements set out under the licensing laws nor those required under regulations of the AML regime extend to the accounting information required to be held under the standard.

227. Further, in regards to the scope of this supervision programme, there are currently 14 393 entities regulated by the CIMA out of a total of over 100 000 entities incorporated in the Cayman Islands. Therefore the supervisory programme of the CIMA will be limited to less than 20% of all entities.

228. Other than the oversight programme in place by the CIMA there are no other supervisory programmes in place by authorities in the Cayman Islands to ensure that the requirements to maintain accounting information are being adhered to. As noted in the 2013 Report, regulated entities only represent a small subset of all entities (approximately 14 393 (primarily mutual funds) out of a total of over 100 000 entities and an unknown number of trusts) operating within the Cayman Islands.

229. Therefore, although in practice there are over 100 000 entities registered with the Registrar in the Cayman Islands, the only supervisory activities in respect of accounting record requirements are those carried on by the CIMA which will only extend to a certain amount of entities.

Availability of accounting information in practice

230. At the time of the 2013 Report, there was one instance over that review period, in which accounting information was unable to be provided because the information was located in another jurisdiction where, during the period relevant to the request, there was no comprehensive obligation to keep such information for 5 years. Although the deficiency was rectified by 2011 legislative amendments, it was recommended (via an in-text recommendation) that the Cayman Islands authorities should continue to closely monitor the accounting information obligations.

231. In addition, the 2013 Report noted that the Cayman Islands made legislative amendments to the Companies, Partnerships and Exempted Partnerships Laws in 2012 in order to impose an obligation for entities to make accounting records available at their registered office in the Cayman Islands when served with a Notice to produce such information from the CITIA. However, in the 2013 Report it was noted that although this created an explicit obligation to bring the accounting records to the Islands when so requested, delays may still arise in bringing the records to the registered office, and it was recommended that the Cayman Islands authorities should continue to monitor its effectiveness in practice.

232. Since the time of the 2013 Report, although the CITIA provided accounting information in almost all cases where it was requested, it was unsuccessful in providing the accounting information in one case where the information was not held in the Cayman Islands. The facts of this case are set out below.

233. The CITIA received the request in November 2013. In response to a notice to the Registrar of Companies, it was confirmed that one of the three foreign taxpayers named in the request was a director of the Cayman Islands company. In December 2013, the CITIA issued a notice to produce to the company at its registered office in the Cayman Islands. On receipt of the notice, the registered office acting for the company wrote to the company and company directors informing them of the notice, the accounting information which had been requested, and the penal sanctions for non-compliance with the notice. In January 2014, the CITIA served a notice to produce on the Registrar of Lands regarding the foreign taxpayers. The Registrar of Lands informed the CITIA that no property in the Cayman Islands was registered in the name of any of the taxpayers. In February 2014, the CITIA, still having received no response from the company regarding the requested accounting information, sent a partial response to the requesting jurisdiction providing some ownership and identity information but informing them that as yet they had not been able to access the requested accounting information.

234. In February 2014, a warning letter was issued by the CITIA to the company citing failure to comply with the notice. In March 2014, the registered office of the company confirmed that it did not have any of the requested accounting information set out in the schedule attached to the notice. The CITIA then referred the matter to the DPP for consideration of the sanctions as set out under section 24 of the TIA Law. From April to September the CITIA continued to liaise and communicate with the DPP in regard to this matter as well as being in contact with the registered office of the company to verify if it had received any communications from the company. In September 2014, the DPP decided not to proceed further with the case – no formal ruling or opinion was issued in this regard.

235. In November 2014, the CITIA sent a consolidated updated response to the requesting jurisdiction summarising all of the information previously provided including names and addresses of other directors. The CITIA also asked the requesting jurisdiction if it still needed the outstanding accounting information and in this regard proposed a conference call, to which the requesting jurisdiction did not respond.

236. The file for this case continued to remain open during 2015 while the CITIA continued to liaise with the registered office in case that it had any communication with the company, which the registered office informed the CITIA that it had not. In January 2016, the CITIA followed up with the requesting jurisdiction asking for a reply to its letter of November 2014 and

setting out that if no reply was received in 30 days, it would proceed to close the file. By the end of February 2016, the CITIA still had no response from the requesting jurisdiction and decided to close the file.

237. Although the CITIA did provide other information in respect of that request (identity and ownership information), ultimately due to the issues in accessing accounting information held by an offshore entity, it was unsuccessful in accessing and providing the accounting information to its treaty partner.

238. It is noted that this was only one case over the review period and as set out above, from a sample of the 86 requests received from its two main EOI partners, the Cayman Islands reports provided the requested accounting information in all of those 59 of those cases where accounting information was requested. Further, the Cayman authorities have confirmed that in almost all cases where accounting was accessed over the review period, it was in respect of exempted companies that were not licensed by the CIMA. Nevertheless, as noted in the 2013 Report, in many cases accounting information will be held outside the Cayman Islands and due to lack of oversight of these obligations, this may present a significant problem in practice if the Cayman Islands is unable to enforce the obligations for accounting information to be made available. Therefore, the Cayman Islands is recommended to implement an effective system of oversight to support the legal requirements which ensure the availability of accounting information in all cases.

A.3. Banking information

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

239. The 2013 Report did not raise any concerns with respect to the availability of bank information in the Cayman Islands. All 17 requests for banking information (out of an overall total of 65 requests) received over the review period were answered and most were answered within 90 days. Therefore, it was concluded that element A.3 was In Place and Compliant.

240. As at the time of the 2013 Report, banking information is found to be available for all legal account-holders pursuant to the requirements of the AML Regime. Banks are prohibited from opening and keeping anonymous accounts or accounts opened under fictitious names. All banks are obliged to retain copies of documents used in connection with CDD and customer identification measures for 10 years after the customer relationship has ended or following the completion of the transaction to which the documents relate. In case of non-compliance with these obligations, sanctions apply. Supervision of banks' record-keeping requirements is carried out by the CIMA.

241. The 2016 ToR introduced a requirement for information about the beneficial owners of bank accounts to be available. In the Cayman Islands, the beneficial ownership of bank accounts is available with banks, which are subject to comprehensive CDD and KYC requirements set out under the AML regime. Compliance with these obligations is supervised by the CIMA, which has developed tools to assess the CDD compliance by banks and other financial institutions under its purview.

242. During the review period, the competent authority was able to successfully access all of the requested banking information for all of the EOI requests for banking information. While there is no domestic need to maintain a detailed statistical breakdown of the types of information requested, the Cayman Islands performed a sample analysis of requests from its two main EOI partners, who cumulatively sent 86 requests to the Cayman Islands over the review period. Banking information was requested in 44 of those cases, representing 51% of the requests received from its two main EOI partners. The principal sources of banking information over the review period were Cayman Islands banks (which are licenced and regulated by the CIMA) and/or the entities and arrangements themselves.

243. In view of the above, which is set out in more detail below, the updated 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

244. Jurisdictions should ensure that banking information is available for all account holders. The AML regime of the Cayman Islands includes comprehensive obligations on the part of banks and other financial institutions to verify the identity of their customers (as well as their beneficial owners) and maintain detailed and accurate records of their transactions and business relationships. A detailed analysis of the availability of banking information is set out in the 2013 Report (see paragraphs 70, 88, 177, 180 and 192-194). These obligations and the system of enforcement in place to supervise compliance with such obligations is summarised below.

General record-keeping requirements

245. All banks in the Cayman Islands are required to maintain all records pertaining to accounts as well as to related financial and transactional information (including information on the beneficial owners of their clients). The record-keeping procedures set out in section 7 of the AML Guidance Notes in relation to the requirements for Service Providers to maintain ownership and identify information apply equally to banks as well as to other Financial Services Providers generally (for a detailed analysis of the AML requirements, see Record-Keeping Procedures in section A.1.1 *Availability of legal and beneficial ownership information for companies, AML law requirement*).

246. In respect of these records, all banks are required to maintain and update beneficial ownership information on accounts. This requirement is specifically set out under section 4 of the AML Guidance Notes titled “On-going monitoring of business relationships”. In particular, section 4.2 requires that Services Providers must develop and apply written policies and procedures for taking reasonable measures to ensure that documents, data or information collected during the “Identification” process are kept up-to-date and relevant by undertaking routine reviews of existing records.

247. As set out under section 5 of the Money Laundering Regulations, the minimum retention period for all records pertaining to the accounts and related financial and transactional information is ten years.

248. In the Cayman Islands, there is an “Introduced business rule” whereby banks are allowed to rely on customer due diligence previously conducted by a person introducing the customer. This is set out under Regulation 10 (“Eligible Introducers”) of the AML Regulations.

Enforcement provisions to ensure availability of banking information

249. In the case of non-compliance with the obligations to keep banking information in accordance with the requirements set out under the AML regime, section 5 of the AML Guidance Notes provides that a fine of up to KYD 1 000 000 (USD 1 200 000) may be applied.

250. In the Cayman Islands, banks are supervised by the CIMA. A detailed description of the onsite programme in place by the CIMA is set out above (see section A.1.1, *Availability of legal and beneficial ownership information, Enforcement measures and oversight of beneficial ownership information*).

251. In regards to the onsite programme, officials from the CIMA have reported that every bank is inspected by the CIMA via an onsite visit at least once every three years. Over the review period (April 2013 – March 2016), the CIMA performed 87 onsite inspections of banks. The form and number

of sanctions that were imposed by the CIMA specifically in respect of banks were as follows:

Sanctions imposed on banks by CIMA over review period

Revocations Cancellations of licence	Appointment of controllers	Winding up	Cease and desist order	Total
3	3	3	0	9

252. Depending on the scope of the onsite visit, it may last one week to a month. During the course of the onsite visit officials inspect a sample of client files in order to ensure that the bank is in compliance with all of the CDD requirements under the AML regime. Officials from the CIMA try to make this sample as representative as possible (i.e. including a selection of new clients, high risk clients and clients within industries of particular interest to the CIMA). Officials from the CIMA have reported that within their onsite inspection programme, the highest level of compliance is generally found within the banking sector. In particular, compliance with AML obligations is found to be very high with only minor deficiencies found.

253. As well as its regular oversight programme the CIMA also has additional inspection procedures in place in respect of banks; for example all banks are required to file quarterly prudential returns with the CIMA which set out certain account holder information such as details of new account holders. Prudential meetings are also held regularly by the supervision team of the CIMA in addition to the usual oversight programme whereby the CIMA will aim to meet annually with representatives of licensees and other regulated entities including money services businesses, building societies and credit unions to discuss their operations. In the case of entities that have minimal activities, such as some bank branches, the CIMA may exempt them from annual meetings and require that they schedule meetings biennially. The purpose of these prudential meetings is twofold. Firstly, it affords the CIMA an opportunity to gather the latest information relating to the bank's operations, its management systems and controls and procedures, thereby substantiating that the bank is operating in a fundamentally sound and prudent manner. Secondly, it gives the CIMA an opportunity to thoroughly update the bank with respect to any significant amendments to current legislation or regulatory developments which may impact the operations of the bank. Certain events (such as a merger or acquisition involving the licensee) may also trigger additional face to face meetings between the bank and the CIMA.

Availability of bank information in practice

254. The 2013 Report found that Cayman Islands had successfully responded to all of its requests for bank information in the period 2007-09.

255. During the review period, the Cayman Islands did not maintain statistics pertaining to exactly how many of the 161 requests related to banking information. However, in a sample analysis of its two main EOI partners who cumulatively sent 86 requests to the Cayman Islands over the review period, banking information was requested in 44 of those cases, representing 51% of the information requests from its two main EOI partners. The principal sources of banking information over the review period were Cayman Islands banks (which are licenced and regulated by the CIMA) and/or the entities and arrangements themselves.

256. From the peer input received, no peers indicated any issues with the availability of banking information in the Cayman Islands and no issues arose in this regard. Therefore, element A.3 in the Cayman Islands remains determined to be in place and rated as Compliant.

Part B: Access to information

257. 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).

258. Pursuant to section 4 of the TIA Law, the Minister of Financial Services is the Cayman Islands Tax Information Authority (CITIA) and he delegates all functions of the competent authority to the Director of the Department for International Tax Cooperation (DITC). The powers to obtain information for EOI purposes are exercised by the CITIA through the offices of the DITC, of which the EOIR Unit is a part. The EOIR Unit consists of the Head of EOIR and an Administrative Officer who assists with EOIR. The Director oversees all EOIR.

259. Generally, the approach of the competent authority in all these matters has not changed since the 2013 Report, where it was found that CITIA had broad and specific powers contained within the TIA Law in order to gather information pursuant to an EOI request. The Cayman Islands does not gather tax information for domestic purposes. As a result, for all instances over the review period the CITIA issued notices under its TIA Law in order to access information from other government agencies, the taxpayer and third parties. In the current review period, the Cayman Islands received 161 requests. Information accessed included ownership (including beneficial ownership), accounting and banking information.

260. In one case over the review period, the CITIA was unable to provide requested accounting information where it was held overseas and the entity failed to comply with the notice to provide it. As the sanctions for not providing requested information under the TIA Law are enforceable on conviction, the CITIA referred the case to the DPP. However, the DPP decided not to proceed with the case. No other enforcement action was available to the CITIA. As accounting information may be held outside the Cayman Islands for many entities, this could present a wider problem in practice if the Cayman Islands is unable or unwilling to fully exercise its enforcement powers. Therefore, in those cases where information is not maintained in the Cayman Islands, the Cayman Islands should ensure that its enforcement powers are sufficiently exercised to ensure that it can access all information in all cases.

261. The updated table of determinations and ratings for element B.1 is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendation
Determination: In Place		
Practical implementation of the standard		
	Underlying Factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice	In one case over the review period, the CITIA was unable to access accounting information where the information was not maintained in the Cayman Islands and no one within the Cayman Islands was obliged to provide it. Although the CITIA successfully accessed and exchanged all of the requested information in all other cases over the review period, as the Cayman Islands did not make use of its enforcement powers, this could become a wider problem in practice.	In those cases where information is not maintained in the Cayman Islands, the Cayman Islands should ensure that its enforcement powers are sufficiently exercised to ensure that it can access all information in all cases.
Rating: Largely Compliant		

ToR B.1.1: Ownership, identity and bank information

262. The 2013 Report found that procedures set out under the TIA Law applied in the case of obtaining ownership, accounting and banking information. The same rules continue to apply (see 2013 Report, paragraphs 206-222 for more detail). A summary of these powers is set out below.

263. The CITIA has power under the TIA Law to obtain information of any kind from any person. Information is defined widely as “any fact, statement, document or record in whatever form, and includes (a) any fact, statement, document or record held by banks, other financial institutions, or any persons, including nominees and trustees, acting in an agency or fiduciary capacity; and (b) any fact, statement, document or record regarding the beneficial ownership of companies, partnerships and other persons, including (i) in the case of collective investment funds, information on shares, units and other interests; and (ii) in the case of trusts, information on settlors, trustees and beneficiaries” (s. 2, TIA Law).

264. There are no restrictions on the types of persons (individual or corporate) from whom information can be obtained. The powers are generally exercised by the CITIA issuing a formal notice pursuant to section 8(4) of the TIA Law (backed by penal sanctions) to any person or agency in possession or control of information which it is required to keep. The CITIA may invoke powers of search and seizure if authorised by court warrant.

265. In all cases where the information must be sought from another entity, the competent authority will issue a notice. There is no special procedure for accessing banking information which can also be accessed via the issuance of a notice to produce on the holder of the information (in most cases a regulated financial institution or service provider). The powers of the CITIA to obtain relevant information to respond to an EOI request are consistent regardless of the person from whom the information is to be obtained, for example a government authority, bank, company, trustee, or individual; or whether the information to be obtained is ownership, identity, bank or accounting information. Similar access powers apply to any person who has information, even if the person was not required by law to keep the information.

266. The CITIA’s powers include the right to make enquiries, inspect documents, and, with the court’s permission, search and seize. A notice issued pursuant to the TIA Law requires the holder of relevant information to produce the information sought which the CITIA may copy or take an extract from. As indicated above, “information” is broadly defined to mean “any fact, statement, document or record in whatever form”, and specifically includes beneficial ownership information and information held by financial institutions, agents and fiduciaries. There are no requirements for the CITIA to go through any other government agency; in EOI matters the CITIA is autonomous.

267. The contents of a notice to produce information are, in practice, very basic. It mentions that a request has been received under an information exchange agreement, that the CITIA has determined it to be a valid request, and that information must be obtained from the person the notice is served upon in order to comply with the request. The contents of the incoming request letter are not disclosed in the notice to produce.

268. The notice to produce sets out in a schedule the information to be produced (and in what form, if so requested by the requesting party). A penal notice and a confidentiality notice are contained within the body of the notice to produce. Any person breaching confidentiality is subject on summary conviction to a fine of KYD 10 000 (USD 12 000) and to imprisonment for six months (s24(2) TIA Law). Notices to other government agencies (for example, the Registrar of Lands or Department of Immigration) are made by a formal letter. In the case of such governmental agencies, civil service obligations of confidentiality also apply.

269. In instances where the information is required for criminal proceedings in the jurisdiction of the requesting party, the CITIA must first apply to a judge for an order to require the production of such information. In such an event, the judge must consider, amongst other things, whether the information is expected to be under the possession or control of a person in the Cayman Islands, and whether there are reasonable grounds for not granting the request. As these are all issues which the CITIA would normally already consider, this judicial procedure is designed to act as an additional safeguard and make it less likely that the person who is served the order will not produce the information, as the procedure has already been reviewed by a judge. To date, applications to the court have been made to order the production of information in five EOI matters, all of which have all been granted. The application to a judge, which is heard administratively and ex-parte, is accommodated in the judge's schedule as soon as possible, normally within 2 weeks. A person served with an order is normally given 14 days to produce the information, unless the judge directs otherwise.

270. In regard to cases where information is required to be kept but the record retention period has expired, authorities from the Cayman Islands have reported that while it would be lawful for the person in possession or control of the information to which the retention period related to destroy the information, should the information de facto still exist in hard copy or electronic form, it would have to be produced. In practice, the CITIA would require information to be produced under a notice to produce or court order, regardless of the retention period, and it would be for the recipient of a notice to raise the issue.

271. During the review period, the competent authority was able to successfully access all of the requested ownership and banking information in

all cases where it was requested. Whilst it is not the Cayman Islands practice to maintain statistics showing exactly how many of the 161 requests related to each type of information, from a sample analysis of its two main EOI partners who cumulatively sent 86 requests to the Cayman Islands over the review period, ownership information was requested in 50% of the cases. The principal sources of information about legal ownership are the Companies Registry and regulated third party service providers who are obliged to hold legal ownership information for all entities and arrangements.

272. It is also noted that the Cayman Islands accessed and provided beneficial ownership information in at least two cases over the review period. The principal sources for beneficial ownership information for all entities and arrangements are regulated third party service providers who are all subject to AML/CFT rules, including beneficial ownership information requirements. No issues arose with accessing ownership information over the review period and peer input was also positive in this regard.

273. In regards to banking information, from the sample size of 86 requests from its two main EOI partners, banking information was requested in 44 of those cases, representing 51% of the information requested from its two main EOI partners. The principal sources for banking information are Cayman Islands banks (which are licenced and regulated by the CIMA) and/or the entities and arrangements themselves. In practice, the nature of the request, the particular type of bank information sought, or considerations arising from competent authority discussions about the request with the requesting party, may affect the CITIA's choice of source. There are no special procedures for obtaining bank information.

274. Where banking information has been requested, authorities from the CITIA have reported that the degree of specificity in the request for information will depend on the circumstances of the request. Generally, the name of the bank (or a sort code or account code to identify the bank) together with information to identify the account(s) will suffice. The information to identify the account may be the name of the account holder, an account number, or any other information which will enable the correct information to be produced by the bank.

275. In all cases, banking information was readily accessible via the issuance of a notice on the holder of the information, which in most cases was a financial institution. No issues arose with accessing banking information over the review period and peer input was also very positive in this regard.

ToR B.1.2: Accounting records

276. The powers described in section B.1.1. relating to ownership and banking information are equally used to obtain accounting information and this is generally done via the issuance of a notice to the information holder in order to gather the information. From the sample size of 86 requests from its two main EOI partners, accounting information was requested in 59 of those cases, representing 69% of the information requested from its two main EOI partners and demonstrating the relevance of accounting information in the Cayman Islands. In 56 cases, company accounting information was requested and in the other 3 cases trust accounting information was requested.

277. In all cases except one, the accounting information was readily accessible via the issuance of a notice on the holder of the information, which in most cases was the entity itself (i.e. the company or trustee of the trust). Generally, no issues arose with accessing accounting information over the review period, and peer input was also very positive in this regard. However, as analysed above under element A.2 *Availability of Accounting Information*, in one case over the review period the Cayman Islands was unable to access accounting information where the accounting information was held offshore but ought to have been available in the hands of the Cayman entity.

278. In that case, the CITIA received the request in November 2013. In response to a notice to the Registrar of Companies, it was confirmed that one of the three foreign taxpayers named in the request was a director of the company whose accounting information was requested. In December 2013, the CITIA issued a notice to produce to the company at its registered office in the Cayman Islands. On receipt of the notice, the registered office acting for the company wrote to the company and company directors informing them of the notice, the accounting information which had been requested, and the penal sanctions for non-compliance with the notice. In January 2014, the CITIA served a notice to produce on the Registrar of Lands regarding the foreign taxpayers. The Registrar of Lands responded to the CITIA informing them that no property in the Cayman Islands was registered in the name of any of the taxpayers. In February 2014, the CITIA, still having received no response from the company regarding the requested accounting information, sent a partial response to the requesting jurisdiction providing some ownership and identity information but informing the requesting jurisdiction that as yet they had not been able to access the requested accounting information.

279. In February 2014, a warning letter was issued by the CITIA to the company citing failure to comply with the notice. In March 2014, the registered office of the company confirmed that it did not have any of the requested accounting information set out in the schedule attached to the notice. The CITIA then referred the matter to the DPP for consideration of the sanctions as set out under section 24 of the TIA Law. From April to

September the CITIA continued to liaise and communicate with the DPP in regard to this matter as well as being in contact with the registered office of the company to verify if it had received any communications from the company. In September 2014, the DPP decided not to proceed further with the case – no formal ruling was issued in this regard.

280. Although the CITIA did provide other information in respect of that request (identity and ownership information), as the company did not comply with the Notice to produce the requested information that was held outside the jurisdiction, the Cayman Islands was unable to provide the accounting information to its treaty partner. Further, in the case of taking enforcement action against non-compliance, although this represents only one case over the review period, it is noted that whilst the CITIA brought this case to the DPP, the DPP took no action. It is noted that this company was struck from the register in 2016 for non-compliance with its obligations under the entity laws.

281. Although the CITIA successfully accessed and exchanged all of the requested information in all other cases over the review period, as the Cayman Islands was unable to fully exercise its enforcement powers, this could present a wider problem in practice.

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

282. As set out in the 2013 Report, the information gathering powers of the CITIA are not subject to the Cayman Islands requiring such information for its own tax purposes. This is ensured by the incorporation of EOI agreements into the law of the Cayman Islands under s3(3) of the TIA Law, rather than by a separate specific domestic provision.

283. Further, as the Cayman Islands does not operate a domestic direct tax system, accordingly, information is not held by any tax administration. In all cases, the CITIA uses its powers to obtain information from whichever official or third party source has possession or control of the information. To obtain information, the CITIA issues a formal notice to produce information pursuant to section 8 of the TIA Law which sets out the information to be provided to the CITIA within a specified time. The notice procedure applies regardless of the type of information being sought and may be used in respect of any persons in possession or control of the information. In practice, most entities and arrangements in the Cayman Islands use one or more regulated service providers, and relevant information is often kept by these service providers. Accordingly, notices are generally issued to service providers, either as holders of information in their own right or as the registered office of the relevant entity or arrangement which holds the information.

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

284. Jurisdictions should have in place effective enforcement provisions to compel the production of information. In the Cayman Islands, sanctions exist to penalise failure to produce information and the competent authority has recourse to compel production of such information in cases of refusal by the information-holder. In cases where a person has been issued a notice to produce information and fails (without lawful excuse) to do so, or alters, destroys, hides or removes any information, this is an offence under section 24(1) of the TIA Law and on summary conviction they are liable to a fine of KYD 10 000 (USD 12 0000) and to imprisonment for two years.

285. Further, pursuant to section 24(3) of the TIA Law, in those cases where the competent authority considers it necessary to enter and search premises, the competent authority is permitted to apply to the Grand Court for a search and seizure warrant, although this was not required during the review period.

286. Under entity legislation, such as the Companies Law and the Exempted Limited Partnership Law, there are also penalties for failing to make available in the jurisdiction ownership and identity information and accounting information which is held outside the jurisdiction. There has been no change in these provisions since the last review.

287. Under the Penal Code (s. 121), a person who wilfully disobeys any law by doing any act which such law forbids, or by omitting to do any act which such law requires to be done, and which concerns the public or any part of the public, is guilty of an offence and, unless the law provides some other penalty, is liable to imprisonment for two years. In addition to these penalties, failure to comply with a court order also may result in penalties, including imprisonment, for contempt of court.

288. In one case over the review period, where information was not initially provided by the information holder which was located in the Cayman Islands, the CITIA informed the information holder of its intention to apply for a search and seizure order and the information was provided shortly afterward without requiring the search and seizure warrant. It is noted that the Cayman Islands did not invoke its search and seizure power in the case where the foreign taxpayer refused to provide information to the registered office as the information was not located in the Cayman Islands and therefore this power could not be utilised.

289. Where the holder of the information does not comply with the written notification, the first step is to determine the reason for non-compliance with the request. If the non-compliance is due to failure to provide information, the CITIA has to decide what will be the next course of action, which may be to

refer the case to the Director of Public Prosecutions. Pursuant to article 24 of the TIA Law, any person who has not complied with a notice is liable, on summary conviction, to a fine of USD 10 000 or imprisonment of up to two years.

290. As set out above, there was one case of non-compliance with a notice to produce accounting information over the review period. The CITIA did refer the case to the DPP who did not proceed with the case. As the entity was not a regulated entity, the CITIA could not inform the regulator. In any event, informing the regulator would have potentially breached confidentiality obligations under the EOI agreement. Authorities from the Cayman Islands have reported that should further instances arise in the future where entities fail to comply with a notice where the information is held off-island, the office of the DPP may view this as a systemic issue and proceed to prosecute. Therefore, it is recommended that in those cases where information is not maintained in the Cayman Islands, the Cayman Islands should ensure that its enforcement powers are sufficiently exercised to enable it to access all information in all cases.

ToR B.1.5: Secrecy provisions

291. Secrecy provisions in a jurisdiction should not impede the exchange of information and appropriate exceptions should be allowed where information is sought in connection with a request for information under an EOI agreement. No secrecy provisions exist under Cayman Islands law to prohibit or restrict the disclosure to tax authorities of accounting, ownership and identity information for EOI purposes.

292. There are no specific bank secrecy rules in the Cayman Islands. Confidentiality of any form of information is governed by the general common law obligations of confidentiality. Further, the Confidential Information Disclosure Law, 2016 (which replaced the Confidential Relationships Preservation Law (2009 Revision) in June 2016), like its predecessor, provides gateways for the provision of information which would otherwise be regarded as confidential.

293. In any event, all confidentiality requirements are overridden by s8(6)(b) and ss18 and 19 of the TIA Law where information is required to be produced for EOI purposes. This allows the CITIA to access and then to exchange information notwithstanding any common law or statutory rules on confidentiality, and without invoking any gateway provisions. In addition, any offence or liability to civil claims which would otherwise arise against the holder of information as a result of producing that information is expressly excluded by s18 of the TIA Law.

Bank secrecy

294. The 2013 Report noted that there are no limitations on the ability of the CITIA to obtain information held by a bank or other financial institution for the purpose of responding to an exchange of information request and the means of accessing information via a notice to produce is the same as that for all other types of information. This continues to be the case. As noted above, there were no issues in accessing banking information over the review period.

Professional secrecy

295. All of the Cayman Islands' EOI agreements permit the competent authority to decline a request if responding to it would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy. This rule follows the international standard.

296. Formerly, the TIA law set out a definition of attorney client privilege that may have extended beyond that permitted under the international standard. This was based on the definition of legal privilege in the former TIEA between the Cayman Islands and the United States which has since been replaced with a new TIEA which does not contain the definition. As a result, the TIA law was amended and it now sets out that claims of attorney client privilege must be in line with that set out in international agreements. Further, during the preparation of this report, the definition was also confirmed by officials from the Attorney General's office.

297. The Cayman Islands authorities and their exchange of information partners have indicated that no cases have occurred in practice where information could not be obtained because the holder of the information (lawfully or not) made a secrecy claim. In respect of legal professional privilege, the Attorney-General indicated that assertions of attorney-client privilege in the context of EOI would rarely arise in the Cayman Islands and any assertions of legal professional privilege raised to date have never been in regards to information sought for exchange of information purposes (see also section C.4 *Right and safeguards of taxpayers and third parties*).

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.

298. The 2013 Report found that there were no issues regarding notification requirements or appeal rights. There is a prior notification requirement in the TIA Law but this only applies in cases where the requesting authority

specifies an address (in the Cayman Islands) of the subject individual and the request relates wholly to a non-criminal matter. The TIA Law provides exceptions to this notification in urgent cases or where notification is likely to undermine the success of the investigation of the requesting jurisdiction. Therefore, the exceptions ensure that the notification procedure does not unduly prevent or delay exchange of information and were found to be in accordance with the standard. As a result, element B.2 was determined to be In Place and rated Compliant.

299. There are no appeal rights as such in the Cayman Islands. However, as in other common law jurisdictions, recourse to the courts is available by way of judicial review. In one case over the review period, the Cayman Islands entities allegedly controlled by the foreign taxpayer sought leave for judicial review after the information had been exchanged on the basis that the competent authority acted improperly by not notifying the foreign taxpayer of the request. The Grand Court found in favour of the Cayman Islands entities and while the CITIA appealed the case to the Court of Appeal, the court dismissed the appeal. It is noted that this case did not impede the effective exchange of information by the Cayman Islands as the information had already been provided to the requesting jurisdiction and the CITIA communicated regularly and clearly with the requesting jurisdiction throughout all stages of the judicial process.

300. In response to this case, the Cayman Islands also made an amendment to the notification procedure set out under the TIA Law. Section 17 of the TIA Law now clarifies that the “individual who is the subject of a request” is the foreign taxpayer (s17(6)), and not the Cayman Islands third party upon whom a notice to produce may be served. There have been no other changes to the legal framework regarding notification requirements, rights and safeguards since that time.

301. Element B.2 continues to be determined to be In Place and rated as Compliant. The table of determinations and ratings is as follows:

Legal and regulatory framework determination
The element is in place.
EOIR Rating
Compliant

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

302. Rights and safeguards should not unduly prevent or delay effective exchange of information. An analysis of the rights and safeguards in the Cayman Islands is set out below.

Notification

303. The 2013 Report found that there were no issues regarding notification requirements or appeal rights. Pursuant to section 17(1) of the TIA Law, it is required that a notice of request issued to the subject of the request should identify the existence of the request, the jurisdiction which has made the request, and the general nature of the information sought. An individual who receives a notice of request has fifteen days from the date of receipt to make a written submission specifying the grounds which the CITIA should consider in determining whether the request is in compliance with the provisions of the relevant EOI agreement, including assertions of legal privilege over the information requested.

304. The template EOI request form as used by most of the Cayman Islands' EOI partners includes the question whether the requesting party wishes to refrain from notifying the taxpayer(s) involved and a statement (e.g. that the case is urgent) from the requesting party is always regarded by the CITIA as sufficient to invoke this exception to the notification requirement. Authorities from the Cayman Islands have reported that in practice it would be very rare for the individual subject (the foreign taxpayer) to have an address in the Cayman Islands so the occasions for a notice of request under s17 arise very rarely.

305. Since the 2013 Report, there has been one minor amendment to the notification procedure set out under the TIA Law in order to clarify that the reference in section 17 of the TIA Law to the “individual who is the subject of a request” is the foreign taxpayer (s17(6)), and not the Cayman Islands third party upon whom a notice to produce may be served. There have been no other changes to the legal framework regarding notification requirements, rights and safeguards since that time.

306. In regards to the prior notification procedure, in no cases has the notification procedure impacted the effective exchange of information over the period under review and peer input has not raised any issues in this regard.

Exceptions to prior notification

307. The TIA Law provides exceptions to this notification in urgent cases or where notification is likely to undermine the success of the investigation of the requesting jurisdiction. Therefore, the exceptions ensure that the

notification procedure does not unduly prevent or delay exchange of information and were found to be in accordance with the standard.

Post notification

308. The 2016 ToR have introduced a new requirement for an exception from time-specific post-notification. However, this does not apply in the Cayman Islands as the TIA Law does not provide for post-notification.

Other rights and safeguards

309. There are no appeal rights as such in the Cayman Islands. However, as in other common law jurisdictions, recourse to the courts is available by way of judicial review. A request for judicial review is made to the Grand Court of the Cayman Islands, with appeal available to the Cayman Islands Court of Appeal and further appeal to the U.K. Privy Council. In cases where the information has not yet been sent and a request for judicial review was made, the exchange of information to the treaty partner would be suspended until such time a decision had been made. Generally, requests for judicial review are decided expeditiously in the Cayman Islands.

310. Over the review period, there were two applications for judicial review. These related to the practices of the CITIA in processing the EOI requests and were not in the nature of the exercise of a right of appeal. For one of those cases relating to an EOI request from 2014, the taxpayer filed leave for judicial review after the requesting jurisdiction had received the information it required from partial responses sent by the Cayman Islands. The jurisdiction subsequently withdrew the request and the case did not proceed.

311. The other case related to an EOI request received in 2011. The foreign taxpayer, who allegedly controlled the Cayman Islands companies and who resided in the requesting jurisdiction filed leave for judicial review after the information had been exchanged by the CITIA and, was subsequently used in judicial proceedings in the requesting jurisdiction at which time the foreign taxpayer became aware of the exchange. The request for leave for judicial review was sought on the basis that the competent authority acted improperly by not notifying the taxpayer of the request.

312. The case proceeded to the Grand Court of the Cayman Islands (*M.H. Investments & J.A. Investments v Cayman Islands Tax Information Authority*, 2013²) which found in favour of the Cayman Islands companies

2. Please see the Global Forum EOI Portal for full copy of this judgment, www.oecd.org/securesites/gfcompetentauthorities/australia_130913%20-%20MH%20Inv%20et%20al%20v%20%20CITIA.pdf.

controlled by the foreign taxpayer, mainly on the basis that the CITIA had accessed and exchanged taxpayer information without notifying the taxpayer. Further, the judge in that case ruled that the exchange of the taxpayer information was founded on a request that did not contain sufficient information from the treaty partner.

313. Although the CITIA appealed the case to the Court of Appeal, the Court of Appeal dismissed the appeal as legislative changes had rendered the appeal moot (that legislative change being the amendment to the notification procedure set out under the TIA Law in order to clarify that the reference in section 17 of the TIA Law which refers to the “individual who is the subject of a request” is the foreign taxpayer (s17(6)) and not the Cayman Islands third party upon whom a notice to produce may be served). On the advice of senior counsel instructed by the Attorney General of the Cayman Islands, the CITIA took the decision not to appeal the case further to the Privy Council.

314. Whilst this case found in favour of the Cayman Islands entities and ordered the exchanged information to not be utilised in any court proceedings in the requesting jurisdiction, it is noted that this case did not impede the effective exchange of information by the Cayman Islands as the information had already been provided to and used by the requesting jurisdiction. The foreign court permitted the use of the exchanged information in its successful proceedings against the foreign taxpayer as, having received it from the Cayman Islands, the court took the view that it had been properly sought and obtained under the relevant agreement, notwithstanding the decision of the Grand Court. Further, throughout the case proceedings, the CITIA communicated regularly and clearly with the requesting jurisdiction, as confirmed by the peer input received from that particular treaty partner.

315. Further, in light of the case, the CITIA has proceeded to update its EOI procedure manual in order to ensure that the means by which they determine if an EOI request is a proper request are very clear and exactly in line with those set out under article 5 of the Model TIEA.

316. Authorities from the Cayman Islands have also reported that, since this case was decided in August 2013, EOI activity has increased and they have not received any queries or concerns from any of its treaty partners regarding this case. Finally, the EOI relationship of the Cayman Islands competent authority with the requesting jurisdiction in the above case has not been negatively affected and the requesting jurisdiction has continued to send requests.

Part C: Exchanging information

317. Sections C.1 to C.5 evaluate the effectiveness of EOI in practice in the Cayman Islands by reviewing its network of EOI mechanisms and determining whether these EOI mechanisms cover all its relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether the Cayman Islands respects the rights and safeguards of taxpayers and third parties and whether it could provide the information requested in an effective manner.

318. As of May 2017, the Cayman Islands has signed 37 EOI agreements consisting of 35 TIEAs, 1 Double Tax Arrangement and the Multilateral Convention. As it is a member of the Multilateral Convention, its treaty network extends to 112 treaty partners. In the case that a TIEA is in place with a partner that is also a signatory to the Multilateral Convention, it is the approach of the Cayman Islands to discuss with the jurisdiction which agreement the EOIR shall proceed under. While to date this has generally been under the bilateral arrangement, the Cayman Islands expects to receive significantly more requests under the Multilateral Convention going forward. All 36 of the Caymans Islands' signed bilateral agreements are to the standard and 31 of those agreements are in force in both jurisdictions. Therefore, as at the time of the 2013 Report, element C.1 remains determined as In Place and rated as Compliant.

319. Over the review period, in no case did the Cayman Islands refuse to enter into an EOI agreement with a requesting jurisdiction. Therefore, as at the time of the 2013 Report, element C.2 remains determined as In Place and rated as Compliant.

320. Confidentiality of taxpayer information is protected under all of the Cayman Islands agreements in line with the international standard. There are also domestic provisions within the TIA Law to protect taxpayer information and these are also found to be in line with the international standard. Similarly, rights and safeguards are also provided for under each of the Cayman Islands' agreements, the wording being that as set out under the standard. Therefore, as at the time of the 2013 Report, elements C.3 and C.4 remain determined as In Place and rated as Compliant.

321. In regards to the organisational process, the Cayman Islands has a formal EOI unit consisting of two EOI officials which has received 161 EOI requests from 12 different EOI partners over the review period. During the period currently under review, it is noted that of the 150 valid³ requests received by the Cayman Islands, it answered 72% of requests within 90 days. 89.3% of requests within 180 days and 97.3% of requests within one year. In 2.6% of the cases, the response time took longer than one year due to the complexity of the requests; in that time the Cayman Islands continued to keep its treaty partner updated. In those cases where responses took longer than 90 days, status updates were provided in 92.8% of cases. Therefore, as at the time of the Phase 2 report, element C.5 remains rated as Compliant.

C.1. Exchange of information mechanisms

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

322. At the time of the 2013 Report, the Cayman Islands had a network of 30 EOI mechanisms, all of which were found to be in line with the standard and therefore, at that time element C.1 was determined to be In Place and rated Compliant. In 2012, Cayman Islands had a network of 30 TIEAs. In addition to these bilateral mechanisms, the Cayman Islands was also providing information pursuant to the EU Savings Directive.

323. At the time of the 2013 Report, the Cayman Islands also had a unilateral mechanism under which 12 jurisdictions including 11 OECD member countries were Scheduled Countries with which the Cayman Islands had agreed to provide information for tax purposes unilaterally. This mechanism permitted the Cayman Islands to provide information to other jurisdictions with no need to have exchange in return as it did not need taxpayer information for its own domestic purposes. However, in practice once a bilateral agreement was in place with a jurisdiction that was formerly able to utilise the unilateral mechanism, information was provided under that agreement. At the time of the 2013 Report, Austria, Belgium, Luxembourg, the Slovak Republic and Switzerland were among the Scheduled Countries with which a bilateral agreement had not yet been concluded. A TIEA is now in place with Belgium and, as the Multilateral Convention has now been extended to the Cayman Islands (see below), all of the other jurisdictions are covered by the Multilateral Convention. The unilateral mechanism was repealed in 2014.

324. Since the 2013 Report, the Cayman Islands has signed a TIEA with six additional treaty partners (Belgium, Brazil, Malta, Poland, Seychelles,

3. The invalid requests were, for example, those which were made under a non-existent agreement, an agreement which was not signed or not in force, or which incorrectly cited the Cayman Islands as the nexus.

and the Isle of Man) of which four are in force.⁴ The Cayman Islands has also renegotiated a TIEA with the United States and signed a protocol to its TIEA with Guernsey. Further, the Multilateral Convention was extended to the Cayman Islands by declaration of territorial extension contained in a letter from the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom in September 2013 and came into force in the Cayman Islands in January 2014. As a result, the EOI network of the Cayman Islands now extends to 112 jurisdictions. Of its 36 signed agreements (other than the Multilateral Convention), all of the agreements are to the standard and 31 of those agreements are in force in both jurisdictions.

325. No issue in respect of its treaty network was identified in the 2013 Report and no issue was identified during the current period under review. The Cayman Islands provides information to the widest possible extent including information pursuant to group requests as was also confirmed by peers. Therefore, as at the time of the 2013 Report, element C.1 remains determined as In place and rated as Compliant.

326. The updated table of determinations and ratings is as follows:

Legal and regulatory framework determination	
The element is in place.	
EOIR Rating	
Compliant	

ToR C.1.1: Foreseeably relevant standard

327. Exchange of information mechanisms should allow for the exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. The 2013 Report found that the Cayman Islands' TIEAs follow the *2002 Model Agreement on Exchange of Information on Tax Matters* and are all applied in line with the standard on foreseeable relevance.

328. The seven TIEAs the Cayman Islands has signed since the 2013 Report (Belgium, Brazil, Malta, Poland, Seychelles, the Isle of Man and a renegotiated TIEA with the United States) all follow the model TIEA and all permit the exchange of information that is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction.

329. The Cayman Islands continues to interpret and apply its agreements consistent with these principles. During the current review period no issues

4. The TIEAs not yet in force are those signed with Brazil and Belgium. The Cayman Islands has taken all steps necessary to bring these agreements into force.

were raised by peers regarding the CITIA's application of the foreseeable relevance standard.

Group requests

330. The 2016 ToR specifically mentions the processing of group requests. In this regard, it is noted that none of the EOI agreements of the Cayman Islands contain language prohibiting group requests nor is any such impediment contained in its domestic law. In this regard, it is noted that none of the EOI agreements of the Cayman Islands contains language prohibiting group requests nor is there any such impediment contained in its domestic law

331. During the period under review the Cayman Islands received two group requests. No difficulties in answering these requests were encountered by the Cayman Islands nor were any issues reported in the peer input. The same procedures for processing group requests apply as in respect of other requests (see further section C.5.2).

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

332. The 2013 Report found that none of the Cayman Islands' EOI agreements restrict the jurisdictional scope of the exchange of information provisions to certain persons, for example those considered resident in one of the contracting parties. Similarly, the additional or renegotiated TIEAs that the Cayman Islands has since signed (Belgium, Brazil, Isle of Man, Malta, Poland, Seychelles and the United States) and the Multilateral Convention are also in line with the standard. Further, peers have not raised any issues in this regard in practice during the current review period.

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

333. The 2013 Report did not identify any issues with the Cayman Islands' network of agreements in terms of ensuring that all types of information could be exchanged and no issues arose in practice.

334. The additional agreements that the Cayman Islands has entered into or renegotiated since the 2013 Report (Belgium, Brazil, Isle of Man, Malta, Poland, Seychelles and the United States) and the Multilateral Convention are also in line with the standard in permitting the Cayman Islands to exchange all types of information. Further, peers have not raised any issues in practice during the current review period.

ToR C.1.4: Absence of domestic tax interest

335. The 2013 Report did not identify any issues with the Cayman Islands' network of agreements regarding a domestic tax interest and no issues arose in practice.

336. The additional agreements that the Cayman Islands has entered into since the 2013 Report (Belgium, Brazil, the Isle of Man, Malta, Poland, and the Seychelles) as well as the renegotiated TIEA with the United States and the Multilateral Convention are also in line with the standard and do not require a domestic tax interest in order to exchange information. Further, peers have not raised any issues in practice during the current review period.

ToR C.1.5: Absence of dual criminality principles

337. The 2013 Report did not identify any issues with the Cayman Islands' network of agreements in respect of dual criminality and no issues arose in practice.

338. The additional agreements that the Cayman Islands has entered into since the 2013 Report (Belgium, Brazil, Isle of Man, Malta, Poland, and the Seychelles) as well as the renegotiated TIEA with the United States and the Multilateral Convention are also in line with the standard as none of them contain dual criminality principles. Further, peers have not raised any issues in practice during the current review period.

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

339. The 2013 Report found that the Cayman Islands' network of agreements provided for exchange in both civil and criminal matters and no issues arose in practice.

340. The additional agreements that the Cayman Islands has entered into or renegotiated since the 2013 Report (Belgium, Brazil, Isle of Man, Malta, Poland, Seychelles and the United States) and the Multilateral Convention are also in line with the standard in permitting the Cayman Islands to exchange information relating to both civil and criminal matters. Further, peers have not raised any issues in practice during the current review period.

ToR C.1.7: Provide information in specific form requested

341. The 2013 Report noted that the Cayman Islands interprets its EOI mechanisms consistent with the OECD Model and so is prepared to provide information in the specific form requested to the extent allowable under the domestic laws of the Cayman Islands. The 2013 Report noted that one

exchange partner requested that, on a routine basis, information is to be produced in a specified form and in this case an affidavit must be supplied with the information exchanged. The Competent Authorities had agreed a standard form for making such an affidavit which is attached to the notice to produce the information.

342. The agreements that the Cayman Islands has entered into since the 2013 Report (Belgium, Brazil, Isle of Man, Malta, Poland, Seychelles) as well as the renegotiated TIEA with the United States and the Multilateral Convention are also in line with the standard in not requiring a domestic tax interest in order to exchange information. Further, peers have not raised any issues in practice during the current review period. Similarly, over the review period for the second round of reviews, only one jurisdiction has requested information in a specified form (i.e. an affidavit being supplied with the information) and the Cayman Islands has continued to supply information in this specific form requested over the review period. In addition, no EOI partner has raised any issue in this regard over the review period.

ToR C.1.8: Signed agreements should be in force

343. At the time of the 2013 Report, the Cayman Islands had signed 30 agreements of which 25 were in force. Since then the Cayman Islands has ratified all five agreements which were not in force at that time. In addition, the Cayman Islands has also signed a TIEA with 6 additional treaty partners, renegotiated its TIEA with the United States and signed a protocol to its TIEA with Guernsey. As of March 2017, of its 37 signed agreements, 31 of the bilateral agreements are in force as is the Multilateral Convention. It is noted that the Cayman Islands has ratified all of its agreements and is awaiting action by the treaty partners for five of the agreements to be brought into force.

Bilateral EOI Mechanisms

A	Total Number of DTCs/TIEAS	A = B+C	36
B	Number of DTCs/TIEAs signed (but not in force)	B = D+E	5 (all ratified by the Cayman Islands)
C	Number of DTCs/TIEAs signed and in force	C = F+G	31
D	Number of DTCs/TIEAs signed (but not in force) and to the Standard	D	5
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	31
G	Number of DTCs/TIEAs in force and not to the Standard	G	0

344. In addition to the Cayman Islands' bilateral mechanisms, the Multilateral Convention was extended to the Cayman Islands in 2013, and came into force in January 2014 which as of May 2017 extends its treaty network to 112 jurisdictions.

345. In the Cayman Islands, once an EOI agreement has been signed, an order scheduling the agreement to the TIA Law goes to the Cayman Islands legislative assembly. Once the order is passed, ratification occurs when the agreement is scheduled to the TIA Law (s3(5) TIA Law) when it then has full legal effect as part of the TIA Law. The order including the text and any resolutions is gazetted and a formal notification is sent to the partner jurisdiction. In practice this process is quite short and agreements are usually ratified expeditiously with the whole process of ratification taking between one to six months.

346. It is noted that for those five agreements which have not yet entered into force, the Cayman Islands has completed all of its domestic processes to ratify the agreement and ratification is outstanding in the partner jurisdiction.

ToR C.1.9: Be given effect through domestic law

347. The Cayman Islands has in place the legal and regulatory framework to give effect to its EOI mechanisms. No issues were raised in the 2013 Report in this regard, and there have been no changes in this respect since that time. No peers have raised any issues in this regard.

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

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

348. At the time of the 2013 Report, the Cayman Islands had signed 30 EOI agreements and was in the process of renegotiating and signing further agreements. Since that time, the Cayman Islands has signed agreements with a further six jurisdictions (Belgium, Brazil, Isle of Man, Malta, Poland and the Seychelles) and has also renegotiated its TIEA with the United States and signed a protocol to its TIEA with Guernsey.

349. Over the current period under review, no peers have raised any issues regarding the Cayman Islands entering into an EOI mechanism. Currently, the Cayman Islands has a network of 36 bilateral EOI agreements, of which 31 are in force. The Multilateral Convention was also extended to the Cayman Islands by the United Kingdom in September 2013 and came into force in January 2014. All of its 37 signed agreements are in line with the standard and the treaty network of the Cayman Islands now extends to 112 treaty partners. As the standard ultimately requires that jurisdictions establish an EOI relation up to the standard with all partners who are interested in entering into such relation, the Cayman Islands is recommended to maintain its negotiation programme so that its EOI network continues to cover all relevant partners.

350. As was the case at the time of the 2013 Report, element C.2 continues to be determined as In place and rated Compliant. The updated table of determinations and ratings is as follows:

Legal and regulatory framework determination	
The element is in place.	
EOIR Rating	
Compliant	

C.3. Confidentiality

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

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

352. At the time of the 2013 Report, it was found that provisions of both the Cayman Islands' international agreements and its domestic laws ensured that information provided through the exchange of information would only be used for the purposes permitted under the EOI mechanism and that its confidentiality would be preserved. Element C.3 was determined to be In Place and rated as Compliant with no recommendations being issued.

353. Since the time of the 2013 Report, there have been no changes to the confidentiality provisions under the Cayman Islands' international agreements and its domestic law as set out in the 2013 Report (paragraphs 281-283). Therefore, they both continue to be in line with the standard. All of the bilateral EOI agreements concluded by the Cayman Islands since the 2013 Report meet the standards for confidentiality, including the limitations on disclosure of information received and use of the information exchanged, which are reflected in Article 26(2) of the OECD Model Tax Convention and Article 8 of the OECD Model TIEA. Confidentiality of the information exchanged in line with the standard is also provided for in Article 22 of the Multilateral Convention.

354. In regards to ensuring confidentiality in practice, since the 2013 Report there has been no change to the physical confidentiality measures that are in place to secure the confidentiality of information or the handling and storage of EOI requests and the confidentiality processes when providing the information to its treaty partners (please see paragraphs 284-290 of the 2013 Report).

355. Further, the same confidentiality provisions and measures as set out in the 2013 Report in respect of personnel involved in EOI in the Cayman Islands also continue to apply (paragraph 291). Authorities from the Cayman Islands have reported that they also continue to adhere to the principles set out in “Keeping It Safe: The OECD Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes” and have implemented many of them in their EOI practice and processes.

356. In relation to the court case related to EOI as discussed under section B.1, the EOI request was disclosed to the Grand Court (by order of the Court) during the court proceeding. It is noted that prior to this, the CITIA twice refused to disclose the request to the applicant in the judicial review and the disclosure to the Court was first made to the judge alone in sealed form for his consideration. Upon the Court ordering disclosure for the purposes of the proceedings, the CITIA informed the requesting jurisdiction of the court order and no objection was raised. Further, the requesting jurisdiction cordially granted permission to all necessary disclosures in course of this litigation. The request remained sealed in the court file. The CITIA has reported that in no cases in the course of executing a request would an EOI request or any correspondence related to that request be disclosed and, in the case of a court proceeding the EOI request would not be disclosed without first alerting the requesting jurisdiction to the court-ordered disclosure. Finally, in the event that the requesting jurisdiction was to object to this disclosure, they would be informed of their right to withdraw the request.

357. Over the review period, no peers have expressed any issues regarding the confidentiality of information provided to the Cayman Islands in the process of exchange of information. As a result, element C.3 continues to be determined as In Place and rated Compliant.

358. The updated table of determinations and ratings is as follows:

Legal and regulatory framework determination
The element is in place.
EOIR Rating
Compliant

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

359. In regards to ensuring confidentiality in practice, there has been no change to the physical confidentiality measures that are in place to secure the confidentiality of information or for the handling and storage of EOI requests and the confidentiality processes when providing the information to the Cayman Islands' treaty partners (please see paragraphs 284-290 of the 2013 Report). The same confidentiality provisions and measures as set out in the 2013 Report in respect of personnel involved in EOI in the Cayman Islands also continue to apply (paragraph 291).

ToR C.3.2: Confidentiality of other information***Provision of requested information to EOI partners***

360. All information sent in response to an EOI request is sent via courier service or encrypted email attachments.

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.

361. The international standard allows requested parties not to supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise. In addition, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege.

362. At the time of the 2013 Report, for almost all of its agreements, the limits on information which must be exchanged under the Cayman Islands' EOI arrangements mirrored those provided for in the OECD Model TIEA. Information which is subject to legal privilege; whose exchange would disclose any trade, business, industrial, commercial or professional secret or trade process; or pursuant to s6 of the TIA Law, the disclosure of which would be contrary to public policy, is not required to be exchanged. These safeguards were found to be incorporated into Cayman Islands law by the incorporation of its EOI agreements into domestic law under s3(3) of the TIA Law.

363. The last round of reviews concluded that both the legal framework and practices of the Cayman Islands concerning the rights and safeguards of taxpayers and third parties are in line with the standard and element C.4 was determined to be in place and rated Compliant. No recommendations were issued in the 2013 Report.

364. There has been no change in this area since the last review. The table of determinations and ratings remains as follows:

Legal and regulatory framework determination
The element is in place.
EOIR Rating
Compliant

ToR C.4.1: Exceptions to provide information

365. In line with article 26(3) of the Model Tax Convention and as set out under article 7 of the Model TIEA, the Cayman Islands’ agreements provide that parties are not obliged to provide information that would disclose any trade, business, industrial, commercial or professional secret, or information the disclosure of which would be contrary to public policy.

366. At the time of the 2013 Report, it was noted that the definition of legal professional privilege under the TIEA with the United States may extend further than that permitted under the standard. In November 2013, the Cayman Islands signed a renegotiated TIEA with the United States which now contains rights and safeguards on the limits with which information must be provided, including the scope of legal professional privilege which is exactly that provided for in the OECD Model TIEA. Therefore, all of the agreements of the Cayman Islands now contain exceptions to providing requested information that are exactly those contained in the Model TIEA.

367. In practice, as discussed in section B.1.5, no case arose during the period under review where a person refused to provide the requested information because of professional privilege. The Cayman Islands has never declined to provide information based on an invocation of privilege or any other professional secret and no peer indicated any issue in this respect. Authorities from the Cayman Islands have reported that claims of legal professional privilege rarely arise in practice and have never arisen in the case of an EOI request.

368. Therefore, the rights and safeguards pertaining to taxpayers and third parties in the Cayman Islands continue to be in line with the standard and are compatible with the effective exchange of information.

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.

369. In order for the exchange of information to be effective, jurisdictions should request and provide information under the 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

370. For the period under review in the 2013 Report, the Cayman Islands processed 61 EOI requests with the vast majority being fully answered within 90 days. The 2013 Report noted that there were comprehensive EOI organisational processes and resources in place, including an EOI manual modelled on the OECD EOI manual and a dedicated EOI team, to permit the Cayman Islands to provide information in an effective manner. As a result, element C.5 was rated as Compliant.

371. During the period currently under review, the Cayman Islands received 161 requests. Of the 150 valid requests, it answered 72% of the requests within 90 days, 89.3% of the requests within 180 days and 97.3% of the requests within 1 year. In 2.6% of cases, the response time took longer than one year due to the complexity of the requests; during that time the Cayman Islands continued to keep its treaty partner updated. In those cases where responses took longer than 90 days, status updates were provided in 92.8% of the cases.

372. Since the time of the 2013 Report, the Cayman Islands continues to process requests in the same manner as set out in the 2013 Report and also continues to have a dedicated EOI unit with two fully dedicated EOI officials in place to process EOI requests. Peer input was particularly positive in respect of the Cayman Islands' EOI processes and the Cayman Islands is viewed as being very efficient in processing EOI requests. As a result, element C.5 continues to be rated Compliant.

373. The updated table of determinations and ratings is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendation
Practical implementation of the standard		
Rating: Compliant		

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

374. The international standard requires that jurisdictions respond to requests within 90 days of receipt or provide status updates on requests taking longer than 90 days. The Cayman Islands' EOI practice and issues addressed in other parts of the report having an impact on timeliness are discussed below.

(a) Timeliness of responses in practice

375. The Cayman Islands' response times to EOI requests over the period under review have been very good. Over the period under review (1 April 2013-31 March 2016), the Cayman Islands received a total of 161 requests for information. The Cayman Islands attributes this increase to the expansion of its treaty network as well as the general increase in the amount of EOI requests being made by countries. The number of requests which the Cayman Islands received over the period under review and the percentages of requests answered in 90 days, 180 days, one year and over one year are shown in the table on the next page.

376. During the period currently under review, it is noted that of the 150 valid requests received by the Cayman Islands, it answered 72% of requests within 90 days, 89.3% of requests within 180 days and 97.3% of requests within one year. In 2.6% of cases, the response time took longer than one year due to the complexity of the requests; during that time the Cayman Islands continued to keep its treaty partner updated. In those cases where responses took longer than 90 days, status updates were provided in 92.8% of cases. It is noted that in the small number of cases where status updates were not provided after 90 days (3 out of 42 cases), two of those cases related to the period 2013/2014 and one case related to the period 2014/2015. During that time, the CITIA has reported that the small number of cases where status updates were not provided coincide with a period of staff reorganisation of transition of posts within the CITIA. Nevertheless, the Cayman Islands is recommended to provide a status update in all cases where a response cannot be provided within 90 days.

Statistics on response time

	Q2/13-Q1/14		Q2/14-Q1/15		Q2/15-Q2/16		Total	
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	40/161	24.8	48/161	29.8	73/161	45.3	161	100.0
Full response: ≤ 90 days	21/36	58.3	31/42	73.8	56/72	77.8	108/150	72.0
≤ 180 days (cumulative)	33/36	91.6	36/42	85.7	65/72	90.3	134/150	89.3
≤ 1 year (cumulative)	35/36	97.2	39/42	92.8	72/72	100	146/150	97.3
> 1 year	1/36	2.7	3/42	7.0	0/72	0.0	4/150	2.6
Status update provided within 90 days (for responses sent after 90 days)	13/15	86.0	10/11	90.9	16/16	100.0	39/42	92.8
Declined for valid reasons ¹	4/40	10.0	6/48	12.5	1/73	1.4	11/161	6.8
Failure to obtain and provide information requested ²	1/36	2.7	0/42	0.0	3/72	4.2	4/150	2.7
Requests ³ withdrawn by the requesting jurisdiction	1/36	2.7	1/42	2.3	0/72	0.0	2/150	1.3
Requests still pending at date of review	0/36	0.0	0/42	0.0	1/72 ⁴	1.4	1/150	0.1

Notes: 1. The invalid requests were, for example, those which were made under a non-existent agreement, an agreement which was not signed or not in force, or which incorrectly cited the Cayman Islands as the nexus.

2. These figures reflect that in some cases the failure to provide information occurred in a particular context. For example, the requesting partner asked for 5 items of information with the ultimate goal of determining the Ultimate Beneficial Owner (“UBO”) of an entity. As the UBO was established by the production of 1 item, the partner was satisfied not to have the other 4 items of information and the file was closed by mutual consent. Similarly, a requesting partner may have re-evaluated the request after a partial response was received, and for strategic reasons, withdrew the request and made a new request on a different basis.
3. Supplemental requests have been withdrawn by various partners, but DITC does not count supplemental requests, as they are subsumed in the initial request. Also, DITC did not gather statistics concerning when a request is withdrawn and replaced with an updated request. This is part of the clarification process.
4. This was an ongoing complex request which was being executed in stages by agreement with the requesting partner. It has now been completed and the treaty partner confirmed that the file could be closed, which was done in February 2017.

377. Authorities from the EOI Unit have reported that once an EOI request has been received, the Cayman Islands is very deliberate about gathering the requested information and ensuring that the process moves quickly.

Issues covered under other essential elements

378. 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 this essential element C.5. Where this is the case, then these issues are analysed under the appropriate heading. In particular,

section B.1. *Access to Information* analyses the access to information generally. Section B.2 on *Rights and Safeguards* analyses issues arising in respect of notification rules or appeal rights. In addition, section C.3 *Confidentiality* deals with the storage and handling of requests and related information as well as an assessment of whether the disclosure of information to the holder of the information is in conformity with the standard. No issues were identified under these sections that have an impact on element C.5.

ToR C.5.2: Organisational processes and resources

379. The 2013 Report noted that generally, there were comprehensive organisational processes and EOI resources in place to permit the Cayman Islands to provide information in an effective manner. Since that time, the same organisational processes, resources and procedures continue to apply (for more detailed information on the EOI process, see paragraphs 312-318 of the 2013 Report and for more detailed information on the EOI resources, see paragraphs 319-322 of the 2013 Report). The Cayman Islands procedures for dealing with EOIR are set out in Module 6 of its CITIA Procedure Manual, the most recent edition being September 2016.

380. The 2016 ToR now provide for an evaluation of the provision of information pursuant to a group request. It is noted that in the Cayman Islands, the process for handling group requests is the same as for any other request. A summary of the EOI organisation, resources and process and any changes that have occurred since the time of the 2013 Report is set out below.

Incoming requests

381. Pursuant to section 4 of the TIA Law, the Minister of Financial Services is the Cayman Islands Tax Information Authority and he delegates all functions of the competent authority to the Director of the Department for International Tax Cooperation (DITC). The powers to obtain information for all EOI purposes are exercised by the CITIA through the office of the DITC, of which the EOIR Unit is a part. The EOIR Unit within the DITC consists of the Head of EOIR and an Administrative officer. The Director oversees all EOIR.

382. With regards to incoming requests, the EOIR Unit has reported that requests may arrive via registered mail, international courier, ordinary post or as an encrypted email attachment. Upon receipt of an EOI request by the competent authority, it is date stamped as received. This applies regardless of the manner in which the request is received, e.g. by mail, delivery or email. The Administrative officer of the registration system must be informed of the receipt of the request the same day, regardless of whether another staff member receives it.

383. Upon registration, a unique identifier code is allocated to the case and physical file labels are created for formal documents and correspondence files. Labelled folders are placed in the open case drawer in the secure filing cabinets within the DITC premises. Electronic files (e-files) are also created in the secure dedicated system drive. New files are placed in the filing system by the year in which the request is received and by the jurisdiction making the request. A shared calendar entry and reminder notification is made in the electronic calendar of the EOIR Team for 3 days ahead. A hard copy and an electronic copy of the TIA Checklist (EOIR) – Timeline is placed in the correspondence file and the e-file (with the initial entries completed).

384. The Administrative officer next proceeds to make an electronic file and also to place reminders in the calendars of the Director and the Head of EOIR in order to discuss the next steps in responding to the request. Spreadsheets of all request activity, steps taken and current status are maintained by the Administrative officer and the Head of EOIR. These are updated bi-weekly and are reviewed by the Head of EOIR and the Director on a regular basis. Given the size of the team and the volume of requests, this system has worked well to ensure the monitoring of EOIR activity, adherence to process and timeliness of responses.

385. In almost all cases, an acknowledgment of receipt is sent within five days to the requesting jurisdiction. In the Cayman Islands, one request is considered as one letter received from the requesting jurisdiction, despite the number of pieces of information requested or number of entities to which the request relates. Further, in cases where a request is received, and a supplemental request is received relating to that original request, while the supplemental request is separately noted, it is not counted as a new request.

386. If the Head of EOIR, upon the preliminary review of the request, or the Director upon the final review of the request, is not satisfied on all points, then the Head of EOIR communicates with the EOI treaty partner. If the matter can be addressed in brief, an exchange of email will be used and this is generally sent via email from the CITIA's generic email address. Otherwise a formal letter is dispatched, which includes an explanation of the difficulty and the clarification requested. In all cases the policy is to communicate fully and expeditiously with the treaty partner. If the treaty partner does not respond timely, reminders are sent until the matter is resolved. Over the current review period, the Cayman Islands was only required to request clarifications in a very small number of cases and these usually related to the omission of certain details or the need to assist the requesting jurisdiction in reformulating the request in order to ensure the most efficient processing of the request. The Cayman Islands attributes the decrease in the number of clarifications to it fostering very close working relationships with its treaty partners.

387. Each step of these procedures is logged in the online electronic spreadsheet, which provides notices of impending deadlines to the staff member processing the request. Once the Director has authorised the request to proceed, the EOIR Unit then drafts the notice and hand delivers it or delivers it by courier to the holder of the information who is allocated 21 days to provide the information. In cases where the holder is one that may not be familiar with the EOI process, the EOIR Unit will explain thoroughly both the process and what is required to comply with the notice. In most cases the information is provided within 21 days and where an extension has been requested (which has to be done via a letter to the EOIR Unit), this is usually due to the volume and complexity of the information being sought. The maximum extension allocated will be 14 days and is granted at the discretion of the Director.

388. Once information arrives at the office of the EOIR Unit (via encrypted CD ROM or mainly in hard copy via local courier service) (most of time within the 21 days) the Head of EOIR reviews the information and supporting documents to ensure that the information received responds to the question asked. Checklist B in the Procedure Manual is used for the internal review of the extent and completeness of the information provided. Where the information is voluminous or complex, the Administrative officer may assist and do a double check of information produced against an inventory, list of documents or the contents of electronic media such as CDs or flash drives. In complex cases, the Director and the Head of EOIR may also review the information received. The response to the request is provided by letter to the EOI partner. The standard format used provides the request and the responses noted against each element of the request.

389. In cases where information arrives in stages from the information holder, it is the policy of the EOIR Unit to send partial information while the EOI Unit waits for other pieces of information. The EOIR Unit sends the information complete with a cover letter signed by the Competent Authority. Where partial information is sent, the EOI Unit often sends a check-list matched against what has been requested and the status of each of the items.

390. In regards to processing requests over the review period, some practical difficulties have arisen where, for example, directors were dismissed from an entity and new directors did not know where to locate information or supporting documents. Similarly, in a few cases where directors (and the information) were outside the jurisdiction multiple communications were required to conclude the request. This had also led to practical difficulties with enforcement (for more information see section A.2 of this report).

391. Other practical difficulties which have been encountered but more easily overcome, have included cases where third party recipients of notices to produce are unfamiliar with the process and require more explanation, or time,

to comply, or where the request is complex and administrative arrangements to produce large volumes of information have to be put in place.

392. In order to monitor the timelines of all of the requests, there is an internal alert system. In order to maintain all correspondence, there is an e-file or folder on the hard drive of the EOIR Unit as well as a hard copy file (per jurisdiction). There is also a bi-weekly report in place whereby the deadlines for all EOI requests are noted. These deadlines also act to prompt officers where there may have been a delay in receiving the request. The EOIR Unit also maintains an electronic spreadsheet, and one of the Key Performance Indicators (KPI) of the EOIR Unit is compliance with response timelines.

393. Where a final response to a request cannot be provided within 90 days, the EOIR Unit drafts a status update that describes the efforts undertaken and that remain to be undertaken and an estimate of when the final response will be provided. This is sent via email and no confidential taxpayer information is ever quoted. While no practical issues have arisen in processing requests, some requests may require more time than others to process due to the complexity of the request and the volume of the information requested. Further, it is standard practice in the Cayman Islands to provide status updates when there is a significant development and, in routine cases, within 45 days of the last communication. Status updates are generally bespoke communications with treaty partners that seek to address the current position in the case rather than provide a generic automated update. Ensuring status updates are provided is the responsibility of the Head of EOIR.

394. All communications, including final responses, to the requesting Competent Authority are reviewed and validated by the Director and sent out under his signature. In almost all cases, the requested information along with a cover letter signed by the Director as competent authority is sent via international courier to the requesting jurisdiction but in some cases the Cayman Islands may send the information via encrypted email attachments where requested.

395. As set out in the EOI manual, the Head of EOIR may close a request file when the information requested has been dispatched to the requesting party and the requesting party does not object to the request being closed. Usually the EOIR team will dispatch the information and post-date the file for 60 days. Then the EOIR team will send an email to the requesting party stating that the request file will be closed in 30 days unless the requesting party indicates that the request should remain open. (See example at Tab 26 (page 2) of the Resource Manual.)

396. If an objection is received the request file will remain open and communication will continue. The Head of EOIR may close a request file when the requesting party gives express permission to close the file. In some cases this will occur before some or all of the requested information has been dispatched.

For example, when the key information sought by the requesting party is the identity of the ultimate beneficial owner of a share, and that information is supplied, the other information listed in the request (such as the particulars of the directors and officers) may no longer be of interest to the requesting party. In such cases, permission to close the file is requested by email.

397. Once the information has been sent, feedback on EOIR is in the context of the Cayman Islands being a provider of information only and not of making requests and receiving information. As set out above, in 2015, the Cayman Islands adopted a formal process to close files. In the main, after the Director and the Head of EOIR come to the conclusion that the request is satisfied, an email is sent to the EOI partner, inviting comments and stating that in the event no communication is received within 30 days, the request file will be closed. This resulted in feedback in approximately 40% of the cases (from 8 partners). Generally, feedback is received either in email or letter form or in the course of bilateral meetings, as was the case in 2016 with one significant treaty partner. The CITIA has reported, and peer input confirms, that the Cayman Islands has a good rate of positive feedback on its own performance as an EOIR partner.

Group requests

398. The Cayman Islands received two group requests over the review period. The Cayman Islands did not encounter any difficulties in answering these requests nor has any issue in this regard been raised by the peers. The Cayman Islands did report that in one case, due to the significant volume of information being produced, a systematic approach to delivering tranches of information has been agreed between the CITIA and the producing institution and between the CITIA and its foreign counterpart competent authority.

399. In regards to the format of the group requests, modalities of the requests were arranged with the requesting jurisdiction beforehand and collaborative discussions took place between the CITIA and the competent authority in the requesting jurisdiction. Discussions with the domestic institutions providing the information also took place (with permission of the requesting jurisdiction). These discussions greatly facilitated the efficient production and provision of the information to the treaty partner.

Resources and training

400. In the Cayman Islands, the legal title of the competent authority is the Tax Information Authority (CITIA) which comes within the remit of the Minister of Financial Services. The Director of the Department for International Tax Cooperation (DITC) has full delegated authority from the Minister to perform all competent authority functions of the CITIA. The EOIR

Unit is part of the DITC and performs all CITIA functions for EOIR purposes under the authority of the Director. There are presently six full time staff in the department and two further persons are to be added in the course of the current budget period. The principal persons involved in EOIR are the Director, the Head of EOIR and the Administrative officer. Other DITC staff may assist if the workload demands it. On a day-to-day basis the Head of EOIR is fully devoted to EOIR, assisted by the Administrative officer. The Head of EOIR and the Director liaise on an almost daily basis on current EOIR matters.

401. In terms of qualifications, the Director and the Head of EOIR are attorneys-at-law. The Director has held the current post since inception of the CITIA in 2005. The Head of EOIR (who also serves as deputy in the absence of the Director) has been in post since 2014. The previous Deputy Director was also an attorney-at-law and served for 4 years. Although not working directly on EOIR matters, the Head of AEOI has been with the Department since 2006 and is experienced in EOIR. As part of a new organisational structure, posts of International Cooperation Officer (including Senior ICO) have been created. These posts are designed to build a core group of staff who have experience in EOI and the job descriptions reflect that EOIR and AEOI should be cross trained. In the event that one of the EOIR officers were unavailable, there is a back-up system in place whereby the officers dedicated to AEOI can also process EOIR requests.

402. The Director is a trained assessor of the Global Forum Peer Review Group and along with the Head of EOIR, Head of AEOI, and Senior Analyst may attend Global Forum EOIR related meetings, training and webinars. Most of the training, however, is in-house and on the job. New staff are trained by existing experienced staff and all staff engage in the in-house training programme which includes regular team meetings and topical presentations by the Director on average 4 times a year on current developments and matters of interest.

403. EOIR training, and cross training for other EOI functions, occurs on a formal and informal basis. For example, in 2014, the EOIR training programme “Training Checklist for Certificate of Compliance” was given to the new Head of EOIR; and, in 2015, the Senior Analyst was given training in EOIR by the Head of EOIR to provide a better understanding of the issues and to place the Senior Analyst in the position of being able to assist with EOIR if the need arose. As a small team, regular briefings and interactions take place on all aspects of the EOIR process. New employees also participate in a training session on “Confidentiality of Tax Information”, which is conducted by the Head of EOIR and based on Module 7 of the Procedure Manual.

404. Therefore, as at the time of the 2013 Report, the Cayman Islands continues to have adequate staff and resource levels in place to ensure effective EOIR and there has been no limitation on the ability to respond to requests.

Outgoing requests

405. The 2016 ToR includes an additional requirement to ensure the quality of requests made by assessed jurisdictions. The EOI manual provides rules for handling outgoing requests. However, as the Cayman Islands does not have a domestic direct tax system, it has no requirement to make requests for information to partner jurisdictions.

Other EOI activities

406. The Cayman Islands has engaged in AEOI since 2005 for the purposes of the European Union Savings Directive and, on average, 24 EU Member States have received information each year since inception. In 2013, the Cayman Islands entered into a Model 1B Intergovernmental Agreement with the United States for the purposes of implementing FATCA and a similar agreement was entered into with the United Kingdom to improve international tax compliance. Both of these agreements are in force and have been implemented domestically. The first reporting to the United States under FATCA took place in 2015 and the first reporting of automatic information exchange to the United Kingdom via this newly implemented agreement took place in 2016.

407. Further, the Cayman Islands is one of the 100 committed jurisdictions under the Common Reporting Standard (CRS). The Cayman Islands has taken the wider approach to the CRS and is an early adopter with first exchanges taking place in 2017. Due to not having a domestic tax system in respect of which it is necessary to receive information, the Cayman Islands is a non-reciprocal jurisdiction. A multilateral approach to implementing CRS has been adopted except for those jurisdictions which have chosen a bilateral route or where the Multilateral Convention does not operate and in these cases, the Cayman Islands has entered, or offered, bilateral agreements. All AEOI mechanisms are implemented by domestic regulations and are governed by their respective Competent Authority agreements.

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

408. 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.

Annex 1: Jurisdiction’s response to the review report⁵

This annex is left blank because the Cayman Islands has chosen not to provide any material to include in it.

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

Annex 2: List of Jurisdiction's EOI mechanisms

1. Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Date signed	Date entered into force
1	Argentina	TIEA	13.10.2011	31.08.2012
2	Aruba	TIEA	20.04.2010	01.12.2011
3	Australia	TIEA	30.03.2010	14.02.2011
4	Belgium	TIEA	24.04.2014	Not yet in force ¹
5	Brazil	TIEA	19.03. 2013	Not yet in force ²
6	Canada	TIEA	24.06.2010	01.06.2011
7	China	TIEA	26.09.2011	15.11.2012
8	Curaçao ³	TIEA	29.10.2009	Not yet in force
9	Czech Republic	TIEA	26.10.2012	20.09.2013
10	Denmark	TIEA	01.04.2009	06.02.2010
11	Faroe Islands	TIEA	01.04.2009	08.09.10
12	Finland	TIEA	01.04.2009	31.03.2010
13	France	TIEA	05.10.2009	13.10.2010
14	Germany	TIEA	27.05.2010	20.08.2011
15	Greenland	TIEA	01.04.2009	24.03.2012
16	Guernsey	TIEA	29.07.2011	05.04.2012
17	Iceland	TIEA	01.04.2009	30.05.2010
18	India	TIEA	21.03.2011	08.11.2011
19	Ireland	TIEA	23.06.2009	09.06.2010
20	Isle of Man	TIEA and Protocol	22.09.2015	13.08.2016
21	Italy	TIEA	03.12.2012	13.08.2015
22	Japan	TIEA	07.02.2011	13.11.2011

	EOI partner	Type of agreement	Date signed	Date entered into force
23	Malta	TIEA	25.11.2013	01.04.2014
24	Mexico	TIEA	28.08.2010	09.03.2012
25	Netherlands	TIEA	08.07.2009	29.12.2009
26	New Zealand	TIEA	13.08.2009	30.09.2011
27	Norway	TIEA	01.04.2009	04.03.2010
28	Poland	TIEA	29.11.2013	11.12.2014
29	Portugal	TIEA	13.05.2010	18.05.2011
30	Qatar	TIEA	26.10.2012	Not yet in force ⁴
31	Seychelles	TIEA	12.02.2014	22.09.2016
32	Sint Maarten ⁵	TIEA	29.10.2009	Not yet in force
33	South Africa	TIEA	10.05.2011	23.02.2012
34	Sweden	TIEA	01.04.2009	27.12.2009
35	United Kingdom	DTC	15.06.2009	20.12.2010
36	United States (renegotiated)	TIEA	29.11.2013	14.04.2014

- Notes:*
1. It is noted that the TIEA with Belgium was ratified in the Cayman Islands on 22 June 2016. The Cayman Islands has taken all steps necessary to bring this agreement into force.
 2. It is noted that the TIEA with Brazil was ratified in the Cayman Islands on 14 March 2014. The Cayman Islands has taken all steps necessary to bring this agreement into force.
 3. Pursuant to the TIEA made between the Cayman Islands and the former Netherlands Antilles. Following the dissolution of the Netherlands Antilles on 10 October 2010, two separate jurisdictions were formed (Curacao and Sint Maarten) with the remaining three islands (Bonaire, Sint Eustatius and Saba) joining the Netherlands as special municipalities. The TIEA concluded with the Kingdom of the Netherlands, on behalf of the Netherlands Antilles, will continue to apply to Curacao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, Sint Eustatius and Saba) and will be administered by Curacao and Sint Maarten for their respective territories and by the Netherlands for Bonaire, Sint Eustatius and Saba.
 4. It is noted that the TIEA with Qatar was ratified in the Cayman Islands on 15 March 2013. The Cayman Islands has taken all steps necessary to bring this agreement into force.
 5. See note 3 above.

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).⁶ 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.

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.

The Convention was extended to the Cayman Islands by declaration of territorial extension contained in a letter from the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, dated 9 September 2013, registered at the Secretariat General on 25 September 2013. It is included as schedule 31 to the TIA Law and came into force on 1 January 2014. Currently, the amended Convention is in force in respect of the following jurisdictions.⁷

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 Netherlands); Curaçao used to be a constituent of the “Netherlands Antilles”, to which the original Convention applies as from 01-02-1997), Cyprus,⁸ Czech Republic, Denmark, Estonia,

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6. 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.
 7. 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.
 8. 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

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, Kingdom of 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.

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).

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.

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

Commercial laws

- Companies Law
- Company Management Law
- Foundation Companies Law
- Limited Liability Companies Law
- Monetary Authority Law
- Partnerships Law
- Trade and Business Licensing Law

AML Regime

- AML Regulations
- Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Finance in the Cayman Islands (AML/CFT Guidance Notes)

Specific to EOI

- Tax Information Authority Law
- Cayman Islands Tax Information Authority EOI Manual

Annex 4: Authorities interviewed during on-site visit

Officials from the Cayman Islands Tax Information Authority (CITIA)

Officials from the Cayman Islands Monetary Authority (CIMA)

Officials from the Cayman Islands Ministry of Financial Services

Attorney General of the Cayman Islands

Officials from the Cayman Islands General Registry

Representatives from the Cayman Islands Compliance Association (CICA)

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.

Element A.1.3: Partnerships

The Cayman Islands is recommended to ensure that beneficial ownership in respect of all partnerships, and in particular in respect of general partnerships, is being maintained.

Element A.1.4: Trusts

The Cayman Islands should take all reasonable measures to ensure that beneficial ownership information in respect of all trusts administered in the Cayman Islands or of which a trustee is resident in the Cayman Islands is available.

Element A.1.5: Foundations

As the Foundations Law was only enacted in March 2017, the Cayman Islands is recommended to monitor the implementation of the Foundations Law to ensure that legal and beneficial ownership for foundations will be available in all cases.

Element A.2.1: Accounting information for foundations

As the Foundation Companies Law was only enacted in March 2017, the Cayman Islands is recommended to monitor the implementation of the Foundations Companies Law to ensure that accounting information for foundations will be available in all cases.

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

The Cayman Islands is recommended to maintain its negotiation programme so that its EOI network continues to cover all relevant partners.

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

The Cayman Islands is recommended to provide a status update in all cases where a response cannot be provided within 90 days.

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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 CAYMAN ISLANDS 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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This report contains the 2017 Peer Review Report on the Exchange of Information on Request of Cayman Islands.

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