GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

MAURITIUS

2017 (Second Round)

OECD

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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

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About the Global Forum

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

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

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

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

Abbrevations and acronyms

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BOM	Bank of Mauritius
CBRD	Corporate and Business Registration Department
CDD	Customer Due Diligence
CFT	Counter Terrorist Financing
DTC	Double Tax Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
FATF	Financial Action Task Force
FIAMLA	Financial Intelligence and Anti-Money Laundering Act
FIU	Financial Intelligence Unit
FSA	Financial Services Act
FSC	Financial Services Commission
GBC1	Global Business Licence Company Category 1
GBC2	Global Business Licence Company Category 2
ITA	Income Tax Act
KYC	Know Your Customer
MOU	Memorandum of Understanding
MRA	Mauritius Revenue Authority
OECD	Organisation for Economic Co-operation and Development

SME	Small and medium sized enterprise
TIEA	Tax Information Exchange Agreement
TOR	Terms of Reference
VAT	Value Added Tax

Executive summary

1. In 2014, the Global Forum evaluated the Republic of Mauritius (Mauritius) for its implementation of the EOIR standard, against the 2010 ToR, both in terms of legal implementation and in practice, and concluded that Mauritius was Largely Compliant with the international standard overall. This report summarises the legal and regulatory framework for transparency and exchange of information in Mauritius as well as the practical implementation of that framework against the 2016 ToR. The assessment of effectiveness in practice is conducted in relation to a three year period (1 April 2013-31 March 2016). This report concludes that Mauritius is rated Compliant overall.

2. Mauritius has been committed to the international EOIR standard since 2000. Mauritius has exchange of information mechanisms signed with 127 jurisdictions. Of its 64 agreements (62 bilateral agreements and 2 multi-lateral agreements), 53 are in force. Of the 53 agreements in force, 52 are to the standard. Mauritius continues to develop its EOI network.

3. The following table shows the comparison with the results from Mauritius' most recent peer review report:

Comparison of ratings for First Round Review and Second Round Review

Element	First Round Review (2014 Report)	Second Round Review
A.1 Availability of ownership and identity information	LC	LC
A.2 Availability of accounting information	LC	C
A.3 Availability of banking information	C	C
B.1 Access to information	C	C
B.2 Rights and Safeguards	C	C
C.1 EOIR Mechanisms	C	C
C.2 Network of EOIR Mechanisms	C	C
C.3 Confidentiality	C	C
C.4 Rights and Safeguards	C	C
C.5 Quality and timeliness of responses	LC	C
OVERALL RATING	**LC**	**C**

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

Developments since previous review

4. During its last review in 2014, Mauritius rectified remaining deficiencies in its legal and regulatory framework relating to the availability of legal ownership information. In December 2012, Mauritius introduced legal provisions requiring the maintenance of ownership information for nominee shareholders and relating to non-resident foreign trusts administered by a trustee resident in Mauritius. To date, no companies have registered nominee shareholders nor have there been any foreign trusts administered by a Mauritian trustee.

5. In July 2012, during the previous review period, Mauritius introduced the concept of foundations into its law. Since then, the financial regulator and the Registrar of Companies, through their programme of joint supervision, have inspected 60% of foundations in Mauritius.

6. In December 2016, Mauritius passed the Limited Liability Partnerships Act providing for the creation of limited liability partnerships. The obligations of limited liability partnerships (LLPs) are similar to those of limited partnerships (in existence in Mauritius since 2011) and LLPs will be subject to the same programme of supervision.

Key recommendations

7. With respect to element A.1, although information on the legal owners of all relevant entities and arrangements is available in Mauritius through a number of sources (including the Registrar of Companies, the financial regulator, and licensed service providers), beneficial ownership information is not available for domestic companies and partnerships that do not come under the supervision of the financial regulator or that do not have a Mauritian bank account. Further, ownership information is not always available for foreign companies with a sufficient nexus to Mauritius. As such, Mauritius is recommended to ensure the availability of information on the beneficial owners of all domestic companies and partnerships in all cases, as well as legal ownership information on foreign companies having a sufficient nexus to Mauritius.

8. With respect to ownership and accounting records of companies that cease to exist, Mauritian law does not provide statutory retention periods of at least five years in every instance. The records of companies that are liquidated (with the exception of those that are voluntarily wound up) will be held by a liquidator for a period of six years. However, the records of companies that are voluntarily wound up are required to be maintained for only three years. Further, a court may order the destruction of records prior to the expiration of the statutory retention period, although this has never happened in

practice. Additionally, no individual is explicitly responsible for the records of companies and partnerships that are removed from the register. Although companies and partnerships with a Global Business License will have a service provider who will maintain all such records, a recommendation has been issued to ensure that ownership and accounting information for all companies and partnerships that cease to exist is available.

Overall rating

9. Mauritius has been assigned a rating for each of the ten essential elements as well as an overall rating. The ratings for the essential elements are based on the analysis in the text of the report, taking into account any recommendations made in respect of Mauritius' legal and regulatory framework and the effectiveness of its exchange of information in practice. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Mauritius is Compliant.

10. A follow up report on the steps undertaken by Mauritius to address the recommendations made in this report should be provided to the PRG no later than 30 June 2018 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
Legal and regulatory framework determination: The element is in place, but certain aspects of the legal implementation of the element need improvement	Beneficial ownership information on partnerships and domestic companies may not be available in situations where these entities do not hold a Global Business License or have a bank account with a Mauritius bank. However, in practice, Mauritius can demonstrate that a large number of such entities have a domestic bank account, which would allow for information on their beneficial owners to be identified pursuant to AML rules.	Mauritius is recommended to ensure the availability of information on the beneficial owners of all domestic companies and all partnerships.
	Beneficial ownership information for domestic companies that do not hold a Global Business License is not required to be held by any person following a company's removal from the register. Also, records for companies that are voluntarily wound up are required to be retained by the liquidator for only three years.	Mauritius is recommended to ensure that that beneficial ownership information is available for all companies that cease to exist.

Determination	Factors underlying recommendations	Recommendations
Legal and regulatory framework determination: The element is in place, but certain aspects of the legal implementation of the element need improvement *(continued)*	Foreign companies establishing a place of business in Mauritius are required to provide legal ownership information only to the extent required by the laws of the incorporating jurisdiction.	Mauritius should ensure that ownership information on foreign companies having a sufficient nexus with Mauritius or carrying on business or deriving income in Mauritius is available in all cases.
EOIR rating: Largely Compliant		
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
Legal and regulatory framework determination: The element is in place.	Accounting records for companies that are voluntarily wound up are required to be retained by the liquidator for only three years. Further, no clear obligation is placed on any individual to retain accounting records after a company or partnership is removed from the register. However, records of companies and partnerships that have Global Business Licenses will be kept by the registered agent.	Mauritius should ensure that accounting records for companies and partnerships that cease to exist are kept for a minimum period of five years.
EOIR rating: Compliant		
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
Legal and regulatory framework determination: The element is in place.		
EOIR rating:		

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

Preface

11. This report is the fourth peer review of Mauritius conducted by the Global Forum. Mauritius underwent a combined Phase 1/Phase 2 review in 2010 (Phase 1 on the legal and regulatory framework and Phase 2 on the implementation of EOIR in practice). That combined report was adopted by the Global Forum in January 2011 (referred to hereinafter as the January 2011 report). Following its combined review, Mauritius underwent a supplementary review, the report for which was adopted by the Global Forum in September 2011. The findings of the first supplementary review were integrated with those of the January 2011 report and published together (referred to hereinafter as the September 2011 report). Mauritius then underwent a second supplementary report in 2013 in light of additional changes to its legal and regulatory framework. The second supplementary report was adopted by the Global Forum in April 2014 (referred to hereinafter as the April 2014 report).

12. The combined review (January 2011 report) and both supplementary reviews were conducted according to the terms of reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews. The January 2011 report was initially published without ratings 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. Mauritius' January 2011 Report was part of this group of reports. Accordingly, in 2013, the integrated September 2011 report was re-published to reflect the ratings for each element and the overall rating.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Combined report	Ms. Eng Choon Meng, Deputy Director, Department of International Taxation, (Malaysia); Mr. Raul Pertierra and Mr. Richard Thomas, Internal Revenue Service (United States); Ms. Gwenaëlle Le Coustumer (Global Forum Secretariat).	1 January 2007 to 31 December 2009	Not specified	January 2011
First supplementary report	Ms. Eng Choon Meng (Malaysia); Mr. Raul Pertierra and Mr. Richard Thomas (United States); Ms. Gwenaëlle Le Coustumer and Mr. Beat Gisler (Global Forum Secretariat).	NA	Not specified	September 2011
Second supplementary report	Ms. Eng Choon Meng (Malaysia); Mr. Richard Thomas (United States); Ms. Gwenaëlle Le Coustumer and Ms. Mélanie Robert (Global Forum Secretariat).	1 January 2010 to 31 December 2012	August 2010	April 2014
EOIR report	Ms. Nancy Tremblay, Manager, Exchange of Information Services Section, Canada Revenue Authority (Canada); Mr. Morne van Niekerk (South Africa); Ms. Kathleen Kao (Global Forum Secretariat)	1 April 2013 to 31 March 2016	22 May 2017	[2017]

13. The EOIR evaluation is based on the new terms of reference and methodology adopted by the Global Forum in 2015 (the 2016 ToR and 2016 Methodology). The assessment of Mauritius' legal and regulatory framework for transparency and exchange of information as well as the practical implementation of that framework under the 2016 ToR was based on Mauritius' EOI mechanisms in force at the time of the review, the laws and regulations in force or effective as at 24 May 2017, Mauritius' EOIR practice in respect of requests made and received during the three year period from 1 April 2013-31 March 2016, Mauritius' responses to the EOIR questionnaire, information supplied by partner jurisdictions, independent research, and information provided to the assessment team prior, during and after the on-site visit.

14. The evaluation was conducted by an assessment team consisting of two expert assessors and a representative of the Global Forum Secretariat: Ms. Nancy Tremblay from the Competent Authority Services Division in the International and Large Business Directorate of the Canada Revenue Agency, Mr. Morne van Niekerk from the International Development and Treaties department of the South Africa Revenue Service, and Ms. Kathleen Kao from the Global Forum Secretariat. The EOIR review included an on-site visit, which took place from 18-20 October 2016 in Port Louis,

Mauritius. The assessment team discussed a variety of aspects of Mauritius' exchange of information system following a review and analysis of Mauritius' questionnaire, as well as peer inputs submitted by Mauritius' primary exchange-of-information partners.

15. This report was tabled for approval at the PRG meeting on 17-20 July 2017 and was adopted by the Global Forum on 18 August 2017.

16. For the sake of brevity, on topics where there has not been any material change in the situation in Mauritius or in the requirements of the Global Forum ToR, the report will not repeat the analysis conducted in the previous evaluations, but will summarise the conclusions of earlier reports and include a cross-reference to the relevant paragraphs.

Brief on 2016 ToR and methodology

17. 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 Mauritius' legal and regulatory framework and the implementation and effectiveness of this framework against these elements and each of the enumerated aspects.

18. In respect of each essential element (except element C.5 *Exchanging Information*, which uniquely involves only aspects of practice) a determination is made regarding Mauritius' legal and regulatory framework that either: (i) the element is in place, (ii) the element is in place, but certain aspects of the legal implementation of the element need improvement, or (iii) the element is not in place. In addition, to assess Mauritius' EOIR effectiveness in practice a rating is assigned to each element of either: (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant. These determinations and ratings are accompanied by recommendations for improvement where appropriate. An overall rating is also assigned to reflect Mauritius' overall level of compliance with the EOIR standard.

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

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

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

20. Each of these new requirements are analysed in detail in this report.

Brief on consideration of FATF evaluations and ratings

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

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

23. While on a case-by-case basis, an EOIR assessment may refer to 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 for tax purposes; for example, because mechanisms other than based on AML/CFT exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

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

Overview of Mauritius

25. The Republic of Mauritius (Mauritius) is an archipelago located in the Indian Ocean, to the east of Madagascar. The country includes the island of Mauritius, Rodrigues and several smaller outer islands. The capital and largest city is Port Louis. The population of Mauritius is 1.26 million (2015 data).[1] Mauritius is a country of great diversity; its people are multi-ethnic, multi-religious, multi-cultural and multi-lingual. English is the official language, but French and Creole are widely spoken. The Mauritian currency is the Mauritian Rupee (MUR), with a floating exchange rate of 1 euro for 38 rupees on 21 November 2016.[2]

26. Mauritius is a small, but open and diversified economy, fully integrated into the global marketplace. In 2015, Mauritius had a GDP of USD 11.5 billion and in 2013, its per capita GDP was USD 18 200. Beginning in the 1970s, the Mauritian Government began a gradual diversification of the economy from a monoculture economy based on sugarcane production to export-oriented manufacturing, then tourism in the early 1980s, and financial services in the 1990s. The Government of Mauritius actively promotes Mauritius as a gateway for investment into Africa. In 2015, the services sector represented 74.4% in GDP, industry represented 22.7% of GDP and agriculture represented 2.9% of GDP. Growth in the last few years has been steady, at 3.6% of GDP in 2014 and 3.5% of GDP in 2015.

Legal system

27. The Republic of Mauritius is a parliamentary democracy modelled after the British system. The Constitution is the highest law of the land. Any law that is inconsistent with the Constitution is deemed void. The Constitution enshrines the principle of separation of powers among the three branches of the government: the legislative, the executive and the judiciary.

1. World Bank Development Indicators at http://databank.worldbank.org/data/reports.aspx?source=2&country=MUS.
2. www.xe.com.

The President is the Head of the State, while the Prime Minister has full executive power and is the Head of Government. The National Assembly is made up of 70 members, out of which 62 are elected every five years during parliamentary elections. The remaining 8 are allocated to the "best losing" candidates from certain minority ethnic groups to ensure their representation. The Chief Justice is the head of the Judiciary. The Supreme Court of Mauritius is the Superior Court of the Island. Subordinate Courts consist of the Intermediate Court, the Industrial Court and the District Court and other lesser courts. Mauritius has chosen to maintain the Judicial Committee of the Privy Council in England as its highest Court of Appeal.

28. As a legacy of two successive colonial administrations (the French from 1715-1810 and the British from 1810-1968), the Mauritian legal system is a hybrid one drawing from the French Napoleonic Code as well as British Common Law. The basic substantive content of Mauritian law originates from French civil law. The Civil Code, Penal Code and Code of Commerce all derive from French codes. The influence of common law is most evident in the court system. Although provisions of the *Code de Procedure Civil* are still in force, Mauritian court structure and laws of procedure and evidence derive from English common law and Mauritian courts apply the principle of *stare decisis*, or the doctrine of precedent.

Financial services sector

29. The financial sector is a major pillar of Mauritius' economy. It consists of banks, non-bank deposit-taking institutions, cash dealers, insurance companies, Global Business Companies (GBCs) and pension funds. Companies in the global business sector fall into one of two categories: Category 1 GBCs (GBC1s) and Category 2 GBCs (GBC2s). As at 31 March 2016, there were 32 insurance companies, 67 pension funds, 11 073 Category 1 GBCs, 10 867 Category 2 GBCs, and 179 management companies responsible for the management of GBCs. Mauritius has seen a decline in the number of GBCs since the last review in 2014 (from 11 574 GBC1s and 14 090 GBC2s). The percentage contribution of the financial sector to GDP in 2015 was 10.4%.

30. The banking sector in Mauritius comprises full-service retail banks as well as institutions providing private banking (wealth management) services and investment banking. As at 31 March 2016, there were 22 banks in operation in Mauritius: 9 local banks, 1 joint venture, 8 subsidiaries of foreign-owned banks and 4 branches of international banks. Eight non-bank deposit taking institutions, five foreign exchange dealers and eight money changers have also been licensed to operate in the banking sector. Mauritius categorises its banking business into onshore (Segment A) and offshore

(Segment B). Of the 22 operational banks, 16 are simultaneously involved in onshore and offshore banking business (although 3 deal predominantly in offshore activities). The remaining 6 banks are engaged exclusively in offshore business. As of 31 March 2016, total assets of the banking sector stood at MUR 1.18 trillion (approximately 3.3 EUR billion), of which 41.4% are onshore and 58.6% are offshore.

31. The Financial Services Commission (FSC) is the regulator for the non-banking financial services sector and the global business sector. Established in 2001 by the Financial Services Act 2007, the FSC is responsible for the licensing, monitoring and regulation of all activities covered by the Securities Act 2005, the Insurance Act 2005, the Private Pension Schemes Act 2012, and the Captive Insurance Act 2015. The FSC also licenses and supervises GBCs.

32. The Bank of Mauritius Act 2004 establishes the Bank of Mauritius (BOM) as the Central Bank of Mauritius and the supervisory authority for banks and other financial institutions, such as non-bank deposit taking institutions and cash dealers. All financial institutions, including subsidiaries and branches of foreign banks, licensed and regulated by the Bank of Mauritius are required to comply with the Banking Act 2004 and guidelines issued by the Bank of Mauritius.

Tax system

33. The Income Tax Act (ITA) governs the taxation of income in Mauritius. The Mauritian tax system is residence-based, with a single and uniform tax rate of 15% for both individuals and corporations. Individuals resident in Mauritius are taxed on their worldwide income; foreign-source income is taxable on a remittance basis. Non-residents are taxed only on Mauritian-sourced income. Companies resident in Mauritius are taxed on their worldwide income whether or not remitted. A company is considered resident if it is incorporated in Mauritius or has its central management and control in Mauritius (s. 73 ITA). Dividends paid by a Mauritian-resident company are exempt from income tax. Foreign dividends are taxable although a credit may be claimed for the underlying tax and withholding tax.

34. In Mauritius, a number of entities and arrangements are subject to income tax, including domestic and foreign-incorporated companies, trusts, trustees of unit trusts, non-resident *sociétés* (partnerships), limited partnerships and foundations. Resident *sociétés* are not liable to tax as the partners are taxed individually on their share, whether or not distributed. GBC2s are tax exempt. GBC1s are taxed on their chargeable income (including dividends, interests and other income but not capital gains less expenses) at the corporate rate of 15%, but can benefit from Mauritius' network of DTCs by

claiming foreign tax credit for the greater of the actual foreign tax occurred or a deemed foreign tax credit equivalent to 80% of the Mauritius tax payable, providing a maximum effective tax rate of 3%.

35. The Mauritius Revenue Authority (MRA) is responsible for developing tax policy and for the administration and collection of all taxes arising under revenue laws. The Mauritius tax system is based on self-assessment. The fiscal year starts on July 1 and ends on June 30. Mauritius also levies a value-added tax (VAT) on goods and services at a flat rate of 15%. There is no capital gains tax in Mauritius.

Anti-money laundering regime

36. The primary regulatory bodies involved in AML supervision in Mauritius are the Financial Services Commission (FSC) (responsible for establishing norms and standards in the financial services sector and for the oversight of non-banking financial institutions and the global business sector), the Financial Intelligence Unit (FIU) (responsible for collecting, analysing and disseminating data and information related to AML), and the Bank of Mauritius (BOM) (responsible for the oversight of the banking sector). Mauritius' AML/CFT framework applies to banks and other financial institutions, cash dealers, members of designated non-financial businesses and professions, and licensees of the FSC.

37. Mauritius' AML/CFT regulatory framework comprises several laws and enactments, the primary ones of which are the following:

- The Financial Intelligence and Anti Money Laundering Act 2002 (FIAMLA);
- FIAMLA Guidance Notes (2002) and FIAMLA Regulations (2003);
- Code on the Prevention of Money Laundering and Terrorist Financing (2003) (AML/CFT Code), issued by the Financial Services Commission;
- The Prevention of Corruption Act 2002 (POCA);
- The Asset Recovery Act 2011;
- Bank of Mauritius Guidance Notes on Anti-Money Laundering and Combatting the Financing of Terrorism (2005).

38. The core piece of legislation in Mauritius' AML/CFT framework is the Financial Intelligence and Anti Money Laundering Act 2002 (FIAMLA), which, *inter alia*, establishes the offence of money laundering, vests the FIU as an intelligence-gathering entity and the body to which all financial

institutions must report suspicious transactions, and defines the reporting obligations of obliged parties. The FIAMLA was complemented by the FIAMLA Guidance Notes and Regulations, promulgated to provide, *inter alia*, guidelines and rules on customer identification and verification and record-keeping. The FIAMLA and regulations were amended in 2005 and 2006.

39. The FSC first issued its Code on the Prevention of Money Laundering and Terrorist Financing (AML/CFT Code) in April 2003, modelled after the revised FATF 40 Recommendations and Eight Special Recommendations on Terrorist Financing and national AML/CFT strategies. The 2003 Code was subsequently revised several times, following a number of developments on the national and international fronts and an assessment of Mauritius' financial sector based on the FATF's revised AML/CFT Methodology 2004. The current AML/CFT Code entered into force on 1 April 2012. In June 2005, the Bank of Mauritius also issued its own Guidance Notes on Anti-Money Laundering and Combatting the Financing of Terrorism (AML Guidance), which lay out the broad parameters within which financial institutions should operate in order to effectively deal with money laundering and terrorist financing risks. The Guidance Notes have been updated several times, most recently in October 2016.

40. Mauritius has been a member of the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG) since 1999. In 2008, ESAAMLG prepared jointly with the International Monetary Fund a Mutual Evaluation Report on Mauritius' AML framework and implementation of FATF recommendations under the old methodology. Mauritius' first evaluation under the revised FATF methodology commenced in October 2016.

41. Broadly speaking, Mauritius' AML framework imposes obligations on regulated entities to develop a compliance programme to address AML and terrorist financing risks, train their staff on AML and CFT, identify and verify the identity of prospective customers, conduct ongoing customer due diligence on a risk-based approach, maintain records related to customer identification and transactions, and report suspicious transactions and activities.

Recent developments

42. Following the cut-off date for the consideration of legal changes, Mauritius introduced a Bill amending its Companies Act to include new provisions relating to beneficial ownership. The Bill was passed into law on 20 July 2017.

Part A: Availability of information

43. Effective exchange of information requires the availability of reliable information on the identity of owners and other stakeholders, as well as information on the transactions carried out by entities and other organisational structures. Part A evaluates the availability of ownership and identity information for relevant entities and arrangements (A.1), the availability of accounting information (A.2) and the availability of bank information (A.3).

44. Legal ownership information is available in Mauritius with respect to most relevant entities pursuant to company law and AML; ownership information may not be available in all cases for foreign companies. Beneficial ownership information is ensured to be available only for entities that are required to engage an AML-obliged service provider. Accordingly, beneficial ownership information for domestic companies and partnerships not incorporated as GBCs or having a bank account in Mauritius may not be available. Further, records for companies and partnerships that cease to exist may not be available in all cases.

45. Obligations to maintain accounting records, including underlying documentation, in accordance with the international standard are in place in Mauritius for all relevant entities and arrangements, although records for companies and partnerships that cease to exist may not always be available or be held for the requisite minimum five year period. Obligations to keep proper books and records are subject to supervision by the tax administration and other bodies where audited financial statements are required to be submitted.

46. Availability of bank account information is also ensured in Mauritius. Customer identification and record-keeping requirements for Mauritian banks are in line with the international standard. Such requirements are accompanied by a rigorous system of oversight by the Bank of Mauritius.

A.1. Legal and beneficial ownership and identity information

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

47. Mauritius' legal framework and EOI practice have been assessed for the availability of legal and beneficial ownership information with respect to all relevant entities and arrangements. The availability of legal ownership information for all such entities and arrangements is ensured in Mauritius, although beneficial ownership information may not be available in all cases.

48. The availability of legal ownership information in Mauritius was assessed in earlier reviews under the 2010 ToR and deficiencies were identified with respect to certain entities and arrangements, as well as with respect to enforcement. The September 2011 report noted that information on nominees and foreign trusts was not available in all cases and no enforcement activities had taken place. During the second supplementary review, deficiencies in Mauritius' legal framework were addressed through amendments to the Companies Act and the Trusts Act. However, those provisions were too new to be fully assessed and Mauritius introduced foundations into its legal framework. Accordingly, element A.1 was found to be "in place" and rated "Largely Compliant".

49. Since the last round of reviews, Mauritius has developed sufficient practice to address both Phase 2 recommendations from the April 2014 report (on the monitoring of new provisions relating to foundations, nominees and non-resident trusts). As a result, legal ownership information is ensured to be available in respect of all relevant entities and legal arrangements except for foreign companies.

50. Mauritius' legal and regulatory framework and practices also have been evaluated for the availability of beneficial ownership, a new aspect introduced in the 2016 ToR. Under the 2016 ToR, accurate and up-to-date beneficial ownership information on relevant entities and arrangements should be available. The 2016 ToR follows the FATF definition of "beneficial ownership", which is the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. The FATF concept also includes those persons who exercise ultimate effective control over a legal person or arrangement.

51. Beneficial ownership information is available in Mauritius with respect to most entities, but gaps remain with respect to some domestic companies and partnerships. Beneficial ownership information for domestic companies that do not have a Global Business License or a bank account may not be available in all cases. Although this is likely a limited gap, Mauritius nonetheless is recommended to ensure that beneficial ownership information

is available for all companies. Similarly, beneficial ownership information on partnerships is available with the FSC only when the partnership holds a GBC1 licence or has a bank account. Mauritius is therefore recommended to also ensure that beneficial ownership information is available for all partnerships.

52. With respect to certain entities that cease to exist, ownership records may not always be available. Records of the ownership of companies and partnerships not holding a Global Business License that are removed from the register may not be available in all cases. Further, records for companies that have been voluntarily wound up are only required to be held for three years.

53. 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	Beneficial ownership information on partnerships and domestic companies may not be available in situations where these entities do not hold a Global Business License or have a bank account with a Mauritius bank. However, in practice, Mauritius can demonstrate that a large number of such entities have a domestic bank account, which would allow for information on their beneficial owners to be identified pursuant to AML rules.	Mauritius is recommended to ensure the availability of information on the beneficial owners of all domestic companies and all partnerships.
	Beneficial ownership information for domestic companies that do not hold a Global Business License is not required to be held by any person following a company's removal from the register. Also, records for companies that are voluntarily wound up are required to be retained by the liquidator for only three years.	Mauritius is recommended to ensure that that beneficial ownership information is available for all companies that cease to exist.

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
	Foreign companies establishing a place of business in Mauritius are required to provide legal ownership information only to the extent required by the laws of the incorporating jurisdiction.	Mauritius should ensure that ownership information on foreign companies having a sufficient nexus with Mauritius or carrying on business or deriving income in Mauritius is available in all cases.
Determination: In place, but certain aspects of the legal implementation of the element need improvement		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Largely Compliant		

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

54. Jurisdictions should ensure that information is available identifying the owners, both legal and beneficial, of companies. Ownership information should include information on nominees and other arrangements where a legal owner acts on behalf of any other person, as well as persons in an ownership chain.

55. Mauritian law provides for the creation of both public and private companies under the Companies Act (CA). Every company shall be considered a public company unless its application for incorporation or constitution explicitly states that it is a private company (s. 21(5) CA). Companies may be incorporated as:

- Companies limited by shares – the liability of shareholders limited to any amount unpaid on shares held;
- Companies limited by guarantee – the liability of members limited to such amount the members respectively undertake to contribute to the assets of the company in the event of winding up;
- Companies limited by both shares and guarantee – the liability of members (a) who are shareholders, is limited to the amount unpaid on shares

held; and (b) who have given a guarantee, is limited, to the amount they have undertaken to contribute in the event of winding up; and

- Unlimited companies – the liability of shareholders is unlimited.

56. As at 31 March 2016, there were 46 595 private companies (not including GBCs) registered in Mauritius, 451 public companies (not including GBCs), and 186 registered branches of foreign companies. In 2013, 4 382 new companies registered with the Corporate and Business Registration Department (CBRD), 4 807 registered in 2014, and 5 760 registered in 2015.

57. Companies incorporated in Mauritius for the purpose of doing business primarily outside of Mauritius may (but are not required to) choose to incorporate as Global Business Companies (GBCs), which require a Global Business License under the Financial Services Act 2007 (FSA). GBCs can be incorporated as either companies limited by shares, limited by guarantee, limited by shares and guarantee, or with unlimited liability.

58. There are two types of Global Business Licenses: Category 1 or Category 2. Either private or public companies may apply for a Global Business Category 1 License. Only private companies, however, can register with a Global Business Category 2 License. Entities holding a Global Business Category 1 License (GBC1s) are not limited in the type of business activities they are allowed to undertake, whereas entities holding a Global Business Category 2 License (GBC2s) cannot engage in certain activities, such as financial services. A GBC1 can be structured as a protected cell company, an investment company, a fund (a collective investment scheme or a closed-end fund), a partnership, or a trust. GBC2s, on the other hand, are suitable for trading and holding or managing private assets (e.g. wealth management). Domestic companies do not have to possess a Global Business License to conduct business abroad, but Mauritian authorities advise that generally they will prefer to do so to either be tax exempt (Category 2) or come under one of Mauritius' DTCs (Category 1), particularly if they have foreign shareholders or are generating income abroad. As at 31 March 2016, Mauritius had 11 073 Category 1 GBCs and 10 867 Category 2 GBCs. Mauritian authorities attest that they are not aware of any domestic companies that do not have a GBC license performing international activities.

59. Mauritian law provides for the availability of legal ownership information in respect of all companies, but beneficial ownership information is not ensured in all cases. The Companies Act requires a degree of beneficial ownership information (notably, information on directors and nominee shareholders of the company) to be held by both the Registrar and the company itself, but identity information on the full scope of individuals who may be considered beneficial owners under the EOIR standard is not ensured by Mauritian company law. Mauritius' AML regime ensures the availability

of beneficial ownership information with respect to all companies in the financial services sector or those managed by a corporate service provider. However, domestic companies that do not fall under the purview of Mauritius' AML framework (i.e. those not requiring a license from the FSC) and which do not have a Mauritian bank account will not be captured by such AML rules. Mauritius is therefore recommended to ensure that beneficial ownership information on all domestic companies is available.

60. The following table[3] shows a summary of the legal requirements to maintain ownership information in respect of companies:

Legislation regulating ownership information of companies

Type	Company law	Tax law	Aml law
Companies (private and public)	Legal – all Beneficial – some	Legal – none Beneficial – none	Legal – none Beneficial – none
GBC1	Legal – all Beneficial – some	Legal – none Beneficial – none	Legal – all Beneficial – all
GBC2	Legal – all Beneficial – some	Legal – none Beneficial – none	Legal – all Beneficial – all
Foreign companies	Legal – some Beneficial – none	Legal – none Beneficial – none	Legal – none Beneficial – all

61. In practice, Mauritius has been able to exchange information on both legal and beneficial ownership. Over the review period Mauritius received a total of 370 requests for ownership information, of which 327 were for beneficial ownership information. Of the requests for beneficial ownership information, 89.33% related to GBC1s and 4.81% related to GBC2s. The remainder related to ownership of companies without a Global Business License. Eleven requests related to companies that had been removed from the register. Mauritius was able to provide the requested ownership information in all cases.

(a) Legal ownership information

62. In Mauritius, company law is the primary source for the availability of legal ownership information. Legal ownership information is ensured under Mauritian company law to be submitted to the Registrar of Companies

3. 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.

as well as to be held by each entity. The financial regulator also holds both legal and beneficial ownership information, but will be discussed under the section on beneficial ownership.

63. At the time of the first supplementary review in September 2011, the main deficiency in Mauritius' legal framework for availability of information on companies was that it did not impose obligations on all companies to maintain ownership information on nominee shareholders. Information on nominee shareholders was only ensured in the case of public companies and GBCs. This gap was rectified by amendments to section 91 the Companies Act in 2012 requiring nominee shareholders to be identified and recorded in company share registers. For the findings from the last review pertaining to companies in Mauritius, see the April 2014 report, paras. 38-42.

(i) Company law

64. Pursuant to the Companies Act, legal ownership information is available with the CBRD as well as with the company. The CBRD collects and maintains legal ownership information through the registration process and companies themselves are required to maintain records of their legal owners (i.e. shareholders).

Legal ownership information held by the CBRD

65. All companies incorporated in Mauritius, including GBCs, must register with CBRD, the body responsible for the incorporation and registration of businesses. Companies wishing to carry on financial services and offshore activities are required to obtain the approval of the Financial Services Commission (FSC) (see below section on requirements under AML). Incorporation can be effectuated online or in person at the CBRD office. On 1 December 2016, the CBRD launched its common online registration platform with the FSC so that companies can now submit an application for incorporation to both the CBRD and FSC simultaneously. The application form for incorporation must include, *inter alia*, the name of the company, names and contact details for the directors and secretaries (if any), particulars of any business occupation and directorships in any public company or subsidiary of a public company held by each director, name and contact information of every shareholder, the registered address of the company in Mauritius and the name of the applicant (s. 23 CA). Where the Registrar is satisfied that the application for incorporation of a company complies with the Companies Act, the Registrar shall enter the particulars of the company on the register, issue a certificate of incorporation, and assign a unique identifying number to the company as its business registration number, which is recognised across agencies, including the MRA (s. 24 CA).

66. The September 2011 report (paras. 51-56) found that the Registrar of Companies in Mauritius holds information on the legal ownership of all companies incorporated pursuant to the Companies Act. The application for the incorporation of a company requires information on legal ownership (e.g. contact information on every shareholder, or, in the case of a company limited by guarantee, every member) (s. 23(2) CA). Information in the company register (with the exception of that relating to GBC1s and GBC2s) is publicly available.

67. Further, all companies, except for those holding a Global Business License, with net assets exceeding MUR 50 million (EUR 1.3 million) and having an annual turnover of over MUR 20 million (EUR 527 725) must also submit to the Registrar an annual return updating the information submitted upon registration, including: the name and address of all shareholders, persons who ceased to be shareholders of the company, the number of shares held by each shareholder, and any shares transferred (s. 223 CA). Transfers of shares should be notified to the Registrar immediately, although the Companies Act does not include any penalties for failure to do so (s. 87(1) (b) CA). Small private companies with annual turnovers not exceeding MUR 20 million (EUR 527 725) and net assets of less MUR 50 million (EUR 1.3 million) are not required to file annual returns (s. 223(a)(1A)(b) CA). The same conditions will exempt companies registered under the Small and Medium Enterprises Development Authority Act from filing annual returns for eight years (s. 223(a)(1A)(b) CA). As of December 2016, Mauritius had 5 205 registered SMEs that would qualify for such an exemption.

68. Where a company is a subsidiary of another company, it must also state in the annual return the name of the corporation regarded by the directors as the ultimate holding company (Schedule 10 CA).

69. Mauritius advises that all information submitted to the CBRD is maintained indefinitely.

70. Where a company fails to file an annual return, every director of the company shall commit an offence and shall, upon conviction, be liable to a fine not exceeding MUR 100 000 (EUR 2 638) (s. 330(2) CA). A public company with more than 500 members is not required to include a list of members in the annual return if it certifies that such a list is available for its members to inspect (s. 223(8) CA).

71. The CBRD is a source of legal ownership information for companies that have been liquidated or removed from the register, although it should be noted that one ground for removal from the register is non-compliance with filing obligations. However, in principle, given that companies are obligated to file updated legal ownership information, the CBRD's databases should contain such information even where a company ceases to exist.

Legal ownership information held by the company

72. Companies incorporated in Mauritius are also required to hold legal ownership information in their own records. Companies must keep in Mauritius an updated register that includes information on all current and former members or shareholders and the number and class of shares held (ss.91 and 92(2) CA). Transfers of shares must also be recorded in the share register (s. 87(1)(a) CA). The entry of the name of a person in the share register as holder of a share shall be prima facie evidence that legal title to the share is vested in that person (s. 93 CA). Section 91(2) of the Companies Act requires public companies to additionally maintain a register of substantial shareholders. "Substantial shareholder" refers to a person in Mauritius or elsewhere, who holds by himself or his nominee, a share or an interest in a share which entitles him to exercise not less than 5% of the aggregate voting power exercisable at the meeting of shareholders. Where a company fails to maintain a shareholder register as required by the Companies Act, the company and every director of the company shall commit an offence and shall, upon conviction, be liable to a fine not exceeding MUR 100 000 (EUR 2 638) (s. 329(1) CA). The shareholder register shall record the names and last known address of each person who is, or has been within the last 7 years, a shareholder (s. 91(3) CA).

73. Legal ownership information for companies that have been liquidated or removed from the register may not be available with the company (or the company's liquidator) in every case. The Insolvency Act (IA) governs record-keeping obligations relating to companies that are wound up or dissolved. Where a company is wound up, all records are transferred to a liquidator who has responsibility to retain every book that is relevant to the affairs of the company for a period of six years from the date of the dissolution of the company (s. 6 IA). However, with respect to companies that are voluntarily wound up by the shareholders or creditors, the Insolvency Act imposes a duty on the liquidator to hold records for a period of only three years. Further, in the case of a winding up by a court, records may be destroyed in accordance with the directions of the court. Mauritius advises that a court has never permitted the destruction of records prior to the expiration of the statutory retention periods, but it is theoretically possible. Mauritius maintains that the duty to maintain records for seven years under the Companies Act applies to a company even after it ceases to exist; however, the provision does not specify who in the company should maintain such records and the company itself (after having been removed or liquidated) will no longer exist to be held accountable to such an obligation. Notwithstanding the foregoing, legal ownership information should be available with the CBRD even where it is not held by a liquidator.

Legal ownership information on foreign companies

74. Foreign companies carrying on business in Mauritius or establishing a place of business in Mauritius must also register with the CBRD although information on legal owners is not required to be submitted in all cases. Carrying on business is defined by the Companies Act as establishing or using a share transfer or registration office in Mauritius or administering, managing or dealing with property in Mauritius (s. 274 CA). Mauritian authorities confirm that "establishing a place of business" can be construed broadly to apply to offices, branches as well as permanent establishments. Mauritius' conception of "establishing a place of business" is therefore broader than the concept of "sufficient nexus" contained in the 2016 ToR. Foreign companies establishing a place of business in Mauritius are required to provide legal ownership information upon registration only to the extent required by the laws of the incorporating jurisdiction to be included in incorporating documents (ss.276 and 278 CA). Foreign companies are not required to submit annual returns to the Registrar. Therefore, legal ownership information is not guaranteed to be available for foreign companies. However, Mauritius advises that all 186 foreign branches currently in existence in Mauritius have Mauritian bank accounts. As such, in practice, the ownership chain of these companies is at present available through the customer identification procedures carried out by the banks (see below section on beneficial ownership, as well as section A.3 regarding the KYC/CDD obligations of banks and their supervision). Nevertheless, as discussed further below, foreign companies are not required to engage an AML obliged service provider so a gap in Mauritius' legal framework still exists, despite practice to the contrary.

75. Foreign companies may also apply to the Registrar to "continue" (or re-incorporate) in Mauritius (s. 296(1) CA), in which case they will become a Mauritian company, resident for tax purposes, and must provide all the documents required by section 296 of the Companies Act.

(ii) Tax law

76. All companies that are formed under Mauritian law or that are effectively managed in Mauritius are considered resident in Mauritius for tax purposes (s. 73(b) ITA). The MRA has in place an automated process to register companies in its database based on information downloaded from the CBRD. All information relating to newly registered entities are transferred from the CBRD database into the MRA's system. The MRA has put in place an automated process to register companies on its computer system based on the downloaded file from CBRD. The filing obligations of these companies are also created automatically. All companies that are resident for tax purposes are subject to tax on their worldwide income and must register and file an annual tax return with the Mauritius Revenue Authority (MRA) (s. 116

ITA). However, as noted in previous reports, the MRA does not maintain up-to-date legal or beneficial ownership information in its tax files as companies are not required to disclose their ownership structure in their annual tax returns. As such, the MRA is not a source of ownership or identity information for companies.

(b) Beneficial ownership information

77. Beneficial owner is defined in Mauritius' AML legislation as the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. This definition is in line with the FATF definition of beneficial owner.

78. The primary source of requirements for entities to hold or file beneficial ownership information in Mauritius is its AML legislation. Beneficial ownership information is available with respect to companies under the supervision of the FSC (i.e. companies carrying out financial services or those with a Global Business License). The availability of beneficial ownership information for domestic companies that do not come under FSC supervision is not guaranteed as the Companies Act only requires the identification of beneficial owners to a limited degree. Likewise, beneficial ownership information is not required in tax filings. A company may be subject to additional layers of supervision (e.g. where the company is an FSC licensee). However, in the absence of requirements arising under AML or financial regulations, it is possible that a domestic company will have beneficial owners the information for whose identity is not maintained in Mauritius, unless such company has a bank account with a Mauritius bank.

(i) AML and financial regulations

79. As noted above, Mauritius' definition of "beneficial ownership" meets the EOIR standard. The AML/CFT Code defines "beneficial owner" as the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. Following FATF, Mauritius also includes those persons who exercise ultimate effective control over a legal person or arrangement in its concept of beneficial owner.

80. The Financial Services Commission (FSC), Mauritius' financial regulator, is the primary repository of beneficial ownership information in Mauritius with respect to companies under its purview. The FSC is responsible for establishing the rules and guidelines governing the conduct of business in the financial services and global business sectors (s. 6 FSA). The FSC is also tasked under the AML/CFT Code 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 GBCs fall into this category of entities as they are required to be licensed by the FSC (s. 77 FSA).

Beneficial ownership information held by the FSC

81. As the licensing body for entities wishing to carry out financial activities, the FSC collects beneficial ownership information through the licensing process. No person may carry out any financial services without first obtaining a license from the FSC (s. 14(1) FSA). The relevant business activities that require a license by the FSC are those regulated by the following acts: the Insurance Act 2005, the Securities Act 2005, the Private Pension Schemes Act 2012, and the Captive Insurance Act 2015 (s. 15(3) FSA). Applications for obtaining a licence to perform non-banking financial services must contain the "particulars of the promoters, beneficial owners, controllers and proposed directors" of the entity (s. 16(1) FSA). Any material change in these details must be notified to the FSC (s. 16(2) FSA). For a detailed description of the FSC's licensing process, refer to the September 2011 report paras. 57-69.

82. Likewise, the FSC also collects beneficial ownership information through the issuance of Global Business Category 1 and 2 licenses (s. 71 FSA). Pursuant to the Financial Services Act, the FSC is the body responsible for issuing Global Business Licenses (s. 15(3) FSA). All applications for a Global Business License must be submitted by a management company (s. 72(1) FSA). Since the last review, applications for Global Business Licenses are submitted through an online portal. Ownership information (details on the promoter(s), shareholder(s), or beneficial owner(s)) is automatically imported from the CBRD database, although it can be corrected manually. The management company must also furnish all customer identification and verification documents, as well as underlying customer due diligence (CDD) documentation (discussed more below). All documentation must be certified by a lawyer, notary, or other qualified professional to be true and accurate.

83. The FSC will only issue a license after it has assessed all the submitted documents and is satisfied that all legal pre-requisites are met and that the applicant has adequate arrangements for proper supervision of all licensed activities (s. 18(2)(d) FSA). The applicant and each of its controllers and beneficial owners must also be fit and proper persons to carry out the business for which a licence is sought (s. 18(2)(e) FSA). The FSC indicates that towards this end, it conducts its own due diligence to ensure that officers and beneficial owners of the applicant corporation meet the fit and proper criteria contained in section 20 of the Financial Services Act. In this exercise, the FSC will investigate the whole ownership chain of a company all the way to the ultimate beneficial owner.

84. Management companies, as FSC licensees, are also governed by the Financial Services Act and Mauritius' AML legislation. The Financial Services Act defines a management company as one whose main activity is to set up, administer, manage and provide nominee and other services to a GBC or other prescribed corporation or act as corporate trustee or qualified trustee under the Trusts Act 2001 (s. 77 FSA). Section 77 states that, "for the avoidance of doubt, an application for a management licence shall be subject to the regulation of financial services under Part IV [of the Financial Services Act]".

85. Management companies are required to provide the FSC with up-to-date ownership information on entities they manage. The FSC Circular Letter CL031215, issued on 3 December 2015, requires a management company to promptly notify the FSC of any changes to the shareholding structure of a GBC. The following information on the new shareholder must be provided: (i) name, address and national identification document number; (ii) an undertaking that the management company has conducted the proper CDD on the new shareholder and that such documentation will be made available to the FSC upon request; (iii) an updated corporate structure chart; and, (iv) an updated register of shareholders. Any change in beneficial ownership must also be communicated to the FSC with the following information: (i) contact details of the new beneficial owner and an updated description of the GBC's shareholder structure and (ii) an updated shareholder structure illustrative of holdings up until the ultimate beneficial owner and depicting the new percentages of shares held by each shareholder. Where a change in the ultimate beneficial ownership of a GBC has an effect on another GBC (for example where the GBCs are a part of a group), the management company must inform the FSC of the impact on ownership for each GBC separately.

Beneficial ownership information held by licensees

86. All entities licensed by the FSC are subject to requirements under AML and applicable financial regulations to identify their customers and to maintain such records for a specified period of time. GBC1s must be administered by a management company and GBC2s are required to have, at all times, a management company in Mauritius as its registered agent (ss.71(5) and 76(1) FSA). The Financial Services Act states that for the purpose of identification, section 18 of FIAMLA should be referenced to determine the nature of customer identification documentation to be maintained (s. 29 FSA).

87. Section 29 of the Financial Services Act requires licensees, which includes management companies, to keep and maintain internal records of the identity of each client for at least seven years after the completion of the transaction to which it relates.

88. All FSC licensees are subject to Mauritius' AML regime and must carry out CDD and KYC measures. Section 17 of the FIAMLA requires licensees to verify the true identity of all customers and other persons with whom they conduct transactions. Likewise, section 4.1 of the AML/CFT Code requires licensees to identify and verify the identity of an applicant for business using reliable, independent source documents, data or information. Licensees are required to use such measures to ensure that it knows the beneficial owner(s) of a client, including those natural persons with a controlling interest and those who comprise the mind and management of a legal arrangement. Where the underlying principals are not natural persons, licensees must "drill down" to establish the identity of the natural persons ultimately owning or controlling the business (s. 4.1 AML/CFT Code). After the initial stage of establishing a business relationship, licensees must conduct ongoing due diligence to ensure that the transactions in which the customer is engaged are consistent with the licensee's knowledge of the customer and his business and risk profile (including the source of funds) (s. 4.1 AML/CFT Code).

89. Consequently, up-to-date beneficial ownership information is ensured with respect to all companies licensed and supervised by the FSC based on licensing criteria and customer identification and verification requirements under AML.

(ii) Company law

90. Mauritian company law provides for the maintenance of beneficial ownership information only to a limited extent. Generally, the company registry is a depository of legal, and not beneficial, ownership information, although the CBRD will hold identity information on persons that may be deemed to be a company's beneficial owner(s) pursuant to the international standard. Beneficial ownership is not defined in the Companies Act, but the Companies Act does contain provisions that cover aspects of beneficial ownership, as defined by the EOIR standard. Companies themselves are not required to hold beneficial ownership information in all cases, but have obligations under the Companies Act to maintain information on nominee shareholders. However, identity information on owners in an ownership chain (e.g. shareholders of directors of holding companies of which a Mauritian company is a subsidiary) is not required to be available under the Companies Act. Such information would then only be guaranteed where the company is subject to an additional layer of supervision, such as in the case of GBCs, which are additionally regulated by the FSC.

Beneficial ownership information held by the CBRD

91. As a general rule, beneficial owners of companies are not required to be submitted to the CBRD. However, in some cases, the Registrar will hold information on beneficial owners, as defined by the EOIR standard. To the extent that a company's directors may be considered beneficial owners of a company by the international standard, such information is required to be submitted to the Registrar upon incorporation of the company and thereafter as changes occur. Section 128(2) of the Companies Act defines a director as (i) a person occupying the position of director, (ii) a person in accordance with whose directions the Board may be required or is accustomed to act, (iii) who exercises or who is entitled to exercise control of powers that would be relegated to the Board, or (iv) a person who has been delegated a power or duty by the Board. With the exception of those holding a Category 2 Global Business License,[4] companies may appoint only natural persons as directors (s. 133 CA).

92. Section 23 of the Companies Act requires that an application for incorporation of companies contain, *inter alia*, the full name and contact details of every director and secretary, as well as the particulars of any business occupation and directorships of public companies (or subsidiaries of public companies) each director holds (although private companies holding a Global Business License are exempted from this last requirement (Schedule 13 CA)). However, where a director is appointed to act on behalf of someone else, no ownership information on the beneficial owner is required. Any change to the directors or secretaries, including the appointment of new directors or secretaries, must be notified to the Registrar (s. 142 CA). Where a company fails to comply with this notification requirement, every director and any secretary of the company shall commit an offence the penalty for which it may be penalised by a fine not exceeding MUR 200 000 (EUR 5 250).

93. Notwithstanding the foregoing, identity information on beneficial owners in an ownership chain or the ultimate beneficial owners may not be available under Mauritian company law, particularly where the company in question is a subsidiary of one or more holding companies, or where part of the corporate structure lies outside of Mauritius. The Companies Act also requires only limited (if any) beneficial information to be submitted in a company's annual return. Where a company is a subsidiary of another corporation, the annual return must contain the name of the corporation regarded by the directors as the ultimate holding company of the former (Schedule 10, art. 16 CA).

4. GBC2 may appoint a corporation to be a director of the company even if the corporation is the sole director (Schedule 14, Part II CA). GBC2s are not required to have any directors be resident in Mauritius (Schedule 14, Part II CA). The availability of ownership information on GBCs is further discussed in the section on AML laws.

94. Under the Companies Act, no natural person having an ownership or controlling interest in the ultimate holding company, or any intermediary holding companies in the ownership chain, is required to be identified. Only where the directors of a subsidiary receive remuneration from a holding company, will the names of the directors of the holding companies be available as it is required, in those instances, to be submitted in the financial statements that form part of the company's annual report (s. 221(ea) CA). Otherwise, the International Financial Reporting Standards (IFRS), which sets the standard for the preparation of financial statements in Mauritius, require only a parent to report on its subsidiaries in consolidated financial statements (and even then, not in every case, as parents who are wholly or partially owned by another entity may be exempt from this requirement).

95. As the CBRD does not generally hold beneficial ownership information, it will not be a source of such information for companies that have been liquidated or removed from the register.

Beneficial ownership information held by companies

96. Although companies incorporated under the Companies Act are not generally required to maintain beneficial ownership information in their own records (e.g. where a shareholder is a legal person, the name of the legal entity in possession of shares is all that is required to be recorded), they may at times have information on beneficial owners. For instance, section 91 of the Companies Act, as amended in December 2012 pursuant to recommendations addressed in the September 2011 report, requires companies to maintain information on the names and addresses of persons giving a nominee shareholder instructions to exercise a right in relation to a share either directly or through the agency of one or more persons. As this provision was newly implemented at the time of the second supplementary review, the April 2014 report recommended that Mauritius monitor its implementation. To date, no Mauritian companies have had shares held by nominees. Accordingly, the recommendation to monitor the new provisions in section 91 of the Companies Act has been fully addressed and can be removed.

97. Companies holding Category 1 or 2 Global Business Licenses must additionally keep registers of directors containing such information as the names and addresses of all directors, and the date on which each director was appointed or ceased to be a director. Although the Companies Act does not specify the precise time for which such information must be kept, the general period records are required to be maintained under the Companies Act is seven years (e.g. as required for the shareholder register by section 91 and various other corporate documents under section 190).

98. The limitations of provisions in Mauritian company law relating to beneficial ownership information ultimately only impact the availability of such information in respect of domestic companies. GBCs will be required to hold and submit information on beneficial owners under their licensing criteria and AML. Mauritian authorities maintain that, in practice, the materiality of this gap is extremely low as the large majority (if not all) operational companies as companies will need a bank account to carry on most types of commercial activities (e.g. any activity requiring a license or permit or facilitate the transfer of funds). Banks, as AML-obliged entities, are subject to stringent requirements to identify and verify their customers (see more below in section A.3) and therefore, identity information on all account-holders will be guaranteed. As there is no requirement for a company to open a Mauritian bank account to conduct business in Mauritius, the authorities have no way of quantifying the number of companies that do not have local bank accounts. However, the CBRD reports that in 2015, 26 237 out of 34 604 registered companies (76%) successfully paid their annual fee through a domestic bank account. In 2016, 24 123 out of 41 482 registered companies (58%) successfully paid their fees through a domestic bank account. The foregoing does not mean that the remaining companies did not have a domestic bank account or did not otherwise engage an AML-obliged service provider in the years provided. The total number of registered companies encompasses those that were dormant, in default of their payment obligations, whose cheques were dishonoured, or those that paid with a credit card. Therefore, these figures can only be construed as the minimum number of domestic companies for which ownership information was assured through a Mauritian bank in 2015 and 2016 (see section A.3 for the CDD/KYC obligations and supervision of banks). Mauritius is recommended to ensure the availability of information on the beneficial owners of all domestic companies.

99. As described above, beneficial ownership information on companies that have been liquidated or removed from the register is not guaranteed to be available in all cases. Although the Insolvency Act requires the liquidator generally to hold all records relevant to the affairs of a company for a minimum period of six years, the liquidator is only required to hold such records for three years in cases of voluntary winding up. Further, a court may order the disposal of records prior to the expiration of the statutory timeframe. Finally, the Companies Act does not create a clear obligation for any individual to hold ownership information on a company where no liquidator is involved (i.e. where a company is removed from the register). As the CBRD does not generally hold beneficial ownership information on companies, such information may not be available after the company ceases to exist, depending on the circumstances. As such, Mauritius is recommended to ensure that beneficial ownership information is available for all companies following liquidation or removal from the register.

Beneficial ownership information on foreign companies

100. The 2016 ToR requires that where a foreign company has a sufficient nexus to a jurisdiction, including being resident there for tax purposes (for example by having its place of effective management or administration there), then the availability of beneficial ownership information is required to the extent the foreign company has a relationship with an AML-obligated service provider that is relevant for the purposes of EOIR. As mentioned above, foreign companies are required to submit ownership information upon registration only to the extent required by the laws of the incorporating jurisdiction. There are 186 branches of foreign companies operating in Mauritius. Pursuant to sections 281(4) through (7) of the Companies Act, all foreign companies are required to file audited financial statements with the Registrar. This process would require engaging the services of an AML obliged service provider (i.e. an approved auditor who must be ordinarily resident in Mauritius, according to section 198(2) of the Companies Act). Moreover, the MRA confirms that all 186 foreign branches have local bank accounts. As such, beneficial ownership information on these entities should be available (refer to section A.3 below for the CDD/KYC procedures and oversight of banks).

(c) Enforcement measures and oversight

101. Mauritius has a rigorous system of oversight in place to ensure that companies are fulfilling their obligations to maintain legal and beneficial ownership information under the Companies Act and Mauritius' AML regime. The measures taken by the respective supervisory bodies are discussed below.

(i) Oversight by CBRD

102. The Registrar of Companies is responsible for the oversight of companies' filing obligations under the Companies Act and the other acts enumerated above. The CBRD is situated in the Ministry of Finance and Economic Development and oversees the compliance of entities with obligations under the Companies Act 2001, the Business Registration Act 2002, the Insolvency Act 2009, the Limited Partnerships Act 2011 and the Foundations Act 2012. As of November 2016, the CBRD has 119 staff divided among the various areas of work and responsibilities: the most relevant ones being, 2 in the Registry, 10 working with GBC1s, 7 working with GBC2s, 13 in Registration and Monitoring, 4 in Business Registration, 10 in Information and Incorporation, 4 in Enforcement, 4 working with partnerships and foundations and 8 in Finance and Licensing.

103. The CBRD's oversight of compliance with registration and filing requirements includes verifying that all statutorily required documentation has been submitted. The CBRD cross-checks the information received via registration with other documentation (such as the status of the entity, its capital, board and shareholdings structure, history of share transactions and board composition, financial statements, fees paid and due, winding up process, charges created and prosecution records, etc.) contained in its own database. The CBRD also checks to ensure that annual returns filed with it contain the required information under company law. Disclosures in the audited accounts are verified in accordance with the IFRS, International Accounting Standards, and other applicable standards by qualified staff.

104. The Registrar's primary enforcement tools consist of "compounding" offences and removing non-compliant companies from the register. Cases of non-compliance may be referred to the Director of Public Prosecutions. However, the Registrar may instead "compound" the offence – allowing the defaulting company to pay a fine – rather than referring the case to the prosecutor's office. The CBRD reports that only in a very small number of cases has a company chosen to go to court over paying the fine. Should a company fail to respond to a notice for compounding the offence, the Registrar may then remove the company from the register.

105. The procedure for removing a company from the register is contained in the Companies Act. Pursuant to section 309(b), the Registrar shall remove a company from the register of companies where a company has ceased to carry on business, failed to pay its registration fees, or failed to file its annual return. Where the Registrar believes that a company has ceased to carry on business, prior to removing it from the register, notice must be given to the company, and if the company can satisfy the Registrar by notice in writing that it is still carrying on business, or that there is other reason for it to continue in existence, within 28 days of the notice, then the Registrar shall not remove it from the register (s. 310 CA). Where a company is to be removed from the register under any other circumstance, the Registrar shall first send a notice to the company, and if no reply is received, publish a notice in the Gazette indicating the name of the company and the grounds upon which it is to be removed (s. 311 CA). The company then has 28 days to file an objection to the removal with the CBRD. Proof of grounds of the objection must be filed within six weeks of the date of objection (s. 312 CA). If no objection has been filed, or any objection withdrawn, and/or the company is still in default, a final notice will be sent to the Director of the company informing him/her that the company has been struck from the register. A company that has been removed from the register legally will no longer exist.

106. Over the review period, the Registrar has taken enforcement actions in a number of cases. Following the deadline for the payment of fees, the

CBRD's system automatically generates notifications of defaulting companies. For failing to pay the registration fee, 6 000 companies were compounded in 2014 and 5 586 companies were compounded in 2015. For failing to file annual returns or financial statements, 7 332 companies were compounded in 2014 and 7 472 were compounded in 2015. Figures from 2013 are unavailable. With respect to inactive companies, 2 187 were struck off in 2013, 5 493 in 2014, and 3 315 in 2015.

(ii) Oversight by the FSC

107. As the licensing body for the financial services sector and global business sector, the FSC is responsible for monitoring the compliance of its licensees (including management companies) with applicable regulations. Further, all FSC licensees are considered financial institutions for the purpose of AML and the FSC has a statutory duty to supervise and enforce compliance by its licensees in respect of the requirements imposed by Mauritius' AML regime. The FSC has a total staff of 196 (representing a slight reduction in total staff from 205 and 203 in the two preceding years). The FSC's supervision department, which is responsible for oversight of all licensed entities, is divided into units based on the type of licensee. The staffing in these units in 2016 are: 20 staff in Global Business, 13 in investment, 13 in capital markets, 13 in insurance, and 10 in pension. Although the total number of staff in the FSC decreased slightly in 2016, staff involved in supervision rose slightly (from 63 to 69 in 2016.)

108. The FSC's oversight programme consists of both desk-based and on-site inspections. The FSC Circular Letter CL031215 governs the process of off-site inspections. Section 43 of the Financial Services Act empowers the FSC to conduct an on-site inspection of a licensee at any time to audit its books and records. The FSC applies a risk-based supervisory framework and its knowledge of individual licensees in determining which licensees to inspect in a given year. Once, the FSC has identified which licensees will undergo an inspection, it will send to the licensee a risk-based questionnaire, which comprises the desk-based written inspection, after which the FSC may conduct an on-site visit based on a number of risk criteria, including whether it has received any complaints or adverse reports on the licensee. Licensees that are deemed to be high-risk are inspected at least once every year or two years (with either an on-site or desk-based inspection). Lower risk licensees are inspected on average once every three years. The FSC reports that in 2012, it launched an industry-wide inspection of all management companies to form an initial categorisation of risk (low, medium, high).

109. A full-scope inspection by the FSC has three phases. Phase 1 is a desk review of the files of the management company or licensee. Based on the files it has received (as well as other factors, such as those mentioned

above), the FSC will form a preliminary opinion on the licensee and determine the focus area of the inspection. Phase 2 comprises the on-site visit where the inspection team will meet with the licensee's staff, including officers and Board, individually. The FSC will also request the licensees to submit documentation on their customer identification and verification procedures, client profiles, risk profiling, and ongoing due diligence and monitoring. The FSC will usually take a sample about 10-15% of the licensee's files and review the file completely, including the procedures that were followed to identify the beneficial owners. From that analysis, the inspection team will form a conclusion on the licensee. The on-site visits last on average four to five days, depending on the size of the licensee. The final phase, Phase 3, entails the preparation and filing of the inspection report. All the deficiencies first will be discussed with the directors, after which time the FSC will prepare the inspection report. The report is sent to the licensee and then together with the licensee, the FSC prepares an action plan to rectify all identified deficiencies.

110. The FSC has a number of tools within its regulatory arsenal to ensure compliance with its rules and guidelines as well as with the provisions of the Acts it is tasked with administering. The FSC also has the power to: issue a private warning or a public censure, disqualify a licensee from holding a licence for a specific period of time, disqualify an officer of a licensee from a specified office or position in a licensee for a specified period, impose an administrative penalty, or suspend or revoke a licence (ss.7(1) and 27 FSA).

111. The FSC's enforcement unit will come into play when deadlines for remedying deficiencies have not been met and a follow-up letter sent by the FSC has received no response. The enforcement unit then re-assesses the licensee and decides whether to allow the licensee to continue carrying on business. An Enforcement Committee is convened to make this decision and will include two officers of the FSC that were not previously involved in the assessment (s. 52 FSA). The Enforcement Committee may exercise the disciplinary powers vested in the FSC to impose an administrative sanction on the defaulting licensee (s. 52 FSA). A licensee may appeal the decision of the Enforcement Committee to a financial services review panel, an independent panel convened solely for the purpose of reviewing the decision of the Enforcment Commission (s. 54 FSA). Further appeals may be made to a Mauritan court and then to the Privy Council. The FSC can also initiate an investigation into a business or licensee has reasonable cause to believe that the licensee: (i) has committed, is committing or is likely to commit, a breach of its statutory obligations under the relevant Acts, any condition of his licence or any direction issued by the FSC; (ii) has carried out, is carrying out, or is likely to carry out any activity which may cause prejudice to the soundness and stability of the financial system of Mauritius or to the reputation of Mauritius or which may threaten the integrity of the system; or

(iii) has failed or is failing to take such measures as are required pursuant to FIAMLA. Based on the seriousness of the investigation findings, enforcement actions may be taken against the licensee and its officers including directions, suspension of licence and other disciplinary sanctions under section 7(1)(c) of the FSA.

112. The FSC advises that, to date, the Global Business unit has conducted on-site inspections of 46 management companies. The primary areas of focus have been: compliance with AML, corproate governance, and ongoing client monitoring. The FSC has inspected 8 289 GBC files (representing approximately, 75% of GBCs) in the course of on-site inspections and an additional 503 GBC files through desktop reviews. An additional 32 inspections have been carried out by the investment unit, 28 by the capital market unit, 7 by the insurance unit and 2 by the pensions unit.

113. Since 2013, the FSC has carried out a total of 37 investigations on licensees (3 in 2016, 16 in 2015, 5 in 2014, and 13 in 2013) and 12 investigations into individual officers (none in 2016, 5 in 2015, 3 in 2014, and 4 in 2013).

Sanctions imposed by the FSC

Type of enforcement actions (as per FSC Annual Report 2015)	2015	2014	2013
Directions issued	5	12	7
Suspension of licences	15	3	9
Revocation of licences	13	-	5
Withdrawal of Authorisation to act as Collective Investment Scheme	6	-	-
Cease Trade Order	2	-	-
Disqualification of officers	5	2	5

A.1.2. Bearer shares

114. Where jurisdictions permit the issuance of bearer shares, they should have appropriate mechanisms in place that allow the owners of such shares to be identified. As noted in earlier reviews, bearer shares are prohibited in Mauritius.

A.1.3. Partnerships

115. Jurisdictions should ensure that information is available identifying the partners in, and the beneficial owners of, any partnership that (i) has income, deductions or credits for tax purposes in the jurisdiction, (ii) carries on business in the jurisdiction, or (iii) is a limited partnership formed under the laws of that jurisdiction.

116. Mauritian law provides for the formation of various types of partnerships, some derived from civil law and others from commercial law. Due to their French heritage, the Mauritian Civil and Commercial Codes regulate *sociétés de personnes*, which are in essence contractual relationships between two or more persons. As noted in the September 2011 report, *sociétés de personnes* are civil law partnerships and seldom used for commercial purposes. To date, Mauritius has not received any requests relating to *sociétés de personnes*. At the time of the combined review in 2010, Mauritius did not have in place legislation governing the creation of partnerships as understood under common law (i.e. used for commercial purposes). In November 2011, Mauritius passed the Limited Partnerships Act to provide for the creation of partnerships, as derived from common law. In December 2016, Mauritius enacted the Limited Liability Partnerships Act, providing for the formation of limited liability partnerships, which provide more protection to partners against the partnership's debts and obligations.

117. Under the Limited Partnerships Act 2011 (LPA), a limited partnership may be formed in Mauritius with or without legal personality to carry out any lawful business within Mauritius or with persons outside Mauritius (s. 10 LPA). A limited partnership shall consist of one or more general partners who are jointly and severally liable for the debts of the partnership and one or more limited partners who are not liable for the debts of the partnership beyond the amount contributed or agreed to be contributed (s. 12 LPA). Only general partners may participate in the management of the business of the limited partnership; if a limited partner contravenes this rule, he/she will be considered a general partner in respect of all debts of the limited partnership (s. 26 LPA). Every limited partnership must have at least one general partner (natural or corporate) resident in Mauritius or a registered agent resident in Mauritius (s. 12(6) LPA). Limited partnerships must be created pursuant to a partnership agreement, which is binding on all partners (s. 13 LPA). A total of 11 domestic limited partnerships were registered with the CBRD during the three year period under review.

118. The Limited Liability Partnerships Act (LLPA), passed in December 2016, allows for the formation of a limited liability partnership, which although similar to a limited partnership, has some distinguishing characteristics. Unlike a limited partnership, a limited liability partnership must have legal personality separate from that of its partners (s. 10(1) LLPA). Further, all partners in a limited liability partnership are limited partners. In other words, the liability of all partners for the debts of the partnership is limited to their agreed-upon contribution (s. 13 LLPA). A limited liability partnership shall consist of two or more persons associated for the carrying on of a lawful business (s. 12(1) LLPA). Any individual or entity (whether formed or registered in Mauritius or elsewhere), including other partnerships and *sociétés*, may be

a partner of a limited liability partnership (s. 12(2) LLPA). No limited liability partnerships are yet in operation in Mauritius.

119. GBC1s, but not GBC2s, can be structured as limited partnerships (with legal personality) or limited liability partnerships. As of 31 March 2016, 44 GBC1s were structured as limited partnerships to carry out offshore activities and registered with the FSC.

120. Information on the legal owners of partnerships (all partners who are natural persons) must be available under the LPA and the LLPA. However, information on beneficial owners (e.g. partners that are bodies corporate) is not ensured in all cases, namely where a partnership does not also hold a GBC1 license and come under FSC supervision. Accordingly, Mauritius is recommended to ensure that beneficial ownership information on all individuals having an ownership stake in a partnership is available.

121. During the period under review, Mauritius received no requests relating to partnerships. No issues relating to partnerships have been raised by peers.

(a) Legal ownership information

122. In Mauritius, legal ownership information on partnerships will be available with the Registrar of Partnerships as well as with the tax authority. Limited partnerships are also required to hold information on their legal owners.

(i) Law on partnerships

123. The LPA and the LLPA provide for the availability of legal ownership information on all partnerships in Mauritius. Legal owners of partnerships must be identified under both the LPA and the LLPA and such information is required to be submitted to the Registrar upon registration. Both limited partnerships and limited liability partnerships are required to keep a record of legal ownership.

124. The Registrar of Companies shall also be the Registrar of partnerships and will hold up-to-date information on legal owners of commercial partnerships (s. 5 LPA and s. 5 LLPA). All limited partnerships and limited liability partnerships, whether with or without legal personality, must register with the Registrar (s. 19 LPA and s. 23 LLPA). The Registrar will maintain a register of limited partnerships as well as limited liability partnerships (s. 21 LPA and s. 25 LLPA). Registration requirements under each act are detailed below.

125. Under the LPA, an application to the Registrar must be made pursuant to the written consent of all of the general partners and will contain information on the legal owners of a partnership (i.e. the partners). To register as a limited partnership, one or more persons associated with the partnership must provide the Registrar the name of the partnership, the registered office, the principle place of business, and the full name and addresses of all partners (s. 19 LPA). Such information will be recorded in the register of partnerships, which is publicly available (s. 21 LPA). Foreign partnerships may also continue in Mauritius by registering as a domestic partnership by supplying all of the information required under section 19 of the Limited Partnerships Act (s. 61(1) LPA). Foreign limited partnerships cannot operate in Mauritius without becoming a domestic partnership. Foreign limited partnerships may apply to register or continue as a limited partnership in Mauritius if it meets certain criteria (such as having authorisation from its country of origin and consent from a majority of its partners) and complies with all of the registration requirements applicable to domestic limited partnerships (s. 61(2) LPA). Limited partnerships are also required to submit to the Registrar on an annual basis an annual return stating the names and addresses of all of the general partners, but not the limited partners (s. 53 LPA).

126. Under the LLPA, every domestic limited liability partnership must register with the Registrar (s. 23 LLPA). A limited liability partnership may be registered only with the written consent of all its partners. Among the information required to be submitted for registration are the partnership's registered address or principle of business, the identity and residential address of natural partners, the name and address of the registered office of any corporate partners, and the nature of the partnership's business (s. 23(2) LLPA). Such information must be contained in a declaration and the identity and contact information on the person making the declaration (or the registered address of the corporate body making the declaration as the case may be) must also be included in the registration documents (s. 23(2)(d) LLPA). Any changes to the aforementioned particulars must be notified to the Registrar within 21 days of their occurrence (s. 44 LLPA). Limited liability partnerships are not required to submit any annual returns to the Registrar. Foreign limited liability partnerships may apply to register or continue as a foreign limited liability partnership in Mauritius if it meets certain criteria (such as having authorisation from its country of origin and consent from a majority of its partners) and complies with all of the registration requirements contained in the Limited Liability Partnerships Act applicable to domestic partnerships (s. 28(2) LLPA).

127. Additionally, every limited partnership must keep at its registered office a register of all partners specifying whether the partners are general partners or limited partners. In the case of natural persons, the register must contain the partner's full name and address (s. 39(1)(b) LPA).

128. Limited liability partnerships are also obligated under the LLPA to hold a register of partners at their registered address. Mauritian authorities explain that the language of section 41 of the LLPA (requiring limited liability partnerships to maintain "such books, registers, accounts, records, including receipts, invoices and vouchers, and documents") does not only refer to books and accounts, but that "registers" in fact refers to the register of partners. The register is required to contain legal ownership information on all partners.

(ii) Tax law

129. As a general rule, partnerships formed under the LPA and the LLPA are not liable to income tax in Mauritius. Partnerships are transparent entities under Mauritian tax law and will not be taxed in their own name; rather, every partner, both limited and general, is liable to income tax on his share of income from the partnership and must file annual returns (ss.47(1) and (2) ITA). This rule applies equally to partnerships that are corporate bodies (in the case of all limited liability partnerships and limited partnerships that choose to incorporate). Exceptionally, section 47 of the Income Tax Act allows partnerships that are GBCs to opt to be taxable as companies at a 15% corporate tax rate in which case they would file returns and pay taxes in their own name.

130. Legal ownership of partnerships will be available with the MRA in some cases. With respect to non-GBC partnerships, partners must file returns to the MRA on their taxable share of the income derived from the partnership (s. 47 ITA). Further, regardless of its tax liability, each partnership must submit to the MRA on an annual basis a return in its name with information on its partners and profits and losses (s. 119A ITA). GBC partnerships that have opted to be taxed as a company will submit an annual return under section 116 of the Income Tax Act. In such cases, ownership information is not required to be included in the partnership's annual return and the partners are not required to file returns.

(b) Beneficial ownership information

131. Beneficial ownership information on partnerships is consistently available only with the FSC where the partnership holds a Global Business License, in which case such information will be required to be held pursuant to financial regulations and AML. Beneficial ownership information on non-GBC partnerships will be available with a financial institution only where the partnership has a bank account with a Mauritian financial institution or an auditor or accountant where the partnership must submit audited financial statements in its annual report (i.e. those with an annual turnover of MUR 50 million (EUR 1.3 million)).

(i) Law on partnerships

132. Beneficial ownership information is not consistently available for all partnerships in Mauritius under the LPA and the LLPA. Where the partnership is composed of only natural persons (i.e. where the beneficial owners are the legal owners), beneficial ownership information will be available. However, in the case of corporate partners, beneficial ownership information is not required to be submitted to the Registrar or held by the partnership under either the LPA or the LLPA.

133. Where a partner is a legal person, no natural persons related to the corporate partner must be identified under either the LPA or the LLPA. In the case of a corporate partner, only the address of the registered office or principle place of business is required upon registration under both acts. Similarly, where a partner is a legal entity, the partnership must only record in the register of partners the name of the corporate partner and its registered address or principle place of business (s. 39(1)(b) LPA and s. 23(2)(d) LLPA). Neither the LPA nor the LLPA contain any requirements to identify natural persons in an ownership chain or in a management position of a corporate partner.

134. Notwithstanding the foregoing, the CBRD reports that in 2015, 100% of partnerships (376 out of 376 partnerships) and in 2016, 97% of partnerships (348 out of 359 partnerships) paid their annual fees out of a domestic bank account. Therefore, in practice, beneficial ownership information is available for the large majority of partnerships currently in existence in Mauritius (refer to section A.3 for the CDD/KYC procedures and supervision of banks).

(ii) Tax law

135. No beneficial ownership information is required to be submitted to the MRA in a partnership's tax returns. In the case of corporate partners, no information on any related natural persons is required unless they are also partners in the partnership.

(iii) AML and financial regulations

136. When a partnership holds a GBC1 licence, ownership information (legal and beneficial) is ensured through both the process of obtaining a Global Business License as well as under Mauritius' AML laws.

137. Where a partnership is a GBC1, it must be administered by a management company, which is required to conduct CDD and KYC pursuant to the AML/CFT Code. Further, section 38 of the LLPA stipulates that every limited liability partnership holding a Category 1 Global Business License shall have a manager that holds a management license under the Financial Services Act. Section 4.1.2.1 of the AML/CFT Code sets out the identification

and verification measures that must be taken when a client of a licensed management company is a legal person. The meaning of legal person in the AML/CFT Code includes partnerships. As noted above, where an owner (in this case a partner) is a legal person, the licensee must continue looking down the ownership chain until it identifies the natural person ultimately owning or controlling the business. Therefore, beneficial ownership information is required to be available with the management company.

138. As with companies holding a Global Business License, beneficial ownership information will also be made available to the FSC in the licensing documents and pursuant to FSC regulations. As explained above, applications for a Global Business Licence must contain the "particulars of the promoters, beneficial owners, controllers and proposed directors" of the entity (s. 16(1) FSA). Any material change in these details must be notified to the FSC (s. 16(2) FSA). All applications for a Global Business License must be made through a management company, which is required to furnish all of its CDD and KYC documents to the FSC. Further, pursuant to FSC Circular Letter CL031215, management companies are required to provide the FSC with up-to-date ownership information on a partnership's ownership structure if it holds a Global Business License (see above section on companies for more detailed information).

(c) Enforcement measures and oversight

139. The Registrar is responsible for the oversight of all partnerships registered under the LPA and LLPA. Under both the LPA and the LLPA, where a partnership contravenes any provision of, or condition imposed by, the LPA, it commits an offence punishable by a fine not exceeding MUR 200 000 (EUR 5 227). Where a limited partnership has no legal personality, every general partner is deemed to have committed an offence and would be additionally liable to a term of imprisonment not exceeding two years (ss.75 and 76 LPA). During the review period, the CBRD compounded nine partnerships for failure to pay their annual registration fees. These defaults were subsequently rectified. The Code of Commerce was also recently amended to allow the Registrar to remove non-compliant *sociétés* after three years (s. 50).

140. Partnerships that are licensed by the FSC are subject to an additional layer of oversight. The supervision of partnerships holding a Global Business License by the FSC is the same as that described above with respect to companies. The LLPA states that where the Registrar has reason to believe that a limited liability partnership holding a Global Business License is in default of any obligation imposed by the Act, he/she shall report the partnership to the FSC (s. 56 LLPA).

141. As the LLPA has only recently entered into force, no enforcement actions have yet been taken by the CBRD or the FSC against limited liability partnerships. However, it is acknowledged that the limited liability partnership does not differ significantly from its predecessor in terms of the type of information required to be provided to supervising authorities. Further, the supervision of limited liability partnerships is, for all intents and purposes, identical to that of limited partnerships. All partnerships are subject to the same oversight by the Registrar and all partnerships holding a Global Business License will be regulated in same fashion as all GBCs by the FSC. Although there are no indications that implementation of the LLPA will be problematic, to ensure its proper application, **Mauritius is recommended to monitor the enforcement of its provisions to ensure that they are implemented in practice**.

A.1.4. Trusts

142. Jurisdictions should take all reasonable measures to ensure that beneficial information is available in respect of express trusts (i) governed by the laws of that jurisdiction, (ii) administered in that jurisdiction, or (iii) in respect of which a trustee is resident in that jurisdiction.

143. As a legacy of its common law origins, Mauritian law recognises the concept of trusts and provides for the creation of various types of trusts under the Mauritian Trusts Act 2001. The types of trusts that can be created include express trusts, purpose trusts, unit trusts, charitable trusts and constructive trusts. A GBC1, but not a GBC2, can be structured as a trust. Foreign trusts (formed pursuant to the laws of a jurisdiction other than Mauritius) are recognised and enforceable in Mauritius. A Mauritius resident can be the trustee, protector or administrator of a foreign trust. For more detailed information on the formation of trusts in Mauritius, refer to paras. 99-103 of the September 2011 report.

144. Trusts holding a Global Business License will be registered with and supervised by the FSC. As at 31 March 2016, Mauritius had 19 trusts holding a GBC1 license and 27 trusts structured as private pension schemes. All such trusts are subject to FSC supervision.

145. Foreign trusts are recognised under Part X, section 60 of the Trusts Act. A Mauritian resident can act as a trustee, trust protector or trust administrator, or in another fiduciary capacity, for a trust formed under the laws of another jurisdiction. In such cases, the proper law of the trust would be that of the foreign jurisdiction (s. 61 TA). However, the duties and responsibilities of a Mauritian trustee would arise under the applicable Mauritian law (i.e. the Trusts Act, or other such acts, as applicable).

146. The September 2011 report (paras. 104-111) found that legal and beneficial ownership information on persons relevant to a trust (e.g. trustee,

settlor and beneficiaries) was available with respect to trusts formed under Mauritian law. However, the report noted the absence of identity information on non-resident trusts administered in Mauritius where the trustee was not a management company. Therefore, Mauritius was recommended to require all trustees resident in Mauritius to maintain information on the settlor, trustees and beneficiaries of their trusts. In response to this recommendation, in 2012, Mauritius amended section 38(3) of the Trusts Act to require trustees to maintain legal and beneficial ownership information on non-resident trusts.

147. Legal and beneficial ownership information on trusts is required by the Trusts Act and under Mauritius' AML regime. All trusts in Mauritius are required to have a qualified trustee (i.e. a person or management company licensed or authorised by the FSC). Identity information on persons relevant to a trust is required to be held by the trustee in respect of all trusts. Trustees are subject to AML supervision either by the FSC or the relevant professional body. Where the trust holds a GBC1 licence, such information also must be submitted to the FSC. Trustees of trusts that generate taxable income in Mauritius will be subject to audit by the MRA.

148. During the three year review period, Mauritius received five requests relating to trusts and was able to answer them all. No issues with respect to trusts have been raised by peers.

(a) Ownership information held pursuant to trust law

149. The Trusts Act 2001 (TA) provides for the maintenance of identity information on legal and beneficial owners of trusts. Section 3 of the Trusts Act allows for trusts to be created for the benefit of any beneficiary and for any purpose (including a charitable one). The trust instrument must state, *inter alia*, the name of the trustee, the object of the trust, and the beneficiaries or class of beneficiaries (s. 6 TA). Further, the Trusts Act requires that trustees keep up-to-date and accurate accounts and records of the trusteeship and a register of the names last known address of each beneficiary and settlor of the trust, including non-resident foreign trusts (s. 38(3) TA). For a more detailed analysis of trusts under Mauritian law, refer to paras. 99-111 in the September 2011 report.

150. As the amended section 38 of the Trusts Act only came into effect on 22 December 2012, following the recommendation issued in the September 2011 report, it was too new to have been fully assessed during the second supplementary review. Accordingly, Mauritius was recommended to monitor the operation of the new provisions relating to non-resident foreign trusts administered or with a trustee in Mauritius. To date, Mauritian authorities report that there have been no foreign trusts administered by a Mauritian trustee. Neither has Mauritius received any EOI requests on a foreign trust. Accordingly, the

Phase 2 recommendation to monitor the implementation of provisions relating to foreign trusts administered in Mauritius has been removed.

(b) Ownership information held by the tax authority

151. Trusts are taxable as companies in Mauritius (ss.43 and 46(1) ITA). As with companies, resident trusts are taxable on worldwide income and non-resident trusts are taxable on income gained in Mauritius.[5] Trusts established by a non-resident or a GBC having all non-resident or GBC beneficiaries, or a purpose trust whose purpose is carried out outside of Mauritius, are tax-exempt (s. 46(2) ITA).

152. The MRA will hold some ownership information on trusts that are subject to tax in Mauritius regardless of whether they have tax liability (i.e. including those that are tax-exempt). As taxable entities, trusts are required to register with the MRA and file annual returns with information on their activities as well as on certain persons relevant to the trust. Upon registration, the trustee must file the trust deed, which will contain information on the settlor and beneficiaries. Where a trust has distributed any amount out of income of the trust to its beneficiaries under the terms of the trust deed, the trustee must submit to the MRA a return specifying the full name of the beneficiaries and the amount distributed to each of them (s. 119 ITA). However, the annual return will not contain updated information on the settlor nor is the trustee required to inform the MRA if the settlor changes. Information on settlors will be held by the trustee pursuant to AML (discussed below).

153. As of 31 March 2016, 403 trusts were registered with the MRA; of these 357 were not GBCs.

(c) Ownership information held pursuant to AML and financial regulations

154. The Trusts Act requires all trusts to have, at all times, at least one trustee that is a qualified trustee, defined as a management company licensed by the FSC or a person resident in Mauritius authorised by the FSC to provide trusteeship services (s. 28(1) TA). Corporate trustees, as management companies, are required to obtain approval from the FSC in the same manner as that for obtaining a license to carry out financial services (s. 77 FSA). Where at any time there is no qualified trustee of a trust, any person having an interest in the trust may apply to the Judge in Chambers for the appointment of a

5. A trust is a tax resident if it is administered in Mauritius and a majority of the trustees are resident in Mauritius, or if the settlor of the trust was resident in Mauritius when the trust was created (s. 73 ITA).

qualified trustee nominated in the application (s. 28(4) TA). Until the required number of qualified trustees is reached, or a qualified trustee is appointed, the existing trustee shall act only for the purpose of preserving the trust property (s. 28(6) TA). The FSC maintains a register of qualified trustees, which is publicly available and can be accessed on the FSC's website. As at 31 March 2016, Mauritius had 27 corporate trust service providers and 32 qualified individual trustees (although 3 have not yet commenced business).

155. All trustees who are licensed by the FSC are, by virtue of their license, will come under Mauritius' AML regime. Sections 7.2 and 7.3 of the AML/CFT Code require management companies acting as qualified trustees to retain copies of all documentation used to verify the identity of the settlors, protectors, enforcers or beneficiaries of a trust. Such records are required to be maintained for the duration of each relationship and for a period of at least seven years thereafter.

156. Individual qualified trustees (i.e. trustees that are not management companies) are also subject to AML. Individual qualified trustees must be approved by the FSC, and will be subject to FSC AML supervision. If such trustees come from a regulated profession, they will be additionally subject to the AML oversight of the relevant supervisory body (e.g. the Bar Council for barristers and the Mauritius Law Society Council for attorneys). Mauritius attests that the possibility of a trustee (not belonging to a supervised profession) being authorised by the FSC is very remote and they do not know of any such cases.

157. The Mauritius Bar Council also has a role in the AML supervision of relevant members of the legal profession albeit limited. The Bar Council's supervision is not systematic, but rather based on complaints received or publicly aired reports of suspicious activities. In such circumstances, the Bar Council will request that the attorney in question provide the necessary documents and assess whether the attorney has abided by the provisions of FIAMLA.

158. Identity information of legal and beneficial owners of a trust will also be held by the FSC when the trust holds a GBC1 licence. As described above, all applications for a Global Business License must be accompanied by the underlying customer identification and due diligence documents. With respect to trusts, the GBC1 application form must contain CDD documentation on the settlor/contributor, the trustee and beneficiaries, or a certification from the management company that it holds CDD documents on the beneficiaries. For a more detailed analysis on information maintained by service providers and the FSC under AML, refer to the September 2011 report, paras. 106-109.

(d) Enforcement measures and oversight

159. Trusts that are liable to tax are supervised by the MRA. The MRA examined 12 taxable trusts (based on a risk-scoring system of all taxpayers) and conducted further assessments in 3 cases. Additionally, a sample of 60 tax-exempt trusts registered with the MRA were subject to a preliminary examination to ascertain whether they met the conditions set out in section 2 of the Income Tax Act. Where a trustee fails to submit an annual return, the MRA can automatically issue a tax claim for that year of assessment the payment for which would be due within 28 days of such notice (s. 122B ITA). The audit process is similar to that of companies. Financial statements are analysed with a view to ascertain the accuracy of income and expenses declared. Failure to submit an electronic return will result in a penalty imposed on the trust of 20% of the tax payable, not to exceed 100 000 rupees (EUR 2 638) (s. 122C ITA).

160. Trusts that hold a GBC1 license are supervised by the FSC in the manner described above for companies. The FSC advises that, to date, it has inspected all 27 of the corporate trustees and 20 of the 32 non-corporate qualified trustees (about 63%). Inspections have shown that corporate trustees and qualified individual trustees are maintaining the required customer identification and verification documentation on settlors. Over the review period, the FSC also inspected 20 qualified individual trustees.

A.1.5. Foundations

161. Jurisdictions that allow for the establishment of foundations should ensure that information is available identifying the founders, members of the foundation council, beneficiaries, as well as any beneficial owners of the foundation or persons with the authority to represent the foundation.

162. The Foundations Act 2012 (FA) provides for the establishment of foundations in Mauritius. A Mauritian foundation can be used for the benefit of specific persons and/or to carry out a specific purpose, which can be charitable or commercial (s. 3(3) FA). In Mauritius, foundations may also be used as a wealth management structure, for instance as a private pension scheme. Foundations can also apply for a Global Business Category 1 license, entitling it to the benefits of GBC1 status, including access to Mauritius' DTC network. As at 31 March 2016, 113 charitable and 180 non-charitable foundations were registered with the CBRD and the following foundations were within the purview of the FSC: 5 holding a GBC1 license, 1 established to carry out financial activities without a Global Business License, 41 established as private pension schemes and 1 administering funds as a private pension administrator.

163. Prior to the second supplementary review, foundations could not be established in Mauritius. The concept of a foundation was introduced in Mauritius with the Foundations Act 2012, which came into operation in July 2012. The April 2014 report found that the Foundations Act ensured the availability of relevant ownership information in Mauritius, but could not fully assess the implementation of the law in practice due to the short period of time between its implementation and the end of the review period. As such, the April 2014 report recommended that Mauritius monitor the operation of the new provisions on foundations and their enforcement. For a detailed description of foundations in Mauritius, refer to paras. 48-72 of the April 2014 report.

164. Legal and beneficial ownership information on foundations is ensured under the Foundations Act and Mauritius' AML regime. Identity information on persons related to foundations will be held by the Registrar or the foundation itself at its registered office in Mauritius. Further, since the last review in April 2014, Mauritius has implemented a system of monitoring of foundations and has inspected 60% of all foundations. Foundations inspected were found to be compliant with obligations to maintain ownership and identity information as stipulated under the Foundations Act. As a result, the Phase 2 recommendation to monitor the operation of the new provisions on foundations has been removed.

165. During the period under review, Mauritius did not receive any requests relating to foundations.

(a) Ownership information held by the Registrar

166. The Registrar of Companies, who is also the Registrar of Foundations, holds up-to-date legal and beneficial ownership information on foundations. All foundations must be registered with the CBRD to have legal personality (s. 5(2) FA). Further, all foundations must have a council that is responsible for the administration of the foundation's assets with at least one member resident in Mauritius (ss.16 and 17 FA). Identity information on the founder, beneficiaries, secretary and members of the foundation council must be submitted to the Registrar at the time of registration (s. 23 FA).

167. The register of foundations is publicly available and will record the name and address of the founder, of the secretary and of the members of the council (s. 28 FA). Information on beneficiaries is not recorded in the register, but will be held by the Registrar. Changes to a foundation's charter or secretary, registered office or council membership must be notified to the Registrar within seven days of such change occurring (ss.9(2) and 17(9) FA). Mauritius advises that the obligation to notify the Registrar of changes applies to any change in beneficiaries. The register will be amended to reflect any such changes (s. 9(4) FA).

168. Pursuant to section 47 of the Foundations Act, foundations formed under the law of a foreign jurisdiction may make an application to re-domicile in Mauritius. The application for re-domiciliation must include all the information required for the registration of a Mauritian foundation. All the provisions of the Foundations Act are applicable to foundations established under the law of another State and re-domiciled in Mauritius. For detailed information on the registration of foundations, see the April 2014 report, paras. 51-55. As at 21 March 2016, 301 foundations were registered with the MRA.

169. The foundation is also responsible for holding updated legal and beneficial ownership information. All Mauritian foundations must have a registered office in Mauritius (s. 14 FA). Pursuant to section 8 of the Foundations Act, the charter of a foundation must specify, *inter alia*, identity information on the founder (including, where the founder is a legal entity, information on the entity's directors and controlling members), beneficiaries, secretary and the registered address of the foundation. A foundation must keep at its registered office a copy of all documents filed with the Registrar, including its charter and Articles (if any) as well as of its council members, founder and any other person endowing assets to the foundation (s. 37(1) FA). Such records must be kept for at least seven years (s. 36(4) FA).

(b) Ownership information held by the tax authority

170. In Mauritius, foundations are liable to income tax (s. 49A(1) ITA). For the purpose of taxation, foundations are considered to be companies (ss.2 and 43 ITA). Following the definition of tax residency applicable to legal entities, a foundation registered in Mauritius, or that has its central management and control in Mauritius, is considered tax resident in Mauritius (s. 73(da) ITA). Charitable foundations and foundations created by a GBC1 or a non-resident with only non-resident or GBC1 beneficiaries are exempt from tax (s. 49A(2) and Schedule 2 ITA).

171. As with most other relevant entities, the MRA is not the primary source of up-to-date ownership information for foundations. As taxable entities, foundations are required to register with the MRA and file an annual tax return (section 112 ITA). However, as with companies, ownership information (e.g. information on beneficiaries) is not required to be included in the tax return.

172. In the course of the audit process, the MRA has conducted field visits of 119 foundations during the course of which the MRA verified that foundations were complying with obligations under the Foundations Act to hold the foundation's charter and identity documents on the founder, beneficiaries, the secretary, and the foundation council. Eleven of the 113 charitable foundations have also been inspected with similar results.

(c) Ownership information held pursuant to AML and financial services regulations

173. All foundations established in Mauritius must have a secretary that is a management company or another person resident in Mauritius as approved by the FSC (s. 13 FA). As described above, management companies are governed by the Financial Services Code and subject to AML, including customer verification and ongoing CDD measures. Where the foundation applies for a GBC1 license, legal and beneficial ownership information will be submitted to the FSC through the licensing process. In all other cases, the secretary of the foundation (as an FSC licensee) will be responsible to maintain identify and verification records in his/her own records in accordance with the CDD requirements contained in section 41 of the AML/CFT Code (pursuant to section 17 of FIAMLA establishing the obligations of FSC licensees, as described above).

(d) Enforcement measures and oversight

174. The CBRD and FSC share responsibility for supervising the compliance of foundations with their obligations under the Foundations Act. Towards this end, the CBRD and FSC have in place a joint monitoring programme through which 182 of Mauritius' 301 foundations (60% of all foundations in Mauritius) have been inspected. The FSC and CBRD identified foundations for inspection by focusing first on management companies administering the highest number of foundations. In the last three years, 20 joint inspections were carried out in 2014, 42 in 2015 and 120 in 2016. Among the areas of focus of the inspections included verification that secretaries of foundations had on file the details of the beneficiaries, founders and protectors (if any). In the course of these inspections, the MRA carried out on-site visits where the following types of documents were examined: the charter of the foundation, the register specifying the founder, beneficiaries and members of the council, KYC documents on the beneficiaries, founders and members of council, banks statements of the foundations, and contracts entered into by the Foundations with third parties, for example investment managers. The inspections found that management companies acting as secretaries were in compliance with obligations to maintain ownership and identity information. In all cases, CDD documentation on ownership details including beneficiaries, founders and protectors were found to be available.

175. Following the inspections, 26 foundations that had failed to pay their registration dues were compounded by CBRD. Following compounding, 11 foundations have settled their fees and accompanying fines. Procedures for removal under Section 39(1) of the Foundations Act 2012 have been initiated against the remaining 15 foundations still in default. The FSC and CBRD have not inspected any foundations with secretaries that were not management

companies, but these will be included in the next cycle of inspection. To date, 13 non-management company secretaries have been authorised by the FSC.

A.2. Accounting records

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

176. Obligations to maintain accounting records, including underlying documentation, in accordance with the international standard are in place in Mauritius for all relevant entities and arrangements.

177. During the first round of reviews, accounting obligations for most relevant entities were in place in Mauritius; however, gaps in Mauritian law existed with respect to GBC2s and trusts. Further not all entities (namely trusts) had a clear requirement to keep underlying documentation. By the time of the second supplementary review, Mauritius had amended its legal framework to address recommendations issued in the September 2011 report. Further, all accounting requests relating to GBCs were answered in a timely fashion. Consequently, the recommendations from the September 2011 report were considered implemented and removed. Element A.2 was deemed to be "in place" and "Largely Compliant".

178. Another development that occurred during the second supplementary review was the introduction of foundations into the Mauritian legal system. As the Foundations Act only came into force in July 2012, no foundation had yet submitted a tax return or accounting records to the MRA at the time of the second supplementary review. Mauritius was therefore recommended to monitor the enforcement of accounting obligations of foundations. Further, a gap was noted with respect to certain charitable foundations. As a result, the April 2014 report also recommended that Mauritius ensure that all charitable foundations maintain underlying documentation in line with the international standard.

179. Following the second supplementary review, foundations in Mauritius have been subject to oversight by several agencies. As described above, the CBRD and the FSC have initiated a joint monitoring programme that has examined, *inter alia*, whether foundations are keeping proper accounting records. Under this programme, 60% of foundations have undergone inspection. Further, the MRA has audited 10% of charitable foundations, which have included requesting audited accounts. Mauritian authorities report that records have been provided in every case. Given the improvements made over the course of the last several reviews and the rigorous system of oversight in place, it can be deemed that adequate accounting obligations exist for all relevant entities and recommendations relating to foundations and trusts have been removed.

180. Since the last review, Mauritius has introduced a new type of partnership into its legal framework (see above section on partnerships). As noted above, the limited liability partnership is very similar to the limited partnership in many respects, particularly with respect to the applicable supervisory framework. Accounting obligations of limited liability partnerships are virtually identical to those of limited partnerships (in existence since 2011). No serious concern is raised with respect to such new entities, but Mauritius is recommended to monitor the implementation of the provisions of the new LLPA until sufficient practice develops.

181. A new issue has been identified under the 2016 TOR. Accounting records for entities that cease to exist may not be available in all cases. Further, where accounting records are available, under certain circumstances, the retention period for such records does not meet that articulated in the international standard.

182. 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	Accounting records for companies that are voluntarily wound up are required to be retained by the liquidator for only three years. Further, no clear obligation is placed on any individual to retain accounting records after a company or partnership is removed from the register. However, records of companies and partnerships that have Global Business Licenses will be kept by the registered agent.	Mauritius should ensure that accounting records for companies and partnerships that cease to exist are kept for a minimum period of five years.
Determination: In Place		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

A.2.1. General obligations to maintain accounting records

183. Mauritius relies largely on commercial and tax obligations to ensure the availability of accounting information, although additional obligations on GBCs are contained under the Financial Services Act. The MRA, in charge of ensuring compliance with tax obligations, effectively monitors the compliance of taxpayers and service providers. Overall, Mauritius has an effective system to ensure that accounting information is available in all cases.

184. Following a number of legislative changes, the previous round of reviews concluded that general accounting obligations existed in Mauritius with respect to all relevant entities, although foundations were found to require additional monitoring. On this subject, the regulatory landscape in Mauritius remains the same as at the time of the second supplementary review; provisions under tax, commercial and financial services law ensure the maintenance of accounting records in line with the international standard. Accordingly, Mauritius' legal framework is summarised below with reference to relevant portions of the April 2014 report.

185. Although issues occurred with respect to the availability of accounting information at the time of the September 2011 report, no such similar issues arose during the second supplementary review and no issues have been identified by peers in the current review period. Mauritius received 344 requests for accounting information and was able to exchange the requested information in all cases.

(a) Tax law requirements to maintain accounting records

186. The Income Tax Act requires every person carrying on business or deriving income other than emoluments to keep a full and true record of all transactions and other acts engaged in by him that are relevant for the purpose of enabling his gross income to be readily ascertained by the MRA (s. 153 ITA). All entities registered with the MRA (including partnerships, foundations and trusts) are required to submit to the MRA a return of income each year, including balance sheets and profits and losses, regardless of whether they have taxable income in that year. Records must be kept for a period of at least five years after the completion of the transaction, act or operation to which it relates (s. 153 ITA).

187. Any person who fails to keep proper books and records shall commit an offence and shall, on conviction, be liable to a fine not exceeding MUR 5 000 (EUR 130) and to imprisonment for a term not exceeding six months (s. 148 ITA). Anyone who falsifies books and records shall commit an offence and shall, on conviction, be liable to a fine not exceeding MUR 50 000 (EUR 1 300) and to imprisonment for a term not exceeding two years (s. 147 ITA).

(b) Commercial law requirements to maintain accounting records

188. Obligations to maintain accounting records also arise under various pieces of legislation governing of the formation of relevant entities. These obligations are described for each entity below.

(i) Companies

189. With respect to companies, the Companies Act contains requirements to maintain accounting records that correctly record and explain all transactions, enable the financial position of a company to be determined with reasonable accuracy at any time, enable the directors to prepare financial statements, and enable such financial statements to be audited (s. 193 CA). Companies, including GBC1s, are required to prepare financial statements in accordance with International Accounting Standards (ss.210-211 CA). Pursuant to the thirteenth schedule of the Companies Act, GBC2s are exempted from this requirement. With the exception of any company with a Global Business License, companies incorporated under the Companies Act must submit such financial statements to the Registrar as part of their annual report (s. 221 CA).

190. Accounting records should be kept in Mauritius, but the directors of a company may determine that records are to be kept abroad as long as the location of such records are made known to the Registrar and accounts and returns that disclose with reasonable accuracy the financial position of the company and enable the preparation of financial statements that are kept in Mauritius (s. 194 CA). Section 71(4)(b) of the FSA stipulates that a GBC1 shall keep and maintain or keeps and maintains, at all times, its accounting records at its registered office in Mauritius (i.e. with its registered agent).

191. Under the Companies Act, records must be kept for at least seven years (s. 190(2)(i) CA).

192. Failure to maintain such records as required may result in both the company and directors to be fined up to MUR 100 000 (EUR 2 500) (s. 329 CA).

(ii) Partnerships

193. Partnerships formed under the LPA and the LLPA must maintain adequate accounting records. Under the LPA, all limited partnerships must keep at their registered office accounting records that show and explain all transactions, disclose with reasonable accuracy, at any time, the financial position of the limited partnership, enable the preparation of the balance sheet and profit and loss accounts, and record their assets and liabilities (ss.39(1)(d) and 40 LPA). Similarly, under the LLPA, all limited liability partnerships must keep at their registered office "such books, registers, accounts,

records, including receipts, invoices and vouchers, and documents (including contracts and agreements) representing a full and proper record of all transactions and other acts engaged in by the limited liability partnership as to reflect the financial position of the limited liability partnership" (s. 41 LLPA).

194. Additionally, under the LLPA, the Registrar will also hold accounting information on limited liability partnerships. Limited liability partnerships with an annual turnover of less than MUR 50 million (EUR 1.3 million) must file with the Registrar a financial summary which shall give a true and fair view of its state of affairs (s. 40(1)(a) LLPA). Those with an annual turnover of MUR 50 million (EUR 1.3 million) or more must file with the Registrar financial statements in the manner specified in the Companies Act (s. 41(1)(b) LLPA).

195. Under the LPA, accounting records must be kept for a minimum of seven years from the date they were made (s. 39(2) LPA). Similarly, under the LLPA, records must be maintained for at least seven years from the end of financial year in which the transactions or operations to which those records relate are completed" (s. 41(3) LLPA).

196. Contravention of section 41 under the LLPA is punishable by a fine not exceeding MUR 200 000 (EUR 5 227). Where a limited partnership contravenes any provision of, or condition imposed by, the LLP, it commits an offence punishable by a fine not exceeding MUR 200 000 (EUR 5 227) and a term of imprisonment not exceeding two years (s. 76 LPA).

(iii) Trusts

197. With respect to trusts, the Trusts Act requires all trustees to keep updated and accurate accounts and records of their trusteeship, including "proper books, registers, accounts, records such as receipts, invoices and vouchers and documents such as contracts and agreements representing a full and true record of all transactions and other acts engaged in by the trust" (s. 38(3) TA). These obligations apply equally to trustees of domestic trusts and foreign trusts. For a detailed analysis of the accounting obligations of trustees, refer to the September 2011 report, paras. 141-142 and the April 2014 report, paras. 94-96.

198. Under the Trusts Act, records shall be kept for a period of not less than 5 years after the completion of the transactions to which they relate" (s. 38(3) TA). A trustee who commits or concurs in a breach of trust shall be liable for any loss or depreciation in value of the trust property resulting from the breach or any profit that would have accrued to the trust had there been no breach (s. 50 TA).

199. Further, as described above, section 153 of the Income Tax Act requires all entities registered with the MRA (including trusts) to submit to the MRA a return of income each year regardless of the entity's tax liability in that year. The same retention period and penalties applicable to companies apply to trusts.

(iv) Foundations

200. Foundations are also required to maintain accounting records that show and explain the transactions of the foundation, disclose with reasonable accuracy, at any time, the financial position of the foundation and allow financial statements to be prepared (s. 36(2) FA). As the Foundations Act only came into force in July 2012, no foundation had yet submitted a tax return or accounting records to the MRA at the time of the second supplementary review. Mauritius was therefore recommended to monitor the enforcement of accounting obligations of foundations. For a more detailed description of the accounting obligations of foundations, refer to the April 2014 report, paras. 97-102.

201. Under the Foundations Act, records must be kept for a minimum of seven years from the date they were made (s. 37(4) FA). Where a foundation (which includes any person involved in the management of a foundation) contravenes any part of the Foundations Act, it commits an offence for which it may be liable to a fine not exceeding MUR 500 000 (EUR 13 000) and a term of imprisonment not exceeding five years (s. 50 FA).

(c) Requirements under the Financial Services Act (AML/CFT Rules) to maintain accounting records

202. GBCs have additional filing obligations under the Financial Services Act. Under section 29 of the FSA, every licensee must keep a full and true written record of its business activities, including account files and business correspondence. All documentation must be kept for at least seven years after the completion of the transaction to which it relates (s. 29(2) FSA). GBC1s are exempted from filing their financial statements with the Registrar, but must file with the FSC audited financial statements prepared in accordance with International Financial Reporting Standards on an annual basis (Schedule 13 of CA and s. 30(1) FSA). Pursuant to section 30(1) of the FSA, a corporation holding a Category 2 Global Business Licence is not required to prepare financial statements, but shall file with the FSC every year a financial summary in the form set out in the Ninth Schedule to the Companies Act.

203. Contravention of any provision in the Financial Services Act is punishable by a fine not to exceed MUR 500 000 (EUR 13 235) and imprisonment for a term not exceeding five years (s. 90(2) FSA). For a more detailed

analysis of the accounting obligations of GBCs, refer to the September 2011 report, paras. 129-139.

(d) Record retention requirements for entities that cease to exist

204. As described above, the Insolvency Act (IA) governs record-keeping obligations relating to companies that are wound up or dissolved. Where a company is wound up, the liquidator has responsibility to retain every book that is relevant to the affairs of the company for a period of six years from the date of the dissolution of the company (s. 6 IA). However, with respect to companies that are voluntarily wound up by the shareholders or creditors, the Insolvency Act imposes a duty on the liquidator to hold records for a period of only three years. Further, it is possible (although it has never occurred in practice) that a court permits records to be destroyed prior to the expiration of the statutory retention period. As a result, Mauritius is recommended to ensure that accounting records are retained for at least five years for companies that have ceased to exist.

205. Partnerships are also subject to the provisions of the Insolvency Act. Partnerships with legal personality (e.g. certain limited partnerships and all limited liability partnerships) are subject to the same provisions as applicable to companies. Partnerships that do not have legal personality are defined as "unregistered corporations" for the purpose of the Insolvency Act and are wound up in the same manner as companies (s. 96 IA). The liquidator will have a duty to retain all books relevant to the affairs of a partnership for a period of six years (s. 6 IA). Where a limited partnership or a limited liability partnership is removed from the register, the same issue as described above with respect to companies exists. As the partnership itself is responsible for holding its records, after removal from the register, it is unclear (as the partnership ceases to exist) who carries that responsibility. Therefore, Mauritius is recommended to ensure that accounting records are available for partnerships that are removed from the register.

206. The accounting records of entities that are required to engage a licensed service provider (such as all entities with a Global Business License, trusts and foundations) will be held by the service provider for the minimum statutory retention period even if the entity ceases to exist. Mauritius explains that management companies provide the full range of services for entities they administer; as such, they will be responsible for, and thus hold the accounting records of, GBCs.

207. Over the review period, Mauritius was able to respond to ten requests for accounting information relating to companies that were removed from the register.

(e) Oversight and enforcement activities in practice

208. To ensure compliance with obligations to maintain proper accounts and records, the MRA conducts field on-site visits and desk check as part of their monitoring programme. In case of non-compliance with tax filing requirements, a list of non-compliant taxpayers is issued. Under section 121 of the ITA if taxpayer fails to file a return, the MRA will send one or two reminders. The taxpayer may then comply voluntarily. However, if the taxpayer does not after two reminders, MRA agents will visit the taxpayer, inspect their records, and then issue a field audit report. The MRA always tries to reach a settlement before applying penalties (the maximum penalty being 50% of the tax being assessed). In 2015, the filing rate among large corporate taxpayers was 87.96% and 64.58% among small and medium corporate taxpayers.

209. With respect to large taxpayers, files are maintained electronically in the MRA's system. The large taxpayers category accounts for more than 70% of the total income tax revenue. As of 2015, all GBC1s are considered as large taxpayers and fall within the large taxpayers category – more than MUR 100 million (EUR 2.6 million) turnover. In selecting GBC1s to audit, the MRA carries out a risk-based selection. Every large taxpayer is audited every 3 years.

210. The MRA advises that with respect to small and medium taxpayers, at times proper records have not been kept, but the MRA has conducted educational visits to raise awareness with record-keeping obligations. In January 2016, the MRA set up a unit to help small and medium taxpayers comply with their record-keeping and filing obligations. During 2016, about 1 000 taxpayers were visited by this team and where shortcomings were identified, they were contacted for follow-up. Thereafter, cases will be referred for audit. The MRA has also audited persistent defaulters detected through its monitoring of non-filers, through routine inspections, and other audits and inspections.

211. The figures for large taxpayers selected for audit are 20% in 2015 and 23% in 2014. In 2014, the MRA carried out 192 investigations and compounded 79 cases. In 2015, the MRA investigated 142 cases and compounded 49 cases. In 2015, through joint investigations with FID, a total of 475 intelligence visits and 53 surprise visits were carried out. The MRA was able to collect MUR 63 980 million (EUR 1.66 million) and MUR 67 813 million (EUR 1.76 million) in tax revenue in the years of 2014 and 2015, respectively. More detailed statistics on the performance of the MRA can be found in its annual reports on its website (www.mra.mu/index.php/media-centre/annual-reports).

212. In the three-year period under review, the breakdown of audits between GBCs and non-GBC companies was as follows. The MRA conducted the following audits: 63 GBCs and 503 non-Global Business companies (in

the large taxpayers category) in 2013-14, 106 GBCs and 566 large non-Global Business companies in 2014-15, and 206 GBCs and 603 large non-Global Business companies in 2015-16. All GBCs audited were GBC1s as GBC2s are not entitled to treaty benefits and are tax exempt. Compliance with accounting requirements of GBC2s are monitored by the FSC in its regular programme of supervision.

213. As mentioned above, in 2012, Mauritius introduced Foundations under the Foundations Act, which led to a monitoring recommendation in the 2014 supplementary report. At that time, the enforcement of the Foundations Act could not be assessed as no foundations had yet submitted a tax return or accounting records. Following the 2014 report, the MRA conducted field visits of 119 foundations, representing 60% of the entire foundation population. During the on-site visits, the MRA examined financial statements and verified information with their underlying books and records. All foundations were found to keep proper accounting records. One case involving non-submission of return was subjected to a desk-based audit. The company filed its financial statement and an assessment was raised in that case. Consequently, the recommendation to monitor the enforcement of the accounting obligations applicable to foundations is deemed to be fully implemented and has been deleted.

214. Over the review period, the MRA examined 12 taxable trusts and raised assessments in 3 cases, which led to MUR 116 553 (EUR 3 035) in penalties, although deficiencies identified did not relate to failure to maintain accounting records.

215. Over the review period, the MRA audited 5 of its 65 partnerships. Mauritius has not yet audited any limited liability partnerships due to the recent enactment of the LLPA, but the MRA confirms that the audit programme for domestic limited liability partnerships will be the same as that for domestic limited partnerships (which have been supervised by the MRA since 2012). Limited liability partnerships that are GBCs will fall under the same supervision as all other Global Business Companies. As such, no serious concern is raised with respect to the introduction of this new type of partnership in terms of supervision. **However, Mauritius is recommended to monitor the implementation of the provisions of the new LLPA until sufficient practice in this area develops**.

216. The MRA strongly encourages voluntary compliance. Towards this end, it conducts ongoing educational campaigns across the island. Where non-compliance is detected, the MRA will carry out follow-up assessments to determine whether non-compliance continues. In case of continued non-compliance, assessments are raised in the majority of cases. Some cases are referred for prosecution. In 2015, 13 cases were under prosecution.

A.2.2. Underlying documentation

217. In addition to explaining all transactions, enabling the financial position of an entity to be determined and allowing for financial statements to be prepared, accounting records should include underlying documentation and should reflect details of all sums of money received and expended, all sales, purchases and other transactions and the entity's assets and liabilities.

(a) Legal requirements to maintain underlying documentation

218. At the time of the combined review in January 2011, trustees did not have a clear requirement to keep underlying documentation. Additionally, until July 2011, GBC2s were required to keep only such accounting records as their directors considered necessary or desirable. Both of these deficiencies were noted in the January 2011 report. By the time of the first supplementary review, Mauritius had resolved the accounting deficiencies of the GBC2s with amendments to the Companies Act and had made some improvements with respect to the accounting obligations of trustees. However, the September 2011 report noted a continuing gap with respect to foreign trusts that were not resident in Mauritius for tax purposes and did not have a Global Business License. At that time, one peer indicated that it was not provided underlying documentation where requested. The September 2011 report also issued a recommendation to monitor the new accounting obligations of GBC2s.

219. The Companies Act requires accounting records to contain entries of money received and spent each day and the matters to which they relate, a record of the assets and liabilities of the company, and records of goods (e.g. stock, inventory) and services where relevant (s. 193(2) CA).

220. The Income Tax Act requires every person carrying on business or deriving income other than emoluments to keep "proper books, registers, accounts, records such as receipts, invoices and vouchers, other documents such as contracts and agreements, and a full and true record of all transactions and other acts engaged in by him that are relevant for the purpose of enabling his gross income and allowable deductions to be readily ascertain[ed]" (s. 153 ITA). As noted in the September 2011 report, this obligation also applies to trusts and partnerships that are resident in Mauritius for tax purposes.

221. The Limited Partnerships Act also requires accounting records to include "contain day-to-day entries of money received and spent by the limited partnership and the matters to which it relates and a record of the assets and liabilities of the limited partnership" (s. 39(d) LPA).

222. Following amendments to the Trusts Act in December 2012, all trustees, including those administering foreign trusts, are required to maintain underlying documentation including proper books, registers, accounts,

records such as receipts, invoices and vouchers and documents for a period of not less than five years (s. 38 TA).

223. The Foundations Act does not explicitly contain a requirement to maintain underlying documentation so this duty stems from the Income Tax Act for foundations. As such, charitable foundations conducting no business in or deriving no income from Mauritius are not required to maintain underlying documentation as a part of their books and accounts.

(b) Oversight and enforcement activities in practice

224. Availability of underlying documentation is supervised through the MRA's audit programme, described above. The MRA confirms that it checks for underlying documentation in all audits.

225. In response to the recommendation in the April 2014 report that Mauritius ensure that all charitable foundations also maintain underlying documentation, the MRA has begun auditing charitable foundations, which involved examining the foundation's financial statements and accounts, including supporting documentation are being kept. All were found to be maintaining the proper books and records.

A.3. Banking information

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

226. Banking information is available for all account-holders under Mauritius' banking law and AML. Banks are prohibited from opening and keeping anonymous accounts or accounts opened under fictitious names. They are obliged to retain copies of documents used in connection with CDD and customer identification measures for seven years after the customer relationship has ended or following the completion of the transaction to which the documents relate (s. 8 AML/CFT Code). In case of non-compliance with these obligations, sanctions apply. Supervision of banks' record-keeping requirements is carried out by the Bank of Mauritius.

227. The last round of reviews did not raise any concerns with respect to the availability of bank information in Mauritius. Element A.3 was determined to be "in place" and rated "Compliant". No recommendations were issued in the combined report or in either of the supplementary reports.

228. The 2016 ToR introduced a requirement for beneficial owners of bank accounts to be available. In Mauritius, beneficial ownership on bank accounts is available with banks, which are subject to comprehensive CDD

and KYC requirements. Compliance with these obligations is supervised by the Bank of Mauritius, which has developed tools to assess the CDD compliance by banks and other financial institutions under its purview.

229. Availability of banking information is confirmed in Mauritius' EOI practice. During the review period, Mauritius received 316 requests for banking information (10 of which related to beneficial owners) and was able to provide the information requested in all cases.

230. The table of determinations and ratings remains as follows:

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

A.3.1. Availability of banking information

231. Jurisdictions should ensure that banking information is available for all account holders. Mauritius' AML regime 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. These obligations and the system of enforcement in place to supervise compliance with such obligations is summarised below. For additional analysis on the availability of banking information, refer to paras. 148-153 of the September 2011 report.

(a) General record-keeping requirements

232. In Mauritius, banks are required to maintain all records pertaining to accounts as well as to related financial and transactional information. Pursuant to section 33 of the Banking Act (BA), banks must maintain, *inter alia*, a "full and true written record of every transaction they conduct". These records must include "account files of every customer, business correspondences exchanged with every customer and records showing, for every customer, at least on a daily basis, particulars of its transactions with or for the account of that customer, and the balance owing to or by that customer". The Bank of Mauritius Guidance Notes on Anti-Money Laundering and Combatting the Financing of Terrorism (AML Guidance) stipulates that transaction records must include, *inter alia*, the volume and source of funds, the identity of the person undertaking the transaction and the of the beneficiary, and identifying information on any account associated with the transaction (s. 7.05 AML Guidance).

233. All documentation must be kept at the principle office of the financial institution or at such other place as may be approved by the Central Bank for at least seven years after the completion of the transaction to which it relates, closure of the account, or termination of the business relationship with the customer concerned (s. 7.03 AML Guidance).

234. Contravention of record keeping obligations in the Banking Act is punishable with a fine up to MUR 100 000 (EUR 2 500) and up to 2 years of imprisonment (s. 100(4) BA). Without prejudice to section 50 of the Banking Act, the Bank of Mauritius is also authorised to impose an administrative penalty, and to publicise the fact of such penalty, on any financial institution that fails to comply with any instruction, guideline or requirement under Mauritius' banking laws (s. 60 BA).

(b) Legal and beneficial ownership information on account holders

235. Pursuant to banking law and AML, Mauritian banks must identify their customers, including any legal and beneficial owner(s), before commencing a business relationship, such as opening a bank account. This information must be kept accurate and up-to-date during the lifetime of the business relationship. The Bank of Mauritius supervises the compliance of the banking sector with such obligations through a programme of on-site and desk-based monitoring.

(i) General customer identification requirements

236. In Mauritius, banks must take measures to identify and verify the identity of their clients. Anonymous, or numbered, accounts are prohibited in Mauritius under section 55 of the Banking Act. Financial institutions should only open accounts for deposits of money and securities where they are satisfied they have established the true identity of the person in whose name the funds or securities are to be credited (s. 55 BA). Contravention of section 55 of the Banking Act is punishable with a fine of between MUR 1-5 million (EUR 2 613-13 065) (s. 6.04 AML Guidance).

237. Customer identification and verification measures required to be taken by banks are described in the Bank of Mauritius' AML Guidance. A financial institution should always establish to its satisfaction that it is dealing with a real person or organisation (s. 6.26 AML Guidance). Where a client is an individual, he/she must submit official valid photographic identification, as well as documentation establishing the client's current address beyond a reasonable doubt, and any other such documents as are necessary to enable to the bank to establish his/her identity. If the client is a legal entity, it shall submit documentation establishing its legal existence, as well as identity documentation of every manager, officer and employee authorised to transact

on its behalf. The AML Guidance further provides that a bank should cross-check the information it receives from a client against public sources, such as registers and telephone directories, as well as private databases, such as credit bureaus (s. 6.27). Non face-to-face clients are subject to additional verification measures (s. 6.55 AML Guidance). Banks are also required to maintain information on the ownership structure of customers that are legal entities to verify the identity of those who ultimately own or have control over the entity's business and assets (s. 6.60 AML Guidance). If changes to the company structure or ownership occur, or if suspicions are aroused by a change in the nature of the business transacted or the profile of payments through a company account, the bank must conduct further checks to ascertain the reason for the changes (s. 6.63 AML Guidance). Where a bank cannot obtain all the CDD information, it shall not open an account, commence a business relationship, or perform a transaction, and should consider making a suspicious transaction report (s. 6.37 AML Guidance).

238. After the initial verification and identification stage, banks must ensure that their client files remain current. CDD should be continuous and identity documents should be kept up-to-date (s. 6.29 AML Guidance). Banks should have policies in place to develop the risk profile of each client, which will determine the level of ongoing CDD necessary to be undertaken for that client. Information gathered at the customer identification and verification stage should be used to determine the appropriate risk profile (s. 6.39 AML Guidance).

239. A bank also has a duty to take reasonable measures to determine whether the applicant for business is acting on the behalf of a third party. If a transaction is being conducted on behalf of a third party, then the identity of the third party should be established and verified. Where a bank is unable to determine whether a customer is acting on behalf of a third party, it should report the transaction to the FIU (s. 6.26 AML Guidance).

(ii) Requirements to identify beneficial owners

240. Banks are further obligated to take steps to identify the ultimate beneficial owner in a transaction. The AML Guidance states that "financial institutions should also require customers to complete a written declaration of the identity and details of natural person(s) who are the ultimate beneficial owner(s) of the business relationship or transaction as a first step in meeting their beneficial ownership customer due diligence requirements" (s. 6.26). Banks must then take reasonable measures to verify the identity of the beneficial owner using reliable independent sources (s. 6.27 AML Guidance). The AML Guidance states that "reasonable measures" should be proportionate to the risk posed by the customer relationship and should allow the financial institution to satisfy itself that it knows the customer's identity. A non-exhaustive list of reasonable measures include: (i) reviewing a copy of the latest financial statements (audited,

if available), (ii) verifying information through public corporate registers, private databases or other reliable independent sources (e.g. lawyers, accountants); (iii) validating the Legal Entity Identifier (LEI), if available, and associated data in the public access service; (iv) obtaining prior bank references; and, (v) conducting an on-site visit where practical (s. 6.59 AML Guidance).

241. The beneficial owners to be identified and the additional steps to be taken will depend on the nature of the client. Where the client is a company, the bank must identify those who ultimately own or have control over the company's business and assets, notably, their directors, beneficial owners (as according to the FATF definition), significant shareholders (defined by the Guidance Notes as those holding directly or indirectly 20% or more of the capital or voting rights in a company), and their authorised signatories (or senior managing officials) (s. 6.60 AML Guidance). For a partnership, any partner owning or controlling more than 20% of the partnership must be identified (s. 6.67 AML Guidance). Administrators and *gérants* of *sociétés* should also be identified. With respect to trusts, a bank should identify all persons related to the trust, as well as any controller or person with the power to appoint or remove a trustee (s. 6.79 AML Guidance). The persons that must be identified with respect to a foundation include the council members, the founder, the executor, the protector, the beneficiary, and the administrator (s. 6.82C AML Guidance).

(iii) Reliance on identification measures of other institutions

242. Under certain circumstances, the AML rules in Mauritius allow a bank, or other financial institution, to rely on another financial institution for customer verification where the latter institution is introducing a client to the former. Financial institutions may rely on eligible or group introducers to take on new clients where the financial institution obtains and maintains documentary evidence that the introducer is regulated for AML purposes and the financial institution is satisfied that the introducer has in place adequate identification and verification procedures comparable to those stipulated in the AML Guidance (s. 6.83 AML Guidance).

243. The AML Guidance defines an eligible introducer as a person or institution that is regulated under FIAMLA or similar legislation or rules in an equivalent jurisdiction and is based in Mauritius or an equivalent jurisdiction. An equivalent jurisdiction is one which has legislation equivalent to that of Mauritius. Mauritian authorities explained during the on-site visit that equivalent legislation can be understood as having comparable AML standards. A list of equivalent jurisdictions is contained in the Bank of Mauritius AML Guidance Annex B. A group introducer is a part of the same group as the financial institution to whom the client is being introduced and is subject to similar AML supervision and regulation. Where a financial institution

wishes to accept a client through an eligible or group introducer, it must immediately obtain from the introducer the necessary information concerning, *inter alia*, the identity and verification of the customer and beneficial owner(s), verification of whether the client is acting on behalf of a third party, the purpose and intended nature of the business relationship. Where a financial institution relies on an introducer, it does not have to retain copies of the customer identification documentation in its own records where it is satisfied that it can obtain such documentation from the introducer upon request without delay. The ultimate responsibility for verifying and identifying a client always remains with the financial institution itself and not on the introducer.

244. The customer identification and verification measures described in Mauritius' AML framework entered in force on 21 June 2003 and have no retroactive effect. However, where a bank believes it has not satisfactorily identified a customer, or has doubts as to the true identity of a customer, with whom it entered into a relationship prior to June 2003, it must follow the identification procedures laid out in the FIAMLA Regulations and the Bank of Mauritius' AML Guidance.

245. Customer identification records must be kept for at least seven years after the completion of the transaction to which they relate, closure of the account, or cessation of the business relationship with the customer concerned (s. 7.03 AML Guidance). Transaction records must be kept for at least seven years after the completion of the transaction concerned (s. 33 BA and s. 7.05 AML Guidance).

(c) Enforcement and oversight measures

246. Supervision of banks' record keeping requirements is carried out by the Bank of Mauritius, which, as Mauritius' Central Bank, is the regulator of the banking sector. The Bank of Mauritius has a staff of approximately 250 with 42 staff in its supervision department. As of August 2016, the Bank of Mauritius is responsible for the prudential and AML supervision of 23 banks, 8 non-bank deposit-taking institutions, 8 money changers and 5 foreign exchange dealers.

247. The Bank of Mauritius' AML supervision is carried out through on-site and off-site inspections in the course of general prudential examinations, as well as through special examinations targeting specific AML issues. Pursuant to section 42 of the Banking Act, the Bank of Mauritius is required to conduct a regular examination (full-scale examination) of financial institutions falling within its purview at least once every two years. The duration of a full-scale examination can last up to six to eight months from beginning to end. Over the review period, the Bank of Mauritius has conducted the

following number of regular examinations: 7 in 2013, 12 in 2014, 8 in 2015 and 3 in the first three months of 2016.

248. The Bank of Mauritius may conduct a special examination where it is necessary or expedient to verify that a bank, or other financial institution within its purview, is complying with Mauritius' banking or AML laws (s. 43 BA). The Bank of Mauritius explains that generally a special examination will be triggered by an indication that a financial institution has a weakness in a particular area, for instance, through an intelligence report from the FIU. In cases of special examinations, the Bank of Mauritius will arrive for the inspection unannounced or with very short notice. The Bank of Mauritius has conducted the following number of special examinations under AML/CFT: 11 in 2013, 6 in 2014, 4 in 2015 and 5 in the first three months of 2016.

249. The AML aspects of the Bank's supervision include on-site inspections as well as ongoing monitoring. An on-site inspection will entail an examination of the bank's overall approach to AML/CFT, its internal policies and procedures, and its practice. The inspection team will examine whether the bank's procedures for taking on new clients match those stipulated in the bank's own internal rules as well as the Bank of Mauritius' AML Guidance. Specifically, the team will examine the bank's on-boarding process (e.g. the kind of CDD being undertaken, the bank's policies and procedures for client risk profiling, the various levels of CDD performed based on the client's risk profile) as well as the bank's procedures for customer identification and verification. The team will also verify that the bank is complying with regulatory record-keeping requirements (including the maintenance of CDD and KYC documentation). Towards this end, the team will take a sample of the bank's files to check whether the necessary identification and verification and CDD documents are present based on that client's risk categorisation. The number of files will depend on the bank's risk profile and the results of previous inspections. Finally, the team will evaluate the bank's compliance department as well as its software for generating suspicious transaction reports to gauge whether the bank is sufficiently able to flag suspicious transactions and clients. Following the on-site inspection, the assessment team will prepare a report detailing the deficiencies identified during the assessment and prepare a timeline for the bank to rectify such deficiencies. Additionally, on a yearly basis, the Bank of Mauritius meets with each bank individually to discuss the bank's potential risks (both under AML and prudential) and deficiencies previously identified.

250. To date, the Bank of Mauritius has not imposed any fine for failure to comply with any record-keeping requirement as no such deficiency has been identified. The Bank of Mauritius has revoked the licenses of five banks, although not due to AML deficiencies.

251. Representatives of Mauritius' AML regulators and banking sector associations met with during the on-site confirmed that practice of banks

in terms of customer identification and verification and record retention is in conformity with legislative requirements. In some areas, for instance introduced business, banks are recognised as routinely going beyond the requirements stipulated in the FIAMLA Regulations and the AML Guidance. Banking representatives met with at the on-site explained that the banking sector is generally reluctant to rely on the customer verification and identification of a non-group introducer, so that, as a matter of practice, banks will conduct their own KYC even in the case of an eligible introducer. Further, banks will normally maintain the customer identification information, as well as their own CDD documentation, on-site even though they would be allowed to rely on the introducer's documentation under AML. This practice was confirmed by the FIU. Banking representatives also noted at the on-site visit that in identifying beneficial owners of entities, they would identify all owners having at least a 20% ownership stake and depending on the risk categorisation of the client, even those having a 10% ownership stake. In the case where a beneficial owner is a non-resident, banks would apply heightened identification and verification measures, such as asking for additional documents or a reference from another bank. Guidance on practice is provided for in the AML Guidance issued by the Bank of Mauritius.

Part B: Access to information

252. Effective exchange of information requires that a jurisdiction's competent authority has adequate powers to access and obtain a variety of information that may be relevant to a tax enquiry. Jurisdictions should also have in place effective enforcement mechanisms to compel production of information. Sections B.1 and B.2 evaluate whether the competent authority has the power to obtain and provide information that is the subject of a request under an EOI arrangement from all relevant persons within their territorial jurisdiction and whether rights and safeguards in place are compatible with effective EOI.

253. Although the MRA's access powers for exchange of information are considered to be in line with the international standard, the MRA has not applied its compulsory powers in practice. The MRA may apply to a court to compel production of information where necessary. Further, failure to produce information upon request is a criminal offense. However, to date, the MRA has not yet sought an order to compel production of information, nor has it referred any cases to the public prosecutor's office, although delays on the part of information-holders to produce information has occurred in the past.

254. Mauritius' laws do not require notification of the persons concerned prior to, or after, the requested information is provided to the requesting jurisdiction. Although some issues were identified with respect to practice in previous reviews, Mauritius has since clarified its practice and accordingly, the rights and safeguards in Mauritius are considered compatible with the exchange of information. In no cases during the period under review did rights and safeguards unduly prevent or delay effective exchange of information.

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

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

255. Mauritius' laws provide the competent authority with broad powers to access information that is foreseeably relevant for EOI purposes. Mauritius' competent authority is empowered to obtain all such information from any

person within its jurisdiction who is in possession of the information. There is also a high level of information sharing between relevant public authorities in Mauritius. Sanctions exist to penalise failure to produce information upon request by an authorised body, although the competent authority itself does not have the ability to issue an administrative fines without going through the court. In practice, no problems have arisen with respect to access to information during the period under review.

256. The September 2011 report found Mauritius' legal framework for access, including compulsory powers, to be in place. However, because Mauritius had never exercised its compulsory powers in practice, despite several instances where taxpayers had refused to disclose the requested information, Mauritius was recommended to exercise its enforcement powers where needed. Element B.1 was determined to be "in place" and rated "Largely Compliant".

257. During the time of the 2014 supplementary review, there were no cases where the competent authority failed to respond to EOI requests due to non-compliance of the information holder. Therefore, the recommendation for Mauritius to exercise its compulsory powers was removed and element B.1 was rated "Compliant".

258. Mauritius' legal framework and practice with respect to its access powers has not changed since the last review. Mauritius has not encountered any issues similar to those in the past during the current review period. As such, 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		
Rating: Compliant		

259. The Mauritian competent authority is the Director of the Large Taxpayers Department of the MRA. The International Taxation Unit of the Large Taxpayers Department (also referred to as the EOI unit) in the MRA is responsible for the execution of incoming requests as well as preparing outbound requests. For more information on the organisational structure and resources of International Taxation Unit, refer to section C.5 below.

260. In the last round of reviews, the legal and regulatory framework establishing the competent authority's power to access information for the purpose of EOI was considered adequate. Mauritius' access powers have not changed significantly since the last review and are summarised below. For a more detailed analysis of Mauritius' access powers, refer to the September 2011 report, paras. 159-204.

B.1.1. Ownership, identity and bank information

261. The Mauritian competent authority has broad access powers to obtain bank, ownership and identity information and accounting records from any person for both domestic tax purposes and in order to comply with their obligations under Mauritius' treaties. The access powers are contained in section 124 of the Income Tax Act, which empowers the MRA to require any person to provide orally or in writing all such information as may be demanded of him or her for the purpose of complying with an exchange of information agreement within the timeframe fixed by the competent authority. Section 126 of the Income Tax Act vests in the MRA the power of inspection whereby any MRA officer can enter a taxpayer's premises and inspect any information, book, record, or other document. These powers enable the MRA to obtain information directly from a person in possession or control of it. The MRA may retain any document for such period as it considers necessary (s. 125 ITA). Mauritian authorities confirm that the MRA has powers to obtain information whether it is required to be kept pursuant to the Income Tax Act or any other law, such as Mauritius' AML.

(a) Information available with the MRA

262. The competent authority indicated that in the majority of cases, it will need to apply its access powers to fulfil an EOI request as the information requested will generally be held by an outside source (either another government agency or a third party, such as the taxpayer, a management company or a financial institution). However, as a matter of practice, the competent authority will look in its own databases before seeking the requested information from a third-party.

(b) Information available with other authorities

263. As the MRA is not the primary receptacle for all the types of information that may be the subject of an EOI request, it works closely with other relevant public agencies to obtain information where needed. The MRA receives and can request information from other regulatory agencies.

264. The MRA can receive information under memoranda of understanding (MOUs) with the CBRD, the FSC, the Bank of Mauritius and the FIU, which allow these bodies to share information that they gather pursuant to their own authority or in the execution of their statutory functions. Since June 2010, the MRA has had an MOU with the FSC to facilitate the exchange of information between the two authorities for the purpose of responding to requests for information from other authorities. The FSC is also authorised to exchange information with the MRA under section 87 of the Financial Services Act. The confidentiality provisions of the Financial Services Act are overridden by Mauritius' obligations (or the obligations of another public agency) under any international treaty, convention or agreement (s. 83(7) FSA). Similarly, the Bank of Mauritius and the FIU have also signed MOUs with the MRA stating that they will provide such information as necessary for the discharge of the MRA's duties or that is relevant to the investigation of fiscal evasion and other related matters. The MRA's MOU with the CBRD provides for similar co-operation between the agencies as well as the use of the shared online registration platform. The MRA indicates that the MOUs with the FSC and the CBRD are the most important information-gathering tools.

(c) Information available with third parties (taxpayers, service providers and banks)

265. The EOI Procedure Manual states that if information is not in the MRA's own files, it should be sought from the taxpayer. A request to the taxpayer for information must demonstrate the legality of the MRA's request and describe the information needed. The request to the taxpayer will state that the information is sought pursuant to an EOI agreement, cite the agreement and relevant provisions in the Income Tax Act, identify the treaty partner, and provide a minimum amount of background information. The taxpayer will have 21 days to respond to the competent authority's request for information. An extension of up to 14 days may be granted to the taxpayer. Further extensions may be granted depending on the co-operation of taxpayer and the reasons advanced by taxpayer for the inability to submit the information by the due date. In cases of continued default, the MRA will refer the case to its legal department, which will apply to a court for an order to compel production of information. During the review period, the competent authority did not forward any cases to the prosecutor.

266. As GBC2s are not tax resident in Mauritius, the EOI Procedure Manual lays out a separate procedure for requests concerning these entities. Where the registered address of the GBC2 is provided, the EOI officer in charge of the request should go directly to the entity (or its management company). In this case, the entity (or its management company) will have 21 days to respond with the requested information. Where the address of the GBC2

is not provided, the EOI officer should seek the information from the FSC. If the FSC can provide the registered address of the company, then the information will be sought directly from the company. If the FSC cannot provide the address of the company, then it will provide the requested information.

267. Where a requesting jurisdiction has requested that the taxpayer not be notified (a "refrain" case), the competent authority will seek the information from another third party (such as a financial institution) or another public authority, rather than the taxpayer, for the needed information (see section below on notification for a more detailed discussion).

(d) Accessing information in practice

268. In practice, the competent authority indicates that it will typically seek the information from the taxpayer in the first instance where it is not a refrain case. A refrain case is one in which the requesting jurisdiction has requested that the MRA does not approach the taxpayer to obtain the requested information. In the case of international entities, seeking the information from the taxpayer essentially means approaching the management company or other certified service provider. The MRA explains that approaching the taxpayer, or the taxpayer's service provider, directly is the most efficient route to obtaining the information as many of the requests received by the competent authority are complex in nature and often requests for documents that would only be kept in the taxpayer's own files (e.g. business correspondence).

269. Where the taxpayer does not provide the requested information in time, or in refrain cases, the MRA will seek to obtain the requested information in the following manner. For legal ownership information, the competent authority will request the information from the FSC for GBCs or through access to the CBRD database for domestic companies. For beneficial ownership information, the competent authority will gather the information from FSC if it relates to a GBC. Beneficial ownership information will also be available with banks. The MRA reports that during the review period, it approached banks for beneficial ownership information in the case of ten refrain requests. For refrain cases, the FSC (or other regulatory body) can also approach the taxpayer directly to obtain the necessary information under its own authority (pursuant to sections 42 and 75(1) of the FSA), thereby eliminating the necessity to inform the taxpayer that the information is sought pursuant to an EOI request. During the period under review, Mauritius sought the assistance of the FSC in obtaining information in 44 cases.

270. During the period under review, Mauritius has not encountered any problems with its ability access ownership, identity or bank information.

B.1.2. Accounting records

271. For the purposes of accessing information, the Income Tax Act does not distinguish between ownership and identity information and accounting information. The competent authority can access accounting information to the same extent and in the same manner as with respect to ownership and identity information described above. Section 124(2) specifically states that any person, when so required by notice in writing, shall furnish to the Director General any such statement of account as may be required, including a certified copy of the profit and loss account and balance sheet, a statement of all assets and liabilities, or a statement of all moneys and value received. Additionally, sections 123(1) and (2) of the Income Tax Act authorises the MRA to obtain from any person records and accounts, including information as to any money, funds or other assets which may be held by that person, and such other transactions which the Director-General considers necessary or relevant.

272. A person who conducts a banking business may be exempt from section 123(2) only insofar as transactions made by the person of interest with the bank are concerned. All other account information, such as interest made to any depositor, any accounts opened or deposits made, or other such information as may be required to prevent any evasion of income tax or any fraud on the public revenue, must be made available to the Director General upon request. The competent authority confirms that the evasion of income tax applies also to that of a foreign jurisdiction for the purpose of EOI.

273. In practice, there has been no instance during the review period where Mauritius was unable to obtain accounting information to fulfil a request for information. Mauritius received 344 requests for accounting information and was able to exchange the requested information in all cases. Peers raised no issues with respect to accounting information.

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

274. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. The first round of reviews concluded that Mauritius does not require a domestic tax interest to use its information gathering powers as the competent authority may compel the production of information as needed to comply with any request made pursuant to an EOI arrangement (s. 124(1)(b) ITA).

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

275. Jurisdictions should have in place effective enforcement provisions to compel the production of information. In Mauritius, 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. Although the competent authority does not itself have the ability to issue an administrative fine, it can apply to a court for an order of disclosure. This procedure is described above in section B.1 on access powers. Failure to provide information to the competent authority upon request is an offence under section 126(2) of the Income Tax Act punishable with a fine not to exceed MUR 5 000 (EUR 130) and a term of imprisonment for a term not exceeding six months (s. 148 ITA). As mentioned above, the competent authority must apply to a court to issue such a fine.

276. In the first round of reviews, Mauritius' legal framework for accessing information, including compulsory powers, was deemed to be in place, but as the competent authority had never exercised its compulsory powers in practice (even though in two cases, taxpayers refused to produce information requested), the September 2011 report recommended that Mauritius both exercise its compulsory powers where appropriate and monitor the application of such powers. During the time of the April 2014 report, no taxpayer had failed to comply with a request by the competent authority to produce information. Further, the competent authority sent written warnings to the non-compliant taxpayers from the preceding review period (after which the MRA received the requested information). As a result, the recommendations from the September 2011 report were removed and element B.1 was rated Compliant.

277. Mauritius has not changed its compulsory powers since the last review, but has clarified some additional aspects of its framework that can be applied in compelling the production of information. In addition to applying to a court for an order to disclose information, the competent authority can, in certain cases, channel a request through the FSC, which has sanctioning powers. Where the information-holder is a management company, the FSC can compel the production of information under the Financial Services Act. Section 42 requires every licensee to furnish to the FSC all such information and records or documents at such time and place as may be required by the FSC. Failure to comply with a request for information under section 42 is considered a breach of the Financial Services Act, which is a criminal offence for which the management company, as well as all directors of the management company, are liable, upon conviction, to a fine not exceeding MUR 500 000 (EUR 13 007) and to imprisonment for a term not exceeding 5 years (s. 90 FSA General Clauses Act 1974). Additionally, the FSC may also

refer the management company to the FSC's Enforcement Committee, which is empowered to exercise the following disciplinary powers: (i) issue a private warning; (ii) issue a public censure; (iii) disqualify the management company from holding a licence or a licence for a specified period; (iv) in the case of an officer of the management company, disqualify the officer from a specified office or position in a licensee of the FSC for a specified period; and (v) impose an administrative penalty; (vi) or revoke a licence (s. 52(3) FSA).

278. To date, Mauritius has not requested the assistance of the FSC in sanctioning an information-holder, nor has the FSC referred a management company to its Enforcement Committee.

279. The Mauritian competent authority reports that, to date, no compulsory powers have been exercised and no cases have been referred to prosecution. Although the competent authority's system of gathering information is generally effective in practice and has not necessitated the use of compulsory powers in the large majority of cases, in some instances where delay has occurred, the MRA has not applied sanctions. The MRA explains that it has only the "ultimate" sanction available (i.e. forwarding the case onto the public prosecutor's office) and does not apply this sanction in cases of mere delay. Rather, this sanction is reserved for cases of clear refusal to produce information. In the absence of administrative sanctions, the MRA must apply other methods to obtain co-operation from the taxpayer, such as negotiate additional extensions or accept information in "piecemeal" form.

280. Further, as discussed more in detail below in section C.5 on EOI practice, the Mauritius' timelines for responding to requests have lengthened slightly since the last review. Although the longer response times are largely attributable to the increase in the number of requests and the complex nature of many of the requests, the competent authority's lack of direct sanctioning powers through the imposition of penalties could be one factor in the time required to collect information for a request. At present, the competent authority indicates that it can use the threat of court proceedings to ensure that a taxpayer ultimately complies with a notice to produce information, but no administrative sanctions can be imposed for ongoing delays in producing the requested information. As to be expected, the large majority of requests taking longer than 90 days are those where information is sought from a management company. Vesting the competent authority with the power to impose administrative sanctions would assist to MRA to expedite the gathering of information for EOI purposes. **Mauritius is recommended to exercise its powers to compel information and sanction failure to provide information where appropriate**.

B.1.5. Secrecy provisions

281. 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 Mauritian law to prohibit or restrict the disclosure to tax authorities of accounting, ownership and identity information for EOI purposes.

(a) Bank secrecy

282. There are no limitations on the ability of Mauritius' competent authority to obtain information held by a bank or other financial institution for the purpose of responding to an exchange of information request. Section 64 of the Banking Act establishes a duty of confidentiality on all bank personnel who, by virtue of their professional responsibilities, have access to the books, accounts, records, financial statements or other documents of a financial institution. This duty of secrecy is abrogated by section 64(15) of the Banking Act, which states that the duty of confidentiality "shall be without prejudice to the obligations of Mauritius under any international treaty, convention or agreement". Further, section 124(1) of the Income Tax Act states that "notwithstanding […] section 64 of the Banking Act 2007", every person, when so required by the Director-General, shall provide all such information as may be demanded of him by the Director-General for the purpose of complying with the terms of agreement made pursuant to section 76 of the Income Tax Act.

283. The lifting of bank secrecy with respect to EOI purposes has been confirmed by the Mauritian Solicitor General, who, in correspondence dated 5 April 2010, confirmed the view that the Director General of the MRA may require the bank itself to provide such information as needed to comply with a request for exchange of information under section 76 of the Income Tax Act. The Solicitor General also re-affirmed that in the event that a bank does not comply with such a demand, the Director General should apply to a Judge in Chambers for an order of disclosure.

284. In the last round of reviews, bank secrecy provisions were deemed to be compatible with Mauritius' EOI practice, although procedures to obtain bank information were newly introduced in the EOI Procedure Manual and had not been sufficiently applied in practice.

285. Discussions with representatives from Mauritian banking associations during the on-site visit affirmed the authorities' interpretation of the application of bank secrecy. Banking association representatives explained that amendments to section 64 of the Banking Act to allow for the lifting of bank secrecy in fact were at the initiative of the banking sector, to ensure that legal protections were in place for the provision of information to the

authorities. Representatives of the banking sector confirmed that there are no restrictions on the type of information related to customer accounts that can be exchanged under the current legal framework; they note that they have exchanged KYC and CDD documents, statements of accounts, and all other details of accounts.

286. During the review period, the MRA sought (and received) information directly from the bank in 34 instances.

(b) Professional secrecy

287. All of Mauritius' exchange of information 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.

288. Among the situations in which Mauritius is not obliged to supply information in response to a request is when the requested information would disclose confidential communications between an attorney and his/her client. Mauritius does not recognise attorney-client privilege as such, but rather a duty of secrecy to which the attorney is bound; however, this duty does not prevail over a legal obligation to provide the information. The Code of Barristers states that "[a] barrister shall respect the confidentiality of all information given to him by his client, or received by him about his client or others in the course of rendering professional services to his client". The Code of Ethics provides that an attorney "shall never disclose, unless ordered to do so by a court or required by law, what has been communicated to him in his capacity as an [a]ttorney by his client". Section 300 of the Criminal Code similarly carves out an exception to the duty of secrecy for situations where a "person, who may, in consequence of his or her profession or avocation, become the depositary of any secret confided to him or her" is "compelled by law" to reveal such secret.

289. Mauritian authorities advise that accountants are not bound by any code of professional secrecy with respect to information relating to their clients and are thus able to provide such information upon request by a public authority.

290. During the period under review, Mauritius did not decline to provide any information on the basis of any professional secrecy, nor have peers raised any issue in this regard.

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.

291. The rights and safeguards contained in Mauritius' law are compatible with effective exchange of information. Although Mauritian law does not contain a requirement to notify a taxpayer who is the subject of an EOI request, if the taxpayer is the information-holder from whom the information is sought, he/she will be informed in the notice to produce the information that such information is sought pursuant to an EOI agreement.

292. Mauritius' practice of notifying the information-holder raised concerns in earlier reviews and Mauritius was recommended to ensure that guidelines regarding prior notification were applied in practice to ensure that taxpayers were not inadvertently notified through Mauritius' information-gathering measures where such notification was undesirable to the requesting jurisdiction. The element was determined to be "in place" and "Largely Compliant" at the time of the September 2011 report. Mauritius subsequently amended its EOI Procedure Manual to address the matter of notification. Additionally, as no treaty partner requested Mauritius to refrain from notifying the taxpayer during the second supplementary review, the April 2011 report concluded that the rights and safeguards in Mauritius were compatible with effective exchange of information. The recommendation was therefore removed and element B.2 was determined to be "Compliant".

293. In the current review period, Mauritius has successfully gathered information in a number of refrain cases by seeking the information through other sources.

294. The table of determinations and ratings remains as follows:

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

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

295. Rights and safeguards applicable to persons in the requested jurisdiction should be compatible with effective exchange of information.

296. The Income Tax Act contains no requirement to notify a taxpayer who is the subject of a request for information; however, as described above,

where the Mauritian competent authority is not in possession of the requested information, its usual practice is to seek the information directly from the taxpayer, or the taxpayer's service provider, in the first instance. As the notice to produce information must contain the legal basis for the competent authority's request (i.e. a reference to the relevant EOI agreement and treaty partner), as well as a general description of the information sought, it is tantamount to notifying the taxpayer where the taxpayer is the information-holder. To guard against notifying a taxpayer where a requesting jurisdiction has asked for the taxpayer not to be notified, Mauritius' EOI procedure stipulates that, in such cases, the competent authority will not seek the information directly from the taxpayer, but will instead pursue the information through other avenues.

297. Due to the concerns raised in its first review that Mauritius did not have sufficient safeguards in place, Mauritius amended its Procedure Manual on the Exchange of Information in February 2011 to address the situation where a treaty partner asks for the taxpayer not to be notified. The Procedure Manual now contains the reminder that the Income Tax Act lays no obligation on MRA to notify a taxpayer of any request for information made by a treaty partner and where a treaty partner requires information available from a third party and indicates that the taxpayer should not be informed of the request, no notification should be addressed to the taxpayer concerned. Even where the treaty partner has not requested that the taxpayer should not be informed of the request, the manual recommends to not notify the taxpayer where a notification is likely to delay unduly the exchange of information.

298. The competent authority indicates that in practice, in such refrain cases (where the requesting jurisdiction does not want the taxpayer to be notified), the EOI officer handling the request should make a note in the file and will not seek the information from the taxpayer or the service provider, but will rather pursue other avenues (such as shared databases with the CBRD and FSC). Where the information is available only in the hands of the taxpayer, the competent authority will contact the requesting authority to check whether they can ask the taxpayer to obtain the information. Alternatively, as described above, the MRA can seek the information through another regulatory agency with which it has an MOU in place to exchange information.

299. The 2016 ToR also requires that notification rules should permit exceptions from time-specific post-exchange notification. As Mauritian law does not contain any notification requirements, no issue exist with respect to time-specific post-exchange notification.

300. Mauritian authorities indicate that where proper legal basis for exchange of information is not established, the taxpayer in question would have recourse through the Mauritian court system, although this has not yet occurred. If a taxpayer wished to appeal the exchange of information, he/she could appeal to

the Supreme Court on the ground of alleged abuse of power by the Competent Authority, alleged arbitrariness, undue delay in disclosure, or other grounds. The taxpayer could appeal any ruling from the Supreme Court to the Judicial Committee of the Privy Council. At each stage, the taxpayer would have 21 days to file an appeal. An appeal would not automatically suspend a decision to exchange information; it would depend on whether the appellant (i.e. the taxpayer) moves the Court for an order to stay the decision. All court proceedings are public in Mauritius, but parties to the proceeding may move for the hearing to be held *in camera* or for documents submitted to the court to be sealed.

301. During the review period, Mauritius received 46 refrain requests and all have been fully answered. No peer has indicated any issue with respect to notification during the review period. **Mauritius is recommended to communicate its policy relating to refrain cases to new treaty partners to ensure that they are aware of the relevant procedure**.

Part C: Exchanging information

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

303. Mauritius has a broad network of 64 EOI agreements in line with the standard comprised of 51 DTCs, 11 TIEAs and 2 multilateral agreements. Since the first round review the number of Mauritius' EOI partners has increased by 81 jurisdictions to reach a total of 127 partners. Out of these 127 jurisdictions, Mauritius has an EOI instrument in line with the standard with 126 jurisdictions. Of its 64 agreements, 53 are in force. Mauritius' application of EOI agreements in practice continues to be in line with the standard and does not unduly restrict exchange of information, as has been confirmed by peers.

304. Rules governing confidentiality of exchanged information in Mauritius' EOI agreements and domestic law continue to be in line with the standard. These rules are properly implemented in practice and no issues relating to confidentiality have arisen during the period under review.

305. Mauritius' legal framework and practices concerning rights and safeguards of taxpayers and third parties are in line with the standard, as was the case in the first round of reviews. No issues have arisen in practice.

306. With respect to the exchange of information in practice, Mauritius' response times to EOI requests over the period under review has been generally good. Over the review period, Mauritius answered 89% of requests in 90 days and 98% of requests in 180 day. Further Mauritius' EOI unit is well-organised and appropriately staffed to handle the volume of requests received. Procedures and guidelines are in place to facilitate the effective exchange of information.

C.1. Exchange of information mechanisms

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

307. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. All of Mauritius' EOI agreements provide for exchange of information in line with the international standard. Since the last review Mauritius' has expanded its EOI network from 81 partners to 127 partners. Mauritius' EOI network is comprised of 51 DTAs, 11 TIEAs, the Agreement on Assistance in Tax Matters of the Southern African Development Community (SADC Agreement), and the Multilateral Convention. Of these, 53 are in force. Of the 53 agreements in force, 52 are in line with the standard.

308. At the time of the 2010 combined review, a number of Mauritius' agreements for the exchange of information did not meet the standard. Many of Mauritius' DTCs did not include paragraphs 4 and 5 of Article 26 of the Model Tax Convention. Further, issues with the interpretation of foreseeable relevance arose in a few cases and some treaty partners indicated that they had not received bank information from Mauritius. Mauritius was therefore recommended to negotiate with treaty partners where agreements did not meet the standard and to ensure the exchange of bank information with all treaty partners.

309. Following the September 2011 report, Mauritius took steps to update its network of EOI agreements and rectify deficiencies identified in the combined review. Mauritius signed several new agreements and protocols to include the relevant language of Article 26 of the OECD Model Tax Convention. Mauritius also successfully exchanged bank information even absent reciprocity and the competent authority encountered no further problems with the determination of foreseeable relevance. Accordingly, all recommendations were considered fully implemented in the April 2014 report and element C.1 was deemed to be "in place" and "Compliant".

310. Finally, Mauritius signed the Multilateral Convention on 23 June 2015 and deposited its instrument of ratification on 31 August 2015. The Multilateral Convention entered into force in Mauritius on 1 December 2015.

311. The table of determinations and ratings remains as follows:

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

C.1.1. Foreseeably relevant standard

312. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. The international standard for exchange of information envisages information exchange upon request to the widest possible extent, although it does not condone "fishing expeditions". Mauritian authorities indicate that they interpret "foreseeable relevance" liberally. Mauritius has never declined a request on the ground that it was not foreseeably relevant. At the time of the 2010 combined review, Mauritius had put two requests on hold pending decisions on whether they met the foreseeable relevance standard, resulting in delays in providing the requested information. Mauritius was recommended to communicate with its treaty partners where it believed foreseeable relevance to be at issue. The recommendation was subsequently deleted in the second supplementary review when this issue was resolved. No issues relating to foreseeable relevance have arisen since. For a detailed analysis of the issue of foreseeable relevance, refer to the September 2011 report, paras. 226-233 and the April 2014 report, paras. 161-165.

313. All agreements, except for two, concluded by Mauritius since the April 2014 report provide for the exchange of information that is "foreseeably relevant" to the administration and enforcement of the domestic laws of the contracting parties. The agreement with Monaco uses the term "necessary" and the agreement with Rwanda uses the term "relevant". As noted in previous reports, the Mauritian authorities make no distinction between such wording in interpreting foreseeable relevance for EOI purposes.

314. During the peer review period, Mauritius did not refuse to answer any EOI requests on the basis of lack of foreseeable relevance. Mauritius did, however, request clarifications in a number of cases, where information was missing or unclear. The exact number of cases where clarification has been sought is not known as such statistics are not maintained.

315. None of Mauritius' EOI agreements contains language prohibiting group requests, nor is any such provision contained in Mauritius' domestic law. Mauritius interprets its agreements and domestic law as permitting the competent authority to provide information requested pursuant to group requests in line with Article 26 of the OECD Model Tax Convention and its commentaries. During the period under review, Mauritius received no group requests.

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

316. Although all EOI agreements recently executed by Mauritius provide for exchange of information with respect to all persons without restrictions, in previous reviews, some of Mauritius' older agreements were still limited

to residents of one or both of the contracting states. At the time of the April 2014 report, the DTC with Germany was re-negotiated and determined to be in line with the standard. Questions remained with respect to whether agreements with India and Oman permitted the exchange of information on non-residents.

317. During the period under review, some issues arose with respect to the exchange of information on non-residents with India, Mauritius' most significant EOI partner. The limitations of the DTC resulted in information on GBC2s (which are not tax-resident in Mauritius) not being exchanged in seven cases. However, on 10 May 2016, Mauritius and India executed a protocol to their DTC stating that the exchange of information under the agreement would not be restricted by Articles 1 and 2. Mauritian authorities indicate that under the new protocol, exchange of information on GBC2s or other non-residents will be possible. The Mauritius authorities also confirmed that the change can be applied retroactively; in other words, the competent authority would be able to reply to the seven cases if the EOI requests were re-sent

318. In December 2013, Mauritius contacted all of its treaty partners with whom agreements did not extend to non-residents to request that the EOI provisions be updated to reflect Article 26 of the Model Tax Convention. All agreements have been updated with the exception of one, with Oman. Mauritius reports that it is currently engaging with Oman to update the exchange of information article.

C.1.3. Obligation to exchange all types of information

319. All new agreements entered into by Mauritius since the last review include provisions akin to Article 26(5) of the OECD Model Tax Convention and Article 5 paragraphs (a) and (b) of the OECD Model TIEA respectively. These provisions mandate that a contracting party may not decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

320. As Mauritius' older DTCs do not contain such a provision it was recommended in the April 2014 report that Mauritius should continue to renegotiate its older agreements to include similar language. In particular, the April 2014 report noted that two agreements (with Botswana and Singapore) did not permit the exchange of bank information due to restrictions in the domestic laws of the treaty partners. Singapore and Mauritius are both parties to the Multilateral Convention, providing for exchange of information in line with the standard even absent any provision akin to Article 26(5) of the OECD Model Tax Convention. Likewise, amendments to Botswana's banking laws in 2013 removed impediments to the exchange of banking information previously contained in Botswana's domestic legislation. Moreover, Mauritius

has been able to answer requests for banking information under EOI agreements that did not contain paragraph 5. During the current review period, Mauritius has exchanged banking information in 316 cases and no issues have been encountered exchanging such information. In light of the foregoing, the recommendation is considered fully addressed.

C.1.4. Absence of domestic tax interest

321. EOI partners must be able to use their information gathering measures even though invoked solely to obtain and provide information to the requesting jurisdiction. All of Mauritius' agreements include the provision contained in paragraph 26(4) of the Model Tax Convention, or an equivalent provision, which states that the requested party "shall use its information gathering measures to obtain the requested information, even though that [it] may not need such information for its own tax purposes". Peers have not raised any such issues in practice during the current review period.

C.1.5. Absence of dual criminality principles

322. There are no dual criminality provisions in any of Mauritius' EOI agreements. Mauritius has never declined a request on the grounds of a dual criminality requirement.

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

323. All of Mauritius' exchange agreements provide for EOI in both civil and criminal matters. In practice, Mauritius answered all requests received during the period under review, whether they related to civil or criminal tax matters.

C.1.7. Provide information in specific form requested

324. None of Mauritius' EOI agreements prevent the exchange of information in the form requested, as long as such exchange is consistent with Mauritius' administrative practices. In practice, no partner has requested that information be provided in a specific form during the period under review.

C.1.8. Signed agreements should be in force

325. Mauritius' EOI network consists of 64 agreements in total, containing 51 DTCs, 11 TIEAs, the SADC Agreement and the Multilateral Convention. Out of these 64 agreements, 53 are in force. In respect of the 10 bilateral agreements not yet in force, Mauritius has completed all steps necessary for ratification on its end and is awaiting ratification by the treaty partner. With

respect to the SADC agreement, Mauritius deposited its instrument of ratification in April 2014; however, the SADC agreement cannot come into force until a minimum of two-thirds of its members ratify it and this minimum threshold has not yet been reached.

Bilateral EOI Mechanisms

A	Total Number of DTCs/TIEAS	A = B+C	62
B	Number of DTCs/TIEAs signed (but pending ratification), i.e. not in force	B = D+E	10
C	Number of DTCs/TIEAs signed and in force	C = F+G	52
D	Number of DTCs/TIEAs signed (but pending ratification) and to the Standard	D	10
E	Number of DTCs/TIEAs signed (but pending ratification) and not to the Standard	E	0
F	Number of DTCs/TIEAs in force and to the Standard	F	52
G	Number of DTCs/TIEAs in force and not to the Standard	G	0

C.1.9. Be given effect through domestic law

326. For information exchange to be effective, the parties to an EOI arrangement must enact any legislation necessary to comply with the terms of the arrangement. Mauritius has enacted all necessary legislation comply with the terms of its agreements. In Mauritius, the process of ratification is relatively straightforward. DTCs and TIEAs become effective once the Minister of Finance issues a regulation under section 76 of the Income Tax Act and the regulation is gazetted. The entire ratification process takes two to three weeks, on average.

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

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

327. Mauritius has a broad network of EOI agreements, covering 127 jurisdictions through 45 DTCs, 10 TIEAs, the SADC Agreement and the Multilateral Convention.

328. The last round of reviews did not identify any major issues with the scope of Mauritius' EOI network or its negotiation policy or processes. Element C.2 was thus deemed to be "in place" and Compliant.

329. Since the last review, Mauritius' treaty network has been broadened from 56 jurisdictions to 127 due to both the expansion of Mauritius' network of bilateral treaties and ratification of the Multilateral Convention. Since the last review, Mauritius has entered into four new DTCs and one new protocol. The number of signatories to the Multilateral Convention further increased Mauritius' treaty network by 70 partners.

330. Mauritius has been active in expanding its EOI network over the years and no peer has ever indicated that Mauritius has refused to enter into an EOI agreement. 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, **Mauritius is recommended to continue developing its exchange of information network with all relevant partners**.

331. The table of determinations and ratings remains as follows:

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

C.3. Confidentiality

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

332. A critical aspect of the exchange of information is the assurance that information provided will be used only for the purposes permitted under the relevant exchange mechanism and that its confidentiality will be preserved. Towards this end, the necessary protections should exist in domestic legislation and information exchange agreements should contain confidentiality provisions that lay out to whom the information may be disclosed and for what purpose the information may be used. Confidentiality rules should apply equally to information received in a request and information exchanged pursuant to an EOI agreement.

333. The first round of reviews found that rules governing confidentiality of exchanged information in Mauritius' EOI agreements and domestic law provisions were in line with the international standard. Further, the applicable confidentiality rules were properly implemented in practice and no issues with respect to confidentiality were raised by treaty partners. Element C.3 was determined to be "in place" and "Compliant". No recommendations were issued in the combined report or in either of the supplementary reports.

334. Mauritius' legal framework and EOI practice with respect to confidentiality have not changed since the last review. All agreements signed by Mauritius since the last review contain confidentiality provisions that ensure that the information exchanged will be treated as secret and will be disclosed only to persons authorised by the treaties.

335. The table of determinations and ratings remains as follows:

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

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

336. All of Mauritius' information exchange agreements signed since the April 2014 report contain provisions ensuring that the information exchanged will be disclosed only to persons authorised by the treaties and which are in line with Article 26(2) of the OECD Model Tax Convention or Article 8 of the Model TIEA. Additionally, all of Mauritius' recent treaties require information exchanged to be treated as secret in the same manner as information obtained under domestic law.

337. Mauritius' domestic legislation contains safeguards to protect the confidentiality of sensitive information. Section 154 of the Income Tax Act imposes a duty of secrecy on every officer of the MRA. All officers are required to take an oath of fidelity and secrecy before commencing their duties. Pursuant to section 154 (2) of the Income Tax Act, unless authorised to do so by the Minister, no officer can communicate to any person any matter relating to the Income Tax Act. Contravention of secrecy provisions is punishable by a fine not exceeding MUR 5 000 (EUR 130) and a term of imprisonment not exceeding 2 years. The obligations as to secrecy imposed under the Income Tax Act do not prevent the disclosure of information under an EOI arrangement (s. 76(5) ITA). For a more detailed analysis of provisions in Mauritius' domestic law in place to protect confidentiality, refer to paras. 269-282 of the September 2011 report.

338. Mauritius also has safeguards in place in its EOI practice to ensure the confidentiality of information received through the context of an EOI request. Exchange of information files and any accompanying information are handled exclusively by the officer of the EOI unit and will remain in the custody of the officer to which they are assigned. Files are kept separately from the taxpayer's normal file. The Procedure Manual on Exchange of Information states that all information received from a treaty partner must be

considered confidential. EOI unit staff are reminded that they must adhere strictly to the confidentiality provisions contained under the law and in the relevant agreement. EOI officers undergo ongoing training on confidentiality both in-house and overseas. Further, the MRA has in place a clean-desk policy and appropriate termination procedures for departing staff. The MRA is able to impose a wide range of penalties for unauthorised disclosure of confidential information under sections 13 and 25(1) of the Mauritius Revenue Act, section 154 of the Income Tax Act, section 8 of the Value Added Tax Act and section 19A of the Customs Act. For additional description of confidentiality measures in practice, refer to the relevant portions of the September 2011 report (noted above) and paras. 196-202 of the April 2014 report.

339. Further, EOI documents are stored in secure areas protected by entry controls to ensure that only authorised personnel are allowed access. Documents stored in hard copy are securely kept and managed by the Central Filing Unit at MRA. Confidential documents and information are kept in separate folders from non-confidential documents. For electronic documents, the MRA uses SAP Records Management System to securely store all such digital information. Role-based user access in SAP then guards against any unauthorised access to these confidential documents.

340. The Mauritian authorities indicate that there have not been any cases where information received by the competent authority from an EOI partner has been disclosed other than in accordance with the terms under which it was provided. No peer has raised any concerns in this respect.

C.3.2. Confidentiality of other information

341. Confidentiality rules should apply to all types of information exchanged, including information provided by a requesting jurisdiction in a request, information transmitted in response to a request and any background documents to such requests. The Mauritian authorities confirmed that in practice they consider all types of information relating to a request confidential. As noted in the April 2014, the Procedure Manual on Exchange of Information has been updated to include explicit instructions on maintaining the confidentiality of information received. The manual states that information received from exchange of information request should be used only for purposes provided for in the relevant treaty and reminds officers dealing with information received from treaty partners to adhere strictly to their duty of confidentiality imposed by domestic legislation as well as by the treaty under which the exchange of information request was made.

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.

342. 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. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege.

343. The last round of reviews concluded that Mauritius' legal framework and practices 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 Compliant. No recommendations were issued in the combined report or in either of the supplementary reports.

344. 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: In Place
Practical implementation of the standard
Rating: Compliant

ToR C.4.1: Exceptions to requirement to provide information

345. In line with the Model Tax Convention and the Model TIEA, Mauritius' 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.

346. With respect to privilege, 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. Mauritius 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.

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.

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

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

348. In earlier reviews, one of the primary factors impacting the timeliness of Mauritius' responses to EOI requests was whether the information requested already existed in the competent authority's own files. In the past, Mauritius experienced delays obtaining information in the hands of third parties. Some of these issues were rectified with the adoption of the Procedure Manual on Exchange of Information and the execution of MOUs with other relevant authorities. At the time of the January 2011 report, new provisions in the Procedure Manual were not yet able to be assessed in practice, so Mauritius was recommended to respect the deadlines recently introduced in its new Procedure Manual for Exchange of Information and ensure responses or updates are received by treaty partners within 90 days of receipt". The situation had not evolved significantly at the time of the first supplementary review so the recommendation remained in the September 2011 report. By the time of the second supplementary review, 89% of requests received during the review period were answered within 90 days. The April 2014 report noted a clear improvement in Mauritius' information-gathering processes. Accordingly, the Phase 2 recommendation was removed and element C.5 was deemed to be "in place" and Compliant.

349. During the period currently under review, no peers have indicated any issues with timeliness. Mauritius answered 67.8% of requests within 90 days and 89.8% of requests were answered within 180 days. Status updates were provided in all cases where the request took longer than 90 days to be fulfilled. Mauritius also received generally positive feedback relating to the quality of their outbound requests. As such, the table of determinations and ratings remains as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	**This element involves issues of practice that are assessed in the Phase 2 review. Accordingly no Phase 1 determination has been made.**	
Practical implementation of the standard		
Rating: Compliant		

C.5.1. Timeliness of responses to requests for information

350. The international standard requires that jurisdictions be able to respond to requests within 90 days of receipt or provide status updates on requests taking longer than 90 days. Mauritius' 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

351. Mauritius' response times to EOI requests over the period under review has been generally good. Over the period under review (1 April 2013-31 March 2016), Mauritius received a total of 480 requests for information. For these years, the number of requests Mauritius received and the percentages of requests answered in 90 days, 180 days, one year and over one year are tabulated below.

Statistics on response time

	2013-14		2014-15		2015-16		Total	
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	85	100	201	100	193	100	479	100
Full response: ≤ 90 days	53	62.4	147	73.2	126	65	326	67.8
≤ 180 days (cumulative)	73	85.9	186	92.5	173	89.2	432	22.0
≤ 1 year (cumulative)	77	90.6	197	98	190	98	464	6.7
> 1 year	8	9.4	3	1.5	1	0.5	12	2.5
Declined for valid reasons	0	0	0	0	0	0	0	0
Status update provided within 90 days (for responses 90 days)	32	37.6	53	26.3	65	33.7	150	31.3
Requests withdrawn by requesting jurisdiction	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	0	0	0	0	0	0	0	0
Requests still pending at date of review	0	0	1	0.5	2	1	5	1.0

Mauritius counts each written request from an EOI partner as one EOI request even where more than one person is the subject of an inquiry and/or more than one piece of information is requested.

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

352. Over the three year period under review, Mauritius answered 67.8% of requests within 90 days. For requests taking longer than 90 days, 22% were answered in between 90 and 180 days, 6.7% were answered in between 180 days and a year and 2.5% took more than a year to be fulfilled. Cumulatively, these figures demonstrate that 89.8% of all requests were answered within 180 days and 96.5% within a year. Although timeliness of responses has declined slightly since the last review (during the review period for the April 2014 report, 89% of requests were answered within 90 days and 98% of requests answered within 180 days), the number of requests received by Mauritius has since doubled. Furthermore, many requests received by Mauritius are complex, seeking different types of information and often requiring the competent authority to look outside of its own databases.

353. Overall, peers were quite satisfied with Mauritius' response times and fulfilment of requests during the review period. One peer indicated that information relating to certain non-resident companies (namely, GBC2s) was not provided in several instances (although this peer also noted that Mauritius responded to over 90% of its requests). With respect to requests that were not answered, a protocol to the agreement in question was executed in May 2016, and Mauritian authorities believe that no further problems exchanging information on non-resident persons or entities should occur in the future under the new terms of the agreement. The competent authority further indicates that it will communicate to the treaty partner to re-send the unfulfilled requests so that they may be answered under the newly implemented protocol. Aside from this issue, no other problems with Mauritius' EOI practice were raised by peers. Peers confirmed the practice of the competent authority to send status updates in cases taking over 90 days to answer. Several peers acknowledged that where a request cannot be completed in 90 days, Mauritius will send a partial response at that time along with reasons for the delay and updates relating to the outstanding information.

(b) Issues impacting timeliness covered under other elements

354. The ability of a jurisdiction to respond to EOI requests in a timely manner can be impacted by a number of factors that are not strictly related to the organisation or processes of the EOI unit. In Mauritius, certain aspects of the competent authority's access powers (as discussed above in section B.1) could have a potential impact on response times to EOI requests. As noted above, some of the delay that occurs in the process of gathering information could be attributed to the MRA's lack of sanctioning powers. Failure to produce information upon request by the MRA is a punishable offence, but, lacking sanctioning powers, the MRA must apply to a court to penalise defaulting information-holders. Although the threat of a court proceeding has been an effective deterrent against outright non-compliance, the MRA does not have any tools to deter delay.

355. The competent authority acknowledges that it has not liberally applied its compulsory powers (and has not done so over the review period) because the only sanction available to it is the most severe one. As a result, the MRA would not initiate court proceedings in cases where there is merely a delay. The competent authority further admits that it has no choice but to rely on a system of education and encouragement as it does not have any other tools at its disposal. As the competent authority cannot threaten continued delay with an administrative fine, it must rely on fostering a spirit of cooperation with those from whom it seeks information. For the large part, this system has worked and Mauritius has seen a high incidence of compliance. However, Mauritius' response times are somewhat incongruous with the timelines stipulated in the EOI manual (most of which require that information be provided to the MRA within 15 or 21 days). In most instances where a request took longer than 90 days to fulfil, the information was sought from a management company and only in a very few instances was there a delay in obtaining information from a financial institution or the FSC.

356. However, as over half of the requests received are answered within 90 days and the overwhelming majority of request within 180 days, the delays described above are not viewed as significant hindrances to Mauritius' EOI practice, but rather as minor issues that could be further refined. In all cases, status updates were provided for all requests taking longer than 90 days to fulfil.

C.5.2. Organisational processes and resources

357. The last round of reviews found Mauritius' organisational processes and the level of resources available for the exchange of information to be satisfactory. The September 2011 report concluded that aside from a few potential deficiencies (largely relating to the timelines stipulated in the EOI Procedure Manual), Mauritius' organisational process appeared to be sound. The April 2014 found no further issue with timeliness of Mauritius' responses to EOI requests and found that the timelines set in the manual were generally respected. Further, the April 2014 report noted that the resources dedicated to EOI had been stable for the preceding seven years and that exchange of information had been proceeding smoothly.

358. The organisational processes for handling EOI requests have not changed significantly since the last review. Any developments to Mauritius' organisational processes and EOI resources, particularly those relating to the 2016 ToR, are described below. Where no change has occurred since the last review, reference will be made to the relevant parts of earlier reviews.

(a) Resources and training

359. As noted above, the International Taxation Unit of the Large Taxpayers Department is Mauritius' EOI unit and is responsible for the execution of incoming requests as well as preparing outbound requests. In 2015, the MRA expanded the EOI unit and re-envisioned the assignment of work to accommodate the flow of requests received over each annual period. The competent authority explains that the volume of requests it receives has a seasonal pattern, with some periods experiencing significantly more requests than others. Whereas previously, two staff members worked exclusively on EOI full-time, the unit now has eight EOI officers that work on exchange of information on a part-time basis. The amount of time staff dedicate to EOI depends on the volume of incoming requests. Following this method, during peak periods of requests, EOI staff will be fully dedicated to EOI, but during slower periods, staff will be able to work on other matters.

360. Mauritius actively recruits staff for work on EOI. Generally, the qualifications sought are those in accounting, economics and law. The MRA provides extensive training to all new staff, including training on EOI. During the first year, new staff receive training on all tax issues and are required to sit for exams on the subjects covered. They will be attached to different divisions or units to learn the work of the department as a whole. After new staff are qualified, they are assigned to a post. Staff receive on-the-job training during their rotations and in the position in which they are ultimately posted. All EOI officers are trained on the Procedure Manual on Exchange of Information.

(b) Incoming requests

361. All requests come through the Director of the Large Taxpayers Department, who enters the request into his logbook and then transmits the request to the Section Head of the International Taxation Unit. The request is logged again in an excel spreadsheet. The excel spreadsheet includes information such as the date of the letter, the date of receipt, name of the entity, the requesting jurisdiction and the name of the entity concerned in that jurisdiction. At this point, the request will be assigned to an EOI officer and the log will also contain that officer's name. The officer will then prepare a separate file for the EOI request, including a copy of the letter and accompanying materials. The original request will be the officer's working copy. The officer has seven days to send an acknowledgement to the requesting jurisdiction.

362. The EOI Procedure Manual lays out in a detailed manner all of the steps for carrying out a request. First, the officer will check whether a TIN is available for the taxpayer who is the subject of the request. The officer will also check in the MRA's own files and databases to see what kind of information is available (e.g. returns) to be sent with the acknowledgement. After

the acknowledgement is sent, the officer will check if it's a refrain case. If it is, the officer will make a note of it in the file and will go to the relevant authority, rather than the taxpayer, for the needed information. If it is not a refrain case, then the officer would go to the official address of the taxpayer, which, in cases of international entities, would be the service provider. As noted above, the taxpayer (or other third party) then has 21 days to respond. Extensions can be granted, usually for about 10 to 15 days. If information is sought from a bank, the bank has 15 days to respond, but a delay of one month can be granted. The Procedure Manual states that legal proceedings may be instituted for persistent non-compliance (see above section B.1 for more details on enforcement measures). Information obtained must be verified for completeness and accuracy before being transmitted to the treaty partner. All information gathered at 90 days is sent to the peer along with an explanation for the delay for the remaining information. Status updates are not automatically generated, but are rather sent manually. No peer has complained about failing to receive a status update.

363. The EOI Procedure Manual also addresses group requests. To meet the standard of foreseeable relevance, a group request must contain the following information: (i) a detailed description of the group of taxpayers targeted by the request; (ii) the specific facts and circumstances that have led to the request; (iii) an explanation of the applicable tax law; and (iv) an explanation, supported by a clear factual basis, of the reasons to believe that the taxpayers in the group for whom information is requested have been non-compliant with the applicable law. To date, Mauritius has not received any group requests.

364. The EOI unit is currently in the process of transitioning from a manual system to an electronic one to log and track the status of inbound requests. The system is fully developed, but has not yet gone live. In this new system, the officer will be able to input even more detailed information than that currently required by the Excel spreadsheet. The new system will have collect information on the type of taxpayer (corporate or individual) that is the subject of a request, dates of receipt, acknowledgement sent, whether to inform the entity, the relevant agreement, etc. The file will also be scanned and uploaded. Once the request has been uploaded, a request number will be generated and the supervising manager will receive a notice. The software will help officers keep track of the status of requests by giving alerts when deadlines are approaching (a responsibility that supervisors undertake manually at present). When deadlines have been missed, notifications will also be sent to the manager. The database also contains all of the various templates necessary for gathering information (e.g. notification letters to various information-holders, reply templates for the taxpayer, etc.), which are accompanied by the corresponding deadlines. The history of each request will also

be included in the database. Once the officer has gathered the information, he/she can enter the information into the software's "dashboard".

365. Mauritius maintains detailed statistics on EOI requests received, including the type of information sought, the length of response time, the status of the request, the nature of the request (information sought) and the nature of the proceedings. Regarding statistics on the type of information that is the subject of a request, Mauritius explains that the MRA peruses individual files to assess what type of information has been sent as well as logs the type of information specified in the request. From January 2017, a register has been maintained to categorise incoming requests for information into legal ownership, beneficial ownership, accounting information, bank information and other type of information. Even more detailed statistics will be able to be kept once the new electronic logging system goes live.

(c) Outgoing requests

366. The 2016 ToR also addresses the quality of requests made by the assessed jurisdiction. Jurisdictions should have in place organisational processes and resources to ensure the quality of outgoing EOI requests.

367. Mauritius' EOI Procedure Manual has been recently updated to provide guidance on making EOI requests to treaty partners. Requests for information can only be made by the competent authority and not by individual tax auditors. All outbound requests must be channelled through the International Taxation Unit. The Procedure Manual provides the following procedure for outbound requests. The Section Head of the International Taxation Unit will first vet all outbound requests by verifying that an EOI agreement exists with the jurisdiction in question. If an agreement exists to provide a legal basis for the request, the Section Head will then check whether the request relates to a period of time or a type of tax that is covered by the relevant agreement. The Section Head will also check whether the request contains sufficient information and is clear and specific, whether the foreseeable relevance of the requested information has been adequately demonstrated, and whether the tax auditor formulating the request has used all possible domestic means to obtain the information. Finally, if all criteria have been made, the Section Head will prepare a request letter to the treaty partner. All requests and accompanying documentation are sent by secure email and registered post.

368. At present, outbound requests are tracked manually, but they will also be logged in the new electronic tracking system. Similar fields exist for outbound request (e.g. the date the request is made, the date the request is sent to the treaty partner, the subject of the request, the treaty partner, the relevant agreement, etc.). The Procedure Manual requires that the officer

handling the outbound request track progress of the information requested, namely, whether the request has been acknowledged within 30 days, whether any information has been received within 90 days, and on regular intervals thereafter as needed.

369. During the review, period, Mauritius sent a total of nine requests for information to treaty partners. Generally, feedback received from peers on the quality of requests sent by Mauritius has been positive. Peers reported that requests have been comprehensive and supported by the necessary documentation and Mauritius has been noted as being communicative and co-operative. However, one peer indicated that the standard of foreseeable relevance was not demonstrated with sufficient rigour, although this peer did not seek any clarifications on requests received from Mauritius during the review period. Another peer indicated that in two complex requests, it had to seek additional background information to support its domestic administrative practices, but made no negative remarks with respect to the quality of the requests.

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

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

Annex 1: Jurisdiction's response to the review report[6]

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

6. 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 and regional international agreements for the exchange of information

No.	EOI Partner	Type of agreement	Date signed	Date entered into force
1	Australia	ABA	08 Dec 2010	31 May 2013
		TIEA	08 Dec 2010	25 Nov 2011
2	Austria	TIEA	10 Mar 2015	01 Jan 2016
3	Bangladesh	DTC	21 Dec 2009	15 Sept 2010
4	Barbados	DTC	28 Sept 2004	28 Jan 2005
5	Belgium	DTC	04 July 1995	28 Jan 1999
6	Botswana	DTC	29 Sept 1995	13 March 1996
7	Cape Verde	DTC	13 April 2017	
8	China (People's Republic)	DTC	01 Aug 1994	05 May 1995
		Protocol	05 Sept 2006	25 Jan 2007
9	Congo (Republic of)	DTC	20 Dec 2010	08 Oct 2014
10	Croatia	DTC	06 Sept 2002	09 Aug 2003
11	Cyprus [1]	DTC	21 Jan 2000	12 June 2000
12	Denmark	TIEA	01 Dec 2011	01 June 2012
13	Egypt	DTC	19 Dec 2012	10 Mar 2014
14	Faroe Islands	TIEA	01 Dec 2011	02 June 2016
15	Finland	TIEA	01 Dec 2011	06 July 2012
16	France	DTC	11 Dec 1980	17 Sept 1982
		Protocol	21 June 2011	01 May 2012
17	Gabon	DTC	18 July 2013	

No.	EOI Partner	Type of agreement	Date signed	Date entered into force
18	Germany	DTC	15 Mar 1978	01 Jan 1981
		DTC (new)	07 Oct 2011	07 Dec 2012
19	Ghana	DTC	11 March 2017	
20	Greenland	TIEA	01 Dec 2011	
21	Guernsey	DTC	17 Dec 2013	30 June 2014
		TIEA	06 Feb 2013	05 July 2013
22	Iceland	TIEA	01 Dec 2011	19 Oct 2013
23	India	DTC	24 Aug 1982	11 June 1985
		Protocol		19 July 2016
24	Italy	DTC	09 Mar 1990	28 April 1995
		Protocol	09 Dec 2010	19 Nov 2012
25	Jersey	DTC	03 March 2017	
26	Kenya	DTC	07 May 2012	
27	Korea	TIEA	11 August 2016	
28	Kuwait	DTC	24 Mar 1997	01 Sept 1998
29	Lesotho	DTC	29 Aug 1997	09 Sept 2004
30	Luxembourg	DTC	15 Feb 1995	12 Sept 1996
		Protocol	28 Jan 2014	11 Dec 2015
31	Madagascar	DTC	30 Aug 1994	04 Dec 1995
32	Malaysia	DTC	23 Aug 1992	19 Aug 1993
33	Malta	DTC	15 Oct 2014	23 April 2015
34	Monaco	DTC	13 April 2013	08 Aug 2013
35	Morocco	DTC	25 November 2015	
36	Mozambique	DTC	14 Feb 1997	08 May 1999
37	Namibia	DTC	04 Mar 1995	25 July 1996
38	Nepal	DTC	03 Aug 1999	11 Nov 1999
39	Nigeria	DTC	10 Aug 2012	
		Protocol	09 May 2013	
40	Norway	TIEA	01 Dec 2011	26 May 2012
41	Oman	DTC	30 Mar 1998	20 July 1998
42	Pakistan	DTC	03 Sept 1994	19 May 1995

No.	EOI Partner	Type of agreement	Date signed	Date entered into force
43	Qatar	DTC	28 July 2008	28 July 2009
44	Russia	DTC	24 Aug 1995	
45	Rwanda	DTC	30 July 2001	14 April 2003
46	Senegal	DTC	17 April 2002	15 Sept 2004
47	Seychelles	DTC	11 Mar 2005	22 June 2005
		Protocol	03 Mar 2011	18 May 2012
48	Singapore	DTC	19 Aug 1995	07 June 1996
49	South Africa	DTC	05 July 1996	20 June 1997
50	Sri Lanka	DTC	12 Mar 1996	02 May 1997
51	Swaziland	DTC	29 June 1994	08 Nov 1994
52	Sweden	DTC	23 April 1992	21 Dec 1992
		DTC (new)	01 Dec 2011	07 Dec 2012
53	Thailand	DTC	01 Oct 1997	10 June 1998
54	Tunisia	DTC	12 Feb 2008	28 Oct 2008
55	Uganda	DTC	19 Sept 2003	21 July 2004
56	United Arab Emirates	DTC	18 Sept 2006	31 July 2007
57	United Kingdom	DTC	11 Feb 1981	26 Oct 1987
		Protocol	10 Jan 2011	13 Oct 2011
58	United States	TIEA	27 Dec 2013	29 Aug 2014
59	Zambia	DTC	26 Jan 2011	04 June 2012
60	Zimbabwe	DTC	06 Mar 1992	05 Nov 1992

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

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

2. Southern African Development Community (SADC) Multilateral Agreement

Mauritius is a signatory to the Agreement on Assistance in Tax Matters of the Southern African Development Community (SADC Agreement) signed by the nine SADC countries: Mauritius, Democratic Republic of Congo, Lesotho, Malawi, Mozambique, Seychelles, Swaziland, Tanzania and Zambia. The SADC Agreement was signed on 18 August 2012, but has not yet entered into force. The SADC Agreement provides for administrative assistance between member countries including exchange of information for tax purposes. The three SADC jurisdictions that do not have separate bilateral agreements with Mauritius are Democratic Republic of Congo, Malawi and Tanzania.

3. Convention on Mutual Administrative Assistance in Tax Matters (as 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 Multilateral Convention).[7] The Multilateral 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 Multilateral Convention was opened for signature on 1 June 2011.

Mauritius signed the amended Convention on 23 June 2015 and deposited its instrument of ratification with on 31 August 2015. The 1988 Convention entered into force for Mauritius on 1 December 2015.

As of 22 May 2017, the amended Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the

7. 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.

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), Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Guatemala, 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, Liechtenstein, Lithuania, Luxembourg, Malta, Malaysia, Marshall Islands, Mauritius, Mexico, Moldova, Montserrat (extension by the United Kingdom), Nauru, the Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, 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 Netherlands), 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, Monaco, Morocco, Panama, Philippines, Turkey and the United States (the 1988 Convention in force on 1 April 1995, the amending Protocol signed on 27 April 2010).

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

Income Tax Act 1995

Procedure Manual on Exchange of Information (updated September 2016)

Companies Act 2001 (as amended in 2012)

Trusts Act 2001 (Consolidated version with amendments as at 22 December 2012)

Financial Services Act 2007

Banking Act 2004

Bank of Mauritius Act 2004

Financial Intelligence and Anti Money Laundering Act 2002 (FIAMLA)

Financial Intelligence and Anti Money Laundering Regulations 2003

Bank of Mauritius Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism for Financial Institutions (as amended in October 2016)

Code on the Prevention of Money Laundering and Terrorist Financing (2003) (AML/CFT Code)

Annex 4: Authorities interviewed during on-site visit

Mauritius Revenue Authority

Director General
Director of the Large Taxpayers Department
Section Head, Large Taxpayers Department

Central Business Registration Database

Registrar and Assistant Registrar of Companies

Ministry of Economic Development

Deputy Financial Secretary
Analysts

Financial Services Commission

Chief Executive
Surveillance department, Global Business

Financial Intelligence Unit

Director and Assistant Director

Bank of Mauritius

Legal Services Division

Solicitor General's Office

Attorney General

Deputy Solicitor General

Private sector practitioners

Mauritius Bankers Association

Association of Trusts and Management Companies

Global Finance Mauritius

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.

- **A.1.3:** Although there are no indications that implementation of the LLPA will be problematic, to ensure its proper application, Mauritius is recommended to monitor the enforcement of its provisions to ensure that they are implemented in practice.
- **A.2.1:** Mauritius is recommended to monitor the implementation of the provisions of the new LLPA until sufficient practice in this area develops.
- **B.1.4:** Mauritius is recommended to its powers to compel information and sanction failure to provide information where appropriate.
- **B.2.1:** Mauritius is recommended to communicate its policy relating to refrain cases to new treaty partners to ensure that they are aware of the relevant procedure.
- **C.1.3:** Mauritius is encouraged to continue updating its treaties with partners not party to the Multilateral Convention.
- **C.2:** Mauritius should continue to develop its EOI network with all relevant partners.

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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 MAURITIUS 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.

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This report contains the 2017 Peer Review Report on the Exchange of Information on Request of Mauritius.

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