

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information
on Request

ITALY

2017 (Second Round)



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

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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

This work is published on the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of the OECD or of the governments of its member countries or those of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Please cite this publication as:

OECD (2017), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Italy 2017 (Second Round): Peer Review Report on the Exchange of Information on Request*, OECD Publishing, Paris.
<http://dx.doi.org/10.1787/9789264283800-en>

ISBN 978-92-64-28378-7 (print)
ISBN 978-92-64-28380-0 (PDF)

Series: Global Forum on Transparency and Exchange of Information for Tax Purposes
ISSN 2219-4681 (print)
ISSN 2219-469X (online)

Photo credits: Cover © Pykha, inspired by an image @ Syda Productions/Shutterstock.com

Corrigenda to OECD publications may be found on line at:
www.oecd.org/about/publishing/corrigenda.htm.

© OECD 2017

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgement of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.

Table of contents

About the Global Forum	5
Abbreviations and acronyms	7
Executive summary	9
Preface	15
Overview of Italy	19
Part A: Availability of information	25
A.1. Legal and beneficial ownership and identity information	25
A.2. Accounting records	52
A.3. Banking information	58
Part B: Access to information	63
B.1. Competent authority’s ability to obtain and provide information	63
B.2. Notification requirements, rights and safeguards	72
Part C: Exchanging information	75
C.1. Exchange of information mechanisms	75
C.2. Exchange of information mechanisms with all relevant partners	85
C.3. Confidentiality	86
C.4. Rights and safeguards of taxpayers and third parties	90
C.5. Requesting and providing information in an effective manner	91
Annex 1: Jurisdiction’s response to the review report	101
Annex 2: List of jurisdiction’s EOI mechanisms	103

Annex 3: List of laws, regulations and other material received	110
Annex 4: Authorities interviewed during on-site visit	114
Annex 5: List of in-text recommendations	115

About the Global Forum

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

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

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

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

Abbreviations and acronyms

AE	Revenue Agency (Agenzia delle Entrate)
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CONSOB	The Italian Securities and Exchange Commission
CDD	Customer Due Diligence
DNFBP	Designated Non-Financial Business or Profession as defined in the Glossary to the FATF Recommendations
DTC	Double Tax Convention
EOIR	Exchange of information on request
GdF	Financial and Economic police (Guardia di Finanza)
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IVASS	Institute for Insurance Supervision
Multilateral Convention (MAAC)	The Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended
PRG	Peer Review Group of the Global Forum
TIEA	Tax Information Exchange Agreement
UIF	Financial Intelligence Unit (Unità di informazione finanziaria)
VAT	Value Added Tax
2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.

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

Executive summary

1. In 2011, the Global Forum evaluated Italy for its implementation of the standard, against the 2010 Terms of Reference, for both the legal implementation of the standard as well as its operation in practice and concluded that Italy was rated Largely Compliant overall. This second round report analyses the implementation of the standard by Italy in respect of EOIR requests received during the period of October 2013 to September 2016 against the 2016 Terms of Reference. This second round report concludes that Italy is now rated Compliant overall.

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

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

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

Progress made since previous review

3. The 2011 report recommended improvement in respect of two areas. As a result elements C.1 and C.5 were rated Largely Compliant. All other

elements were considered Compliant. Since the first round review one gap has been largely addressed and one has been partially addressed.

4. The first issue where improvement was recommended was in respect of the time needed by Italy to ratify its signed treaties or protocols. Since the first round review Italy has made certain improvement in this area notably the proportion of Italy's EOI relations not in force has been lowered, the length of ratification of new agreements or protocols signed after 2015 has been shortened and Italy has in force the Multilateral Convention, as amended. However, the ratification period still remains relatively long and can frequently take more than two years. Consequently, the first round recommendation is kept nevertheless the improvement achieved is recognised as the rating of the element is upgraded to Compliant.

5. The second identified gap related to effective exchange of information. Since the first round review Italy has taken several measures to address the recommendation. Mainly both authorities appointed as the Competent Authority for exchange of information in tax matters implemented better ways to monitor deadlines for handling incoming requests and have recently started to provide status updates where information cannot be provided within 90 days. The implemented measures facilitate timeliness of Italy's responses and seem to be addressing most of the concerns raised in the first round review. Nevertheless they were implemented only in the later part of the period under review and their efficiency remains to be seen. Further, the overall length of response times over the reviewed period does not ensure effective exchange of information in some instances as was also pointed out by a few peers. It is therefore recommended that Italy monitors recently introduced measures and endeavour to further streamline its processes so that it is able to respond to EOI requests in a timely manner in all cases. Considering that the issue has an impact on effective exchange of information the rating of the element stays Largely Compliant.

Key recommendation(s)

6. The key issue where improvement is recommended relates to the effective exchange of information. As already described above, Italy has taken several measures to facilitate timeliness of its responses and to ensure systematic provision of status updates. Nevertheless they were implemented only in the later part of the period under review and the overall length of response times during the period under review remained relatively long. It is therefore recommended that Italy monitors recently introduced measures and improve timeliness of its responses.

Overall rating

7. Italy was rated Largely Compliant in the first round review with elements C.1 and C.5 rated Largely Compliant. As described above, the issue identified under element C.1 has been largely addressed and the element is upgraded to Compliant rating. The issue under element C.5 remains to be fully addressed and therefore the element continues to be rated Largely Compliant. All other elements are rated Compliant.

8. Italy has in place robust regulation requiring availability of all relevant information including on beneficial owners of all relevant entities and arrangements as required under the 2016 ToR. Italy also carries out robust supervisory and enforcement measures to ensure that the relevant information is available in practice as required. A vast amount of ownership, accounting and banking information is already at the disposal of the tax administration and all relevant information is accessible to the Competent Authorities when requested as required under the standard. Certain improvement is recommended in terms of exchanging the requested information in a timely manner. Nevertheless overall Italy has in place all the necessary elements to ensure that the requested information is available, accessible and can be exchanged in line with the standard as was also demonstrated over the period under review. Accordingly, the overall rating is Compliant.

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

Summary of determinations, ratings and recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
Legal and regulatory framework determination: The element is in place.		
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 (<i>ToR B.2</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
Legal and regulatory framework determination: The element is in place.	Italy has an EOI instrument in force with the vast majority of its partners and has brought into force the Multilateral Convention but the ratification of EOI arrangements can frequently take more than two years.	Italy should continue its efforts to ensure the ratification of all EOI arrangements signed with counterparts expeditiously.
EOIR rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
Legal and regulatory framework determination: The element is in place.		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework determination:	The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the implementation of EOIR in practice.	
EOIR rating: Largely Compliant	Italy has recently taken several measures to improve timeliness of its responses. Although response times have shortened since the first round review from 15% to 30% of incoming requests responded within 90 days, further improvement is needed to ensure exchange of information in a timely manner in all cases.	Italy should monitor recently introduced measures and endeavour to further streamline its processes so that it is able to respond to all EOI requests in a timely manner.

Preface

10. This report provides the outcomes of the second peer review of Italy's implementation of the EOIR standard conducted by the Global Forum. Italy previously underwent the EOIR peer review in 2011 conducted according to the ToR approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews. The combined review covered Italy's EOIR practice in the period from 2007 to 2009 and its outcomes were adopted by the Global Forum in May 2011.

11. The current evaluation was based on the 2016 ToR, and was prepared using the 2016 Methodology. The evaluation was based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 11 August 2017, Italy's EOIR practice in respect of EOI requests made and received during the three year period from 1 October 2013 until 30 September 2016, Italy's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Italy during the on-site visit that took place from 4 to 7 April 2017 in Rome, Italy.

12. The evaluation was conducted by an assessment team consisting of two expert assessors and one representative of the Global Forum Secretariat: Mrs. Jolanda Roelofs, Central Liaison Office of the Tax Administration, the Netherlands; Mr. Gaurav Sharma, Ministry of Finance, India; and Mr. Radovan Zidek from the Global Forum Secretariat.

13. The report was tabled for approval at the PRG meeting on 2-5 October 2017 and was adopted by the Global Forum on 3 November 2017.

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

15. Information on each of Italy's reviews are listed in the table below.

Review	Assessment Team	Period under review	Legal Framework as of (date)	Date of adoption by Global Forum
2011 report	Mrs Elizabeth Pinheiro Dias Leite, the Secretariat of Federal Revenue of Brazil; Mr David Smith, HMRC, United Kingdom; and Mr Rémi Verneau from the Global Forum Secretariat	1 January 2007 to 31 December 2009	March 2011	June 2011
2017 report	Mrs. Jolanda Roelofs, Central Liaison Office of the Tax Administration, the Netherlands; Mr. Gaurav Sharma, Ministry of Finance, India; and Mr. Radovan Zidek from the Global Forum Secretariat	1 October 2013 to 30 September 2016	11 August 2017	3 November 2017

Brief on 2016 ToR and methodology

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

17. 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.

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

Brief on consideration of FATF evaluations and ratings

19. 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.

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

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

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

Overview of Italy

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

Legal system

24. Italy is a republic with a parliamentary democratic system of governance based on a written Constitution. Italy is a unitary state divided into 20 administrative regions. The state powers are divided into executive, legislative and judiciary branch. The President of the Republic appoints the President of the Council of Ministers and, on his proposal, the Ministers. The legislative branch consists of an elected bicameral Parliament. The judiciary is subdivided geographically on an administrative basis. Prosecutors are responsible for directing the police to conduct investigations.

25. The Italian legal system is of the civil law tradition. The hierarchy of sources of law are as follows: the Constitution and constitutional laws, State laws, regional laws and regulations. Supranational laws, e.g. the European Union rules, as well as ratified international treaties including DTCs and TIEAs, override the ordinary State laws. The ratification process of EOI instruments requires their approval in both Houses of the Parliament holding identical powers as provided by the Constitution.

Tax system

26. Italy imposes a variety of taxes comprising of direct and indirect taxes. The legislative power of taxation rests with the State. The regions establish and regulate regional and local taxes within the regulatory framework set out by the State.

27. Income taxes comprise two main State taxes – personal income tax (IRPEF) and corporate income tax (IRES). Personal income tax is assessed

on the total net income of individuals. Italian residents are taxed on their worldwide income while non-residents are taxed on their Italian income only. The IRPEF's five rates go from 23% to 43%; regional and local surcharge taxes may also apply.

28. Corporate income tax is generally assessed on net income comprising net profits as shown in the profit and loss account. All legal entities established under the Italian law and foreign trusts resident in Italy are regarded as being residents in Italy for the purpose of the income tax. In addition, foreign entities become tax residents in Italy if they have there their place of effective management. The nominal corporate income tax rate for year 2017 is 24%.

29. Further, a new tax on entrepreneurs' income was introduced in December 2016. The tax on entrepreneurs' income (IRI) is an optional tax applicable to individual entrepreneurs and to general partnerships, as well as to limited partnership and certain limited liability companies. The entrepreneurial income tax partially replaces corporate income tax. The rate of this new tax is a flat rate of 24%. IRI applies exclusively to profits reinvested in the business.

30. In addition, any individual or entity carrying on a productive activity is subject to the Italian regional tax on productive activities (IRAP). Regions may vary the general tax rate up to one percentage point and may also introduce specific deductions and allowances. IRAP is levied in all Italian regions and is paid in the region where the productive activity is located. The IRAP rate is generally set at 3.90%.

31. As a member of the European Union, Italy is a member of the European common VAT system. Italy applies five VAT rates. The standard rate is 22%; the reduced rates are 10%, 5% and 4% and a zero rate.

32. The administration of taxes in Italy is characterised by the presence of multiple entities. The assessment of direct and indirect taxes is under the responsibility of the Revenue Agency (Agenzia delle Entrate (AE)). The organisation of AE is decentralised with the headquarters located in Rome, regional directorates and provincial directorates. Regional directorates are mainly in charge of the audits of large-sized businesses and provincial directorates of the audits of small and medium-sized businesses. Local offices, under the supervision of provincial directorates, act as front offices for taxpayers. The second relevant government authority in the field of taxation is the Financial and Economic police (Guardia di Finanza (GdF)). GdF is a Police force reporting to the Minister of Economy and Finance. Its tasks are focused on tax audits and tax fraud investigations, however, as a fiscal police, the GdF is also involved in other areas, for example the fight against money laundering or border controls. While the assessment of taxes is the exclusive competence of the AE, powers of investigation and control are shared

between AE and GdF. As the AE and GdF have the same responsibilities as regards audits of taxpayers and collection of information, they constitute two authorised competent authorities in the field of EOI, both having the same level of responsibilities (see further sections B.1 and C.5).

Financial services sector

33. Italy's financial sector is large, well internationally interconnected with a wide range of service providers. The total of assets in the financial sector represents about EUR 4.1 trillion. Over 85% of the financial sector assets are held by banks which also provide substantial services to non-residents. At end-2016, there were 604 banks. The top five banking groups held 47% of total banking assets. All banks are required to be licensed by the Bank of Italy and are subject to its AML supervision.

34. The financial sector further comprises about 130 insurance undertakings, 940 firms authorised to provide investment and other financial services, 40 payment institutions and about 300 trust companies. Insurance undertakings are supervised by the Institute for Insurance Supervision (IVASS). Investment firms and other professional participants on the financial markets are supervised by the Bank of Italy and the National Securities and Exchange Commission (CONSOB). Payment institutions are supervised by the Bank of Italy and GdF which is also responsible for supervision of trust companies.

35. Italy has approximately 4 600 notaries who play a key role in private and commercial life given the requirement that they authenticate and hold documents relating to both movable and immovable property, particularly in respect of real estate transactions and corporate affairs. As of December 2016 there were about 234 000 lawyers of which approximately 80% act solely as litigators, and therefore are not subject to the AML legislation. There are about 114 000 registered accountants in Italy. Their activities include budgetary planning, preparation of financial statements, corporate and operations liquidations, evaluations, expert reports and opinions, consultancy, administration and custody. In addition, there are about 100 000 auditors covered by the AML Law. AML supervision of these professionals is carried out by GdF in co-operation with their respective professional associations. In addition, CONSOB is responsible for the AML supervision of audit firms or auditors involved in public interest entities. Audit firms or auditors not involved in public interest entities are subject to supervision by the Ministry of Economy and Finance.

36. The Fourth Round of Mutual Evaluation of Italy's compliance with the AML/CFT standard was conducted by the International Monetary Fund and adopted by the FATF in 2015. The report provides a summary of the AML/CFT measures in place in Italy as at the date of the onsite visit in

January 2015. The outcomes of the review are relatively positive showing overall comparatively high level of compliance with the FATF's technical as well as implementation requirements. Immediate Outcome 5 concerning the implementation of rules ensuring availability of beneficial ownership information in respect of legal persons and arrangements was rated Substantial. Further, Italy's compliance with FATF's recommendations 10, 22, 24 and 25 is rated Largely-compliant. The FATF report concluded that Italy has a mature and sophisticated AML/CFT regime, with a correspondingly well-developed legal and institutional framework. Financial institutions generally have a good understanding of money laundering threats that they face, and the larger banks appear to be strongest in their mitigation efforts. It further noted that information on beneficial ownership of legal persons is generally accessible in a timely fashion, but cross-checking is necessary to ensure its reliability. The complete assessment report has been published and is available at www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Italy-2016.pdf.

Recent developments

37. Decree Law No. 201 of 6/12/2011, as modified subsequently by Law 190/2014 modified procedures regarding banking tax reporting obligations. Financial operators and intermediaries are obligated to communicate periodically to the Tax Register (Anagrafe Tributaria) changes regarding financial accounts and relations and any other information necessary for tax audits and controls, as well as the actual amounts involved in the reported financial operations (see further section B.1).

38. The Provision of the Director of the Revenue Agency of 25 January 2016 came into force which requires banks and other financial institutions to communicate and update identity information on the beneficial owner(s) of accounts to the Tax Register. The obligation is effective in respect of all accounts since 1 January 2016 (see further section A.1 and A.3).

39. Italy has implemented or is in the process of implementing EU rules on administrative co-operation in the field of taxation. In addition to the EU directive 2011/16/EU (DAC1) these include rules that have been introduced with respect to implementing automatic exchange of information according to the OECD standard as implemented by Directive 2014/107/EU (DAC2), automatic exchange of information on cross-border rulings and Advance Pricing Agreements on transfer pricing pursuant to Directive 2015/2376/EU (DAC3), automatic exchange of data relating to Country by Country Reporting under Directive 2016/881/EU (DAC4) and tax authorities access to beneficial ownership information held for AML purposes (DAC5).

40. On 4 July 2017, Legislative Decree No. 90/2017 entered into force which transposes into Italian domestic legislation the Fourth AML EU Directive 849/2015. The new law brings several changes including a single register of beneficial owners and an obligation on companies and other legal entities incorporated in Italy or registered therein to obtain and hold information on their beneficial owners (see further section A.1).

41. Pursuant to Decree Law No. 193 of 2016 VAT taxpayers are required to electronically file with the tax administration their invoices. The electronic invoicing obligation came into force in January 2017 with first reporting in September 2017 (see further section A.2.2).

Part A: Availability of information

42. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of bank information.

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.

43. Italy's law requires availability of legal and beneficial ownership information in line with the standard. These rules are also adequately implemented in practice to ensure that the required ownership information is available in practice.

44. The 2011 report concluded that Italy's legal and regulatory framework and its implementation in practice ensures availability of legal ownership information in line with the standard. Since then there has been no change in this respect in the relevant obligations or Italy's practices.

45. As described below, identification of legal owners of companies, partnerships and foundations has to be filed with public registers. Further, identification of legal owners of SRLs and partnerships has to be filed also with the tax administration in tax returns. Finally, public companies are required to keep register of shareholders. Identification information of settlors and beneficiaries of trusts operated by an Italian resident trustee is required to be kept by the trustee based on AML and tax obligations and it is required to be filed with the tax administration. Ownership information is required to be kept for more than five years after the end of the period to which they relate regardless that the entity or arrangement ceased to exist. In the case of failure to keep ownership records as required sanctions apply.

46. Implementation of obligations to keep or provide legal ownership information is ensured through various measures. These mainly include a crucial role of notaries upon establishing a legal entity and in subsequent changes in its ownership, tax audits performed by AE and GdF, tax filing obligations and legal safeguards and vested interests in keeping the information filed with the Business Register updated.

47. Under the 2016 ToR, beneficial ownership on relevant entities and arrangements should be available. Italy’s AML law ensures that beneficial ownership information is available in respect of all relevant entities and arrangements in line with the standard. The main requirements ensuring availability of beneficial ownership information are contained in the AML law. All relevant entities are required to engage a notary in order to obtain a legal status and any subsequent change in their ownership has to be done with an engagement of an AML obligated service provider (a notary, an accountant or a financial intermediary). In addition to the trustee’s tax obligations, acting as trustee on a professional basis will trigger CDD obligations of the trustee which include identification of any individual exercising ultimate effective control over the trust. These already existing obligations have been recently accompanied by the obligation of entities themselves to keep beneficial ownership information and to submit beneficial ownership information to the Business Register as contained in the Fourth EU AML Directive. The required information has to be kept for a period of at least 10 years after the business relationship has ended. Failure to comply with CDD requirements can result in application of administrative and criminal sanctions.

48. Supervision of AML obligations is adequate to ensure availability of beneficial ownership information in practice. The responsible supervisory authorities take adequate supervisory measures including risk based off-site and on-site inspections and rigorously apply a variety of enforcement measures in cases of failure to identify and keep beneficial ownership information.

49. Overall availability of ownership information was also confirmed in Italy’s EOI practice. During the review period Italy received 238 requests related to ownership information. All of these requests related to companies or partnerships. Some of these requests related to beneficial ownership information however no precise statistics are available. No issue with respect to the availability of ownership information with the tax administration or the information holder was reported by the Italian authorities and the requested information was provided. No specific issue regarding availability of ownership information in Italy was reported by peers, either.

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

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

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

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

51. As already described in the 2011 report, Italian law provides for four types of companies:

- limited liability company (Società a Responsabilità Limitata – SRL): the SRL is the most common form of company in Italy. A limited liability company can take the form of a simplified limited liability company. The relevant rules are nevertheless the same as for other limited liability companies. There were 1 601 176 SRLs registered with the Business Register as of 1 January 2017;
- public limited company (Società per Azioni – SPA): there were 42 571 SPAs registered with the Business Register as of 1 January 2017. Out of these 240 were listed on a stock exchange;
- partnership limited by shares (Società in Accomandita per Azioni – SAPA): a SAPA is a type of public company under the Italian legislation. SAPA has at least one general partner with unlimited liability. Other shareholders are not personally liable for the obligations of the company. Generally, the rules that apply to SPAs also apply to SAPAs. As of 1 January 2017, 143 SAPAs were registered in Italy; and
- European Companies (Società Europea – SE): pursuant to section 10 of the Council Regulation (EEC) No. 2157/2001 on Statute for a European Company, the rules that apply to European companies are the same as those which apply to public limited companies. As of 1 January 2017, three SEs were registered in Italy.

52. The 2011 report concluded that ownership information in respect of companies is required to be available in line with the standard and that these rules are properly implemented to ensure availability of ownership information in practice. There are no changes in the relevant rules or practices since the first round review.

53. Under the 2016 ToR, beneficial ownership on companies should be available. Availability of beneficial ownership information is required in line with the standard under the AML law supported by obligations under the tax law and civil law. The main source of information on beneficial owners are AML obligated service providers and in particular notaries. Notaries are required to be engaged upon incorporation of a company in Italy and for the majority of subsequent changes in ownership. Further, companies are now also required to keep information on beneficial owners and file it with the Business Register. Supervision of AML obligations is generally adequate to ensure availability of beneficial ownership in practice (see further below).

54. The following table¹ shows a summary of the legal requirements to maintain legal and beneficial ownership information in respect of companies:

Type	Company law	Tax law	AML law
limited liability company (SRL)	Legal – all	Legal – all	Legal – some
	Beneficial – none	Beneficial – some	Beneficial – all
public limited company (SPA)	Legal – all	Legal – none	Legal – some
	Beneficial – none	Beneficial – some	Beneficial – all
partnership limited by shares (SAPA)	Legal – all	Legal – none	Legal – some
	Beneficial – none	Beneficial – some	Beneficial – all
European companies (SE)	Legal – all	Legal – none	Legal – some
	Beneficial – none	Beneficial – some	Beneficial – all

Legal Ownership and Identity Information Requirements

55. The 2011 report concluded that the legal and regulatory framework for the maintenance of legal ownership and identity information is in place in Italy. Since the first round of review there has been no change in the relevant obligations.

56. Articles of incorporation of a company must be a public deed by a notary (ss. 2328, 2463 and 2454 Civil Code and s.4(10 bis) DL 3/2015 (Law 33/2015)). The articles of incorporation must contain identification of all SPAs', SRLs' and SEs' shareholders and the identity of all general partners of SAPA (ss. 2328-2463 Civil Code).

1. The table shows each type of company and whether the various rules applicable require availability of information for “all” such entities, “some” or “none”. “All” in this context means that every company of this type is required to maintain ownership information in line with the standard and that there are sanctions and appropriate retention periods. “Some” in this context means that a company will be required to maintain information if certain conditions are met.

57. A company obtains legal existence upon entry in the Business Register. Registration applications are made directly by notaries. Sections 2469 and 2470 of the Civil Code stipulate that all transfers of shares in SRLs' must take the form of a notarised deed. It is the responsibility of the notary to notify the Business Register of the transfer of shares within 30 days of receiving the deed. SPAs not listed on a regulated market, SAPAs and SEs are required to file with the Business Register a list of all shareholders annually together with their audited annual financial statements. The list of shareholders must also indicate persons other than shareholders who hold rights to or are the beneficiaries of shares (s. 2435 Civil Code). This means that where a person holds shares in a nominee capacity it will be indicated in the list of shareholders together with identification of the person on whose behalf the nominee acts. Nominee ownership is also regulated under the AML Act (see further below in section Beneficial ownership information).

58. All companies registered with the Business Register are automatically registered also with the tax administration, receive a TIN and are required to file annual tax returns. Annual tax returns of SRLs must contain the identity of all its shareholders.

59. Further, under section 2421 of the Civil Code, SPAs and SAPAs are required to keep registers of shareholders, limited partners of SAPAs included.

60. The registration and filing obligations of foreign companies conducting business in Italy (including through a head office) are the same as in respect of companies incorporated in Italy. These obligations therefore ensure that legal ownership information in respect of foreign companies with sufficient nexus with Italy is required to be available in line with the standard.

61. Ownership information filed with the Business Register is required to be kept for ten years after the company's striking off from the register (s. 2496 of the Civil Code). However as a matter of practice, the information is kept for an indefinite period of time. Information filed with the tax administration is kept for at least five years from the end of the year following the year in which the tax return was required to be filed. Ownership information required to be kept by companies must be retained for a ten-year period following the period to which they relate (s. 2220 Civil Code). In addition to the retention period under the Civil Code, the tax law prescribes retention period of five years since the end of the year following the year in which the tax return was required to be filed. For criminal tax purposes the retention period is nine years starting at the same date (s. 22 Presidential Decree No. 600/1973). These retention requirements run irrespective of dissolution or liquidation of the legal entity or cease of business. It is the responsibility of the representatives of the taxpayer or if liquidated of the liquidator to keep the information as required under the law (see also section A.2). In the case

of a breach of the relevant provisions administrative and in severe cases also criminal sanctions apply.

Implementation of obligations to keep legal ownership information in practice

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

63. The main source of legal ownership information in practice is the information filed with the Business Register and the tax administration.

(a) Practical availability of information with the Business Register

64. The Business Register is a centralised electronic database. The information is entered in the database by the local Chambers of Commerce in each of Italy's provinces. The database allows for different searches through the entered information including based on identity or ownership of a person. It also allows for the reconstruction of ownership chains of legal entities registered in Italy. The information contained in the register is public and serves as a legal disclosure instrument for any official document registered therein.

65. Availability of information with the Business Register is mainly ensured through the legal status of information contained in the register, participation of notaries in the filing process and companies' requirement to file annual statements.

66. As already mentioned above, a company becomes a legal entity only upon entry in the Business Register. Applications to the register are made directly by notaries who are also required to authenticate the formation deed. As public officials, it is the duty of notaries to check that all information contained in these deeds, including identity information, is correct and provided in line with Italian law. Further, third persons are entitled to rely on the information in the Register and consider the facts which are not entered as if they have not occurred (providing the third person acts in a good faith) including with respect to a company's address or authorised representatives. As a consequence, the lack of publicity makes it impossible for shareholders to protect their interests with respect to third parties ("opponibile ai terzi"). Registered entities therefore have vested interest to keep the information accurate and up to date. Further, any concerned person including third parties, financial institutions and government authorities may request deletion or correction of the information contained in the Register through a decision by the respective Chamber of Commerce. Chambers of Commerce issue such decisions in respect of about 1% of registered entities annually.

67. Any transfer of ownership in a SRL has to be notarised in order to be legally valid according to section 2470 of the Civil Code. The notary is then required to submit the updated ownership information to the Business Register within 30 days of receiving the deed. Notaries are public officials obligated under the AML law and subject to supervision by the GdF (see further below). As Italian law applies in respect of all domestic entities and entities with administrative headquarters or the principal business activity in Italy, it is the responsibility of an Italian notary authorised under the Italian law to certify the conformity of the deed or act with Italian law. The name of the notary who provided the information is always included in the information registered in the Business Register and publicly available. In certain cases the SRL can opt to electronically register the transfer through a certified accountant or other authorised intermediary subject to AML obligations. In this case the transfer of shares (quote) must be signed with a qualified electronic signature by the transferor and the transferee and transmitted within 30 days to the Business Register by the authorised person (s. 36 Law 133/2008 and former s. 12 Legislative Decree no. 231/2007 now contained in s. 4 of the Legislative Decree 90/2017).

68. SPAs not listed on a regulated market, SAPAs and SEs are required to file with the Business Register a list of all shareholders annually together with their annual financial statements audited by certified auditors (see further section A.2.1). Ownership information is also contained in annual financial statements filed with the Business Register by SRLs. The following table shows the number of companies obligated to file their audited annual statements with the Business Register and the number of annual statements actually filed by these companies during the last three years. The figures for fiscal year 2016 are not complete as the filing period is still ongoing.

	2014			2015			2016		
	SPA	SAPA	SE	SPA	SAPA	SE	SPA	SAPA	SE
Number of entities required to file	40 412	146	3	38 654	143	3	37 153	137	3
Number of entities which filed	29 558 (73%)	115 (79%)	2 (67%)	28 968 (75%)	119 (83%)	2 (67%)	20 311 (55%)	55 (40%)	1 (34%)

69. The head of the local office of the Business Register (Conservatore dell'ufficio del Registro Imprese) monitors compliance and invites companies to proceed and file registration/updates. If companies are inert, the local judge, in charge of supervising the local office of the Business Register, issues a decree ordering companies to file registration/update and can order the local Business Register to file registration on behalf of the company.

70. All filing obligations are supported by sanctions in the case of failure which also include personal liability of administrators and managers

of companies that fail to provide the information (e.g. s.2630 Civil Code). These sanctions include administrative fines ranging from EUR 10 to 2 065, criminal sanctions of six months to three years imprisonment or a ban from all administration functions from six months to three years. As already concluded in the 2011 report, these sanctions appear adequate. Further, if a company fails to deposit the required financial statements for three consecutive years the Chambers of Commerce can proceed to forcibly liquidate the company and strike it off from the Register given conditions of the law are met (s.2490 Civil Code). In 2015 the total number of companies struck off was 15 040 while in 2016 the number of such companies was 44 402, representing about 2% of companies annually. The Chambers of Commerce publish each year on their individual websites the list of companies (and partnerships) that have either been struck-off or for which the procedure for struck-off has begun.

(b) Practical availability of information with the tax administration

71. All companies registered with the Business Register are automatically registered also with the tax administration and are required to file annual tax returns. With a single communication, to be submitted in electronic format since May 2010, businesses are automatically registered by the Chamber of Commerce (Business Register), AE for the delivery of TIN and VAT numbers, INPS (social security) and INAIL (workers compensation authority). The tax administration has at its disposal information contained in the Business Register including all ownership information and accounting information available with the Register based on registration requirements and subsequent filing obligations (see also section B.1.1).

72. Corporate income tax returns (including shareholder information) are required to be submitted to AE electronically. Upon expiry of the deadline for filing annual tax returns a check is made to identify taxpayers who failed to submit their tax returns. In the case of companies that have not filed their annual corporate tax returns within the statutory deadline, AE undertakes control and enforcement actions, including on-site inspections and tax audits which are launched depending on the results of the risk assessment of the particular taxpayer. If the submitted return is incomplete, the application is automatically rejected. AE controls also formal tax requirements, such as corporate address or TIN number and cross checks the information with information already at the disposal of the tax administration. These controls and crosschecking cover also ownership information provided in the tax return. Administrative sanctions are imposed if tax filing is incorrect. All filed information (including ownership of SRLs) is stored in the tax database (Anagrafe Tributaria) and fully searchable by the authorised officials (see further section B.1.1).

73. The AE receives about 1.1 million annual income tax returns filed by companies. This means that about 80% of companies registered as conducting business in Italy file their income tax returns pursuant to the law. If a taxpayer does not submit the tax return or denies facts and circumstances established by the tax officials the respective tax office undertakes control and enforcement actions including application of sanctions and verification of the taxpayer's situation through on-site inspections and tax audits on a risk based approach.

74. Supervision of taxpayer's filing obligations is shared responsibility of AE and GdF (see further below). The Special Units of the GDF Corps have been recently working on various projects focusing on the black economy. A strong effort has been made to tackle international tax evasion, with particular reference to centralised risk analysis, as developed by the Special Revenue Unit. Notable is the "ESTE.R" risk analysis, released in 2013, which has been used, inter alia, to detect foreign companies with stable connections with the national territory, implying that their tax residence should be determined in Italy. For this purpose GdF carries out about 400 inspections annually specifically focused on hidden permanent establishments and enterprises with fictitious residence abroad.

75. The AE carries out a risk management monitoring activity ("tutoraggio") consisting of permanent monitoring and analysis of the behaviours and attitudes of large business taxpayers (LBTs), including their tax results. This monitoring activity aims at the identification of the relevant risks, the prioritisation and the choice of taxpayers to be subject to tax control and the adoption of appropriate approaches to prevent and detect tax avoidance and evasion. The AE also runs a co-operative compliance programme to promote and enhance co-operation between the tax administration and taxpayers.

76. In cases where deficiencies are identified sanctions are adequately applied. The tax administration applied sanctions for failure to file annual tax returns as required under the tax rules in 251 699 cases in respect of the tax year 2013, in 244 878 cases in respect of the tax year 2014 and in 244 805 cases in respect of the tax year 2015. These figures roughly correspond to the filing rate among taxpayers conducting business. Among sanctions applied by the tax administration are also sanctions for tax registration failures. The sanction for failure to register with the tax authority was applied in 82 cases for tax year 2013, in 121 cases for tax year 2014 and in 152 cases for tax year 2015. Cases of failure to register refer mainly to foreign companies conducting business in Italy through permanent establishment as all companies registered with the Business Register are automatically registered also with the tax administration

(c) Practical availability of information required to be kept by companies

77. Practical availability of information required to be kept by companies is mainly ensured by supervision undertaken by the tax administration, in particular by the GdF. In addition to the indirect supervision through companies' filing obligations with the Business Register and AE, the tax administration conducts on-site inspections verifying companies' compliance with their tax and general record keeping obligations. In the case of SPAs and SAPAs these inspections include verification of the obligation to keep ownership information in the register of shareholders as required under the law. Corporate tax audits cover annually about 10% of companies registered to conduct business in Italy. The tax administration carried out in total 127 838 of corporate income tax audits in 2013, 130 594 in 2014 and 135 770 in 2015. About 50% of corporate tax audits performed by the AE are field audits in which auditors visit the taxpayer's office. Other corporate tax audits are typically desk based and may also include requesting the taxpayer (or his representative) to produce documents and information necessary for the purpose of the control such as ownership or accounting information. Similar figures apply also in respect of audits performed by the GdF.

78. The shareholder register of SPAs and SAPAs which issued dematerialised shares (i.e. shares without physical certificates) is kept by the Central Depository. Ownership of dematerialised shares is constituted by record in the securities account kept by the Central Depository. The Central Depository has to maintain an archive of all records for an unlimited period of time. The Central Depository is an AML obligated person under the supervision of CONSOB.

Beneficial ownership information

79. Under the 2016 ToR, beneficial ownership on companies should be available. The main sources of beneficial ownership information in line with the standard are requirements under Italy's AML law. Certain information relevant for the identification of beneficial owners has to be available also based on tax rules.

AML obligations of service providers

80. Italy's AML law sets out obligations which apply to inter alia the following entities and professionals:

- banks;
- credit and other financial institutions;
- investment companies;

- lawyers, legal advisers and notaries when they participate in any financial or real estate transaction, or by assisting in the planning or execution of transactions for their client concerning the:
 - buying and selling of real property or business entities;
 - managing of client money, securities or other assets;
 - opening or management of bank, savings or securities accounts;
 - organisation of contributions necessary for the creation, operation or management of companies;
 - creation, operation or management of trusts, companies or similar structures;
- auditors, chartered accountants, tax advisers and tax agents; and
- trust or company service providers when providing certain services to third parties including acting as a trustee or a nominee, creating a legal person, acting as director of a legal person, or providing a registered office or a business office to legal persons (s. 10-14 Legislative Decree 231/2007).

81. AML obligated entities and professionals are required to perform customer due diligence (CDD) and therefore identify their customers and clients when among others (i) establishing a business relationship, (ii) carrying out occasional transactions amounting to EUR 15 000 or more, (iii) there is reason to suspect that a transaction may have served or would serve money laundering or terrorist financing, or (iv) there are doubts about the veracity or adequacy of data identifying the contracting party or beneficial owner (s. 17 Legislative Decree 90/2017; previously contained in Legislative Decree 231/07 and Bank of Italy regulation issued on 3.4.2013). CDD measures require that entities and professionals covered by the AML/CFT obligations must identify and verify the identity of their customers. This includes that in respect of legal persons the AML obligated services provider has to identify the customer's beneficial owner(s) and take reasonable measures to verify the accuracy of the obtained information (s. 17-20 Legislative Decree 90/2017 previously contained in Legislative Decree 231/07 and Bank of Italy regulation issued on 3.4.2013).

82. The concept of beneficial owner is defined as any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted (s. 20 Legislative Decree 90/2017 previously contained in Legislative Decree 231/07). In the case of corporate entities the beneficial owners should be identified as: (i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights

or through control via other means; a percentage of 25% plus one share shall be deemed sufficient to meet the ownership threshold criterion; (ii) if no person under point (i) is identified, or if there is any doubt that the person(s) identified under (i) are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s) (s.20 Legislative Decree 90/2017 previously contained in Legislative Decree 231/07).

83. An obligated person is allowed to rely on CDD measures applied by certain third parties. However the obligated person is required to immediately obtain and keep the CDD records identifying the beneficial owner and remains ultimately responsible for ensuring that CDD measures are applied in accordance with the Italian AML law and applicable regulations. The third party is further obligated to provide copies of identification and verification data relating to the customer and beneficial owner on request of the relying party without delay. It is the obligation of the relying person to ensure that the third party will comply with such a request (ss.26 and 27 Legislative Decree 90/2017 previously contained in Legislative Decree 231/07 and Bank of Italy regulation issued on 3.4.2013).

84. AML obliged persons are required to keep the identification of the beneficial owner updated. CDD documentation including records of the actions taken in order to identify the beneficial owner and other supporting documents have to be retained by the obliged person for a period of at least 10 years after the business relation has ended (s.31 Legislative Decree 90/2017 previously contained in Legislative Decree 231/07 and Bank of Italy regulation issued on 3.4.2013).

85. Failure to comply with CDD requirements can result in application of administrative and criminal sanctions. Administrative sanctions vary between EUR 2 000 and EUR 50 000 (s.5 Legislative Decree 90/2017). As a criminal offence failure to comply with CDD requirements can result in a fine from EUR 10 000 to EUR 30 000 and more serious violations may be sanctioned with imprisonment from six months to three years (s.5 Legislative Decree 90/2017).

86. The AML law requires identification of beneficial owners in line with the standard. The definition of “beneficial owner” contained in the AML Act is in line with the standard. Further, the scope of persons or entities covered by these AML obligations is broad including banks, notaries, accountants and trust and company service providers. As already pointed out above, all companies are required to engage a notary in order to gain their legal existence as articles of incorporation of a company must be authenticated by a notary. Further, transfers of shares and subsequent reporting of SRLs and other types of companies require engagement of a notary, an accountant or a financial intermediary which will trigger AML obligations of these professionals requiring them to conduct CDD and identify beneficial

owner(s) of the company which issued the transferred shares. All SPAs, SAPAs and SEs must have their accounts audited by a statutory audit board comprising three certified auditors covered by CDD obligations as well (see further section A.2.1).

The Fourth EU AML Directive

87. In addition to already existing AML obligations of service providers, Italy recently incorporated into its domestic law obligations stemming from the EU Directive 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (the Fourth EU AML Directive). The transposition of the Directive has been done through Legislative Decree No. 90/2017 which came into force on 4 July 2017. The Directive (and its transposition into Italy's domestic law) brings two more obligations requiring availability of beneficial ownership information in Italy:

- companies' obligation to keep identification of their beneficial owners – domestic companies, other legal entities established in Italy and foreign entities required to be registered in the Business register (i.e. foreign entities with its head office, principal activity or branch in Italy) are required to keep adequate, accurate and updated information on their beneficial owners as defined under the AML law and provide it to obliged entities on the occasion of fulfilment of their customer due diligence obligations (s. 22.2 Legislative Decree 90/2017). The identification information of beneficial owners should be acquired by managers/directors of the entity based on accounting and financial statements, shareholders register(s), communications relating to the ownership or control of the entity, communications with shareholders or any other data made available to them. If doubts persist, managers/directors should make a specific request to shareholders to provide further information allowing identification of the beneficial owners. Inertia or unjustified refusal to provide managers/directors with the information deemed necessary for identification of the beneficial owner or indication of clearly fraudulent information invalidates the shareholder's right to vote and may lead to the annulling of past decisions taken with their vote as per s. 2377 of the Civil Code (s. 22.3 Legislative Decree 90/2017). In the event an entity ceases to exist, the acquired beneficial ownership information must be deposited at the Business Register and maintained for a period of 10 years (s. 2496 of the Civil Code). These obligations apply in respect of all entities existing as of July 2017 and any new entities registered in the Business Register since then (s. 22 Legislative Decree 90/2017).

- obligation to provide identification of beneficial owners to the Business Register – domestic companies and other legal entities established in Italy or required to be registered in the Business Register in Italy are required to communicate the information on their beneficial owners electronically to the Business Register (Registro delle Imprese). Failure to report information on beneficial owner(s) is punishable under s.2630 of the Civil Code. As of the cut-off date of the report the obligation is not yet operational. Secondary legislation should be issued within one year after the entering into force of Legislative Decree 90/2017 with regard to the details of communications to the Register (s.21 Legislative Decree 90/2017).

Tax obligations

88. Certain information which may be relevant for identification of beneficial owners of companies is required to be available to the tax administration in order to administer Italy's tax laws. The relevant tax obligations mainly include:

- reporting of real estates and financial assets – tax residents in Italy are required to annually report to the tax administration their beneficial ownership of assets held abroad. This obligation applies to resident taxpayers who are individuals, non-commercial entities, trusts, simple partnerships and similar arrangements. The reported assets include investments and financial assets, real estates, securities, bonds, derivatives, financial insurance policies, yachts, valuable objects and art works. Beneficial ownership of the assets to be declared is required to be determined in line with the AML law (s.4 Law Decree No. 167/1990 as amended by Law No. 97/2013 and s.8 Legislative Decree 90/2017).
- Controlled Foreign Company (CFC) rules – an Italian resident taxpayer is required to report to the tax administration direct or indirect ownership of entities incorporated in certain low tax jurisdictions, unless such person has obtained a ruling from the tax administration that authorises him/her not to apply the CFC rule. Under the CFC rules profits realised by a foreign entity are deemed to be profits of an Italian resident person if: (1) the resident person controls, directly or indirectly (even through trustee companies or interposed third persons) a foreign enterprise, company or any other entity, and (2) the foreign subsidiary is a tax resident in a low tax jurisdiction fulfilling criteria stipulated in the Income Tax Act (s.167(4) Income Tax Act).
- application of refunds on withholding tax (WHT) on dividends under Italy's DTCs – taxation of dividends in Italian companies paid to

their beneficial owners resident in jurisdictions with which Italy has concluded a DTC is subject to the provisions of the DTC which may allow refunds of WHT applied under Italy's tax law;

- information contained in tax databases – the tax administration has at its disposal a vast amount of information obtained through the observance of tax filing obligations, during tax audits or from government and third party' sources. This information mainly includes beneficial ownership of accounts opened with financial institutions in Italy after January 2016 and other compulsory reporting of financial institutions contained in the Register of Accounts (see further section B.1.1). Further information includes legal ownership information of SRLs, identification of representatives of the taxpayer which will typically include identification of the CEO or CFO or other persons holding position in senior management of the taxpayer, accounting and certain transaction records pursuant to VAT obligations. The tax administration can also retrieve information from public sources and websites.

89. The tax administration has at its disposal a vast amount of information including some of the information collected under AML law. The information available based on tax laws is of relevance for identification of beneficial owners. However, the scope of its relevance will depend on circumstances of the particular case as the tax authority is not required under the tax law to collect information for the purposes of identification of beneficial owners as defined under the 2016 ToR. The relevant tax obligations primarily relate to tax residents in Italy and are mostly based on legal ownership. Therefore these tax rules do not sufficiently cover situations where foreign persons are involved in the ownership chain of domestic entities or where control is exercised through other means than legal ownership.

90. Foreign companies with place of effective management in Italy are considered tax residents and the same tax rules as in respect of domestic companies apply. Further, the same CDD obligations of AML obligated persons apply in respect of foreign and domestic companies.

91. In conclusion, identification information of beneficial owners of companies incorporated in Italy and foreign companies which engaged AML obligated professional in Italy is required to be available in line with the standard. AML obligated persons and entities are required to identify beneficial owners in accordance with the standard and all domestic companies have to have a relation with AML obligated persons in order to be incorporated, to transfer their shares or to have their accounts audited. In addition, Italy recently introduced an obligation on all legal entities registered with the Business Register to identify their beneficial owners and a requirement to submit identification of beneficial owners to the Business Register.

Information relevant for identification of beneficial owners is also required to be available based on tax law obligations and in the Register of Accounts kept by the tax administration.

Implementation of obligations to keep beneficial ownership information in practice

92. Practical availability of identification of beneficial owners as required under the standard is ensured through implementation of AML obligations. Tax rules requiring availability of information which may be of relevance for identification of beneficial owners is supervised in the same manner as other tax obligations as described above.

93. Implementation of AML obligations is supervised and enforced by several authorities depending on the sector of the obligated person. Banks and the majority of other financial institutions (including investment firms and asset management companies) are supervised by the Bank of Italy. GdF is responsible for the supervision of trust companies and DNFBPs including lawyers, notaries, accountants and auditors. CONSOB is responsible for AML supervision of the capital market licensees together with the Bank of Italy, as well as of audit firms and auditors involved in public interest entities. IVASS is responsible for the supervision of the insurance sector. Finally, the UIF (FIU in Italy) is responsible for monitoring all the AML obliged entities' compliance with the obligation to report suspicious transactions. It is also the responsibility of professional bodies to foster their members' compliance with AML requirements. Associations of lawyers, notaries, accountants and auditors issued for this purpose guidelines and conduct trainings. These guidelines are currently under review to be brought fully in line with the new AML requirements. Regional associations of notaries perform also active AML oversight including verification of CDD obligations with sanctions applying in cases of non compliance, as stated in the binding guidelines on CDD issued by the National Council of Notaries on 4 April 2014. Notaries are further subject to the supervision of the Ministry of Justice and of the Prosecutor to ensure their compliance with obligations under the Law on Notaries (L. 89/1913 as subsequently modified). Although this supervision is not focused on their AML obligations, all notaries are subject to an inspection verifying among others their reporting and record keeping obligations at least every two years (s. 129 Law on Notaries).

(a) Supervisory measures

94. The Bank of Italy employs a mix of off-site and on-site tools using a risk based approach. Carrying out these supervisory tasks is the responsibility of the Consumer Protection and Anti-Money Laundering Unit within

the Bank Supervision Department (BSD). The unit is staffed with 43 auditors. Off-site analysis is systematic, carried out at set intervals, and based on analysis of a comprehensive set of data and information of different origin (e.g. data reported by intermediaries under their supervisory reporting duties, annual report of AML compliance function, reports by control bodies on specific irregularities, reports by the FIU or Judiciary). Based on the off-site analysis results, inspections are planned and carried out choosing the most appropriate on-site visit format among different tools (i.e. general inspections, AML/CTF targeted inspections, short visits, AML/CTF on-site visits to branches). The Bank inspects all five major banks every three years and has established a four to five year supervisory cycle for “minor” banks which account for approximately 450 institutions. The Bank also undertakes three to four targeted AML/CFT inspections annually at major banks or banking groups. During on-site visits, the auditors compulsorily check the documents kept to identify beneficial owners as well as measures taken by the supervised entity to verify the identity of the beneficial owner including the method used to identify the beneficial owner. The Bank of Italy also periodically conducts thematic reviews to address issues related to the effective management of ML/TF risk including the effectiveness of identifying beneficial owners of legal persons.

95. For the supervision of DNFBPs the GdF has developed a risk-based approach focused on levels of exposure to predicate offenses among the persons it supervises. Annually, the GdF Headquarters assigns to its territorial units a number of inspections and checks to be conducted on entities subject to AML obligations under its supervision. These inspections and checks include a thorough examination of the information kept on beneficial owners and the ways in which the obligated entities have proceeded to detect and identify the beneficial owner. During its supervision the GdF employs administrative police measures consisting of a number of controls aiming at verifying compliance with the legal obligations under the AML/CFT law. To verify the compliance with CDD obligations the GdF uses a number of sources including STRs, criminal and tax records, and known association with criminal circles. Based on its risk assessment, the GdF supervision has recently focused on persons engaged in international tax planning and company formation with special attention to persons that may be involved in company formation in countries considered to be high risk for ML/TF. Accordingly, GdF has intensified its supervision of lawyers, credit agents, payment intermediaries and trusts companies as they are considered to have a relatively high exposure to ML/TF risks.

96. Both IVASS and CONSOB employ risk based off-site and on-site inspections in respect of entities under their supervision. During an onsite inspection IVASS reviews the institution’s ML/TF risk profile against the information it has on file and undertakes an assessment of the risk

mitigations in place. Similar approach is taken by CONSOB. Checks of CDD documentation kept by supervised persons are a compulsory part of all on-site inspections.

97. The UIF primarily analyses suspicious transactions that may involve money laundering or financing of terrorism, on the basis of reports from AML/CFT obliged entities. The UIF also carries out about 20 on-site inspections annually mainly in the financial sector. An on-site inspection is carried out on risk based basis and when there are no other channels available to acquire the necessary information about business operations and transactions. The UIF conducts general inspections to look more closely at sectors and operations at risk as well as targeted checks to obtain specific information relevant for financial analysis of certain transactions or required for co-operation with the judicial authorities, law enforcement authorities or supervisors of the particular sector.

98. Supervision of information kept by financial institutions and other AML obligated persons is facilitated by the Single Electronic Archive (Archivio unico elettronico). Each AML obligated person is required to keep AML records including all ID of their clients and their beneficial owners in a standardised and electronically searchable format. The supervisory authority can use this archive during inspections to verify availability of the information and to sample certain files for further inspection.

99. The table below gives an overview of the total of AML on-site inspections carried out by AML supervisory authorities in respect of the specified sectors during the last three years for which the statistics are available:

Sector	Number of reporting entities in 2014	Number of on-site inspections			
		2013	2014	2015	Total
Banks	663	212	215	263	690
Financial intermediaries	700	22	18	21	61
Payment institutions	41	4	3	3	10
Investment firms	147	11	10	0	21
Insurance institutions	64	6	9	4	19
Notaries	4 600	38	45	45	128
Lawyers	46 800	30	34	31	95
Trust and company service providers	310	15	66	19	100
Accountants	114 000	75	94	108	277
Audit firms	30	0	3	3	6

100. The frequency of AML inspections seems adequate to ensure compliance with the AML obligations as required under the standard. Nevertheless it is difficult to draw a conclusion on whether the quantity of AML inspections

is adequate based only on the number of inspections. It is also difficult to conclude on the exact number of audited professionals as some audits covered law, audit or accounting firms. Nevertheless it can be seen that the proportion of notaries, lawyers, accountants or auditors subject to AML inspections is relatively low in comparison to the proportion of financial institutions subject to inspections despite that these professionals (and notaries in particular) have an important role in establishing legal entities and providing legal and corporate services (e.g. as formation agents, tax advisors or auditors of annual accounts) and therefore have a potential of being an important source of beneficial ownership information. Italy should therefore further strengthen measures to ensure that notaries, lawyers, accountants and auditors keep beneficial ownership information in all cases in line with the standard. It is nevertheless noted that this concern will be mitigated by the implementation of the new AML obligations on the entities themselves to keep beneficial ownership information and to provide it to the Business Register.

101. Already existing obligations to identify beneficial owners of AML obligated persons have been recently supported by the implementation of the Fourth AML Directive into the Italian domestic law. According to the Italian authorities the supervision of these obligations will be carried out together with the supervision of already existing obligations of companies' record keeping and filing obligations towards the Business Register. As described above, companies' compliance with their record keeping obligations is mainly ensured by the GdF and the AE. Compliance with the filing obligations towards the Business Register is mainly ensured by participation of notaries in the filing process, companies' requirements to file annual statements and through the legal status of information contained in the register. However, as the new obligations came into force only in July 2017, their implementation remains to be tested. Italy is therefore recommended to monitor their practical impact on availability of beneficial ownership information in Italy and the availability of accurate and timely beneficial ownership information with the Business Register in particular. It is nevertheless noted that there are already in place mechanisms requiring availability of beneficial ownership information in line with the standard.

(b) Inspection findings and compliance

102. The inspection work undertaken by the various regulators shows improvement over the years in the application of AML preventive measures including identification of beneficial owners. The AML supervision of the Bank of Italy is adequate and ensures a good level of record-keeping across the financial sector including that availability of the beneficial ownership information as required under the standard is available with the financial institutions. Evidence provided by the Bank of Italy suggests that the large

domestic banks have taken measures over the last four years to further strengthen elements of their CDD and record-keeping (see further section A.3). The understanding of ML/TF risks within the DNFBP sectors varies but is generally less well developed than in the financial sector.

103. Notaries play a key role in ensuring availability of beneficial ownership information on companies as they are required to authenticate key corporate documents. Based on the information provided by the GdF and Council of Notaries, notaries overall implement their CDD and record keeping obligations properly and the beneficial ownership information is generally available with these professionals in line with the standard. This conclusion was also confirmed by the law enforcement authorities which use information kept by notaries as one of the key sources of readily available beneficial ownership information (together with the information kept by financial institutions and information in the Business Register). Notaries are also active in providing suspicious transaction reports (STRs) with a high percentage of STRs submitted by professionals coming from notaries. The UIF also reports that there has been a significant increase of STRs submitted by notaries and all legal professionals over the last few years. Nevertheless, certain concerns remain in respect of the identification of beneficial owners in cases where beneficial ownership is established through other means than legal ownership and in cases where foreign persons are involved in the ownership chain. While identifying beneficial owners notaries seem to rely on the information contained in the Business Register and, in cases where the information contained in the Business Register does not allow to identify an individual at the end of the ownership chain, the beneficial owner is established based on declaration by the client. Although it is acknowledged that proper identification of beneficial owners in cases where complex structures of ownership and control are used requires significant efforts and notaries may not be in all cases well placed to verify the information provided by their clients, this raises a concern over reliability of the identification of beneficial owners performed by notaries. Similar concerns arise in respect of identification of beneficial owners by lawyers, accountants and auditors although in some cases they may be better placed to understand the ownership and control structure of their clients. Italy should therefore further strengthen measures to ensure that notaries, lawyers, accountants and auditors keep beneficial ownership information in all cases in line with the standard. This concern will be nevertheless mitigated by the implementation of the new AML obligations on the entities themselves to keep beneficial ownership information and to provide it to the Business Register.

(c) Enforcement

104. Where deficiencies are identified supervisory authorities take adequate measures to ensure that the deficiencies are remedied. These measures include

warning letters, removal of the senior management or of the representative board, monetary sanctions and criminal sanctions. Sanctions can be applied also in respect of individuals responsible for the failure (see further section A.3). Over the period 2013-15 the supervisory authorities issued about 300 warning letters, in about 60 cases applied fines in respect of individual persons and in about 300 cases applied criminal sanctions. The Bank of Italy applied fines in the amount of EUR 314 000 in 2014, EUR 260 000 in 2015 and EUR 118 000 in 2016. The Ministry of Economy and Finance applied administrative financial sanctions pursuant to findings of GdF or UIF inspections. The amount of applied administrative fines was EUR 18.5 million in 2013, EUR 8.4 million in 2014 and EUR 55.6 million in 2015. The great majority of violations subject to these fines concerned financial institutions' failure to file STRs. Finally, over the last three years CONSOB applied fines in respect of supervised auditors in the amount of EUR 240 000. Although care should be taken to ensure that applied sanctions are proportionate and dissuasive enough enforcement measures applied by the supervisory authorities seem adequate as evidenced in the reported rising level of AML awareness and compliance.

105. To sum up, appropriate measures are taken to ensure practical availability of the beneficial ownership information in line with the standard. Although certain room for improvement remains in terms of ensuring that notaries, lawyers, accountants and auditors keep beneficial ownership information in all cases in line with the standard, the responsible supervisory authorities take adequate supervisory measures including off-site and on-site inspections and apply a variety of enforcement measures in cases of failures to keep beneficial ownership information.

ToR A.1.2. Bearer shares

106. The 2011 report concluded that pursuant to section 74 of Presidential Decree No. 600/1973, all shares of companies based in Italy must be registered and therefore the issuance of bearer shares is forbidden. There has been no change in this respect since the first round review.

ToR A.1.3. Partnerships

107. Italian law provides for three types of partnerships:

- general partnerships (Società in Nome Collettivo – SNC) – general partnership is a partnership where all partners are jointly and severally liable for the partnership's debts. There were 479 282 general partnerships registered with the Business Register as of 1 January 2017;
- limited partnerships (Società in Accomandita Semplice – SAS) – limited partnership is composed of two categories of partners. General

partners that are jointly and severally liable for the partnership's obligations and limited partners where the liability is limited to funds invested in the partnership. There were 473 670 limited partnerships registered with the Business Register as of 1 January 2017; and

- simple partnerships (Società Semplice – SS) – a simple partnership is not a legal entity as such and can be defined as a jointly held property. Partners are jointly and severally liable for the debts of the partnership, unless a different arrangement is stated in the articles of association. A simple partnership cannot be used to pursue a commercial activity. There were 81 813 simple partnerships registered with the Business Register as of 1 January 2017.

Legal Ownership and Identity Information Requirements

108. The 2011 report concluded that the rules regarding the availability of legal ownership information in respect of partnerships are in compliance with the standard. There has been no change in the legal framework since the first round review.

109. Information identifying all partners in a partnership is required to be available with the Business Register and in addition filed with AE. As in the case of companies a partnership deed (with the exception of a formation deed of simple partnership which does not hold any property) has to be authenticated by a notary and submitted to the Business Register (s. 2296 Civil Code). Any change in the notarised partnership deed (including change on partners) has to be authenticated by a notary as well and submitted to the Business Register by the notary within 30 days of the change (s. 2300 Civil Code). Further, partnerships are required to file an annual tax return which has to include identification of all partners in the partnership. The same tax rules as for domestic partnerships apply on foreign partnerships carrying on business in Italy. These rules require that each partner in the foreign partnership has to be reported to the tax administration in the partnership's tax return annually. Finally, each transfer of a partnership share requires the approval of all partners (s. 2252 Civil Code) requiring as a matter of practice that the partners' identities are always available with the partnership. Partnerships' breaches of Civil Code obligations are subject to sanctions. Sanctions are applicable also in respect of partners, directors or notaries failing to comply with their obligations (ss. 2194 and 2630 Civil Code).

110. Ownership information filed with the Business Register is required to be kept for ten years after the partnership's striking off from the register (s. 2496 of the Civil Code). Information filed with the tax administration is kept for at least five years since the end of the year following the year in which the tax return was required to be filed. Ownership information

required to be kept by a partnership must be available for a ten-year period after the end of the period to which it relates (s. 2220 Civil Code). In addition the tax law prescribes retention period of five years since the end of the year following the year in which the tax return was required to be filed. For criminal tax purposes the retention period is nine years starting at the same date (s. 22 Presidential Decree No. 600/1973). These retention requirements run irrespective whether the partnership ceased to exist. Following the partnership's liquidation and subsequent striking-off from the Business Register the partnership's records not pertaining to the individual partners are lodged with the person nominated by the majority of partners and must be maintained for ten years after the partnership has been struck off (s. 2312 Civil Code). In the case of breach of the relevant provisions administrative and in severe cases also criminal sanctions apply.

Implementation of obligations to keep legal ownership information in practice

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

112. Implementation of the relevant obligations in practice is ensured in the same way as in the case of companies. The key role in respect of ensuring quality of the information contained in the Business Register lies with notaries who are public officials and subject to AML supervision. A notary is required to be engaged upon establishment of a partnership and any changes in its ownership and subsequently submits the updated information to the Business Register. Further, the information entered in the register can be relied upon by third parties and therefore the persons have vested interest to keep the information accurate and up to date. In the case of failure to provide the updated information to the Business Register sanctions apply. Ultimately a partnership can be forcibly liquidated and struck off from the Register. The reasons for forcible liquidation of a partnership include decease or unavailability of the owner, lack of evidence of managerial activities for three consecutive years or loss of authorisation or ability to operate. The number of forcibly liquidated and subsequently struck off partnerships totalled 10 195 partnerships in 2014, 8 483 in 2015 and 5 974 in 2016, representing about 1% of partnerships being struck-off annually.

113. Another source of supervision and enforcement of practical availability of legal ownership information are tax filing obligations and tax inspections. The AE receives about 900 000 annual income tax returns of partnerships. This means that about 85% of partnerships registered in the

Business Register file their income tax returns pursuant to the law. If a taxpayer does not submit the tax return or denies facts and circumstances established by the tax officials the respective tax office undertakes control and enforcement actions including on-site inspections and tax audits which are launched depending on risk assessment of the particular taxpayer. The AE and GdF have in place inspection and audit programmes in respect of partnerships' compliance with their tax obligations. The AE carried out 26 280 audits in respect of partnerships in 2013, 24 938 in 2014 and 22 968 in 2015 covering about 2% of partnerships annually.

Beneficial ownership information

114. As in the case of companies, the main source of beneficial ownership information in line with the standard is requirements under the AML law.

115. Identification of the beneficial owner(s) of a partnership is required to be available with the AML service provider engaged by the partnership. As a partnership deed has to be authenticated by a notary as well as any change in the partnership deed (including change on partners) and notaries are AML obligated professionals, it is ensured that a partnership will always engage an AML obligated person and therefore identification of beneficial owner(s) of partnership is required to be available in line with the standard. Identification of beneficial owners of partnerships may also be available with other AML obligated persons such as banks upon opening a bank account, accountants, auditors or lawyers who will typically be engaged by a partnership conducting business in Italy. Further, a professional acting as, or arranging for another person to act as, a partner of a partnership or providing an office or address for a partnership will become an AML obligated service provider and be required to conduct CDD including identification of the partnership's beneficial owner(s).

Implementation of obligations to keep beneficial ownership information in practice

116. Implementation of the rules concerning availability of beneficial ownership information is supervised in the same way as in the case of companies. The AML supervision is carried out by several authorities using a risk based approach. The inspection work undertaken by the regulators shows improvement over the years in the application of AML preventive measures including identification of beneficial owners. Where deficiencies are identified supervisory authorities take variety of enforcement measures to ensure that the deficiencies are remedied. Although certain room for improvement remains as already pointed out in section A.1.1, it is concluded that the responsible authorities take adequate supervisory and enforcement

measures, including off-site and on-site inspections and application of sanctions, to ensure that beneficial ownership information is in practice available as required under the standard.

ToR A.1.4. Trusts

117. Italian legislation does not foresee the possibility to set up a trust under Italian law. However, Italy is a signatory to the Convention on the Law Applicable to Trusts and on their Recognition (1 July 1985, The Hague, ratified by Law 364 of 16 October 1989 which entered into force on 1 January 1992) and therefore recognises trusts formed under foreign laws. In addition, nothing in Italian law prevents an Italian from being a settlor, trustee or beneficiary of a trust created abroad.

Legal requirements

118. The 2011 Report concluded that information about settlors, trustees, and beneficiaries of foreign trusts operated by trustees resident in Italy is required to be available based on tax and AML obligations. These obligations are adequately supported by sanctions in case of non-compliance and the information is required to be kept for at least five years since the end of the period to which it relates as required under the standard. There has been no change in these legal requirements since the first round review.

119. Explicit requirement to take measures to identify beneficial owners of a trust (i.e. obligation to identify also any other natural person exercising ultimate effective control over the trust in addition to identification of settlors, trustees, and all beneficiaries of a trust) is contained in the AML law (s.20 Legislative Decree 90/2017 previously contained in Legislative Decree 231/07 and Bank of Italy regulation issued on 3.4.2013). Any natural or legal person providing services of administering or managing a trust or corresponding legal arrangement is considered a trust and company service provider under the AML law and covered by CDD obligations which include obligation to identify the beneficial owner in line with the standard. The CDD information has to be retained by the obliged person for a period of at least 10 years after the business relation has ended. In the case of breach of AML obligations criminal and administrative sanctions apply.

120. Non-professional trustees are not covered by the AML obligation. However, cases where an Italian person other than a lawyer, accountant or other AML obligated service provider would act as a trustee seem rather rare given that trust arrangements cannot be created under Italian law and do not have a tradition in Italy. Although there are no precise figures on the number of foreign trusts managed in Italy, the Italian authorities noted an increase in instances where Italian financial institutions or DNFBPs act as trustee of a

foreign trust. However, no such trend is identified in respect of non-professional trustees. Further, under section 22.5 of Legislative Decree 90/2017 all trustees, professional or not, who establish an ongoing relationship with an AML obligated service provider are required to declare to the service provider their status of trustees and provide the necessary information in respect of the trust as required under the CDD requirements. Finally, all resident trustees are covered by tax obligations requiring them to keep information about settlors and beneficiaries of trusts they operate.

Implementation in practice

121. The responsible supervisory authorities take adequate supervisory measures including off-site and on-site inspections and apply variety of enforcement measures in cases where failures are identified in order to ensure that the required information is also available in practice.

122. Supervision and enforcement of trustees' obligations under the tax law is the same as in respect of other persons as described in section A.1.1. All trusts with resident trustee in Italy or administrated in Italy are required to register for tax purposes. Based on the information provided by the Italian authorities there are about 6 800 trusts registered with AE and about 3 600 of them file their tax returns (53%). According to the Italian Authorities the discrepancy between the number of trusts registered and the number of tax returns submitted may depend on the fact that some registered trusts are not required to file tax returns because they do not earn income in Italy or their income is not liable to taxation. The low filing rate raises a concern that the required information may not be kept by trustees in all cases. However, in addition to filing tax returns the tax administration carries out supervisory measures such as tax audits which cover also persons acting as trustees in Italy. Further, trustees obligated to conduct CDD are subject to AML supervision.

123. Trustees' CDD obligations are supervised by GdF (or other AML supervisory authorities depending on the type of trustee) as described in section A.1.1. The supervision of DNFBPs is risk based and focused on levels of exposure to predicate offenses among the persons it supervises. The inspection work undertaken by the regulators shows improvement over the years in the application of AML preventive measures including identification of beneficial owners and conclusions made in section A.1.1 apply. Where deficiencies are identified supervisory authorities take a variety of enforcement measures including application of fines and criminal sanctions to ensure that these deficiencies are remedied (see further section A.1.1).

ToR A.1.5. Foundations

124. Italian law provides for establishment of foundations (ss. 14 et seq. Civil Code and Presidential Decree 361/2000). Foundations can be set up only for specified public benefit purposes of non-profit, humanitarian, cultural, social or educational nature and are tax-exempted upon fulfillment of criteria for the exemption. In order to pursue its purpose they are allowed to carry on commercial activity. Foundations cannot be revoked and upon dissolution the assets of the foundation have to be used in accordance with the purpose of the foundation and cannot be distributed to its founders or representatives. Given that foundations can be established only for public benefit purposes, cannot make distributions to their founders and that they are tax exempted after verification that they meet the criteria for the exemption foundations set up under Italian law appear to have limited relevance for the current assessment. There are about 11 500 foundations registered with the tax administration.

125. As already concluded in the 2011 report identification of founders, representatives and beneficiaries of foundations is required to be available in line with the standard. Foundations acquire legal personality through registration in the register of legal entities (s. 1(1) DPR 361/2000). Articles of incorporation of a foundation must be in a notarised format as well as any changes in the deed (s. 14 of the Civil Code). The deed of association and the statutes must contain the name of the entity, its purpose and therefore the class of persons who will benefit from the foundation, its assets, its main seat and the rules for its management (s. 16). This information also has to be contained in the register together with the identity of representatives of the foundation. Identity of beneficiaries has to be also included in the foundation's tax return upon distribution. There has been no change in the relevant legal provisions since the first round review.

126. Availability of beneficial ownership information in respect of foundations is ensured in line with the standard under the AML law. As a foundation's deed has to be authenticated by a notary (as well as any change in it) and notaries are AML obligated professionals, it is ensured that a foundation will always engage an AML obligated person and therefore identification of beneficial owner(s) of a foundation is required to be available in line with the standard. Further, a professional providing service of (i) creation, operation or management of a foundation, (ii) acting as, or arranging for another person to act as a director or in similar position or (iii) providing an office or address for a foundation will become AML obligated service provider and will be required to conduct CDD including identification of the foundation's beneficial owner(s). Identification of beneficial owners of foundations should be also available with banks as in order to be established foundations have to provide to the register of legal persons also a bank certificate (DPR 445/2000).

127. Implementation of the relevant obligations in practice is ensured in the same way as in the case of other legal entities (see also section A.1.1). The key role in ensuring practical availability of legal as well as beneficial ownership information lies with notaries who are public officials and subject to AML supervision. As already pointed out in section A.1.1, although there is a certain room for improvement the responsible authorities take generally adequate supervisory and enforcement measures to ensure that ownership information is in practice available as required under the standard.

A.2. Accounting records

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

128. The 2011 report concluded that Italy’s legal and regulatory framework and its implementation in practice ensures availability of accounting information in line with the standard. Since then there has been no change in this respect in the relevant obligations or Italy’s practices.

129. As described below, the main sources of accounting obligations are the Civil Code and the tax law. The accounting obligations contained in these laws require that accounting records kept by all relevant entities and arrangements correctly explain all transactions, enable the financial position to be determined with reasonable accuracy at any time and allow financial statements to be prepared. These records are required to be kept for more than five years since the end of the period to which they relate and sanctions apply in the case of breach of these obligations.

130. Implementation of accounting requirements in practice is ensured mainly through tax audits and through tax filing obligations and an obligation to file annual financial statements with the Business Register. Enforcement and supervision of the relevant obligations continue to be sufficient and ensure availability of accounting records in line with the standard.

131. Overall availability of accounting information was also confirmed in Italy’s EOI practice. During the review period Italy received 650 requests related to accounting information. All of these requests related to companies or partnerships. The requested information was in the majority of cases obtained from the respective accounting entity as underlying accounting documents were requested. The requested information was provided in all cases except for about 10 cases (0.6% of received requests) where a person supposed to be in possession or control of the information was difficult to track and contact. Nevertheless in all cases the tax administration used all its powers to obtain the information and where the person was identified and contacted the information was available as required under the law. In

all these cases partial replies were provided containing information already available with the tax administration. No specific issue regarding availability of accounting information in Italy was reported by peers.

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

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

ToR A.2.1. General requirements

133. The 2011 report concluded that Italy's legal and regulatory framework requires availability of accounting records in line with the standard. Since then there has been no change in this respect in the relevant obligations.

134. Under Italian law there are two main sources of accounting obligations. These are contained in the Civil Code and in the tax law. The accounting obligations contained in these laws require that accounting records kept by all relevant entities and arrangements correctly explain all transactions, enable the financial position to be determined with reasonable accuracy at any time and allow financial statements to be prepared. Under the Civil Code a legal or natural person who pursues a commercial activity (including professional trustees) must keep (among others) a journal book and an inventory book (s. 2216 Civil Code). The journal book is a chronological and analytical register, in which all transactions relating to the person's business are listed on a day-by-day basis. The inventory book is of a periodic/systematic type, which must be filled-in at the beginning of the fiscal period and then every following year indicating the business assets and liabilities. The inventory ends with the balance sheet and income statement, which must prove the profits and losses from the business. These general requirements

are further supported by the tax legislation which requires taxpayers to keep accounting records to substantiate their income and VAT tax liability.

135. All public companies (i.e. SPAs, SAPAs and SEs) must have their accounts audited by a statutory audit board. The statutory audit board must be comprised of three certified auditors required to perform a quarterly audit and provide an annual report on the company's financial statements. Limited liability companies (SRLs) must have their accounts audited if:

- their Articles of Association require it;
- the company has passed two of the following three limits for two subsequent financial years:
 - total assets on the balance sheet exceed EUR 4.4 million;
 - earnings from sales and provisions of services exceed EUR 8.8 million;
 - average number of staff employed during the financial year exceeds 50 persons; or
- the company controls a subsidiary that has to have a Statutory Audit (s. 2477 Civil Code).

136. Under the Civil Code accounting records of all entities are required to be kept for a ten-year period after the end of the period to which they relate (s. 2220 Civil Code). The tax law prescribes retention period of five years since the end of the year following the year in which the tax return was required to be filed. For criminal tax purposes the retention period is nine years starting at the same date (s. 22 Presidential Decree No. 600/1973). The statute of limitation was recently prolonged from previous four years for administrative purposes and seven years for criminal purposes. The change is effective for tax periods starting on or after 1 January 2016. These retention requirements run irrespective of dissolution or liquidation of the legal entity or cease of business. It is the responsibility of the representatives of the taxpayer or if liquidated of the liquidator to keep the information as required under the tax law. After liquidation of a company its books and records must be transferred by the liquidator to the Business Register where they remain publicly available (s. 2496 Civil Code). Aggregate data regarding the deposit of accounting records by liquidated entities in practice is however not available as each Chamber of Commerce has this data for its geographical area of competence and it is not yet available electronically. Following the partnership's liquidation and subsequent striking-off from the Business Register the accounting records not pertaining to the individual partners are lodged with the person nominated by the majority of partners and must be maintained for ten years after the partnership has been struck off (s. 2312 Civil Code). The same rules apply in respect of foundations. Accounting information of

companies and partnerships is filed with the Business Register and therefore remains available there at least for ten years after the entity or partnership is struck off from the register (s. 2496 of the Civil Code).

137. The accounting records required to be kept by an entity have to be available at its registered office in Italy, or after its dissolution with the Business Register. In the case of companies, after dissolution the records are required to be kept with the Business Register (s. 2496 Civil Code). Other entities and partnerships are required to deposit their records with a person designated by the majority of shareholders or partners. In all cases, the place where accounting records are kept must be communicated to the Revenue Agency in line with section 35 of DPR 633/1972. Under Italian legislation it is possible to keep electronic invoices in a territory other than Italy. However, they must remain accessible in Italy to the entity or a tax authority (s. 39 of DPR 633/1972).

138. As already concluded in the 2011 report, administrative and criminal sanctions are applicable under the tax law and the Civil Code in cases of failure to keep accounting records in line with the accounting rules including the prescribed retention periods. The same sanctions apply also for failure to keep accounting records after the entity or arrangement ceased to exist. These sanctions include administrative fines, restriction of activities, criminal penalties or in the case of legal entities forcible liquidation (see also further below).

Implementation of general accounting requirements in practice

139. The 2011 report did not identify an issue concerning the implementation of accounting requirements in practice and concluded that they are appropriately implemented to ensure the availability of accounting records in line with the standard. There has been no change reported in Italy's practices since then and the information remains to be available.

140. Supervision of accounting requirements is carried out mainly through tax audits and indirectly through tax filing obligations and obligation to file annual financial statements with the Business Register. During tax audits, the tax administration closely examines the books and records of a taxpayer to make sure they fulfil their obligations and apply accounting rules and tax laws correctly. The quality of accounting records is evaluated as part of every audit to determine the degree of reliance that can be placed on them in assessing tax compliance. Corporate tax audits cover annually about 10% of companies registered to conduct business in Italy. In addition AE and GdF carry out other supervisory activities such as desk audits, investigations or other validation activities (see also section A.1.1).

141. Compliance with tax returns filing obligations varies among types of entities or arrangements. Companies' and partnerships' compliance is above 80%. Trusts' and foundations' compliance is lower. This is a particular concern in respect of trusts where the tax return filing rate is 53%. It is noted that if a taxpayer does not submit the tax return in accordance with the law or denies facts and circumstances established by the tax officials the respective tax office undertakes enforcement and control actions including on-site inspections and tax audits and that the number of trusts resident in Italy represent only a very small fraction of all entities or arrangements registered in Italy. Nevertheless, given the importance of tax obligations for ensuring availability of accounting information on trusts and the low number of trusts filing their tax returns Italy should strengthen its measures to ensure availability of accounting information with respect to trusts administered in Italy or having a resident trustee therein.

142. If the required accounting information is not made available, the taxpayer is subject to administrative sanctions or ultimately a criminal penalty. Nevertheless cases where accounting records are not kept are rare in practice. The tax administration applied penalties for breaches of accounting obligations in 86 673 cases in 2013, in 83 953 cases in 2014 and in 80 780 cases in 2015. The figures also include cases reported to the Revenue Agency following controls and fiscal audits carried out by the GdF. The total amount of penalties applied specifically for breaches of accounting obligations is not available because they are typically levied together with penalties for other breaches of the tax law and therefore cannot be split from the total amounts.

143. In addition to the tax supervision, companies (i.e. SRLs, SAPAs, SEs) and partnerships file their annual financial statements with the Business Register. Annually the Business Register receives financial statements from about one million companies representing about 60% of all companies registered in the Business Register. The vast majority of accounting records is filed electronically and the Registry automatically as well as manually checks companies' compliance with their filing requirements. Sanctions are applicable in the case of failure to file financial statements with the Register. These sanctions are administrative fines ranging from EUR 103 to 1 376 (s.2630 Civil Code). Further, pursuant to s.2621 of the Civil Code, administrators and managers of companies that fail to provide information or documentation required under the law or that provide false information or documentation are personally subject to sanctions consisting of imprisonment up to two years and a ban from all administration functions from six months to three years. In addition, and pursuant to s.223 of Royal Decree 267/1942, where failing to provide information or documentation required for registration or in addition to the registration (such as the annual accounts of the company) would lead to or ease the liquidation of a company, the administrators may be subject to imprisonment from three to ten years. Based on the centrally available

information, sanctions are applied in practice in cases of failure to file information with the Business Register. However, the amount of applied fines is estimated to be rather low. As it is not clear whether sanctions are effectively applied in practice in all cases as evidenced in the relatively low compliance rate, Italy should take measures to further improve availability of accounting records with the Business Register.

144. Finally, all companies except for certain SRLs must have their accounts audited by a statutory auditor.

ToR A.2.2. Underlying documentation

145. The 2011 report concluded that all relevant legal entities and arrangements are required to maintain underlying documentation in line with the standard. Under section 22 of DPR 600/1973, details of all sums received, original letters, telegrams and invoices received, and the copies of the letters, telegrams and invoices sent out must be kept by the concerned entity in an orderly way. In case of failure to keep the required documents sanctions are available. There has been no change since the first round review in the relevant provisions.

146. The retention requirements for underlying documents are the same as for other accounting records and therefore the same observations as under A.2.1 apply.

147. Practical availability of underlying documentation is supervised by the tax administration through tax audits together with availability of other accounting records. The same supervisory and enforcement measures apply as outlined above. Based on the tax audit findings the compliance level with the underlying documentation requirements is satisfactory also due to several regulatory requirements to keep such documentation such as the VAT. Pursuant to Decree Law no. 193/2016 VAT taxpayers are required to electronically file with the tax administration their invoice data with first reporting in September 2017. Pursuant to article 4 of the Decree, VAT taxpayers must transmit electronically to the Revenue Agency, within the last day of the second month following each quarter (i) the data of all the invoices issued during the quarter and those received and recorded; and (ii) a communication of the accounting data used for calculation of the VAT liability. For 2017, invoice data must be transmitted by 16 September 2017 for the first semester of 2017 and by 28 February 2018 for the second semester of 2017.

A.3. Banking information

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

148. The 2011 report concluded that banks' record keeping requirements and their implementation in practice are in line with the standard. There has been no change in the relevant provisions or practice since the first round review. The relevant provisions are contained in the AML law and are supervised by the Bank of Italy.

149. Banks' obligation to identify beneficial owners of their account holders is part of their AML requirements. AML rules require banks to obtain and maintain identification of beneficial owners of their clients in line with the standard. In the case of breach of these obligations administrative and criminal sanctions apply. Supervision of banks' CDD obligations is carried out in the same manner as in respect of other financial institutions (see also section A.1). The Bank of Italy carries out robust off-site and on-site inspection programmes covering significant number of banks annually and applies a variety of enforcement measures in cases where deficiencies are identified.

150. Availability of banking information in Italy was also confirmed in EOI practice. During the review period Italy received 140 requests related to banking information. There was no case where the information was not provided because the information required to be kept was not available with the bank. No concerns with respect to the availability of banking information were reported by peers either (see further section B.1.1 and C.5).

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

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

ToR A.3.1. Record-keeping requirements

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

153. The main record keeping requirements are contained in the AML law. Banks are prohibited from opening and keeping anonymous accounts or accounts opened under fictitious names (s.42 Legislative Decree 90/2017 that substituted Legislative Decree 231/2007 and Legislative Decree No. 169 of 19 September 2012). Banks are further required to keep transactional and identity information in respect of their accounts. These records include deposit slips, account statements, cheques, transfer orders, bank account contracts, signature cards or CDD documentation. The required information have to kept for at least ten years after the customer relationship has ceased or following the carrying-out of the transaction (s. 31 Legislative Decree 90/2017 previously in Legislative Decree 231/2007). In case of breach of these obligations administrative and criminal sanctions can be applied.

154. Supervision of banks' record keeping requirements is carried out by the Bank of Italy together with the supervision of their AML obligations (see further below). Based on the findings from inspections, banks' compliance with their record keeping requirements is at a satisfactory level. Where deficiencies are identified the Bank of Italy takes a variety of enforcement measures to remedy the failure and prevent it from happening again. Enforcement measures mainly consist of warning letters and application of administrative monetary penalties (see further below and section A.1.1).

ToR A.3.1. Beneficial ownership information on account holders

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

156. The rules governing information required to be kept in respect of trusts and similar arrangements were changed in July 2017 through Legislative Decree No. 90/2017. The new rules transpose the Fourth EU AML Directive and require banks to identify, in addition to the settlor(s), trustee(s) and any other natural person exercising ultimate effective control over the trust, also all beneficiaries (regardless of any threshold of interest in the trust or control over the trust). As the new rules regarding information required to be kept in respect of trusts and similar arrangements are recent and have an impact on the availability of information as required under the standard Italy should monitor their practical implementation.

157. Financial institutions are required upon establishing a business relationship to identify beneficial owners of their clients and to take reasonable measures to confirm the accuracy of the obtained information. If the obligated entity cannot establish the identity of the client in accordance with the prescribed measures it is prohibited to open an account for the client and should consider to file STR (s. 42 Legislative Decree 90/2017 that substituted Legislative Decree 231/2007 and Legislative Decree No. 169 of 19 September 2012) (see further section A.1.1).

158. Banks are allowed to rely on CDD measures applied by certain third parties. However the relying bank is required to immediately obtain and keep the CDD records identifying the beneficial owner and remains ultimately responsible for ensuring that CDD measures are applied in accordance with the Italian AML law and applicable regulations. The third party is further obligated to provide copies of identification and verification data relating to the customer and beneficial owner on request of the relying party without delay. It is the obligation of the relying person to ensure that the third party will comply with such a request (ss. 26 and 27 Legislative Decree 90/2017 previously contained in Legislative Decree 231/07 and Bank of Italy regulation issued on 3.4.2013).

159. Banks are required to keep the identification of the beneficial owner updated. CDD documentation including records of the actions taken in order to identify the beneficial owner and other supporting documents have to be retained by the obliged person for a period of at least 10 years after the business relation has ended (ss. 31 and 32 Legislative Decree 90/2017 and previously Legislative Decree 231/07 and Bank of Italy regulation issued on 3.4.2013). In case of breach of the AML obligations administrative and criminal sanctions apply.

Implementation of obligations to keep beneficial ownership information in practice

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

161. The table below gives an overview of the supervisory and enforcement measures taken by the Bank of Italy in respect of banks during the last four years:

	Number of registered banks	Number of on-site inspections carried out in respect of banks	Number of on-site inspections having identified AML/CFT infringements	Enforcement measures applied		
				Written warning	Fines	
					Number	Amount (EUR thousands)
2013	684	212	57	N.A.	1	304
2014	663	215	61	55	5	314
2015	643	263	66	69	5	260
2016	604	272	55	71	3	118

162. The table above shows that on average the Bank of Italy inspects 37% of banks annually. The percentage rose from 31% of inspected banks in 2013 to 45% in 2016. According to the current supervisory cycle all five major banks are inspected every three years and the rest of the banks every four to five years. The percentage of inspections where deficiencies are identified lowered from 27% in 2013 to 20% in 2016. It is nevertheless noted that inspections are generally driven by risk based analyses and therefore a relatively high percentage of inspections where deficiencies were found cannot serve as a reliable basis for conclusions on the overall level of AML compliance in the banking sector. About 25% of identified deficiencies in the financial sector related to identification of beneficial owners.

163. In addition to the measures contained in the table above, in the period 2013-15 the Bank of Italy carried out 99 meetings with managements of financial institutions (Board of Auditors, Supervisory Board, Management Control Committee) and in about 60 cases imposed fines against natural persons acting as members of the Board of Directors and/or of the Auditors for weaknesses in organisation and internal control of AML risks. The total amount of these fines was about EUR 20 million. In addition the Bank of Italy applies a number of other tools such as written warnings and instruction letters. According to the Bank of Italy in all cases where infringements were found, the supervisory and enforcement measures taken resulted in remedy of the identified deficiencies.

164. Banks' supervision is significantly facilitated by the Single Electronic Archive (Archivio unico elettronico) required to be kept by each bank. As already pointed out in section A.1.1, the electronic archive has to contain AML records including ID of all their clients and their beneficial owners in a standardised and electronically searchable format. The supervisory authority can use this archive during inspections to verify availability of the information and to sample certain files for further inspection. Further, banks are required to report monthly and annually substantive amount of information in respect of their accounts to the Register of Accounts kept by AE. The reported information includes account balances, reports on transactions and identification of beneficial owners of the account holders (see further section B.1.1).

Part B: Access to information

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

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

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

166. As was already concluded in the 2011 report, the tax authority has broad access powers to obtain all types of relevant information including ownership, accounting and banking information from any person both for domestic tax purposes and in order to comply with obligations under Italy's EOI agreements. The tax authority's broad access powers can be used also for EOI purposes and regardless of domestic tax interest. Access powers are available also in cases where information is requested for criminal tax purposes. In the case of failure to provide the requested information the tax administration has adequate powers to compel the production of information.

167. The tax administration's access powers are also effectively used in practice. The collection of information is typically done directly at the premises of the person in possession of the information using powers under section 32 or 33 DPR 600/1973 or less frequently by written means. Written means are used where only simple and well defined information is requested and therefore the requested information can be easily identified and transmitted. In addition, substantive amount of ownership, accounting and banking information is already at the disposal of the tax administration in its databases and physical files. Accordingly, no issue in respect of the scope of the tax administration's access powers arose during the period under review and no concerns in this respect were reported by peers either. Relatively long

response times to obtain information requested from Italy were reported by a few peers. These response times are mainly attributable to the nature and complexity of the requested information and to the organisation and processes of gathering information for EOI purposes as analysed under element C.5.

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

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

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

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

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

171. The tax administration's access powers are mainly granted by s. 32 of DPR 600/1973. Pursuant to this section, the tax administration has the power (among other) to ask taxpayers to appear in person or through representatives, to provide any relevant information for the purpose of their own tax assessments as well as the assessments of other taxpayers with whom they maintain relations or to request financial institutions and intermediaries to provide any information on the relations maintained with their clients. Under section 33 of DPR 600/1973 together with s. 52 of DPR 633/1972, the tax administration

officials can access businesses premises to inspect, verify, and search for any documents needed for the assessment of taxes.

172. The tax administration's access powers can be used by both AE and GdF while obtaining information for EOI purposes. There are no specific conditions for use of any of these powers for EOI purposes pursuant to a valid EOI request.

Access to ownership and accounting information in practice

173. Substantive amount of ownership and accounting information is already at the disposal of the tax administration in its databases and physical files. These information sources include:

- the Tax Register (Anagrafe Tributaria) – the register functions as a data warehouse where all information useful for tax purposes is stored. The Tax Register contains information filed through tax returns as well as other information communicated by third parties on regular basis such as information transmitted by banks, insurance companies, professional associations and public authorities. Information contained in the register includes:
 - identification of taxpayers and their tax status, contact details, tax returns, financial statements, electronic invoices, other tax declarations and results of tax audits and assessments;
 - information on contributions paid to pension funds, data on insurance claims and contracts, healthcare refunds;
 - ownership and usage of private aircrafts and boats (data sourced from nautical section of the National Office responsible for vehicle registration);
 - usage rights granted by companies to their partners;
 - data from fiscal monitoring (financial flows to/from abroad)
 - identification of persons registered with professional associations and other entities issuing certificates of professional competence (such as notaries, lawyers, auditors or accountants); or
 - information on domestic utilities related to water, gas, light and telephone;
- the Business Register – information contained in the Business Register is directly accessible by the tax administration and includes all ownership information and accounting information filed with the Register (see further section A.1 and A.2);

- the Register of Accounts (Archivio dei rapporti finanziari) – contains vast amount of banking information automatically reported by banks (see further below in section Access to banking information in practice);
- the GdF’s databases containing information and investigative outcomes from Police force’ activities;
- the Real Property Register – contains information on legal ownership and transfers of immovable properties and land;
- the Register of Mortgages; and
- the Vehicle Register.

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

175. Where the requested information is not already at the disposal of the tax administration the collection of information is done by written means or more frequently directly at the premises of the person in possession of the information using powers under section 32 or 33 DPR 600/1973. Written means are used where only simple and well defined information is requested and therefore the requested information can be easily identified and transmitted. Where information is requested through written means the minimum period of 15 days must be granted by the official in charge of the case to persons required or asked to provide information. The period can be extended for another 15 days based on reasonable grounds. Typically the requested information is obtained through a tax audit. Tax audit allows more complex assessment of the taxpayer’s activities and his/her compliance with tax and record keeping obligations and subsequent provision of complete and accurate information. Tax audits are also typically launched where a person supposed to be in possession or control of the information is difficult to track and contact as such behaviour raises the risk assessment of the taxpayer and launching a tax audit gives the tax authority broader means how to pursue the information and enforce its provision (see further section B.1.4). Where a tax audit is launched provision of the requested information can take significantly longer time taking up to several months.

176. Where requested information is already at the disposal of the tax administration it can be accessed and provided directly by the Competent Authority. In practice the requested information was directly provided by the Competent Authority in less than 20% of cases over the reviewed period. According to the Italian authorities this percentage is actually that of the

cases that could be fully responded to by means of information already available at central level. In a small number of cases, even if the information may be already available to the Competent Authority, the request is in any case sent to the local Office. Reasons for that are the complexity of the requested information and preference to provide quality information based on proper understanding of the case. It is difficult to conclude whether in all cases the requested information needed to be obtained by local offices or through a tax audit, nevertheless it seems that given the amount of information already at the disposal of the tax administration the process of obtaining the requested information can be further streamlined in some cases which would facilitate the timeliness of Italy's responses (see further section C.5.2).

177. No issue in respect of the scope of the tax administration's access powers arose during the period under review and no concerns in this respect were reported by peers either.

Access to banking information in practice

178. As already described in the 2011 report certain banking information is directly available to the tax administration and further banking information is accessible by use of access powers under section 32 or in rare cases under 33 DPR 600/1973.

179. Since the first round review the amount of banking information required to be automatically reported by banks to the tax administration significantly broadened. The reported information is contained in the Register of Accounts (Archivio dei rapporti finanziari) kept by the AE. The Register of Accounts contains:

- starting from 2007 in respect of accounts existing on 1 January 2005 and after:
 - information on the identity (including the Italian TIN) of account holders, co-holders and their delegates/proxies and persons setting up extra-account operations (i.e. operations that occur without connection to a permanent relationship); and
 - bank account numbers;
- starting from 2013 in respect of the reporting year 2011 and accounts existing in calendar year 2011 and after :
 - account balances of depository and custodial accounts at 1 January and 31 December in the reporting year;
 - the total amount of passive and active transactions in the reporting year;

- the average account balance in the reporting year for depository accounts; and
- in case of transactions that are not linked to a specific bank account, other data depending on the type of transaction;
- starting from January 2016 on accounts opened after 1 January 2016:
 - beneficial owners of the accounts.

180. Information on the identity of account holders and the bank account numbers are required to be updated monthly. Banks and certain other financial institutions are also required to report other financial accounts such as loans and transactions that are not linked to a specific account (e.g. purchase/sale/transfer of securities, bank transfers, collection of bank drafts, etc.).

181. Where certain banking information is not contained in the Register of Accounts (such as opening bank account contracts, cheques or signature cards) the tax administration can require the information from the bank using an electronic application or directly. The electronic application is typically used as it streamlines the process and facilitates provision of the requested information. Banks are given at least 30 days to provide the requested information which can be extended for another 20 days based on a reasoned request. In practice, banks provide the requested information generally within the minimum deadline depending on the complexity and volume of the requested information.

182. In order to access banking information going beyond information on the identity of account holders and their bank account numbers (regardless whether the information is already contained in the Register of Accounts or not) the tax administration has to use its access powers. As already pointed out in the 2011 report such access has to be authorised in case of AE's request by the Director of the Central Assessment Office or of the Regional Director or in case of GdF's request by the Regional Commander. The authorisation request is inbuilt into the electronic application for requesting banking information however its receipt may take a few weeks. The condition for the authorisation is an existence of the legal title which in the case of requests for EOI purposes is the statement by the tax authority that the information is requested pursuant to a valid EOI request made in accordance with the applicable EOI instrument together with the reference to section 32 of DPR 600/1973. Out of more than 200 requests for banking information processed over the last two periods under review, no case was reported where the legal title was disputed. According to the Italian authorities this is mainly given by the unequivocal legal basis as confirmed in well established procedural practice.

183. As already pointed in the 2011 report provision of a specific identifier of the account holder by the requesting jurisdiction is not required if the account holder can be identified otherwise (e.g. through a bank account number). However provision of the Italian TIN significantly facilitates obtaining of the requested information.

184. Over the reviewed period there has been no case where the requested banking information was not available because of the lack of access powers. In one case reported by a peer list of transactions was provided without supporting documents as requested. As clarified by the Italian authorities this has been an individual mistake as such documents are routinely provided and measures were taken to prevent it from happening again. Although the tax administration's access powers are efficient and ensure provision of all banking information as required under the standard the requested banking information was frequently provided only within a year since receipt of the EOI request with average response time of 243 days. Such long response times may have negative impact on effective exchange of information and Italy should take measures to facilitate timely provision of banking information in all cases (see further section C.5).

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

185. 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.

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

187. The tax administration's access powers cannot be used in respect of tax periods where the domestic statute of limitation expired. The statute of limitation for administrative purposes is five years since the end of the year following the year in which the tax return was required to be filed (s.43 DPR 600/1973). The statute of limitation for criminal purposes is generally eight years from the date when the criminal act was committed with the exception of certain cases where the period is six years (s.17 Legislative Decree 74/2000). The statute of limitation was recently prolonged from previous four years for administrative purposes and seven years for criminal purposes. The change is effective for tax periods starting on or after 1 January 2016. Information which is already at the disposal of the tax administration (including results of previous tax audits and ownership and accounting information filed with the Business Register or the tax

administration) can be provided even after lapse of the statute of limitation. It is noted that the statute of limitation is effectively six years since the end of the period to which the information relates and vast amount of information is already at the disposal of the tax administration which can be provided regardless of the expiry of the statute of limitation. Further, according to the Italian authorities there has been so far no case where expiry of the statute of limitation would restrict provision of the requested information in the EOI context.

188. Italy received several EOI requests during the period under review where the requested information was not relevant for its domestic tax purposes and there was no case where the tax administration's access powers would not be applicable due to lack of domestic tax interest. Italy's ability to access information regardless of domestic tax interest has been also confirmed by peers.

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

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

190. The 2011 report concluded that Italy's tax administration has adequate powers to compel the production of information in line with the standard. There has been no change in the applicable legal or regulatory framework since then.

191. The tax administration has search and seizure powers which can be used in the case of taxpayers' failure to co-operate as required under the law. As already pointed out, section 33 of DPR 600/1973 together with s. 52 of DPR 633/1972, allows revenue authorities' officials to access businesses premises to inspect, verify, and search for any documents needed for the assessment of taxes. Upon authorisation by a judge the tax administration can search also non-business premises or business premises serving as a dwelling (Article 52, para.1 of DPR 633/1972). Documents and records can be seized if it is not possible to copy them or reproduce their content (Article 52, para.7 of DPR 633/1972). Finally, according to Articles 253 through 256 of the Code of Criminal Procedure, seizure of documentation may be ordered by the judge.

192. Access powers are supported by administrative and criminal sanctions. Failure to comply with obligations under section 32 of DPR 600/1973 triggers administrative sanctions from EUR 258 to EUR 2 065 (s. 11 of Legislative Decree 471/1997), criminal sanctions pursuant to Decree 74/2000 or a court order to compel the provision of information.

193. In practice, cases where a person fails to provide information requested by the tax administration under section 32 or 33 of DPR 600/1973 are very rare in the EOI context. In cases where the person refuses to co-operate the tax administration uses its compulsory powers to ensure that the requested information is obtained and provided. One case where the information holder refused to co-operate with the tax administration was reported by a peer. In that case the obstructing person was subject to an ongoing criminal proceedings and therefore provision of the requested information was subject to authorisation by the public prosecutor which was not obtained before the criminal proceedings were over. The requesting Competent Authority was informed accordingly and the requested information was provided subsequently.

ToR B.1.5. Secrecy provisions

194. The 2011 report concluded that secrecy provisions contained in the Italian law are in line with the standard. There has been no change in these rules since the first round review.

195. There are no secrecy provisions regarding ownership, identity, accounting or banking information which limit the competent authority's ability to respond to an international EOI request. The communication between a client and an attorney is only privileged to the extent that the attorney acts in his or her professional capacity as attorney. There is no other professional secrecy that can be invoked when information is requested for tax purposes by revenue authorities. Article 103 Code of Criminal Procedure states that for tax purposes professional secrecy rules, applies only if and to the extent that the professional concerned acts as defending representative in a criminal procedure case.

196. In practice, where the information is not already in the hands of the tax administration or other available databases the tax administration requests information directly from the taxpayer who is obliged to provide the requested information (or from banks where banking information is requested). Accordingly, there was no case during the period under review where the information needed to be requested from an attorney, auditor or other professional not acting on behalf of his/her client under the power of attorney and there was also no case when a person refused to provide the information requested because of professional privilege. It is, however, common for the information to be supplied by legal professionals acting on behalf of their clients as their legal representatives or from notaries.

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.

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

197. Rights and safeguards contained in Italy’s law remain compatible with effective exchange of information.

198. As concluded in the 2011 report Italy’s law does not require notification of the persons concerned prior or after providing the requested information to the requesting jurisdiction. There has been no change in the applicable rules since the first round review.

199. Obtaining and providing the requested information cannot be appealed as was already concluded in the 2011 report. Administrative or judicial review is applicable only in the context of tax assessment concerning taxpayer’s liability in Italy. Consequently, use of information gathering measures under section 32 or 33 of DPR 600/1973 in the EOI context cannot be appealed as such. There has been no change in these rules since the first round review.

200. Accordingly, during the period under review there was no case where obtaining or providing of the requested information was appealed. Compatibility of Italy’s rights and safeguards with effective exchange of information was also confirmed by peers as no concerns in this respect were raised.

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

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

202. To sum up, supervision of AML obligations is adequate to ensure banks' compliance with their CDD obligations in line with the standard. The Bank of Italy carries out a robust off-site and on-site inspection programme covering significant number of banks annually and applies a variety of enforcement measures in cases where deficiencies are identified. Efficiency of the supervisory and enforcement system is also witnessed by the gradual improvement in the application of AML preventive measures and increasing availability of the beneficial ownership information with banks in practice as confirmed by the supervisory authority and law enforcement authorities.

Part C: Exchanging information

203. Sections C.1 to C.5 evaluate the effectiveness of Italy’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 Italy could provide the information requested in an effective manner.

C.1. Exchange of information mechanisms

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

204. Italy has a broad network of EOI agreements in line with the standard. Italy’s EOI network covers 146 jurisdictions through 119 bilateral agreements, the Multilateral Convention and EU instruments. Out of these EOI relations all but one² provide for exchange of information in line with the standard.

205. The 2011 report noted that the ratification of EOI arrangements can take Italy several years and is delayed in some occasions and Italy was recommended to continue its efforts to ensure the ratification of all EOI arrangements signed with counterparts expeditiously. At the time of the first round review 15 DTCs or their protocols were not in force. Out of these 15 DTCs or protocols eight are now in force. Since the cut-off date of the first round review Italy has signed 25 agreements or protocols. Out of these 25, 20 are in force and two have been ratified by Italy. The average time needed to ratify these new agreements or protocols by Italy was 25 months since their signature. Considering that the ratification period remains relatively long and can frequently take more than two years, the first round recommendation is kept and Italy is recommended to continue its efforts to ratify all its EOI arrangements expeditiously. It is nevertheless acknowledged that since the first round review the proportion of Italy’s EOI relations not in force has been lowered, the length of ratification of new agreements or protocols signed after 2015 has been shortened and Italy has in force the Multilateral Convention, as amended.

2. This is the DTC with Trinidad and Tobago signed in 1971.

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

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

Legal and Regulatory Framework		
	Underlying Factor	Recommendation
Deficiencies identified in the implementation of the legal and regulatory framework	Italy has an EOI instrument in force with the vast majority of its partners and has brought into force the Multilateral Convention but the ratification of EOI arrangements can frequently take more than two years.	Italy should continue its efforts to ensure the ratification of all EOI arrangements signed with counterparts expeditiously.
Determination: In place		
Practical implementation of the standard		
	Underlying Factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice		
Rating: Compliant		

ToR C.1.1. Foreseeably relevant standard

208. 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 Italy’s EOI relations allow for exchange of information in line with the standard of foreseeable relevance.

209. Italy’s EOI agreements are generally patterned on the OECD Model Taxation Convention. DTCs initially signed or amended after 2005 use the foreseeably relevant standard whilst older treaties use the words “as is necessary” in place of “as is foreseeably relevant”. These terms are recognised in the commentary to Article 26 of the OECD Model DTC as allowing for the same scope of exchange. All Italy’s TIEAs meet the “foreseeably relevant” standard as described in the 2005 Commentary to Article 26 of the OECD Model Tax

Convention and the 2002 Commentary to the OECD Model TIEA. Italy can also exchange information in line with the standard of foreseeable relevance under the Multilateral Convention and the EU Administrative Cooperation Directive.

210. The 2011 report concluded that treaties with Brazil, Malaysia and Switzerland only refer to “such information as is necessary for the carrying out of this Convention” and therefore are not in line with the standard. Since then the DTC with Switzerland was brought in line with the standard through a protocol signed in February 2015 which came into force in July 2016. Italy has contacted both Brazil and Malaysia to amend the DTCs. The negotiations include also other subjects than EOI and are currently ongoing. In addition to exchange of information under DTCs, Italy can exchange information in line with the standard with all three partners under the Multilateral Convention.

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

212. With regard to the exchange on request with EU Member States, an e-form developed by the EU Commission is used. In respect of EOI with non-EU jurisdictions Italy does not require a specific template to be used for incoming requests but generally prefers requests prepared in accordance with the OECD Manual on EOI. As indicated above Italy does not require any specific information to be provided going beyond the Article 5(5) of the Model TIEA. Identification of the taxpayer can be done by providing a number of indicators. Typically more than one identifier is necessary to uniquely identify the taxpayer. Providing the taxpayer’s TIN nevertheless significantly facilitates handling of the request and speeds up providing of the requested information.

213. During the period under review Italy did not decline any request because it did not meet the foreseeable relevance standard. However clarifications were needed in respect of about 5% of received requests. In these cases the GdF tried to arrange a conference call with the other party to obtain the clarification so that the request could be handled without delay. Otherwise Italy requests a formal clarification. Reasons for these clarifications vary. In most cases clarifications have been sought in order to identify the taxpayer concerned or to better understand the context of the request so that the relevant information could be provided as requested. There was no case during the reviewed period where Italy did not receive the necessary information required to process the request.

Group requests

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

215. In addition, Italy concluded a Competent Authority Agreement with Switzerland and protocols to TIEAs with Liechtenstein and Monaco which explicitly provide for requests in respect of unnamed Italian resident account holders of a specified group of accounts held by financial intermediaries in these jurisdictions.

216. During the period under review Italy did not receive any group request. The same access powers and general procedures will apply as in respect of other types of requests (see further section C.5.2).

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

217. All of Italy's EOI relations allow for exchange of information with respect to all persons.

218. Where some of its older DTCs do not explicitly provide that the EOI provision is not restricted by Article 1 (Persons Covered), Italy has advised that they interpret the EOI provision to allow exchange with respect to all persons regardless of their residence if the respective treaty provides for exchange of information for the purposes of domestic tax laws. In addition to exchange of information under DTCs, Italy can exchange information in line with the standard with all Parties of the Multilateral Convention.

219. No restriction in respect of persons on whom information can be exchanged has been experienced in practice. Accordingly no issue in this respect has been indicated by peers either.

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

220. The OECD Model Tax Convention Article 26(5) and the Model TIEA Article 5(4), which are authoritative sources of the standards, stipulate that bank secrecy cannot form the basis for declining a request to provide information and that a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest.

221. All of Italy’s TIEAs, the EU administrative co-operation directive, the Multilateral Convention and all of Italy’s DTCs and protocols signed after the first round review³ contain wording akin to Article 26(5) of the Model DTC. Such wording is however not contained in all of Italy’s older DTCs as already noted in the first round review.

222. The 2011 Report concluded that it is of high importance for the Italian authorities to update the treaties with Austria, Belgium Luxembourg and Switzerland and to bring them to the standard by incorporating a wording consistent with Article 26(5) of the Model DTC. Since then Italy has amended its DTCs with Switzerland and Luxembourg through protocols and brought them in line with the standard. Although no such protocol was concluded with Austria and Belgium Italy can exchange information in line with the standard with these partners under the EU Directive on administrative co-operation and under the Multilateral Convention.

223. Out of Italy’s 107 DTCs 20 include a provision akin to the Model Article 26(5).⁴ However as discussed under element B.1, there are no limitations in Italy’s laws or practices with respect to access to bank information, information held by nominees, and ownership and identity information and therefore the absence of such a provision in the EOI agreement may restrict exchange of information only if such restriction exists in the domestic law of Italy’s treaty partner. Such restriction exists in the case of Trinidad and Tobago which is also not a Party to the Multilateral Convention. Further, there are other 26 jurisdictions whose EOI relation with Italy is also solely based on a DTC without Model Article 26(5) and which may have restrictions in access to certain types of relevant information but have not been reviewed

3. Italy signed a tax agreement with the Holy See in April 2015 which includes provisions for exchange of information. For the purposes of this report the agreement is considered a DTC.

4. These are DTCs with Barbados; Chile; Cyprus;* Ecuador; Holy See; Hong Kong, China; Korea; Libya; Luxembourg; Malta; Mauritius; Mexico; Panama; Philippines; Romania; Russian Federation; San Marino; Singapore and Switzerland.

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

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

by the Global Forum.⁵ This is however not a concern in practice as Italy's powers to access and provide the relevant information are not constrained by a reciprocity requirement. Moreover, the Italian authorities indicated that in practice they do not exercise reciprocity on this basis and therefore do not question whether a requesting party is able to provide information as required under Model Article 26(5). This was also confirmed during the period under review as no issue in this respect has arisen in practice.

224. During the period under review Italy received 140 requests for banking information. There was no case where the requested information was not provided because it was held by a bank, another financial institution, a nominee or person acting in an agency or a fiduciary capacity or because it related to ownership interests in a person. No issue has been reported by peers in this respect either (see further section C.5).

ToR C.1.4. Absence of domestic tax interest

225. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party. Such obligation is explicitly contained in the OECD Model Tax Convention Article 26(4) and the Model TIEA Article 5(2).

226. Similarly to the situation described above in section C.1.3, all of Italy's TIEAs, the EU administrative co-operation directive, the Multilateral Convention and all of Italy's DTCs and protocols signed after the first round review contain wording akin to Article 26(4) of the Model DTC. Such wording is however not contained in all of Italy's older DTCs as already noted in the first round review.

227. Out of Italy's 107 DTCs the same 20 DTCs include provision akin to the Model Article 26(4) as in the case of the obligation to provide all types of information. However, as discussed under element B.1, there are no limitations in Italy's laws or practices with respect to access to information regardless of domestic tax interest and therefore the absence of such provision in the EOI agreement may restrict exchange of information only if such restriction exists in the domestic law of Italy's treaty partner. Such restriction exists in the case of Trinidad and Tobago which is also not a Party to the Multilateral Convention. Another 26 jurisdictions already mentioned under section C.1.3 have EOI relations with Italy solely based on a DTC without Model Article 26(4) and may have domestic restrictions in accessing information regardless of domestic tax interest. Such restriction may limit provision of

5. These 26 jurisdictions are Armenia, Bangladesh, Belarus, Bosnia and Herzegovina, Congo, Côte d'Ivoire, Cuba, Egypt, Ethiopia, Iran, Jordan, Kirghizstan, Mongolia, Montenegro, Mozambique, Oman, Serbia, Sri Lanka, Syria, Tajikistan, Tanzania, Thailand, Uzbekistan, Venezuela, Viet Nam and Zambia.

the requested information by Italy's partner. Such restriction on the side of the treaty partner however does not limit Italy's ability to provide the requested information as Italy's powers to access and provide the relevant information are not constrained by a reciprocity requirement. The Italian authorities also indicated that in practice they do not exercise reciprocity on this basis and therefore do not question whether a requesting party is able to provide information as required under Model Article 26(4). This was also confirmed during the period under review as no issue in this respect has arisen in practice.

228. In practice, Italy received several requests during the period under review where it had no domestic tax interest in obtaining the requested information. Most of these requests related to banking or accounting information. In none of these cases the issue of domestic tax interest was raised and accordingly no issue in this respect was reported by peers either.

ToR C.1.5. Absence of dual criminality principles

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

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

230. All of Italy's EOI agreements provide for exchange of information in both civil and criminal tax matters. As already pointed out in the 2011 report, Italy is able to exchange information in both civil and criminal matters.

231. Italy does not require information from the requesting competent authority as to whether the requested information is sought for criminal or civil tax purposes. Generally the same procedures apply in respect of exchange of information for civil and criminal tax matters. Italian authorities confirmed that Italy will not require use of specific instrument for exchange of information in criminal matters even if the requesting jurisdiction indicates that the information will be used in criminal tax proceedings.

232. During the period under review Italy received a few requests related to criminal tax matters. There has been no case where Italy declined to provide information because the requested information cannot be provided for criminal tax purposes and no peer reported any concerns regarding Italy's ability to exchange information relevant to criminal tax matters.

ToR C.1.7. Provide information in specific form requested

233. As already concluded in the 2011 report, there are no restrictions in the exchange of information provisions in Italy's EOI agreements that would

prevent Italy from providing information in a specific form, as long as this is consistent with the Italian law and its administrative practices.

234. In practice Italy's competent authority provides information in the requested form in line with the standard. There are no impediments in Italian law which would prevent the information being obtained in a requested form. Italian authorities can in particular provide original documents or receive testimonies. Input received from peers confirms that Italy is able to respond to requests in accordance with the standard and no issue in respect of the form of the provided information has been indicated.

ToR C.1.8. Signed agreements should be in force

235. Italy's EOI network covers 146 jurisdictions through 119 bilateral agreements, the Multilateral Convention and EU instruments. Out of these 146 jurisdictions Italy has an EOI instrument in force with 135 of them.

236. Out of the 11 jurisdictions with which Italy's EOI relation is based on an EOI instrument which is currently not in force:

- five EOI relations are established solely under the Multilateral Convention which in the five cases has not been brought into force by Italy's treaty partners;⁶ and
- six EOI relations are based on a DTC signed more than eight years ago and therefore not ratified already at the time of the first round review.⁷ Considering the long period since signing of these DTCs it is according to the Italian authorities unlikely that they will come into force in its present form and Italy is considering whether to initiate renegotiation of these treaties. It is noted that Gabon and Kenya have become signatories of the Multilateral Convention and Italy will be able to exchange information with these partners also when the Multilateral Convention comes into force in respect of these jurisdictions.

237. Italy has ratified and brought into force the Multilateral Convention. The Multilateral Convention entered into force in respect of Italy on 1 May 2006 while its amending Protocol entered into force on 1 May 2012. This adds an additional layer of EOI relations in force and allows for a further

6. These five jurisdictions are Bahrain, Burkina Faso, Dominican Republic, El Salvador and Jamaica.

7. These are the DTCs with Cuba (signed in January 2000), Gabon (signed in June 1999), Iran (signed in June 2005), Kenya (signed in October 1979), Libya (signed in June 2009) and Mongolia (signed in September 2003 and ratified by Italy in November 2012).

expansion of Italy's network of EOI relations in force as new parties join the Multilateral Convention.

238. At the time of the first round review 15 DTCs or their protocols were not in force.⁸ The 2011 report pointed out that the time gap between the signature of an EOI arrangement and its entry into force can be quite long and the ratification process usually takes more than two years. Italy was therefore recommended to continue its efforts to ensure that its EOI arrangements are ratified expeditiously. Out of these 15 DTCs or protocols eight are now in force.⁹ The remaining seven arrangements are the six DTCs referred above and a DTC protocol with India. However as India is a party to the Multilateral Convention Italy has an EOI relation in force with India under the Multilateral Convention.

239. Since the cut-off date of the first round review Italy has signed five DTCs, 12 TIEAs and eight DTC protocols. Out of these 25 newly signed agreements or protocols 20 are in force and two are ratified by Italy. These 22 ratified agreements or protocols are 11 TIEAs,¹⁰ five DTCs¹¹ and six DTC protocols.¹² The average time needed to ratify these agreements or protocols by Italy was 25 months since their signature. Out of the 11 TIEAs three were ratified more than three years after their signing, four TIEAs after two years but less than three years after signing and the latest signed four TIEAs were ratified within two years since their signing. Out of the five DTCs two were ratified after two years since its signing and the latest three within two years. Finally, out of the six protocols, one was ratified after three years since its signing, two were ratified after two years but less than three years after signing and the latest three protocols were ratified within two years since signing.

-
8. These were 12 DTCs with Azerbaijan, Canada, Republic of Congo, Cuba, Gabon, Iran, Kenya, Lebanon, Libya, Moldova, Mongolia and Qatar and three protocols with Belgium, India and Russia.
 9. These are the DTCs with Azerbaijan, Canada, Republic of Congo, Lebanon, Moldova and Qatar and protocols with Belgium and Russia.
 10. These 11 TIEAs are with Andorra (signed in September 2015), Cook Islands (signed in May 2011), Bermuda (signed in April 2012), Cayman Islands (signed in December 2012), Gibraltar (signed in October 2012), Guernsey (signed in September 2012), Isle of Man (signed in September 2013), Jersey (signed in March 2012), Liechtenstein (signed in February 2015), Monaco (signed in March 2015) and Turkmenistan (signed in May 2012).
 11. These five DTCs are with Barbados (signed in August 2015), Chile (signed in October 2015); Hong Kong, China (signed in January 2013), Holy See (signed in April 2015) and Romania (signed in April 2015).
 12. These six protocols are with Korea (signed in April 2012), Luxembourg (signed in June 2012), Mexico (signed in June 2011), San Marino (signed in June 2012), Singapore (signed in May 2011) and Switzerland (signed in February 2015).

All eight agreements or protocols signed by Italy in 2015 and later were ratified within two years except for the DTC with Romania ratified in 25 months after the signing. Out of the remaining three agreements or protocols that have not yet been ratified by Italy, one is pending ratification for more than two years and two were signed in 2016.¹³

240. To sum up, in several cases new EOI agreements or protocols were ratified within two years since its signing. However, the time needed to ratify an EOI agreement or protocol can frequently take more than two years. Considering that the ratification period remains relatively long the first round recommendation is kept and Italy is recommended to continue its efforts to ratify all its EOI arrangements signed with counterparts expeditiously. It is nevertheless acknowledged that since the first round review the proportion of Italy's EOI relations not in force has been lowered, the length of ratification of new agreements or protocols signed after 2015 has been shortened and Italy has in force the Multilateral Convention, as amended.

Bilateral EOI mechanisms

A	Total Number of DTCs/TIEAs	A = B+C	119
B	Number of DTCs/TIEAs signed but not in force	B = D+E	10
C	Number of DTCs/TIEAs signed and in force	C = F+G	109
D	Number of DTCs/TIEAs signed (but not in force) and to the Standard	D	10
E	Number of DTCs/TIEAs signed (but not in force) and not to the Standard	E	0
F	Number of DTCs/TIEAs in force and to the Standard	F	108
G	Number of DTCs/TIEAs in force and not to the Standard	G	1

ToR C.1.9. Be given effect through domestic law

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

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

13. These three agreements or protocols are a DTC protocol with the Philippines (signed in December 2013), a TIEA with Costa Rica (signed in April 2016) and a DTC protocol with Ecuador (signed in December 2016).

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

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

243. Italy has extensive EOI network covering 146 jurisdictions through 107 DTCs, 12 TIEAs and the Multilateral Convention. As a member of the EU Italy can also exchange information with all EU member states under EU instruments. Italy's EOI network encompasses a wide range of counterparties, including all of its major trading partners, all the G20 members and all OECD members.

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

245. Since the first round review Italy's treaty network has been broadened from 91 jurisdictions to 146. This is through the significant increase in the number of the Multilateral Convention parties and the broadening of the network of Italy's bilateral treaties. Since the cut-off date of the first round review in March 2011 Italy has signed five DTCs and 12 TIEAs with 15 jurisdictions previously without EOI relations.¹⁴ The number of signatories to the Multilateral Convention rose from 27 in March 2011 to 112 in August 2017 which further broadened Italy's treaty network.

246. Italy has in place an active negotiation programme which includes renegotiating of existing DTCs to ensure that they are up to date and in line with international standards and expansion of already existing treaty network so that all relevant partners are covered. Negotiations or renegotiations of bilateral agreements are currently ongoing with several jurisdictions. As the standard ultimately requires that jurisdictions establish an EOI relation up to the standard with all partners who are interested in entering into such relation Italy is recommended to maintain its negotiation programme so that its exchange of information network continues to cover all relevant partners.

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

14. These 15 jurisdictions are Andorra; Barbados; Bermuda; Cayman Islands; Chile; Cook Islands; Costa Rica; Gibraltar; Guernsey; Holy See; Hong Kong, China; Isle of Man; Jersey; Liechtenstein and Monaco.

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

Legal and Regulatory Framework		
	Underlying Factor	Recommendation
Deficiencies identified in the implementation of the legal and regulatory framework		
Determination: In place		
Practical implementation of the standard		
	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.

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

250. Further, as already concluded in the first round review, there are adequate confidentiality provisions protecting tax information under Italy's domestic tax laws. These provisions also apply to information exchanged under Italy's EOI instruments (including in respect of EOI requests) unless the respective EOI instrument stipulates different rules.

251. The EOI request letter and supporting documentation are protected by confidentiality rules and cannot be disclosed to the taxpayer or the information holder. Information obtained under an EOI instrument can be disclosed only to the Italian taxpayer and to the extent it forms basis of his/her tax assessment issued by the Italian tax administration.

252. While obtaining information which is not at the disposal of the tax administration only information necessary to obtain the requested information is provided to the taxpayer or the information holder. The disclosed information does not contain the identification of the requesting competent authority or any details from the EOI letter or supporting documentation which would go beyond the description of the requested information necessary for obtaining it.

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

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

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

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

255. The 2011 report concluded that all of Italy’s EOI instruments have confidentiality provisions in line with Article 26(2) of the OECD Model Tax Convention except for Italy’s 1985 DTC with the (former) Union of Soviet Socialist Republics, which still applied with respect to Azerbaijan, Kyrgyzstan, Tajikistan and Turkmenistan. Since the first round review Italy has concluded a new DTC with Azerbaijan which came into force in August 2011 and a TIEA with Turkmenistan which came into force in January 2017. It was also clarified that the former DTC with the (former) Union of Soviet Socialist Republics does not apply in respect of Turkmenistan. With regards to Kyrgyzstan and Tajikistan, Italy has contacted these jurisdictions several times before and during the period under review including through exchange of diplomatic notes with the view of concluding a new DTC containing the model EOI article. However, it has not been possible to come to an agreement on proceeding with the negotiations. It is also noted that there was no

exchange of information with these jurisdictions during the period under review.

256. All Italy's agreements and Protocols signed since the first round review contain wording akin to Article 26(2) of the Model DTC and therefore ensure confidentiality of exchanged information in line with the standard.

257. As already concluded in the first round review, there are adequate confidentiality provisions protecting tax information contained in Italy's domestic laws which are supported by administrative and criminal sanctions applicable in the case of breach of these obligations. Personal data protection rules contained in EU law are implemented in Italy's domestic law in a way which is compatible with effective exchange of information. Domestic confidentiality rules also apply to information exchanged under Italy's EOI instruments (including in respect of EOI requests) unless the respective EOI instrument stipulates different rules. There has been no change in the domestic confidentiality provisions since the first round review.

258. The EOI request letter and supporting documentation are protected by confidentiality rules and cannot be disclosed to the taxpayer or the information holder. Information obtained under an EOI instrument can be disclosed only to the Italian taxpayer and to the extent it forms the basis of his/her tax assessment issued by the Italian tax administration. The taxpayer's bill of rights (Law no. 212 of 2000) states that if a taxpayer receives a tax assessment notice he/she is entitled to submit a request for access to the information and documentation underlying the assessment. Further, law no. 241 of 1990 concerning transparency of the Italian Public Administration excludes from the disclosure preparatory documentation for tax investigations and examinations in order to protect the higher public interest and to avoid jeopardising the audit results. This exception also covers the EOI request letter and the response letter received pursuant to the EOI request as confirmed by Ministerial Decree no. 603/1996. Accordingly, there was no case during the period under review where the EOI request letter was disclosed to the taxpayer or to the information holder. In cases where parts of the exchanged information formed factual evidence underlying tax assessment in Italy such information was made accessible to the taxpayer in the context of the tax assessment procedure as foreseen by the international standard (see also section B.2).

259. While obtaining information which is not at the disposal of the tax administration only information necessary to obtain the requested information is provided to the taxpayer or the information holder. The same procedures as in domestic cases apply. The information to be provided is determined by article 12 of Law No. 212/2000. The taxpayer or the information holder is not required to be specifically informed that the information is requested for EOI purposes. Notices requesting the provision of information include domestic legal basis, general purpose of the notice (e.g. the type of tax concerned) and a description of the requested information.

Practical measures to ensure confidentiality of the received information

260. The tax administration has in place policies and procedures to ensure confidentiality of the exchanged information. Information received under EOI instruments is labelled as confidential and stored at the central level in archives of the Competent Authority. All information received electronically is saved in secure IT systems. Only authorised staff has access to such systems and their access is traceable in order to make it possible to know what information was consulted. The Competent Authority buildings are closed off, with alarm systems and are protected by security guards. The tax authority's buildings are only accessible with an ID card and a personal entry card which every employee has to have to enter the building.

261. When foreign data originally requested by the Italian local offices is received by the Competent Authority, such information is translated by an official of the Competent Authority and the translation is subsequently sent to the competent local office and stored in their archives with the documentation concerning that particular case.

262. All information is exchanged either by registered post, by encrypted e-mail, encrypted compact discs, or by CCN mail (the secure mail system used by EU member States).

263. Italy's approach to data security is based on the International Standards Organization's (ISO) 27001, Information Security best practice standard and the internationally recognised Information Technology Infrastructure Library (ITIL) Service Management standard. The tax administration operates a risk assessment process that provides for regular reappraisal of threats and vulnerabilities and of the risk treatments thus required. In order to monitor and report confidentiality breaches a dedicated unit within the Revenue Agency analyses, controls and verifies the transmission of electronic data to detect unauthorised access and disclosure. If necessary, an investigation activity can follow the breach of confidentiality and a subsequent report is transmitted to the management in order to identify responsibilities.

264. No case of breach of the confidentiality obligation in respect of the exchanged information has been encountered by the Italian authorities and no such case or concern in this respect has been indicated by peers either.

ToR C.3.2. Confidentiality of other information

265. The confidentiality provisions in Italy's EOI agreements and domestic law do not draw a distinction between information received in response to requests or information forming part of the requests themselves. As such, these provisions apply equally to all requests for information, background documents to such requests, and any other documents reflecting

such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction. In practice, the same confidentiality measures are applied in respect of all types of information received from Italy’s treaty partners.

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

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

ToR C.4.1. Exceptions to requirement to provide information

266. All of Italy’s EOI agreements contain provisions on the rights and safeguards of taxpayers and third parties in line with the standard wording. The 2011 report noted that each of Italy’s EOI instruments allow to decline exchange of information where the requested information is covered by solicitor client privilege, a trade, business industrial, commercial or professional secret, or information the disclosure of which would be contrary to public policy (*ordre public*). This is the case also for Italy’s EOI agreements signed after the first round review.

267. As discussed in section B.1.5, there is no professional or banking secrecy under Italian domestic law that can be invoked when information is requested for tax purposes by revenue authorities except for information subject to attorney-client privilege. The privilege is however only applicable on communication between a client and an attorney where the attorney acts in his or her professional capacity as attorney and therefore it was found in line with the standard.

268. During the period under review there was no case where a person refused to provide the requested information because of professional privilege. Italy also did not decline to provide the requested information during the period under review because it is covered by legal professional privilege or any other professional secret and no peer indicated any issue in this respect.

269. The table of determinations and ratings therefore remains unchanged 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.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.

270. 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

271. The 2011 report concluded that Italy's response times and provision of status updates were not fully compatible with effective exchange of information and Italy was recommended to address these issues.

272. Since the first round review Italy has taken several measures to address the recommendation:

- the Ministry of Economy and Finance has organised six high level meetings to give instructions and specific guidelines to both AE and GdF with regards to implementing status updates and providing operational deadlines.
- AE and GdF developed and implemented better ways to monitor deadlines for handling incoming requests which allow for automatic reminders of approaching deadlines and monitoring of each step in handling EOI requests.
- AE and GdF issued internal instructions stipulating deadlines for provision of the requested information in line with the standard.

- AE and GdF have taken measures to streamline the process of providing the requested information by local offices. AE has started to allocate EOI requests directly to regional and provincial directorates based on their jurisdiction. GdF gave flexibility to local offices to obtain information also through written orders where, based on the risk assessment by the local office, the relevant information can be obtained without on-site inspection.
- AE and the GdF have implemented a system by which quarterly status updates are sent systematically to each partner jurisdiction.

273. The implemented measures facilitate timeliness of Italy’s responses and seem to be addressing most of the concerns raised in the first round review. Nevertheless they were implemented only in the later part of the period under review and their full impact remains to be seen. Although it is acknowledged that a significant portion of requests received by Italy may be classified as complex requests and therefore a quality response to these requests requires a longer period, the overall length of response times does not ensure effective exchange of information in all cases. The negative impact of the length of response times on effective exchange of information in certain cases was also pointed out by a few peers, though these cases appear to pertain mostly to the earlier part of the period under review. Italy is therefore recommended to address this concern.

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

Determination: The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the implementation of EOIR in practice.		
	Underlying Factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice	Italy has recently taken several measures to improve timeliness of its responses. Although response times have shortened since the first round review from 15% to 30% of incoming requests responded within 90 days, further improvement is needed to ensure exchange of information in a timely manner in all cases.	Italy should monitor recently introduced measures and endeavour to further streamline its processes so that it is able to respond to all EOI requests in a timely manner.
Rating: Largely Compliant		

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

275. Over the period under review (1 October 2013 to 30 September 2016), Italy received a total of 1 560 requests for information. For these years, the number of requests where Italy answered within 90 days, 180 days, one year or more than one year, are tabulated below.

		1 st year		2 nd year		3 rd year		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	575	37	416	27	569	36	1 560	100
Full response: ≤90 days		173	30	87	21	212	37	472	30
≤180 days (cumulative)		294	51	166	40	347	61	807	52
≤1 year (cumulative) [A]		424	74	277	67	448	79	1 149	74
>1 year	[B]	134	23	98	23	9	1	241	15
Declined for valid reasons		0	0	0	0	0	0	0	0
Status update provided within 90 days (for responses sent after 90 days)		298	73	270	81	357	100	925	85
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	17	3	41	10	112	20	170	11

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

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

276. The average response times has improved since in the first round review from about 15% of requests responded to within 90 days in the first round to 30% in the current period under review. The proportion of requests responded to within 180 days has also slightly improved from about 40% in the first round to 52% in the current review period. The response times have improved despite an increase in the number and complexity of incoming requests reported by Italy.

277. The vast majority of requests responded to within 90 days related to information already in the hands of the tax administration and provided directly by the Competent Authority in AE or GdF. Where the requested information was obtained through local tax offices the response time was typically more than 90 days. Over the three years under review the percentage of requests responded to within 90 days slightly increased from 30% in the first year to 37% in the third year. Relatively longer response times to requests received in the second year can be attributed to managerial and personnel changes at the local level of tax administration and receipt of bulk requests focused on taxpayers carrying out activity in specific sectors of

the Italian economy concentrated in regions. These sector specific requests related to about 100 taxpayers each and were handled by the regional tax offices of residence of the taxpayers subject to these requests.

278. Delay in provision of the requested information can be caused by an ongoing criminal investigation of the person subject of the request or the information holder in Italy. In that case provision of the requested information is conditioned by authorisation by the public prosecutor leading the criminal investigation. If the tax office handling the request becomes aware that the person subject of the request or the information holder is subject to criminal investigation in Italy (which information should be normally contained in the tax database), the tax auditor is required to contact the public prosecutor leading the criminal investigation and require his/her official authorisation to proceed with the exchange of information. As the authorisation may not be given until the criminal investigation is closed this may lead to significant delay in provision of the requested information. Nevertheless during the period under review this restriction affected only less than 10 requests (i.e. less than 0.6% of all received requests) and therefore does not appear to have had a significant impact on timeliness of Italy's responses.

279. There does not appear to be a direct relationship between the type of information requested and the ability to fulfil the request within 90 days. However as said above where information is not provided directly by the Competent Authority, provision of the requested information will typically take more than 90 days. This is the case particularly where the request relates to banking information going beyond the name of the account holder and the bank account number, underlying accounting documents for a specific transaction, detailed transfer pricing information or where other information which is not routinely available to the tax administration is requested and its provision requires use of access powers in respect of several persons and multiple sources. Some requests require efforts to identify the concerned taxpayers and subsequent tax investigation by the competent local offices is necessary. The resulting average response time in respect of all requests received during the reviewed period is 171 days and in respect of requests for banking information specifically 243 days (see further section B.1.1).

280. Although it is acknowledged that a significant portion of requests received by Italy may be classified as complex requests and therefore a quality response to these requests requires a longer period, the overall length of response times does not ensure effective exchange of information in all cases (see also section B.1.1 and C.5.2). The negative impact of the length of response times on effective exchange of information in certain cases was also pointed out by a few peers. Italy is therefore recommended to monitor recently introduced measures and endeavour to further streamline its processes so that it is able to respond to all EOI requests in a timely manner.

281. During the period under review Italy did not decline any EOI request. As already mentioned under section C.1.1, clarifications were needed in respect of about 5% of received requests. There was no case during the reviewed period where Italy did not receive the necessary information required to process the request. However a few requests are still awaiting response to Italy's request for clarification and therefore are considered pending.

282. Italy started to systematically provide status updates since the first quarter of 2016. AE and GdF established a process for updating the requesting jurisdictions on the status of their requests on a quarterly basis. The status update lists all the cases (whether responded to or not within 90 days) which are opened, closed or ongoing during the relevant quarter. If the case is still open during the relevant period, a brief information update on the relevant status of the enquiry/process for obtaining the information is provided. The quarterly status update is automatically generated by the EOI database upon request by the Competent Authority. However as the procedure was implemented only towards the end of the review period and its efficiency could not be fully confirmed by peers Italy should monitor systematic provision of status updates in cases where the requested information is not provided within 90 days.

283. According to the Italian authorities there was no case during the period under review where a request was withdrawn by the requesting jurisdiction. One peer nevertheless reported that in two cases it closed its domestic investigation before receiving a response from Italy.

284. No failure to provide the requested information is indicated in the Competent Authorities' EOI databases in the reviewed period. Italy always provides partial replies once part of the relevant information is available. It is also noted that a vast amount of information is already in the hands of the tax administration and therefore can be retrieved by the tax authority even without contacting the taxpayer or third party information holder (see further section A.1 and B.1). In the very limited number of cases where Italy is not able to provide the complete response Italy provides an explanation of the steps taken and why the complete information is not provided.

285. Eleven percent of requests received during the period under review are still being processed. A few of these cases are pending clarification from the requesting Competent Authority and the remaining requests are handled by the local tax offices. Reasons for requests being pending at the local level correlate with the description of factors impacting timeliness of responses described above. In the majority of these cases Italy was already able to provide partial replies including in cases where a person supposed to be in possession or control of the information was difficult to track and contact. In addition, 33 of the pending requests were received in the last quarter of the review period.

ToR C.5.2. Organisational processes and resources

286. The 2011 report concluded that Italy's response times were not fully compatible with effective exchange of information and Italy was recommended to monitor more closely the requests sent to local authorities to obtain requested information and to provide status updates to requesting jurisdictions when responses in 90 days are not possible.

287. Since the first round review Italy has taken several measures to address the recommendation:

- the Ministry of Economy and Finance has organised six high level meetings to give instructions and specific guidelines to both AE and GdF with regards to implementing status updates and providing operational deadlines.
- AE and GdF developed and implemented better ways to monitor deadlines for handling incoming requests. AE has created an application facilitating monitoring of EOI requests and spontaneous exchange of information. The application allows to calculate various statistics including on timelessness of responses and types of requested information and setting up automatic reminders. GdF has improved the central information system in order to better monitor deadlines as well. These improvements have enabled monitoring of each step in handling the request including sending acknowledgment of receipt, provision of feedback and setting up automatic reminders for approaching deadlines where needed.
- AE and GdF issued internal instructions stipulating deadlines for provision of the requested information in line with the standard and stressing importance of obtaining and providing the requested information in a timely manner. The internal instructions have been circulated via e-mail and are available on the agencies' Intranets.
- AE and GdF have taken measures to streamline the process of providing the requested information by local offices. AE has started to allocate EOI requests directly to regional and provincial directorates based on their jurisdiction eliminating a need to go through hierarchical levels of the tax administration. GdF gave flexibility to local offices to obtain information also through written orders where, based on the risk assessment by the local office, the relevant information can be obtained without an on-site inspection. Further, each letter addressed to GdF's local offices includes a deadline to provide a response or status update within 90 days since receipt of the request. Finally, a few local GdF offices have started to handle EOI requests in English, French or German eliminating time required for translation at the central level.

- As already described above, AE and the GdF implemented a system in 2016 by which quarterly status updates are sent systematically to each partner jurisdiction.

288. The implemented measures facilitate timeliness of Italy's responses and seem to be addressing most of the concerns raised in the first round review. Nevertheless they were implemented only in the later part of the period under review and their full impact remains to be seen.

Incoming requests

289. The 2011 report concluded that Italy's organisational processes and resources in respect of handling incoming request were generally in line with the international standard except for relatively long response times in certain cases.

290. Since the first round review Italy has taken several measures mentioned above which have only recently impacted the process of handling incoming request. Except for these measures, handling of incoming requests and the organisation of the EOI work remains the same and therefore the description in the 2011 report is still valid.

291. As described in section B.1 and C.5.1, requests which are not responded to within 90 days are typically handled at the local level. However the procedures for obtaining information at the local level which lead to delays in certain cases remain substantively unchanged (see further section B.1.1). There also appears to be a discrepancy between the amount and variety of information already at the disposal of the tax administration and relatively long response times in certain cases. It is nevertheless acknowledged that the relevance of information already at the disposal of the tax administration depends on the information requested in the particular case.

292. The EOI Unit within AE is staffed with eight officials handling EOI requests in direct taxes. The EOI Unit within GdF is staffed with six officials. All officers handling EOI requests at the central level are experienced and well trained. Although the number of incoming EOI requests has risen by 35% since the first round review the staffing of both EOI Units at the central level remains almost unchanged. It is therefore advisable that Italy monitors the workload of the EOI Units and ensures that appropriate resources are devoted to the EOI programme.

Outgoing requests

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

294. Italy has a vast experience with requesting information pursuant to its EOI instruments. EOIR has been frequently used to obtain the tax relevant information for decades and Italy has developed a robust EOI programme for that purpose. During the period under review Italy sent 1 242 requests for information related only to direct taxes. The number of requests is counted per the number of taxpayers concerned.

Processing outgoing requests

295. Most outgoing requests are initiated by a tax auditor in local tax office responsible for tax assessment of a particular taxpayer. EOI upon request is used after domestic sources have been exhausted. The local tax auditors prepare a draft request using an e-form. A draft request together with any supplementary documentation is then electronically transmitted to the central EOI Unit. The EOI unit conducts an examination to verify the validity and completeness of the request. The EOI Unit officer in particular verifies whether the request is made in conformity with the applicable EOI arrangement. This includes verification of the requested Competent Authority, of the period of taxes covered, whether the auditor has used all domestic means available to obtain the information, if the information provided is consistent with the information kept in the tax databases and if the requested information is foreseeably relevant for administration or enforcement of domestic tax laws. The EOI Unit officer also checks clarity and specificity of the request so that it is clear what information is requested and why. After these checks the draft request is translated and together with its supporting documentation is submitted to the manager of the EOI Unit for the final review. All outgoing EOI requests are sent by the Competent Authority either within AE or GdF.

296. All requests must be prepared in conformity with requirements set in official internal guidance. As for the GdF, the internal guidance is contained in instructions dated February 2008 and subsequently updated. The instructions manual is available to all local offices involved in tax audits and is analysed during training courses. Moreover all the relevant forms and instructions are available on a specific web area of the International co-operation office in the Intranet system. The AE has issued internal instructions to process outgoing and incoming requests in a Circular Letter issued already in 2002 (Circular Letter No. 33 of 18/04/2002, as integrated by Circular letter No. 83 of 15/11/2002). Further, in 2014 AE issued Circular Letter No. 25/E dated 6/08/2014 “Preventing and fighting tax evasion – year 2014 – operating policies” introducing the main changes coming from the Legislative Decree No. 29/2014 implementing Council Directive No. 2011/16/EU. EOI officials at all levels of the tax administration have been provided with the relevant supporting documents (OECD manual, EU guidelines, internal instructions, etc) through intranet and series of trainings, meetings and consultations. In

addition, the Department of Finance, the GdF and the AE have organised several internal seminars to clarify roles and responsibilities in order to improve the effectiveness of EOI. Auditors can also contact EOI officers directly should they need any further information or clarification.

297. Incoming requests for clarification are dealt with generally in the same way as incoming EOI requests. In cases where clarification cannot be provided by the EOI Unit the officer typically directly contacts the auditor who initiated the request in the Regional/Provincial Directorates to obtain a prompt reply. This is usually done through phone calls or emails. If the requested clarification is already at the disposal of the EOI Unit it can be provided within days. In cases where the local auditor has to be contacted provision of the requested clarification may take a few weeks depending on the type of requested clarification. In several cases Italy organised a conference call with the other jurisdiction to clarify and then follow up with written clarification if it was necessary. Italy also organises bilateral meetings with its EOI partners to discuss outstanding cases.

Information to be included in outgoing requests

298. Information required to be included in Italy's outgoing requests follows information as outlined in Article 5(5) of the Model TIEA. For EOI requests with EU jurisdictions e-forms are used as provided by the EU Commission. Request letters to non-EU jurisdictions do not have a standardised template but have to include in all cases elements referred in the Checklist included in the EOI working manual. Italy does not use specific templates customised for a particular jurisdiction but while preparing a request the EOI Unit official usually checks if the requested jurisdiction has particular requirements on information to be included in incoming requests. Use of standardised template request reflecting requirements of a valid request also for non-EU jurisdictions may further facilitate preparation and processing of Italy's requests.

299. During the period under review Italy received requests for clarification in respect of less than 2% of outgoing requests. There appears to be no systemic pattern in the need for these clarifications. Frequently, requests for clarification or for supporting documentation aimed to facilitate the correct identification of the taxpayer or of the bank account. Based on the available information only in limited number of cases during the period under review the requested clarifications were not provided. No concerns were reported by peers as they are generally satisfied with quality of Italy's requests.

Communication

300. Italy accepts requests in English, French, German or Italian. If the request is not in one of these languages the requesting competent authority will be asked to translate the request. Italy also sends outgoing requests in one of these languages as agreed with the particular treaty partner.

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

302. Communication tools used for external communication with other Competent Authorities differ depending on the partner jurisdiction. In case of requests addressed to EU jurisdictions the CCN email network is used. In case of requests addressed to non-EU jurisdictions, Italy uses registered post or encrypted e-mails. The way of communication is either agreed bilaterally or communicated by the particular jurisdiction.

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

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

Annex 1: Jurisdiction’s response to the review report¹⁵

Italy acknowledges the high quality of the work done on the Peer Review of Italy and is satisfied with the outcome of the report. In our view the Report correctly portrays the robust legislative framework in both the tax area and in relation to AML in Italy, as well as the intense, daily involvement of the Italian Tax Administration in the exchange of information.

Besides the Ministry of Economy and Finance, the Italian Revenue Agency and the Guardia di Finanza were involved in work on the Italian Peer Review, as well as several other Administrations. Great efforts were made in a very constructive and cooperative dialogue with the Assessment Team.

Italy attaches great importance to transparency and exchange of information for tax purposes. Italy’s deep commitment to transparency and exchange of information is not limited to exchange on request and spontaneous exchange. It also includes automatic exchange of information, implementation of the BEPS outcomes on transparency (exchange of tax rulings, country-by-country reporting) and improvement of availability and access to information on beneficial ownership.

In terms of improvements in the legal framework since the last EOIR review, the most relevant ones for the purposes of this review are as follows:

- (i) the Tax Register (Anagrafe Tributaria) which now holds numeric information regarding financial accounts and relations and all other information necessary for tax audits and controls. Personal data on beneficial owners of accounts must be communicated to the Tax Register as of 1 January 2016;
- (ii) the AML framework, under the AML Law of 2007, was already well-developed and functional in terms of assuring the availability of beneficial ownership information, as attested to in the Mutual Evaluation Report published for Italy in March 2016. The recent implementation of the IV EU Directive on AML has further

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

strengthened this framework, with the introduction of new reporting obligations on the legal entities that must report beneficial ownership information to the Business Register, as well as the setting up of a special register of trusts within the Business Register.

There have been notable improvements in the framework of exchange of information. In particular:

- the network of exchange relations has been greatly expanded, now effectively covering 135 jurisdictions through bilateral agreements, the Multilateral Convention and EU instruments (as compared to only 91 jurisdictions covered at the time of the previous Review);
- the exchange of information upon request has increased in volume (reaching 1 560 requests as compared to 1 014 requests at the time of the previous Report). At the same time, an automatic system of status updates has been put fully in place and response times have been reduced.
- the scope of exchange of information has been broadened, with the implementation of the Common Reporting Standard, the exchange of information on cross-border rulings and Advance Pricing Agreements, the Implementation of Country by Country Reporting and with Tax authorities being ensured access to beneficial ownership information held for AML purposes (European DAC5 directive).

Italy will proceed to carefully monitor the impact of all changes, both legislative and operational, on its EOIR practice and will improve areas as needed to continue to ensure effective exchange of information.

Annex 2: List of jurisdiction’s EOI mechanisms

1. Bilateral international agreements for the exchange of information

EOI partner	Type of agreement	Date signed	Date entered into force
Albania	DTC	12-Dec-94	21-Dec-99
Algeria	DTC	03-Feb-91	30-Jun-95
Andorra	TIEA	22-Sep-15	08-Jun-17
Argentina	DTC	15-Nov-79	15-Dec-83
	Protocol	03-Dec-97	13-Mar-01
Armenia	DTC	14-Jun-02	05-May-08
Australia	DTC	14-Dec-82	05-Nov-85
Austria	DTC	29-Jun-81	06-Apr-85
	Protocol	25-Nov-87	16-Oct-89
Azerbaijan	DTC	21-Jul-04	18-Aug-11
Bangladesh	DTC	20-Mar-90	07-Jul-96
Barbados	DTC	24-Aug-15	Not in force
Belarus	DTC	11-Aug-05	30-Nov-09
Belgium	DTC	29-Apr-83	29-Jul-89
	Protocol	19-Dec-84	29-Jul-89
	Protocol	11-Oct-04	17-Apr-13
Bermuda	TIEA	23-Apr-12	03-Apr-17
Bosnia and Herzegovina	DTC	24-Feb-82	03-Jul-85
Brazil	DTC	03-Oct-78	24-Apr-81
Bulgaria	DTC	21-Sep-88	10-Jun-91
Canada	DTC	03-Jun-02	25-Nov-11

EOI partner	Type of agreement	Date signed	Date entered into force
Cayman Islands	TIEA	03-Dec-12	13-Aug-15
Chile	DTC	23-Oct-15	20-Dec-16
China (People's Republic of)	DTC	31-Oct-86	13-Dec-90
Congo	DTC	15-Oct-03	26-Jun-14
Cook Islands	TIEA	17-May-11	17-Feb-15
Costa Rica	TIEA	27-May-16	Not in force
Côte d'Ivoire	DTC	30-Jul-82	15-May-87
Croatia	DTC	29-Oct-99	15-Sep-09
Cuba	DTC	17-Jan-2000	Not in force
Cyprus	DTC	24-Apr-74	09-Jun-83
	Protocol	4-Jun-09	23-Nov-10
Czech Republic	DTC	05-May-81	26-Jun-84
Denmark	DTC	05-May-99	27-Jan-03
Ecuador	DTC	23-May-84	01-Feb-90
	Protocol	13-Dec-16	Not in force
Egypt	DTC	07-May-79	28-Apr-82
Estonia	DTC	20-Mar-97	22-Feb-00
Ethiopia	DTC	08-Apr-97	09-Aug-05
Finland	DTC	12-Jun-81	23-Oct-83
Former Yugoslav Republic of Macedonia	DTC	20-Dec-96	08-Jun-00
France	DTC	05-Oct-89	01-May-92
Gabon	DTC	28-Jun-99	Not in force
Georgia	DTC	31-Oct-00	19-Feb-04
Germany	DTC	18-Oct-89	26-Dec-92
Ghana	DTC	19-Feb-04	05-Jul-06
Gibraltar	TIEA	04-Oct-12	12-Jun-15
Greece	DTC	03-Sep-87	20-Sep-91
Guernsey	TIEA	05-Sep-12	10-Jun-15
Holy See	DTC	01-Apr-15	15-Oct-16
Hong Kong, China	DTC	14-Jan-13	10-Aug-15
Hungary	DTC	16-May-77	01-Dec-80

EOI partner	Type of agreement	Date signed	Date entered into force
Iceland	DTC	10-Sep-02	14-Oct-08
India	DTC	19-Feb-93	23-Nov-95
	Protocol	13-Jan-06	Not in force
Indonesia	DTC	18-Feb-90	02-Sep-95
Iran	DTC	19-Jun-05	Not in force
Ireland	DTC	11-Jun-71	14-Feb-75
Isle of Man	TIEA	16-Sep-13	10-Jun-15
Israel	DTC	08-Sep-95	06-Aug-98
Japan	DTC	20-Mar-69	17-Mar-73
	Protocol	14-Feb-80	28-Jan-82
Jersey	TIEA	13-Mar-12	26-Jan-15
Jordan	DTC	16-Mar-04	10-May-10
Kazakhstan	DTC	22-Sep-94	26-Feb-97
Kenya	DTC	15-Oct-79	Not in force
	Protocol	18-Feb-97	Not in force
Korea	DTC	10-Jan-89	14-Jul-92
	Protocol	03-Apr-12	23-Jan-15
Kuwait	DTC	17-Dec-87	11-Jan-93
	Protocol	15-Dec-92	11-Jan-93
	Protocol	17-Mar-98	25-Mar-00
Kyrgyzstan	DTC	26-Feb-85	30-Jul-89
Latvia	DTC	21-May-97	16-Jun-08
Lebanon	DTC	22-Nov-00	21-Nov-11
Libya	DTC	10-Jun-09	Not in force
Liechtenstein	TIEA	26-Feb-15	20-Dec-16
Lithuania	DTC	04-Apr-96	03-Jun-99
Luxembourg	DTC	03-Jun-81	04-Feb-83
	Protocol	21-Jun-12	20-Jan-15
Malaysia	DTC	28-Jan-84	18-Apr-86
Malta	DTC	16-Jul-81	08-May-85
	Protocol	13-Mar-09	24-Nov-10
Mauritius	DTC	09-Mar-90	28-Apr-95
	Protocol	09-Dec-10	29-Nov-11

EOI partner	Type of agreement	Date signed	Date entered into force
Mexico	DTC	08-Jul-91	12-Mar-95
	Protocol	23-Jun-11	16-Apr-15
Moldova	DTC	03-Jul-02	14-Jul-11
Monaco	TIEA	02-Mar-15	04-Feb-17
Mongolia	DTC	11-Sep-03	Not in force
Montenegro	DTC	24-Feb-82	03-Jul-85
Morocco	DTC	07-Jun-72	10-Mar-83
	Protocol	28-May-79	10-Mar-83
Mozambique	DTC	14-Dec-98	06-Aug-04
Netherlands	DTC	08-May-90	03-Oct-93
New Zealand	DTC	06-Dec-79	23-Mar-83
Norway	DTC	17-Jun-85	25-May-87
Oman	DTC	06-Apr-98	22-Oct-02
Pakistan	DTC	22-Jun-84	27-Feb-92
Panama	DTC	30-Dec-10	Not in force
Philippines	DTC	05-Dec-80	15-Jun-90
	Protocol	09-Dec-13	Not in force
Poland	DTC	21-Jun-85	26-Sep-89
Portugal	DTC	14-May-80	15-Jan-83
Qatar	DTC	15-Oct-02	07-Feb-11
	Protocol	19-Mar-07	07-Feb-11
Romania	DTC	14-Jan-77	06-Feb-79
	DTC	25-Apr-15	Not in force
Russia	DTC	09-Apr-96	30-Nov-98
	Protocol	13-Jun-09	01-Jun-12
San Marino	DTC	21-Mar-02	03-Oct-13
	Protocol	13-Jun-12	03-Oct-13
Saudi Arabia	DTC	13-Jan-07	01-Dec-09
Senegal	DTC	20-Jul-98	24-Oct-01
Serbia	DTC	24-Feb-82	03-Jul-85
Singapore	DTC	29-Jan-77	12-Jan-79
	Protocol	24-May-11	19-Oct-12
Slovak Republic	DTC	05-May-81	26-Jun-84

EOI partner	Type of agreement	Date signed	Date entered into force
Slovenia	DTC	11-Sep-01	12-Jan-10
South Africa	DTC	16-Nov-95	02-Mar-99
Spain	DTC	08-Sep-77	24-Nov-80
Sri Lanka	DTC	28-Mar-84	09-May-91
Sweden	DTC	06-Mar-80	05-Jul-83
Switzerland	DTC	09-Mar-76	27-Mar-79
	Protocol	28-Apr-78	27-Mar-79
	Protocol	23-Feb-15	13-Jul-16
Syrian Arab Republic	DTC	23-Nov-00	15-Jan-07
Tajikistan	DTC	26-Feb-85	30-Jul-89
Tanzania	DTC	07-Mar-73	06-May-83
	Protocol	31-Jan-79	06-May-83
Thailand	DTC	22-Dec-77	31-May-80
Trinidad and Tobago	DTC	26-Mar-71	19-Apr-74
Tunisia	DTC	16-May-79	17-Sep-81
Turkey	DTC	27-Jul-90	01-Dec-93
Turkmenistan	TIEA	04-May-12	18-Jan-17
Uganda	DTC	06-Oct-00	18-Nov-05
Ukraine	DTC	26-Feb-97	25-Feb-03
United Arab Emirates	DTC	22-Jan-95	05-Nov-97
United Kingdom	DTC	21-Oct-88	31-Dec-90
United States of America	DTC	25-Aug-99	16-Dec-99
Uzbekistan	DTC	21-Nov-00	26-May-04
Venezuela	DTC	05-Jun-90	14-Sep-93
Viet Nam	DTC	26-Nov-96	22-Feb-99
Zambia	DTC	27-Oct-72	30-Mar-90
	Protocol	13-Nov-80	30-Mar-90

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the amended Convention).¹⁶ The Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

Italy signed the 1988 Convention on 31 January 2006 and the Protocol amending the 1988 Convention on 27 May 2010. The Multilateral Convention entered into force in respect of Italy on 1 May 2006 while its amending Protocol entered into force on 1 May 2012.

Currently, 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, Czech Republic, Denmark, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Guatemala, Guernsey (extension by the United Kingdom), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, the Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Poland, Portugal, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San

16. 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.

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).

3. EU Directive on Administrative Co-operation

Italy can exchange information relevant for direct taxes upon request with EU member states under the EU Council Directive 2011/16/EU of 15 February 2011 on administrative co-operation in the field of taxation (as amended). The Directive came into force on 1 January 2013. All EU members were required to transpose it into their domestic legislation by 1 January 2013. Italy can exchange information within the framework of the Directive with Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

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

Constitution of the Italian Republic

Italian Civil Code – Excerpts

Italian Code of Criminal Procedure – Excerpts

Tax laws

Presidential Decree No. 633 of 26 October 1972

Presidential Decree No. 600 of 29 September 1973

Presidential Decree No. 605 of 29 September 1973

Presidential Decree No. 917 of 22 December 1986

Legislative Decree No. 545 of 31 December 1992

Legislative Decree No. 546 of 31 December 1992

Law Decree No. 331 of 30 August 1993

Law Decree No. 41 of 23 February 1995, turned into Law No. 85 of
22 March 1995

Legislative Decree No. 471 of 18 December 1997

Legislative Decree No. 74 of 10 March 2000

Law No. 212 of 27 July 2000

Legislative Decree No. 68 of 19 March 2001

Law No. 311 of 30 December 2004

Law No. 40 of 2 April 2007

Law Decree No. 40 of 25 March 2010

Law No. 97 of 6 August 2013

Law No. 95 of 18 June 2015

Law No. 208 of 28 December 2015

Law No. 232 of 11 December 2016 (Budget Law for 2017)

Law no. 170 of 12 August 2016 (European Delegation Bill 2015)

Decree laws

Decree Law No. 201 of 6/12/2011, as modified subsequently by Law 190/2014

Decree Law No. 193 of 2016

Taxation regulations and circulars

Circular Letter no. 45 dated 19.02.1997 (Guardia di Finanza)

Ministerial Circular Letter no. 45/E dated 19.02.1997

Regulation of 22 December 2005 (Revenue Agency)

Regulation of 12 November 2007 (Revenue Agency)

Circular Letter No. 22 of 06 June 1981 (Ministry of Finance – Direct Taxes)

Circular Letter No. 33 of 18 April 2002 (Revenue Agency)

Circular Letter No. 83 of 15 November 2002 (Revenue Agency)

Circular Letter No. 48 E of 6 August 2007 (Revenue Agency)

Circular Letter No. 6 of 25 January 2008 (Revenue Agency)

Circular Letter No. 7 of 4 February 2008 (Guardia di Finanza)

Circular Letter No. 13 of 9 April 2009 (Revenue Agency)

Circular Letter No. 20 of 16 April 2010 (Revenue Agency)

Letter No. 9624 of 4 February 2008 (Revenue Agency)

Circular letter No. 61 of 27 December 2010 (Revenue Agency)

- Circular Letter no. 83607 dated 19.03.2012 of the III Department Operations (Guardia di Finanza General Headquarters)

Circular Letter No. 38 of 2013 (Revenue Agency)

Circular Letter No. 25/E of 2014 (Revenue Agency)

- Guardia di Finanza General Headquarters – operational planning year 2015 (circular letter 3801/inc_14), 2016 (Circular Letter no. 364521_15), 2017(Circular Letter no. 371280_16)

The Provision of the Director of the Revenue Agency of 25 January 2016

Anti-money laundering laws

Legislative Decree No. 231 of 21 November 2007

Legislative Decree No. 151 of 25 September 2009

Law Decree No. 78 of 31 May 2010 converted into Law No. 122 of 30 July 2010

Legislative Decree No. 90/2017

Legislative Decree No. 231/07

Anti-money laundering regulations/guidelines

Bank of Italy regulation issued on 3.4.2013 on CDD

Customer due diligence guidelines issued by notaries on 4 April 2014

Implementing provisions on customer due diligence pursuant to article 7(2) of legislative decree 231/2007

Commercial laws

Law No. 1966 of 23 November 1939

- Decree of the Minister of Industry, Commerce and Handicraft of 9 March 1982, concerning “Procedures and content of the notifications to the register of companies held by the Chambers of Commerce, Industry, Crafts and Agriculture”

Law No. 580 of 29 December 1993

Presidential Decree No. 581 of 7 December 1995

Presidential Decree No. 361 of 10 February 2000

Law No. 40 of 2 April 2007

Financial laws

Law Decree No. 167 of 28 June 1990

Legislative Decree No. 385 of 1° September 1993

Ministerial Decree of 16 January 1995

Legislative Decree No. 58 of 24 February 1998

Legislative Decree No. 195 of 19 November 2008: Article 3

Other laws

Law No. 89 of 16 February 1913

Law No. 364 of 16 October 1989

Legislative Decree No. 460 of 4 December 1997

Law No. 73 of 22 May 2010

Annex to Law No. 73 of 22 May 2010

Consolidated Banking Act (TUB)

- Consob Communication No. 66209 issued on 2 August, 2013
- The Bank of Italy – binding regulations regarding the Single Electronic Archive, issued on 3 April 2013

IVASS – Regulation no. 5 of 21 July 2014

Decree of the Minister of Economy and Finance of 28 December 2015

EOI material

All EOI provisions contained in DTCs signed by Italy

Annex 4: Authorities interviewed during on-site visit

Anti-Mafia Investigative Directorate (DIA)

Bank of Italy

Financial Intelligence Unit (UIF)

Guardia di Finanza (GdF)

Infocamere

Ministry of Economy and Finance – Finance Department

Ministry of Economy and Finance – Treasury Department

Ministry of Internal Affairs – Prefettura

Ministry of Economic Development (MISE)

National Anti-mafia Directorate (DNA)

The Italian Securities and Exchange Commission (CONSOB)

National Council of Notaries

Revenue Agency (AE)

Annex 5: List of in-text recommendations

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

- Section A.1.1: Italy should further strengthen measures to ensure that notaries, lawyers, accountants and auditors keep beneficial ownership information in all cases in line with the standard.
- Section A.1.1: Italy should monitor practical impact of new obligations implementing the Fourth AML Directive on availability of beneficial ownership information in Italy and the availability of accurate and timely beneficial ownership information with the Business Register in particular.
- Section A.2.1: Italy should strengthen its measures to ensure availability of accounting information with respect to trusts administered in Italy or having a resident trustee therein.
- Section A.2.1: Italy should take measures to further improve availability of accounting records with the Business Register.
- Section A.3.1: Italy should monitor practical implementation of the new rules regarding information required to be kept in respect of trusts and similar arrangements.
- Section B.1.1: Italy should take measures to facilitate timely provision of banking information in all cases.
- Section C.2: Italy is recommended to maintain its negotiation programme so that its exchange of information network continues to cover all relevant partners.

- C.5.1: Italy should monitor systematic provision of status updates in cases where the requested information is not provided within 90 days.
- C.5.2: It is advisable that Italy monitors the workload of the EOI Units and ensures that appropriate resources are devoted to the EOI programme.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Publishing disseminates widely the results of the Organisation's statistics gathering and research on economic, social and environmental issues, as well as the conventions, guidelines and standards agreed by its members.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

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

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

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

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

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.

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

Consult this publication on line at <http://dx.doi.org/10.1787/9789264283800-en>.

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

Visit www.oecd-ilibrary.org for more information.

OECD publishing
www.oecd.org/publishing



ISBN 978-92-64-28378-7
23 2017 36 1 P



