GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

ISLE OF MAN

2017 (Second Round)

OECD

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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

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(reflecting the legal and regulatory framework as at August 2017)

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About the Global Forum

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

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

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

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

Abbrevations and acronyms

AML	Anti-Money Laundering
CDD	Customer Due Diligence
CFT	Countering the Financing of Terrorism
DNFBP	Designated Non-Financial Business and Profession
DTC	Double Tax Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSA	Financial Services Authority
FSRB	Financial Services Rule Book 2013
ITA	Income Tax Act
ITD	Income Tax Division
KYC	Know Your Customer
LLC	Limited Liability Company
OECD	Organisation for Economic Co-operation and Development
POCA	Proceeds of Crime Act 2008
TIEA	Tax Information Exchange Agreement
TOR	Terms of Reference
VAT	Value Added Tax

Executive summary

1. This report summarises the legal and regulatory framework for transparency and exchange of information in the Isle of Man as well as the practical implementation of that framework against the 2016 Terms of Reference. The assessment of effectiveness in practice is conducted in relation to a three year period (1 October 2013-30 September 2016). This report concludes that the Isle of Man is rated Compliant overall.

2. The Isle of Man has been committed to the international standard of transparency and information exchange since 2002 and in 2006, the Isle of Man's first tax information exchange agreement entered into force. The Isle of Man currently has a network of bilateral agreements comprising 37 tax information exchange agreements (TIEAs) and 11 double tax conventions (DTCs).

Comparison of ratings for Phase 2 Review and current EOIR Review

Element		Combined report (2011)	EOIR report (2017)
A.1	Availability of ownership and identity information	C	LC
A.2	Availability of accounting information	C	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	LC	C
C.4	Rights and Safeguards	C	C
C.5	Quality and timeliness of responses	C	C
	OVERALL RATING	**C**	**C**

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

Changes since last review

3. The Isle of Man has introduced requirements into its law pertaining specifically to beneficial ownership. In 2012, the Isle of Man took steps to introduce explicit requirements relating to beneficial ownership for companies that were not required to engage an AML-obligated service provider. In December 2012, Tynwald enacted the Companies (Beneficial Ownership) Act 2012 to require all such companies to appoint a nominated officer to hold information about the beneficial owners of such companies and to provide such information when required. In 2017, the Isle of Man introduced new legislation relating to beneficial ownership information, the Beneficial Ownership Act 2017, to take the place of the 2012 Act.

4. Following the 2012 Beneficial Ownership Act, the Isle of Man introduced new beneficial ownership legislation refining some of the points of the earlier law. On 12 April 2016, the Isle of Man signed an Exchange of Notes (and accompanying Technical Protocol) with the United Kingdom in respect of the sharing of beneficial ownership information committing the Island to establishing a central database of beneficial ownership by 30 June 2017. A Bill to give legal effect to the Exchange of Notes was drafted and introduced into the House of Keys (Tynwald's lower chamber) in February 2017. The Beneficial Ownership Act 2017 received Royal Assent on 25 April 2017 and came into force on 21 June 2017, establishing the database of beneficial ownership to be populated by entities over the next 12 months. The beneficial ownership database records ownership or control of more than 25% of a corporate or legal entity. Further, entities covered by the Act will have to retain all beneficial ownership information relating to that entity. This Act will apply to all Manx companies, LLCs, foundations and limited partnerships with legal personality. As of 13 September 2017, 33% of companies have entered their data into the beneficial ownership database.

5. With respect to legal ownership, in 2012, the Income Tax (Individuals) (Temporary Taxation) Order 2012 amended the Income Tax Act with an eye to address the deficiency identified in the previous review relating to the legal ownership of foreign companies.

6. The Isle of Man also introduced new accounting regulations in 2016, which set out detailed obligations for all entities to maintain books and records. These obligations apply equally to entities that are currently active as well as those that have ceased to exist.

7. In 2011, the Isle of Man revised its legal framework relating to notification rights and requirements. The Income Tax Act 2011 inserted new provisions in the Income Tax Act 1970 relating to notification of the taxpayer and streamlining the competent authority's procedure for obtaining information in the hands of a third-party information holder.

8. Further, the Income Tax Act 2013 inserted new provisions into the ITA 1970 which enable the Assessor of Taxes to obtain information by way of court deposition and set out offences for any unlawful disclosure of protected information by the witness who has been summoned. These new provisions are applicable for EOIR under all of the Isle of Man's bilateral agreements and were introduced in anticipation of the Convention on Mutual Administrative Assistance in Tax Matters entering into force on 1 March 2014.

9. The Isle of Man also streamlined its tax law relating to the competent authority's access powers. The Taxes (International Arrangements) Order 2013 and the Income Tax Act 2015 consolidated the competent authority's information powers, previously set out in a number of different Acts, orders and amending orders.

10. In 2011, the Foundations Act 2011 came into force providing for the creation of foundations in the Isle of Man.

11. Finally, the Partnership (Amendment) Act 2012 introduced legislation to ensure that limited partnerships formed under Manx law are in all cases required to maintain reliable accounting records, including underlying documentation, for six years from the end of the financial period to which they relate.

Key recommendations

12. The Beneficial Ownership Act 2017 was enacted too recently for implementation of its provisions to be fully assessed. Over the review period, only companies with a link to the Isle of Man's AML regime were supervised with respect to obligations to hold beneficial ownership information. As such, the Isle of Man is recommended to monitor the implementation and supervision of beneficial ownership requirements recently introduced into its law.

13. Beneficial ownership requirements exist in the Isle of Man only with respect to limited partnerships. General partnerships are under no obligation to engage an AML-obliged service provider, nor are they covered by the Beneficial Ownership Act 2017. Therefore, the Isle of Man is recommended to ensure that beneficial ownership information is available for all partnerships.

14. Although recent amendments to the Isle of Man's tax law requires foreign companies to include in their annual tax returns either a schedule of significant shareholders or the contact information of a person who is responsible for holding information on all owners, no complementary obligation is imposed on the nominated official to actually hold the information. No offence is committed by the company or the nominated individual if such information is not held. The Isle of Man is therefore recommended to ensure that legal ownership information is available for foreign companies with a sufficient nexus to the Island.

Overall rating

15. The Isle of Man 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 the Isle of Man's legal and regulatory framework and the effectiveness of its exchange of information in practice. On this basis, the Isle of Man has been assigned the following ratings: Compliant for elements A.2, A.3, B.1, B.2, C.1, C.2, C.3, C.4 and C.5, and Largely Compliant for element A.1.

16. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for the Isle of Man is Compliant.

17. A follow up report on the steps undertaken by the Isle of Man 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 and factors underlying 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: In place	Recent amendments to the Isle of Man's tax law requires foreign companies to include in their annual tax returns either a schedule of significant shareholders or the contact information of a person who is responsible for holding information on all owners. However, such provisions do not impose a complementary obligation on the nominated individual to hold such information. No offence is committed by the company or the nominated individual if such information is not held.	Where foreign companies are resident for tax purposes in the Isle of Man, rules should be in place to ensure the availability of legal ownership information of such companies.

Determination	Factors underlying recommendations	Recommendations
	Although limited partnerships are required to engage an AML-obliged service provider, no comparable provisions exist in the Partnership Act to require general partnerships to engage an AML-obliged service provider. Further, general partnerships are not covered by the Beneficial Ownership Act 2017. However, beneficial ownership information will be available for natural persons or Manx corporate partners through the Isle of Man's legal framework, so the gap pertains to beneficial ownership information for foreign corporate partners.	the Isle of Man is recommended to ensure that beneficial ownership information is available for all general partnerships.
EOIR rating: Largely Compliant	Whereas requirements to hold beneficial ownership information were not supervised in all cases over the review period, the Isle of Man passed the 2017 Beneficial Ownership Act, which envisions supervision by the financial regulator. However, as this law is recent, its effectiveness could not be tested in practice.	the Isle of Man is recommended to monitor the implementation and supervision of beneficial ownership requirements recently introduced into its law.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
Legal and regulatory framework determination: In place		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
Legal and regulatory framework determination:		
EOIR rating: Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
Legal and regulatory framework determination: 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: In place		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
Legal and regulatory framework determination: 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: In place		

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
Legal and regulatory framework determination: In place		
EOIR rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
Legal and regulatory framework determination: 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: In place	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

18. This report is the second peer review of the Isle of Man conducted by the Global Forum. The Isle of Man 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). This combined report was adopted by the Global Forum in January 2011 (referred to hereinafter as the January 2011 report). The combined review was 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 (2010 Methodology). 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. The Isle of Man's January 2011 Report was part of this group of reports. Accordingly, in 2013, the January 2011 report was re-published to reflect the ratings for each element and the overall rating. Information on the reviews of the Isle of Man is listed in the table below.

Summary of Reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
January 2011 report	Mr. Anthony Vella Laurenti, Ministry of Finance (Malta); Mr. Brian Harrington, Internal Revenue Service (United States); Frederick Strauss, Internal Revenue Service (United States); and Mr. Andrew Auerbach (Global Forum Secretariat).	1 January 2007-31 December 2009	January 2011	January 2011
EOIR report	Mr. Romain Perret, Tax Administration (France); Mr. Robin Ng, Inland Revenue Authority (Singapore); and Ms. Kathleen Kao (Global Forum Secretariat).	1 October 2013 to 30 September 2016	14 August 2017	3 November2017

19. 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 the Isle of Man's 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 the Isle of Man's EOI mechanisms in force at the time of the review, the laws and regulations in force or effective as at 14 August 2017, the Isle of Man's EOIR practice in respect of requests made and received during the three year period from 1 October 2013-30 September 2016, the Isle of Man's 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.

20. The evaluation was conducted by an assessment team consisting of two expert assessors and a representative of the Global Forum Secretariat: Mr. Romain Perret, Tax Administration (France); Mr. Robin Ng, Inland Revenue Authority (Singapore); and Ms. Kathleen Kao (Global Forum Secretariat). The EOIR review included an on-site visit, which took place from 26-28 April 2017 in Douglas, the Isle of Man. The assessment team discussed a variety of aspects of the Isle of Man's exchange of information system following a review and analysis of the Isle of Man's Phase 1 and Phase 2 questionnaires, as well as peer inputs submitted by the Isle of Man's primary exchange-of-information partners.

21. This report was tabled for approval at the PRG meeting on 5 October 2017 and was adopted by the Global Forum on 3 November 2017.

22. For the sake of brevity, on topics where there has not been any material change in the situation in the Isle of Man 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

23. The 2016 ToR were adopted by the Global Forum in October 2015. The 2016 ToR break down the standard of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchanging information. This review assesses the Isle of Man's legal and regulatory framework and the implementation and effectiveness of this framework against these elements and each of the enumerated aspects.

24. In respect of each essential element (except element C.5 *Exchanging Information*, which uniquely involves only aspects of practice) a determination is made regarding the Isle of Man's legal and regulatory framework that either: (i) the element is in place, (ii) the element is in place, but

certain aspects of the legal implementation of the element need improvement, or (iii) the element is not in place. In addition, to assess the Isle of Man's 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 the Isle of Man's overall level of compliance with the EOIR standard.

25. 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.

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

Brief on consideration of FATF evaluations and ratings

27. 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.

28. 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.

29. 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.

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

Overview of the Isle of Man

31. The Isle of Man is an island located in the Irish Sea, virtually equidistant between Ireland, England, Scotland and Wales. Under Norwegian rule until the 13th century when it was ceded to Scotland under the Treaty of Perth, the Isle of Man came under English rule in 1399, although it never became a part of the Kingdom of Great Britain. The capital of the Isle of Man is Douglas. The Isle of Man's population is 83 314.[1] English is the official language and the currency is the Manx pound, in parity with the English pound.

32. The Isle of Man has a diverse, mixed economy. Financial services, online gambling operators and Information and Communications Technology (ICT)are key sectors of the economy. The Isle of Man also attracts the film industry. Nineteen percent of the island's income comes from online gambling and one-third from financial services. The Isle of Man enjoys free access to goods and agricultural products in EU markets and trade is mostly with the United Kingdom. The Isle of Man's GDP in 2015 was IMP 4.5 billion (EUR 5 billion).

Legal system and governance

33. The Isle of Man is a self-governing British Crown Dependency with its own Parliament (Tynwald), government and laws. It is not part of the United Kingdom or the European Union (EU) and is not represented in either the United Kingdom or European Parliaments. Her Majesty the Queen, referred to on the Island also as Lord of Mann, is Head of State. His Excellency the Lieutenant Governor is the Crown's personal representative on the Island.

34. Tynwald, which has been meeting continuously since 979 AD and was granted autonomy in 1866, is one of the oldest (if not the oldest) continuous legislature in the world and has two branches: the House of Keys and the Legislative Council. The Isle of Man has no party political system and the leader of its government, the Chief Minister, is chosen by Tynwald after each

1. According to the the Isle of Man's 2016 census.

general election. The Chief Minister selects eight Ministers to head the major government departments and together they make up the Council of Ministers, or the "Cabinet", which is the Island's central executive body and accountable to Tynwald.

35. The Island has its own legal system and jurisprudence. The legal system of the Isle of Man is Manx law. Manx law dates back centuries and is enacted and administered by Tynwald. Although English law is not generally directly applicable, a large part of Manx law and its legal system is based on the English legal system, including the principles of common law. English case law may therefore be persuasive in the absence of Manx judicial precedent. Manx law is very similar to English law in areas such as crime, contract, tort and family law. In certain areas, however, although initially modelled on English law, Manx law has evolved and adapted to meet the Island's own special circumstances. This is particularly noticeable in areas such as direct taxation, company law and financial supervision. The Island has its own civil and criminal courts including a court of appeal, the Staff of Government Division. The final right of appeal from the Staff of Government Division is to the Judicial Committee of the Privy Council in London. The hierarchy of appeal would be: High Court (civil) or Court of General Gaol Delivery (criminal), then Staff of Government Division, and finally, Privy Council. The Island's High Court judges hold the ancient office of Deemster and have jurisdiction over all criminal and civil matters. Advocates of the Manx Bar have the fused rights of solicitors and barristers.

36. The United Kingdom Government, on behalf of the British Crown, is ultimately responsible for the Isle of Man's international relations.

Tax system

37. The Isle of Man's tax system comprises direct and indirect taxes. The Isle of Man imposes income tax, value added tax (VAT), and National Insurance contributions. In the Isle of Man, the Assessor of Income Tax (the Assessor), as the head of the Income Tax Division of the Treasury Department, is responsible for the collection of income tax and National Insurance contributions. VAT is collected by the Isle of Man Customs and Excise service (which is also a Division of the Treasury Department). The Isle of Man's income tax rules are completely separate from those of the United Kingdom, as the power to legislate on income tax matters lies with Tynwald, the Isle of Man's Parliament. The Isle of Man tax year runs from the 6th of April to the following 5th of April. The Isle of Man has no capital gains tax, inheritance or estate tax, wealth tax, stamp duty or stamp duty land tax.

38. The Isle of Man resident individuals are liable to income tax on their worldwide income. Non-resident individuals are liable to income tax on their

the Isle of Man source income, except for that received from certain approved sources (e.g. The Isle of Man bank interest). Both residents and non-residents are required to file annual tax returns. The standard rates of income tax for a resident individual are 10% and 20%. The rate for non-residents is 20%. Manx tax law also provides for various personal allowances and deductions.

39. The Isle of Man income tax applies to all persons (both natural and legal persons). There is no separate system of corporate taxation and the Isle of Man has no special tax regimes for different classes of companies. All companies incorporated under Manx law or which are managed and controlled (mind and management) in the Isle of Man are resident for income tax purposes and are liable to income tax on their worldwide income. Non-resident companies are liable to income tax on their the Isle of Man source income. The standard income tax rate for both resident and non-resident companies is 0%. As such, all companies are required to file income tax returns for every accounting period. The standard rate generally applies to all forms of income received by all companies except:

- Licenced banks, which are taxed at 10% on income from their banking business;
- Income derived from mining and quarrying, landfill, property development, commercial property letting and rental income in the Isle of Man which was taxed at 10% until 6 April 2015 when the rate increased to 20%;
- Companies carrying on retail business in the Isle of Man and which have taxable income of more than IMP 500 000 (approximately EUR 582 120) from such business became subject to a 10% rate of tax (with effect from 6 April 2013); and,
- Trading companies subject to the Isle of Man income tax at the standard 0% rate that have elected to pay tax at the 10% rate.

40. The National Insurance contribution regime that operates in the Isle of Man is based very closely on the one that operates in the United Kingdom; both jurisdictions have been party to a bilateral Social Security agreement since 1948 (which was recently amended in 2016). National Insurance contributions can be paid by individuals who are employed, self-employed or non-employed, according to rates and thresholds listed by the ITD.

41. The collection of VAT is subject to an agreement between the Isle of Man and the United Kingdom under which the two jurisdictions are treated as if one; the Isle of Man legislation exists which mirrors the equivalent English law where required. In general, this means that VAT is charged in the Isle of Man at the same rates (mostly 20%) and in accordance with the same rules as in the United Kingdom. As a result, VAT collections are pooled and

shared in accordance with the agreement with the UK, negating the need for customs barriers between the two jurisdictions. The Isle of Man's VAT revenue for 2015/16 was IMP 350.25 million (approximately EUR 387 million). As at 30 September 2016, there were 11 585 businesses registered for VAT on the Isle of Man.

Financial services sector

42. The Isle of Man's financial sector comprises banks, non-banking financial institutions and the insurance industry. In 2017, the Isle of Man's financial sector held total assets of almost IMP 141.9 billion (approximately EUR 156 billion), representing 21.5% of the Isle of Man's GDP.

43. The insurance sector is an important sector in the Isle of Man and comprises 152 insurance companies (25 providing life insurance and 127 providing non-life insurance) and 22 insurance managers as of 31 March 2016. Over the years, the Isle of Man has become a recognised captive domicile and as of 31 December 2016, has 84 captive insurance companies managing IMP 4.6 billion (approximately EUR 5 billion) in funds. As of 31 December 2015, the insurance sector managed a total of IMP 72 billion (EUR 80 billion) in funds.[2]

44. In terms of other financial services, the Isle of Man has four licensed stockbrokers; three are locally incorporated and the other operates through branches of Jersey and Guernsey firms which are in turn UK-owned. Twelve firms provide asset management services to collective investment schemes And 18 firms provide management and administration services to collective investment schemes. As of 31 March 2016, there are 35 financial advisers, mainly small businesses providing a limited range of services. Finally, the Isle of Man has 56 pension scheme administrators. As of March 2017, the total assets held by all funds in the Isle of Man totalled approximately IMP 18 billion (EUR 20 billion).[3]

45. As of 31 March 2016, the Isle of Man's banking sector has 22 deposit takers, of which only two are locally based. The remainder are either branches or locally incorporated subsidiaries of banking groups headquartered elsewhere; predominantly in the UK. Three banks are part of South African groups (two groups), one is Spanish-owned and two are Swiss-owned. Most banks rely on their group for treasury functions and mainly provide client services to corporate and personal clients. As well as taking deposits, banks are also permitted to undertake a normal range of banking services such as lending, money transfers and currency exchange.

2. https://www.iomfsa.im/.
3. https://www.gov.im/lib/docs/iomfsa/fundsstatsbulletin31march2017.pdf.

The deposit base (net of local inter-bank placings) totalled IMP 43.2 billion (approximately EUR 50.3 billion) as at 31 March 2016.

46. The regulator of the financial services industry in the Isle of Man is the Financial Services Authority (FSA). The FSA was created on 1 November 2015 through a merger of the Isle of Man Financial Supervision Commission and the Isle of Man Insurance and Pensions Authority.

The fiduciary sector

47. Trust and corporate service providers are frequently responsible for holding and providing legal and beneficial ownership information and accounting information. Those providing corporate and/or trust services within the meaning of section 3 of the Financial Services Act 2008 and Classes 4 and 5 of the Regulated Activities Order 2011 must be licensed and supervised by the Financial Services Authority (FSA). All TSPs, CSPs and TCSPs are required to comply with the Island's AML/CFT rules and regulations. The Isle of Man has 119 trust service providers and 167 company service providers, although there is considerable overlap between these two types of service providers.

The gambling sector

48. The national income information referred to above shows that e-gaming (online gambling) was the largest economic sector on the Isle of Man for the period of 2014-15 (the most recent year for which data is available). Online gambling companies were relevant during the review period in that they were frequently responsible for providing requested information including account ownership information and transaction records on their players. The Gambling Supervision Commission (GSC) is responsible for licensing gambling operators in the Isle of Man (including online gambling) and for supervising their compliance with AML/CFT rules. The Isle of Man has one terrestrial casino operating within its jurisdiction and 35 internet gambling operators licensed under the Online Gambling Regulation Act 2001.

49. As at 28 November 2016, the Isle of Man had 35 online gambling companies in operation, with a further 5 companies licensed, but having yet to commence operations. A further 3 companies are currently seeking approval.

Anti-money laundering regime

50. The primary regulatory bodies involved in AML supervision in the Isle of Man are the Financial Services Authority (FSA) and the Gambling

Supervision Commission (GSC). The FSA ensures compliance with AML/CFT rules in the Isle of Man for businesses licensed and regulated under the Financial Services Act 2008 (deposit-taking and investment businesses, fiduciary services, crowd-funding platforms and money transmission services) and businesses licensed and supervised under the Insurance Act 2008 and the Retirement Benefits Schemes Act 2000 (businesses conducting insurance activities or pensions activities). The FSA is responsible for ensuring these businesses comply with the AML Code 2015. Pursuant to the Designated Businesses (Registration and Oversight Act) 2015, Designated Non-Financial Businesses and Professions (DNFBPs) are also required to register with the FSA and comply with AML regulations. The GSC is the licensing body for all gambling operators in the Isle of Man. It is responsible for supervising compliance with the AML Code 2015 and the 2013 Gambling Code.

51. The Isle of Man's AML/CFT regulatory framework consists of several laws and enactments, the primary ones of which are the following:

- Proceeds of Crime Act 2008 (POCA) (the primary legislation criminalising money laundering);
- The Anti-Money Laundering and Countering the Financing of Terrorism Code 2015 (AML Code 2015) (secondary legislation setting out detailed regulations on, *inter alia*, CDD, risk assessment, entering into business relationships, etc.);
- Designated Businesses (Registration and Oversight) Act 2015;
- Money Laundering and Terrorist Financing (Online Gambling) Code 2013;
- Financial Services Act (FSA) 2008 (primary piece of legislation governing the financial services sector); and,
- Financial Services Rule Book 2013 (secondary legislation setting out detailed, mandatory, regulatory requirements for licence holders under the Financial Services Act; the latest update to the Rule Book was in 2016).

52. The Isle of Man's compliance with international AML/CFT standards has been assessed by MONEYVAL and the report for that assessment was published in December 2016. With respect to aspects of MONEYVAL's review that may bear relevance to this report, the Isle of Man received a rating of Moderate for Immediate Outcomes 3 (supervision), 4 (preventative measures) and 5 (legal persons and arrangements). The Isle of Man was rated Partially Compliant for both Recommendations 24 and 25 (transparency and beneficial ownership of legal persons and arrangements, respectively).

Part A: Availability of information

53. 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).

54. The Isle of Man has a comprehensive legal framework providing for the availability of legal and beneficial ownership information for most relevant entities. However, a gap exists with respect to general partnerships, which are not covered by the Isle of Man's most recent Beneficial Ownership Act. In practice, the Isle of Man has exchanged beneficial ownership information to the satisfaction of peers on all occasions.

55. Obligations to maintain accounting records, including underlying documentation, in accordance with the international standard are in place in the Isle of Man for all relevant entities and arrangements. Such obligations are subject to supervision by the tax administration and other bodies where audited financial statements are required to be submitted.

56. Availability of bank account information is also ensured in the Isle of Man. Customer identification and record-keeping requirements for Manx banks are in line with the international standard. Such requirements are accompanied by a rigorous system of oversight by the Isle of Man's financial regulator.

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.

57. The Isle of Man's 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 Companies Registry and the tax authority hold comprehensive information on the legal

owners of companies and other relevant entities. As the large majority of entities in the Isle of Man engage the services of an AML-obliged professional, beneficial ownership will also be available in most cases, either in the Companies Registry or held pursuant to AML.

58. The availability of legal ownership information in the Isle of Man was assessed in earlier reviews under the 2010 Terms of Reference. The January 2011 report concluded that the identity of owners of relevant entities (which were, at the time of the first round of reviews, companies, partnerships and trusts) under the Isle of Man law to be ensured pursuant to company law and AML. Identity information of foreign owners of companies formed abroad, however, was not guaranteed to be available. A recommendation to ensure the availability of information on owners of foreign companies was issued and element A.1 was determined to be "in place" and rated Compliant.

59. Since the last round of reviews, the Isle of Man has amended its Income Tax Act to require foreign companies to include in their tax return information on shareholders with a 5% or greater ownership interest or the name and contact information of a person in the Isle of Man who holds or can obtain upon request information on all shareholders (including minor and non-resident shareholders). However, as no affirmative obligation is placed on any person to hold the information and the company does not commit an offence if such information is not available, legal ownership information on foreign companies is still not guaranteed to be available, although it should be noted that in practice, the majority of foreign companies engage an AML-obliged service provider who are required to hold such information.

60. Manx law also now provides for the creation of foundations. On 1 January 2012, the Foundations Act came into force, providing for the establishment of foundations in the Isle of Man. Foundations must register with the Companies Registry and are required to have a Manx registered agent that must be the holder of a Class 4 corporate service licence under the Financial Services Act 2008 and subject to the supervision of the FSA.

61. The Isle of Man's legal and regulatory framework and practices also have been evaluated for the availability of beneficial ownership, a new aspect introduced in the 2016 Terms of Reference. 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 definition also includes those persons who exercise ultimate effective control over a legal person or arrangement.

62. Beneficial ownership information should be available in the Isle of Man in most cases either with the entity itself or in the possession of a

licensed service provider, or, following the entry into force of the Beneficial Ownership Act 2017, with the Companies Registry. However, the Act does not cover all relevant entities, namely general partnerships. In such cases, beneficial information on foreign corporate partners is not ensured. Further, although all entities are required to register their beneficial ownership information in the new beneficial ownership database, supervision of entities that do not engage a corporate service provider may not be as rigorous as that of entities already covered by AML. As a large percentage of entities operating in the Isle of Man engage a licensed service provider, this gap does not appear to be significant. However, the Isle of Man should monitor the implementation and supervision of beneficial ownership requirements recently introduced into its law.

63. 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	Recent amendments to the Isle of Man's tax law requires foreign companies to include in their annual tax returns either a schedule of significant shareholders or the contact information of a person who is responsible for holding information on all owners. However, such provisions do not impose a complementary obligation on the nominated individual to hold such information. No offence is committed by the company or the nominated individual if such information is not held.	Where foreign companies are resident for tax purposes in the Isle of Man, rules should be in place to ensure the availability of legal ownership information of such companies.

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework *(continued)*	Although limited partnerships are required to engage an AML-obliged service provider, no comparable provisions exist in the Partnership Act to require general partnerships to engage an AML-obliged service provider. Further, general partnerships are not covered by the Beneficial Ownership Act 2017. However, beneficial ownership information will be available for natural person or Manx corporate partners through the Isle of Man's legal framework, so the gap pertains to beneficial ownership information for foreign corporate partners.	the Isle of Man is recommended to ensure that beneficial ownership information is available for all general partnerships.
Determination: In place		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	Whereas requirements to hold beneficial ownership information were not supervised in all cases over the review period, the Isle of Man passed the 2017 Beneficial Ownership Act, which envisions supervision by the financial regulator. However, as this law is recent, its effectiveness could not be tested in practice.	The Isle of Man is recommended to monitor the implementation and supervision of beneficial ownership requirements recently introduced into its law.
Rating: Largely Compliant		

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

64. 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.

65. In the Isle of Man, the primary pieces of legislation governing company formation are the Companies Act 1931-2004[4] (Companies Act 1931), the Companies Act 2006, and the Limited Liability Companies Act 1996 (LLC Act). The following types of companies may be created:

- *Company limited by shares or guarantee* – a company having the liability of its members limited by the memorandum to, respectively, the amount unpaid on the shares held by them or such amount as the members undertook to contribute to the assets of the company in the event of winding up. Companies limited by shares or guarantee may be formed under either the Companies Act 1931 or the Companies Act 2006.
- *Unlimited company* – a company not having any limit on the liability of its members. An unlimited company may be formed with or without share capital under either the 1931Companies Act or the 2006 Companies Act.
- *Limited liability company* – a company having the liability of its members limited to the extent of their contribution to its capital. Restrictions exist as to the transfer of members' interest in the company. Limited liability companies (LLCs) are treated like partnerships for tax purposes. As such, the management of the company is vested in the members in proportion to their contribution to the capital of the company and the profits of the company are treated as the income of the members for the purposes of income tax. LLCs may be formed under the Limited Liability Companies Act (LLCA).

66. Companies may choose to incorporate under either the Companies Act 1931 (CA 1931) or the Companies Act 2006 (CA 2006). There is no legal distinction between the types of companies that may be formed under each law, although the different criteria may be more suitable depending on the unique circumstances of a given company. Companies incorporated under the Companies Act 1931 (1931 Act companies) are required to have at least two

4. The Companies Act 1931 to 2004 was amended seven times: in 1961, 1968, 1974, 1982, 1986, 1992 and 2004. Where provisions are not contained in the consolidated Companies Act, they will be cited to the individual amending act.

directors and a registered office situated in the Isle of Man (s. 2 CA 1931). A 2006 Act company can have a single director, which may be an individual or a body corporate that holds a licence from the FSA.

67. Companies incorporated under the Companies Act 2006 and the LLC Act are required to engage a registered agent at all times (s. 74 CA 2006 and s. 5 LLCA). The registered agent of a 2006 Act company must be a holder of a Class 4 licensed by the FSA, whereas the prescribed qualifications of a registered agent of an LLC under the LLC Act are broader. Under the LLC Registered Agents Qualifications Regulations 2003, a registered agent for an LLC must be an advocate or legal practitioner, an auditor or chartered accountant, a member of the Institute of Chartered Secretaries and Administrators, a member of the Institute of Bankers, or a licensed corporate service provider. Not all registered agents under the Registered Agents Qualifications are certain to be subject to AML, but many of them – by virtue of their profession or activities they carry out – will be, regardless of whether they are certified by the FSA. The registered agent may provide the registered address of the company. Companies formed under Act 1931 are not required to have a registered agent.

68. As of 30 September 2016, there were 17 901 private companies and 107 public companies (for a total of 18 008 companies) formed under the Companies Act 1931, 9 333 companies formed under the Companies Act 2006, and 206 LLCs.

69. In practice, the Isle of Man has exchanged information on legal and beneficial ownership. Over the review period, the Isle of Man received 54 requests for legal ownership information and 139 requests for beneficial ownership. Peers were satisfied in all cases.

(a) Legal ownership information for companies

70. The Isle of Man has a comprehensive legal framework providing for the availability of information on the legal owners of companies. Legal ownership information is available with the Companies Registry, as well as with the tax administration, to a certain extent. The majority of companies established in the Isle of Man are also required to keep a register of their owners at their registered address, and in practice, almost all of them do. Additionally, foreign companies with a sufficient nexus to the Isle of Man are also required to register with both the Companies Registry and the tax authority, although ownership information is submitted only to the ITD. All obligations to provide or hold legal ownership information are adequately supervised.

71. At the time of the first review, although foreign companies considered tax resident in the Isle of Man had to register with the tax authority, information on non-Manx owners was not always available. Ownership

information required to be included in annual tax returns did not include that of owners located abroad. This gap was not considered materials, but the Isle of Man was recommended to ensure that information on the owners of foreign companies was available. This gap has been addressed by amendments to the Isle of Man's Income Tax Act requiring the inclusion in the tax return of a company incorporated abroad information on shareholders with a greater than 5% ownership interest or the contact information of an individual in the Isle of Man responsible for holding information on all owners (including minor and non-resident owners). However, the amended tax provisions do not establish a complementary obligation on the nominated person to hold this information. In other words, there is no clear offence established where the nominated individual fails to hold or provide the information. For a detailed analysis of the findings from the last review, refer to paras. 52-54 of the January 2011 report.

72. The following table[5] shows a summary of the legal requirements to maintain legal ownership information in respect of companies:

Source of legal ownership information of companies

Type of company	Company law	Tax law	AML law
Companies (1931 Act)	Yes – in all cases	Yes – in some cases	Yes – in some cases
Companies (2006 Act)	Yes – in some cases	Yes – in some cases	Yes – in all cases
Limited liability companies (LLC Act)	Yes – in all cases	Yes – in some cases	Yes – in some cases
Foreign companies	No	Yes – in some cases	Yes – some cases

(i) Company law

73. The primary source of legal ownership information in the Isle of Man is company law (either with the Companies Registry or the companies themselves). The Companies Registry will hold updated ownership information on 1931 Act companies and LLCs; 2006 Act companies are not required to provide updated ownership information to the Registry, but are required to hold such information themselves. Companies formed under the 2006 Act must hold a register of owners at the office of their registered agent (s. 78 CA 2006); 1931 Act companies must keep their register at their registered office

5. 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.

(s. 96 CA 1931). The Companies Registry supervises both record-keeping and filing obligations and has the power to strike off non-compliant companies or issue a monetary penalty.

74. The Companies Registry, a division of the Isle of Man Government's Department of Economic Development (DED), is responsible for the registration of companies pursuant to the Companies Act 1931 and 2006, the Limited Liability Companies Act and the Foreign Companies Act. The Companies Registry is also tasked with the oversight of company filing obligations.

Legal ownership held by the Registrar

75. Ownership information must be submitted to the Registry upon incorporation. Applications to incorporate are similar under the Companies Act 1931 and the Companies Act 2006. The application shall include a company's memorandum, which for 2006 Act companies must contain, *inter alia*, the name and first registered address of the company, the first registered agent of the company, and the name and residential or business address of each initial subscriber (ss. 2(1) and 5 CA 2006). Upon incorporation, each subscriber becomes a member of the company from the date of its incorporation (s. 13(2) CA 1931 and s. 4 CA 2006). In the case of a 2006 Act company, an application for incorporation can only be made by the company's first registered agent (s. 2(2) CA 2006).

76. The Registrar will hold updated ownership information for 1931 Act, but not 2006 Act, companies. For 1931 Act companies, upon registration, all the subscribers shall be entered as members in its register, which will be held by the Registrar (s. 25 CA 1931). Further, 1931 Act companies must notify the Registry when additional shares are allotted or when new members are admitted to the company within one month of the occurrence of the event (s. 4 CA 2006). If existing shares are transferred, details of the change must be included in the following annual return (s. 107(2) CA 2006). Failure to notify the Registrar is an offence punishable upon summary conviction with a fine not exceeding IMP 5 000 (approximately EUR 5 667) (s. 42(3) CA 1931). Companies formed under the 2006 Act are not required to notify the Registry of changes although they may elect to do so.

77. Companies under both the Companies Act 1931 and 2006 must file annual returns to the Registrar although ownership information is not required to be included in the return of a 2006 Act company and 1931 Act companies with no share capital (s. 85 CA 2006 and ss. 107-108 CA 1931). For 2006 Act companies, the annual return requires the company to provide the details of all current directors as well as changes to directors since the last return if the company elected not to file a register of directors with the Registrar (s. 204 CA 2006). For 1931 Act companies with share capital, the

annual return must contain a list of all members (s. 107(1) CA 1931). The return must also include information about shares held and transferred by each of the members (s. 107(2) CA 1931). Companies not having share capital and those having share capital, but are limited by guarantee, do not need to include information on their members (only on their directors) in their annual return (s. 108 CA 1931). However, ownership information is required to be kept by all companies in their registers (see below).

78. LLCs must also register with the Companies Registry (s. 8 LLCA). To incorporate, an LLC must deliver its Articles of Organisation with the Registry and complete a Form L6 to register. Such form requires, *inter alia*, the name of the company, the names and addresses of its members, and the name and address of its registered agent in the Isle of Man. The Articles of Organisation shall be amended when there is any change to membership. Such changes must be reported to the Registry within one month of occurring (s. 7 LLCA). There is no offence for failure to notify the Registrar of changes; however, updated ownership information will be held by the LLC's registered agent. For changes that are filed more than three months late, the late filing fee is IMP 500 (EUR 567). LLCs are also required to file with the Registry annual reports containing information on its members (s. 10 LLCA).

79. Nominee shareholding is permitted in the Isle of Man, although there are no requirements for the nominee shareholder to identify the person on whose behalf he/she is holding shares. The January 2011 report found that professional nominees will be subject to the Isle of Man's AML regime (discussed below), but for non-professional nominees, none of the rules on holding identity information would apply. The January 2011 report noted that this was most likely a very limited situation and the Isle of Man had received no requests for information involving a nominee shareholder. Following the enactment of the Beneficial Ownership Act 2017, non-professional nominees are now required to be identified (see section on beneficial ownership below).

80. The Registrar is a source of legal ownership information for 1931 Act companies and LLCs 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, and such information is held indefinitely by the Registrar, the Registrar's databases should contain legal ownership information on companies ceases to exist. Although the Registrar may not in all cases hold updated legal ownership information on 2006 Act companies, this information is required to be in the possession of the company's registered agent pursuant to record retention rules under AML (see below).

Legal ownership information held by the company

81. A 2006 Act company must itself hold a register of members containing all persons who hold shares (in cases of companies with share capital) or all members (where the company does not have share capital) (s. 62 CA 2006). The entry of the name of a person in the register is *prima facie* evidence of legal title (s. 63 CA 2006). Where a company has share capital, all issuances and transfers of shares must be recorded. A share is deemed to be issued when the name of the shareholder is entered into the register of members (s. 40 CA 2006). Transfers of shares must be by written agreement instrument of transfer signed by the transferor and stating the name and business or residential address of the transferee (s. 47(1) CA 2006). The instrument of transfer shall be sent to the company's registered agent, or other designated person, to be recorded. The transfer is effective when the name of the transferee is entered into the register of members (ss. 47(3) and (8) CA 2006). The register of members must be kept by the registered agent at its registered address (s. 78 CA 2006).

82. There is no specified retention period for the maintenance of the shareholder register of a 2006 Act company, but pursuant to the Financial Services Rule Book 2013 (FSRB), the registered agent of a 2006 Act company is required to hold the records of his/her client for a minimum of six years under AML (s. 8.25 FSRB) (discussed more in depth under beneficial ownership information held pursuant to AML).

83. Companies under the 1931 Act must also hold a register of owners, which will include the full names and addresses of all members (or shareholders where a company issues share capital) (s. 96 CA 1931). The register must also record the date on which a person became and ceased to be a member. The register must be maintained at the company's registered office unless it is arranged to be kept in another place (s. 96(1A) CA 1931). If the register is kept any place other than the company's registered office, the company must immediately inform the Registry of the place where it is kept (s. 96(1B) CA 1931). Any company or officer that is in default of such obligations is liable to a default fine, the amount of which will not exceed IMP 5 000 (EUR 5 829) (ss. 96(2) and 330(1)(c) CA 1931). The register of members must be available for inspection during normal business hours by all members (s. 99(1) CA 1931). Failure to produce the register for inspection is punishable by a fine of IMP 5 000 (approximately EUR 5 829) (s. 99(3) CA 1931).

84. No specific statutory period exists for the maintenance of the register of owners for a 1931 Act company, but information that is submitted to the Registry is maintained by the Registry indefinitely, including where a company is dissolved or liquidated.

85. Manx authorities confirm that the registered agent of an LLC will normally hold the LLC's Articles of Organisation although this is not explicitly required by the LLC Act.

86. Records required to be held by LLCs are also not subject to any statutory retention periods, but, in most cases, the registered agent of an LLC will be subject to the retention periods set out under AML (see more below in section on beneficial ownership). Manx authorities estimate that 90% of LLCs engage a registered agent who is an AML obliged person. In the remaining cases, legal ownership information in principle should be captured under new legislation requiring the registration of beneficial ownership information (see section on beneficial ownership information below). Further, as noted above, all information submitted to the Registry will be kept indefinitely.

87. Legal ownership information for companies that have been liquidated or struck off the register will be available with the company's service provider where one is required to be engaged. As 2006 Act companies are required to engage a service provider or registered agent, such agent will be responsible for holding the identity records of the company's legal owners for a minimum of five years under AML rules (see section on beneficial ownership below). Not all 1931 Act companies and LLCs will have an AML-obliged service provider, but as mentioned above, legal ownership information on such companies will be held by the Registrar indefinitely where provided.

Legal ownership information of foreign companies

88. The Registrar is not the primary source of ownership information for foreign companies with a sufficient nexus to the Isle of Man. Although the Registrar maintains a register of foreign companies, the register does not contain any ownership information. The Foreign Companies Act 2014 applies to a foreign company carrying on, or is held out as carrying on, business from an established place of business in the Island, or holding land in the Island (other than by way of security) (s. 5 FCA). Section 9 of the Foreign Companies Act requires only the name of the foreign company, its jurisdiction and date of incorporation, its registered address or principle place of business, whether the foreign company holds land in the Island, and the name of and address of each person who is authorised to accept service of process on behalf of the company to be entered into the register. For legal ownership requirements for foreign companies, see the section on tax obligations below.

89. It should also be noted that Manx authorities estimate that over 80% of foreign companies engage an AML obliged service provider through which legal ownership information should be available in practice.

Supervision of legal ownership obligations under company law

90. The Companies Registry is the body in charge of overseeing the filing and registration requirements of companies. The Registry may penalise a company by issuing a monetary fine or striking it from the register. The Registry will not verify the information it receives (as it receives information from companies in good faith), but it will cross-check the information with information already held in its own databases to ensure consistency. The Registry will receive an automated message if a filing is late and will impose a late penalty once a filing has been late by one month. If the information is still outstanding after six months, the Registry will begin strike-off proceedings. If an annual return is received with information that the Registry has not been notified about in the required manner, the Registry will reject the annual return until such time, it has been properly notified of the change. If an annual return is not re-submitted in a timely fashion, the company will be subject to late penalties. Manx authorities advise that the filing compliance rate of companies in 2016 was 89%.

91. The Registry can strike a company from the register for any default of the company law obligations, including filing deficiencies and failure to maintain a registered office or agent as required. Should a 2006 Act company lose its registered agent and fail to replace him/her, strike off proceedings will immediately begin. No such automatic strike-off existed against LLCs during the review period, but the Isle of Man advises that an automated strike-off process for LLCs will commence in the second quarter of 2017. A company is considered "live" until it is struck from the register, even if it is dormant. A company that continues to operate after being struck off is liable for fraud. Further, all directors or owners will become personally responsible for the debts and obligations of the company.

92. The strike-off proceeding is generally undertaken on an annual basis. The Registry begins its process by sending the company a letter notifying it that it is not in compliance with its obligations under the law and of the consequences for failing to rectify the default. The Registry will then notify the ITD, Customs and Excise and the Attorney General's Chambers so they will have an opportunity to object. The ITD explains that, for instance, if the company has an outstanding tax liability, the ITD can request a postponement of the strike-off proceedings. After the first warning letter to the company, the Registry will also publish on its website and in two local newspapers details of every company subject to strike off so that interested parties also have an opportunity to object. Should no interested parties object after two months, the Registrar may begin the strike-off process.

93. The Registry reports that, historically, it would commence strike-off proceedings against defunct companies one or two times a year, but since their new system went live in 2015, they have initiated strike off proceedings more frequently. The Registry will wait and strike off a batch of non-compliant

companies together rather than individually as they become defunct. Over the review period, a total of 1 472 companies formed under the 1931 Act and 137 companies formed under the 2006 Act have been struck from the register for non-compliance with requirements to submit annual returns, report changes in directors or secretaries, or notify a change in registered office.

Monetary penalties imposed over the review period

Year	Number of penalties imposed under 1931 Act	Number of penalties imposed under 2006 Act	Amount of penalties under 1931 Act	Amount of penalties under 2006 Act
2014	2 033	374	EUR 394 611	EUR 69 743
2015	2 110	431	EUR 433 446	EUR 84 800
2016	2 081	360	EUR 477 425	EUR 69 770

(ii) Tax law

94. The tax authority is not the primary source of legal ownership information (except for that of foreign companies) in the Isle of Man as the ITD has access to the Companies Registry and therefore does not hold the legal ownership information it receives in annual tax returns.

Legal ownership held by the tax authority

95. As was the case in the previous review, all companies formed in the Isle of Man are resident for tax purposes and subject to tax (even if at a 0% tax rate). Therefore, all companies must file annual returns (ss. 2N and 62 ITA). The January 2011 report noted that although ownership information had to be included in the tax return, such information was required only of Manx owners and not of foreign owners. Companies are now required to provide details of both foreign and Manx owners (above a 5% threshold) on their tax returns or provide details of a person in the the Isle of Man that has this information Manx authorities advise that the annual tax return form contains a field for information on domestic or foreign members or shareholders that cannot be left blank for successful submission of the return.

96. Upon registration with the Companies Registry, all companies are also automatically registered in the ITD's system and issued a TIN at the same time. The ITD explains that there is a direct feed from the registration system of the Companies Registry to that of the ITD. In other words, some of the fields in the ITD's system (such as company name, address) are directly populated by information received by the Companies Registry. These fields will be automatically updated when changes are made to the Companies Registry and the ITD will receive a notice of such change. Legal ownership information does not feed directly into the ITD system as the tax

administration does not need this for its work; however, the ITD has access to the Companies Registry (as discussed below in the section on access powers).

97. With respect to foreign companies, the tax authority is the primary source of legal ownership information where it is made available. Not all foreign companies are required to be registered with the Companies Registry (e.g. those managed and controlled from or generating income in the Island that do not carry on business from an established place of business on the Island or hold land in the Island), nor is information required to be provided to the Companies Registry upon registration. Companies formed under the laws of another jurisdiction that are resident in or earning income in the Isle of Man must be registered with the ITD and submit annual tax returns. As with domestic companies, when a foreign company registers in the Companies Registry, it is automatically registered with the tax authority as well. Unlike with respect to domestic companies, where ownership information is provided in the annual return to the Companies Registry, the ITD will hold such information on foreign companies in its own database. As of 30 September 2016, 810 foreign companies were registered with the Companies Registry and a further 611 were registered with the ITD as tax resident.

98. Notwithstanding the foregoing, ownership information of foreign companies is not required to be submitted to the tax authority. At the time of the first review, information on only Manx resident owners was required to be included in a company's return, but in 2012, section A66 of the Income Tax Act was amended by SD 0098/12 Income Tax (Individuals) (Temporary Taxation) Order 2012 to allow the Assessor of Income Tax to require such additional information (including ownership information) to be included in an entity's tax return as the Assessor saw fit. As of 6 April 2012, the tax return form of companies not incorporated in the Isle of Man requires either: (i) provide the name and address of the person in the Isle of Man that has or can obtain and provide if requested, full details of the shareholders of the company; or (ii) attach a schedule providing the name, address and, if available, tax reference number of all shareholders with a 5% or greater interest. If such a schedule was previously provided and no change to the information has occurred, a company can also attach an attestation to that effect. The only exceptions to this are those companies whose shares are listed and regularly traded on a stock exchange. Although the amendments require foreign companies to identify someone who can provide ownership information upon request, they do not impose an affirmative complementary obligation on the nominated individual to hold such information. Should this information not be made available as required, no offense is committed by either the company or the person responsible for holding the information. Although in practice, Manx authorities estimate that ownership information for over 80% of foreign companies would be ensured through AML, there is no legal requirement for a foreign company to engage an AML obliged service provider. As

such, the Isle of Man continues to be recommended to ensure the availability of legal ownership information of foreign companies.

Supervision of legal ownership obligations under tax law

99. The ITD estimates that it has about 28 500 companies in its database and they are all required to file annual returns regardless of tax liability. The Isle of Man uses a self-assessment (pay and file) tax system. In the course of its supervision, the ITD will ensure that all filing obligations (including the obligation to include ownership information) are met. The audit rate is about 20-25% per year of companies. A brief summary of the ITD's supervision programme is provided below; for more details, refer to section A.2 on accounting information.

100. The ITD's supervision programme consists of both desk-based reviews and on-site audits. The bulk of the reviewing is desk-based. Once the deadline for filing has passed, the ITD has a review period to look over the self-assessments for accuracy. The ITD uses a risk-based approach in determining which files to select for audit. There are a number of risk criteria that the ITD will apply. The ITD explains that all companies with income not subject to the standard rate of 0% (such as banks, large retailers, or those with income from land and property) are always reviewed. Companies trading in the Isle of Man, those employing staff, or those that have made taxable payments, distributions or loans to third parties will also be reviewed and information submitted will be cross-checked with other sources. Additionally, the ITD will randomly sample all remaining companies for audit. As companies with no Manx income and no Manx shareholders would not trigger the normal risk factors, they make up a large proportion of the random sample. The ITD will then check whether all accounts and documentation supporting the company's return are being maintained.

101. The ITD advises that there are two civil penalties for failing to file a return before referral to the prosecutor. The first penalty applies for failure to file the return by the due date (one year and one day after the end of the accounting period) and the second penalty applies where the return is still outstanding 18 months after the end of the accounting period. The first penalty is IMP 250 (EUR 291) and the second penalty is IMP 500 (EUR 583). If a return is still outstanding two years after the end of the accounting period, the ITD will refer the entity to prosecution.

102. With respect to foreign companies, the ITD reports that in 2016, 75% of foreign companies opted to provide the contact information of a person in the Island holding the ownership information of the company, 7% opted to provide a schedule, and 17% noted that the information was the same as the year before. Where a company provided the contact information of a person responsible for holding the information, the ITD has not verified whether that information was indeed available.

(iii) AML and financial sector regulations

103. The Isle of Man estimates that 79% of companies in the Island engage an AML-obliged service provider, who would be required to identify their corporate customers pursuant to AML. As described above, all 2006 Act companies and 90% of LLCs engage a Class 4 licensed registered agent at all times. Further, the Isle of Man reports that approximately 68% of 1931 Act companies also engage an AML obliged service provider. AML obligations regarding customer identification and verification and record-keeping requirements apply equally to legal and beneficial owners and are discussed below under beneficial ownership.

(b) Beneficial ownership information for companies

104. Although reliable beneficial ownership information is available in the Isle of Man through AML for most companies, requirements pertaining to beneficial ownership information for companies not covered by AML (namely, 1931 Act companies that do not engage an AML-obliged service provider) were not supervised over the review period. With the creation of the beneficial ownership database in 2017, beneficial ownership information should now be available with the Companies Registry, as well as with the companies themselves; however, implementation of the register with respect to entities that do not engage an AML-obliged service provider may not always guarantee the thoroughness and accuracy of information.

105. The following table shows a summary of the legal requirements to maintain beneficial ownership information in respect of companies:

Source of beneficial ownership information of companies

Type of company	Company law	Tax law	AML law
Companies (1931 Act)	Yes – in all cases	No	Yes – in some cases
Companies (2006 Act)	Yes – in all cases	No	Yes – in all cases
Limited liability companies (LLC Act)	Yes – in all cases	No	Yes – in some cases
Foreign companies	No	No	Yes – in all cases

Note: 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.

(i) Company law

106. Historically, company law has not been the main source of beneficial ownership information in the Isle of Man. However, with the enactment of the Beneficial Ownership Act 2012, all entities (with the exception of certain exempted entities, such as public collective investment schemes) were required to collect and hold beneficial ownership information. The 2012 Act was supplanted by the Beneficial Ownership Act 2017 in June 2017, requiring all entities (including the ones previously exempted under the 2012 Act) to hold beneficial ownership information and enter it into a beneficial ownership database.

Beneficial ownership held by the company

107. The Isle of Man's first beneficial ownership law was the Beneficial Ownership Act of 2012 (BO Act 2012), passed by Tynwald on 11 December 2012 and which came into force on 1 September 2013. Manx authorities explain that the purpose of the law was to address a lacuna in the Isle of Man's legal framework with respect to 1931 Act companies that did not engage an AML-obliged corporate service provider. The main demographic of companies falling into this category (1931 Act companies without a service provider) was the local trading company. At the time this gap was identified in 2008, there were approximately 10 000 such local trading companies in the Isle of Man. Manx authorities estimate that there are between 5 000 and 6 000 such companies in operation at present. Some companies where information should be publicly available such as public collective investment schemes and companies listed on a public stock exchange were exempt from the provisions of the 2012 Act.

108. During the review period, obligations for companies to hold beneficial ownership information stemmed exclusively from the Beneficial Ownership Act 2012. Under the 2012 Act, all 1931 Act companies were required to have a nominated officer who would hold information on the company's beneficial owners and who would be responsible to disclose such information upon request by a public authority (ss. 5, 7(2) and 10 BO Act 2012). The nominated officer could be an individual resident in the Island or a licensed service provider under the Financial Services Act (s. 5(2) BO Act 2012). The duty to identify a company's beneficial owners rested with each of the company's legal owners, as well as on the beneficial owners themselves, who were required to notify the nominated officer of change in ownership (s. 7 BO Act 2012). Failure to provide the nominated officer with the required information constituted an offence (s. 7(4) BO Act 2012). Similarly, the nominated officer committed a criminal offence if he/she failed to comply with a request for such information without a reasonable excuse (s. 10(7) BO Act

2012). Although not defined in the 2012 Act itself, "reasonable excuse" has been defined in other enactments as an unforeseen event or illness.

109. Although the 2012 Beneficial Ownership Act was intended to address gaps in the Isle of Man's legislative framework, it did not entirely succeed as an effective stopgap measure. One shortcoming was its definition of "beneficial owner", which did not exclude legal persons from its scope (i.e. legal persons could be considered beneficial owners) as is required by the 2016 ToR. In identifying the relevant persons on whom information should be recorded, the Act allowed for legal persons to be identified as beneficial owners. As such, the definition in the Beneficial Ownership Act 2012 was not in line with the international standard, which requires a beneficial owner to be defined as a natural person. Further, under the 2012 Act, the nominated officer was not required to verify or check the information received from legal owners or the beneficial owners themselves. Nominated officers who were licensed service providers would be obliged to verify the information pursuant to AML rules and regulations, but non-licensed nominated officers had no such comparable duty. Finally, nominated officers were not required to retain the collected information for any specified period.

110. The Beneficial Ownership Act 2017 (BO Act 2017) received Royal Assent on 25 April 2017 and entered into force on 1 July 2017. Through an Exchange of Notes, the Governments of the Isle of Man and the United Kingdom committed to provide the other with beneficial ownership information for legal persons incorporated in their jurisdictions, namely through their respective beneficial ownership registers. According to the Exchange of Notes, the Isle of Man beneficial ownership database would be held by the Companies Registry and overseen by the FSA.

111. The drafters of the Beneficial Ownership Act 2017 addressed some of the deficiencies identified in the 2012 Act. The 2017 Act defines a beneficial owner as the natural person who ultimately owns or controls the a legal entity to which this Act applies, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means and is in line with the international standard. Additionally, the 2017 Act requires a degree of verification or checking by the nominated officer and a stipulated period for the retention of records.

112. The Beneficial Ownership Act 2017 provides for beneficial information to be available in the Island in two main ways. The first part of the 2017 Act largely follows the same model as the Beneficial Ownership Act 2012 in requiring companies to appoint a nominated officer to collect and hold beneficial ownership information. The second part provides for the creation of a beneficial ownership database, which the nominated officer of a company is

responsible for populating (see section below on beneficial ownership information held by the Registrar).

113. Under the 2017 Act, each legal owner is responsible for ascertaining the entity's beneficial owners (s. 9 BO Act 2017). Beneficial owners have a duty to assist in this exercise (s. 10 BO Act 2017). As with the 2012 Act, the nominated officer may be any resident individual or a licensed service provider (s. 6 BOP Act 2017). Information on the nominated officer must be provided to the Registrar within one month of appointment (s. 7(1) BO Act 2017). The nominated officer must ensure that the required details and the information which verifies those details and which were provided to the nominated officer are maintained and preserved (s. 13 BO Act 2017). Such information is required to be maintained for a minimum period of five years "from the end of the period to which the information relates" (s. 13 BO Act 2017). Upon notice by a public authority, the nominated officer must disclose the requested information (s. 15 BO Act 2017).

114. Should the legal entity be wound up, dissolved, struck off or removed from a register, or ceases to exist for any other reason, the nominated officer must continue to comply with the record preservation obligations set out in section 13 of the Beneficial Ownership Act 2017.

115. A person who fails to comply with any obligation set out in section 13 of the Beneficial Ownership Act 2017 commits an offence and is liable upon summary conviction, to a fine not exceeding IMP 5 000 (EUR 5 829).

116. Information collected by nominated officers who are not licensed service providers are not subject to the same strict customer identification and verification measures as that collected by AML-obliged service providers. Further, it is not clear to what extent the nominated officers will need to verify or check the information he/she receives. Section 13 refers to information verifying the identity details of the beneficial owners, which implies that the nominated officer will have to, at the very least, ask for some supporting details. However, the rigour with which the information should be verified is not described in the law.

Beneficial ownership information held by the Registrar

117. Pursuant to the Beneficial Ownership Act 2017, an entity's nominated officer is responsible for identifying "registrable" beneficial owners and recording them in the beneficial ownership database. The 2017 Act defines a registrable beneficial owner as the natural person who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, including a natural person who ultimately owns or controls, directly or indirectly, more than 25% of the shares or voting rights in the legal person, and a natural person who otherwise exercises ultimate effective

control over the management of the legal person. This definition almost mirrors that contained in the Isle of Man's AML legislation, which sets the ownership threshold at 25% or higher (see also below section on AML). If no registrable beneficial owner can be identified, the nominated officer must indicate as such in the beneficial ownership database.

118. The nominated officer must take all reasonable steps necessary to ascertain whether a legal entity to which this Act applies has a registrable beneficial owner and submit such information to the Companies Registry (s. 20 BO Act 2017). The only "reasonable steps" described in the Beneficial Ownership Act 2017 are the collection of beneficial ownership information from the legal owners (which does not provide guidance on whether the nominated officer has an affirmative duty to identify registrable beneficial owners beyond those provided by the legal owners or to independently look for beneficial owners where the legal owners cannot identify any). A nominated officer who fails to comply with the obligations described in the Beneficial Ownership Act 2017 commits an offence (s. 20(8) BO Act 2017).

Supervision of beneficial ownership obligations in company law

119. Over the review period, obligations of entities to collect and hold beneficial ownership information under the Beneficial Ownership Act 2012 were not supervised by any public authority. As the 2012 Act was meant to be "self-policed", it was not accompanied by any programme of supervision. Registered agents who were acting as nominated officers would be supervised by the FSA as per the normal supervisory programme, but nominated officers who were not licensed corporate service providers were not supervised by any regulatory authority. Manx authorities admitted that violations of the Beneficial Ownership Act 2012 would thus only be detected if an authority requested the information and the nominated officer could not provide it; however, this had not happened over the review period. Moreover, authorities interviewed at the on-site visit could not attest to the quality, completeness or accuracy of information collected under the Beneficial Act 2012 by non-AML obliged nominated officers as no regulatory body had requested information from them.

120. Unlike the Beneficial Act 2012, the Beneficial Act 2017 has a designated supervisor – the FSA; however, FSA's normal supervisory programme targets those entities that come under the Isle of Man's AML regime. The FSA will supervise the record-keeping obligations of the Beneficial Ownership Act 2017, as well as inspect entries made in the beneficial ownership database. For instance, the FSA has advised that it will look into cases where a nominated officer has indicated that no registrable beneficial owners exist. The FSA reports that it will seek to capture companies that are not represented by a corporate service provider as a starting point to its inspection.

It seeks to accomplish this task by searching the register for nominated officers that are not licensed service providers. The FSA's system of oversight of non-licensed nominated officers would be the same as that for its licensees (described below in the section on AML supervision). However, the FSA admits that it would not be able to hold an un-licensed service provider to the standard of verification set out under AML.

121. Given the foregoing and as the Beneficial Ownership Act 2017 came into force only after the review period, its practical implementation could not be assessed (the Register will only be fully populated in July 2018). As such, the Isle of Man is recommended to monitor the implementation and supervision of its provisions as practice develops.

(ii) AML and financial regulations

122. The Isle of Man's AML Code 2015 defines "beneficial owner" as the natural person who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted and includes, but is not restricted to, in the case of a legal person, other than a company whose securities are listed on a recognised stock exchange, a natural person who ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) 25% or more of the shares or voting rights in the legal person, and in the case of any legal person, a natural person who otherwise exercises ultimate effective control over the management of the legal person. The definition of "beneficial owner" in the Isle of Man's AML regime covers individuals who have either an ownership stake or ultimate control over a legal person and is therefore in line with the international standard.

123. The primary source of accurate and reliable beneficial ownership information is the Isle of Man's AML legislation. Beneficial ownership information is available with respect to companies who engage the services of a corporate service provider licensed the FSA. The Isle of Man reports that a large percentage of companies do so, regardless of whether required by law. As FSA licencees, corporate service providers are subject to supervision and oversight.

Beneficial ownership information held pursuant to AML

124. Where a company is required to engage a trust and corporate service provider under Manx law, ownership information will be ensured pursuant to AML. The provision of trust and corporate services is a regulated activity subject to the Isle of Man's AML regime (s. 3 FSA and Schedule 4 POCA). All entities licensed by the FSA are subject to requirements under the AML Code 2015 to identify their customers and to maintain such records for a

specified period of time. The AML Code 2015 requires that persons conducting "business in the regulated sector" must have in place proper compliance programmes and risk assessment procedures and must conduct CDD in accordance with such risk policies (s. 4 AML Code). All corporate service providers are also required to identify the identity of their clients before or upon entering into a business relationship (s. 10 AML Code).

125. All persons in a regulated sector must keep a record of all transactions carried out in the course of business, including identification information, account files, business correspondence records and the results of any analysis undertaken (s. 32 AML Code). Such records must be kept for a minimum of five years from the date of the completion of the transaction or the formal termination of the business relationship (s. 33 AML Code).

126. The Isle of Man has a well-developed fiduciary sector. As at 26 June 2017, the FSA had licensed 152 Class 4 corporate services providers and 111 class 5 trust service providers. Corporate and trust service providers have been an important source of legal and beneficial ownership information for the Isle of Man authorities.

127. In practice, the majority of Manx companies will have their beneficial ownership information held by a service provider. All LLCs and 2006 Act companies, are required to have at all times a registered agent. For 2006 Act companies, the registered agent must be licensed by the FSA (s. 74 CA 2006 and s. 5 LLCA). The registered agent of an LLC does not have to be licensed by the FSA, but must be from one of the professions enumerated in the Registered Agents Qualifications Regulations 2003 (i.e. an advocate or legal practitioner, an auditor or chartered accountant, a member of the Institute of Chartered Secretaries and Administrators, a member of the Institute of Bankers, or a licensed corporate service provider). In practice, based on the registration details submitted to the Companies Registry, 90% of LLCs engage a registered agent who are licensed by the FSA and subject to the Isle of Man's AML regime. Any changes to the registered agent must be reported to the Registry (s. 75 CA and s. 9 LLCA). If at any time, the company ceases to have a registered agent, the Registry will begin strike off proceedings. As such, information on their beneficial ownership will be available. Manx authorities also attest that 68%[6] of 1931 Act companies also engage a licensed service provider even though not required to by law. Information on the beneficial owners of these companies will also be available. According to the Isle of Man's estimates, AML will not be the source of beneficial ownership information for approximately 21% of companies.

6. This figure comes from data provided to the FSA by licensed corporate service providers, who are obliged to provide the FSA with information on the companies they manage or administer.

128. Acting as a nominee shareholder in a professional capacity is a regulated activity in the Isle of Man (Schedule 1, Class 4 Regulated Activities Order 2011). As such, the identification of the beneficial owner and the retention of requisite identification and verification documents will therefore be performed in accordance with the Island's AML rules. For additional information on nominee shareholders, refer to the January 2011 report paras. 58-59.

129. Designated non-financial businesses and professions (DNFBPs), such as chartered accountants, tax advisors, and attorneys performing certain types of services, may also be an important source of ownership information in the Isle of Man. Such professionals are also subject to the Isle of Man's AML regime and supervision under Schedule 4 of the POCA. As of 2016, the Isle of Man had 164 accountants, 40 lawyers, and 20 stand-alone tax advisors subject to AML. Pursuant to the Designated Business Act 2015 section 6, under which the FSA can delegate supervision for certain professions, lawyers and accountants have a choice whether to be supervised by the FSA or the relevant professional supervisory body. All Manx lawyers have chosen to be supervised by the Law Society and 71% of accountants have chosen to be supervised by the FSA. In all cases where the AML supervision of a relevant profession has been delegated to the professional body, the FSA retains ultimate responsibility for the supervision of the aforementioned professionals. Moreover, the professional body that is delegated supervisory functions by the FSA is required to comply with the FSA's inspection procedures and to report its findings to the FSA.

Beneficial ownership information of foreign companies

130. The 2016 ToR requires that where a foreign company has a sufficient nexus to a jurisdiction, then the availability of beneficial ownership information should be available to the extent the foreign company has a relationship with an AML-obligated service provider that is relevant for the purposes of EOIR. Information on the beneficial owners of foreign companies will be available in most cases pursuant to AML. The Isle of Man estimates that over 80% of foreign companies operating in the Isle of Man have a corporate service provider (based on information provided in annual tax returns), in which case beneficial ownership information will be available under AML.

Supervision of beneficial ownership obligations under AML

131. As the AML regulator and the licensing body, the FSA is responsible for the oversight of the trust and corporate service provider industry. No person shall carry on a regulated activity in the Isle of Man without the proper licence from the FSA (s. 3 FSA). Pursuant to Schedule 2 of the

Financial Services Act, the FSA is empowered to inspect the books, accounts and documents and investigate the transactions of all licencees or former licencees. The FSA shall have every power of entry and access as may be necessary for carrying out such supervisory duties. A person who intentionally obstructs the FSA when acting in the execution of its powers is guilty of an offence punishable upon conviction with a fine of IMP 5 000 (EUR 5 829) and a term of imprisonment not to exceed 12 months (s. 41(3) FSA). In some cases, the FSA will delegate the responsibility of AML oversight to a professional body. However, in all cases, the FSA remains the ultimate supervisory authority and will oversee the supervisory activities where delegated to another body.

132. The FSA's supervision programme of its licencees (including corporate service providers) is founded upon a risk-based approach and involves both on-site and desk-based reviews. The FSA can conduct a full scope examination or a more tailored assesesment focused on a specific weakness or issue (e.g. CDD, etc.). Special examinations can be routine (as a matter of follow-up or remediation) or can be triggered by a specific risk factor or intelligence. In accordance with the FSA's supervisory approach, high risk licencees will undergo a full scale examination annually, medium risk licencees will undergo a full scale exam every two years, and low-risk licencees every three years. With new licencees, the FSA will conduct a full scale exam within six months of the licence being issued. Trust and corporate service providers are considered medium risk licensees; however, they are inspected on average of only once every three years, which is less than prescribed by the FSA. The FSA advises that its Supervisory Approach is currently being re-visited.

133. The FSA's inspection procedure is as follows. Once the FSA will identify a licence holder to be visited, it will first normally carry out a desk-based review of files (such as the licencee's corporate documents, business plan, business risk assessment, sometimes the last compliance report, etc). After the desk-based review, the FSA will visit the licencee's premists. The FSA reports that on-site visit usually lasts about three days. For small licencees, the assessment team generally consists of one manager and one officer. For the larger licencees, the team may comprise two managers and officers. A senior manager wil attend the more complicated reviews. The FSA carries out prudential and risk assessments together. During the on-site, the team will interview staff and sample the licenee's files. For service providers, the asseessment team will ask for a client list and then depending on the information in each client report, they will select certain client files to be inspected. For instance, the team may choose a file where there has been an suspicious transaction report filed. The sampling will include files from all risk categorsations: high, medium and low. The FSA estiamates that it usually samples about 10%, depending on the service provider and the risk profile of

the customers. When looking through client files, the FSA will look for specific documents, such as the customer identification and verification, CDD, documents supporting the risk rating, correspondence, etc. At the end of the on-site, the team will have a close-out meeting to give the licencee a summary of findings, whether remediation is needed, and a timeline for action (if needed).

134. Following the on-site, the team will draft a visit report, detailing the team's findings and any deficiencies identified. The licencee has 14 days to comment on it. The licencee will also need to provide a proposal on how to address the deficiencies by the agreed-upon date. Generally, the FSA tries to limit the whole follow-up to three months, but in more complicated cases, it could take longer. If the period for rectifying deficiencies is longer, the FSA will require periodic updates from the licence holder.

135. The FSA also has several enforcement mechanisms. The remediation panel is the "halfway point" between supervision and enforcement. If supervision uncovers a very serious deficiency, then it will send the licencee straight to enforcement. However, for issues that do not arise to that level of gravity, the FSA can send the licencee to the remediation panel. The enforcement team can carry out a number of actions. It can decide, after looking into the matter, that it needs to undertake its own inspection, in which case it can conduct another on-site visit. It can also take punitive actions, including civil actions (such as disqualifying directors) and regulatory actions (such as issuing prohibitions). The enforcement team is also empowered to step in at any time, which usually occurs in cases where it has received outside intelligence.

136. An individual who wishes to appeal an action by the enforcement team can do so before the Isle of Man's Civil Appeals Court. Regulatory actions may be challenged before the FSA's appeal tribunal or through a *doleance* procedure before the high court.

137. Over the review period, the FSA carried out a total of 989 inspections of licencees (267 in 2013, 253 in 2014, 242 in 2015, and 227 in 2016 up to 30 September). The FSA notes that some of these on-site visits were repeat visits to the same licence holder. The FSA's statistical collection does not allow for it to determine the number of service providers visited, only the number of inspections carried out in any given year. No licences were revoked over the review period as all deficiencies identified were subsequently rectified by the licensee. In the last three years, a total of 70 cases were referred to the remediation panel (24 in 2014, 20 in 2015 and 26 in 2016). No penalties were imposed over the review period.

138. As explained above, under the Designated Business Act 2015, lawyers in the Isle of Man have chosen to be supervised by the Law Society (under the ultimate purview of the FSA). The Law Society carries out its

supervision through a programme of on-site inspections, which includes checking all CDD documents. As noted above, the Law Society must comply with, and therefore applies, the FSA's supervisory procedures. A copy of all visit reports are provided to the FSA. Where the FSA believes there are systemic issues, it can step in to conduct its own supervision. Although this has not yet happened, one recent inspection may result in re-examination by the FSA, in which case the re-examination will be undertaken under the FSA's normal procedures, although with a focus on the main risks or deficiencies that called for the re-inspection in the first place. The FSA reports that, in such a case, it would undertake a longer inspection with a larger team. Over the review period, 11 of the Island's 40 lawyers have been inspected by the Law Society.

139. As with lawyers, the Designated Business Act 2015 also provided accountants the choice to be supervised by either a professional body or the FSA. The various accountancy professional bodies (e.g. the Institute of Chartered Accountants of England and Wales, the Association of Chartered Accountants, and the Institute of Financial Accountants) have terms of reference with the FSA describing the supervision programme. As with the Law Society, the professional body carrying out supervision of accountants must abide by the FSA's supervisory procedures, including the verification of CDD documents. Unlike lawyers, most accountants have chosen to be directly supervised by the FSA. Over the review period, 22 of the 98 accountants supervised by the FSA have been inspected. In terms of enforcement actions, one registration has been revoked and one investigation is currently ongoing.

A.1.2. Bearer shares

140. Since 2004, companies are not permitted to issue bearer shares in the Isle of Man (s. 71 CA 1931 and s. 30 CA 2006). Holders of bearer shares must convert such shares to nominative shares in order to exercise their rights as shareholders (e.g. voting rights, right to receive dividends). At the time of the January 2011 report, a bill requiring bearer shares to be converted to nominative shares was before Tynwald, but had not yet been passed. For additional information, refer to paras. 60 and 61 of the January 2011 report.

141. Since the last review, the Companies (Prohibition of Bearer Shares) Act 2011 received Royal Assent on 12 October 2011. The Companies (Prohibition of Bearer Shares) Act 2011 requires the conversion of all bearer shares issued by 1931 Act companies into registered shares within six months of the legislation coming into force. Failure to convert the shares makes the company guilty of an offence and, on summary conviction, liable to a fine not exceeding IMP 5 000 (approximately EUR 5 829). No rights attach to the share unless it is converted into a registered share (s. 70A CA 1931).

142. The six month period prescribed by the Companies (Prohibition of Bearer Shares) Act 2011 expired in 2012. The Companies Registry had previously written to every company that had share warrants in issue and all of them either converted their shares before or very shortly after the deadline expired, or were dissolved. Companies were required to notify the Companies Registry within one month following the conversion of a bearer share into a registered share. Failure to do so was a criminal offence. One company with bearer shares, that was originally dissolved before the introduction of the Companies (Prohibition of Bearer Shares) Act 2011, was brought back on to the register at the request of the FSA for the purpose of liquidating the company's assets and is currently under their scrutiny. The Companies Registry also checks to make sure that companies' memorandum and articles of association do not permit them to issue bearer shares.

A.1.3. Partnerships

143. 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.

144. Manx law provides for the formation of general and limited partnerships. All partnerships are governed by the Partnership Act 1909 (PA) and common law. A partnership is defined as "a relationship which subsists between persons carrying on a business in common with a view to profit" (s. 4(1) PA). In a general partnership, every partner in the firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner (s. 11 PA).

145. The Partnership Act also provides for the creation of limited partnerships. A limited partnership shall not consist of more than 20 persons and must consist of one or more general partners, who shall be liable for all debts and obligations of the firm, and one or more limited partners, who shall not be liable for the debts or obligations of the firm beyond the amount contributed upon entering the partnership. All limited partnerships must maintain a place of business in the Isle of Man and appoint one or more persons resident in the Isle of Man who are authorised to accept service of any process or documents which are served on the partnership (s. 48A PA). As at 31 September 2016, the Isle of Man had 264 limited partnerships and 43 limited partnerships with separate legal personality.

146. Over the review period, the Isle of Man received no requests relating to partnerships. No issues were identified by peers.

(a) Legal ownership information for partnerships

147. As was described in the January 2011 report, information on the legal owners of partnerships is available in the possession of the tax authority and, in the case of limited partnerships, with the Companies Registry. Limited partnerships are required to register and update the Registry of any changes to ownership. Partners must include information on other partners in their individual tax returns. Partners themselves are not required to hold identity information on the other partners except where a partnership has legal personality (in which case ownership records are required to be maintained pursuant to company law provisions, as described above).

(i) Partnership law

148. The Companies Registry maintains a register of limited partnerships (s. 56 PA). Every limited partnership must be registered as such (s. 48 PA). Pursuant to section 50 of the Partnership Act, a limited partnership must record all limited and general partners (and any changes thereafter) in the Registry. Changes must be reported to the Registry within one month of occurring (s. 51 PA). Making a false statement to the Registry is punishable by imprisonment for a term not exceeding two years (s. 54 PA). Where a partner is a body corporate, only the information on the corporation and not any natural persons is required to be registered. For more information on partnerships, refer also to paras. 62-64 of the January 2011 report.

149. There is no register of general partnerships in the Isle of Man, but the Registration of Business Names Acts 1918 and 1954 (RBNA) require general partnerships carrying on business in the Isle of Man to register their business name with the Companies Registry if that name does not consist of the names of all the partners (s. 3 RBNA). Changes to the names and addresses of the owners of a business name must be reported to the Companies Registry within one month of the change (s. 8(3) RBNA). Further, general partnerships will be required to be registered with the ITD if they generate taxable income.

150. The Partnership Act contains only very general requirements for partners in a general partnership to know the other partners. Section 26(7) of the Partnership Act provides that no person may be introduced as a partner without the consent of all existing partners. This responsibility is not accompanied by any obligations to record any ownership information or support such knowledge with documentation.

151. The Partnership Act does not expressly state that it applies to foreign partnerships, but Manx authorities attest that its provisions apply equally to partnerships formed in the Isle of Man as well as those formed in a foreign jurisdiction.

(ii) Tax law

152. The identity of partners in a partnership is disclosed in the tax returns of each individual partner. The Isle of Man tax law does not treat a partnership as a separate person and it is therefore not liable to income tax in its own right. Rather, each partner is liable to pay income tax at the appropriate rate in respect of his whole income, including his share of the profits of any partnership. For the purposes of the Isle of Man tax law, the term "partnership" includes both general and limited partnerships. The profits of a partnership are calculated for income tax purposes in the same manner as those of a sole trader. Income tax returns must be supported by the financial accounts of the partnership, any expenses and disbursements being allowed as a deduction provided they are wholly and exclusively incurred in acquiring the income of the partnership. One of the partners resident in the Isle of Man shall file a return on behalf of all the partners stating their names and the proportion of profits to which they are severally entitled (s. 63 ITA). Where none of the partners is resident then any attorney or agent in the Isle of Man may be required by the Assessor to pay Manx income tax on behalf of the partners (s. 71 ITA).

153. Foreign partnerships with a sufficient nexus to the Isle of Man would be subject to the Island's tax laws. Accordingly, they would also be required to file annual tax returns. Partners of foreign partnerships generating taxable income in the Isle of Man would be required to file returns stating their names and proportion of profits to which they are entitled in the same manner as required of domestic partnerships pursuant to section 63 of the Income Tax Act.

154. Over the last three years, the number of partnerships registered with the ITD are as follows: 1 138 general partnerships and 289 limited partnerships in 2014; 1 133 general partnerships and 278 limited partnerships in 2015; and, 714 general partnerships and 203 limited partnerships in 2016.

(b) Beneficial ownership information for partnerships

155. Information on the beneficial ownership of partnerships is available in the Isle of Man for limited partnerships, but not for all general partnerships. All limited partnerships are required to engage an AML-obliged service provider for their place of business and/or to accept service of process on their behalf; as such, beneficial ownership information for all limited partnerships is ensured through AML. Further, beneficial ownership information for limited partnerships with separate legal personality is additionally available through the Beneficial Ownership Act 2017. General partnerships, on the other hand, are not subject to any regulations requiring them to hold or provide information on their beneficial owners. Beneficial ownership information for general partnerships will therefore be ensured only where all partners are natural persons or companies incorporated in the Isle of Man.

(i) Company law

156. The Beneficial Ownership Act 2017 applies to limited partnerships that have legal personality (s. 5(1)(d) BO Act 2017). In such cases, the limited partnership would be subject to the same obligations to gather and hold information on their beneficial owners as those described above for companies. Such information would also be entered into the beneficial ownership database. Limited partnerships that do not have legal personality are not covered by the Beneficial Ownership Act 2017, but will be covered by applicable AML regulations (see below).

157. General partnerships are not covered by the Beneficial Ownership Act 2017 to identify or register their beneficial owners. However, where corporate partners are companies incorporated in the Isle of Man, they will be subject to the registration and record-keeping requirements in the Beneficial Ownership Act 2017. Ownership information on foreign corporate partners is not guaranteed to be available. Manx authorities report that they have never encountered a Manx general partnership with foreign corporate partners. Further, they advise that general partnerships in the the Isle of Man are typically used by husbands and wives carrying on small local businesses and general practitioners (such doctors). Nonetheless, the Isle of Man is recommended to ensure that beneficial ownership information is available for general partnerships carrying on business in the Island.

158. Further, the Beneficial Ownership Act does not apply to partnerships formed in another jurisdiction. Consequently, beneficial ownership information on foreign partnerships is not ensured. However, foreign partnerships that wish to operate as limited liability partnerships must register as a domestic limited liability partnership. Otherwise they are treated as general partnerships.

(ii) AML and financial regulations

159. Pursuant to the Partnership Act 1909, all limited partnerships must maintain a place of business in the Isle of Man (s. 48A). Further, every limited partnership shall appoint one or more persons resident in the Isle of Man who are authorised to accept on behalf of the partnership service of any process or documents which are served on the partnership (s. 48A). Default of such obligations shall upon conviction by a court of summary jurisdiction result in a fine not exceeding IMP 5 000 (EUR 5 829).

160. Under the Regulated Activities Order 2011, providing or arranging premises for use as a place of business by a partnership is a regulated activity in the Isle of Man and can be conducted by way of business only by the holder of an FSA Class 4 licence. Similarly, under the same Order, acting or arranging for another person to act as a person authorised to accept service is a

regulated activity and can be conducted by way of business only by the holder of an FSA Class 4 licence holder. The FSA advises that both of these services are provided on an ongoing basis and therefore, the same customer identification and verification measures, including those to identify the partnership's beneficial owners, as required of any other regulated activity will apply.

161. No comparable provisions exist in the Partnership Act to require general partnerships to engage an AML-obliged service provider (i.e. to arrange business premises or to accept service of process). As such, general partnerships will not come under the Isle of Man's AML regime. The Isle of Man is therefore recommended to ensure that beneficial ownership information is available for all partnerships.

(c) Supervision of partnerships

162. The Registry may strike off defunct partnerships. Where the Department has reasonable cause to believe that a limited partnership is not carrying on business or in operation, it may send to any general partner a letter inquiring whether the limited partnership is carrying on business or in operation. If no response is received within two months, a notice will be published with a view to striking the name of the limited partnership off the register (s. 51A PA). At the expiration of the time mentioned in the notice the Department may, unless cause to the contrary is previously shown by the limited partnership, strike its name off the register, and shall publish notice thereof.

163. A partnership may be restored to the register upon application made by a partner before the expiration of 12 years from the publication of the notice (s. 51A(6) PA).

164. Class 4 service providers who are providing or arranging premises for partnerships or who are authorised to accept service of process on behalf of a partnership are supervised as part of the FSA's supervision programme of licensees (see above section on FSA supervision of companies).

165. The ITD will also supervise all partnerships with tax liability in the Isle of Man. This supervision programme is described in more detail below under section A.2.

A.1.4. Trusts

166. 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.

167. Trusts have been long recognised in the Isle of Man and the trust concept is now well established in the Island. Under the Recognition of Trusts Act 1988, the Isle of Man has adopted Articles 1 to 22 of the Hague Convention on the Law Applicable to Trusts and on their Recognition 1985. The principles of trust law and equity as developed in England are applied and recognised by the courts in the Isle of Man insofar as they are not contrary to any local statute or precedent. In the Isle of Man, trust law comprises common law and statutory law (Recognition of Trusts Act 1988, Trusts Act 1995, Purpose Trusts Act 1996, Trustee Act 2001).

168. The types of trusts that can be created in the Isle of Man are: (i) express trusts (created voluntarily and intentionally, either orally or in writing); (ii) implied trusts (arising from an oral declaration or conduct, or deemed to have been created by a court); (iii) resulting trusts (where the intention to create a trust is absent, yet the legal title to property is transferred from one person to another); and (iv) constructive trusts (arising in circumstances where it would be unconscionable or inequitable for a person holding the property to keep it for his own use and benefit). As of 31 December 2016, there were 17 247 trusts administered by service providers resident in the Isle of Man.

169. During the three year review period, the Isle of Man received 18 requests (17 of which asked for beneficial ownership information and one of which was a supplemental request) relating to trusts and one request involving a non-professional trustee. The Isle of Man was able to provide the requested information in all cases. No issues were identified by peers.

(a) Ownership information held pursuant to trust law

170. The common law imposes a duty on the trustee to acquaint himself with the trust, including by identifying the beneficiaries to the trust (the settlor will typically be identified by the trust deed) (*Hurst v. Hurst* (1874) 9 Ch App 762). In the case of a discretionary trust, the trustee is required to make inquiry as to the circumstances of the discretionary beneficiaries (*Re Hay's Settlement Trusts* [1981] 3 All ER 786).

171. The trustee should also hold certain records and accounts of the trust. A trustee must at all times be able to provide a beneficiary with information concerning the operation of the trust, including not only accounting information, but other trust documents, such as the trust deed and documents relating to transfers of property made by the settlor. These are well established principles, confirmed extensively through case law (*See Breakspear v. Acland* [2008] 2 All ER (Comm) 62; *see also Halbury's Laws of England* (5th ed.) Vol. 98 Para. 401 et seq.). These principles have also been applied in the Isle of Man courts (*see Rosewood Trust v. Schmidt*, 1999-2001 MLR 570; *see also*

Re Kelliher 2005-6 MLR 349). Common law requirements apply to all trustees, not only those providing trust services by way of business.

172. The common law duty of care has now been codified in statute. Section 1 of the Trustee Act 2001 (TA) (modelled after the United Kingdom's Trustee Act 2000) requires that the trustee must exercise such care and skill as is reasonable in the circumstances; particularly, if the trustee acts in the course of a business or profession, then the duty of care is as to be reasonably expected of a person acting in the course of that kind of business or profession.

173. Non-professional trustees are also subject to the common law duty of care as well as the duty of care articulated in the Trustee Act. Section 1 of the Trustee Act 2001 does not exclusively apply to professional trustees or those conducting trust services by way of business (although this does constitute one aspect of the provision). Schedule 1 of the Trustee Act 2001 (enumerating the circumstances where the duty of care applies to a trustee) states that the duty of care applies to a trustee when, *inter alia*, (i) exercising any power of investment, (ii) when exercising any power to acquire land, or, (iii) when exercising any power described under sections 20(1) and (3) the Trustee Act 1961 relating to the sale or valuation of property, where the trust property includes any share or interest in property not vested in the trustees, or the proceeds of the sale of any such property.

(b) Ownership information held pursuant to tax law

174. Trustees and beneficiaries are "persons" (non-corporate taxpayers) for the purposes of the Isle of Man income tax and can be liable to the Isle of Man income tax in accordance with the Island's normal rules on tax residence and the taxation of the Isle of Man source income. As a trust is a fiduciary relationship in which the trustee has legal ownership of the property, but the beneficiaries have the equitable interest, the ITD acknowledges that as trust property is held for the use and benefit of the beneficiaries. The taxation of the trust should thus reflect the tax position of the beneficiaries. This means that the burden of tax imposed on the income of a trust should be the same as would have been levied on the beneficiaries had they received the income directly.

175. Trustees are thus required to file annual tax returns in the Isle of Man if the trust is liable to tax (s. 62 ITA). As at 30 September 2016, 590 such trusts were registered with the ITD. Along with the annual return, the following information must be submitted: name and address of the settlor (if an the Isle of Man resident), full name and addresses of all trustees, full names and addresses of all beneficiaries whether or not distributions were made. Settlors that are not Manx residents, however, do not need to be identified in the tax

return, although they will need to be identified by the trustee under AML. Furthermore, Manx authorities attest that in practice, in most instances, the settlors are identified in the trust deed (although this is not required), which is provided to the tax authority. Annual tax returns are not required from the trustees of trusts that have no liability to the Isle of Man tax (non-liable trusts) (i.e. those with no the Isle of Man resident beneficiaries and no income from taxable sources in the Island); however, if the trustee wishes to have confirmation of the trust's tax status, he or she must submit a copy of the trust deed, as well as the aforementioned information. The confirmation will remain valid until such time the circumstances of the trust changes, at which point a new confirmation will be required. As at 30 September 2016, 6 377 non-liable trusts were registered with the ITD.

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

176. The Financial Services Act treats trust services carried on by way of business as a regulated activity (i.e. those carrying on such activity by way of business must hold a licence issued by the FSA and be subject to oversight by the FSA) (s. 3 FSA and Schedule 4 POCA). The Regulated Activities Order 2011 classifies the provision of trustee services as a Class 5 regulated activity. Irrespective of any exemptions from licensing, those carrying on trust services must comply with the Isle of Man AML rules contained in the AML Code 2015. As such, relevant persons conducting this activity by way of business are under an obligation carry out ongoing CDD under the AML Code 2015.

177. A trustee acting by way of business must thus collect legal ownership and identity information on the settlors, other trustees and any known beneficiaries (s. 13(3)(c) AML Code). Further, the AML Handbook prescribes that beneficial owners of trusts include any protectors or other third parties where significant powers are retained or delegated. Where a blind trust or a dummy settlor has been used, the trustee must identify the person who gave the instructions to form the legal arrangement and any person funding the establishment of the arrangement (s. 4.3.4(c)).

(d) Supervision of trusts

178. The FSA is responsible for the supervision of trustees as a part of its oversight of licensed service providers. However, separate statistics for the oversight of trustees is not available. For a detailed description of the FSA's oversight of service providers, see above.

A.1.5. Foundations

179. 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.

180. At the time of the first review, foundations could not be created in the Isle of Man. The Isle of Man's Foundations Act 2011 (FA) came fully into force with effect from 1 January 2012. Foundations established under the Act have their own legal personality and may be charitable, non-charitable, or both. All foundations formed under the Foundations Act must be registered with the Companies Registry. If the foundation is charitable, it must additionally register under the Charities Registration Act in the Charities Registry. All foundations must have a registered agent who must be a class 4 licence holder (the holder of an appropriate class 4 licence (corporate service provider) issued under the FSA 2008).

181. Information on the owners of foundations primarily is available in the records of the registered agent pursuant to AML obligations, although some ownership information will also be available with the tax authority. Foundations are further required to submit and hold information on their beneficial owners under the Beneficial Ownership Act 2017.

182. As of 14 August 2017, 108 foundations have been created (15 charitable and 93 non-charitable).

183. During the period under review, the Isle of Man received no requests relating to foundations. No issues relating to foundations were identified by peers.

(a) Ownership information pursuant to company law

184. To establish a foundation, an application must be made to the Companies Registry, who is also the Registrar of Foundations. Only the registered agent of a foundation may submit an application for the creation of a foundation (s. 4(2) FA). The application must be accompanied by copy of the foundation instrument. The foundation instrument must state, *inter alia*, the name and object of the foundation, as well as information on the foundation council members and the registered agent (ss. 8 and 9 FA). Changes to the foundation instrument must be notified to the Registrar.

185. The foundation instrument and rules must be kept at the registered address of the foundation (s. 41(2) FA). A foundation must keep a register of the names and addresses of all the council members and dedicators to the foundation (s. 41(1) FA). Dedicators are persons, other than the founder, who

dedicate assets to the foundation. In addition, details of all dedications to the foundation must be specified in the foundation rules (section 15).

186. All foundations whose object is to carry out a specified non-charitable purpose are required to have an enforcer with respect to that object (s. 14(2) FA) (although foundations do not need to have an enforcer in respect of a purpose to benefit a person or class of persons, whether or not immediately ascertainable. If a foundation has an enforcer under section 14 of the Foundations Act, his/her name and address must be included in the foundation rules (s. 14(5) FA). Failure to either provide the copy of the rules to the registered agent or failure by the registered agent to retain the copy is an offence (s. 60 FA).

187. The Beneficial Ownership Act 2017 also applies to foundations (s. 5(1)(e) BO Act). As it does with companies, the Beneficial Ownership Act requires that foundations appoint a nominated officer (who can be the foundation's registered agent) to collect and register information on the foundation's beneficial owners (the founder, foundation council, enforcer, and beneficiaries). For a detailed description of the provisions of the Beneficial Ownership Act, please see section on beneficial ownership of companies above.

(b)Ownership information pursuant to tax law

188. Section 65 of the Foundations Act amends section 120 of the Income Tax Act to define a foundation as a corporate taxpayer in the Isle of Man. Therefore, foundations have the same return filing obligations, and are taxed in the same manner, as companies. As such, foundations are under the same obligation to provide ownership information to the tax authority in the annual tax return. No ownership information is provided in the tax return, however, as the foundation will generally indicate that such records are being held by its registered agent.

(c) Ownership information pursuant to AML

189. Beneficial ownership information on foundations will be available in the hands of the foundation's registered agent. Foundations are required to retain at all times a registered agent who is a class 4 licence holder licensed by the FSA (s. 28(1) FA). The council of a foundation may include more than one class 4 licence holder, but it may not have more than one registered agent at any given time (s. 28(4) FA). The foundation instrument must specify the name and address of the registered agent and any changes to the registered agent must be reported to the Registrar (s. 9 FA). The registered address of a foundation must be that of its registered agent. If the registered agent is removed or retires, such retirement or removal will not take effect until immediately before the appointment of a new class 4 licence holder to be the

registered agent (s. 13(3) FA). The foundation rules must set out a procedure to replace a registered agent in case of death, retirement, or any other reason "as soon as reasonably practicable" (s. 13(2) FA). The Isle of Man authorities report that no foundations have been left without a registered agent to date.

190. Pursuant to the AML Code 2015, the beneficial owners of a foundation (which must be identified by the registered agent) are considered to be the council members (or equivalent), any known beneficiaries, and the founder or any other dedicator (s. 13(3)(d) AML Code). The AML Handbook also states that it is necessary to identify any other persons who may be deemed by the High Court to have a sufficient interest in the foundation (s. 4.3.4(d).

191. As a class 4 licence holder, the registered agent will be required under the Isle of Man's AML laws to keep a record of all transactions carried out in the course of business, including identification information, account files, business correspondence records and the results of any analysis undertaken, as described above (s. 32 AML Code). Such records must be kept for a minimum of five years from the date of the completion of the transaction or the formal termination of the business relationship (s. 33 AML Code). Registered agents will also be subject to FSA supervision.

(d) Supervision of foundations

192. As foundations are required to have a registered agent that is an FSA licence holder, the oversight of foundations is carried out by the FSA in the same manner as described above with respect to companies. The FSA reports that it has, in the course of its supervision of corporate service providers, inspected the files of foundations, but does not keep statistics on such inspections.

A.2. Accounting records

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

193. Obligations to maintain accounting records, including underlying documentation, in accordance with the international standard are in place in the Isle of Man for all relevant entities and arrangements. Compliance with record-keeping obligations is supervised by the tax authority and, to a lesser extent, the financial regulator.

194. The January 2011 report found the Isle of Man's framework for the maintenance of accounting records, including underlying documentation, for a minimum period of five years to be adequate, but noted that no explicit

requirements to maintain accounting records existed with respect to limited partnerships having no resident partners and not conducting business on the Island. As this issue was not deemed material, element A.2 was determined to be "in place" and Compliant.

195. Since the last review, the Isle of Man has enacted legislation requiring all partnerships to maintain reliable accounting records, as required by the international standard, for a minimum period of six years. Records may be kept outside of the Island, but must be made available for inspection by public authorities upon request.

196. The updated 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		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

A.2.1. Obligations to maintain accounting records

197. Manx law contains comprehensive obligations for relevant entities and arrangements to maintain proper accounting records for a minimum period of five years. Such obligations are contained in the laws governing the formation of each type of entity or arrangement, as well as in tax law. The ITD effectively monitors the compliance of taxpayers and service providers. Overall, the Isle of Man has an effective system to ensure the availability of accounting information.

198. At the time of the first review, the Isle of Man already had accounting requirements in place for relevant entities and arrangements, but the January 2011 report noted that limited partnerships formed under Manx law that had no resident partners and that were not conducting business in the Isle of Man were not under any explicit requirement to maintain accounting records. This was not considered a significant issue so element A.2 was still determined to

be "in place" and Compliant, but the Isle of Man received a recommendation to ensure that accounting records were available for all limited partnerships. In 2012, the Isle of Man amended its Partnerships Act to impose requirements on all partnerships to maintain accounting records. The recommendation can therefore be considered fully addressed and removed. For a more detailed description of accounting requirements at the time of the first review, refer to paras. 93-101 of the January 2011 report.

199. Following the last review, in 2011, the Isle of Man also introduced the concept of foundations into its law. Under the Foundations Act, foundations are required to maintain proper books and records (including underlying documentation) for at least five years, in line with the international standard.

200. Over the review period, the Isle of Man received 31 requests relating to accounting records and has been able to provide the requested information in all cases. No peers have indicated any issue with respect to accounting information.

(a) Requirements for companies to maintain accounting records

201. Accounting requirements in line with the international standard are in place for all companies formed under Manx law and tax resident foreign companies. Domestic companies are required to maintain proper books and records under company law and foreign companies have such requirements under tax law. Moreover, under tax law, all companies must retain such accounting records for at least five years.

(i) Accounting requirements under company law

202. As noted in the January 2011 report, all three company laws (Companies Act 1931-2004, Companies Act 2006 and the LLC Act) contain requirements for companies to maintain accounting records that (i) correctly explain all transactions, (ii) enable the financial position of the company to be determined with reasonable accuracy, and (iii) allow financial statements to be prepared (s. 1 CA 1982, s. 80(1) CA 2006 and s. 19 LLC Act).

203. The Companies Act 2006 and the LLC Act both require accounting records to be maintained for at least six years (for the Companies Act 2006, starting from the end of the financial period to which they relate, and for the LLC Act, starting from the date on which they were made) (s. 80(4) CA 2006 and s. 19(8) LLC Act). The Companies Act 1931-2004 requires public companies to maintain accounting records for six years from the date on which they were made (s. 109(3) CA 1931), but private companies only need to keep such records for three years (s. 1(9) CA 1982). However, all companies are covered by the document retention periods set out under the Income Tax Act.

204. All companies are required to file with their annual return a declaration confirming the preparation and maintenance of accounting records. Companies formed under the 1931 Act must include a statement that it (i) has caused its financial statements to be properly prepared in accordance with law, (ii) that it is exempted from preparing financial statements, or (iii) that it has not yet prepared a financial statement. Companies formed under the 2006 Act must either declare that they are keeping reliable accounting records or delete the declaration from their return. There is no sanction for deleting the declaration, but there are penalties for failing to keep and maintain accounting records (see paragraph 203 below).

205. If a 1931 Act Company fails to comply with any of the accounting provisions of section 1 Companies Act 1982, every officer of the company who is in default is guilty of an offence unless he or she shows that he/she acted honestly and, that in the circumstances in which the business of the company was carried on, the default was excusable. Any officer who fails to take all reasonable steps for securing compliance by the company or has intentionally caused any default by the company shall be guilty of an offence. A person guilty of an offence under section 1 is liable upon summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding IMP 5 000 (EUR 5 829), or to both.

206. Where a 2006 Act Company fails to comply with the obligations set out under section 80 of this Act to keep and maintain accounting records, the company commits an offence. Under section 223 of the 2006 Act, a person guilty of an offence under any provision of this Act shall be liable upon summary conviction, to a fine not exceeding IMP 5 000 (EUR 5 829), or to both. Where a body corporate is proved to have committed such an offence with the consent or connivance of, or due to the neglect of, a director, manager or other officer of the body corporate, or its registered agent, or a person who was purporting to act in any such capacity, such person, as well as the body corporate, is also guilty of the offence.

207. Section 19(9) provides that if an LLC fails to comply with any accounting provision, every member and manager (if any) of the company shall be guilty of an offence. Section 19(12) provides that any person guilty of an offence under this section shall be liable upon summary conviction, to custody for a term not exceeding six months, or to a fine not exceeding IMP 5 000 (EUR 5 829), or to both.

(ii) Accounting requirements under tax law

208. Previously, companies were under a duty only to preserve such records sufficient to satisfy a request by the Assessor and as required to make and deliver a tax return (ss. 62(C) and 80(A) ITA) (see paras. 93-94 of the January

2011 report). As of January 2017, companies have more detailed obligations under the Income Tax (Accounting Records) (Retention) Regulations 2016 (the 2016 Regulations), passed into law on 17 January 2017. Manx officials advise that the 2016 Regulations were designed to make the accounting requirements under the Income Tax Act clearer and more consistent. The 2016 Regulations add to, and not derogate from, other duties to maintain accounts or records under the Income Tax Act or any other enactment.

209. All corporate taxpayers (companies either resident in the Isle of Man for income tax purposes or resident outside the Island for tax purposes, but who carry on a business in the Isle of Man) are "applicable persons" for the purpose of applying accounting record keeping obligations set out in the 2016 Regulations. Section 5 of the 2016 Regulations require all applicable persons to make and keep adequate accounting, defined as those which enable the preparation of accounts and that (i) show and explain the relevant entity's transactions, and (ii) disclose with reasonable accuracy, at any time, the financial position of the relevant entity at that time. The Regulations apply regardless of whether a relevant entity is liable to tax (s. 4(3) 2016 Regulations).

210. The Regulations apply to corporate taxpayers as well as their officers (s. 4(1)(a)). As such, officers of corporate taxpayers are subject to the same record keeping retention responsibilities and are liable to the same penalties as the corporate body itself.

211. In the case of LLCs, all members are responsible for the maintenance of the LLC's books and accounts. Under Manx tax rules, LLCs are treated as partnerships (s. 2M(1)(a); therefore, all LLC members shall be treated as partners and will be subject to the record retention rules stipulated in the 2016 Regulations.

212. If any person to whom the 2016 Regulations apply knowingly or negligently furnishes any incorrect accounts or records in purported compliance with the Regulations, the person commits an offence and shall be liable on summary conviction to a fine where the accounts or records are furnished: negligently, to a fine not exceeding IMP 2 500 (approximately EUR 2 878) and knowingly, to a fine not exceeding IMP 10 000 (EUR 11 510) (s. 9 2016 Regulations). Where any incorrect accounts or records are furnished by a person neither knowingly nor negligently, but it comes to the person's notice that they are incorrect, the accounts or records shall be treated as having been negligently furnished, unless the error is remedied without unreasonable delay. Regulation 10 provides that a person who, without reasonable excuse, fails to comply with any of the Regulations, shall be liable to a penalty of IMP 2 500 (approximately EUR 2 878).

213. Accounting records must be kept for at least five years beginning immediately after the end of either (i) the year of assessment or accounting

period to which the records relate and in relation to which a return in respect of liability to income tax is required to be delivered; or (ii) where no such return is required to be delivered, the calendar year in which the accounting record or document in question was created (s. 6 2016 Regulations).

214. Companies have a duty to produce such records upon request. The Assessor may require a company to furnish, by such a date or within such a period as may be specified in the notice, such accounting records or part of those records as the Assessor may require (s. 7 2016 Regulations).

215. Where accounting records are kept outside the Isle of Man, the company shall ensure (i) that the records remain within the company's power and control; and (ii) that effective arrangements are in place for delivery of the records to the Isle of Man to be furnished to the Assessor in such manner or timeframe as requested (s. 8 2016 Regulations).

216. For the purpose of the 2016 Regulations, corporate taxpayers include companies that have ceased to exist. e.g. is liquidated or removed from the register) (s. 3 2016 Regulations). In such cases, the officers of a company (or the members of the LLC) have the same obligation to retain the books and records for the requisite minimum of five years.

(iii) Accounting requirements under AML

217. In many cases, the accounting records of a company will be held by the company's registered agent or service provider. As described above, service providers generally tend to fall into the "full service" category in the Isle of Man. Providing full services includes maintaining the accounting records of a company. During the on-site visit, representatives of the fiduciary sector explained that to provide the full range of services, firms generally employ a range of professionals, including accountants to be able to maintain the books and records of clients. AML requirements to maintain the accounting records of clients are in line with the international standard.

218. The Isle of Man's AML legislation requires that all regulated persons maintain detailed records that can provide an accurate profile of the client's finances. Pursuant to the AML Code, an AML obliged person or entity must keep a record of all transactions carried out in the course of business in the regulated sector, including identification information, account files, business correspondence records and the results of any analysis undertaken (s. 32). The Anti-Money Laundering and Countering the Financing of Terrorism Handbook 2015 (AML Handbook) states that transaction records must contain details of the customer or counterparty, including account details, the nature of the transaction, details of the transaction. Service providers must ensure that a satisfactory audit trail can be established for AML/CFT purposes and that a financial profile of a customer, an account or client company

can be established (s. 8.4.1 AML Handbook). All records held pursuant to AML must be maintained for a minimum period of five years from the date when all activities relating to the transaction were completed or the end of the business relationship (s. 33 AML/CFT Code 2015). Similarly, rule 8.25 of the FSRB requires licenceholders to keep and maintain proper records to show and explain transactions effected by them on behalf of their clients.

(b) Requirements for partnerships to maintain accounting records

219. General obligations for partnerships to maintain records exist under the Partnership Act and more specific obligations exist under the Isle of Man's tax law. Under the Partnership Act, partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives (s. 30 PA). Further, all partnerships (whether formed under the Isle of Man law or otherwise) that either derive profits from business carried on in the Isle of Man or which have one or more partners resident in the Isle of Man are liable to tax. As stated above, as partnerships do not file tax returns in their own name, one of the partners resident in the Isle of Man shall file a return on behalf of all the partners stating their names and the proportion of profits to which they are severally entitled (s. 63 ITA). All entities obliged to file returns are also required to maintain "records as may be necessary for making a true, correct and complete return" (s. 80A ITA). Contravention of section 80 of the Income Tax Act is punishable upon summary conviction with a fine not exceeding IMP 10 000 (EUR 11 457).

220. The January 2011 report raised a concern that limited partnerships were formed under Manx law, but that did not have any resident partners or Manx source income, may not be subject to any tax reporting (and therefore accounting) requirements. Accordingly, the Isle of Man amended its Partnership Act to impose an obligation on all limited partnerships to maintain reliable accounting records that correctly explain the transactions of the partnership, enable the financial position of the partnership to be determined with reasonable accuracy at any time, and allow financial statements to be prepared that give a true and fair view of the state of affairs of the partnership (s. 48E PA).

221. The accounting records must be kept at the limited partnership's principal place of business in the Island or such other place as the general partners think fit, and must be available for inspection by any partner during ordinary business hours without charge. If the accounting records are kept at a place outside of the Island, copies must be sent to, and kept at, a place in the Island, and must be available for inspection by any partner during ordinary business hours without charge.

222. Such copies of accounting records must be updated at intervals not exceeding every six months (s. 48E PA). If the requirements of this section are not complied with, each of the general partners is guilty of an offence punishable upon conviction, to custody for not more than 2 years, a fine, or both, and upon summary conviction, to custody for not more than six months, a fine not exceeding IMP 5 000 (EUR 5 829), or both (s. 48E(10) PA).

223. The 2016 Regulations apply to partners resident in the Isle of Man. Such partners are required to keep adequate accounting records as described above with respect to companies. Partners not resident in the Isle of Man, but who carry on a business in the Isle of Man or who receive income from the Isle of Man land are also subject to the accounting record keeping obligations set out in the 2016 Regulations. Section 4(1)(c) of the 2016 Regulations includes partners resident in the Isle of Man as a "corporate taxpayer" for the purpose of determining the applicability of the Regulations. Similarly to companies, partners are responsible for maintaining such records even in the event the partnership has been dissolved, or ceases to exist. The 2016 Regulations would not apply to a partnership with no resident partners, but such a partnership would still come under the accounting requirements of the Partnership Act.

224. The January 2011 report noted that partnerships were not subject to any statutory obligation to retain records for any specific amount of time. The Partnerships Act now requires all limited partnerships to preserve accounting records for not less than six years from the end of the financial period for the partnership to which they relate (s. 48E PA). The Partnership Act sets no retention period for general partnerships as that is left to the discretion of the partners. Similarly, the Partnerships Act is silent on the effect a dissolution of a partnership would have on the obligation to retain records. However, the 2016 Regulations require all partners resident in the Isle of Man to maintain records for at least five years.

(c) Requirements for trusts to maintain accounting records

225. In the Isle of Man, trustees have obligations under tax law, common law, and AML to keep proper records and accounts for the trusts they administer.

226. The general trust law of the Isle of Man derives from common law, which provides that trustees (both professional and non-professional) have a duty to keep clear and distinct accounts of the property he/she administers, and to be constantly ready with his accounts (*Armitage v. Nurse* (1997) 2 All ER 705). Common law also requires trustees to be accountable to the beneficiaries which, implies that the trustee should be in a position to substantiate any transactions relating to trust assets by means of supporting documents such as contracts, invoices and receipts.

227. Purpose trusts additionally are required by section 2 of the Purpose Trusts Act 1996 to keep in the Island "such documents as are sufficient to show the true financial position of the purpose trust at the end of the trust's last financial year together with details of all applications of principal and income during the financial year".

228. All trustees that are subject to the Isle of Man's AML/CFT rules, which require that when a person or business in the regulated sector provides services to any of the legal entities or arrangements mentioned above (such as accountancy, legal, money lending, provision of bank accounts), must keep a copy of all records carried out in the course of business, including account files, business correspondence, and the results of any analysis undertaken (s. 32 AML Code). Rule 8.25 of the FSRB states that "[a] licence holder must keep and maintain proper records to show and explain transactions effected by it on behalf of its clients". Pursuant to the AML Code 2015, records must be kept for five years after the end of the business relationship (or five years from the conclusion of an occasional transaction) (s. 33 AML Code). The FSRB requires that records be kept for at least six years after the transaction has occurred. For a more detailed description of the AML obligations of trustees to maintain accounting records, refer to para. 97 of the January 2011 report.

229. Moreover, all trustees resident in the Isle of Man (including non-professional trustees) are also subject to the accounting record keeping obligations under tax law. The Isle of Man resident trustees are covered by the requirements set out in the 2016 Regulations to keep proper books and records (s. 4(d) 2016 Regulations). A duty to preserve records is also imposed under section 80A of the Income Tax Act. Further, a tax return must preserve such records as are needed to enable that person to deliver the return. Trustees of trusts that are required to file annual tax returns (e.g. those with Manx source income or resident beneficiaries) are therefore also subject to the duty to preserve records set out in section 80A.

230. During the period under review, the Isle of Man received 18 requests relating to trusts, including one request for accounting information (as well as information on the trust assets transferred) from a non-professional trustee. The information was obtained and provided in all cases.

(d) Requirements for foundations to maintain accounting records

231. Under the Foundations Act, foundations must keep reliable accounting records that correctly explain the transactions of the foundation, enable the financial position of the foundation to be determined with reasonable accuracy at any time, and allow financial statements to be prepared (s. 42 FSA). Accounting records must be kept at the business address of the

foundation or at such other place as the council of the foundation thinks fit. Where the accounting records are not kept at the business address of the foundation, the foundation must provide to the registered agent a written record of the physical address of the place where the records are kept. Where the place at which the accounting records are kept is changed, the foundation must provide the registered agent with the physical address of the new location of the records within 14 days of the change of location (ss. 42(4)–(6) FSA). Accounting records must be preserved for a period of six years from the end of the accounting period to which they relate or such longer period as the council determines (s. 42(3) FSA).

232. Foundations are also subject to the accounting requirements laid out in the 2016 Regulations (s. 4(d) 2016 Regulations) as described above, including those pertaining to the maintenance of records following dissolution.

233. Finally, foundations must at all times have a registered agent, who is obliged (as described above with respect to companies) to maintain the books and accounts of the foundation managed by him/her pursuant to AML.

(e) Oversight of accounting requirements

234. Oversight of accounting requirements is mainly carried out by the ITD through its audit programme, although to a lesser degree, the FSA will also check whether licensed service providers are complying with their accounting and record-keeping requirements in the course of its examinations. The Companies Registry does not effectively supervise any accounting requirements.

(i) Oversight by the Companies Registry

235. Although the Companies Registry is responsible for the oversight of the various Companies Acts, in practice, it conducts very limited monitoring of record-keeping and accounting requirements for companies under the 1931 and 2006 Acts and no monitoring of LLCs.

236. The Companies Registry reviews all annual returns for compliance with statutory provisions and if a return is found deficient, it will be rejected. However, the Companies Registry does not pursue companies that declare that they have not prepared a financial statement or those that have deleted the declaration from their annual return. Neither does the Companies Registry keep statistics on the number of annual returns rejected annually for failure to make a declaration relating to its financial statements, or on the number of companies that either have not prepared financial statements or have not kept accounting records.

(ii) Oversight by the ITD

237. As described above, the ITD is responsible for monitoring income tax obligations. All entities are required to file an annual tax return regardless of tax liability in the tax year. Not all companies are required to submit their accounts with their return, but all companies are required to maintain such documentation. These documents may be requested during the course of the audit. The audit of companies with a 0% tax rate and those liable to pay tax is the same. The ITD reports that the compliance rate of entities with their filing obligations is generally around 95%.

238. The Isle of Man has a comprehensive legal tax framework of inspection and information powers to deter and detect non-compliance with the Income Tax Act. The ITD carries out a wide range of desk-based audit inspections each year in its review of the tax returns of all types of taxpayer. The ITD applies a risk-based approach, using certain risk criteria parameters. Such criteria will be applied to annual declarations and returns. Electronic "flags" will be raised based on risk criteria and where information or intelligence has been identified from third party sources. The most serious and complex investigation cases are dealt with by the non-compliance investigation team. The ITD's audit team comprises about 15 staff dedicated solely to reviewing returns.

239. As described above, the Isle of Man companies are subject to the "pay and file" system, which is akin to self-assessment. The ITD aims to review in detail approximately 6 000 (22%) of the company tax returns received each year on a basis of risk. The majority of those returns reviewed will include a set of accounts. There are detailed rules on the company return form and associated guidance note prescribing which returns should include accounts, although in practice they are requested routinely during the audit process even if they were not explicitly required to be provided with the return in the first instance. If accounts should have been filed with the return and have not been submitted, the company is prosecuted under section 112L of the Income Tax Act 1970, as it is an offence under section 62C of the Income Tax Act not to provide accounts upon request by the Assessor. The Assessor may impose an initial penalty where a taxpayer does not file a return as required and a second penalty where a return is outstanding 18 months after the end of the accounting period. Where a company's return is still outstanding 24 months after the end of the accounting period, the ultimate sanction is prosecution (s. 112I ITA).

240. Over the three year review period, the Assessor conducted the following number of audits: 10 429 desk audits in 2013/14, 9 014 in 2014/15, 5 085 in 2015/16, and 3 278 in 2016 up through 30 September 2016. All companies that are selected for review are asked to provide accounts as part of the review. Penalties for the non-submission of income tax returns

by corporate tax payers were issued in 5 343 cases and additional penalties (for returns outstanding 18 months after the end of the accounting period) were issued in 2 308 cases. The total value of civil penalties imposed was approximately IMP 2.5 million (approximately EUR 2.9 million). During the review period, prosecution action (the "ultimate sanction") was commenced against 389 companies, 62 of which were convicted. Additionally, a further 47 companies were forwarded to the public prosecutor specifically for failure to provide accounts.

241. The ITD also supervises the compliance of partnerships with their accounting requirements. As general partnerships are fiscally transparent in the Isle of Man, the ITD pursues the partners for failure to submit partnership accounts rather than pursing partners for the submission of a partnership return. The ITD reviews all tax returns that include partnership accounts and issues an assessment to the individual partners in all cases. Officers reviewing partnership accounts will frequently request underlying supporting documents (such as receipts). If a partner fails to provide supporting documents, the ITD will issue an assessment to the partners based on their best judgement.

242. During the review period, prosecution action was commenced against 493 individuals for failure to complete their tax return and/or submit accounts, which resulted in 144 convictions. No separate statistics are available for how many of those prosecutions related to the partners of general partnerships.

243. As LLCs are fiscally transparent, they are treated as partnerships for tax purposes (s. 2M ITA). Members of the Isle of Man LLCs are required to submit either an LLC return (which must include accounts) or the accounts for the LLC with the members' own individual tax returns. All LLC returns are reviewed to ensure that the profits stated correspond with those stated in the returns of the LLC's members, regardless of whether members are Manx residents. The ITD will pursue individual members for filing deficiencies. No separate statistics are available for how many prosecutions related to LLC members.

244. The Isle of Man does not keep statistics on enforcement actions taken against foundations or trusts, but Manx authorities report that the returns of all foundations and trusts liable to tax are audited. Of the 6 967 trusts in the ITD database, 590 are liable to tax and will submit returns that are reviewed. Underlying accounting documents are not reviewed in every case, but rather on a case by case basis. Statistics on penalties imposed are not available. All 83 foundations are liable to tax and must complete a return for every accounting period. Over the review period, the compliance rate of trusts was over 96%. As foundations are categorised as corporate taxpayers, the compliance rate of foundations cannot be separately provided. However, as mentioned above, the filing rate of corporate taxpayers was approximately 95% over the last three years.

(iii) Oversight by the FSA

245. As described above, the FSA has oversight of licencees, including corporate service providers. In the course of its inspection programme, it ensures that licencees are complying with all statutory obligations including those to maintain accounting records under 32 of the 2015 AML Code and Rule 8.25 of the FSRB with respect to their clients.

A.2.2. Underlying documentation

246. 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. All relevant entities in the Isle of Man are required to keep such records in line with the international standard.

247. The Companies Act 1931 and the LLC Act stipulate that accounting records should contain:

i. entries from day to day of all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

ii. a record of the assets and liabilities of the company; and,

iii. where the company's business involves dealing in goods: statements of stock held by the company at the end of each financial year and statements of all goods sold and purchased, including details on the buyers and sellers.

248. The Companies Act 2006 stipulates that accounting records must be sufficient to allow for the preparation of financial statements and should include written statements recording the assets and liabilities of the company on a specific date, written statements recording the receipts, payments and other financial transactions, and such notes as are necessary for a reasonable understanding of the foregoing (s. 80 CA). Section 80(2) of the Companies Act requires that a company retains such invoices, contracts and other information as are necessary to allow the company to document all sums of money received and expended and the matters in respect of which the receipt and expenditure took place, all sales and purchases, and the assets and liabilities of the company.

249. The 2016 Regulations also provide for the maintenance of underlying documentation. In the case of an entity carrying on a business, accounting records are not adequate unless they contain: records of all amounts received and expended by the business and the reasons for the receipt or expenditure;

records of all sales and purchases of goods made in the course of the business (where a business deals in goods); records of all assets and liabilities of the business; all invoices, receipts, certificates, contracts, vouchers or other supporting documents; and, in a case where there are no supporting documents in relation to any goods purchased by the business, the name and address of the supplier of the goods (s. 5(3) 2016 Regulations). For entities that are not carrying on business, accounting records must also contain underlying documentation, such as: records of all amounts received, arising or accruing and of all amounts expended; the names and descriptions of the persons or sources from which the amounts so recorded were received, arose or accrued and the details of and reasons for the amounts so expended; records of all assets and liabilities of the relevant entity; any other records which contain or may contain information relevant to the entity's tax liability; and all invoices, receipts, certificates, contracts, vouchers or other supporting documents (s. 5(4) 2016 Regulations). The 2016 Regulations apply to trustees and partners resident in the Isle of Man, as well as foundations.

250. As a matter of practice, partnerships also need to maintain underlying documentation in the course of preparing their tax returns. Express requirements to maintain underlying documentation are not present under the Partnerships Act or tax law, but obligations to file tax returns are accompanied by the need to prepare supporting documentation. Section 80A of the Income Tax Act requires that all records and supporting documents as may be necessary for making a true, correct and complete return must be maintained. The Isle of Man explains that supporting documents in this context includes accounts, books, deeds, contracts, vouchers and receipts.

251. Under the Partnerships Act, limited partnerships are required to maintain invoices, contracts and any other information that the general partners consider necessary to ensure that accounting records include day to day entries of all sums of money received and expended by the partnership and the matters in respect of which the receipt and expenditure takes place, details of all sales, purchases and other transactions, and a record of the assets and liabilities of the partnership (s. 48E(3) PA).

252. Finally, as described in the January 2011 report, corporate and trust service providers are obliged under AML to retain records as are sufficient to permit reconstruction of individual transactions. This requires the trustee or service provider to be able to substantiate accounts relating to client assets by means of supporting documents, such as contracts, invoices and receipts. The FSRB requires trustees and other service providers to maintain documents sufficient to demonstrate compliance with the Rule Book, which may include the underlying documentation, such as invoices, etc., in order to explain the validity of transactions it undertakes on behalf of the trust. For more detail, refer to para. 99 of the January 2011 report.

(e) Enforcement measures and oversight

253. As described above, the ITD routinely asks for supporting documentation during an assessment. If supporting documentation is not provided, the ITD will perform an assessment based on its best judgment using the records that it does have. Failure to comply with section 80A of the Income Tax Act (duty to preserve records) is an offence which carries a fine of up to IMP 10 000 (EUR 11 510). Similarly, contravention of record-keeping duties under the 2016 Regulation is an offence which carries a fine of up to IMP 2 500 (approximately EUR 2 878).

254. Similarly, the FSA checks for underlying documentation in the course of its inspections of licencees. In particular, during its on-site visits, the FSA focuses on compliance with the FSRB 2013 and will review whether service providers are maintaining accounting records for the entities and arrangements that they administer. If the review indicates a systemic issue with the maintenance of accounting records, the FSA's report will make a mandatory recommendation to the licenceholder to take remedial action. In cases of occasional failure, the report will include a non-mandatory best practice/guidance recommendation.

A.3. Banking information

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

255. Banking information is available for all account-holders under the Isle of Man's 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 five years after the customer relationship has ended or following the completion of the transaction to which the documents relate. In case of non-compliance with these obligations, sanctions apply. Supervision of banks' record-keeping requirements is carried out by the FSA.

256. The last round of reviews did not raise any concerns with respect to the availability of bank information in the Isle of Man. In the last round of reviews, 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.

257. Availability of banking information is also confirmed in the Isle of Man's EOI practice. During the review period, the Isle of Man received 43 requests for banking information and was able to provide the information requested in all cases.

258. There has been no change in the relevant provisions or practices since the last review. 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		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

A.3.1. Availability of banking information

259. Jurisdictions should ensure that banking information is available for all account holders. The Isle of Man's AML regime includes comprehensive obligations on the part of banks and other financial institutions to verify the identity of their clients 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. 102-110 of the January 2011 report.

(a) General record-keeping requirements

260. In the Isle of Man, banks are required to maintain all records pertaining to their customer accounts as well as to related financial and transactional information. Such records include those collected in identifying clients and as well as transactional records undertaken on the client's behalf whether in respect of an ongoing relationship or a one-off transaction. Section 32 of the AML Code 2015 requires banks to retain (i) a copy of documents obtained or produced in the course of risk assessment and ongoing monitoring and customer due diligence (or information that enables a copy of such documents to be obtained); (ii) a record of all transactions carried out in the course of business in the regulated sector, including identification information, account files, business correspondence records and the results of any analysis

undertaken; and (iii) such other records as are sufficient to permit reconstruction of individual transactions and compliance with the AML Code 2015.

261. The records may be kept in hard copy or digitally, but in either case, must be easily accessible. If the records are kept (either digitally or in hard copy) in the Island, they must be retrievable without undue delay. If the records are in the form of hard copies kept outside the Island, they must be available within seven working days (s. 34(1) AML Code).

262. Such records must be kept for at least five years from the date of completion of the transaction, when all activities relating to an occasional transaction or a series of linked transactions were completed, or when the business relationship was formally ended (s. 33(1) AML Code 2015).

263. Contravention of the AML Code 2015 is punishable upon summary conviction by a term of imprisonment for a term not exceeding 12 months or a fine not exceeding IMP 5 000 (EUR 5 829), or both(s. 41(1) AML Code).

(b) Legal and beneficial ownership information on account holders

264. In the Isle of Man, 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 level of ongoing monitoring and verification are applied using a risk-based approach. In practice, the banking sector appears aware of relevant procedures and policies and are supervised by the FSA through a programme of on-site and desk-based monitoring.

(i) General customer identification requirements

265. In the Isle of Man, banks must take measures to identify and verify the identity of their clients. Anonymous, or numbered, accounts may not be set up or maintained for new or existing customers (s. 40(a) AML Code).

266. Banks must identify customers using reliable, independent source documents prior to or during the formation of a relationship (s. 10 AML Code). In exceptional circumstances (such as where market conditions change rapidly), verification of a customer's identity may be carried out as soon as reasonably practicable after the establishment of a business relationship where they ML/FT risk is low (s. 10(4) AML Code). This exception does not apply to occasional transactions.

267. All banks must carry out a customer risk assessment prior to the establishment of a business relationship. The initial risk assessment of a customer will help determine the extent of identification information to

be sought, any additional information that needs to be requested, how that information will be verified, and the extent to which the relationship will be monitored on an ongoing basis (s. 3.3 AML Handbook). Risk assessments must also be reviewed on a regular basis to ensure the customer's risk profile remains up to date. Such a review should occur at least annually for higher risk customers, at least every three years for standard risk customers, and at the point of any material change in the customer's circumstances. Certain low risk customers or situations allow for certain concessions to be made in terms of the level of verification to be carried out; however, in no case is the obligation to identify the customer or carry out a risk assessment nullified completely.

268. The AML Code 2015 also requires banks to examine their pre-existing accounts to ensure that the procedures elaborated above are applied to pre-existing relationships as well. Section 11 of the AML Code 2015 stipulates that if no evidence of identity was produced after the pre-existing business relationship was established, the same identification and verification procedures applicable to new businesses should be applied. The AML Handbook provided a timeframe of three months of the 2015 Code coming into effect for the gathering of such information (although this timeframe could be extended on grounds of impracticality where an institution's customer base is particularly large). Banking representatives interviewed at the on-site had varying experiences in this area. Some had initiated a remediation programme that reviewed all of the pre-existing accounts to determine whether identification and verification procedures needed to be applied. Others only reviewed existing accounts when a "trigger event" (such as change of ownership or activity on the account) occurred.

269. Customer identification and verification measures are further elaborated in the Anti-Money Laundering and Countering the Financing of Terrorism Handbook 2015 (AML Handbook). The Handbook provides procedures for the identification of natural persons (e.g. by names, address, date and place of birth, national identification document, etc.), legal persons (e.g. by name or trading name, date and country of incorporation, official identification number, registered address, any person purporting to act on behalf of the legal person or the beneficial owners of the legal person), and legal arrangements (e.g. by name, date of establishment, official identification number, identification of any related natural persons, such as the beneficiaries, controlling parties, and other persons having the power to direct the activities of the arrangement) (s. 4.5 AML Handbook). The Handbook also lists what elements of identification should be verified and detailed methods of verification, including the kinds of documents that are acceptable (ss. 4.6 and 4.7 AML Handbook).

270. Simplified due diligence may be carried out where a customer has been referred by an eligible introducer (discussed in more detail below) or where a customer is an accepted applicant (an applicant whose identity is known to the bank, a trusted person, or a company listed on a recognised stock exchange) or a person/entity in the regulated sector acting on behalf of a third party. In the latter case, subject to certain conditions, a bank does not have to identify and verify the identity of the person on whose behalf the regulated person/entity is acting. In such cases, the regulated person/entity must be an FSC licencee of a certain class and the underlying client must be an "allowed business" (such as a collective investment scheme) listed in the AML Handbook.

(ii) Requirements to identify beneficial owners

271. Under the Isle of Man's AML regime, "beneficial owner" is defined as "the natural person who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted" and includes but is not restricted to a person who ultimately owns or controls 25% or more of the share or voting rights of a company, person who otherwise exercises ultimate effective control over the management of the legal person, trustee or other person who exercises ultimate effective control over the legal arrangement, and any person who exercises ultimate effective control over a foundation.

272. The AML Code 2015 states that where a customer is not a natural person, a bank must identify who is the beneficial owner of the customer, take reasonable measures to verify the identity of any beneficial owner of the customer, using relevant information obtained from a reliable, independent source; and, determine whether the customer is acting on behalf of another person and, if so, identify that other person, and take reasonable measures to verify that other person's identity using relevant information obtained from a reliable, independent source (s. 13 AML Code).

273. The AML Handbook further elaborates on methods to ensure that the applicant for business is indeed the true customer, and if not, ways to identify the person on whose behalf the applicant is acting. Towards this end, the Handbook describes a number of relevant variables, such as the origin of any instructions (irrespective of whether they are binding) or funds, as well the destination of funds. Specific ways to identify the beneficial owner(s) include (but are not limited to): (i) taking reasonable measures to obtain information on the roles and powers of any persons who may be a beneficial owner; (ii) obtaining signatory lists, annual returns and registers of directors; and, (iii) understanding the corporate structure and purpose of the customer and any connected entities, and investigating any payments or loans made to third parties (on a risk based approach) (s. 4.3.4). Acceptable reasonable identification and verification measures are also described in the FSA's AML/CFT Handbook.

(iii) Reliance on identification measures of other institutions

274. Under certain circumstances, the AML rules in the Isle of Man 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 Code 2015.

275. Where reliance is placed on a third party for elements of CDD, the relying institution must ensure that the identification information sought from the introducer (or other third party) is adequate and accurate. A customer risk assessment must be undertaken on the introduced customer by the relying institution. The relevant person must not rely on a risk assessment undertaken by the eligible introducer. The introducer must also be risk assessed in its own right. If the introducer or the introduced customer poses a higher risk of ML/FT, then the eligible introducer concession at 23(5) of the Code must not be used (s. 3.3.5 AML Handbook).

276. If a customer is introduced to a bank ("relying institution") by an eligible introducer, it must still follow customer identification procedures requiring production of evidence of identification; however, the relying institution does not have to verify the identity of the customer if it has no reason to doubt the identities of the customer and any beneficial owners, knows the nature and intended purpose of the business, and has not identified any suspicious activity (s. 23 AML Code). An "eligible introducer" is a trusted person or institution with whom the relying institution has written terms of reference relating to verification procedures and record-keeping policies (s. 23(6) AML Code). The terms of reference must also ensure that all CDD documentation will be immediately provided to the relying institution by the introducer upon request. Further, the relying institution must satisfy itself that the introducer has procedures in place to allow it to satisfy the terms of reference. Such measures include spot-checking on a random and periodic basis (s. 23(8) AML Code and s. 6.2.2 AML Handbook). The relying institution must also satisfy itself that the introducer is not itself relying on a third party introducer (s. 23(9) AML Code). The ultimate responsibility for ensuring CDD is carried out in accordance with the AML Code 2015 rests on the relying institution (s. 23(11) AML Code).

277. Banking representatives at the on-site explained that in practice, not all banks rely on the "introduced business" exception to carrying out CDD because it is too burdensome. The banks that avail themselves of the exception confirm that they conduct on-site inspections of their eligible

introducers to ensure that proper CDD is being conducted and records are being maintained. As required by the AML Handbook, the banks that rely on introducers will conduct an initial risk assessment on each introducer and will conduct ongoing annual reviews thereafter.

(c) Enforcement and oversight measures

278. Supervision of banks' record keeping requirements is carried out by the FSA. The FSA has three staff in its banking supervision department. As of 30 June 2017, the FSA was responsible for the prudential and AML supervision of 16 banks and one local credit union (although three banks are currently in the process of winding down).

279. The FSA employs a risk-based approach and performs an impact analysis (based on criteria such as balance sheet size, total deposits, numbers of staff, etc.) on all banks. The FSA profiles banks as high, medium or low risk. It is in the process of implementing a framework for systemically important banks, defined as those that could cause significant disruption to the financial system and economic activity locally in the event of distress or failure. Assessments of the systemically important banks is to be carried out starting in December 2017. The FSA revisits an institution's risk profile at least once a year, based on information received in previous inspections, annual reports, or other sources. The FSA will meet with the executives and compliance officers of all operational banks on an annual basis. All banks in the Isle of Man are currently categorised as high impact. The FSA will meet with the systemically important banks on a quarterly basis, although the banks to be on this list have not yet been formally designated.

280. With respect to banking supervision, the FSA has at times gone beyond the prescribed supervisory approach (which requires an inspection at least once every three years) although in the recent past few years, it has gone back to the minimum levels of inspection. Based on the current supervisory approach (which is being re-visited), high risk banks are visited once a year, banks in the medium risk category are to be visited once every two years, and low-risk banks visited once every three years.

281. The FSA's process for banking supervision is broadly similar to that for licencees and non-banking financial entities. The inspection programme consists of full-scale and thematic reviews and entails both on-site and desk-based examinations. Following the examinations, banks are provided a timeframe for addressing deficiencies based on the extent of the actions required and the gravity of the issues identified. The FSA has also conducted cross-industry thematic inspections, including targeted AML exams. The FSA tries to conduct a thematic AML examination every two to three years. Such cross-industries surveys allow the FSA to identify trends

and vulnerabilities and provide feedback to the industry as a whole. In the past, thematic AML examinations have focused on subjects such as politically exposed persons, suspicious activity reporting, introduced business, transaction monitoring, and customer screening. The FSA reports that the findings for the thematic examination into introduced business (conducted in 2012), for instance, revealed that generally banks were using it appropriately, but some issues relating to higher risk relationships were identified (where CDD documentation was not obtained from the introducer). As a result, the FSA issued guidance on the subject. In 2014, the FSA conducted a follow-up examination on the subject of introduced business and found that banks that had needed to remediate their practices had done so, and overall, practice had improved.

282. Over the three year review period, the FSA has inspected all banks in the Isle of Man. During the review period, six banks were visited once, ten banks were visited twice, and one bank was visited three times. The FSA has not needed to impose any sanctions as it has worked successfully with banks to rectify deficiencies addressed.

Part B: Access to information

283. 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 any rights and safeguards in place are compatible with effective EOI.

284. The Isle of Man's access powers for exchange of information are considered to be in line with the international standard. The Isle of Man competent authority can access all types of information and from any person, including financial institutions and other third party information holders. The Isle of Man has powers to compel production of information through a court order. In the first round of reviews, the Isle of Man's rules on professional privilege were considered to be potentially broader than the international standard. Since the last review, the Isle of Man has clarified the interpretation of its legal privilege rules to ensure their coherence with the standard. The Isle of Man experienced no issues with respect to accessing information over the review period.

285. Rights and safeguards contained in Manx law are in line with the international standard. The competent authority is required to notify a taxpayer who is the subject of a request for information, but such notification may be waived under certain circumstances.

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).

286. The Isle of Man's tax authorities have broad powers to obtain bank, ownership, identity, and accounting information and to compel the production of such information where needed. The Isle of Man's competent authority is empowered to obtain all such information from any person within its jurisdiction who is in possession of the information.

287. The Isle of Man's access powers were assessed under the 2010 TOR and found to be generally adequate although some minor deficiencies were identified in the January 2011 report. The January 2011 report noted that the scope of professional privilege in some instances were broader than that anticipated by the international standard. Consequently, the Isle of Man was recommended to review its policy regarding access to information held by legal and tax advisors and auditors and to monitor requests for information where such privilege rules were implicated. Element B.1 was determined to be "in place" and Compliant.

288. Since the last review, the Isle of Man has reviewed its policies on professional privilege and the Attorney General has issued advice on this matter. The Isle of Man has also consolidated the competent authority's information powers, previously set out in a number of different Acts, orders and amending orders, into one piece of legislation. Further, the Isle of Man has also revised its model TIEA to remove the definition of "legal privilege" (which previously attached to information held by auditors and tax advisors). Accordingly, both recommendations issued in the first round of reviews have been addressed and are removed.

289. Therefore, the updated table of determinations and ratings is as follows:

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

Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

290. The Isle of Man's competent authority is the Assessor of Income Tax (Assessor) as the head of the Income Tax Division of the Treasury Department. The Assessor's office is responsible for the execution of incoming requests as well as preparing outbound requests. The Assessor is the named competent authority in all of the Isle of Man's EOI agreements, but the International Co-operation Officer is the first point of contact for all EOI matters. For more information on the organisational structure and resources of the Assessor's office, refer to section C.5 below.

B.1.1. Ownership, identity and bank information

291. The Assessor 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 the Isle of Man's tax treaties. The access powers contained in sections 105C to 105O of the Income Tax Act empower the Assessor to require any person to provide documentary information from any person with respect to that person's tax liability or from any other person in respect of a taxpayer's liability.

292. In the last round of reviews, the Isle of Man's legal and regulatory framework establishing the competent authority's power to access information for the purpose of EOI was considered adequate; however, as domestic legislation setting out the Assessor's powers did not envisage exchange for international purposes, the Isle of Man had to issue an order for each of its EOI agreements to grant the Assessor such a right. Although this was not deemed to be an impediment to effective EOI during the last review, the Isle of Man acknowledged that it was arduous to execute a separate order for each individual agreement. For a more detailed description of the Isle of Man's access powers at the time of the first round of reviews, refer to paragraphs 116-143 of the January 2011 report.

293. Consequently, in 2013 and 2015, the Isle of Man amended its legislation to consolidate the competent authority's information powers so that they would be applicable to international agreements under the Income Tax Act without the need to introduce a separate order for each new agreement. The competent authority's access powers under sections 105C and 105O now are specifically extended to gathering information pursuant to all current and

future international agreements. Further, section 104G of the Income Tax Act allows the Assessor to allow information to be disclosed to a treaty partner pursuant to an international agreement.

294. The Isle of Man's procedure for accessing information in the hands of a third party information holder is as follows. The competent authority will require a third party information holder in writing to produce the requested information under section 105D(2) of the Income Tax Act. Section 105D(2) requires that before the competent authority formally notifies an information holder to produce documentation, it must give the information holder "a reasonable opportunity" (in practice, usually 30 days) to deliver the documents in question. In the large majority of cases, the information holder will need the formal notification to produce the information (for instance, if the information in question is confidential). In practice, the competent authority has a close working relationship with most third party information holders in the Isle of Man, so it is commonplace that an information holder will inform the competent authority that it needs formal notice before the initial precursor period has expired. Where the competent authority has been informed that formal notice is needed, or where the precursor period has expired, formal notice is delivered pursuant to section 105D(2) of the Income Tax Act. At the time formal notice is delivered to the information holder, the competent authority must also notify the taxpayer who is the subject of the request (see below section B.2). The Isle of Man advises that in cases of urgent requests, the competent authority may provide a shorter precursor period. The competent authority can also apply to the High Court for an order to compel production of information (discussed below) or to obtain the information through a deposition to bypass the precursor period, although it has not had to resort to this approach in practice.

295. Pursuant to section 105D(2), the formal notice will include the name of the requesting party (jurisdiction), the requested information, a statement of the consequences of failure to comply with the notice, and a statement that, should the documents not be provided on the date specified, an application to the High Court to compel production of such information will be made. It will not name the person under investigation. The Assessor will normally allow 30 days to respond to a formal notice. Where needed, and where it is clear the information holder will comply with the notice, extensions may be granted.

296. The Assessor may also obtain the information directly from the taxpayer. Under section 105C, the Assessor can ask a taxpayer to provide documents in their possession or control that, in the Assessor's reasonable opinion, contain or may contain information relevant to any liability to income tax, the amount of the liability they are or may be subject to, as well as information relevant to the liability or its amount. The Assessor can

also ask the taxpayer to provide evidence relevant to the person's residence status for the purposes of the Act. As with third-party information holders, the Assessor must first provide the taxpayer with a reasonable opportunity to furnish the information. Such notice to produce information must also be accompanied by a written summary of the reasons underpinning the notice. Section 105C does not provide details on what is required in the summary, although the competent authority advises that it will be the same as one issued under 105D(2) to a third party. To date, the competent authority has not needed to apply its powers under section 105C.

297. Following amendments to the Income Tax Act in 2013, the Isle of Man may now also apply to the High Bailiff for the information to be provided in deposition form if so requested by the treaty partner. The application is made through the Attorney General's Chambers *in camera* to the High Bailiff. The Attorney General will represent the Assessor in the deposition, which will also take place *in camera* before the High Bailiff. The High Bailiff has the same powers to secure the witness's attendance as does the High Court. Upon application by the Assessor, the High Bailiff may summon a person (the witness) to appear before him/her to "give on oath stated information, or information about a stated matter, relevant to the request and to produce a sworn deposition that exhibits any documented part of the information and states the deposition is given in response to the summons (s. 104H ITA). The witness must bear the costs of the hearing and may be represented by an advocate. The witness may not be compelled to provide testimony that he/she would not be compelled to provide in a criminal proceeding. Following this procedure, the taxpayer will not be notified of the hearing. The competent authority has used this process to gather information on three occasions. On the first occasion, the process took approximately four months, the second application took approximately two and half months, and the third application was processed in just under two months. The High Bailiff is now familiar with the exchange of information for tax purposes and all EOI matters are now heard before the same High Bailiff that deals with applications in respect of Mutual Legal Assistance requests, and who is experienced in hearing matters relating to international assistance.

298. Where the information holder has not complied with a notice for production of information or where the competent authority has reason to believe the information holder will not comply, the competent authority may apply to the High Court for an order to compel production of the information whether in documentary form or by way of deposition (s. 104H and 104I ITA). An order under sections 104H or 104I shall require compliance within seven days after the day on which notice of the order is served (or such shorter period as specified). If a person fails to comply with an order made under sections 104H or 104I, he/she may be held in contempt of the court.

299. Where bank information is requested, the Isle of Man needs sufficient information to be able to identify the bank and to identify the person whose information has been requested. Information identifying at least one account or information in support of a request concerning a class of unnamed account holders, is required. This may include the account holder's name, address, account number, etc. The Isle of Man reports that it can identify the taxpayer even if all that is provided is the account number. To obtain information in the possession of a bank, the competent authority exercises its powers as with respect to any other type of information under sections 105D or 104H of the Income Tax Act requiring information to be produced in documentary form or by means of a deposition. These powers concern documents in the possession or control of the bank (and in the Assessor's reasonable opinion) contain, or may contain, information relevant to, among other things, any liability to income tax to which the taxpayer is or may be subject. The competent authority was able to gather bank information on 43 occasions over the review period.

300. Sections 105G(1A) and (1B) of the Income Tax Act provide for situations where the third party, a company, has ceased to exist or, an individual, has died. In the case of a company that has ceased to exist any requirement to provide information or documents may be directed to (a) theadministrator, liquidator, official receiver or any other person dealing with the affairs of the company, or any former director or officer of the company. In the case of an individual who has died any requirement to provide information or documents may be directed to the administrator or executor of that individual's estate. During the review period, the competent authority received requests relating to 24 companies that had ceased to exist and was able to access and exchange the requested information on all occasions.

301. With respect to group requests, the method for gathering the information is substantially the same as described above; the Competent Authority will deliver first a precursor, followed by the formal notice. However, the main difference is that, rather than identifying the person who is the subject of a request, both the precursor and notice will include information identifying the class of unknown taxpayers and will seek the production of documents or information identifying such taxpayers. The competent authority was able to successfully gather information for a group request on 12 occasions during the period under review (although it notes that two of these requests were traditional group requests and ten were bulk requests).

302. In practice, the Isle of Man has not encountered any problems during the review period with its ability access ownership, identity or bank information, nor have any peers indicated any issues related to access to information.

B.1.2. Accounting records

303. The Assessor may also require any corporate taxpayer to deliver to the Assessor within such reasonable period as is specified in the notice such accounts in respect of such accounting period as the notice requires (s. 62C ITA 1970). In March 2012, the Isle of Man enacted the Income Tax (Individuals) (Temporary Taxation) Order 2012 (SD 0098/12), which inserted additional provisions into the Income Tax Act enabling the Assessor to require a corporate taxpayer to include in a return additional information including financial accounts or accounting records. The insertions were confirmed by the Income Tax Act 2013. These changes were introduced to prevent tax returns from being submitted without the necessary supporting documents and to reject returns that did not include accounts where required. Manx authorities explain that in practice, however, requests for accounting information usually seek accounting records and underlying documents (e.g. communications), which can be obtained using the competent authority's normal access powers (e.g. sections 105 and 104). The additional powers stemming from the Temporary Taxation Order are generally applied to compel a taxpayer to prepare and produce a set of financial statements.

304. The Isle of Man has not experienced any issues accessing accounting information. Over the review period, the competent authority was able to gather accounting information on 31 occasions. No peers indicated any issue in this area.

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

305. 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 January 2011 report found that the Isle of Man's exchange practice was not hampered by the existence of any domestic interest requirement. The Isle of Man's legislation continues to contain no domestic tax interest requirement to fulfil an EOI request and no issues have been raised in the current review period.

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

306. Jurisdictions should have in place effective enforcement provisions to compel the production of information. As was the case in the earlier round of reviews, the Isle of Man competent authority has powers 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. As

noted above, where an information holder has not complied with a request to produce information, the Assessor may apply to the High Court for an order to compel production of the information. Further, where the High Court is satisfied with an application by the Assessor that reasonable grounds exist for suspecting fraud, the Assessor may obtain a warrant to seize such evidence as required for proceedings in respect of the offence (s. 105M ITA). Finally, if deemed necessary, the Assessor may also apply to the High Bailiff for permission to enter the business premises of a taxpayer or information holder to carry out an inspection (including of any documents or records) (s. 105S ITA). Such inspection also allows for the inspecting tax officer to obtain and record information as needed (s. 105X and s. 105Y ITA).

307. In practice, the Isle of Man has had to apply to the High Court in one instance where two Manx information holders failed to deliver the requested information when notified to do so by the competent authority. The information holders were ordered by the court to produce the requested information and such information has been exchanged with the treaty partners. The amount of time that lapsed between the application to the High Court and the issuance of the order requiring defendants to produce the information was approximately four months.

B.1.5. Secrecy provisions

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

(a) Bank secrecy

309. There are no statutory bank secrecy provisions in place that would restrict effective exchange of information. There are no statutory confidentiality provisions in Manx law relating to material held by banks or other financial institutions on behalf of their clients, nor any banking or other statutory secrecy laws. For more information, refer to paragraph 143 of the January 2011 report.

(b) Professional secrecy

310. At the time of the first round of reviews, the professional privileges in the Isle of Man's laws were deemed to be broader than the international standard. The January 2011 report questioned whether the application of professional

privilege rules could impede the effective exchange of information. Notably, the power to obtain information under the tax law was also restricted in the case of information held by auditors and tax advisers, who were exempt by section 105F of the Income Tax Act from disclosing certain types of documents or communications. The Isle of Man was therefore recommended to review its policies regarding access to information held by legal and tax advisors and auditors and to monitor requests for information where privilege was implicated.

311. Since the last review, the Isle of Man advises that it has reviewed the rules governing professional secrecy in its laws seeking advice from the Attorney General on the scope of privilege. Section 13 of the Police Powers and Procedures Act 1998 extends privilege to (i) communications between an attorney and the client (or any person representing the client) connected to the provision of legal advice, (ii) communications between an attorney and the client (or any person representing the client) made in contemplation of legal proceedings, and (iii) items enclosed with or referred to in communications connected to legal advice or made in contemplation of legal proceedings. The January 2011 report expressed concern that professional privilege potentially could be abused by attaching documents to communications that related to legal advice or legal proceedings. In his opinion, the Attorney General confirms that section 13 should be interpreted consistently with the international standard. Further, the Attorney General clarified in the advice to the Competent Authority that "any person representing [the] client" refers to those who would have standing to represent the client in its legal affairs, for instance someone with power of attorney, or a director of a company.

312. Further, following amendments to the Income Tax Act in 2015 repealing section 105F, there are no longer any rules preventing access to information held by auditors and tax advisers.

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.

313. Application of rights and safeguards in the Isle of Man do not restrict the scope of information that the tax authorities can obtain. Although a taxpayer who is the subject of a request for information normally should be notified, exceptions to notification exist and have been successfully applied in practice.

314. The first round of reviews found the notification rules and safeguards in the Isle of Man to be in line with the standard. Formal notice is normally required to be given to the person who is the subject of a request, although under certain circumstances, the competent authority may be allowed to dispense with notification.

315. There has been no fundamental change in the applicable rules or practice since the last review, although the Isle of Man has created additional ways to allow for notification to be waived. 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		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

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

316. The rights and safeguards contained in the Isle of Man's law are compatible with effective exchange of information, as was the case in the previous review. The Income Tax Act requires the ITD to notify the taxpayer who is the subject of a request at the same time formal notice is issued to the information holder if the competent authority is aware of the taxpayer's whereabouts (s. 105D(4) ITA). Under the notification requirement, the taxpayer must also be provided a copy of the notice to produce information that the ITD sent to the information holder along with a written summary of the reasons for requesting the information. The summary of reasons for the issuance of the notice contains basic facts of the request, the requesting jurisdiction, the requested documents, and the relevant statutory provision(s).

317. Under certain circumstances, the ITD may dispense with the notice requirement. In cases of suspected fraud, the ITD may make an application to the Income Tax Commissioners. If two members of the Income Tax Commissioners panel are satisfied that the Assessor has reasonable grounds for suspecting the taxpayer of fraud and give their written consent, the ITD may forego notification of the taxpayer (s. 105E(8) ITA). The competent authority does not need to present any supplementary evidence (beyond the request itself) to support its application; the EOI request itself is sufficient.

The taxpayer is not made aware of such proceedings. The competent authority has been approved to waive notification in this way seven times to date and three times over the review period. Timing is not specified, but the hearing can be arranged very quickly, generally within seven days. No applications of this nature by the competent authority have been denied, but the Isle of Man advises that, should this ever happen in the future, it would communicate with the treaty partner and seek recourse in a different way (such as described below). For additional information on this process, refer to paragraph 145 of the January 2011 report.

318. Where no reasonable grounds for suspecting fraud exists, the competent authority may apply to the High Bailiff for the information to be provided in deposition form as described above pursuant to section 104H of the Income Tax Act. This avenue may be pursued in both criminal and civil cases. The hearing is conducted *ex parte* and neither the taxpayer nor the information holder is made aware of the application proceedings. If the application is successful, the High Bailiff will issue a summons to the information holder, who is prevented from disclosing information relating to the summons and the information sought to any person (including the taxpayer) (s. 104I).

319. Where the ITD cannot obtain the information through a deposition for whatever reason, it may also apply to the High Court for an order to compel production of information, which would not trigger a notification requirement as the Assessor would not be exercising its access powers under section 105D. Where the competent authority has reason to believe a taxpayer may fail or has failed to comply with the with the tax laws of the other country and such failure would be prejudicial to the determination of a person's liability to the tax to which the relevant international arrangement relates, it may apply to the High Court for a court order to deliver the documents specified in the order to the Assessor or to provide the information required by the Assessor (s. 105I ITA). This hearing is also conducted *ex parte* were the High Court is satisfied that giving notice would prejudice the investigation of the offence. A person is entitled to at least 14 days' notice of the intention to apply for an order against him under section 105I and to appear and be heard at the hearing of the application unless the High Court is satisfied that this would prejudice the investigation of the offence (s. 105K ITA).

320. Where a High Court does not accept that giving notice to the information holder would prejudice the investigation of the offence, the competent authority would then have to apply for a court order to compel production of information in an *inter partes* hearing (s. 105I ITA). In such cases, the information holder is still prohibited from disclosing any information received in connection with the hearing with any person, including the taxpayer (s. 105K(2) ITA).

321. Generally speaking, parties to a proceeding will be entitled to obtain from the court a copy of all relevant documents filed by the parties. Unless a court orders otherwise, non-parties to the proceedings may obtain a copy of the claim form (without attachments) and of any judgment or order given or made in public. If the non-party wishes to obtain a copy of any other document filed (for example, the letter of request under a TIEA), he/she will have to apply to the court for permission. However, the Rules of the High Court permit the court to (i) restrict the persons or classes of persons who may obtain a copy of the claim form; (ii) order that such persons or classes of persons may only obtain a copy of the claim form if it is edited in accordance with the directions of the court; or (iii) make such other order as it thinks fit (Rule 2.21). The Attorney General's Chambers advise that it would be mindful of this provision and would therefore make an application to the court contemporaneously with the primary relief sought to seal the documents submitted. Further, the High Court of the Isle of Man has ruled that a request for mutual legal assistance was not required to be disclosed to the other parties in the proceedings given the confidential nature of the letters of request and the social value of responding to such requests (*Hafner 2005-6 MLR 430*).

322. There is no right of appeal against a notice issued under section 105D. The only way such a notice can be challenged is by way of petition of *doleance*. A petition of *doleance* is the Isle of Man's equivalent of judicial review and the procedure whereby an administrative action by a public body can be challenged on the grounds that it has acted unlawfully, unfairly or unreasonably. *Doleance* proceedings are heard in the Civil Division of the High Court. Such a petition can be lodged in the Isle of Man by the taxpayer under investigation in the requesting country or the person on whom the notice is served. A *doleance* proceeding may be initiated by either a taxpayer or an information holder. Over the review period, in one case, the third party information holders (the lawyers of the taxpayer) have advised that they will initiate *doleance* proceedings on a number of grounds (including that the request is motivated by a fishing expedition and that the information requested may already be available to the requesting jurisdiction) and have sought to review the request. The competent authority advises that clarifications have been sought from the requesting jurisdiction and no *doleance* proceeding has been initiated. The competent authority is recommencing fulfilling the request. For more detailed information on *doleance* proceedings, refer to paragraphs 147-148 of the January 2011 report.

323. As noted in the January 2011 report, orders by the High Court to compel production of information under sections 105I-K of Income Tax Act are not subject to review by way of *doleance* proceedings. As court orders, decisions of the High Court may be challenged by way of an appeal to the Staff of Government Division (the Appeal Division of the High Court in the Isle of Man). Such procedures are the same as those to be pursued in any case

brought before a court. For more information about appeal proceedings in the Isle of Man, refer to paragraphs 149-150 of the January 2011 report.

324. An information holder may bring a challenge against a notice for a request for information before the Income Tax Commissioners on the basis that the request is too onerous. The three possible outcomes from such a challenge are that the request for information may be affirmed by the Tax Commissioners, the competent authority may be asked to modify the request, or the request may be set aside. However, no such application has ever been made to the Tax Commissioners.

Part C: Exchanging information

325. Sections C.1 to C.5 evaluates the effectiveness of the Isle of Man's 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 the Isle of Man could provide the information requested in an effective manner.

326. The Isle of Man has a broad network of EOI agreements in line with the standard comprised of 48 bilateral agreements (11 DTCs, 37 TIEAs) and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention). Since the first round review, the number of the Isle of Man's EOI partners has increased by 79 jurisdictions to reach a total of 96 partners. The Isle of Man has an EOI instrument in line with the standard with all 96 jurisdictions. Of its 48 bilateral agreements, 44 are in force. The Isle of Man's 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.

327. Rules governing confidentiality of exchanged information in the Isle of Man's 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.

328. The Isle of Man's 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.

329. With respect to the exchange of information in practice, the Isle of Man's response times to EOI requests over the period under review has been generally good. Over the review period, the Isle of Man answered 79.4% of requests in 90 days and 80.8% of requests in 180 days. Further, the Isle of Man's 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.

330. 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 the Isle of Man's EOI agreements provide for exchange of information in line with the international standard. Since the last review, the Isle of Man's has expanded its EOI network from 17 partners to 96 partners. Along with the Multilateral Convention, all of the Isle of Man's 44 bilateral agreements in force are in line with the standard.

331. The Multilateral Convention was extended to the Isle of Man by the United Kingdom on 20 November 2013. The Multilateral Convention has been in force in the Isle of Man since 1 March 2014.

332. At the time of the first review, all of the Isle of Man's exchange of information agreements were to the standard and all but three of the Isle of Man's agreements were in force. With respect to the three not in force, the Isle of Man had completed all steps domestically for ratification.

333. The table of determinations and ratings therefore 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		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

C.1.1. Foreseeably relevant standard

334. 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

January 2011 report found that the Isle of Man's DTCs follow the OECD Model Tax Convention and are applied consistently with the Commentary on foreseeable relevance. The Isle of Man's model TIEA follows the OECD 2002 Model Agreement on Exchange of Information on Tax Matters and is the starting point for negotiations to enter into an exchange of information agreement.

335. The Isle of Man continues to interpret and apply its agreements consistent with these principles. The January 2011 report found that all of the Isle of Man's agreements provided for exchange of information that was foreseeably relevant to the administration and enforcement of the requesting jurisdiction's tax laws. All of the Isle of Man's new EOI arrangements also include the term "foreseeably relevant" in their EOI articles. The Isle of Man confirmed that it would interpret the term according to the standard of foreseeable relevance that is consistent with the scope of Article 26(1) of the OECD Model Tax Convention. Further, the High Court has stated in a judgment that the standard of foreseeable relevance is extremely broad and should be interpreted in a manner to allow for the exchange of information "to the widest possible extent" (*Assessor of Income Tax v. Holmcroft & otr*).

336. During the peer review period, the Isle of Man did not refuse to answer any EOI requests on the basis of lack of foreseeable relevance and requested clarification in 20 cases where the request was overly broad or vague.

337. None of the Isle of Man's EOI agreements contains language prohibiting group requests and the process for responding to group requests are the same as for any other request for information. The Isle of Man does not require any specific information to be provided by the requesting jurisdiction in the case of a group request. The competent authority interprets foreseeable relevance with respect to group requests in a similar manner as with regular requests. Over the review period, the Isle of Man received 12 group requests (two of which were group requests in the traditional sense and ten of which were bulk requests). In one case, the Isle of Man considered that the group was too broad and reverted to the treaty partner to request that the group be redefined to be more foreseeably relevant to the Isle of Man. After such communication, the treaty partner modified the request and information was subsequently exchanged.

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

338. Manx law contains no restrictions on persons in respect of whom information may be exchanged. The January 2011 report found that none of the Isle of Man's EOI agreements restricted the jurisdictional scope of the exchange of information provisions to certain persons, for example those considered resident in one of the contracting parties.

339. New agreements entered into by the Isle of Man since the last review similarly do not contain any such restrictions. No issues have been raised by peers in the current review period.

C.1.3. Obligation to exchange all types of information

340. All of the Isle of Man's EOI agreements follow Article 26 of the OECD Model Tax Convention or the OECD Model TIEA and thus require the exchange of all types of information, including bank information, information held by a fiduciary or nominee, or information concerning ownership interests. No issues were identified in the January 2011 report and no issues have been identified by peers over the present review period.

C.1.4. Absence of domestic tax interest

341. EOI partners must be able to use their information gathering measures even though invoked solely to obtain and provide information to the requesting jurisdiction. The January 2011 report did not identify any issues with the Isle of Man's network of agreements regarding a domestic tax interest. All of the Isle of Man's EOI agreements still follow Article 26 of the OECD Model Tax Convention or the OECD Model TIEA in requiring the exchange of information regardless of whether the Isle of Man has any use for the information for its own tax purposes. No issues have arisen in practice over the review period.

C.1.5. Absence of dual criminality principles

342. All of the Isle of Man's EOI agreements follow Article 26 of the OECD Model Tax Convention or the OECD Model TIEA and require the exchange of information regardless of whether the conduct under investigation, if committed in the Isle of Man, would constitute a crime. No issues in respect of dual criminality were identified in the January 2011 report and no such issues arose over the current review period.

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

343. All of the Isle of Man's exchange agreements provide for EOI in both civil and criminal matters. In practice, the Isle of Man answered all requests received during the period under review, whether they related to civil or criminal tax matters, as was also the case in the earlier review. Peers have not raised any issues in practice.

C.1.7. Provide information in specific form requested

344. All of the Isle of Man's EOI agreements follow Article 26 of the OECD Model Tax Convention or the OECD Model TIEA and so require, to the extent allowed under Manx law, information to be provided in the form requested. Previously, during the first round of reviews, the Assessor was not empowered to collect evidence in the form of witness statements or depositions, but following amendments to the Income Tax Act in 2013 and 2015, the Assessor may now gather the information in such form if requested by the treaty partner (see above section B.1 for the procedure).

C.1.8. Signed agreements should be in force

345. The Isle of Man's EOI network consists of 48 bilateral agreements (37 TIEAs, 11 DTCs) and the Multilateral Convention. Out of the 48 bilateral agreements, 44 are in force. In respect of the four agreements not yet in force (Belgium, Turkey, Spain and Swaziland), the Isle of Man reports that it has completed all steps necessary on its end to bring the treaty into force. One of the agreements (Turkey) has now been ratified by both parties and will enter into force on 7 October 2017. Two of the four agreements not yet in force (Belgium and Spain) are covered by the Multilateral Convention.

Bilateral EOI mechanisms

A	Total Number of DTCs/TIEAS	A = B+C	48
B	Number of DTCs/TIEAs signed (but pending ratification), i.e. not in force	B = D+E	4
C	Number of DTCs/TIEAs signed and in force	C = F+G	44
D	Number of DTCs/TIEAs signed (but pending ratification) and to the Standard	D	4
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	44
G	Number of DTCs/TIEAs in force and not to the Standard	G	0

C.1.9. Be given effect through domestic law

346. 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. The Isle of Man has in place the legal and regulatory framework to give effect to its EOI mechanisms. No issues were raised in the earlier review in this regard, and similarly no issues arose in practice during the current review period.

347. Since the last review, the Isle of Man has streamlined its ratification procedures so that now all DTCs and TIEAs only require one schedule. Previously, prior to the consolidation of the competent authority's access powers (as described above in section B.1), the Isle of Man had to first

sign the relevant agreement and then modify it to allow for the competent authority to access information pursuant to its provisions. With the 2015 amendments of the Income Tax Act, tax treaties may now be ratified with one schedule. The Isle of Man explains that international agreements are ratified as quickly as possible, usually within the following two sittings of Tynwald immediately following the signing of the agreement. It should be noted that, as a Crown Dependency, prior to signing an agreement, the Isle of Man must seek the approval of the United Kingdom. The Isle of Man advises that the timeframe for this process is very short, and has been reduced even further by recent changes to the procedure, so that now, on average, it can take place over a week or two. In practice, the United Kingdom has never denied approval of an agreement. As soon as possible after the treaty has been ratified, the Isle of Man will formally notify the new treaty partner as required by the entry into force article of the relevant agreement.

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

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

348. The Isle of Man has a broad network of EOI agreements, covering all partners of economic significance and all EU countries. Its network now covers 96 jurisdictions through 11 DTCs, 37 TIEAs, and the Multilateral Convention. The last round of reviews did not identify any major issues with the scope of the Isle of Man's EOI network or its negotiation policy or processes. Element C.2 was deemed to be "in place" and Compliant in the previous phase of reviews.

349. Since the last review, the Isle of Man's treaty network has been broadened from 17 jurisdictions to 96 due to both the expansion of the Isle of Man's network of bilateral treaties as well as through the increase in the number of the Multilateral Convention signatories. The Isle of Man advises that although it is no longer actively seeking new treaty partners, it continues to enter into treaty negotiations when requested. Further, the Isle of Man has no reluctance entering into a bilateral agreement with a jurisdiction even if both parties are covered by the Multilateral Convention. The Isle of Man is currently engaged in three active new treaty negotiations.

350. The Isle of Man has never refused to enter into an agreement for exchange of information with any potential partner and continues to actively engage in negotiations with prospective treaty partners as has been confirmed by peers. The Isle of Man is recommended to continue its efforts developing its exchange of information network with all relevant partners.

351. 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		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

C.3. Confidentiality

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

352. 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.

353. The first round of reviews found that confidentiality provisions in the Isle of Man's EOI agreements were in line with the standard, but the Competent Authority would routinely inform the Financial Crime Unit where a taxpayer was the subject of a request related to a criminal investigation or case. Therefore, the Isle of Man was recommended to not make disclosures to the FCU without the express written consent of the treaty partner.

354. Following the last review, the Competent Authority immediately revised its practice to no longer provides the Financial Crime Unit with information obtained from or gathered pursuant to an information request. The recommendation issued in the January 2011 report may therefore be considered fully implemented and removed.

355. The table of determinations and ratings is therefore now:

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

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

356. All of the Isle of Man's information exchange agreements follow Article 26(2) of the OECD Model Tax Convention or Article 8 of the Model TIEA providing that the information exchanged must be treated as confidential and disclosed only to persons authorised by the treaties. Manx authorities attest that such provisions override domestic law in case of conflict.

357. The Isle of Man's domestic legislation also contains safeguards to protect the confidentiality of sensitive information. As described in the January 2011 report, under section 106(1) of the Income Tax Act, any person having any official duty under or in respect of the Income Tax Act has a duty of confidentiality in relation to all documents and information obtained by that person or in the discharge of that duty. The Isle of Man tax officials must not disclose or use information received under an international arrangement other than for tax purposes, for legal proceedings for a contravention of the Island's tax laws, or as permitted under the relevant international arrangement (s. 104F ITA). Manx tax officials may only disclose or use information in accordance with the international arrangement under which the information was provided. Information provided to the Assessor pursuant to an international arrangement may not be used in criminal proceedings against the person who furnished it except for an offence of perjury or any similar offence (s. 104G ITA). Unauthorised disclosure or of information obtained in the course of discharging any duties under the Income Tax Act is punishable, upon summary conviction, by a penalty not exceeding IMP 5 000 (EUR 5 829) and a term of imprisonment not exceeding six months (ss. 106(3) and 112L ITA). For more

details on protections in the Isle of Man's domestic laws, refer to the January 2011 report, paragraphs 179-184. Applicable rules and policies relating to confidentiality are also codified in the Isle of Man's EOI manual.

358. Despite protections in the Isle of Man's treaties and domestic law, the January 2011 report found that the Isle of Man's EOI practice allowed for the disclosure of information received or gathered pursuant to an EOI request to persons not authorised by the relevant agreement. At the time of the first round of reviews, the competent authority's standard practice was to share such information with the Isle of Man's Financial Crime Unit (now, the Financial Intelligence Unit (FIU)). Although the tax authority and the Financial Crime Unit worked closely together and even seconded personnel to the other agency, peers were not always made aware that such information was being shared with another law enforcement body. Although the Isle of Man believed that such sharing of information was in accordance with the terms of its exchange agreements, the January 2011 report recommended that disclosure to another agency should not be made without the express written consent of the treaty partner affected.

359. Since the last review, the competent authority has revised its practice so that it no longer shares information with the Isle of Man's FIU. The competent authority reports that if it should come across information that it believes would be of interest to the FIU, it would first seek the permission of the treaty partner before sharing the information. Officials from the FIU present at the on-site visit confirms that while the tax authority may still spontaneously share information gathered through its domestic duties, it no longer does so with information received or gathered under an EOI agreement.

360. The Isle of Man also has safeguards in place in its staffing and recruitment practice to protect the secrecy of confidential information. All Manx tax officials are required to sign an Official Secrets Act form and the terms and conditions of service contained in the Isle of Man Civil Service Regulations before commencement of employment. All IT staff and contractors engaged in management of core systems or sensitive information stores are vetted to UK Government Security Clearance level. Although contractors are not presently employed to work on EOI matters, they are subject to the same confidentiality provisions as staff. All the Isle of Man tax officials undergo training on confidentiality, data protection and security. The tax administration also has strict security policies relating to email and internet usage. The ITD issues electronic door access cards to staff and contractors. The security department maintains records of ITD employees and contractors who are authorised to access ITD outside normal working hours. When any employee leaves the ITD, security cards and ITD identification cards must be relinquished and all access to computer systems and buildings is immediately revoked. Departing staff are issued with letters reminding them of the confidentiality provisions of the Official Secrets Acts.

361. Access to data received from partners through EOI is limited to only the officers who undertake EOI work. All hard copy information received from taxpayers is retained within the ITD's premises with restricted access. Documents are disposed of securely in accordance with statutory requirements and the ITD's data deletion policy. EOI data is secured within a locked cabinet in a secure room or in a locked safe within the access-restricted confines of ITD. Only the five named competent authority officials assisted by the two international co-operation officers can access the cabinet or, in the case of the safe, the digital access code. Any further access is subject to the permission of one of those officers. EOI information may also be retained electronically and secured using the Government Technology Services system, which is ISO 27001 compliant for security policies.

C.3.2. Confidentiality of other information

362. 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. Manx authorities confirmed that in practice they consider all types of information relating to a request (including communications between the Isle of Man and a requesting jurisdiction) confidential.

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.

363. 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.

364. The last round of reviews concluded that the Isle of Man's legal framework and practices concerning the rights and safeguards of taxpayers and third parties to be 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.

365. 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		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework		
Determination: In Place		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

ToR C.4.1. Exceptions to requirement to provide information

366. In line with the Model Tax Convention and the Model TIEA, the Isle of Man's agreements provide that it is 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. All of the Isle of Man's agreements follow either Article 26 of the OECD Model Tax Convention or the OECD Model TIEA.

367. 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 due to professional privilege. The Isle of Man 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.

368. 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

369. The January 2011 report concluded that the Isle of Man had an effective system for exchanging information in a timely manner. The competent authority answered the large majority of requests within 90 days and was well organised and extremely co-operative with treaty partners. As a result, element C.5 was determined to be "in place" and Compliant.

370. The Isle of Man continues to have a highly effective and efficient system for responding to EOI requests. The majority of incoming requests were answered in 90 days, and for those taking longer than 90 days, status updates were always provided. Peer input has been overwhelmingly positive. The Isle of Man has been noted as being particularly helpful in assisting partners to amend and clarify their requests. The Isle of Man did not make any requests over the review period.

371. 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.	
Determination: In Place		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

C.5.1. Timeliness of responses to requests for information

372. 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.

373. The Isle of Man's response times to EOI requests over the period under review has been generally good. Over the period under review (1 October 2013-30 September 2016), the Isle of Man received a total of 291 requests for information, almost 80% of which were answered in 90 days. The Isle of Man ordinarily records a request received as a single request irrespective of the number of taxpayers or third parties involved. However, subject to agreement with the requesting party, the Isle of Man may record the requests differently to ensure consistency between the records held in the Isle of Man and records held by the treaty party.

374. For the review period, the number of requests the Isle of Man received and the percentages of requests answered in 90 days, 180 days, one year and over one year (as of September 2017) are tabulated below.

Statistics on response time

	Oct-Dec 2013		2014		2015		Jan-Sept 2016		Total	
	Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	21	7.2	128	44	76	26.1	66	22.7	291	100
Full response: ≤90 days	20	95.2	108	84.4	63	82.9	53	80.3	244	83.8
≤180 days (cumulative)	20	95.2	111	86.7	64	84.2	59	89.4	254	87.3
≤1 year (cumulative)	20	95.2	111	86.7	64	84.2	59	89.4	254	87.3
>1 year	0	0	0	0	0	0	0	0	1	0.3
Status update provided within 90 days (for responses sent after 90 days)	0	0	4	100	4	100	6	100	8	2.7
Declined for valid reasons	0	0	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	0	0	0	0	0	0		0	0	0
Requests withdrawn by requesting jurisdiction	1	4.8	14	10.9	8	10.5	1	1.5	24	8.2
Requests still pending at date of review	0	0	1	0.8	3	3.9	5	7.6	8	2.7
Cases where classifications sought and subsequently closed by the Isle of Man due to lack of response from requesting jurisdiction.	0	0	2	1.6	1	1.3	1	1.5	4	1.4

Notes: The Isle of Man 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.

375. Over the three year period under review, the Isle of Man answered 83.8% (231 requests) within 90 days. An additional 3.5% (representing cumulatively 87.3% of requests) were answered within 180 days. The remaining 2.7% of requests are still pending. A further 8.2% of cases were withdrawn

by the requesting jurisdiction during the review period and 1.4% of cases were closed by the Isle of Man where no further information was forthcoming from the treaty partner to allow additional action to be taken. Twenty-six of the 30 pending cases were received towards the end of the review period (in 2016). As of 22 September 2017, the Isle of Man reports that 22 out of the 30 have been answered. Of the remaining eight requests, three are currently suspended due to discussions over confidentiality concerns, one has been closed due to lack of response from the treaty partner, two relate to clarifications either sought or pending, one is currently subject to information gathering measures, and the final is currently in appeal proceedings in the requesting jurisdiction.

376. The Isle of Man advises that it will seek clarification or additional information only when needed. In cases where clarification is needed, the process by which the competent authority will seek it depends on the relationship with the treaty partner. In general, the Isle of Man will communicate with treaty partners by email or over the phone. Over the review period, clarification was sought in 20 cases. Reasons for clarification included: the competent authority was not known to the Isle of Man competent authority, request was silent on whether the tax matter was civil or criminal, request was silent on whether taxpayer could be notified, or the request did not provide sufficient detail to demonstrate foreseeable relevance.

C.5.2. Organisational processes and resources

377. The last round of reviews found the Isle of Man's organisational processes and the level of resources available for the exchange of information to be satisfactory. The resources dedicated to exchange of information in the Isle of Man continue to be sufficient.

(a) Resources and training

378. The office of the Assessor of Income Tax is currently staffed with one Assessor, three Deputy Assessors and three International Co-operation Officers. All staff dealing with matters relating to international exchange of information are experienced tax officials. The Assessor is both a lawyer and a Chartered Tax Advisor, the Deputy Assessors are Chartered Tax Advisors, and the International Co-operation Officer is a member of the Association of Taxation Technicians. The Isle of Man anticipates that staff will be increased in the near future to accommodate the needs of automatic exchange of information through FATCA and the Common Reporting Standard (CRS).

379. All EOI staff have received training on the processes and procedures relating to exchanging information and on confidentiality. Staff also receive annual refresher training on data protection and confidentiality. Additionally,

EOI staff undergo one-to-one coaching on document handling procedures. Three members of the team (two Deputy Assessors and one International Co-operation Officer) have also completed the Global Forum's assessor training under the new TOR.

(b) Incoming requests

380. The Manx competent authority places significant emphasis on co-operation and communication with its treaty partners to enable it to answer requests in the most thorough, effective and efficient way possible. The first step taken by the competent authority following the signing of a bilateral international agreement is to contact the new treaty partner to introduce the treaty partner to the details of the Isle of Man's exchange of information process, as well as various public sources that may be accessed directly by the treaty partner's authorities. The Isle of Man also provides to its treaty partners a request template developed on the basis of the OECD model template (although treaty partners are not required to use it).

381. The procedure followed by the Manx competent authority in handling incoming requests is codified in the Isle of Man's EOI Manual, based on the Global Forum Manual, which describes the procedures to be followed in fulfilling a request, as well as the relevant legal bases establishing the competent authority's access powers and rules regarding confidentiality. All incoming requests are first logged in the competent authority's central log (discussed below). After receiving a request, an acknowledgement is sent within five days. Before beginning to answer the request, the EOI officer will first check the validity of the request by ensuring that it is made pursuant to an international agreement that is in force. The EOI officer will also then ensure that the request has sufficiently demonstrated foreseeable relevance. Details on the validity assessment to be undertaken are contained in the EOI manual. Once a request is determined to be valid, if the information is already within the possession of the tax authority, the competent authority will provide such information to the extent requested by the treaty partner. If the information is in the hands of a third party, the competent authority will provide an interim response. For the process to gather information in the hands of a third party, refer above to section B.1. Once received, the requested information is examined by the competent authority to ensure that it contains the information required in response to the question asked. If any missing information required is not produced upon threat of court action, the competent authority can apply for a court order to compel the production of the missing information. This has happened in one case. Refer to section B.1 for more details on the compulsory powers of the competent authority.

382. If clarifications on a request are needed, the Isle of Man will contact its treaty partner. However, in general, the Isle of Man tries to work with

treaty partners on draft requests before the requests are formally made. The Isle of Man makes significant effort to ensure that requests are properly formulated and meet the terms of the relevant exchange of information agreement. Where, in the competent authority's view, a request appears to be deficient, and therefore could be vulnerable to a potentially successful legal challenge, advice is sought from a dedicated legal officer in the Attorney General's Chambers. As noted above, communications, including exchange of letters or emails, relating to draft requests are not considered to be clarifications (as the formal requests have not yet been sent). Similarly, the timing of responding to the request (for statistical purposes) does not begin until the formal request is officially received. The Isle of Man has agreed upon this approach with many of its treaty partners.

383. Over the review period, peer input confirms the Isle of Man's practices interpreting foreseeable relevance and relating to clarifying requests. No peers indicated any issues with respect to either issue and in fact, peers were overwhelmingly positive about their experiences with the Isle of Man's competent authority. Multiple peers noted that the Isle of Man's co-operation and assistance in preparing requests led to better formulated requests and more efficient exchanges.

384. The EOI manual also sets out the procedure to be followed in the case of a group request. The process is largely the same as that for individual requests; however, the notification will differ in that it will describe a class of taxpayers and request information identifying the individual taxpayers (see section B.1). The Isle of Man explains that should such information result in a treaty partner requiring information on the individual taxpayer, it will need to make a separate request. Over the review period, the Isle of Man received 12 group requests (10 of which were bulk requests and 2 of which were traditional group requests) and responded to all of them.

385. The Isle of Man maintains an excel spreadsheet to track and log requests received by the competent authority. The spreadsheet will track the progress of the request by recording information, such as the date it was received, the date the request was reviewed, whether any clarification was required, whether advice from a legal officer was sought (and the date) and the date the request was fulfilled. The spreadsheet also records certain details about the request, allowing for statistics to be maintained. Such details include the requesting jurisdiction, whether the request relates to a civil or criminal matter, the name(s) of the taxpayer(s) (or a description of the class of taxpayers subject to the requests, in the case of group requests), and the name and contact information of the information holder. The spreadsheet shows the progress of a request in real time and is updated each time a change occurs. In practice, the spreadsheet is updated at least once every working day by the EOI officer working on the request and generates automatic reminders

for upcoming deadlines. In the event the officer working on a given request must be away, another officer may easily monitor the status of the request in his/her absence.

386. The Isle of Man also has measures in place to protect the confidentiality of information included in a request or transmitted in response to a request. As noted above, the Isle of Man's EOI manual contains a section on confidentiality, which reminds staff of their duties and obligations under respective laws. Further, all requests received via email are done so through a secure channel and all information sent by the competent authority is encrypted.

387. The Isle of Man regularly provides status updates on all cases to its treaty partners. The competent authority advises that it normally will provide a first one within 60 days and a second within 90 days where a full response cannot be sent. The competent authority explains that whatever information collected that has not already been sent to the treaty partner at that point will be sent along with the status update, as was also confirmed by peer input.

(c) Outgoing requests

388. 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. The Isle of Man did not make any requests over the review period.

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

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

Annex 1: Jurisdiction's response to the review report[7]

The Isle of Man agrees with the contents of this report and will endeavour to address the recommendations as soon as it can.

The Isle of Man would like to record its gratitude to Colin Goodwin the Isle of Man's competent authority for exchange of information on request from before 2009 until his retirement in February 2017. He was instrumental establishing the Isle of Man's approach to exchange of information on request and the outcome of this report, and the Island's previous report, is a credit to his work and expertise.

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

Annex 2: List of jurisdiction's EOI mechanisms

1. Bilateral international agreements for the exchange of information

No.	EOI partner	Type of agreement	Date signed	Date entered into force
1	Argentina	TIEA	14.12.12	04.05.13
2	Australia	TIEA	29.01.09	05.01.10
3	Bahrain	DTC	03.02.11	08.03.12
4	Belgium	DTC	16.07.09	Not in force
5	Botswana	TIEA	14.06.13	05.03.16
6	BVI	TIEA	30.03.16	09.10.16
7	Canada	TIEA	17.01.11	19.12.11
8	Cayman Islands	TIEA Protocol	22.09.15 14.03.16	13.08.16 26.08.16
9	China	TIEA	26.10.10	14.08.11
10	Czech Republic	TIEA	18.07.11	18.05.12
11	Denmark	TIEA	30.10.07	26.09.08
12	Estonia	DTC	08.05.09	21.12.09
13	Faroe Islands	TIEA	30.10.07	03.08.08
14	Finland	TIEA	30.10.07	14.06.08
15	France	TIEA	26.03.09	04.10.10
16	Germany	TIEA	02.03.09	05.11.10
17	Greenland	TIEA	30.10.07	11.04.08
18	Guernsey	DTC	24.01.13	05.07.13
19	Iceland	TIEA	30.10.07	28.12.08
20	India	TIEA	04.02.11	17.03.11
21	Indonesia	TIEA	22.06.11	22.09.14

No.	EOI partner	Type of agreement	Date signed	Date entered into force
22	Ireland	TIEA	24.04.08	31.12.08
23	Italy	TIEA	16.09.13	10.06.15
24	Japan	TIEA	21.06.11	01.09.11
25	Jersey	DTC	24.01.13	10.07.13
26	Lesotho	TIEA	16.09.13	03.01.15
27	Luxembourg	DTC	08.04.13	05.08.14
28	Malta	DTC	23.10.09	26.02.10
29	Mexico	TIEA	11.04.11	04.03.12
30	Netherlands	TIEA	12.10.05	24.07.06
31	New Zealand	TIEA	27.07.09	27.07.10
32	Norway	TIEA	30.10.07	23.08.08
33	Poland	TIEA	07.03.11	27.11.11
34	Portugal	TIEA	09.07.10	18.01.12
35	Qatar	DTC	06.05.12	15.11.12
36	Romania	TIEA	04.11.15	08.09.16
37	Seychelles	DTC	28.03.13	16.12.13
38	Singapore	DTC	21.09.12	02.05.13
39	Slovenia	TIEA	27.06.11	31.08.12
40	Spain	TIEA	03.12.15	Not in force
41	Swaziland	TIEA	16.05.14	Not in force
42	Sweden	TIEA	30.10.07	27.12.08
43	Switzerland	TIEA	28.08.13	14.10.14
44	Turkey	TIEA	21.09.12	Not in force
45	Turks and Caicos Islands	TIEA	02.08.16	29.12.16
46	UK (amendment)	DTC	08.03.16	29.11.16
47	USA (amendment)	TIEA	13.12.13	26.08.15

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and

amended in 2010 (the amended Multilateral Convention).[8] 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.

the Isle of Man has been a party to the Multilateral Convention) through extension by the United Kingdom since 20 November 2013. The Multilateral Convention has been in force in the Isle of Man since 1 March 2014.

Currently,[9] 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 United Kingdom), Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curacao (extension by the Netherlands), Cyprus,[10] 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, the Isle of Man (extension by the United Kingdom),

8. 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.
9. As of 7 September 2017.
10. 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".

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

Israel, Italy, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, the Netherlands, New Zealand, Nigeria, Niue, Pakistan, Panama, Poland, Portugal, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, 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: Bahrain, Burkina Faso, Dominican Republic, El Salvador, Gabon, Jamaica, Kenya, Kuwait, Morocco, Philippines, Turkey, United Arab Emirates, and the United States (the 1988 Convention in force on 1 April 1995, the amending Protocol signed on 27 April 2010).

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

Tax laws

Income Tax Act 1970

Income Tax Act 2015

Income Tax Amendment Act 2014

Income Tax Temporary Order

Income Tax (Accounting Records) (Retention) Regulation 2016

Taxes (International Arrangements) Order 2013

Company laws

Companies Act 1931-2014

Companies 2006

Limited Liability Companies Act 1996

Companies Beneficial Ownership Act 2012

Beneficial Ownership Act 2017

Partnership Act 1909

Partnership Amendment Act 2012

Financial sector regulation and AML laws

Proceeds of Crime Act 2008

Anti-Money Laundering and Countering the Financing of Terrorism Code 2015

Financial Services Act 2008

Financial Services Rule Book 2013

Annex 4: Authorities interviewed during on-site visit

Treasury Minister (Department of Treasury)

Attorney General

Income Tax Division

- Assessor and Deputy Assessors
- International Cooperation Officer

Companies Registry

Financial Services Authority

Financial Intelligence Unit

Private sector practitioners

- Bankers Association
- Lawyers and Accountants
- Corporate and trust service providers

Annex 5: List of in-text recommendations

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

Element C.2: the Isle of Man is recommended to continue developing its exchange of information 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 ISLE OF MAN 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.

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

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