GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

ESTONIA

2018 (Second Round)

OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Estonia 2018 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

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(reflecting the legal and regulatory framework as at January 2018)

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 145 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. the implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. the implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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 the FATF definition is used 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 (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (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.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that 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.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published reports, please refer to www.oecd.org/tax/transparency and http://dx.doi.org/10.1787/2219469x.

Abbrevations and acronyms

AML	Anti-Money Laundering
CDD	Customer Due Diligence
CFT	Countering the Financing of Terrorism
DTC	Double Tax Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSA	Financial Services Authority
ITA	Income Tax Act
KYC	Know Your Customer
MLA	Money Laundering and Terrorist Financing Prevention Act
OECD	Organisation for Economic Co-operation and Development
TIEA	Tax Information Exchange Agreement
TOR	Terms of Reference
VAT	Value Added Tax

Executive summary

1. This report analyses the legal and regulatory framework against the international standard of transparency and exchange of information on request in Estonia as well as the practical implementation over the period under review (1 January 2014-31 December 2016). The assessment of effectiveness in practice is conducted in relation to a three year period (2014 to 2016). This report concludes that Estonia is overall Compliant with the standard.

2. In 2013, the Global Forum evaluated Estonia's implementation of the EOIR standard in practice in relation to a three-year period from 1 July 2009 to 30 June 2012 against the 2010 Terms of Reference (the 2013 Report). The report concluded that Estonia was Largely Compliant overall. The table below compares these two reports.

Comparison of ratings for Phase 2 Review and current EOIR Review

Element		Phase 2 Report (2013)	EOIR Report (2017)
A.1	Availability of ownership and identity information	C	LC
A.2	Availability of accounting information	C	C
A.3	Availability of banking information	C	C
B.1	Access to information	C	C
B.2	Rights and Safeguards	C	C
C.1	EOIR Mechanisms	C	C
C.2	Network of EOIR Mechanisms	LC	C
C.3	Confidentiality	LC	C
C.4	Rights and Safeguards	C	C
C.5	Quality and timeliness of responses	C	C
	OVERALL RATING	LC	C

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

Progress made since previous review

3. The last round of reviews determined that Estonia's legal framework for the availability of ownership, accounting and banking information was in place and that the supervision of regulatory authorities was adequate. However, Estonia was recommended to address certain deficiencies in its policies negotiating agreements and its EOI practice.

4. Estonia implemented recommendations to continue developing its exchange of information network and to enter into agreements with all relevant partners. Since the last review, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters entered into force in Estonia.

5. At the time of the last review, Estonia's practice in obtaining information for EOI purposes was to always provide the name of the requesting jurisdiction and the taxpayer who was the subject of the requests to the information holder regardless of whether those details were needed to gather the information. Estonia has since amended its EOI practice so that it no longer needs to provide these details in order to obtain the necessary information.

6. Finally, Estonia has also recently amended its Money Laundering and Prevention Act in 2017 to impose obligations on all legal entities to identify and register information on their beneficial owners. Such information is now publicly available in the commercial register.

Key recommendations

7. The main recommendations issued in this report pertain to the new beneficial ownership provisions in Estonian law. Although codified in Estonia's AML law, such new obligations apply to all legal persons in private law i.e. companies, partnerships, commercial associations, non-profit associations and foundations. Estonia's new Money Laundering Prevention Act entered into force only on 27 November 2017 and is not yet complemented by any detailed guidelines. Specific provisions on beneficial ownership will only come into effect in September 2018, at which point more detailed guidance will be considered. Uncertainties relating to the new definition of beneficial ownership, in particular concerning foundations, and oversight of new registration and record keeping obligations have been identified.

8. New obligations to register and hold beneficial ownership information are contained in the AML law, but they will not be supervised by the financial supervisory authorities, or in fact, any public authority. Estonia is thus recommended to monitor the implementation of new provisions relating to beneficial ownership.

9. With respect to AML customer identification and verification rules, notaries and certain other relevant professionals (namely, accountants) do not appear to consistently verify information received from entities in the course of their duties. Moreover, supervision of relevant professionals by Estonia's FIU needs to be strengthened. Estonia is recommended to supervise legal requirements pertaining to ownership information and to exercise its enforcement powers where necessary.

Overall rating

10. Estonia is rated Largely Compliant for element A.1 and Compliant for all other elements. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Estonia is Compliant.

11. Estonia's legal and regulatory framework for ownership, accounting and bank information is largely in place, but some shortcomings exist in implementation of such obligations. Further, the enforcement activities of supervisory authorities need to be strengthened. However, overall, Estonia's Tax and Customs Board has been able to respond to the large majority of 881 requests in a highly efficient manner.

12. This report was approved at the PRG meeting on 26 February-1 March 2018 and was adopted by the Global Forum on 30 March 2018. A follow up report on the steps undertaken by Estonia to address the recommendations made in this report should be provided to the PRG no later than 30 June 2019 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place.		

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Largely Compliant	Prior to the amendment of the Money Laundering Prevention Act, beneficial ownership information on partnerships was not ensured to be available. Although new rules related to the identification of beneficial owners came into force, Estonia has not taken adequate implementation measures. New provisions on beneficial ownership are not yet complemented by any detailed guidelines. Further, relevant authorities have not yet developed a plan of supervision.	Estonia is recommended to monitor the implementation of new provisions relating to beneficial ownership.
	The definition of beneficial owner of foundations in the Money Laundering Prevention Act 2017 is not clear and there is no guidance issued yet. The application of the new rules that relate to beneficial owners of foundations remains to be tested in practice.	Estonia is recommended to monitor that all beneficial owners of foundations are identified in practice.
	Notaries and accountants do not appear to consistently verify information received from entities in the course of their duties. Moreover, the FIU's supervision of accountants and service providers is very low.	Estonia is recommended to supervise legal requirements pertaining to ownership information and to exercise its enforcement powers where necessary.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant	The definition of beneficial owner of foundations in the Money Laundering Prevention Act 2017 is not clear and there is no guidance issued yet. The application of the new rules that relate to beneficial owners of foundations remains to be tested in practice.	Estonia is recommended to monitor that all beneficial owners of foundations are identified in practice.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant	Estonian law requires the documents of liquidated companies to be held by the liquidator or other depository. However, in 5 cases the Estonian authorities were unable to reach the designated depository and the accounting information could not be obtained.	Estonia is recommended to ensure that it is able to access accounting information of liquidated companies in all cases.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant	Estonia introduced new notification rules which became effective from beginning of April 2017. However, Estonia has not yet applied these new requirements in practice.	Estonia is recommended to monitor that the practical application of the new rules that concern notification is in line with the international standard.

Determination	Factors underlying recommendations	Recommendations
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
Legal and regulatory framework determination: In place		
EOIR rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework determination:	This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.	
EOIR rating: Compliant	The competent authority did not provide status updates in all cases of requests taking longer than 90 days to answer.	Estonia should provide status updates in all cases where requests take longer than 90 days to fulfil.

Overview of Estonia

13. This overview provides some basic information about Estonia 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 Estonia's legal, commercial or regulatory systems.

Economic background

14. Estonia joined the European Union (EU) in 2004 and the Euro has been the country's official currency since 2011. Estonia has a small, but diverse and open economy. The population of Estonia is 1.26 million (July 2016 estimate).

15. Estonia's GDP was approximately EUR 21 billion in 2016.[1] Estonia receives close to its annual GDP in foreign direct investment (EUR 22 billion in September 2017).[2] Three quarters of Estonia's GDP comes from the service sectors, with industrial sectors yielding 20% and primary branches (agriculture and forestry) yielding over 5% of overall output. The volume of export of goods and services amounts to approximately 80% of Estonian GDP, while export of services constitutes about one third thereof. The main exported services are related to transport and Russian transit.

16. In 2016 the exports of goods from Estonia at current prices totalled EUR 11 billion and imports totalled EUR 13.6 billion, but the overall trade balance was in surplus due to services. Estonia's main trade partners are Finland, Sweden, Latvia, Lithuania, and Germany. In 2016, 75% of Estonia's total trade was with EU member countries. In 2016, the value of goods exported from Estonia to the EU was EUR 9 billion, accounting for 74% of Estonia's total exports. In 2016, the main countries of destination for Estonian exports were Sweden (15% of total exports), Finland (19%) and Latvia (9%).

1. Eurostat (http://ec.europa.eu/eurostat/web/national-accounts/data/main-tables).
2. Figures from Eesti Pank (Bank of Estonia).

Legal system and governance

17. Estonia is part of the Continental European legal system (Romanic/German civil law system). It is a democratic parliamentary republic. The hierarchy of legal instruments is as follows: the Constitution, EU law, international agreements, Acts and Decrees, Government of the Republic Regulations and Regulations issued by Ministers. Besides basic legal acts, there are also individual acts that are issued on the basis of an Act and are located in the hierarchy below Acts and Regulations.

18. Legal interpretations given by the highest court – the Supreme Court – and comments by experts also serve as reference points (e.g. the commented edition of the Constitution). Court judgments do not create rights, and in general judgments handed down by higher courts are not binding on lower courts. Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system.

19. Estonia's judicial system consists of courts of three instances: county and administrative courts are the first instance courts; circuit courts are the courts of the second instance, and the Supreme Court is the third instance. The Supreme Court performs simultaneously the functions of the highest court of general jurisdiction, of the supreme administrative court as well as of the constitutional court.

Tax and exchange of information system

20. Estonia's tax system consists of state taxes imposed by the Parliament in relevant tax acts and local taxes. State taxes include: income tax, social tax, land tax, value added tax, heavy goods vehicle tax, gambling tax, excise duties and customs duty. Local governments have the authority to impose local taxes (such as advertisement tax and road and street closure tax), but in practice, they are introduced by very few municipalities.

21. The primary pieces of legislation in Estonia's tax regime are the Taxation Act (TA) and the Income Tax Act (ITA), which describe the tax liabilities of individuals and legal persons and set out applicable deductions and exemptions. The Taxation Act governs Estonia's tax system and sets out specific regulations, such as those imposing local taxes, rights, duties and liability of taxpayers, withholding agents, guarantors and tax authorities, and procedure for resolution of tax disputes and main definitions used in all tax laws. The Taxation Act regulates the administrative procedures of tax authorities.

22. For individuals, residents pay tax on their worldwide income. Taxable income includes, in particular, income from employment, business income,

interest, royalties, rental income, capital gains, pensions and scholarships, income from employment or government services provided in Estonia, directors' fees, income from provision of services, income derived from commercial leases, certain types of capital gains, gains from disposal of assets registered in Estonia, interest received from the holding in a contractual investment fund, income of a sportsman or an artist, and insurance indemnities. Taxable income does not include dividends paid by Estonian or foreign companies when the underlying profits have already been taxed. Non-residents pay income tax on their Estonian source income.

23. In Estonia, resident companies are taxed on worldwide profits at the moment of their distribution, while permanent establishments of non-residents are taxed only on profits distributed from income derived from Estonian sources. Corporate income tax is levied only on profits that are distributed as dividends, share buy-backs, capital reductions, liquidation proceeds or deemed profit distributions (such as transfer pricing adjustments, expenses and payments not related to business, gifts, donations and entertainment expenses). Fringe benefits are taxable at the level of employer. Employers pay income tax and social tax on fringe benefits. Dividends distributed are exempt from tax if these are paid out of:

- dividends received from Estonian, EU, European Economic Area (hereinafter EEA) and Swiss tax resident companies in which the Estonian company has at least a 10% shareholding
- profits derived through a permanent establishment (PE) in the EU, EEA or Switzerland
- dividends received from all other foreign companies in which the Estonian company has at least a 10% shareholding, provided that either the underlying profits have been subject to foreign tax or foreign income tax was withheld from dividends received
- profits derived through a foreign PE in all other countries, provided that such profits have been subject to tax in the country of the PE, or
- liquidation proceeds, payments upon share buy-backs or capital reductions, which have been subject to taxation by the distributor of such income.

24. Estonia's competent authority for the exchange of information on request is the Tax and Customs Board, situated in the Ministry of Finance.

Financial services sector

25. The Estonian financial sector comprises both banks and non-banking financial institutions, although it is quite bank-centred – the majority of insurance, leasing and investment companies and funds belong to banks. Compared to the financial sector of other European countries, Estonia's financial sector comprises a relatively small share of the total economy. In 2015, the total amount of assets held or managed by Estonia's financial sector was EUR 24.5 billion. Foreign capital dominates in the insurance sector, either through direct or indirect holdings. With respect to non-banking financial institutions, in 2016, Estonia had 4 life insurance companies, 3 collective investment schemes/investment firms, 15 fund managers, and 13 investment advisors.

26. The Estonian banking sector is small and concentrated, with the biggest market shares divided between a few banking groups (77.2% of bank assets are held by the three largest banks). As with insurance companies, the large majority (over 90%) of banks are owned by foreign capital, largely of Scandinavian (Swedish, Finnish and Danish) origin. In 2015, six of the seven largest banks in Estonia were foreign-owned or branches of foreign banks. In 2015, total assets held by banks amounted to EUR 24.5 billion. In 2016, Estonia had 16 banks (including branches of foreign banks).

27. Supervision of banks and non-banking financial institutions in Estonia is delegated to the Financial Supervision Authority (FSA). Eesti Pank (Estonia's central bank) used to play a role in bank supervision, but as of 2002, this function has been tasked to the FSA and the FIU. The FSA is an independent agency with autonomous competence and a separate budget, which conducts state supervision over the banks, insurance companies, insurance intermediaries, investment firms, management companies, investment and pension funds as well as the payment service providers, e-money institutions, small loan offices and the securities market. Entities offering public financial services in Estonia must be licensed by the FSA. The supervision of the FSA is divided into two areas: business conduct (including AML) supervision and prudential supervision.

28. The Estonian Register of Securities (Securities Register) is the main register of the state, which administers share registers of public limited companies (*aktsiaselts*) operating in Estonia and all securities and pension accounts opened in Estonia. The register also includes other electronic securities (shares of private limited companies, bonds, etc.) and securities transactions history.

29. The maintainer of Securities Register is the Estonian Central Securities Depository (Securities Depository). The Securities Depository was established in 1994 and operates under the name *AS Eesti Väärtpaberikeskus*.

From January 2001, the activities are governed by Estonian Central Register of Securities Act (ECRS Act). The Securities Depository is wholly owned by the Tallinn Stock Exchange, which belongs to NASDAQ OMX. On 18 September 2017, the Central Securities Depositories (CSD) of Estonia, Latvia and Lithuania were merged into a single licensed legal entity – Nasdaq CSD *Societas Europaea* (Nasdaq CSD). Nasdaq CSD is the first Central Securities Depository in the EU to be reauthorised under the European Central Securities Depository Regulation. Nasdaq CSD is based in Latvia, with local branches in Estonia and Lithuania.

30. The Securities Depository performs its duties pursuant to the Securities Register Maintenance Act, the Funded Pensions Act, the Securities Market Act, and the Procedure for Maintenance of the Securities Register and legal acts of Ministry of Finance.

Anti-money laundering regime

31. Estonia's AML/CFT regulatory framework is based primarily on the Money Laundering and Terrorist Financing Prevention Act 2008 (Money Laundering Prevention Act), which regulates, *inter alia*, the application of due diligence measures by obligated persons for prevention of money laundering and terrorist financing and also the supervision of obligated persons in complying with the Money Laundering Prevention Act. The Money Laundering Prevention Act applies to all credit and financial institutions (and foreign branches thereof), including, *inter alia*, insurers or insurance intermediaries, management companies, investment firms, and savings and loans associations. The Money Laundering Prevention Act also applies to notaries, auditors, accountants, attorneys, bailiffs, and other obliged persons who provide consulting services if they act in the name and on account of a customer in financial or real property transactions or if they guide planning a transaction or perform an official act, which concerns: the purchase or sale of immovable property, enterprises or companies; the management of the customer's money, securities or other property; the opening or managing of bank or security accounts; the acquisition of funds necessary for the foundation, operation or management of companies; or the foundation, operation or management of trusts, companies or other similar entities. The revised version of the Money Laundering Prevention Act entered into force on 27 November 2017 (and some provisions will have effect at a later date, when specified in the Act).

32. The primary regulatory bodies involved in AML supervision in Estonia are the FSA and the Financial Intelligence Unit (FIU), and to a lesser extent, the Ministry of Justice and relevant professional bodies. As described above, the FSA is responsible for the AML supervision of banks and other financial institutions. AML-obligated non-financial businesses and professions are supervised by the FIU and the Ministry of Justice (along with the

relevant professional bodies). The FIU is an independent structural unit of the Estonian Police and Border Guard Board. The functions of the FIU include: supervising the activities of obligated persons in complying with Estonia's AML regime; collecting, registering, processing and analysing information received in reports from obliged entities, training obligated persons, investigative bodies, prosecutors and judges in matters related to prevention of money laundering and terrorist financing; disseminating information related to the prevention and identification of money laundering and terrorist financing; analysing statistics; and preparing and publishing an aggregate overview at least once a year. Service providers are not supervised by the FIU: notaries are supervised by Ministry of Justice and attorneys are supervised by the Estonian Bar Association.

33. Estonia has been a full member of the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) since 1997. Estonia's compliance with the 2003 FATF recommendations was most recently evaluated by MONEYVAL in 2014 as a follow up to earlier reviews. The 2014 MONEYVAL report concluded that Estonia had progressed in strengthening its AML/CFT system and that Estonia's AML/CFT supervisory framework of financial institutions was broadly sound, but that implementation of preventive measures applicable to designated non-financial businesses and professions was not consistent across sectors. Estonia's compliance with the revised 2012 FATF recommendations has not yet been assessed by MONEYVAL.

Recent developments

34. In May 2015, the EU adopted its 4th AML Directive, requiring that "Member States ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held". To transpose the 4th AML Directive into domestic law, Estonia adopted a revised version of its Money Laundering Prevention Act to include requirements for legal persons to identify and register their beneficial owners with the commercial register. Recent amendments relating to beneficial ownership came into effect on 27 November 2017.

Part A: Availability of information

35. 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.

36. The availability of legal ownership information for all relevant entities and arrangements has been in place since the last round of reviews. Over the review period, beneficial ownership information was generally available for most relevant entities through Estonia's AML regulations as all companies and foundations could only be formed with an Estonian bank account, which was required for the contribution of initial capital. Estonia's AML framework was amended to require all legal persons, including partnerships, to register their beneficial owners in a public register from 1 September 2018. However, deficiencies in the definition of beneficial ownership may prevent beneficial ownership information in line with the standard from being available in all cases. Further, no public body is assigned to overseeing new obligations to register and record beneficial ownership information.

37. The availability of legal ownership information in Estonia was assessed in earlier reviews under the 2010 Terms of Reference. Element A.1 was determined to be "in place" and rated Compliant.

38. Estonia's framework for the availability of legal ownership information has not changed since the last review and consists primarily of commercial law. All legal persons formed in Estonia are required to be registered with a supervisory authority (all companies and partnerships with the commercial register and foundations with the foundations register). Estonia does not have any laws relating to trusts, but Estonian trustees would come under AML. No significant changes pertaining to the legal ownership requirements have occurred since the last review; legal ownership

information continues to be ensured through Estonia's comprehensive registry system. Enforcement and supervision of legal ownership requirements were also found to be adequate.

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

40. To transpose the EU 4th AML Directive (adopted in May 2015) into Estonian law, Estonia adopted a new Money Laundering Prevention Act to require all legal persons to identify their beneficial owners. Although new requirements relating to beneficial ownership are contained in the Money Laundering Prevention Act 2017, they are applicable to all legal persons, regardless of any link to Estonia's AML regime. The Money Laundering Prevention Act 2017 entered into force on 27 November 2017 requiring all legal persons to record their beneficial ownership in a new, public register of beneficial owners and to hold such information. However, new beneficial ownership provisions will not come into effect until September 2018. Further, the definition of beneficial owner still suffers from some shortcomings. Detailed guidelines to entities have not yet been issued, but Estonia reported that they will be issued mid-2018. Estonia has not yet developed a plan of supervision of these new legal requirements either but reported that by the end of 2018 a detailed supervision plan will be drawn up, which will take into account an analysis of the results of the initial phase of the implementation of the new obligation.

41. Element A.1 is determined to be "in place" and rated Largely Compliant. The updated table of determinations and ratings is as follows:

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

Practical implementation of the standard		
	Underlying factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	Prior to the amendment of the Money Laundering Prevention Act, beneficial ownership information on partnerships was not ensured to be available. Although new rules related to the identification of beneficial owners entered into force, Estonia has not taken adequate implementation measures. New provisions on beneficial ownership are not yet complemented by any detailed guidelines. Further, relevant authorities have not yet developed a plan of supervision.	Estonia is recommended to monitor the implementation of new provisions relating to beneficial ownership.
	The definition of beneficial owner of foundations in the Money Laundering Prevention Act 2017 is not clear and there is no guidance issued yet. The application of the new rules that relate to beneficial owners of foundations remains to be tested in practice.	Estonia is recommended to monitor that all beneficial owners of foundations are identified in practice.
	Notaries and accountants do not appear to consistently verify information received from entities in the course of their duties. Moreover, the FIU's supervision of accountants and service providers is very low.	Estonia is recommended to supervise legal requirements pertaining to ownership information and to exercise its enforcement powers where necessary.
Rating: Largely Compliant		

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

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

43. In Estonia, the primary piece of legislation governing company formation is the Commercial Code (CC). The main types of companies in Estonia are:

- *Private limited company* – private limited companies cannot offer their shares to the public. The minimal share capital is EUR 2 500. As of October 2017, 172 170 private limited companies were registered in Estonia.
- *Public limited company* – a limited liability company in which the capital is paid by the shareholders and is divided into shares. The shares may be offered to the public. Shareholders are liable only to the extent of their paid share to the company. The minimum share capital of a public limited company is EUR 25 000. As of October 2017, 3 404 public limited companies were registered in Estonia.

44. Three types of European companies may also be created in Estonia:

- *European public limited liability company (SE)* – may be formed by at least two existing companies originating in different EU countries. The capital of an SE must be divided into shares. Shareholders are liable only to the extent of their paid share to the company. SEs are regulated by the SE Implementation Act (SE Act). As of October 2017, eight SEs were registered in Estonia.
- *European co-operative society (SCE)* – may be formed by five or more individuals or companies. An SCE must be based in at least two countries within the European Economic Area (EEA), formed under the law of an EU country, and governed by the law of at least two different EU countries. SCEs may be formed by five or more EU residents or two or more EEA companies. The subscribed capital of an SCE must be divided into shares. Members are liable only to the extent of their subscription. SCEs are regulated by the SCE Implementation Act (SCE Act). No SCEs were registered in Estonia.
- *European Economic Interest Grouping (EEIG)* – can be formed by companies or individuals in accordance with the laws of an EU country and having its registered office in EU. Although with characteristics of a partnership, an EEIG is considered a company under the meaning of the Commercial Code. An EEIG must have at least

two members from different EU member states. EEIGs are regulated by the EEIG Implementation Act (EEIG Act). As of November 2017, 19 EEIGs were registered in Estonia.

45. The bulk of companies operating in Estonia are small companies (defined as having less than 5 employees) or companies with simple corporate structures. Of the 176 996 private limited companies registered in Estonia on 1st February 2018, 95% are small companies. Of the remaining, 4.7% are medium-sized companies (having 6-50 employees) and only 518 (0.3%) are large companies (having more than 50 employees). There is also 3 082 public companies registered in Estonia. As of 1 February 2018, a total of 186 247 companies (including 4 457 partnerships) were registered in the commercial register.

46. The majority of companies in Estonia are wholly domestically owned. Of registered private limited companies, only 13 782 have at least one foreign owner or shareholder (less than 10%). Of registered public limited companies, 742 have at least one foreign owner (approximately 22%).

47. In addition to the companies mentioned above, Estonia also has 33 449 non-profit associations (13 of which are large, 387 of which are medium-sized, and 33 049 of which are small) and 599 commercial associations (26 of which are large, 42 of which are medium-sized and 531 of which are small). The large majority of commercial associations are wholly domestically owned (of all commercial associations registered, only four founding members are foreign).

48. In practice, Estonia has experience exchanging information on legal ownership, but only limited experience exchanging beneficial ownership information. Over the review period, Estonia estimates that approximately half of its 881 requests included questions of legal ownership information. Estonia did not receive any requests for beneficial ownership of entities, but it did receive four requests for the beneficial ownership information of bank accounts (see below section A.3). Estonia was able to obtain and exchange the information in all cases to the satisfaction of peers.

(a) Legal ownership information for companies

49. Estonia has a comprehensive legal framework providing for the availability of information on the legal owners of companies. Legal ownership information is available with both the Companies Registry, as well as with other relevant registries, such as the Central Register of Securities, as all entities formed under Estonian commercial law must be registered. All companies are required to hold a list of their shareholders or publish the list with the Central Register of Securities.

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

Source of legal ownership information of companies

Type of company	Company law	Tax law	AML
Private limited company	All	None	None
Public limited company	All	None	All
SE	All	None	All
SCE	All	None	All
EEIG	All	None	None
Foreign companies	Some	Some	None

(i) Company law

51. Estonian company law is the primary source of legal ownership information for companies. Information is available in the commercial register.

52. The commercial register is set up within the framework of the court system. The registration department of the Tartu County Court maintains the commercial register of Estonian companies. Staff working for the commercial register are specially trained professionals (assistant judges) with legal qualifications and are responsible for carrying out business registration.

Legal ownership information held by the commercial register

53. The commercial register contains legal ownership on all Estonian companies. Information on founders is required to be submitted by a company upon registration (either online or through a notary, depending on the type of company being formed). All entries in the commercial register are public. The registration procedure for the various types of companies is summarised below; for a more detailed description, refer to paragraphs 40-63 of the 2013 report.

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

54. Private limited companies (the most prevalent type of company in Estonia) register directly via the commercial register's electronic portal. To register a private limited company, the management board must make a petition to the commercial register containing, *inter alia*, the memorandum and articles of association, the names of all shareholders, the members of the management board, and members of the supervisory board and any auditors (s. 144(1) and s. 145 CC).

55. All share transfers must be authenticated by a notary, who will notify the commercial register of the change within two days of it occurring, except when the company' shares are entered into the Central Register of Securities (s. 149 CC).

56. A company has legal capacity, which commences as of entry into the commercial register and shall terminate upon deletion from the register (s. 2(3) CC).

57. Public limited companies must be established through a notary. To found a public limited company, the memorandum of association must include, *inter alia*, the names and registered addresses of the founders, as well as information on the management and supervisory boards and any auditors, and must be notarised (s. 243 CC). The memorandum of association must be submitted as part of a public limited company's petition for registration (s. 250 CC).

58. To form a public limited company, shares must first be registered and entered in the Central Register of Securities (thereinafter all transfers of shares will be conducted through the Central Register). Once this step has been completed, the notary will forward the company's petition for registration to the commercial register, where the aforementioned information will be recorded.

59. Under Estonia's AML regime, notaries are required to identify the founder(s) and the beneficial owners of the company. All natural person founders must appear in person before the notary and present sufficient identification documents. If the person is acting on behalf of anyone else, he/she will need to produce a Power of Attorney, which may be accepted as is (if coming from a list of jurisdictions with comparable regulations as Estonia) or must be validated by an Estonian court. If a founder is a legal person, the notary will ask for the incorporating documents of the entity as well as a list of shareholders. Notaries have access to all State registries (such as the police registry and the population registry). The Ministry of Justice explains that verification of the identity of any beneficial owners (e.g. shareholders of corporate founders) should be performed by checking the relevant databases.

60. In practice, however, it does not appear that identification of founding members is verified in all cases. Notaries interviewed at the on-site visit

stated that, generally, they do not verify the identity of shareholders provided to them unless a list of shareholders happens to be included in incorporating documents of a corporate founder, which may not always be the case. In the case of a founder that is not resident in Estonia, the notary would not have access to public databases to verify the validity of the identity document. It is even not clear if notaries routinely check Estonia's public databases, although notaries explained that they will check sanctions lists, including international lists implementing international law and EU law as well as trade and enterprise decisions imposed by Estonian courts. Notaries also explained that even where they are provided the list of shareholders in the incorporating documents, they would not be aware of any changes in ownership that have taken place since incorporation, nor would they check for whether such changes have occurred. Notaries explained that their primary concern is to confirm that the applicant is legally empowered to represent the company. These documents cannot be older than six months and must be legalised or certified by an apostille.

61. In all cases, registration can be effectuated only by an Estonian resident. Prior to 2015, a non-resident wishing to incorporate a company would have had to engage the services of a notary regardless of the type of company being formed. As of 2015, a non-resident may obtain e-residency to form a company. E-residency does not confer any traditional rights of tax residency, but merely provides access to certain databases, including the commercial register. The e-residency also provides the holder with an identification number that can be used solely for the purposes of registering in the commercial or land registry. Application for e-residency requires the full name of the applicant and the entry of a valid travel document.

62. Information submitted to the commercial registration is checked by the Registrar to ensure compliance with legal requirements. If the registrar has information concerning the incorrectness of an entry or that an entry is missing, the registrar may request additional information from the applicant (s. 61(1) CC).

63. Annual reports are filed electronically with the commercial register every June. Both the Commercial Code and the Accounting Act (AA) contain requirements for companies to file annual reports. The annual report is a source for legal ownership information as it contains information on legal owners and associated enterprises (s. 14(1) AA). Continued failure to submit an annual report may result in deletion from the register (s. 60 CC).

64. Nominee shareholding is not normally permitted in Estonia. The individual recorded in a company's register of shareholders is the legal owner of the share. The rights attaching to a registered share belong to the person who is entered as the shareholder in the share register (s. 228(2) CC). However, exceptions apply for professional participants, foreign legal persons, and other

institutions operating in Estonian securities market (see paragraphs 71 and 73 below).

65. Similarly, legal ownership information is available for European companies. SEs and SCEs are entered into the commercial register pursuant to the provisions of the Commercial Code applicable to public limited companies (requiring the identification of each shareholder, and the class and nominal value of shares) (s. 2 SE Act and s. 2 SCE Act). The procedure for registering SEs and SCEs also follows that of public limited companies (i.e. through a notary). SEs and SCEs are required to file annual reports.

66. The petition for the registration of an EEIG must be submitted to the commercial register by all members of the management board. The registration files of EEIGs must also be notarised. The contract for the formation of an EEIG must include its name, its official address and objects, the name, registration number and place of registration, if any, of each member of the grouping and the duration of the grouping, except where this is indefinite (s. 4 EEIG Act). The contract must be filed at the registry designated by each EU member State. Registration in this manner confers full legal capacity on the EEIG throughout the EU.

67. Legal ownership information submitted to the commercial register is maintained indefinitely by the state archives since it has archival value determined by the National Archives of Estonia. There is no exception in case when an entity has ceased to exist.

68. Non-compliance with registration and filing requirements are grounds for compulsory dissolution. This situation has arisen in practice; Estonia has received several requests for information on companies that had been removed from the commercial register as an administrative penalty for non-compliance with filing obligations. As to be expected, in those cases, the information was not available (as it was not filed by the company as required by law).

Legal ownership information held by the Central Register of Securities

69. The Estonian Register of Securities, as the main register of the state administering share registers of joint stock companies (*aktsiaselts*) operating in Estonia, will hold legal ownership information on public limited companies and some private limited companies. The Estonian Central Securities Depository (the Securities Depository), which maintains the Register of Securities, is Nasdaq CSD *Societas Europaea* (Nasdaq CSD), a Latvian company with local branches in Estonia and Lithuania. As with all other public databases, the Tax and Customs has direct access to the information contained in the Register of Securities.

70. The Register of Securities is the primary source of data relating to securities, including on issuers, holders, acquisitions and transfers. The register will contain information on companies issuing shares and holders of shares. With respect to holders, two types of accounts are possible: personal and "nominee". A securities account in the register may be opened for any Estonian or foreign person. The Securities Register Maintenance Act (SRA) requires the name and address of a natural person account holder and the register and registry code for a corporate account holder (s. 5). Only professional participants in the Estonian securities market, foreign legal persons, and other institutions in Estonian securities market have the right to hold a nominee account as a special type of securities account if they are subject to financial supervision (and consequently AML) and, according to the law applicable to them, have the right to hold securities in their own name and on behalf of another person.

71. Pursuant to section 10 of the Securities Register Maintenance Act, the following documents (among others) shall be provided to the Securities Depository in connection with the initial registration of securities in the Estonian register of securities: a list of the holders of the securities to be registered (i.e. shareholder list) and securities account numbers of holders of securities; and a transcript of the registry card from the commercial register or a notarised transcript of the registration certificate (for existing companies) or a notarised transcript of the memorandum of association or foundation resolution (for companies in the process of being founded).

72. Professional participants in the Estonian securities market have the right to use a nominee account to hold securities on behalf of a client (s. 6 SRA). Foreign legal persons and other institutions also have the right to hold a nominee account if they are subject to financial supervision and, according to the law applicable to them, have the right to hold securities in their own name and on behalf of another person or entity (s. 6 SRA). The Securities Depository does not hold beneficial ownership information on nominee accounts; however this information is required to be held by the holder of a nominee account (s. 6(1) and s. 6(9) SRA). Therefore, the account operator performs CDD and maintains beneficial ownership information in line with AML regulations (the AML framework is discussed further in this report). Although the Securities Depository could legally arrange the opening of securities accounts without using an account operator and provide services related to register entries without the mediation of an account operator, it has not yet used this opportunity. Therefore, Estonia reported that if the Securities Depository would start to use this option, supervision (and possible fines) would be applied accordingly. According to the figures generated by the Securities Depository, the dominant form of securities accounts is personal accounts. The Securities Depository currently has more than 100 000 accounts and approximately 80 000 are personal accounts.

73. All public limited companies are required to register their shares with the Register of Securities. The shareholder register contains the name, address, and personal identification code or registry code of each shareholder and the class and nominal value of the shares, and the date of subscription and acquisition of shares (s. 233(1) CC). The management board of the company is responsible for ensuring the timely submission of correct information to the Register. The registrar shall submit to the authority administering the central database of the commercial register information concerning the holders of shares who hold more than 10 per cent of the votes determined by shares and shareholders of the private limited companies entered in the Estonian register of securities on each working day (s. 8 and 9(7) SRA).

74. The Central Register of Securities will sometimes also hold legal ownership information on private limited companies. Private limited companies are not required to register their shares with the Register of Securities, but can do so voluntarily.

Legal ownership information held by the company

75. Pursuant to the Commercial Code, the management board of a private limited liability company must keep a list of shareholders setting out the names, addresses, personal identification codes or registry codes, and the nominal value of their shares (s. 182 CC). The Commercial Code does not specify any retention period. Public limited companies are not required to hold a list of shareholders as it held by the commercial registry and the Central Register of Securities.

76. All transfers of shares must be recorded in the shareholder register (s. 150(3) CC). Where a private limited company does not keep its shareholder register on the Central Register of Securities, all share transfers must be authenticated by a notary, who will notify the commercial register of the change within two days of it occurring (s. 149(4) CC). Share transfers of companies whose shares are entered into the Register of Securities do not need to be authenticated by a notary (s. 149(5) CC).

77. Estonian authorities affirm that obligations to maintain legal ownership information under the Commercial Code apply equally to EEIGs.

78. Legal ownership information may not be available for all companies that have been dissolved, either voluntarily or compulsorily. In most cases, a liquidator or appointed depository is responsible for preserving the records of the company after liquidation. The liquidators of a private limited company must be members of the management board unless the articles of association, a resolution of the shareholders or a court ruling prescribes otherwise. The residence of at least one liquidator must be in Estonia. In cases of compulsory dissolution, a court shall appoint the liquidators (ss. 205 and 206 CC).

However, an exception exists for companies that are removed from the register due to failure to submit an annual report. In such cases, no liquidator is appointed as the court simply deletes the company from the register if no creditors come forward. A company shall be removed from the register after liquidation is completed. Following liquidation, the liquidators shall retain the documents of the company or deposit them with a person maintaining an archive or another trustworthy person. If the liquidators have not appointed a depositary of documents, a court shall appoint one if necessary (ss. 219 and 382 CC). The depositary of documents shall be responsible for the preservation, during the term prescribed for by law, of the documents deposited with the depositary. The term prescribed by the Accounting Act is 7 years. The name, residence or registered office, and personal identification code or registry code of the depositary of documents shall be entered in the commercial register (ss. 219 and 382 CC). In theory, such information should be checked against existing information in Estonian databases, such as the population register, although in practice, it has happened that false information was entered and not detected until a request for information was received. This situation is reflected further in section A.2 on the availability of accounting information.

Legal ownership information on foreign companies

79. Legal ownership information is also available for foreign companies carrying on business in Estonia (see the 2013 report, paragraphs 64-73). Estonia does not apply the criteria of "effective management" for the purpose of determining tax residency and generally, companies wishing to have their place of effective management in Estonia incorporate as Estonian companies. However, if a non-resident company is effectively managed in Estonia, this may give rise to a permanent establishment in Estonia (s. 7, Income Tax Act – see (ii) tax law, below). A foreign company that wishes to conduct "continuous" business activities in Estonia may register as either a branch or a permanent establishment. There is no distinction in taxation. The company may itself decide which option is more suitable; however, Estonia explains that if the company's activities are more substantial, it may prefer to register as a branch to have more credibility as a "real" business. All foreign companies of interest under the 2016 ToR (those having a sufficient nexus to Estonia) therefore would be registered as either branches or permanent establishments.

80. The registration requirements are different for branches and permanent establishments. Branches of foreign companies must be registered in the commercial register through a notary. As of 1 June 2017, 556 branches of foreign companies were registered with the commercial register. If a foreign company wishes to permanently offer goods or services in its own name in Estonia, it must register as a branch (s. 384 CC). Ownership information is not required

to be submitted by a foreign company upon registration in the commercial register. The Commercial Code requires only the submission of information on directors and representatives (s. 387 CC). However, the annual reports of foreign companies are required to contain identity information of the majority shareholders in accordance with International Accounting Standards. For a more detailed description of branches, refer to paragraphs 65-67 of the 2013 report. Permanent establishments do not have separate legal personality and thus are not required to register with the commercial register, although they are required to register ownership information with the Tax and Customs Board (see section below). For more information on the registration of permanent establishments, refer to paragraphs 68-69 of the 2013 report.

(ii) Tax law

81. The Tax and Customs Board is not the primary source of legal ownership information for most companies, but due to a shared electronic platform between various government bodies (described more in detail below in section B.1), ownership information collected via registration with another authority (e.g. the commercial register) is available in the tax authority's own database. In addition, in some cases, the Tax and Customs Board will hold ownership information that is not already registered with the Commercial register (such as for permanent establishments). To register with the Tax and Customs Board, legal ownership information is required.

82. Notably, all entities registered in the Commercial register are considered taxpayers in Estonia and are automatically registered with the Tax and Customs Board simultaneously with registration in the Commercial register. All information that is received in the course of registration with the Commercial register is automatically fed into the Tax and Customs Board's database.

83. The Tax and Customs Board is the primary source of legal ownership information for certain types of foreign companies. Foreign companies that are not registered as a branch with the commercial register must be registered with the Tax and Customs Board as a permanent establishment to conduct business in Estonia (s. 21 TA). A permanent establishment is created as a result of economic activity which is geographically enclosed or has mobile nature, or as a result of economic activity conducted in Estonia through a representative authorised to enter into contracts on behalf of the non-resident. Registration with the Tax and Customs Board must include the identity information of shareholders or members (s. 21(1) TA). Changes must be notified to the Tax and Customs Board within five days (s. 23 TA). Therefore, legal information on relevant foreign companies will be available with the Tax and Customs Board where it is not available with the Companies Registrar. The Tax and Customs Board reports that as of 1 June 2017, 1 031 permanent establishments were registered in Estonia.

(iii) AML and financial regulations

84. Legal ownership information is ensured through AML as all Estonian companies are required to open an Estonian bank account. Section 520(4) of the Commercial Code requires that "to make the necessary monetary contributions to a private limited company or public limited company, the founders shall open a bank account in an Estonian credit institution in the name of the company being founded". Although there does not appear to be any requirement for the company to continue holding an Estonian bank account for the duration of its existence, the large majority (approximately 97-98%) of Estonian companies continue to have an Estonian bank account. The tax administration reports that an estimated 4 600 entities out of approximately 206 000 do not use an Estonian bank account to make payments to the tax administration. These 4 600 companies are generally small companies with an annual turnover of less than EUR 30 000 and tend to be wholly domestically owned. Even though shareholders may also contribute in the capital in kind, hence not being obligated to open a bank account, it does not appear to be issue in practice since, as described above, the proportion of companies that have an Estonian bank account is very high. Additionally, if the share capital of a private limited company is at least EUR 25 000 and the value of a non-monetary contribution exceeds 1/10 of the share capital, the contribution must be valued by an auditor, who is also subject to AML obligations (s. 140 CC).

85. Certain service providers subject to AML obligations, such as notaries, lawyers, accountants, and other corporate service providers may also hold legal ownership information. All transfers of securities are regulated in Estonia as they must be conducted either through a notary or by the Central Register of Securities. A transfer of securities means that securities entered in the register are transferred from one securities account to another by the registrar by way of debiting the first securities account and crediting the other securities account in the amount of the corresponding number of securities. Where a notary is involved in company formation, he/she will be subject to requirements to identify the person(s) seeking to establish the company; however, this is not the case for most companies. Insofar as companies are required to file audited financial statements, they will have to engage the services of an auditor, who will be subject to customer due diligence (CDD) and Know-Your-Customer rules (KYC) under AML. The obligations of relevant professionals to identify and verify the identity of their customers is discussed below under beneficial ownership.

(iv) Enforcement and oversight

86. The primary body responsible for the supervision and implementation of obligations relating to legal ownership information is the Registrar (the commercial register). The Securities Depository oversees the registration, issuance and transfers of shares hosted on the Central Register. The Tax

and Customs Board also plays a role in ensuring that ownership information is being held pursuant to Estonian law, although the tax authority will not check for legal ownership information independent of what is needed to conclude the audit.

87. AML supervision is discussed below in the section on beneficial ownership information. With respect to oversight of company law obligations, the Registrar oversees the registration and filing requirements of entities, but does not actively enforce record-keeping obligations. The Registrar may issue fines and strike off non-compliant companies. Such enforcement powers have been exercised over the review period.

Oversight by the Commercial Registrar

88. The Registrar is the body in charge of overseeing the filing and registration requirements of companies. The commercial register being a repository of information, its verification duty is to ensure that legal requirements are met (checking of information submitted is limited to what is relevant to fulfil the filing requirements). The registrar may impose a fine on an undertaking and any other person who fails to submit information provided for by law or submits incorrect information (s. 71 CC). The amount of the fine is EUR 200-3200 (s. 70(2) CC and 46(1) CCP). No prior warning needs to be issued (s. 71 CC). As a consequence, 297 fines have been imposed in 2017. The Registry does not monitor the record-keeping obligations of entities under its purview.

89. Failure to submit an annual report may result in being deleted from the register. If a private limited company, public limited company or commercial association fails to submit its annual report, it will first receive a warning that failure to submit the annual report within a specified term will result in removal from the register (s. 60(1) CC). If a company still fails to submit the annual report by the stipulated deadline and has not notified the registrar of a justified good reason, the registrar will publish a notice of the Gazette inviting creditors to come forward with their claims and request liquidation proceedings within six months of the date of publication of the notice (s. 60(2) CC). If, within six months after publication of the notice specified in subsection (2) of this section, the company has failed to submit the annual report to the registrar and failed to provide the registrar with justification for the reason which hinders the company from submitting the report, and the creditors of the company have not requested the liquidation of the company, the registrar may delete the company from the commercial register (s. 60(3) CC).

90. The legal consequence of being removed from the register is that the company no longer exists. Once a company has been struck from the register, it cannot be restored.

91. As of 2017, 4 957 private limited companies and 478 public limited companies were under voluntary liquidation. A further 34 431 private limited companies were in the process of being removed from the register due to failure to submit the annual report.

Oversight by the Register of Securities

92. The Register of Securities is subject to OFAC (Office of Foreign Assets Control) control measures and different sanctions. The Securities Depository validates the authenticity and correctness of all documentation submitted to it and conducts due diligence on every issuer using specialised software (World Check) as well as against international sanctions lists. Following the initial registration of securities, the Securities Depository continues the regular screening of good standing of the issuers pursuant to Nasdaq Nordic/Baltic Sanctions Policy, which aims to secure compliance with the applicable sanctions laws and regulations of the EU and the United Nations, as well as local sanctions laws and regulations in the jurisdictions in which the Securities Depository operates. The Nasdaq policy includes a monthly customer screening process; once a month, information on all entities to which the Securities Depository has sent an invoice in the last three years is checked against the Thomson Reuter's World Check One system (WCO). WCO then automatically performs a continuous screenings on a daily basis, the result of which is gathered in a monthly report. When there is a match against a relevant sanctions list, the Office of General Counsel is immediately notified.

93. The Securities Depository does not perform any additional supervisory actions as an investor may only obtain a securities account number (required for registration with the Securities Depository) from a licensed account operator. Account operators are obliged entities subject to the Money Laundering Prevention Act and are supervised by the FSA as described below in the section on AML supervision under beneficial ownership.

Oversight by the Tax and Customs Board

94. The Tax and Customs Board monitors compliance with filing and record-keeping requirements under tax law, although legal ownership records are examined only insofar as required by the tax audit. The Tax and Customs Board's audit programme is described below in section A.2.

(b) Beneficial ownership information for companies

95. Prior to November 2017, beneficial ownership was ensured for most, but not all, relevant entities through Estonia's AML customer identification rules. Estonia's recently amended legal framework now contains obligations

for all legal persons in private law to identify their beneficial owners; however, such provisions will come into effect (i.e. trigger legal obligations) only in September 2018. The majority of companies in Estonia are not required by law to engage an AML-obliged service provider, but all companies are required to contribute the minimum required initial capital from an Estonian bank account in the company's name (see para 85 above). Further, all share transfers are required to be conducted by a notary or the Register of Securities, which are AML-obliged persons. As such, the legal framework for the availability of beneficial ownership information was in place even before 2017; however, supervision of such obligations needs to be strengthened.

96. On 27 November 2017, the Money Laundering Prevention Act 2017 entered into force, establishing new obligations for all legal persons to identify their beneficial owners and register such information in a publicly available register of beneficial ownership. However, issues have been identified with respect to the new legal framework as well as its intended implementation in practice. As a result, Estonia is recommended to ensure that beneficial ownership information is available in line with the international standard and to monitor the implementation of new provisions relating to beneficial ownership.

97. The following table[4] shows a summary of the requirements to maintain beneficial ownership information in respect of companies:

Source of beneficial ownership information of companies

Type of company	Commercial law	Tax law	AML
Private limited company	None	None	All
Public limited company	None	None	All
SE	None	None	All
SCE	None	None	All
EEIG	None	None	All
Foreign companies	None	None	All

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

(i) AML and financial regulations

98. In addition to customer identification and verification rules, the Money Laundering Prevention Act 2017 imposes the new requirements on all legal persons (regardless of any link to AML) relating to identification of beneficial owners: (i) on the entity to identify and hold information on its beneficial owners; and (ii) record beneficial owners in the company register. New beneficial ownership requirements will come into effect in September 2018; beneficial ownership for entities not otherwise subject to AML rules cannot be considered to be available until that time. AML-obliged professionals continue to be obligated to identify and keep records on the beneficial owners of their customers. The obligations of banks to identify their customers are discussed below in section A.3.

99. As noted in the section on legal ownership, all companies are required to have an Estonian bank account to pay the required initial share capital. Although there does not appear to be any legal requirement for a company to maintain an Estonian bank account over the duration of its existence, statistics (cited above with respect to legal ownership information under AML) show that 97-98% of Estonian companies make payments to the tax administration through an Estonian bank account. As such, the customer identification and verification requirements imposed on banks are relevant for considering the availability of beneficial ownership information in the jurisdiction. The implementation of CDD measures, which include the obligation to identify the beneficial owner, also requires that the business relationship shall be monitored by the bank and that includes regular updating of relevant documents, data or information gathered in the course of application of due diligence measures (s. 20 and 23 AML Act).

Beneficial ownership information to be held by Estonian companies

100. The Money Laundering Prevention Act requires that all legal persons in private law gather and retain data on their beneficial owner(s). Section 76 states that "a legal person in private law gathers and retains data on its beneficial owner, including information on its right of ownership or manners of exercising control". Legal obligations to retain beneficial ownership will come into effect in September 2018. No identification of beneficial owners need to take place prior to that time. As noted above, no guidelines are currently available, but the Ministry of Finance anticipates developing more detailed guidance for industry after the new system has been developed. Foreign companies having registered a branch in Estonia are not subject to this obligation but their beneficial ownership information would be available to the extent they have a relationship with an AML-obligated service provider.

101. Failure to retain data as specified in the Money Laundering Prevention Act is punishable by a fine of up to 300 fine units (for an individual), equivalent to EUR 1 200, and a fine of up to EUR 400 000 (for a legal person) (s. 94 MLA).

102. Estonia's Money Laundering Prevention Act 2017 defines beneficial ownership from both the perspective of transactions and ownership of account holders (i.e. entities or arrangements). In terms of ownership, a beneficial owner of a company is defined as "the natural person who ultimately owns or controls a legal person through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that person, including through bearer shareholdings, or through control through other means" (s. 9(2) MLA). Direct ownership is defined as a manner of exercising control whereby a natural person holds a shareholding of 25% plus one share or an ownership interest of more than 25% in a company. Indirect ownership is a manner of exercising control whereby a company that is under the control of a natural person (or multiple companies under the control of the same natural person) holds a shareholding of 25% plus one share or an ownership interest of more than 25% in a company (s. 9(3) MLA).

103. Section 9(8) of the Money Laundering Prevention Act 2017 defines control through other means as the exercising of dominant influence as defined in section 27(1) of the Accounting Act. The Accounting Act provides that a parent entity exercises dominant influence over another entity, *inter alia*, when it has (i) a holding of more than 50% of the voting rights in the consolidated entity or (ii) a direct or indirect right arising from law or a contract to appoint or remove a majority of the members of the management or the highest supervisory body by exercising the rights of a founder or by a decision of the general meeting (s. 27 AA). The Accounting Act does not explicitly refer to control through other means, such as where an individual exercises control by exploiting personal connections or influence or financing structures or arrangements, although Estonian authorities contend that a wide range of exercising influence would be covered. In light of the foregoing, the definition of beneficial ownership in the new Money Laundering Prevention Act would benefit from more detailed guidelines to ensure that it captures all necessary elements envisioned by the international standard. Estonia is therefore recommended to provide additional guidance on new beneficial ownership provisions to ensure they are applied in a manner in line with the international standard.

104. Further, one possible interpretation of the Money Laundering Prevention Act 2017 could be to allow a company to fail to identify its beneficial owners under certain circumstances. Section 9(4) states that "Where, after all possible means of identification have been exhausted, the person specified in subsection 2 [i.e. having a direct or indirect controlling ownership] cannot be identified and there is no doubt that such person exists or

where there are doubts as to whether the identified person is a beneficial owner, the natural person who holds the position of senior managing official is deemed as a beneficial owner”. Under the international standard, it must be factually established that no natural persons exercise control through ownership or other means, whereas the Money Laundering Prevention Act 2017, especially section 9(4) mentioned above, could potentially allow for the situation where an entity simply cannot find the beneficial owner exercising control through ownership (e.g. because the ownership structure is too complicated or opaque). Although section 9(4) does require that there be no suspicion that an individual holding a controlling ownership exists, this provision would appear to be a measure against wilful blindness. As noted above, Estonia is recommended to provide additional guidance on new beneficial ownership provisions.

105. Estonian authorities state that more detailed guidelines will come only after the new beneficial ownership provision enter into effect in September 2018 and have been tested in practice. In the absence of any interpretive materials at present, Estonia is recommended to ensure that beneficial ownership information in line with the standard is available for all relevant entities.

Beneficial ownership information to be held in the commercial register

106. The new Money Laundering Prevention Act also envisions the creation of a public beneficial ownership register. Section 76 of the Money Laundering Prevention Act 2017 requires legal persons in private law to register information on their beneficial owner(s) in the commercial register. Exempted from these requirements are apartment associations, building associations and companies listed on a regulated stock exchange. Violation of the duty to identify a beneficial owner by the management board is punishable by a fine of up to 300 fine units or detention. The legal person may also be penalised with a fine of up to EUR 400 000 (s. 85 MLA). The Penal Code defines a fine unit as equal to EUR 4 and provides a maximum term of imprisonment of 30 days for misdemeanour offences (s. 47(1) and s. 48).

107. With respect to public and private limited companies and partnerships, information that must be registered on the entity’s beneficial owner(s) includes: (i) full name, personal identification code (or date and country of birth) and country of personal identification code, and country of residence; and (ii) nature of beneficial interest held (s. 77 MLA). The management board of a legal entity is responsible for entering such information into the registry (s. 76(1) MLA). The Money Laundering Prevention Act 2017 does not require any specific verification of information before submission into the register. Changes must be submitted to the register within 30 days of

occurring (s. 77(5) MLA). Failure to register data as prescribed in the Act is punishable by a fine of up to 300 fine units (for an individual) and a fine of up to EUR 400 000 (for a legal person) (s. 94 MLA).

108. The duty to disclose beneficial ownership falls upon the shareholders or members, who are required to provide management with information they know about the beneficial owner(s), including information on the right of ownership or manners of exercising control (s. 71(2) MLA). However, failure of a shareholder or member to submit beneficial ownership information, failure to report on a change, or knowingly submitting false data in a situation where the obliged entity cannot carry out due diligence measures only applies where the obliged entity is required to carry out due diligence measures under AML. In such cases, a failure to provide beneficial ownership information is punishable by a fine of up to 300 fine units (for an individual, equivalent to EUR 1 200) and a fine of up to EUR 400 000 (for legal persons) (s. 95 MLA).

109. Beneficial ownership information submitted to the registry will be held for the lifetime of the company. The history of ownership will also be captured in the register. In cases where a company ceases to exist, such information will be deleted automatically five years after the company is removed from the register (s. 80 MLA).

110. New obligations to register beneficial ownership information in the commercial register will come into effect in September 2018. Estonia estimates that the IT platform for the new beneficial ownership register will be developed by July 2018 at which point the Ministry of Finance will be able to test it before it becomes operational. Although the registry has yet to be developed, Estonia expects that the interface will be the same as that for registration of legal ownership information (only with additional fields for beneficial ownership). As part of the commercial register, the beneficial ownership register will be publicly available.

111. The intended plan for implementation of the beneficial ownership registry is as follows. The Ministry of Finance reports that as of September 2018, beneficial ownership information will be required for successful incorporation (to be confirmed once the IT platform is developed). Existing companies are expected to be given 60 days to populate the new beneficial ownership fields after the new register goes live. Although a plan of supervision has not yet been developed, the Ministry of Finance intends to follow up with reminders and letters to delinquent companies (at intervals to be determined). Further, at the time of the company's next annual report (in July 2019), such information must be entered or the report cannot be submitted online. After the new IT platform has been finalised and "tested", the Ministry of Finance will issue more detailed guidelines to entities on how and what information to register.

Beneficial ownership information held by relevant professionals

112. At present, only persons subject to AML have obligations relating to beneficial ownership. Estonia's AML regime applies to individuals and entities carrying out a regulated activity and certain types of professionals (including auditors and providers of accounting services, tax advisors, providers of trust and company services, and notaries and attorneys where they conduct certain activities such as company formation) (s. 2 MLA). AML-obliged professionals are required to have knowledge of their customers and to obtain proof of identity before entering into a customer relationship, and should therefore hold beneficial ownership information on their clients.

113. Pursuant to the Money Laundering Prevention Act 2017, obliged entities and professionals must apply due diligence measures and identify their customer upon establishing a business relationship (s. 19(1)(1) MLA). Due diligence includes identification of the beneficial owner and, for the purpose of verifying their identity, taking measures to the extent necessary to understand the ownership and control structure of the customer (s. 20 MLA). Identification includes the name and personal identification code (or date and place of birth) (s. 21 MLA). If the customer is being represented by another party, obliged persons have an obligation to understand the right of representation. Such information must be verified using credible and independent sources (s. 21(2) MLA). The following documents may be used for identification: a document specified in Estonia's Identity Document Act, a valid travel document issued in a foreign country, a driver's license meeting certain criteria, or a birth certificate (s. 21(3) MLA).

114. Under certain circumstances, an eligible third party may be relied upon for the KYC and CDD documentation, where the obliged person: (i) gathers from the other person at a minimum information on the person establishing the business relationship, their representative and beneficial owner, as well as the purpose and nature of the business relationship; (ii) ensures that it will be able to immediately obtain all due diligence documents when necessary; (iii) establishes that the relied upon institution or person is required to and does in fact comply with requirements equal to those contained in the EU Directive 2015/849; and (iv) takes sufficient measures to ensure that the relying institution or person is in compliance with stipulated regulations (s. 24 MLA). Notwithstanding the foregoing, the relying person remains responsible for compliance with requirements arising from the Money Laundering Prevention Act (s. 24(7) MLA).

115. In practice, however, it is unclear to what extent service providers subject to AML obligations are carrying out their obligations to verify the identity of their clients. Relevant professionals interviewed during the on-site had varying degrees of certainty as to the extent such verification actually occurs in the industry. Attorneys appear to verify the identity of clients when they are

conducting activities (such as company formation or management) that would bring them under Estonia's AML regime. Accountants, on the other hand, did not come to a consensus on whether verification was done in all cases. Notaries interviewed on-site stated categorically that verification was not a routine part of their procedures in forming companies and other entities. Such deviances from prescribed AML rules have not been detected in the course of supervision by any of the relevant regulatory bodies (discussed below).

(ii) Company law

116. Company law is not a source of beneficial ownership information for companies with non-resident owners or foreign companies. However, through the extensive web of legal ownership information entered into the commercial register, beneficial ownership information for companies that are wholly owned by Estonians or other Estonian companies can more easily be traced through the legal ownership chain. Estonia asserts that as the majority of companies in Estonia are in fact wholly Estonian-owned (over 90% of private limited companies and about 80% of public limited companies), beneficial ownership information will be available in this way most of the time. Although this assertion is true, the companies for which beneficial ownership information would not be available are arguably those that would be of most interest to EOI partners.

(iii) Tax law

117. The tax authority is not a primary source for beneficial ownership information for companies as beneficial ownership information is not required for registration in the Tax and Custom Board's database nor is it generally required to be submitted in tax returns.

(c) Enforcement measures and oversight

118. Over the review period, oversight of beneficial ownership requirements was carried out primarily by the FSA and the FIU, as Estonia's AML supervisory authorities, along with the Ministry of Justice and relevant professional bodies. The FSA is responsible for the supervision of licensed entities in the financial sector and the FIU is responsible for the oversight of other AML obliged non-financial professionals and businesses. The oversight of relevant professionals is described below; the FSA's supervision programme of banks is described in section A.3.

119. No public body is responsible for the supervision of new beneficial ownership obligations in the Money Laundering Prevention Act. The FIU and FSA will only be responsible for the supervision of due diligence rules applicable to regulated entities and businesses. Estonia states that the register is

public and can be corrected by a beneficial owner who feels misrepresented. These characteristics are not sufficient to ensure the validity of information submitted to the register, particularly in the absence of requirements for entities to verify information received from legal owners and further guidance on how to properly identify beneficial owners. However, the majority of beneficial ownership information in the jurisdiction will be ensured through traditional AML rules and regulations. Nonetheless, Estonia is recommended to ensure that information collected pursuant to new legal provisions on beneficial ownership is accurate and current.

(i) Oversight by the FIU

120. The FIU is the licensing body and the regulatory authority for entities carrying out certain regulated activities (i.e. in the financial sector) and corporate service providers. The FIU exercises supervision over fulfilment of the requirements arising from AML by obliged persons and financial institutions not otherwise subject to supervision by the FSA. The AML supervision unit in the FIU has three full time staff and one part time staff.

121. The FIU is responsible for the supervision of the following:

Number of subjects of supervision	2014	2015	30 June 2016
NON-FINANCIAL SECTOR			
Organisers of games of chance	12	14	13
Real estate*	1 200	1 300	1 500
Dealers in precious metals and stones	85	126	138
Lawyers (and bar members)	878	934	970
Notaries	95	95	94
Auditors*	150	150	150
Trust and company service providers	56	79	94
Pawnshops	121	126	119
Traders who accept cash payments in sum of over 15000 EUR per transaction*	50	50	50
Providers of accounting or tax advice services*	3 000	3 300	3 500
Non-profit associations who accept cash payments in sum of over 15000 EUR per transaction*	5	5	5

*Estimated value.

122. The corporate service provider industry in Estonia is still relatively young. The licensing regime for corporate service providers was introduced in 2008, although licensing did not begin until 2014. As of 31 December 2016, there were approximately 100 licensed firms providing corporate services. Licenses are issued under section 70 of the Money Laundering and Prevention Act by the FIU.

123. The FIU may impose a coercive measure in accordance with the procedure provided for in the Substitutive Enforcement and Penalty Payment Act where deficiencies or violations of AML are identified. Under the Money Laundering and Prevention Act 2017, penalties may be imposed on the legal entity as well as the responsible natural person. Where the obliged entity is a credit institution or financial institution, failure to comply with an administrative decision will result in a fine of up to EUR 32 000 for the first offence and up to EUR 100 000 for subsequent offences (but not more than the higher of EUR 5 000 000 or 10% of the entity's total annual turnover) and of up to EUR 5 000 for the first offence and up to EUR 50 000 every time thereafter (but not more than EUR 5 000 000 in total) for the responsible natural person. For other types of obliged entities, the maximum penalty payment is equal to up to twice the profit earned as a result of the breach, where such profit can be determined, or a minimum of EUR1 000 000.

124. The FIU's level of supervision of corporate service providers has been quite low, although it improved towards the end of the review period. Licenses do not have to be renewed on an annual basis so the FIU cannot confirm how many of the 100 licensed firms are actually active. Further, the FIU can provide no information about the size of these firms, their activity, or any other specific information regarding the sector. Over the review period a total of 11 service providers were inspected (none in 2014, one in 2015, and 10 in 2016). The FIU reports that in one out of five service providers inspected, deficiencies relating to customer identification procedures were found, but the breaches were minor and thus no sanctions were imposed.

125. The FIU also oversees the AML supervision of professional bodies (described below). The Bar Association and the Chamber of Notaries send each on an annual basis a report to the FIU describing their oversight under AML/CFT Law. The Bar Association reported that it found AML deficiencies in 11 law firms during 2014, in 2 during 2015 and in 12 during 2016. With one exception the deficiencies were addressed so no sanctions were applied, and in one case found during 2016, the supervision procedures are still pending. The Chamber of Notaries reported that it had not discovered any major violations of AML regulations. Supervisory measures taken are described further in the report (paragraphs 129 to 131).

(ii) Oversight by Ministry of Justice and relevant professional bodies

126. The Chamber of Notaries, by delegation of the Ministry of Justice, is responsible for the supervision of notaries in Estonia. Generally, an inspection is conducted by two officials from the Ministry of Justice and two persons from the Chamber. The Ministry of Justice's supervision programme consists of both desk-based and on-site inspections. Prior to the inspection, the Ministry of Justice will send the notary questions via e-mail (such

as whether due diligence measures and control procedures were properly implemented, did the notary identify the beneficial owner, and did the notary check appropriate sanctions lists). If the notary answers in the negative to certain questions, they will be subject to additional supervision, although the Ministry of Justice reports that this has not occurred in the last several years. During the on-site inspection, the inspectors will review the notary's documents to ensure compliance with AML rules and regulations. The supervision programme consists of regular inspections and specific inspections (which are conducted if complaints have been lodged against a notary). If an inspection as an AML aspect, then there will be additional persons from the Board. Estonian authorities report that AML obligations will be examined in all routine inspections.

127. The Chamber also conducted remote supervision in the form of a questionnaire to be filled online in 2016. The questionnaire requested information on due diligence measures, details on internal procedures, and implementation of such procedures. The Chamber anticipates that the next online questionnaire will focus on the new Money Laundering Prevention Act.

128. In the past three years, 15 notaries (out of 91) were inspected (two in 2014, eight in 2015, five in 2016, and seven in 2017). No major problems were identified.

129. Despite the foregoing, notaries interviewed during the on-site visit admitted that they do not verify information provided to them in all cases. Notaries reported that generally, they will accept the information as provided and would only cross-check with other information submitted by the founders (e.g. if a shareholder list was included in the articles of association). However, it does not appear that the Ministry of Justice is aware of the practice among the notarial professional, nor has it detected any deficiencies in the requisite CDD/KYC documentation. Therefore, it appears that the supervision of notaries is primarily focused on the professional aspects of the notary's duties and does not examine the AML aspects as deeply. The Estonian Tax and Customs Board indicated that it has never been necessary to resort to notaries to request beneficial ownership information in domestic tax cases or in EOI cases. In all cases the beneficial ownership information has been available from Estonian banks. Therefore, it is estimated that the materiality of this gap is low. Furthermore, the relevance of notaries as source of beneficial ownership information will diminish further in the future when the new provisions of the money Laundering Prevention Act will be in effect (see paragraphs 101 to 112). Estonia is nonetheless recommended to strengthen its supervision of legal requirements pertaining to ownership information and to exercise its enforcement powers where necessary, since the obligation for companies to keep beneficial ownership information is not yet in effect.

130. The Bar Association is the supervisory authority for lawyers. The Bar Association conducts both professional and AML supervision of the industry. On average, it examines 25 law firms every year (approximately 10% of firms), although in the preceding few years, the inspection rate has been slightly below average. In 2014, the Bar Association inspected 21 law firms and 22 law firms in 2015. The inspection process includes checking whether the firm has complied with AML rules and regulations through interviewing the managing partners and other attorneys and random sampling of files. The inspectors will ask about internal AML/KYC rules and procedures and their application (how are clients identified and their goals detected, what documents are collected, etc.). During the sampling of files the Bar Association checks that client identification documents have been properly collected. In 2014, the Bar Association discovered 11 law firms that had deficiencies with client contracts (clauses enabling immediate termination of the contract in case KYC procedures files were missing). In 2015, it discovered two law firms that did not have the necessary compliance procedures in place and deficiencies with client contracts. The deficiencies were rectified and no sanctions were imposed. The Bar Association will make prescriptions when deficiencies are identified. The Bar Association also issues guidelines on AML.

131. The Public Oversight Board is responsible for carrying out the oversight of auditors. In general, during quality control, between three and six audit reports issued by the inspected audit firm are inspected, with a view of whether these were carried out in compliance with International Standards of Auditing. International Standards of Auditing require an auditor to understand his client and its ownership and governance structures. Auditors are also required to check transactions between related parties. During an inspection, the inspectors will check the entire audit file to confirm whether statutory auditors have carried out and documented all tasks required of them. Every audit firm has to be checked by the Board once every six years and those auditing public interest entities will be subject to be checked once every three years. There are approximately 150 accounting firms and 350 chartered accountants in Estonia.

132. The Public Oversight Board may subject the auditor and/or the auditing firm to a reprimand or a disciplinary fine of up to EUR 32 000 or revoke the qualification of the auditor and/or terminate the activity license of the auditing firm. If the results of the inspection show there have been deficiencies in the work of the audit firm, the firm will be reviewed again the next year. Two poor results in succession will usually lead to termination of the firm’s license. In the last three years, the Public Oversight Board has carried out between 36 and 41 quality control reviews each year. Between 20% and 30% of cases resulted in the imposition of a fine or reprimand. During the same period, between two to three qualifications have been revoked and activity licenses terminated each year. A number of these decisions have been

appealed in court with all verdicts so far in support of the Public Oversight Board, although some cases are still ongoing.

A.1.2. Bearer shares

133. Estonian law does not permit companies to issue bearer shares, as was the case at the time of the first round of reviews.

A.1.3. Partnerships

134. Estonian law provides for the formation of general and limited partnerships, which both have legal personality and, as such, are treated as companies by the Commercial Code (s. 2(1) CC). All provisions in the Commercial Code relating to general partnerships are applicable to limited partnerships, unless otherwise stated (s. 125(2) CC). For additional discussion on partnerships, refer to paragraphs 109-112 of the 2013 report. The characteristics of partnerships that can be created in Estonia are as follows:

- *General partnership* – a general partnership is a company in which two or more partners operate under a common business name and are personally and severally liable for the obligations of the general partnership (s. 79 CC). As of October 2017, 1 357 general partnerships were registered in Estonia.
- *Limited partnership* – a limited partnership is a company in which two or more persons operate under a common business name, and at least one of the persons (general partner) is personally and severally liable for the obligations of the limited partnership, and at least one of the persons (limited partner) is liable for the obligations of the limited partnership to the extent of his/her contribution. As of October 2017, 3 499 limited partnerships were registered in Estonia.

135. Partners of both general and limited partnerships may be natural or legal persons (ss. 80 and 125 CC). The Commercial Code does not require any partners to be resident in Estonia.

136. Estonia did not receive any requests relating to partnerships over the review period.

(a) Legal ownership information for partnerships

137. As was described in the 2013 report, information on the legal owners of partnerships is available with the commercial register and the tax authority. The situation remains unchanged and is briefly summarised below; for additional information on legal ownership requirements, refer to paragraphs 109-113 of the 2013 report.

138. As companies, all partnerships must submit information on their legal owners upon registration in the commercial register and must notify the registry of any changes. Partners themselves are not required to hold identity information on the other partners. Concerning foreign partnerships (if not registered to the commercial register), they are required to register to the Tax and Customs Board prior to the commencement of activities in Estonia (s. 18(1) and 18(1)[1] TA). They are required to submit (1) the name and address of the person or agency; (2) the given name, surname, personal identification code (or, in the absence of a personal identification code, the date of birth) and residence of each member of the management body of the person or agency and a copy of the articles of association or partnership agreement of the legal person or another legal act regulating the activities of the legal person. Legal persons in public law shall include a reference to the place of publication of the Act which is the basis for their activities. (s. 19(1,2) TA) Therefore, the identities of the partners of a foreign partnership should be available as they are provided with the partnership agreement. Some additional information needs to be provided (area of activity, number of bank account opened and credit institution, person responsible for the PE) in case a foreign partnership would be registered to the Tax and Customs Board as a permanent establishment (s. 21(1) TA).

139. Partnerships are required to prepare annual reports, but such reports are required to be submitted to the commercial register only if one of the general partners is a private limited company, a public limited company, a commercial association or a non-profit association (s. 97[1] CC). Where the partnership has no general partners that are private or public limited companies, no annual filing requirements exist.

140. As with companies, the Tax and Customs Board is not the primary source of legal ownership information for partnerships (with the exception of foreign partnerships explained above), but can access ownership information collected via registration with another authority. Additionally, individual partners are required to file annual tax returns on their share of profits.

141. Records of partnerships that have been dissolved rest with a liquidator or depository. For discussion on information relating to partnerships that have been dissolved, refer to section A.2 below.

(b) Beneficial ownership information for partnerships

142. Over the review period, partnerships were under no obligation to identify, document, or register their beneficial owners. Although all partnerships are legal persons and are subject to the same provisions of the Commercial Code as companies, they do not have any minimum capital requirements. Contributions of partners are to be decided by the partners themselves and can take the form of non-monetary contributions, such as

services to be provided. Consequently, there is no requirement that a partnership have an Estonian bank account to satisfy section 520 of the Commercial Code applicable to private and public limited companies. Only legal ownership information was required to be submitted to the commercial register. Where a corporate partner is an Estonian company, such information may be traced through the system of registration of legal ownership information in the commercial register. However, information on the owners of foreign corporate partners is not ensured.

143. Beneficial ownership information is therefore only available when gathered by an AML obliged entity (this is also the case for foreign partnerships). In general, partnerships are not required to engage the services of an AML-obliged service provider. Where a partnership did so, Estonia's AML regime would require the identification of the partnership's beneficial owners. As of 27 November 2017, partnerships, as legal persons, must identify and register their beneficial owners, although it is unclear precisely how the definition of beneficial owner (and the 25% threshold) is to be correctly applied to partnerships. Hence, because of the new legal provisions, no legal gaps can be identified with respect to Estonian partnerships. Nevertheless, uncertainty remains regarding practical implementation since neither guidelines of interpretation nor plan for supervision have been provided by Estonia yet. Since the 2017 law does not cover foreign partnerships that carry on a business in Estonia, it remains that beneficial ownership information in relation to such partnership will only be available when they engage with an AML obligated person. Estonia is recommended to monitor that beneficial ownership information is available in practice in relation to foreign partnerships as required under the standard.

(i) AML and financial regulations

144. To date, Estonia's AML legislation has not been a significant source of beneficial ownership information for partnerships. In general, partnerships are not required to engage the services of an AML-obliged service provider. Partnerships are not required to involve a notary at any stage of incorporation; changes in ownership likewise do not need to be authenticated by a notary. As such, over the review period, Estonia's AML framework did not systematically provide for the availability of beneficial ownership information of partnerships.

145. In practice, it is likely that many partnerships do engage the services of an AML-obliged entities (e.g. where a partnership is required to file an auditor's report, or has an Estonian bank account). In such cases, AML rules on customer identification and verification would apply. However, the prevalence of AML coverage among partnerships (as with companies) cannot be quantified. Further, as noted above in the section on companies,

the compliance of some service providers with their AML obligations and their supervision appear to be inadequate. Estonia is therefore recommended to ensure that beneficial ownership information in line with the standard is available for all relevant entities.

146. As of September 2018, partnerships (as legal persons) will have obligations under the Money Laundering Prevention Act 2017 to identify and register their beneficial owners. At that time, partnerships (both limited and general) will be required to register the following information on their beneficial owner(s): the person's name, personal identification code (or ate and place of birth), country of personal identification code, and nature of beneficial ownership held (s. 77 MLA).

147. As with companies, partnerships also will be required by section 76 of the Money Laundering Prevention Act to retain data on their beneficial owners, although at present, no clarification exists as to the nature of the data to be held or the length of the retention period.

148. It is further unclear how the definition of beneficial owner (which applies a threshold of 25% plus one share to direct ownership) will apply to partnerships. In other words, where a partnership has four or more partners and no single partner will have more than a 25% stake in the partnership's profits, it is not clear how the definition of beneficial ownership is to be applied. Although the 25% threshold is not inherently problematic in its application to partnerships (as legal persons under Estonian law), further guidance on this point may be beneficial.

(c) Enforcement measures and oversight

149. Partnerships are subject to the same system of oversight as companies. The Registrar oversees the registration and filing requirements of partnerships. In 2016, the Registrar issued 367 warnings of a fine and imposed fines in 47 cases.

A.1.4. Trusts

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

151. Estonia has not signed the Hague Convention on the Law Applicable to Trusts, but Estonian law does not prohibit Estonian residents from acting as trustees, protectors or administrators of a trust set up under foreign law. As the concept of trust is not recognised in Estonia, there is no body of law specifically governing trusts. However, ownership information for trusts is

required to be held by a trustee under AML and tax law. For additional discussion of trusts, refer to paragraphs 114-128 of the 2013 report.

152. It is not known how many foreign trusts are administered by trustees resident or domiciled in Estonia. Estonian authorities advise that they have not come across any trustees in the course of their tax or AML supervision programmes.

153. During the three year review period, Estonia did not receive any requests relating to trusts.

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

154. Estonian trustees acting by way of business are subject to Estonia's AML regulations. The Money Laundering Prevention Act extends its application to the business and professional activities of providers of trust and company services (s. 2(1)(9) MLA).

155. The Money Laundering Prevention Act 2017 defines a beneficial owner of a trust as the natural person who ultimately controls the trust via direct or indirect ownership or otherwise and is trust's settlor, trustee, beneficiary, or protector or enforcer (where appointed) (s. 9(6) MLA). Although the coverage of the definition extends to those persons who would be of interest in a trust arrangement, the use of the conjunction "and" indicates that a trustee, settlor, beneficiary, or protector/enforcer would only be considered a beneficial owner if he/she also ultimately controlled the trust through direct or indirect means. This may not necessarily even be possible in all cases (for instance, neither the settlor nor the beneficiaries should exercise control over the assets in a traditional trust arrangement). Accordingly, Estonia is recommended to ensure that beneficial ownership information for trusts administered in Estonia or in respect of which a trustee is resident in Estonia is available in line with the standard. However, it must be noted that the materiality of this gap is low (see paragraphs 152-154).

156. As AML-obliged persons, trustees are subject to the customer identification and verification requirements contained in Estonia's AML legislation as described above, although it is questionable whether, based on the definition provided in the AML Guidelines, CDD and KYC measures would need to be undertaken for all trustees, settlors, and beneficiaries. For a more detailed description of CDD and KYC obligations in Estonia's AML regime, refer above to section on companies or to section A.3 below.

157. In terms of oversight, the FIU is the appointed supervisory body (as the supervisor of corporate service providers). The FIU's programme of supervision is described above under beneficial ownership of companies.

(b) Ownership information held pursuant to tax law

158. As was the case at the time of the last review, Estonian tax authorities have never encountered a trust and are unsure about the theoretical tax treatment of such arrangements. The Tax and Customs Board conjectures that a trust could be taxed pursuant to section 29 of the Income Tax Act if it derives income in Estonia. Beneficiaries to whom disbursements are made must be identified to the tax authority.

(c) Enforcement measures and oversight

159. With respect to the obligations under tax law, where a trust has been established as having characteristics to qualify as a taxable entity under Estonian tax law, it would come under the purview of the Tax and Custom Board's audit programme (discussed in depth below in section on accounting requirements).

A.1.5. Foundations

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

161. An Estonian foundation is a legal person in private law having no members and which is established, for public or private reasons, to administer and use assets to achieve the objectives specified in its articles of association. A foundation may be founded by one or more founders (natural or legal persons) for a specified or unspecified term or until stated objectives are achieved. As of 1 June 2017, 792 foundations were registered in Estonia, 175 of which are public and 617 of which are private. For more information on the characteristics of foundations in Estonia, refer to paragraphs 129-136 of the 2013 report.

162. Identity information for persons relevant to a foundation (founder, management/supervisory boards, and beneficiaries) will be available through commercial law and accounting provisions.

163. During the period under review, Estonia did not receive any requests relating to foundations.

(a) Ownership information held by the Registrar

164. The Commercial register is also the registry of foundations and non-profit associations. All foundations must be registered in the commercial register. Identity information on the foundation's founder and management

and supervisory boards must be provided. The foundation's beneficiaries, or class of beneficiaries, will be described in the founding documents.

165. A foundation must be established by a notary (s. 6 FA) on the basis of a foundation resolution containing, *inter alia*, the names and addresses or registered offices of the founders and their personal identification codes or registry codes; the names, as well as the residences and personal identification codes of the members of the management board and supervisory board. The articles of association must be annexed to the foundation resolution and must include, *inter alia*, the set of beneficiaries, except if all persons who are entitled to receive disbursements pursuant to the objectives of the foundation are beneficiaries (s. 8 FA). In other words, the beneficiaries, or class of beneficiaries, must be explicitly stated or inferable from the objectives of the foundation.

166. The 2013 report noted instances where the articles of association may be silent on the beneficiaries of a foundation, but this gap was addressed with amendments to the Accounting Act in 2012 requiring beneficiaries to be listed in the annual accounts of a foundation (discussed more below in section A.2). Further, foundations are required to report on disbursements made to the tax authority on a monthly basis.

167. In order to enter a foundation in the register, the management board must submit an application, including, *inter alia*, the foundation resolution and articles of association and a bank notice concerning the money transferred to the foundation (s. 11 FA). This includes its registered address, information on the members of the management board, information on the trustee in bankruptcy, information on liquidators, and information on the depositary of documents of a liquidated foundation. Upon a change in the information entered in the register, the management board must submit an application for entry of the changes in the register.

168. As with companies, foundations must open a bank account in an Estonian credit institution in the name of the foundation in order to make the initial monetary contribution to the foundation (s. 520(4) CC). The foundation is not required to maintain the Estonian bank account throughout the existence of the foundation, although in practice most do. Banks are subject to AML rules and regulations to identify the beneficial owners of their customers, as described below in section A.3.

169. Foundations must also file annual reports to the Registry (s. 14 FA). According to section 21 of the Accounting Act, annual reports must include a list of beneficiaries of the foundations. Failure to submit the annual report within six months after the expiry of the term specified by law, the registrar shall issue a warning on deletion from the register (s. 34 FA).

(b) Ownership information held by the tax authority

170. The Estonian tax authority will have information on beneficiaries to whom disbursements are made as every payment to a resident or non-resident natural person must be declared to the tax administration.

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

171. Persons managing or administering foundations on a commercial basis are covered by Estonia's AML regime pursuant to section 2(2) of the Money Laundering Prevention Act. This provision explicitly covers notaries in their role forming a foundation. However, foundations are not required to engage an AML-obliged service provider to manage their affairs or activities. As such, there would not necessarily be an ongoing relationship covered by AML over the lifetime of the foundation.

172. Foundations are also covered by new AML provisions on the registration and retention of beneficial ownership information. Foundations are required to gather and retain information on their beneficial owners. The foundation's management board must also enter the following information on its beneficial owners into the commercial register: (i) full name, personal identification code and country of identification code or date and place of birth, and country of residence (ii) nature of beneficial interest held, and (iii) a list of beneficiaries as defined by section 9 of the Foundations Act along with all information specified under (i) (s. 77(3) MLA). Foundations for which the sole economic activity is the keeping or accumulation of property of beneficiaries (e.g. a foundation established to manage the property of a family and has no other business activities) are exempted from this obligation.

173. As AML-obliged persons, notaries are required to identify and verify the identity of the beneficial owners of a foundation for registration in the commercial register. However, in practice, Estonian notaries may not consistently carry out their customer due diligence measures as prescribed by AML.

174. The definition of beneficial owner of foundations in the Money Laundering Prevention Act 2017 is not clear. According to the Estonian authorities, the general definition applicable to all entities and arrangements is set in section 9(1) which states that "For the purposes of this Act, 'beneficial owner' means a natural person who, taking advantage of their influence, makes a transaction, act, action, operation or step or otherwise exercises control over a transaction, act, action, operation or step or over another person and in whose interests or favour or on whose account a transaction or act, action, operation or step is made". It seems unclear how the general provision would be applied in relation to foundations. Additionally, section 9(7)

MLA mentions that in case of a person or association of persons a member or members of the management board may be designated as a beneficial owner. There is no guidance issued yet and the application of the new rules that relate to beneficial owners of foundations remains to be tested in practice. Estonia is recommended to monitor that all beneficial owners of foundations are identified in practice.

(d) Enforcement measures and oversight

175. During the period of 2014-16, the Tax and Customs Board audited 169 foundations in total. In 42 cases, deficiencies were identified. The result of tax audits in case of 42 foundations was the correction of tax declarations in total sum of EUR 1.1 million and in case of one foundation, additional tax of EUR 20 000 was imposed.

A.2. Accounting records

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

176. The 2013 report already found Estonia's framework for the maintenance of accounting records, including underlying documentation, for a minimum period of five years to be in line with the international standard. Element A.2 was determined to be "in place" and Compliant.

177. Estonia's regulatory framework pertaining to accounting requirements has not changed significantly since the first round of reviews. Compliance with requirements to keep proper books and records are supervised for all entities subject to tax in Estonia.

178. Estonia has been able to exchange accounting information in approximately 350 cases over the review period, including on entities that have ceased to exist, although in five cases, the Tax and Customs Board could not provide the requested information as the depository was not reachable.

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

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

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

A.2.1. Obligations to maintain accounting records

180. Estonian law contains comprehensive obligations for all relevant entities and arrangements to maintain proper accounting records for a minimum period of seven years from the end of the financial year to which the records relate. The Commercial Code and Accounting Act provide for the same obligations for companies or partnerships owned by residents or non-residents in Estonia. Such obligations are contained in the Accounting Act and are reinforced by provisions in the Taxation Act. Accounting requirements remain the same as at the time of the last review. For a more detailed description of accounting requirements in Estonia, refer to paragraphs 153-169 of the 2013 report.

181. Estonia has sufficiently strong practical mechanisms to ensure that all entities maintain accounting records and underlying documentation in practice. The Estonian Tax and Customs Board has sufficient powers of discovery and inspection that ensure that persons have to produce any relevant documentation. Further, penalties exist in the law and have been applied in practice (enforcement is discussed in detail further below).

(a) Company law requirements to maintain accounting records

182. The Accounting Act (AA) applies to all business entities registered in Estonia, including public and private limited companies, limited and general partnerships, commercial and building associations, foundations, and branches of foreign companies.

183. All entities are required to organise their accounts in such a way as to ensure the provision of up-to-date, relevant, objective and comparable information concerning the financial position, financial performance and cash flows of the accounting entity. This includes requirements to document all its business transactions, post and record all its business transactions in accounting ledgers and journals, prepare and submit annual reports and other financial statements, and preserve accounting documents (s. 4 AA). If a private limited company, public limited company or commercial association fails to submit the annual report to the registrar within six months after the expiry of the term specified by law, the registrar shall issue a warning on

deletion from the register to such person and obligate the person to submit the annual report within a specified term which shall be at least six months. If a company fails to submit an annual report within the term and has not notified the registrar of a justified good reason which hinders the company from submitting the report, the registrar may publish a notice concerning the company's failure to submit the annual report within the prescribed term in the publication "*Ametlikud Teadaanded*" and invite the creditors of the company to notify of their claims against the company and to request the conduct of a liquidation proceeding within six months after the date of publication of the notice, with a warning that if they fail to do so, the company may be deleted from the register without a liquidation proceeding. If, within six months after publication of the notice, the company has failed to submit the annual report to the registrar and failed to provide the registrar with justification for the reason which hinders the company from submitting the report, and the creditors of the company have not requested the liquidation of the company, the registrar may delete the company from the commercial register in adherence to the provisions of subsection 59 (4) of CC. (s. 60 CC).

184. Entities must describe transactions with sufficient accuracy and detail to allow for financial statements to be prepared. Accounting entries must include the date of the business transaction, the accounts debited and credited and the corresponding amounts, a description of the business transaction, and identification of the source document (defined as a document that can demonstrate the circumstances and veracity of a business transaction) (ss. 6-9 AA). Source documents should contain a description of the economic content, and any relevant figures (e.g. quantity, price, amount, etc.) (s. 7 AA).

185. Accounting records (including source documents) must be kept for at least seven years from the end of the financial year to which they relate (s. 12 AA). The Accounting Act does not require that accounting records be kept in Estonia.

186. With respect to entities that have been liquidated, struck from the register, or cease to exist for any other reason, as described above in section A.1, a liquidator must be appointed to liquidate the entity's assets. After completion of liquidation, the liquidator shall deposit the documents of the entity with a depository. If the liquidators do not assign the depository, the depository shall be appointed by the court. The depository must hold such documents for seven years (s. 12(1) AA).

187. The provisions in the Accounting Act concerning the keeping of accounting records do not apply to foreign trusts administered by Estonian resident trustees as the concept of trusts does not exist in Estonian law. Although an Estonian trustee would be required to keep an accounting of the trust's assets under his/her management to demonstrate that the assets of the trust are separate from the trustee's personal assets (to avoid being taxed on

the trust's assets), it is unclear whether such accounting would amount to the same degree of specificity that is required for the books and records of the trustee's own business activities. However, as Estonian authorities have never come across a foreign trust being administered by an Estonian resident, nor have there been any requests relating to foreign trusts, the materiality of this gap is deemed to be very low.

188. In practice, Estonia has successfully exchanged accounting information in approximately 350 cases, including on companies that have ceased to exist, although in five instances, Estonia was not able to provide the requested information. In those five cases, the company had been removed from the register for failure to file annual reports. In one case, the depository had provided false contact information and could not be contacted; the depository for the other four cases was not resident in Estonia and therefore could not be reached. Estonia is therefore recommended to ensure the availability of accounting records for companies that cease to exist (see B.1.2).

(b) Tax law requirements to maintain accounting records

189. Estonian tax law reinforces accounting requirements. Subsection 36(2) of the Income Tax Act requires taxpayers to keep accounts of its income and expenses in a manner that clearly sets out the data necessary for determining the taxable income. Even where a taxable person is not required to keep accounts according to the Accounting Act it must keep accounts "organised in a manner which enables an overview to be obtained within a reasonable period of time of the conduct of the transaction and of facts relevant for taxation purposes, including revenue, expenditure, assets and liabilities" (s. 57(3) TA). This applies to trustees of foreign trusts.

(c) Enforcement measures and oversight

190. The Tax and Customs Board is responsible for monitoring compliance with accounting obligations under the Accounting Act and the Taxation Act. As noted above in section A.1, all entities registered in the Commercial register are considered taxpayers and are registered with and subject to the supervision of the Tax and Customs Board.

191. Failure to comply with accounting requirements constitutes a criminal offence. Although no specific penalties exist in the Accounting Act, under section 381 of the Penal Code, the following conducts are punishable by a pecuniary punishment[5] or up to one year of imprisonment: (i) knowing

5. A pecuniary punishment equals to thirty to five hundred daily rates. The court shall calculate the daily rate of a pecuniary punishment on the basis of the average daily income of the offender. The court may reduce the daily rate due to

violation of the requirements for maintaining accounting; (ii) knowing and unlawful destruction, concealment or damaging of accounting documents; or (iii) failure to submit information or submission of incorrect information in accounting documents if the possibility to obtain an overview of the financial situation of the accounting entity is thereby significantly reduced. The same act, if the court has announced the bankruptcy of the accounting entity or terminated bankruptcy proceedings due to abatement, is punishable by a pecuniary punishment or up to three years of imprisonment.

192. Breach of the record keeping requirements under the Taxation Act carries a fine of up to EUR 1 200 if committed by a natural person and up to EUR 32 000 if committed by a legal person (s. 153 TA).

193. Generally, the Tax and Customs Board is not broken into separate units for different types of taxes, although it has one small separate unit (comprised of four to five persons) that deals with big corporations and complicated income tax issues.

194. The Tax and Customs Board has a total staff of 1 425, with 290 staff in its audit department. The Tax and Custom Board's audit programme is largely automated, with screening based on the sectoral risks and taxpayer behaviour.

195. The Tax and Customs Board's audit programme is risk-based. The risk processes are automated and contain different risk criteria for the different types of risks (e.g. type of business structure, type of tax, fraud schemes). The Tax and Customs Board has specialised software that runs a new tax declaration through a risk analysis when it is first received. The software creates a risk model, which automatically checks the data. There are a number of red flags that can be raised by the system (such as an unusually large reclaim). Based on risk assessment, the system may send the declaration to be audited. Auditors will then manually check the background of the declaration and confirm whether an audit is needed or whether an issue just needs to be clarified with the company. Auditors can also manually select cases for audit (for instance, if the Tax and Customs Board has received information from the media, or an EOI request).

196. The Tax and Customs Board's audit programme comprises both on-site and desk-based reviews. The types of records examined will depend on the size of the company and the particular situation, but can include, for instance, bank accounts, contracts, etc. The auditor will usually ask for only

special circumstances or increase the rate on the basis of the standard of living of the offender. The daily rate applied shall not be less than the minimum daily rate. The minimum daily rate shall be EUR 10.

the necessary documentation, but will generally need to see the underlying documents to verify the accounting documents put forward by the taxpayer.

197. Over the review period, the Tax and Customs Board audited a total of 46 889 entities. The numbers separated between large, medium and small companies, for each year, are presented in the following table:

Audited entities by the Tax and the Customs Board between 2014 and 2016

		2014	2015	2016
Large companies	Total	274	462	355
Among which	Non-resident	2	3	2
	Foundations	2	8	9
	Limited partnerships		1	
Medium companies	Total	1 404	1 930	1 589
Among which	Non-resident	9	10	8
	Foundations	13	9	7
	Limited partnerships	1		
	General partnerships	3	1	1
Small companies	Total	14 851	13 402	14 026
Among which	Non-resident	136	188	203
	Foundations	37	48	33
	Limited partnership	65	29	26
	General partnerships	11	2	8

198. In terms of sanctions, over the last three years, the Tax and Customs Board imposed the following fines for violations of the Taxation Act (tax fraud), which include deficiencies in accounting and bookkeeping: 280 in 2016, 681 in 2015, and 563 in 2014. Criminal fines were imposed in 85 cases.

199. Additionally, over the review period, the following criminal penalties were imposed:

Criminal penalties imposed by TCB

Penal Code	Number of persons deemed guilty by court	2013	2014	2015	2016	Jan-Oct 2017
§ 381	Submission of incorrect information concerning financial situation of or other verifiable circumstances relating to company	0	0	0	0	0
§ 381[1]	Violation of obligation to maintain accounting	3	5	7	0	6 natural persons 2 legal persons

A.2.2. Underlying documentation

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

201. The Accounting Act requires that all accounting entries be supported by source documents certifying the corresponding business transaction. Source documents are defined as a certificate which shall demonstrate the circumstances and veracity of the occurrence of a business transaction (s. 7(1) AA). As described above, source documents shall contain at least the time of the occurrence of the transaction, a description of the economic content, and any relevant figures (e.g. quantity, price, amount, etc.) (s. 7 AA). Some examples of source documents are bills of purchase or sales invoices.

202. As described above, underlying documentation is requested routinely in the course of the Tax and Customs Board's audit programme in order to verify the taxpayer's accounting.

A.3. Banking information

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

203. The last round of reviews did not raise any concerns with respect to the availability of bank information in Estonia. Consequently, element A.3 was determined to be "in place" and rated "Compliant".

204. Estonia's AML regime includes comprehensive obligations on the part of banks and other financial institutions to verify the identity of their clients and maintain detailed and accurate records of their transactions and business relationships. Supervision of banks' record-keeping requirements is carried out by FSA.

205. In accordance with the new 2016 ToR, the availability of beneficial ownership information of account holders must also be assessed. Over the review period, the definition of "beneficial owner" under Estonian law was deficient in that it applied a 25% threshold to beneficiaries and those exercising significant control over a legal person (e.g. a trustee).

206. In October 2017, Estonia amended its Money Laundering Prevention Act (MLA) in order to transpose the EU's. 4th AML Directive into domestic law. The Money Laundering Prevention Act 2017 also amended the definition of "beneficial owner" to remove the 25% threshold previously applicable

to beneficiaries and trustees. Legal requirements to identify and verify the identity of customers remain in place.

207. Availability of banking information is also confirmed in Estonia's EOI practice. During the review period, Estonia received approximately 530 requests for banking information. All were answered in full to the satisfaction of peers. Four of the requests were for the beneficial owner of bank accounts.

208. Given the foregoing, the updated table of determinations and ratings is as follows:

Legal and Regulatory Framework		
	Underlying factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework		
Determination: In Place		
Practical implementation of the standard		
	Underlying factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	The definition of beneficial owner of foundations in the Money Laundering Prevention Act 2017 is not clear and there is no guidance issued yet. The application of the new rules that relate to beneficial owners of foundations remains to be tested in practice.	Estonia is recommended to monitor that all beneficial owners of foundations are identified in practice.
Rating: Compliant		

A.3.1. Availability of banking information

209. Estonia's AML regime includes comprehensive obligations on the part of banks and other financial institutions to verify the identity of their clients and maintain detailed and accurate records of their transactions and business relationships. Banks are also required to identify the beneficial owners of their customers. These obligations and the system of enforcement to supervise compliance are in place.

(a) General record-keeping requirements

210. In Estonia, banks are required to identify and verify the identity of their customers, as well as maintain all records pertaining to accounts and related financial and transactional information. They are obliged to retain copies of documents used in connection with CDD and customer identification measures for five years after the customer relationship has ended or following the completion of the transaction to which the documents relate. In case of non-compliance with these obligations, sanctions apply.

211. In 2017, to transpose the EU's. 4th AML Directive into domestic law, Estonia amended its Money Laundering Prevention Act. Customer identification and record-keeping obligations were in place under the Money Laundering Prevention Act 2008 and did not change with recent amendments. Such records include documents collected in identifying clients and as well as transactional records undertaken on the client's behalf whether in respect of an ongoing relationship or a one-off transaction.

212. All documents collected in the process of identifying and verifying the identity of the customer must be maintained for a period of no less than five years from the termination of the business relationship (s. 47(1) MLA). Retention of documents includes retention of all correspondence relating to the performance of duties and obligations arising from the Money Laundering Prevention Act (s. 47(2) MLA).

213. Failure to retain such documentation as required is punishable by a fine of up to 300 units (s. 94 MLA) if committed by a natural person. The bank may be penalised for such a default with a fine of up to EUR 400 000.

(b) Legal and beneficial ownership information on account holders

214. Anonymous, or numbered, accounts are expressly prohibited in Estonia. Banks are only allowed to open an account in the name of an account holder (s. 25(1) MLA). Banks are not allowed to provide any services that do not require identification of the customer and cannot conclude a contract or make a decision to open an anonymous account or a savings book; any such transactions violating this prohibition will be considered void (s. 25(2) MLA). The penalty for opening an anonymous account for a customer is a fine of up to 300 fine units (s. 84 MLA) or detention for up to 30 days. The penalty for the bank is a fine of up to EUR 400 000.

(i) General customer identification and verification requirements

215. Banks must identify their customers using credible and verifiable documents upon entering into a business relationship (s. 19(1) MLA). Customer identification and verification requirements have not changed

substantively with the entry into force of the new Money Laundering Prevention Act. The obliged entity must verify the correctness of the data received from the customer using information gathered from a credible and independent source (s. 20(1) MLA). With respect to natural persons, a list of acceptable identification documents is contained in section 21 of the Money Laundering Prevention Act. Section 22 of the Act provides a similar list of acceptable identifiers for legal persons, including information obtained from a commercial register. If the bank has access to the commercial register, register of non-profit associations or foundations, or the data of the respective registers of a foreign country, the bank does not need to demand submission of certain information (namely, the names of the director, members of the management board or other body replacing the management board) from the client. Identifying a customer includes gaining knowledge and understanding of the customer's business (such as, the permanent seat or place of business, fields of activity, main contracting partners, payment habits, etc.), as well as the purpose of the intended relationship (s. 20(2) MLA).

216. Business relationships must also be continuously monitored. Monitoring must include: (i) checking of transactions made in a business relationship in order ensure that the transactions are in concert with the obliged entity's knowledge of the customer, its activities and risk profile; (ii) regular updating of relevant documents, data or information gathered in the course of application of due diligence measures; (iii) identifying the source and origin of the funds used in a transaction; (iv) paying close attention to complex, high-value and unusual transactions and transaction patterns that do not have a reasonable or visible economic or lawful purpose or that are not characteristic of the given business specifics; and (v) transactions originating in high-risk jurisdictions (s. 23(2) MLA).

217. The Money Laundering Prevention Act 2017 also requires banks to examine their pre-existing accounts to determine whether customer due diligence measures need to be applied. Banks are allotted a period of one year from the entry into force of the Act to apply such measures to their pre-existing accounts where needed (s. 100 MLA). To determine whether due diligence measures are needed, a bank should consider the importance of the customer and the risk profile, as well as the time that has passed from the previous application of the due diligence measures or the scope of their application.

218. Failure of a legal person to identify a customer and verify the customer's identity is punishable by a fine of up to EUR 400 000.

219. The penalty for a breach by an obliged entity, its management board member or employee of the duty provided for in this Act to monitor a business relationship is a fine of up to 300 fine units (s. 89 MLA). The legal person may be also penalised by a fine of up to EUR 400 000.

(ii) Requirements to identify beneficial owners

220. Estonia's AML regime requires banks to identify the beneficial owners of their account holders, although over the review period, the definition of beneficial owner was not in line with the standard. The old Money Laundering Prevention Act defined "beneficial owner" as a natural person who, taking advantage of his/her influence, exercises control over a transaction, operation or another person and in whose interests or favour or on whose account a transaction or operation is performed. The definition included a natural person who ultimately held the shares or voting rights in a company or exercises final control over management of a company in at least one of the following ways: (i) by holding over 25% of shares or voting rights through direct or indirect shareholding or control, including in the form of bearer shares; (ii) otherwise exercising control over management of a legal person.

221. The prior definition of beneficial ownership also applied the 25% threshold to legal arrangements, such as trusts and foundations with respect to the disbursements of a legal arrangement or its control. In practice, banks interviewed at the on-site visit reported that they disregarded the 25% threshold and looked for any person who potentially may be of interest, regardless of the percentage of ownership. However, as the international standard requires the identification and verification of all beneficiaries and trustees, Estonia's old AML framework was deficient in this respect.

222. The new Money Laundering Prevention Act, which entered into force on 27 November 2017, distinguishes beneficial ownership of a transaction from beneficial ownership of an entity or arrangement. Moreover, the Money Laundering Prevention Act further distinguishes between beneficial ownership of companies and other types of entities and legal arrangements. A beneficial owner of a company is "the natural person who ultimately owns or controls a legal person through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that person, including through bearer shareholdings, or through control through other means" (s. 9(2) MLA). Beneficial ownership of trusts and other similar arrangements is defined by the natural person who ultimately controls the association via direct or indirect ownership or otherwise and is the settlor (or founder), the trustee (or manager), the beneficiary or beneficiaries, or any other person ensuring or controlling the preservation of such property (s. 9(6) MLA).

223. As discussed above in section A.1, control through other means refers only to exercising dominant influence in accordance with section 27(1) of the Accounting Act and not to other forms of exerting influence. This narrow conception of control through other means does not cover the myriad ways in which control may be exerted and is not in line with the international standard. Therefore, Estonia is recommended to ensure that beneficial ownership information is available in line with the international standard.

224. Also, as discussed above, if after having exhausted all possible means of identification, a bank fails to identify a person exercising control through direct or indirect ownership and has no doubt that such person exists, the natural person who holds the position of a senior managing official may be deemed the beneficial owner. The concern described above with respect to companies that the new definition of beneficial owner may allow for senior management to be identified where a corporate structure is too dense or complex is mitigated for banks and other financial institutions, which are prohibited by section 42 of the Money Laundering Prevention Act to enter into a business relationship where sufficient customer identification and verification cannot be completed.

225. The new definition of beneficial ownership, however, poses some problems with respect to trusts and foundations (see A.1.4 and A.1.5).

226. Identification of the beneficial owner and verification of the beneficial owner's identity includes taking measures to the extent that allows the obliged entity to make certain that it knows who the beneficial owner is, and understands the ownership and control structure of the customer (s. 20(3) MLA). Information identifying the customer must be verified using credible and independent sources (s. 21(2) MLA) (see section above on AML requirements of obliged professionals).

227. The penalty for a breach by an obliged entity or its management board member or an employee of the duty provided for in this Act to identify the beneficial owner and verify their identity is a fine of up to 300 fine units or detention (s. 85 MLA). The bank is liable to a fine of up to EUR 400 000.

(iii) Reliance on identification measures of other institutions

228. Under certain circumstances, the AML rules in Estonia allow a bank, or other financial institution, to rely on another financial institution for customer verification where the latter institution is introducing a client to the former where the following criteria are met. The bank must gather from the introducing institution information on the person establishing the business relationship and the beneficial owner, as well as what is the purpose and nature of the business relationship (s. 24(1)(1) MLA). Further, the bank must be able to obtain all CDD and KYC documentation from the introducing institution where necessary (s. 24(1)(2) MLA). The introducing institution must be required to comply with, or is subject to requirements that are equivalent to, Directive (EU) 2015/849 of the European Parliament and of the Council (s. 24(1)(3) MLA). The bank must satisfy itself that the introducing institution meets the necessary requirements (s. 24(1)(4) MLA). Notwithstanding the foregoing, the relying institution retains responsibility for the identification and verification of a customer (s. 24(7) MLA).

229. In the case of a cross-border correspondent relationship with a respondent institution of a third country, a bank must take additional due diligence measures beyond that required in section 20 of the Money Laundering Prevention Act. A bank must gather sufficient information on the respondent institution in order to fully understand the nature of the activities of the respondent institution and, based on publicly available information, make a decision on the reputation and supervision quality of the relevant institution, including by researching whether any proceedings have been initiated against the institution in connection with an infringement of AML/CFT legislation (s. 40(1)(1) MLA). A bank must also assess the AML/CFT control systems implemented in the respondent institution (s. 40(1)(2) MLA). Finally, in the case of payable-through accounts, making certain that the respondent institution has verified the identity of the customers who have direct access to the accounts of the correspondent institution, applies due diligence measures to them at all times and, upon request is able to present the relevant due diligence measures applied to the customer (s. 40(1)(5) MLA). In such cases, the correspondent bank does not need to apply due diligence measures to the ultimate benefiting customer where: (i) it has established that the respondent institution is subject to similar requirements as those imposed by the Money Laundering Prevention Act; (ii) it is aware of the risk structure of the ultimate benefiting customer; (iii) it has ensured contractually that all identification documents of the ultimate benefiting customer will be made immediately available by the respondent institution upon request; and (iv) it has taken sufficient measures to ensure compliance with (i) (s. 40(2) MLA). Notwithstanding the foregoing, the relying institution retains responsibility for all requirements arising under the Money Laundering Prevention Act (s. 40(4) MLA).

230. In the situations where a bank may lawfully rely on another's institution's CDD, Estonia's legislation is in line with the international standard.

(c) Enforcement and oversight measures

231. Supervision of banks' record keeping requirements is carried out by the FSA, Estonia's bank supervisor. The FSA carries out prudential and AML supervision (broken into two separate units). The two types of supervision may be conducted together, but are generally performed separately. The FSA has total staff of about 90 in FSA, 5 in the AML supervision department. The AML unit does not supervise only banks, but also other types of financial institutions. In total, the AML unit in the FSA is responsible for overseeing 16 banks and 131 non-banking financial institutions, including also 3 securities firms, 16 fund management companies, 4 life insurance providers, 13 money service businesses, and 62 consumer credit providers.

232. Representatives of the FSA present at the on-site visit explained that it applies a risk-based model is based on market and compliance risks based on the vulnerabilities of the customer as well as the risks inherent to the relevant sector or business activity. The risk profile takes into consideration, *inter alia*, the risk appetite/tolerance of the bank, the demographic of its client base, the number of deposits, whether the bank is resident or non-resident (and if non-resident, the country of origin), and any particular factors of interest (such as a change in management). The FSA also looks at the bank's reporting patterns (what kind of reports have been made and how many).

233. The FSA carries out both on-site and desk-based reviews of banks. As for its off-site inspections, the FSA sends to banks an annual questionnaire, the responses to which are factored into the risk calculation of each individual bank. Banks that are selected for an on-site inspection are notified in writing and are given about one to two week notice. In the course of an inspection, the FSA will request a number of documents, including internal materials (such as risk management policies, rules of procedure, management information and risk reports, as well as the reports of the internal audit, etc.), a list of all their transactions (amounts, what kind, etc.), a list of high risk customers (all CDD including data on beneficial owners, source of funds, customer risk profiling data, patterns for transaction monitoring etc.), and customers involved in the hundred largest transactions (all CDD on those customers, whether there are any connected customers, how they were on-boarded, when was the first meeting, whether they were referrals, etc.). If violations are already discovered at this stage, the FSA can report to the FIU.

234. The FSA's procedure for the AML unit's on-site inspections is as follows. Before the on-site visit the team assesses the key risk parameters and other data collected. During the on-site visit, the inspection team verifies the pre-assessed data and evaluates the application of the CDD measures and transactions monitoring mechanism and does sample tests on the customer files on approximately 20-35 customers. As with the desk-based inspection, the team will ask for files for high volume transactions. During the sampling phase, the team will collect copies of the CDD documents of customer selected and bring it back to the office to analyse. The team will look at whether all necessary CDD/KYC documents are present and whether documentation to support transactions has been kept. The team will then interview the relevant customer relation managers about how procedures were applied (e.g. in identifying the customer and verifying the customer's identity). The team will also interview compliance personnel, regarding the bank's IT system, whether any alerts were made, whether the management board was informed about any issues, etc. The team will also inquire about the application of customer identification and verification procedures. In this way, the inspection team is able to assess whether the bank has correctly assessed the risk profiles of its customers. Specifically with respect

to beneficial ownership, they will inquire how the bank has identified the beneficial owner in a particular case and how that determination was made. The total period of the inspection phase from beginning to end lasts for about two months.

235. Following the inspection, the FSA has approximately two months to prepare a report with its findings. The FSA will send the report to the bank, which has one month to respond, after which the FSA has an additional month to finalise the report. The final examination report will include the FSA's findings on the implementation of the legal provisions. If breaches are detected, the FSA will issue a letter to amend rules of procedures. As result of the AML/CFT examinations, the FSA issued 12 letters to amend the rules of procedures in 2017. Banks are generally given a timeframe of about three to four months to rectify deficiencies, but this will depend on the severity of the issues identified.

236. Depending on how severe the violations are, the inspection team may refer the case directly to the FSA's enforcement unit. The FSA reports that this happens in a few cases each year. Alternatively, the inspection team may issue prohibitions ("precepts") (e.g. restrictions on the banks' transactions), disqualify members of the Board, or instruct the bank's shareholders to change the members of the supervisory board. The FSA can also impose a misdemeanour fine on the bank or refer the bank to the European Central Bank, which may revoke the bank's license. Estonian authorities report that this has happened once before in the past, but outside of the review period.

237. With respect to the frequency of inspections, the FSA does not perform cycles of reviews, but rather decides when to review a bank based on the risk assessment and the continuous monitoring of the activity of all banks. FSA officials reiterated that the sector is so small in Estonia that that they are in constant contacts with management boards and compliance personnel of banks. On-site inspections are supplemented with yearly off-site examinations and ad hoc examinations. All major credit institutions have undergone an on-site examination during last five years, although they are subject to more frequent off-site inspections.

238. Over the review period, the FSA's AML unit conducted a total of eight on-site visits of Estonia's. 16 banks (three in 2016, one in 2015, and four in 2014) and 109 desk-based inspections (52 in 2016, 29 in 2015, and 28 in 2014). Of the three inspections that took place in 2016, two identified AML/CFT infringements, the sanctions for which will be finalised in 2018. The infringements detected included those related to customer due-diligence measures and AML/CFT regulations (i.e. the entities did not understand the customer's business profile and did not properly monitor their transactions). The inspection in 2015 found AML/CFT violations relating to inadequate implementation of control policies and procedures and led to the removal of

three board members and one supervisory board member, and the publication of one prohibition. All four inspections in 2014 also identified violations relating to failure to properly apply internal control procedures and resulted in the removal of one manager, one compliance officer, and several customer relations managers, as well as the publication of two prohibitions.

239. Given the size of Estonia's banking sector, it appears that banking supervision over the review period has been adequate. The FSA has been active in its enforcement; it bolsters its on-site inspection process with comprehensive off-site inspections and applies sanctions where appropriate.

Part B: Access to information

240. Jurisdictions should also have in place effective enforcement mechanisms to compel production of information. Sections B.1 and B.2 evaluate whether the competent authority has the power to obtain and provide information that is the subject of a request under an EOI arrangement from all relevant persons within their territorial jurisdiction and whether any rights and safeguards in place are compatible with effective EOI.

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).

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

242. Estonia's access powers were assessed under the 2010 TOR and found to be generally adequate although some minor deficiencies were identified in the 2013 report. Element B.1 was determined to be "in place" and Compliant.

243. Estonia's legal framework and practice with respect to its access powers has not changed in a significant way since the last review. The updated table of determinations and ratings remains as follows:

Legal and Regulatory Framework		
	Underlying factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework		
Determination: In Place		
Practical implementation of the standard		
	Underlying factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	Estonian law requires the documents of liquidated companies to be held by the liquidator or other depository. However, in 5 cases the Estonian authorities were unable to reach the designated depository and the accounting information could not be obtained.	Estonia is recommended to ensure that it is able to access accounting information of liquidated companies in all cases.
Rating: Compliant		

244. Estonia's competent authority is the Tax and Customs Board, situated in the Ministry of Finance. Pursuant to section 51 of the Taxation Act, the Tax and Customs Board is responsible for carrying out exchange of information duties under Estonia's EOI agreements. The Tax and Customs Board is also responsible for automatic and spontaneous exchanges of information.

B.1.1. Ownership, identity and bank information

245. The Tax and Customs Board has broad access powers to obtain bank, ownership and identity information and accounting records from any person for both domestic tax purposes and in order to comply with their obligations under Estonia's tax treaties. Section 60(1) of the Taxation Act authorises the Tax and Customs Board to obtain any information relating to tax proceedings, in oral or written form, directly from taxpayers or their representatives. The Tax and Customs Board may also compel a taxable person, his/her representative or third parties to appear at the offices of the Tax and Customs Board to provide information (ss. 60(1) and 61(1) TA). The competent authority's access powers have not changed since the first round of reviews and are summarised below. For a more detailed analysis of the competent authority's access powers, refer to paragraphs 188-210 of the 2013 report.

246. The Tax and Customs Board has a significant amount of ownership information in its own databases due to its automatic access to all State registers, such as the commercial register, the land register, and the vehicle register. These agencies and the tax authority share information from their databases through the application of a software programme called X-Road. The X-Road software "trolls" each database for new information and automatically and continuously updates each register to the degree permitted by law. Further, historical information is maintained so that the history of ownership information will be visible in the tax database. Consequently, in many cases, the tax authority will not need to look beyond its own database to obtain ownership information. In 2016, the competent authority answered 28% of all EOI requests based on information in its own databases.

247. Where information is not already in its possession, the Tax and Customs Board can seek the information directly from the taxpayer who is the subject of the request or a withholding agent (s. 60 TA). A tax authority is entitled to obtain oral and written information from an Estonian taxable person in order to ascertain facts relevant to tax proceedings (s. 60(1) TA). The Tax and Customs Board can summon the taxpayer to provide information in testimonial form or require information to be submitted in document form (ss. 60 and 62 TA). The Tax and Customs Board can obtain information in oral, written, and documentary forms. The notice to the holder of the requested information must be in writing and must contain information specified in s. 46(1) of the Taxation Act. The notice will also contain a warning that non-compliance will result in a penalty. The information holder is generally given two to four weeks to respond to a request for information, although extensions may be granted. The Tax and Customs Board notes that in the majority of cases, the information holder complies with the deadlines provided and reminders are only necessary in a small number of cases.

248. The Tax and Customs Board is also empowered to access information in the hands of a third party, including a bank, in order to ascertain facts relevant to tax proceedings (s. 61(1) TA). Approximately 60% of requests received by Estonia are in relation to bank information and in 43% of requests have been obtained from the bank directly. Unless the treaty partner has requested the taxpayer not to be notified, the competent authority must first notify the Estonian taxpayer to whom the information relates (see B.2.1). To obtain information from a third party, the competent authority shall issue an order setting out the name or other details enabling identification of the taxable person in connection with whose tax matter information is being collected and the reason for contacting the third party (s. 61(30 TA). However, as described further in C.3.1 Estonia does not need to provide the name of the foreign taxpayer where such details are not needed by the information holder to collect the requested information (s. $51^1(7)$ and s. $51^1(8)$ TA). If necessary, the tax authority may require that a third party appear at the offices of the tax

authority to provide the information. The tax authority also has the right to request that a third party present documents or materials as necessary (s. 62 TA). The Tax and Customs Board notes that it provides about two weeks to banks to provide the requested information and generally about two to four weeks to other third party information holders.

249. The bulk of requests made to Estonia relate to bank information (approximately 60%), accounting information (approximately 40%) as well as ownership information (approximately 50%) (one request may concern several types of information).

250. In practice, Estonia has not encountered any problems during the review period with its ability to access ownership, identity or bank information and no issues have been raised by peers. In 2016, 29% of requests were answered by the taxpayer or a third party. In 43% of requests, the competent authority sought the information directly from a bank.

B.1.2. Accounting records

251. For the purposes of accessing information, the Taxation Act does not distinguish between ownership and identity information and accounting information. The Tax and Customs Board can access accounting information to the same extent and in the same manner as with respect to ownership and identity information described above. The primary source of accounting information is the taxpayer who is the subject of the request.

252. Estonia has not generally experienced issues accessing accounting information. Over the review period, the competent authority was able to gather accounting information for approximately 350 requests. Peers did not indicate any issue generally with respect to accounting information, but two peers commented that accounting information with respect to companies that had been liquidated was not provided (also see above in section A.2). Although the commercial code requires that at least one liquidator is resident in Estonia, this is not the case for the depository of the accounts once the liquidation procedure is completed. There is therefore no guarantee that there would in all cases be a person within the territorial jurisdiction of Estonia who is in possession or control of the accounts.

253. In one request, the information requested dated back to 2010. In the four other requests, the information sought dated to between 2010 and 2013. According to Estonian officials, in several cases, the company was removed from the register precisely for failing to submit annual reports and thus the information was not available with any public body. The competent authority sought the information from the individual who was the liquidator, as well as the accountant, for several of the companies. In one of the requests, the liquidator was not in possession of the accounting records and explained that

the records were in fact in the possession of the appointed depository. The competent authority was not able to contact the depository as the contact information provided to the commercial register was false. In another two requests (for which the owner, liquidator, and depository were the same person), the information provided in the register was again either incorrect or no longer current. To the best of the authorities' knowledge, the liquidator (and depository) was no longer resident in Estonia, but rather resided in Spain. The tax authority had already noted the depository's status as a "problematic person" (someone who has been blacklisted for previous defaults or violations), but the commercial registry was not in possession of this information. Despite the registration of false contact information and the failure of all parties to supply the requested information, no penalties were applied. However, it must be noted that in the cases where other information than accounting was requested Estonia was able to provide basic tax information and banking information. Estonia is recommended to ensure that it is able to access accounting information of liquidated companies in all cases.

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

254. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. The first round of reviews concluded that Estonia has no domestic tax interest with respect to its information gathering powers. Estonia's legislation continues to contain no domestic tax interest requirement to fulfil an EOI request and no issues have been raised in the current review period. In practice, Estonia has exchanged information on foreign taxpayers for whom not domestic tax interest existed, generally where the taxpayer had an Estonian bank account.

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

255. Jurisdictions should have in place effective enforcement provisions to compel the production of information. As described in the 2013 report, Estonia has powers to penalise failure to produce information. If the taxpayer does not provide the requested information by the set deadline, the competent authority will issue a warning stating that a penalty may be imposed for failure to comply with the notice for information (s. 67(1) TA). The competent authority may also choose to immediately apply the first administrative penalty payment (for instance, if the taxpayer has defaulted before) as the notice for information already contains a warning of the consequences of default. When the first penalty is imposed, the competent authority will also set a new deadline by which the information sought must be provided. Failure to

provide the information by that deadline results in the imposition of a fine (of EUR 1 200 for natural persons and EUR 3 200 for legal persons) and registration in the misdemeanour registry.

256. Over the review period, the competent authority did not issue any fines or penalties as in all cases where information was not provided by the deadline, an extension had been granted and the necessary information was provided by the extension. However, in five requests, the competent authority was not able to obtain accounting information for companies that had been removed from the register from the designated depository. As described above, in those five cases, the information provided for the depository was false and the competent authority was not able to contact him. No penalties were imposed. Estonia is recommended to exercise its compulsory powers and apply sanctions where appropriate.

B.1.5. Secrecy provisions

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

(a) Bank secrecy

258. Estonia's legal framework contains financial secrecy and confidentiality rules, but these rules do not impede effective exchange of information. Section 88 of the Credit Institutions Act (CIA) mandates that all data and assessments which are known to a bank concerning a client are deemed to be information subject to banking secrecy (s. 88(1) CIA). However, banks are compelled by law to disclose information subject to banking secrecy for the performance of duties by the Tax and Customs Board under the Taxation Act (including exchange of information upon request), the Tax Information Exchange Act (including automatic exchange of information), and the Income Tax Act (pertaining to the EU savings directive) (s. 88(4^2)(2) CIA). As noted above, the competent authority obtained information from Estonian banks to answer 43% of EOI requests received, i.e. in 379 cases.

(b) Professional secrecy

259. The 2013 report deemed that the scope of professional privilege in Estonia to be in line with the standard. The legal framework governing the scope of professional privilege has not changed since the last review and no issues have arisen in Estonia's EOI practice. Professional duties of

confidentiality are summarised below; for a more detailed analysis, refer to paragraphs 218-221 of the 2013 report.

260. In Estonia, professional privilege extends to, *inter alia*: (i) advocates (in connection to the provision of legal advice); (ii) doctors, notaries, and patent agents in connection with the conduct of their professional duties; and (iii) auditors and accountants (pursuant to the provisions of the Authorised Public Accountant Act). Privilege also extends to persons who professionally assist any of the aforementioned professionals in the conduct of their official duties. Although somewhat broader than that envisioned in the international standard, professional secrecy provisions under Estonian law are overridden by the disclosure requirements contained in Estonia's individual tax agreements.

261. With respect to the application of legal privilege, a representative of the legal professional interviewed during the on-site visit clarified that it did not extend to situations where a lawyer was acting in a nominee capacity on behalf of a company (e.g. as a nominee shareholder or shadow director). In such cases, an attorney is obligated to inform the client that legal privilege cannot be invoked in that role.

262. Estonia has never failed to obtain information due to the invocation of professional privilege and neither has it declined to answer a request on the basis of professional privilege. No issues were raised by peers during the period under review and the case has never arisen that the competent authority has needed to ask for privileged information.

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.

263. Application of rights and safeguards in Estonia does not restrict the scope of information that the tax authorities can obtain.

264. The first round of reviews found the notification rules and safeguards in Estonia to be in line with the standard. The 2013 Report noted that legal amendments introduced in 2012 had dispensed the previously existing notification requirement. Since then, effective as of 1 April 2017, new notification requirements were introduced under Estonian tax law. As per such requirements, formal notice is normally required to be given to the person who is the subject of an EOI request, although under certain circumstances, the competent authority may be allowed to dispense with notification. The new notification requirements and the exceptions to notification meet the standard on their face. However, as Estonia has not had any practical experience with applying these new notification requirements and the exception since they

were enacted, Estonia should monitor that their application in practice is in line with the standard.

265. The 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	Estonia introduced new notification rules which became effective from beginning of April 2017. No notifications have been made in practice yet.	Estonia is recommended to monitor that the practical application of the new rules that concern notification is in line with the international standard.
Rating: Compliant		

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

266. No issues pertaining to notification rights and safeguards were identified in the last review. The rights and safeguards contained in Estonian law are compatible with effective exchange of information, as was the case in the previous review.

Notification

267. Pursuant to the Taxation Act, effective as of 1 April 2017, the Estonian taxable person, who the data or documents concern, shall be notified of the collection of necessary data and documents for the provision of international professional assistance (s. 51(6) TA)[6]. However, the competent

6. The explanatory notes of the TA provide for more details in how the term "Estonian taxable person, who the data or documents concern" should be applied by specifying that the person not to be considered as a taxpayer in the sense of the definition of taxpayer in TA § 6 (explanatory note for the TA, p. 18). Therefore, although the wording suggests that the notification would cover only Estonian

authority will seek permission from the treaty partner before requesting the information from the taxpayer in all cases when the treaty partner has requested for non-notification. Estonia explained that in practice there has not been practical experience of applying the new rules and that the competent authority decided to send notifications only once a year. The current IT system used by the Tax and Customs board to track requests does not automatically determine which requests contained the request not to notify, and therefore no notifications have been sent yet. The registration system was changed during 2018 and currently it is possible to determine whether the request contained a request not to notify or not.

268. The Taxation Act provides, as an exception from notification, that if "a competent authority of a foreign state has doubts that notification of a person of the request for international professional assistance may hinder the collection of necessary information or documents, may bring about malicious delay with tax proceedings in a foreign state or may make the conduct of tax proceedings considerably more difficult or impossible, the Tax and Customs Board may postpone the notification of the person as long as it is unavoidably necessary" (s. 51.1(7) TA). These new provisions are in line with the international standard and allow for postponed notification in cases where notification would hinder the tax proceedings of a foreign state or cause undue delay.

269. The new notification requirements together with the exceptions seem to be in line with the standard. However, because no notifications have been sent yet it is not possible to determine how the new rules will be applied in practice. Therefore, Estonia is recommended to monitor that the new legislation that concerns notification is applied in line with the standard.

270. The 2016 ToR also requires that notification rules should permit exceptions from time-specific post-exchange notification. As described above, the new provisions in force from 1 April 2017 state that the Tax and Customs Board may postpone the notification of the person as long as it is unavoidably necessary (s. 51.1(7) TA). Therefore, Estonian law does not contain time specific post-exchange notification requirements and no issue exists in this respect.

Procedure to collect information and notice to information holders

271. Where information is not already in the possession of the tax administration, the competent authority's usual practice is to seek the information directly from the taxpayer in the first instance. The notice to produce

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taxable persons it seems to cover also foreign taxpayers. Estonia confirmed that in practice they interpret the provision broadly to cover also foreign taxpayers.

information must contain the legal basis for the competent authority's request (i.e. a reference to the relevant EOI agreement and treaty partner), as well as a general description of the information sought.

272. Pursuant to the Taxation Act, effective as of 1 April 2017, Estonia no longer needs to provide the name of the foreign taxpayer where such details do not need to be provided to the information holder in order for it to be able to collect the requested information (s. 511(7) and s. 511(8) TA). The law specifically mentions that upon requesting information from a third party at the request of a competent authority of a foreign state the tax authority may not note in the order: (1) the data concerning the foreign state and competent authority that filed the request; (2) the contents of the tax proceedings carried out in a foreign state; (3) the data enabling identification of the taxable person in connection with whose tax matters information is collected (s. 511(8) TA).

273. To guard against informing a taxpayer where a requesting jurisdiction does not want the taxpayer to be notified, Estonia will always seek the permission of the treaty partner before seeking the information from the taxpayer. In such cases, the competent authority will pursue the information through other avenues (i.e. from third party sources). This provision is also cited in the instruction on managing incoming requests. Estonia has not experienced any problems with this approach. Estonia indicated that non-notification had been requested in several cases and there had been no issues during the review period. The peers mentioned 2 cases where non notification was requested and both had been successful. However, it must be noted that during the review period there were no notification requirements in force yet.

Appeals

274. The provisions that concern appeal rights of the taxpayer remain unchanged from the last review where they were found to be in line with the standard. A taxpayer or third party information-holder can challenge an administrative act made by the Tax and Customs Board (e.g. the notice to provide information or summoning a person to appear to provide information) within 30 days of the notification of or delivery of the administrative act (ss. 137 and 138 TA). The tax authority will then review the challenge and issue a decision within 30 days (s. 147(3) TA), during which time the request for information is put on hold until Tax and Customs Board legal department issues the decision. Usually it takes between five and ten working days. This situation has happened two to three times during the review period. In all cases, the legal department decided in favour of the Tax and Customs Board and required the taxpayer to submit the requested information. In all cases the taxpayers fulfilled their obligation and submitted all requested information. If the person bringing the challenge is unsatisfied with the outcome, he/she may appeal the decision to an administrative court under the Code

of Administrative Court Procedure (s. 151. TA). Such a challenge has never occurred in practice. In case of an appeal to administrative court, court proceeding may be declared confidential and closed to the public (s. 77 CACP and 37-42 CCP) in order to protect a business secret or other similar secret or for hearing a person obligated by law to protect the secrecy of private life of persons or business secrets. Estonia confirmed that in cases where court proceedings would necessitate the disclosure of the EOI-letter or other information relating to the EOI-case they would contact the treaty partner to ask for their view of the disclosure.

275. Estonia reported that the length of court proceedings depend on specific cases. Usually, in first instance, court proceedings take up to six months, in second instance one year and in the Supreme Court it will depend on details of each case.

276. Estonia confirmed that in cases where court proceedings would necessitate the disclosure of the EOI-letter or other information relating to the EOI-case they would contact the treaty partner to ask for their view of the disclosure. A taxpayer or information-holder may also bring a challenge against an administrative act of the Tax and Customs Board directly before an administrative court. The procedure for this is the same as that described above for appealing a decision to an administrative court.

Part C: Exchanging information

277. Sections C.1 to C.5 evaluate the effectiveness of Estonia'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 they respect the rights and safeguards of taxpayers and third parties and whether Estonia could provide the information requested in an effective manner.

278. Estonia has a broad network of EOI agreements in line with the standard comprised of 61 bilateral agreements (all DTCs) and the multilateral Convention on Mutual Administrative Assistance in Tax Matters. Since the first round of reviews, the number of Estonia's EOI partners has increased from 77 jurisdictions to reach a total of 101 partners. Of its 61 bilateral agreements, 57 are in force and all are to the standard. Estonia's application of EOI agreements in practice continues to be in line with the standard and does not unduly restrict exchange of information, as has been confirmed by peers.

279. Rules governing confidentiality of exchanged information in Estonia's EOI agreements and domestic law are in line with the standard. The Estonian competent authority is no longer required to provide the name of the taxpayer who is the subject of the request to a third party information holder in all cases. Rules on confidentiality are properly implemented in practice and no issues relating to confidentiality have arisen during the period under review.

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

281. With respect to the exchange of information in practice, Estonia's response times to EOI requests over the period under review has been very good. Estonia answered 87% of requests in 90 days and 99% of requests in 180 days. Peer input received was overall positive. Further, Estonia's EOI unit is well-organised and appropriately staffed to handle the volume of requests received. Procedures and guidelines are in place to facilitate the effective exchange of information. Peers also confirmed that requests for information sent by Estonia meet the foreseeable relevance standard and are of overall good quality.

C.1. Exchange of information mechanisms

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

282. Estonia's network of EOI agreements comprises of 61 DTCs and 1 multilateral agreement (multilateral Convention on Mutual Administrative Assistance in Tax Matters). As a Member of the European Union, Estonia has transposed the EU Directive on Mutual Administrative Assistance in Tax Matters into domestic law on 1 January 2012. Estonia further adheres to EU Council Regulation No. 904/2010 on administrative co-operation in the field of VAT, which has been in force in Estonia since 1 November 2010, and EU Council Regulation No. 389/2012 on administrative co-operation in the field of excise duties.

283. The last review found that Estonia had an extensive treaty network that allowed for exchange of information for tax purposes with all relevant partners. Element C.1 was determined to be "in place" and Compliant.

284. Since the last review, Estonia has increased its bilateral treaty network from 51 DTCs to 61. All of Estonia's EOI agreements provide for exchange of information in line with the international standard. All of the 57 agreements in force are in line with the standard.

285. Estonia signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention), as amended, since 29 May 2013. Estonia ratified the Multilateral Convention on 26 March 2014 and it has been in force in Estonia since 1 November 2014.

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

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

C.1.1. Foreseeably relevant standard

287. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. The international standard for exchange of information envisages information exchange upon request to the widest possible extent, although it does not condone "fishing expeditions".

288. All of Estonia's EOI agreements provide for the exchange of information where the information is foreseeably relevant to the administration and enforcement of the requesting jurisdiction's laws in relation to taxes covered by the agreement. In a number of Estonia's agreements, the alternative wording of "necessary" is used in place of "foreseeably relevant". Further, agreements with the United States and Canada use the wording "relevant". Estonia confirms that such wording is consistently interpreted in the same way as "foreseeably relevant".

289. During the peer review period, Estonia did not refuse to answer any EOI requests on the basis of lack of foreseeable relevance.

290. The 2016 ToR also addresses group requests. None of Estonia's EOI agreements contains language prohibiting group requests, nor is any such provision contained in Estonia's domestic law. During the period under review, Estonia received 139 requests categorised as group requests relating to employees of Estonian companies who have been working abroad (although these requests may in fact be bulk requests).

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

291. Estonian law contains no restrictions on persons in respect of whom information may be exchanged. The 2013 report found that all but one of Estonia's EOI agreements provided for the exchange of information on all persons. At the time of the last review, Estonia's DTC with Switzerland applied only to persons who were resident in either Estonia or Switzerland. However, a protocol amending the tax treaty with Switzerland lifting that restriction entered into force on 16 October 2015. Further, as Switzerland and Estonia are both Parties to the Multilateral Convention, exchange of information to the standard between the two parties is possible.

292. Both new agreements entered into by Estonia since the last review provide for exchange of information in respect of all persons. No issues have been raised by peers in the current review period.

C.1.3. Obligation to exchange all types of information

293. At the time of the last review, not all of Estonia’s EOI agreements contained language similar to that of Article 26 of the OECD Model Tax Convention or the OECD Model TIEA providing for the exchange of all types of information, including bank information, information held by a fiduciary or nominee, or information concerning ownership interests. However, as noted in the 2013 report, the absence of this paragraph does not automatically create a restriction on exchange of bank information. At the time of the last review, exchange of all types of information was possible under all but three of Estonia’s agreements. Three partners (Austria, Luxembourg, and Switzerland) had restrictions in their domestic laws that prevented the exchange of bank information.

294. Since the last review, all three partners that had restrictions in their domestic laws have since revised their legislative frameworks to remove such restrictions. Further, all three partners are also party to the Multilateral Convention. Therefore, exchange of information to the standard is now possible with all of Estonia’s EOI partners.

295. Estonia has not encountered any difficulty obtaining any particular type of information, including bank information. Estonia has received approximately 530 requests for bank information and were able to fully answer them all. No issues were raised by peers.

C.1.4. Absence of domestic tax interest

296. EOI partners must be able to use their information gathering measures even though invoked solely to obtain and provide information to the requesting jurisdiction. Although not all of Estonia’s EOI agreements contain language similar to that of Article 26 of the OECD Model Tax Convention or the OECD Model TIEA in requiring the exchange of information regardless of the existence of a domestic tax purpose, the 2013 found no such restrictions in Estonia’s EOI practice. There has been no change in the present review.

C.1.5. Absence of dual criminality principles

297. There are no dual criminality provisions in any of Estonia’s EOI agreements. Estonia has never declined a request on the grounds of a dual criminality requirement.

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

298. Estonia's exchange agreements allow for EOI in both civil and criminal matters. In practice, however, requests that relate to criminal tax matters are processed in a different procedure than requests relating to civil tax matters. The procedure for fulfilling requests relating to criminal tax matters is described below in section C.5.

C.1.7. Provide information in specific form requested

299. None of Estonia's EOI agreements prevent the exchange of information in the form requested, as long as such exchange is consistent with Estonia's administrative practices. Over the period under review, Estonia was not asked to provide information in a specific form.

C.1.8. Signed agreements should be in force

300. Estonia's EOI network consists of 62 agreements in total, containing 61 DTCs, no TIEAs, and the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention). Out of these 62 agreements, 58 are in force. In respect of the 4 agreements not yet in force, Estonia has completed all the steps necessary on its end to bring the agreement into force.

Bilateral EOI Mechanisms

A	Total Number of DTCs/TIEAS	A = B+C	61
B	Number of DTCs/TIEAs signed (but pending ratification), i.e. not in force	B = D+E	4
C	Number of DTCs/TIEAs signed and in force	C = F+G	57
D	Number of DTCs/TIEAs signed (but pending ratification) and to the Standard	D	4
E	Number of DTCs/TIEAs signed (but pending ratification) and not to the Standard	E	0
F	Number of DTCs/TIEAs in force and to the Standard	F	57
G	Number of DTCs/TIEAs in force and not to the Standard	G	0

C.1.9. Be given effect through domestic law

301. For information exchange to be effective, the parties to an EOI arrangement must enact any legislation necessary to comply with the terms of the arrangement. Estonia has in place the legal and regulatory framework to give effect to its EOI mechanisms. No issues were raised in the earlier review in this regard, and similarly no issues arose in practice during the current review period.

302. Estonia has enacted all necessary legislation comply with the terms of its agreements. DTCs are required to be approved by Parliament. The procedure for ratification is as follows. Once a tax treaty has been signed, the Ministry of Finance will prepare the draft of the ratification Act and send it together with a letter of explanation to the Ministry of Foreign Affairs for co-ordination. The Ministry of Foreign Affairs must issue its opinion on the draft within 15 working days. Draft acts will also be reviewed by the Ministry of Justice, which has to examine and approve the draft ratification Act within 20 working days. After all approval is obtained, the Ministry of Finance will submit the draft of the ratification act to the Riigikogu. As a rule, the draft Act must be discussed on at least two readings in Parliament. Before a law enters into force, it must be announced by the President of the Republic. When the President of the Republic announces a law, it is published in the State Gazette. The law will enter into force on the tenth day after having been published in the State Gazette, unless a different deadline is stated in the law. The normal time taken from signature to ratification is approximately four to six months.

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

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

303. Estonia has a broad network of EOI agreements, covering 101 jurisdictions through 61 DTCs, the multilateral Convention, and the EU Directive on Administrative Cooperation. Estonia's EOI network encompasses its major trading partners. Estonia's main EOI partners are Finland, Sweden, Latvia, Lithuania, Poland, and Norway.

304. Since the last review, Estonia has entered into two new bilateral agreements (DTCs) and has initialled two others. Estonia's treaty network has been broadened from 77 jurisdictions to 101 due primarily to the increase in the number of the multilateral Convention signatories. Estonia has still never entered into a TIEA, but if requested it will consider entering into one.

305. At the time of the last review, Estonia postponed treaty negotiations with several jurisdictions with whom it had no substantial economic connection. Estonia was thus recommended to enter into agreements for exchange of information with all relevant partners. Since the last review, these issues have been solved with the entry into force of the multilateral Convention in Estonia allowing for exchange of information to the standard with the concerned partners. Element C.2 was deemed to be "in place" and rated Largely Compliant.

306. Estonia indicated that as of the beginning of 2017, all treaty negotiations have been postponed for the duration of the Estonian Presidency of the

EU Council. Estonia should continue to enter into EOI agreements, regardless of their form, with all relevant partners that are not Parties to the multilateral Convention.

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

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

C.3. Confidentiality

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

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

309. The first round of reviews found that all of Estonia's agreements contained confidentiality provisions, the interpretation for which was modified to be consistent with the international standard. However, Estonia could not approach an information-holder to gather information without providing the name of the requesting jurisdiction and foreign taxpayer.

310. Since the last review, Estonia amended its Taxation Act to not require the names of the requesting jurisdiction and of the taxpayer who is the subject

of the EOI request in the notice to produce information. Estonia's practice is now in line with the international standard.

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

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

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

312. All of Estonia's information exchange agreements follow Article 26(2) of the OECD Model Tax Convention or Article 8 of the Model TIEA providing that the information exchanged must be treated as confidential and disclosed only to persons authorised by the treaties.

313. Estonia's domestic legislation also contains safeguards to protect the confidentiality of sensitive information. Article 26 of the Taxation Act requires tax officials to maintain the confidentiality of information (including all media, decisions, acts, and other documents) concerning taxable persons. Other public officials that are employed by agencies that may receive information subject to tax secrecy are also required to maintain the confidentiality of such information. The duty of secrecy continues after termination of service or employment relationship. However, the Taxation Act does not contain any sanctions for breach of confidentiality but they are contained in the Penal Code. The provisions of the Penal Code concern illegal disclosure of personal data or sensitive personal data (if data concerning individuals is leaked) and unjustified disclosure and use of business secrets (if data concerning legal persons is leaked). The sanctions vary from a fine of 400 fine units to one year's imprisonment (s. 157, 158 and 377 PC).

314. Although Estonia's treaties and domestic law contain the necessary provisions on confidentiality, Estonia's EOI practice at the time of the last

review was not entirely in line with the international standard as Estonia would provide the name of the overseas taxpayer to the information-holder in all cases. Estonia was therefore recommended to bring its practice in line with the international standard.

315. Since the last review, Estonia has amended the Taxation Act as of 1 April 2017 and its EOI practice so that it no longer needs to provide the name of the foreign taxpayer where such details do not need to be provided to the information holder in order for it to be able to collect the requested information (s. 51^1(7) and s. 51^1(8) TA). The law specifically mentions that upon requesting information from a third party at the request of a competent authority of a foreign state the tax authority may not note in the order: (1) the data concerning the foreign state and competent authority that filed the request; (2) the contents of the tax proceedings carried out in a foreign state; (3) the data enabling identification of the taxable person in connection with whose tax matters information is collected. (s. 51^1(8) TA)

316. All information received pursuant to an EOI agreement is stored with adequate confidentiality protections. EOI requests are stored both electronically and in hard copy. Only EU requests are received digitally. When requests come in by post, the clerical office, which handles the mail for the entire tax authority, will open the request and scan it into the system. The clerical office is shared by four clerks, all of whom are responsible for digitising incoming mail. Although this system could be a potential area of concern, Estonian authorities explained that there is only one clerk designated to handling the mail of the EOI unit and clerks handling EOI matters are trained to handle request-related security requirements. Further, each clerk has his/her own locked filing cabinet. All files are kept in the locked filing cabinet when not being handled by the clerk. The clerks also hand-deliver all the mail they individually handle. As such, adequate procedural measures appear to be in place to protect the confidentiality of requests received by post. Electronically stored data files are also subject to data protection measures. Files are stored on a secure server and accessible only by authorised personnel. If any other person wishes to access the file, he/she have to obtain permission from the EOI officer responsible, as well as the tax administration’s audit and internal control department. Further, all user activity is logged and traceable.

317. Further, the necessary safeguards are in place in its staffing and recruitment practice to protect the secrecy of confidential information. Such procedures have not changed since the time of the 2013 report. For information about such safeguards, refer to paragraph 301 of the 2013 report.

318. Estonian officials are not aware of any cases where confidential information received by the competent authority under an exchange agreement has been disclosed other than in accordance with the terms of the

instrument under which it was provided. No issues relating to confidentiality have been raised by peers.

C.3.2. Confidentiality of other information

319. Confidentiality rules apply to all types of information exchanged, including information provided by a requesting jurisdiction in a request, information transmitted in response to a request and any background documents to such requests. Estonian authorities confirmed that in practice they consider all types of information relating to a request confidential.

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

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

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

321. The last round of reviews concluded that Estonia's legal framework and practices concerning the rights and safeguards of taxpayers and third parties were in line with the standard and element C.4 was determined to be "in place" and Compliant.

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

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

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.

323. 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

324. The 2013 report concluded that Estonia had an effective system for exchanging information in a timely manner. The competent authority answered the majority of requests within 90 days and was well organised and communicative with treaty partners. As a result, element C.5 was determined to be "in place" and Compliant.

325. Estonia continues to respond to EOI requests in an efficient manner. Estonia continues to answer a majority of incoming requests within 90 days to the general satisfaction of peers. With respect to requests made by Estonia over the review period, peer input was also positive.

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

Legal and Regulatory Framework		
	Underlying factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework		
Determination: This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.		

Practical implementation of the standard		
	Underlying factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	The competent authority did not provide status updates in all cases of requests taking longer than 90 days to answer.	Estonia should provide status updates in all cases where requests take longer than 90 days to fulfil.
Rating: Compliant		

C.5.1. Timeliness of responses to requests for information

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

328. Estonia's response times to EOI requests over the period under review has been extremely good; all but three requests were answered within 180 days. Over the period under review (1 October 2013-30 September 2016), Estonia received a total of 881 requests for information. For these years, the number of requests Estonia received and the percentages of requests answered in 90 days, 180 days, one year and over one year are tabulated below.

Statistics on response time

		2014		2015		2016		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received		299	100	269	100	313	100	881	100
Full response:	≤90 days	248	83	243	90	279	89.1	770	87
	≤180 days (cumulative)	298	99.7	269	100	311	99.3	878	99.3
	≤1 year (cumulative)	299	100	0	0	313	100	881	100
	>1 year	0	0	0	0	0	0	0	0
Declined for valid reasons		0	0	0	0	0	0	0	0
Status update provided within 90 days (for responses sent after 90 days)		0	0	0	0	1	3	1	1
Requests withdrawn by requesting jurisdiction		0	0	0	0	0	0	0	0
Failure to obtain and provide information requested		0	0	0	0	0	0	0	0
Requests still pending at date of review		0	0	0	0	0	0	0	0

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

b. 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.

329. Over the three year period under review, Estonia received 881 requests, 87 % of which were answered in 90 days, 99.3 % were answered in 180 days, and all the remaining requests were answered within one year. No requests took longer than one year to answer and no requests were still pending at the time of the review. Estonia did not decline any requests over the review period.

330. Overall, peers were very satisfied with Estonia's response times and quality of responses. Peers commented on the speed and efficiency with which Estonia answered requests and the good communication and co-operation through the process. However, two peers noted that a few requests related to liquidated companies were not able to be answered (for discussion on this issue, refer above to section B.1).

331. Estonia sought clarification in 20 to 30 cases. If clarification is needed, Estonia will send a request for clarification electronically. Estonia does not keep separate statistics on requests for clarification, but the Tax and Customs Board estimates that it asked for clarification in about 20 to 30 cases. The Tax and Customs Board explains that generally it will ask for clarification where certain necessary information (such as background information or the auditing period) is missing. In all cases over the review period where Estonia sought clarification, the requests were from EU partners and the Tax and Customs Board sought the necessary clarification through the CCN channel.

332. Over the peer review period, Estonia did not systematically provide status updates for requests taking longer than 90 days to answer. Estonia explains that due to limited resources, the Tax and Customs Board tries to provide replies as fast as possible and to dedicate its efforts towards fulfilling requests rather than providing updates. Over the review period, updates were generally only provided upon request, although they were routinely provided in voluminous or complicated cases. Estonia answered the large majority of requests within 90 days and almost all requests within 180 days, no peers have raised any complaints. However, Estonia is recommended to provide status updates for all requests taking more than 90 days to fulfil.

C.5.2. Organisational processes and resources

333. The last round of reviews found Estonia's organisational processes and the level of resources available for the exchange of information to be satisfactory. The staff of the competent authority in Estonia continues to handle EOI requests in a highly efficient manner and resources continue to be adequate. The organisation and training of staff carrying out EOI are summarised below; for a more detailed description of Estonia's resources dedicated to EOI, refer to paragraphs 312-328 of the 2013 report.

(a) Resources and training

334. As described above in section B.1, Estonia's competent authority is the Tax and Customs Board, situated in the Ministry of Finance. The competent authority currently consists of ten officials, all with higher education in taxation, economics, or public administration. Among the ten staff in the competent authority, one chief expert and one senior expert are assigned to work with direct taxes. Estonia does not have any local or regional tax offices; all requests for information are handled centrally.

335. All officials involved in information exchange undergo the training concerning data protection and prevention of corruption regularly. All new members of staff go through a general primary training. The Tax and Customs Board also has general trainings about amendments to tax legislation regularly. Although Tax and Customs Board staff do not receive formal training on exchange of information, informal information and experience sharing occurs in the tax administration.

(b) Incoming requests

336. The Estonian competent authority's procedure for processing incoming requests is contained in an instructional document entitled "Handling of Incoming Requests" and is as follows. Requests are received either via a secure electronic channel CCN Mail (from EU member states only) or by post. Requests arriving via CCN Mail are registered and saved by the information exchange team. The competent authority staff check the mailbox daily. Requests arriving by post are scanned into electronic document handling system by the clerical office (as described above in section C.3) and then sent to a leading expert (who acts in a managerial role) electronically. The leading expert then forwards electronic workflows to officials who will handle the requests. The official receiving the request will first check the legal basis for the request and ensure that all necessary components of the request are met (the sender's signature, application of all domestic procedures, and whether the request content meets other conditions set forth in legislation and guidelines). The official will then register the request in the electronic document handling system DHS/Livelink. From then on, any activity relating to the request will also be logged in the electronic system. All requests as well as all further correspondence related to the request (orders, replies to orders, replies to foreign authority) are registered in the electronic document handling system. The instructions on handling incoming requests also make note that if a competent authority has reason to ask for a taxpayer to not be notified, such notification can be suspended indefinitely (for more discussion on this topic, refer to section B.2 above).

337. The electronic registration system also tracks the activities and deadlines associated with a request, and facilitates the preparation of statistics. The Tax and Customs Board has used this electronic archival system for information exchange since 2006. As soon as a request is entered into the system, the system will automatically generate a deadline for completing the request based on the type of request (for direct taxation requests, the deadline will be set at six months if information is held by an external source and two months if it is in the tax database). The system will also send reminders when the deadline is approaching, or has expired. The system will also track the amount of requests currently being handled by each official and the number of completed requests. As such, the electronic system allows manager to monitor the progress of requests and the average response time to requests, which for requests that can be answered from the Tax and Customs Board's own database is four to five days. The Competent Authority notes that the deadlines notwithstanding, an increasing part of the requests are for concrete factual information that can be answered directly from the tax administration's database and are fulfilled within days of receipt.

338. Requests that relate to criminal tax matters are processed similarly than all other requests by the exchange of information team of the Tax and Customs board.

(c) Outgoing requests

339. The 2016 ToR also addresses the quality of requests made by the assessed jurisdiction. Jurisdictions should have in place organisational processes and resources to ensure the quality of outgoing EOI requests. Over the review period, Estonia sent 160 requests, approximately 9 to 18 of which required further clarification.

340. The Tax and Customs Board's procedure for sending requests is as follows. For outbound requests, the Tax and Customs Board has an internal manual "Sending requests for the information to a foreign tax authority". Requests are only made if tax auditors have used all possible internal means for obtaining information. Where all domestic measures have been exhausted, the tax auditor will first sends the request to the International Cooperation Unit of Intelligence Department which deals also with all incoming requests. The International Cooperation Unit will then check the request for completeness and quality. If the request meets all the necessary criteria (described below), the unit will record the request in the documents management system (DHS) and then forward it to the foreign authority by electronic means (CCN mailbox) or by using a secure (i.e. encrypted) channel.

341. A request to a foreign authority must satisfy the following requirements: the title of request; the type of request; information about taxpayer

(e.g. name of person/business name, code/personal code, VAT number, address of place of residence or the location); the period under control (the audited period) and relevant taxes; information concerning foreign taxable person; and any information relating to the information sought. The request should also include clearly and comprehensively formulated questions. Requests concerning bank information must include the bank's name, address, and account number, if possible. The request should also indicate if the foreign taxpayer should not be notified. Request must include all relevant supporting documentation (e.g. invoices, contracts).

342. The Tax and Customs Board does not have a formal procedure for responding to requests for clarification. If the requested jurisdiction seeks clarification, the competent authority will respond as quickly as possible. Generally, requests for clarification are answered immediately (by the following day) and if additional time is needed, the competent authority will notify the treaty partner. Over the review period, requests for clarification did not show any particular pattern, although one peer did note in its input that names of taxpayers were not clearly indicated.

343. Overall, peers were positive about the quality of requests sent by Estonia. Peer feedback indicated that foreseeable relevance was generally met and that requests for clarification did not tend to create delays in the process. Peer input did not indicate any trend or pattern of deficiencies in Estonia's outbound requests.

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

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

Annex 1: List of in-text recommendations

The Global Forum 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 reproduced below for convenience.

- A.1: Estonia is recommended to provide additional guidance on new beneficial ownership provisions to ensure they are applied in a manner in line with the international standard.
- A.1: Estonia is recommended to monitor that beneficial ownership information is available in practice in relation to foreign partnerships as required under the standard.
- A.1 Estonia is recommended to ensure that beneficial ownership information for trusts administered in Estonia or in respect of which a trustee is resident in Estonia is available in line with the standard.
- A.1: Estonia is recommended to ensure that information collected pursuant to new legal provisions on beneficial ownership is accurate and current.
- A.1 and A.3: Estonia is recommended to ensure that beneficial ownership information is available in line with the international standard.
- B.1: Estonia is recommended to exercise its compulsory powers and apply sanctions where appropriate.
- C.2: Estonia should continue to enter into EOI agreements, regardless of their form, with all relevant partners that are not Parties to the multilateral Convention.

Annex 2: List of Jurisdiction's EOI mechanisms

1. Bilateral international agreements for the exchange of information

No.	EOI Partner	Type of agreement	Date signed	Date entered into force
1	Albania	DTC	05.04.2010	27.10.2010
2	Armenia	DTC	13.04.2001	11.12.2002
3	Austria	DTC	05.04.2001	17.09.2002
4	Azerbaijan	DTC	30.10.2007	24.09.2008
5	Bahrain	DTC	12.10.2012	11.12.2013
6	Belarus	DTC	21.01.1997	25.03.1998
7	Belgium	DTC	05.11.1999	11.10.2000
8	Bulgaria	DTC	13.10.2008	10.12.2008
9	Canada	DTC	02.06.1995	13.12.1995
10	China	DTC	12.05.1998	09.12.1998
		Amending Protocol	09.12.2014	21.10.2015
11	Croatia	DTC	03.04.2002	19.05.2004
12	Czech Republic	DTC	24.10.1994	14.12.1994
13	Cyprus*	DTC	15.10.2011	25.09.2013
14	Denmark	DTC	04.05.1993	25.11.1993
15	Finland	DTC	23.03.1993	25.11.1993
16	Former Yugoslav Republic of Macedonia	DTC	20.11.2008	08.04.2009
17	France	DTC	28.10.1997	25.03.1998
18	Georgia	DTC	18.12.2006	21.11.2007
		Amending Protocol	17.07.2010	09.02.2011

No.	EOI Partner	Type of agreement	Date signed	Date entered into force
19	Germany	DTC	29.11.1996	04.06.1997
20	Greece	DTC	04.04.2006	08.11.2006
21	Hungary	DTC	11.09.2002	19.05.2004
22	Iceland	DTC	16.06.1994	16.11.1994
23	India	DTC	19.09.2011	02.05.2012
24	Ireland	DTC	16.12.1997	16.06.1998
25	Isle of Man	DTC	08.05.2009	25.11.2009
26	Israel	DTC	29.06.2009	25.11.2009
27	Italy	DTC	20.03.1997	25.03.1998
28	Japan	DTC	30.08.2017	Not yet in force
29	Jersey	DTC	21.12.2010	23.11.2011
30	Kazakhstan	DTC	01.03.1999	07.06.2000
31	Korea	DTC	23.09.2009	16.12.2009
32	Kyrgyzstan	DTC	10.04.2017	Not yet in force
33	Latvia	DTC	11.02.2002	23.10.2002
34	Lithuania	DTC	21.10.2004	12.10.2005
35	Luxembourg	DTC	07.07.2014	11.02.2015
36	Malta	DTC	03.05.2001	11.12.2002
37	Mexico	DTC	19.10.2012	16.10.2013
38	Moldova	DTC	23.02.1998	16.06.1998
39	Morocco	DTC	25.09.2013	Not yet in force
40	Netherlands	DTC	13.04.1997	05.11.1997
		Amending Protocol	14.07.2005	31.03.2006
		Amending Protocol	26.06.2008	11.03.2009
41	Norway	DTC	14.05.1993	25.11.1993
42	Poland	DTC	09.05.1994	23.11.1994
43	Portugal	DTC	13.05.2003	19.05.2004
44	Romania	DTC	23.10.2003	26.10.2005
45	Russia	DTC	05.11.2002	not yet in force
46	Serbia	DTC	24.09.2009	17.12.2009

No.	EOI Partner	Type of agreement	Date signed	Date entered into force
47	Singapore	DTC	18.09.2006	17.10.2007
		Amending Protocol	03.02.2011	23.11.2011
48	Slovakia	DTC	21.10.2003	26.10.2005
49	Slovenia	DTC	14.09.2005	17.05.2006
50	Spain	DTC	03.09.2003	15.12.2004
51	Sweden	*DTC*	*05.04.1993*	*25.11.1993*
52	Switzerland	*DTC*	*11.06.2002*	*19.05.2004*
		Amending Protocol	*25.08.2014*	*11.02.2015*
53	Thailand	*DTC*	*25.09.2012*	*11.12.2013*
54	Turkey	*DTC*	*25.08.2003*	*19.01.2005*
55	Turkmenistan	*DTC*	*28.11.2011*	*13.02.2013*
56	Ukraine	*DTC*	*10.05.1996*	*11.12.1996*
57	United Arab Emirates	*DTC*	*20.04.2011*	*15.02.2012*
58	United Kingdom	*DTC*	*12.05.1994*	*23.11.1994*
59	United States of America	*DTC*	*15.01.1998*	*21.10.1998*
60	Uzbekistan	*DTC*	*28.09.2012*	*11.12.2013*
61	Viet Nam	*DTC*	*26.09.2015*	*19.10.2015*

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

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

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

The Convention on Mutual Administrative Assistance in Tax Matters (the 1988 Convention) was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the amended Convention).[7] The Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation 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.

Estonia signed the amended Convention on 23 June 2015. It deposited its instrument of ratification with the Depositary on 31 August 2015 and the Convention entered into force for Estonia on 1 December 2015. Currently, the amended Convention is in force in respect of the following jurisdictions:

As of 5 January 2018, the amended Convention is also in force in respect of the following jurisdictions, with which Estonia can exchange information: 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, Panama,

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

Pakistan, Panama, Poland, Portugal, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Kingdom and Uruguay.

In addition, the following are the jurisdictions that have signed the amended Convention, but where it is not yet in force: The Bahamas, Bahrain, Brunei Darussalam, Burkina Faso, Dominican Republic, El Salvador, Gabon, Jamaica, Kenya, Kuwait, Morocco, Peru, Philippines, Qatar, Turkey, the United Arab Emirates and the United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

3. EU Directive on Administrative Co-operation

Estonia 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 cooperation 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. Belgium can exchange information within the framework of the Directive with Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

Annex 3: Methodology for the review

The reviews are conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and the 2016-21 Schedule of Reviews.

The assessment of Estonia's legal and regulatory framework for transparency and exchange of information and of the practical implementation of that framework under the 2016 ToR was based on Estonia's EOI mechanisms in force at the time of the review, the laws and regulations in force or effective as at 5 January 2018, Estonia's EOIR practice in respect of requests made and received during the three year period from 1 January 2014 to 31 December 2016, Estonia's responses to the EOIR questionnaire, information supplied by partner jurisdictions, independent research and information provided to the assessment team prior, during and after the on-site visit, which took place from 24-26 May 2017 in Tallinn, Estonia.

List of laws, regulations and other material received

Accounting Act

Auditor's Activities Act

Civil Code

Code of Administrative Court Procedure

Commercial Code

Credit Institutions Act

Income Tax Act (ITA)

Law Enforcement Act

Money Laundering and Terrorist Financing Prevention Act (2008)

Money Laundering and Terrorist Financing Prevention Act (2017)

Non-Profit Associations Act

Penal Code

Personal Data Protection Act

Riigikogu Rules of Procedure and Internal Rules Act

Substitute Enforcement and Penalty Act

Taxation Act

VAT Act

Authorities interviewed during on-site visit

Government authorities

Tax and Customs Board Intelligence Unit

Ministry of Finance (Tax Policy Department)

Ministry of Justice (Legislative Policy Department)

Centre of Registers and Information Systems

Tartu County Court (Registration department)

Ministry of Finance (Entrepreneurship and Accounting Policy Department)

Estonian Financial Services Authority

Estonian Financial Intelligence Unit

Central Register of Securities

Private sector representatives

Bankers Association

Estonian Bar Association

Estonian Board of Auditors

Chamber of Notaries

Brief on consideration of FATF Evaluations and Ratings

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.

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. 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.

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.

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

Current and previous review(s)

This report provides the outcomes of the third peer review of Estonia's implementation of the EOIR standard conducted by the Global Forum. Estonia previously underwent EOIR peer reviews in 2011 and 2013 conducted according to the ToR approved by the Global Forum in February 2010 and the Methodology used in the first round of reviews. The 2011 review evaluated Estonia's legal and regulatory framework as at February 2011. The 2013 review evaluated Estonia's legal and regulatory framework as at December 2014 as well as its implementation in practice during a three year period (from 1 July 2009 to 30 June 2012).

Summary of Reviews

Review	Assessment Team	Period under review	Legal framework as of	Date of adoption by Global Forum
Phase 1 report	Dr Katja Gey (Liechtenstein), Mr Süleyman Hayri Balci (Turkey); and Ms Renata Fontana and Mr Guozhi Foo (Global Forum Secretariat)	Evaluation of the legal and regulatory framework only	January 2011	April 2011
Phase 1 Supplementary report	Dr Katja Gey, (Liechtenstein), Mr Süleyman Hayri Balci (Turkey); and Ms Renata Fontana and Mr Guozhi Foo (Global Forum Secretariat)	Evaluation of the legal and regulatory framework only	April 2012	2011
Phase 2 report	Dr Katja Gey, (Liechtenstein), Mr Süleyman Hayri Balci (Turkey); and Ms Renata Fontana and Mr Guozhi Foo (Global Forum Secretariat)	1 July 2009 to 30 June 2012	August 2013	November 2013
EOIR report	Mr Wayne Brown Assistant Financial Secretary (Bermuda); Ms Ann Andréasson Deputy Head of the Competent Authority, Swedish Tax Agency (Sweden); and Ms Kathleen Kao (Global Forum Secretariat).	1 October 2013 to 30 September 2016	5 January 2018	30 March 2018

Annex 4: Jurisdiction's response to the review report[8]

There is no doubt that smooth cooperation between tax authorities creates a fairer economic environment for people, businesses and jurisdictions. The Global Forum on Transparency and Exchange of Information for Tax Purposes is contributing to that goal in significant amount by monitoring and peer reviewing the implementation of now various global standards.

Hereby Estonia uses the opportunity to express its warm appreciation for the contributions of the assessment team, the Secretariat and the Peer Review Group to this report. With the newly introduced standard for exchanging information on beneficial owners, the work has been immense for all parties concerned.

The recommendations given are being accepted as a fair and valuable chance for improvement for the near future. Estonia will continue to strive to be the best partner in exchanging information for tax purposes, be it in regard the treaty network, the information available or the swiftness of the exchange.

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

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GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request ESTONIA 2018 (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 2018 Peer Review Report on the Exchange of Information on Request of Estonia.

Consult this publication on line at ***http://dx.doi.org/10.1787/9789264291034-en***.

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