

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information
on Request

GHANA

2018 (Second Round)



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

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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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>.

Abbreviations and acronyms

General terms

2010 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum in 2009.
2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.
2016 Methodology	2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015.
2016 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015.
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CDD	Customer Due Diligence
DNFBP	Designated non-financial businesses and professions
DTC	Double Tax Convention
EOIR	Exchange of information on request
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
KYC	Know Your Client
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
PRG	Peer Review Group of the Global Forum
TIEA	Tax Information Exchange Agreement
VAT	Value Added Tax

Terms specific to Ghana

AML/ATF Regulations	Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008
BOG	Bank of Ghana
FIC	Financial Intelligence Centre
GIABA	Group against Money Laundering in Western Africa
GRA	Ghana Revenue Authority
2011 Report	Ghana's Phase 1 Report assessing the legal implementation of the standard for transparency and exchange of information in tax matters as approved by the Global Forum in 2011.
2014 Report	Ghana's Phase 2 Report assessing both the legal implementation and the effectiveness in practice of the standard for transparency and exchange of information in tax matters as approved by the Global Forum in 2014.
Review period	The practical implementation of the standard is assessed over a three year period. For this review, the review period is 01/10/2013-30/09/2016. In cases where there are changes to the exchange of information in practice after the end of the review period, or developments that relate to requests received during the review period, these may be reflected in the report.

Executive summary

1. This report analyses the implementation of the EOIR standard by Ghana against the 2016 Terms of Reference. For purposes of assessing Ghana’s practical implementation of the standard, the report reviews Ghana’s practices in respect of EOI requests processed during the three year period from 1 October 2013 until 30 September 2016. This report concludes that Ghana is rated Partially Compliant overall. During the first round of reviews, the Global Forum evaluated Ghana against the 2010 Terms of Reference via its 2011 Phase 1 Report and its subsequent 2014 Phase 2 Report. The 2014 Report assigned an overall rating of Largely Compliant to Ghana.

2. The following table shows the Ghana’s results under this report as compared to those in the most recent peer review report previously published in its regard:

Comparison of ratings for the Phase 2 Review (2014) and Current EOIR Review (2018)

Element	2014 Report	2018 Report
A.1 Availability of ownership and identity information	LC	PC
A.2 Availability of accounting information	LC	C
A.3 Availability of banking information	C	C
B.1 Access to information	C	C
B.2 Rights and Safeguards	C	C
C.1 EOIR Mechanisms	C	C
C.2 Network of EOIR Mechanisms	C	C
C.3 Confidentiality	C	C
C.4 Rights and Safeguards	C	C
C.5 Quality and timeliness of requests and responses	PC	NC
OVERALL RATING	LC	PC

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

Progress made since previous review

3. The 2014 Report made recommendations in respect of three essential elements. In relation to the availability of identity and ownership information (element A.1), Ghana was issued three recommendations in respect of (i) the monitoring of new obligations for nominees to maintain ownership information under the AML regime, (ii) the monitoring of new obligations for trust and company service providers (TCSP) to maintain ownership information under the AML regime; and (iii) the need for a regular system of oversight to be implemented by the Registrar General.

4. Ghana has reported that there were no nominees encountered in the review period, and there are only six registered trustees and no TCSPs were encountered in the review period. This may indicate a low materiality of risk associated with this sector. Therefore, these recommendations have been removed. Although in the review period, there was no impact in practice, in absence of details on monitoring of the DNFBP sector an in-text recommendation is made to implement effective supervision on all TCSPs to ensure availability of ownership information in all cases.

5. Ghana's Registrar General's Department (RGD) partially addressed the third recommendation by taking the following actions. The RGD:

- Revived a programme under which company inspectors conduct regular on-site visits of registered entities to verify information provided to the RGD.
- Issued press releases with regards to enforcing sanctions for non-filing of annual returns. The returns include any updates that may have taken place in the registered entity during the year of review. The sanctions for non-filing are to be triggered such that entities which fail to file returns are to be delisted by RGD and cannot transact further business with RGD. Ghana has also imposed penalties for non-filing of annual returns from 2017 in respect of 11 490 Companies Limited by Guarantee and 45 267 Companies Limited by Shares.
- Works now with an electronic system, which interfaces with the GRA's system such that a single TIN is issued upon the production of a national ID. The person's information as fed into the GRA's system is automatically populated into the RGD's system.

6. In respect of the availability of accounting information (element A.2), at the time of the 2014 Report, Ghana was recommended to monitor recent legal requirements under the Income Tax Act 2015 for underlying documentation to be maintained by all entities. This recommendation has been addressed via the supervision system that is in place by the GRA where

underlying accounting documentation is regularly inspected via both the tax audits (at tax office) and onsite inspection programme. Therefore, this recommendation has been removed.

Key recommendation(s)

7. In respect of the availability of beneficial ownership information (element A1), Ghana is recommended to implement a system of oversight of the legal requirements in the Companies Act requiring companies to maintain beneficial ownership information. Ghana has reported that the compliance rate with annual filing is 70%, however, it is not clear whether this is in respect of all companies and partnerships and it is also not clear whether this filing rate is consistent across the review period. In addition, there is a high proportion (26%) of companies registered with the Registrar that are not registered with the GRA. Ghana is recommended to take appropriate measures to monitor and enforce the compliance with the legal requirements to file annual returns with the Registrar and therefore have a more accurate overview on the number of companies which are active or have commenced business. As a result, element A.1 is rated as Partially Compliant.

8. In respect of the effectiveness of exchange (element C.5), the 2014 report had already noted problems related to the communication with treaty partner of changes of Ghana's competent authority, to the difficulty for requests to reach the competent authority (even once the letters would have reached the GRA), and to delays in providing the information requested. These problems have persisted in the current review period despite new EOI processes implemented in 2013. Therefore, Ghana continues to be recommended to ensure that it communicates effectively with its treaty partners and it is further recommended to implement a sound organisational process for the effective processing of all EOI requests. Given the extent and persistence of the problems with receipt of requests in Ghana (largely due to internal organisational issues) as well as the long delays in the processing of those requests once they were actually received by the EOI Unit of the GRA, element C.5 is now rated as Non-Compliant.

Overall rating

9. As shown in Table 2 below, Ghana has been assigned the following ratings: Compliant for elements A.2, A.3, B.1, B.2, C.1, C.2, C.3, C.4, Partially Compliant for element A1 and Non-Compliant for element C.5. The overall rating is Partially Compliant based on a global consideration of Ghana's compliance with the individual elements.

10. Ghana has an EOI relationship with 119 jurisdictions. However, over the period under review (1 October 2013-30 September 2016), Ghana received only five out of the eight requests from five EOI partner jurisdictions (mainly European countries). Ghana has experienced issues in receiving these requests, coupled with delays in handling them, resulting in long timelines in providing the information. After the onsite visit, it had provided the requested information in five out of those eight requests.

11. The 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 Ghana 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 (<i>ToR A.1</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Partially Compliant	While Ghana has reported an annual filing rate with the RGD of 70% in the review period, there is significant proportion of companies (30%) that have not filed. In addition, there is a high proportion (26%) of companies registered with the Registrar that are not registered with the GRA.	Ghana is recommended to take appropriate measures to monitor and enforce the compliance with the legal requirements to file annual returns with the Registrar and therefore have a more accurate overview on the number of companies which are active or have commenced business.

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Partially Compliant <i>(continued)</i>	While the availability of beneficial ownership of companies during most of the review period could not be assessed in Ghana, Ghana introduced legal amendments to its Companies Act in August 2016 requiring all companies to maintain a register of beneficial ownership information. It is not clear whether the monitoring of the new requirements has started. Whilst the RG-D commenced onsite visits at the end of the review period, no information on the findings of those visits regarding the maintenance of ownership information by companies was provided.	Ghana is recommended to monitor the implementation of the legal requirements in the Companies Act requiring companies to maintain beneficial ownership information as well as the implementation of the Central Register with beneficial ownership information
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
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 (<i>ToR C.3</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant	Some of the EOI requests received by Ghana were kept by the former competent authority during the period under review, he was still under the oath of secrecy and no breach took place during the period under review.	Ghana should ensure that its organisational processes and procedures are adequate to ensure the confidentiality of all information received from EOI partners.
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.	
EOIR rating: Non-Compliant	Over the review period, eight requests were sent to Ghana. Four of those requests arrived at the GRA between March and September 2016 but were only delivered to the EOI Unit in January 2017 leading to considerable delays in practice in providing the requested information.	Ghana is recommended to revise its internal EOI processes for the receipt of EOI requests to ensure that all requests are processed and responded to in a timely manner.
	Of the five requests processed by Ghana over the review period, responses were provided between 180 days and one year in one case and in the other four cases responses took more than one year despite the fact that the information was held by the tax authority or another public administration (the Registrar), indicating systemic issues with the organisational processes in terms of non-adherence to the procedures of EOI Manual.	Ghana is recommended to revise its internal process within the GRA for processing EOI requests to ensure that all information is provided to the EOI Unit in a timely manner.
	During the three-year review period, Ghana did not provide a status update to its EOI partners within 90 days except in one case.	Ghana should provide status updates to its EOI partners within 90 days in line with the standard.

Overview of Ghana

12. This overview provides some basic information about Ghana 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 Ghana's legal, tax and financial systems.

Legal system

13. Ghana is located on Africa's West coast on the Gulf of Guinea. Ghana has an estimated population of 27.2 million. The Ghanaian cedi (GHS) is the national currency. As at 8 January 2018, GHS 1 = EUR 0.18.

14. Ghana declared independence from the United Kingdom on 6 March 1957, establishing its government under a parliamentary democracy. Ghana is divided into 10 administrative regions which are further divided into 216 districts. Districts collect their own revenues in the form of property taxes, user fees, licenses and permits. They have legislative power in respect of their district, though not with respect to taxation, financial sector or corporate matters.

15. Ghana has a traditional common law legal system based on English common law, customary (traditional) law, and the 1992 Constitution. The highest court is the Supreme Court of Ghana, followed by the Court of Appeals and High Courts of Justice. Beneath these courts are circuit, magisterial, and traditional courts. The Constitution defines the laws of Ghana as comprising the Constitution; enactments made by Parliament (statutory law); orders, rules and regulations made by authorities under powers conferred by the Constitution and customary law. While the Constitution, acts and some regulations hold the status of law or regulation, the orders and rules issued by authorities do not, though often binding on the entities they relate to.

16. Ghana is a Party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended (the multilateral Convention) which, entered into force in Ghana on 1 September 2013). EOI agreements are given the force of domestic law in Ghana.

Tax system

17. Ghana taxes its residents (companies and individuals) on their world-wide income. Non-resident companies are taxed only on Ghana-source income. A company is resident in Ghana if it is incorporated under the laws of Ghana or its management and control are exercised in Ghana at any time during the year of assessment. Non-resident individuals are liable to income tax on the income derived from or accrued in Ghana.

18. Ghana has taxes which are collected at the national level. The top income tax rate and the standard corporate tax rate are 25%. Other taxes include a value-added tax (VAT) and excise duties.

19. Ghana offers various tax incentives under the Income Tax Act, Ghana Investment Promotion Act, and the Free Zones Act. Most incentives relate to specific areas, including agriculture and agribusiness, tourism, infrastructure and industry, financial services and oil and petroleum services.

20. Ghana's free zone regime was created by the Free Zone Act (1995). Under that act, the imports of a free zone company are exempt from all indirect taxes and duties. In addition, free zone companies enjoy a tax holiday of ten years from the payment of income tax on profits. Thereafter, a free zone company pays corporate tax on profits at a reduced rate of up to 8%, while shareholders are exempted from the payment of withholding taxes on dividends arising out of free zone investments. Eligibility for free zone status is a function of the ability of a company to prove that it will export a minimum of 70% of its production, and that it will not violate any other provisions of the Free Zones Act. The Ghana Free Zones Board is responsible for monitoring free zone companies and preventing abuse. Companies operating in Ghana's free zones are required to register with Ghana's Registrar General and submit tax returns and audited financial statements on a yearly basis. There were 198 Free Zone Companies at the end of review period and no requests were received concerning these companies.

21. In 2009, the Ghana Revenue Authority Act was enacted establishing the Ghana Revenue Authority (GRA) in order to provide for a holistic approach to tax and customs administration.

22. The Chief Executive of GRA is the Commissioner-General. For the purpose of tax administration the Ghana Revenue Authority Act divides the GRA into three main Divisions: the Domestic Tax Revenue Division (DTRD) responsible for income taxes, Customs and Support Services. Each Division is headed by a Commissioner. The Commissioner-General and the three Commissioners together constitute the top management of GRA. The board of the GRA sits above the top management. However, their role is mainly in relation to tax policy formulation.

Financial services sector and relevant professions

23. Ghana's GDP in 2016 was GHS 164 099 million. The financial system of Ghana has been profoundly transformed since the joint IMF-World Bank Financial Sector Assessment Program (FSAP) in 2000. Notably, the banking system has grown rapidly, fuelled by fast credit expansion. Banks now account for about 70% of the financial sector. As of October 2017, the value of the assets held by banks in Ghana amounted to GHS 144.8 billion (approximately EUR 27.3 billion).

24. The breakdown of Ghana's financial institutions is set out below:

Institution type	No licensed	No. reporting	Total assets GHS M	Share (%)
Banks	34	33	88 914.41	84.26
SDIs	778	522	16 614.63	15.74
NBFIs	71	61	11 943.56	11.32
RCBs	141	132	3 499.44	3.32
MFIs	566	329	1 171.63	1.11
TOTAL	812	522	105 529.04	100.00

Other financial sector institutions and businesses regulated by the Bank of Ghana.

	Total
Insurance	
Non-life insurance companies	27
Insurance brokers	82
The security and capital market	
Investment advisors	3
Broker dealers	23
Mutual funds	34
Unit trusts	19
Custodians	17
Nominees	Nil
Registered trustees	6
security depositors – operated by BOG	1
Listed companies on the Ghana Stock Exchange	36

25. Ghana also has a range of formal, semi-formal and informal institutions providing microfinance services to the urban and rural poor and underserved sectors of the economy.

26. The following designated non-financial businesses and professions have the same obligations under the Anti-Money Laundering (AML) Act as apply to financial institutions: casinos, auctioneers, nominees, notaries, lawyers, non-governmental organisations, accountants, religious bodies, real estate developers, operators of games of chance, trust and company service providers, dealers in motor vehicles, and dealers in precious minerals and stones.

GIABA Mutual evaluation of Ghana

27. Ghana is a member of the Intergovernmental Action group Against Money Laundering in Western Africa (GIABA). Ghana's most recent evaluation was published in May 2017. In respect of those recommendations related to the EOIR standard, for Recommendation 24 on Transparency and beneficial ownership of legal persons, Ghana was rated as Compliant. In respect of recommendation 25 on Transparency and beneficial ownership of legal arrangements, Ghana was rated as Largely Compliant, largely due to insufficient requirements for trustees to maintain updated beneficial ownership information in respect of all trusts for which they act. In terms of effectiveness and compliance, Ghana was rated as low for Immediate Outcome 5 and it was noted that major improvements were in need in other areas, particularly in the supervision and monitoring of non-bank financial institutions, and designated non-financial businesses and professions (DNFPBs).

Recent developments

28. Since the 2014 report, the following relevant changes have been effected to the legal framework of Ghana. The Companies (Amendment) Act, 2016 (Act 920) has been brought in which provided for the inclusion of the names and particulars of beneficial owners of companies in the register of members and the establishment of a Central Register. The Income Tax Act, 2015 (Act 896) has been brought in to revise and consolidate the law relating to income tax (Consolidated the general fiscal regime, Minerals and Mining Income Tax, Petroleum Operations Tax, and the taxation of new entities such as Public, Mutual, and Non-Profit Cause), inter alia, to broaden the tax base, rationalise, streamline and restrict tax concessions, tackle erosion of the tax base and align domestic tax rules with current international tax rules.

29. As per section 72 of the newly brought out Revenue Administration Act, 2016 (Act 915), a person who fails to maintain proper documents as

required by a tax law is liable to pay for each month or part of a month during which the failure continues 75% of the tax attributable to that period where the failure is deliberate or in any case, the lesser of the 75% of the tax attributable or 250 currency points (GHS 250, EUR 45). This is relevant since, paragraph 17 of the Seventh Schedule of the Income Tax Act, 2015 (Act 896) requires all companies incorporated in Ghana or have their management and control in the country to maintain a register in the country reflecting the names and addresses of the members. In the case of a company having shares, the company is required to maintain in addition, a statement of the shares held by each member. Section 88 of the new act also gives search powers to the GRA.

30. The Banks and Specialised Deposit-taking Institutions Act, 2016 (Act 930) provides for the exemption of GRA from the confidentiality provisions of the Act upon the request by the GRA acting in accordance with paragraph 19 and 20 of the seventh Schedule of the Income Tax Act, 2015 (Act 896).

Part A: Availability of information

31. 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.

32. In the 2014 Report, A.1 was determined to be “in place” and rated Largely Compliant. Three Phase 2 recommendations were made for Ghana, the first two pertaining to monitoring the operation of recently introduced legislative requirements for nominees and professional trustees under the AML regime. The third recommendation pertained to the implementation of an oversight system by the Registrar General.

33. Ghana has reported that there were no nominees encountered in the review period, and there are only 6 registered trustees and no TCSPs, which indicates low materiality of risk associated with this sector. Although in the review period, in practice, there is no evidence to indicate the impact on availability of ownership information, however, in the absence of statistics and details on adequate monitoring for non-compliance in the DNFBP sector (lawyers, TCSPs) by GRA and FIC (as mandated under S.6(1)(e) of the AML Amendment 2014) an in-text recommendation is made to implement effective supervisory measures to ensure availability of information on settlors, trustees and beneficiaries with all TCSPs.

34. In regards to the third recommendation, concerning the implementation of a system of oversight by the Registrar, the Registrar did so in the latter half of the review period, whereby registered entities were visited regularly via onsite inspection visits.

35. In respect of the aspects of the 2016 ToR that were not evaluated in the Round 1 Reports, particularly with respect to the availability of beneficial ownership information, over the review period, only entities subject to the customer due diligence (CDD) requirements of the AML regime were

required to maintain beneficial ownership information. Ghana's requirements apply to a number of obligated persons such as financial institutions, lawyers, accountants, trust companies and license corporate service providers. However, there is no legal requirement for companies, partnerships and certain trusts to engage an AML obligated person. In practice, the Ghana authorities advise that the great majority of legal entities and arrangements will engage an AML obligated person in Ghana and any gap concerning the scope of application of these obligations would be quite narrow.

36. In respect of adequate monitoring for non-compliance on maintaining ownership information by companies, while Ghana has reported an annual filing rate of 70% in the review period, there is a high proportion (26%) of companies registered with the Registrar that are not registered with the GRA, which has been explained by Ghana as the companies which have not commenced business yet, although it is not clear as to how Ghana arrived at such determination. Accordingly, Ghana is recommended to take appropriate measures to monitor and enforce the compliance with the legal requirements to file annual returns with the Registrar and therefore have a more accurate overview on the number of companies which are active or have commenced business.

37. In respect of beneficial ownership information, amendments were made to the Companies Act in 2016, requiring all companies to maintain updated beneficial ownership information. Companies are required to file their annual returns within forty two days of the circulation of its annual report, the dates for which vary for each company. Although there are sanctions available for non-filing, there is no data on the oversight of these obligations, since the first set of annual returns of Companies with beneficial ownership information will be received in 2018. Further, in the absence of confirmation on amended return forms to capture beneficial ownership information and data on compliance with annual return filing by companies with the RGD in the current review period, the effectiveness of supervision for beneficial ownership by the RGD cannot be assessed and accordingly Ghana is recommended to take appropriate supervisory measures to adequately monitor availability of beneficial ownership information under the amended Companies Act.

38. During the current peer review period, eight EOI requests were sent to Ghana. However, due to a combination of issues (for more detailed analysis please see element C5), Ghana only successfully received five of the eight requests. All five successfully received requests required some form of ownership and identity information: the ownership structure of a couple of companies or mere existence of a company, and the residential address or presence of individuals. However none of the requests indicate the delays owing to lack of availability of ownership information. For further discussion on analysis of timeliness of responses and organisational processes of EOI Unit of Ghana, please see Element C.5.

39. 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: The element is in place		
Practical implementation of the standard		
	Underlying factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice	While Ghana has reported an annual filing rate with the RGD of 70% in the review period, there is significant proportion of companies (30%) that have not filed. In addition, there is a high proportion (26%) of companies registered with the Registrar that are not registered with the GRA.	Ghana is recommended to take appropriate measures to monitor and enforce the compliance with the legal requirements to file annual returns with the Registrar and therefore have a more accurate overview on the number of companies which are active or have commenced business.
	While availability of beneficial ownership of companies during most of the review period could not be assessed in Ghana, Ghana introduced legal amendments to its Companies Act in August 2016 requiring all companies to maintain a register of beneficial ownership information. It is not clear whether the monitoring of the new requirements has started. Whilst the RG-D commenced onsite visits at the end of the review period, no information on the findings of those visits regarding the maintenance of ownership information by companies was provided.	Ghana is recommended to monitor the implementation of the legal requirements in the Companies Act requiring companies to maintain beneficial ownership information as well as the implementation of the Central Register with beneficial ownership information.
Rating: Partially Compliant		

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

40. The rules with respect to company formation in Ghana are generally the same as the ones reported in the 2014 Report (see paras. 50-52). A brief summary of the types of company and the legal obligations for legal ownership information to be maintained as well as their oversight is set out below. An analysis of beneficial ownership obligations then follows.

41. Three main types of companies can be formed under the Companies Act:

- Companies limited by shares – a company having the liability of its members limited to the amount unpaid on the shares respectively held by them: There were 63 314 of them at the end of review period.
- Companies limited by guarantee – a company having the liability of its members limited to the amount that the members may respectively undertake to contribute to the assets of the company in the event of its being wound up. Companies limited by guarantee cannot create or have shares and cannot be incorporated with the object of carrying on a business for the purpose of making profits (ss. 9; 10). Non-profit organisations are registered under the Companies Act as companies limited by guarantee. Companies limited by guarantee include associations, religious organisations, private organisations, social clubs and foundations. There were 18 590 at the end of review period.
- Unlimited liability companies – a company not having a limit on the liability of its members: There were no such companies at the end of the review period.

42. In regards to foreign companies, the Companies Act s. 302 defines “external company” as a body corporate formed outside of Ghana which has an established place of business in Ghana. As at May 2017, there were 511 external companies registered in Ghana.

Legal ownership and identity information requirements

43. As described in the 2014 Report in section A, paragraphs 54-118, legal ownership and identity requirements for companies are mainly found in Ghana’s company law, complemented by a combination of requirements provided in licensing and AML laws and regulations (which also apply to ensure the maintenance of some beneficial ownership information, see further below).

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

Legislation regulating legal ownership information of companies

Type	Company Law/ Registration with Registrar of Companies	Tax law	Licensing requirements	AML law
Companies limited by shares	All	Some	Some	Some
Companies limited by guarantee	All	Some	Some	Some
Unlimited liability companies	All	Some	Some	Some
External (foreign) companies	None	All	Some	Some

Company law and Registry requirements

44. The 2014 Report noted that all companies incorporated under the Companies Act must register with the Registrar of Companies (Registrar). Companies are not expressly required to provide the Registrar with the names of its owners upon registration; however, as a matter of practice, the Registrar requires companies to do so. Moreover, as part of the annual return filing requirements all domestic companies are required to provide details of all shareholders. Ghana has however not provided the compliance rates for the filing of company annual returns over the review period thereby rendering the assessment impossible on effectiveness of compliance by companies in annually updating the Registrar of changes in ownership.

45. Up-to-date legal ownership information is required to be maintained by the companies themselves in a shareholder register kept at their office in Ghana (Companies Act, s. 32). The register must record the name and address of members and the share capital held, as well as the date at which a person was entered into the register or ceased to be a member.

46. Companies incorporated outside of Ghana but having their central management and control in Ghana (referred to as “external companies”) are not required to provide information identifying their owners as a part of registration requirements. However, pursuant to the 2016 amendment to the

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

Companies Act, external companies are mandated to maintain an up-to-date register of members in Ghana.

Tax law requirements

47. As set out in the 2014 Report, as of December 2011, pursuant to section 8 of the Tax Identification Number Act, a person (legal or natural) shall not be issued a certificate to commence business without first obtaining a TIN at the time of registration. Further, the Internal Revenue Registration of Business Act provides that an entity cannot carry on business unless they have also been registered with the GRA. For companies, Taxpayer Identification Numbers should have been obtained from the TIN Processing Centre for all directors and shareholders before the business is registered with RGD. Upon successful registration with RGD, the Revenue Officer receives Registration Forms for the company and a pre-registration interview session is conducted with the taxpayer to determine tax type registration and additional registration information, shall also be noted. However, in addition to the RGD Forms and completed Registration application forms submitted to the Tax Office, detailed profile of each of the shareholders (e.g. name, age, marital status, educational background/academic qualification, capital contributed, source of the capital) is required.

48. Company income tax returns do not contain information on the company's members or shareholders. However, Ghanaian officials have reported that since 2013, all company ownership information as filed at the time of registration with the Registrar-General, as well as all changes to this information, is now also available with the GRA due to the implementation of the dual registration system for both tax and company registration purposes in 2011. Nevertheless, it is noted that as of October 2017, there were 60 158 companies registered for tax purposes. However, the number of companies registered at the Companies Registrar was reported as 81 904. The 26% difference in the numbers of companies registered with the GRA and the Registry corresponds to companies that have not commenced operations as reported by Ghanaian authorities. Ghana has further stated that after incorporation, every company is required to procure a certificate to commence business, before starting operations. This certificate is required before they can set up a bank account, rent or buy premises or in general to carry on any activities essential for the effective running of a business. Although there has been no material impact on practice in the review period, in case of companies that were registered before the introduction of dual registration system with GRA (requirement of TIN for obtaining commencement certificate) it is not clear whether there are companies that conduct business operations without the "commencement certificate" and/or a TIN from GRA, and whether there is any supervisory action and imposition of sanctions by the RGD (for

e.g. as per S.29 of the Companies Act, which makes the company and every officer of the company who is in default liable to a fine not exceeding twenty-five penalty units for each day during which the default continues) in such cases. Given the high proportion of 26% of registered companies which do not have TIN and are explained as not having commenced business, Ghana is recommended to take appropriate measures to monitor and enforce the compliance with the legal requirements to file annual returns with the Registrar and therefore have a more accurate overview on the number of companies which are active or have commenced business.

Nominee shareholders

49. The GIABA report of 2017 notes that there is no legal provision in the Companies Act of Ghana that allows for nominee shareholding. The AML framework refers to nominees, mainly to cover situations where the customer is an external company from a jurisdiction that allows nominee shareholders. As noted in the 2014 Report, an amendment to the AML Act was passed in Ghana in April 2014, effecting changes to the AML regime in response to recommendations made in the context of its review by the Financial Action Task Force-type regional body. Pursuant to the amendments, nominees are now a named accountable entity subject to the obligations under the Act in respect of all clients for whom they act (First Schedule, s. 21(m), AML Act). The Ghanaian authorities have reported that they have never come across a nominee.

50. To date no requests involving nominee shareholders have been received by Ghana, which may indicate a low materiality of risk associated with this sector.

Enforcement measures and oversight

51. The 2014 Report found that there were sufficient penalties in place to sanction non-compliance with the legal obligations related to ensuring the availability of ownership and identity information of companies in Ghana under the Companies Act, the Internal Revenue Act and the AML Act. This continues to be the case (with the new Income Tax Act 2015). An analysis of the oversight of those obligations and enforcement of penalties in cases of non-compliance in regards to each law and agency is set out below.

AML requirements

52. The AML requirements under the AML Act (as amended in 2014) have not been subjected to any changes in the review period and as noted in the 2014 report the provisions under AML Act ensure that legal ownership and identity information is maintained and there are adequate sanctions for

non-compliance (See 2014 report, paras 97 to 101) which oblige all accountable institutions (including all trust and company service providers that may provide trust services to maintain identity information on a settlor, trustee and beneficiary of all trusts for which they act (*AML Act*, s. 23(8))) to conduct on-going customer due diligence as prescribed by the regulations. The oversight on implementation of AML obligations in practice are discussed below.

Oversight activities by the FIC and Bank of Ghana

53. In respect of entities' obligations under the AML Act and for the purposes of legal ownership information, the KYC and ongoing CDD requirements, supervision of entities in respect of their obligations is overseen by both the FIC and the BOG. It is noted that it was not possible to meet with the FIC during the course of the onsite visit in May 2017 to ask questions, which were sent in writing.

54. The FIC is the financial intelligence unit of Ghana (an independent statutory body established under section 4 of the AML Act) and is responsible for issuing guidelines for all accountable institutions to ensure compliance with the AML regime. The FIC requests, analyses, disseminates and interprets information disclosed to or obtained by the Centre and also retains the information in the manner and for the period required. The FIC also informs, advises and co-operates with investigating authorities, supervisory bodies, the revenue agencies, the intelligence agencies and foreign counterparts. The FIC monitors and gives guidance to accountable institutions, supervisory bodies and other persons on the discharge of their duties. As at October 2017, the FIC has a staff of 45 full-time employees. The FIC is headed by a Chief Executive Officer who is assisted by a Deputy Chief Executive Officer and four Departments (Compliance, Analysis and Research, International Cooperation and Human Resources).

55. The Compliance department of the FIC is responsible for ensuring that accountable institutions comply with their obligations under the AML regime, including the identification of all persons who transact with them. It has issued guidelines (which have the force of law in Ghana) in conjunction with the regulators.

56. In the context of its law enforcement function, the FIC has reported that over the review period, FIC receives Suspicious Transaction Report from financial institutions and then these reports are analysed, and where appropriate, a report is sent to other AML enforcement agencies, such as Economic and Organised Crime Office (EOCO), Bank of Ghana. Over the review period the FIC reportedly identified that some of the insurance companies as well as the capital market operators did not conduct effective KYC/CDD. However, the FIC does not have direct sanctioning powers but advises supervisory bodies in cases of (suspected) breaches.

Information sharing between FIC and GRA

57. The FIC also continues to deepen its relationship with the GRA as a result of the establishment of the GRA Task Force as well as amendment of the Anti-Money Laundering Act – which provides for more collaboration between the FIC and GRA to monitor the DNFBPs in the sharing of financial intelligence. The FIC spontaneously disseminates intelligence to the GRA for tax audits and also provides the GRA with financial intelligence to aid the latter’s investigations upon request. The FIC also monitors and gives guidance to the GRA to pursue and retrieve outstanding tax liabilities from defaulting and fraudulent entities. In the review period, the FIC did not have to provide the GRA with information in order for them to provide it to one of its treaty partners under a taxation agreement. However, in case the GRA approaches the FIC for information (e.g. such as the beneficial ownership information of the client of a bank in Ghana) for the purposes of EOI, request for information from GRA is internally assessed, passed to the relevant department, additional intelligence sought from relevant agencies and an official memo drafted and subsequently dispatched to GRA.

58. The BOG is the body responsible for overseeing accountable entities’ know-your-customer (KYC) obligations as set out under the AML Act and Regulations. The BOG is responsible for the licensing and regulation of approximately 1 000 entities and is broken into three main departments: the licensing and supervision of banking entities, the licensing and supervision of the Other Financial Institutions Department (rural and community banks) and the Financial Stability Department which is specifically concerned with licensed entities compliance with the know your customer requirements. In order to encourage increased compliance with the CDD requirements, the AML unit has issued AML guidelines to all licensed entities detailing their KYC and CDD requirements. These guidelines have force of law in Ghana.

59. The Financial Integrity Office within the Financial Stability department of the BOG is the department responsible for oversight of AML requirements.

60. Officials from the BOG have reported that they have a risk methodology in place in order to determine which entities are most at risk. Where they are high risk, the BOG does a full scale on-sight inspection on an annual basis. As of October 2017, there are 6 of the 33 banks that are in the category of high risk. For those banks that are not regarded as being high risk, whilst they still visit the bank at least every two years, the scope will vary. For a full comprehensive visit the minimum would be 5 day duration by two to three officers. They check that the bank knows all beneficial owner having a minimum of 10% shareholding. They usually review a sample of approximately 50 sample files from each of the risk areas as categorised by the banks. After the onsite, a report details the main findings and any recommended action

required from the bank. The timelines within which to comply with the required action varies depending on the recommendation.

61. Secondly, within the BOG, there are six inspectors that conduct a comprehensive system of onsite inspections on all licensed entities. Officials from the BOG have reported that they visit one third of the licensed commercial banks at least once a year and all other licensed entities (mainly micro-finance institutions) at least once every three years.

62. Once an entity has been selected for an onsite inspection, they usually receive notice of approximately two weeks. In the course of the onsite inspection, the BOG will check all aspects of their compliance with the obligations under the AML regime such as maintaining ownership information for the clients for which they act. The onsite inspections usually take between 1 and 5 days and on the final day the BOG holds an exit meeting with representatives to explain any deficiencies they have come across in the course of the visit and outlining the recommendations to address these deficiencies. Entities are then allocated a period of time (usually one month) in which they have to address any deficiencies and send a report outlining these to the BOG.

63. In the event that the BOG does not receive an update from the company, it is usual practice to send a recommendation letter for the company to do so at their earliest convenience. The Bank of Ghana works with all the banks to ensure compliance and in 2017, after the current review period, has imposed penalties and revoked the licenses of 2 Banks as a result of its inspections, although it is not entirely clear if the underlying irregularities were significantly related to non-compliance in CDD/KYC procedures.

Oversight activities by the GRA

64. The income tax office of the GRA is broken into three departments dependent on entity. Large Taxpayers Office (LTO) is for entities have an annual turnover of more than GHS 5 million (including for all companies in extractive sector and subsidiaries of parent companies that are already in LTO and all Banks). The rates of compliance with the annual tax filing obligation are set out below. For 2016, the annual return filing rate for the LTO was 83%. Medium Taxpayer Office (MTO) is for entities have an annual turnover of less than GHS 5 million, but above GHS 120 000. For 2016, the annual return filing rate for the MTO was 59%. Small Taxpayer Office (STO) is for entities have an annual turnover of less than GHS 120 000. For 2016, the annual return filing rate for the STO was 50%. It is noted that the compliance rates for the tax filing obligation in Ghana are particularly low in respect of small and medium taxpayers. The Ghanaian authorities have reported their plan to address low-filing of tax returns and non-filers by implementing strategies to improve taxpayer compliance such as targeted audits and prosecution

of non-compliant taxpayers. In addition, as part of the modernisation project currently ongoing at the GRA, the GRA is digitising its operations to provide for more effective monitoring, data gathering, analytics and risk profiling.

65. As of October 2017, there were 60 158 companies registered with the GRA. As set out above, the GRA does not require ownership information at the time of tax registration nor is this required in its annual tax return. However due to the implementation of a system of “dual registration” in 2011 whereby entities are registered with the GRA and the Registrar simultaneously, officials from the GRA have reported that all ownership information is made available to the GRA.

66. The oversight programme of the GRA is composed of Desktop reviews, Risk profiling and Onsite inspections. All tax returns are generally due by 30 April every year. Most companies also file their Return of Income on 30 April every year, however, companies with own accounting dates have four (4) months after the end of their basis period to file a Return of Income. The factors that are built into the risk rating include: size of the entity, previous compliance with tax obligations, nature of industry, and annual turnover. Auditors generally come from the local office where the entity is registered but in more complex cases there may also be an auditor from the central GRA office. The GRA Audit Manual sets out the items to be reviewed when reviewing a business. The “Business Checklist” lists specific items such as verifying the ownership and the corporate group structure. Auditors from the GRA submitted that the ownership is one of the core first items verified in the course of either a desktop or onsite inspection. There is generally a three year audit cycle but this may be shorter depending on the outcome of the onsite visit.

67. Onsite inspections can take the form of an “Issue based audit” where the onsite visit from the GRA is generally based on one suspicious factor or transaction, or a comprehensive onsite visit (this is usually triggered by three or more risk factors). Once selected, companies are informed of an onsite visit from the GRA very close to time of visit. For issue based audits no notice is provided. In order to commence the onsite visit, they do what they term a “walk through” and perform comprehensive Internal control verification (standard questions set out in the GRA Manual including questions on ownership (however, no mention of beneficial ownership). In order to verify legal ownership information, the auditor will request to see the shareholder register.

68. It is noted that in 2012, there was a sensitisation programme carried out across the GRA in order to highlight obligations of taxpayers in complying with ownership and accounting information retention requirements. The Large Taxpayers Office and Medium Taxpayer Office of GRA completed on-site audits for companies. During this audit, legal ownership and identity information were verified (for statistics, see section A2 below).

Oversight activities by the Registrar

69. The 2014 Report found that although the GRA and the BOG perform extensive oversight and regularly enforce sanctions, these activities may not ensure compliance with ownership obligations for all companies in Ghana. Further, over the review period for that report, the Registrar had suspended its regular system of oversight in place to monitor compliance with ownership obligations, and sanctions for non-compliance were not enforced in practice.

70. As a result, it was recommended that the Registrar implement a regular system of oversight of registered entities compliance with ownership and identity requirements and that its enforcement powers are sufficiently exercised in practice. While Ghana has reported an annual filing rate of 70% in the review period, since the time of the 2014 report, the Registrar has implemented an oversight system which is documented below.

71. The RG-D reassigned staff to the company inspection unit in 2014 and further hired new staff in 2015. There are two teams within the Registrar which usually perform onsite inspections. The Registrar reported that while they usually they target a particular group or market and then perform a number of onsite inspections dependent on the number of entities that are identified as pertinent to that category. For example, at one stage over the review period officials from the registrar visited 65 companies that were engaging in activities that were of interest to that specific audit type. However it is unclear whether these visits resulted in detection of any non-compliance related to availability of ownership information. Ghana also reported that as per their inspection plan, the on-site visits are conducted twice each week since November 2015 (i.e. for the last quarter of the period under review). Ghana indicates that the following are the details of inspections carried out over the review period and subsequently.

Period	No. of teams	No. of onsite visits		Total no. of visits
		Team 1	Team 2	
Before Nov. 2015	0			
Nov 2015-March 2017	2	112	123	235
April 2017-Jan. 2018	2	92	89	181

Ghana authorities also indicated that RG-D has targeted to increase the number of onsite inspections by 100% by the end of 2019. Considering that there are more than 80 000 companies registered, 0.5% of all companies have been subject to an individual supervision during the last 26 months. Ghana further advised that they instituted a plan to wean off R.G-D from central government and give them more control over their budget. According to Ghana it is expected therefore that the RG-D will have more resources

to improve operations and specifically put more resources to oversight responsibilities.

72. Each team has to provide a report at the end of the onsite visit. Officials from the Registrar have reported that items that they verify in the course of an onsite visit include whether the entity is registered, then they verify their shareholder registers, accounting information and also if they have filed their returns. They cross check this information against that which is already in the system.

73. Officials from the Registrar have reported that since they moved across to an online system in 2011 (electronic platform), entities cannot be on the new system if they have not filed their returns. New documents (from new system) are required in order to transact business (such as with GRA). They have offered a moratorium for those entities that were on the system but were not filing returns (now over).

74. In regards to enforcement and the levying of sanctions, officials from the Registry reported that they issued press releases with regards to enforcing sanctions for non-filing of annual returns. The returns include any updates that may have taken place in the registered entity during the year of review. The sanctions for non-filing have been triggered (leading to delisting the entities) such that entities which fail to file returns transact no further business with RGD. Although the Registry has commenced oversight activities, this supervision programme commenced late in the review period in the form of penalties for non-filing of annual returns in respect of 11 490 Companies Limited by Guarantee and 45 267 Companies Limited by Shares. However it is not clear whether there were any strike-offs or if the penalised entities complied with (delayed) the filing of annual returns. It is not clear whether the monitoring of the new requirements has started. Whilst the RG-D commenced onsite visits at the end of the review period, no information on the findings of those visits regarding the maintenance of ownership information by companies was provided. As a result, it is recommended that Ghana improves the system of oversight in place by the GRA, BOG and Registry and to ensure that it covers all entities, and that penalties are being enforced in practice.

Liquidated Companies

75. Ghanaian officials have reported that even when a company has been liquidated, there is a requirement for all documents to be maintained for five years (s. 256(8) of the Companies Act) from the date of liquidation. In the case of ownership information, in practice this would be held with the Registrar for five years.

76. In addition, Ghana has confirmed that the responsibility to ensure that company documentation is available would rest with the liquidator responsible

for winding up the entity (section 256(8) of the Companies Act of Ghana (Act 179) specifies the retention period as 5 years from the date of dissolution of the company).

Availability of and conclusion of legal ownership information in EOI practice

77. During the current peer review period eight requests were sent to Ghana and from the peer input received for this review, peers indicated that ownership information was requested in all of those eight requests. From the five requests that were received in Ghana, ownership/identity information was requested in all five cases and despite considerable delays in its provision, ownership information was provided in all cases where it has been requested. Ghanaian officials have indicated that this was mainly retrieved from the GRA database as well as by issuing notices to third parties. Ghanaian officials have not reported any issues in the availability of ownership information. In those cases where ownership information was provided, peer input was positive.

78. In regards to the practical implementation of the legal requirements for legal ownership information to be made available for all relevant entities, it is noted that a system of oversight is in place by the BOG, the GRA and the Registrar and to a lesser extent by the FIC. A comprehensive system of desktop audits and onsite inspections is in place by the BOG, the GRA and the Registrar which should ensure that all entities are complying with the ownership and identity keeping obligations under the entity acts. Over the review period the FIC reportedly identified some of the insurance companies as well as the capital market operators did not conduct effective KYC/CDD. However, the FIC does not have direct sanctioning powers. The FIC advises supervisory bodies in cases of breaches/suspected breaches.

Beneficial ownership information

79. Under the 2016 ToR, beneficial ownership on companies should be available. In Ghana, the 2016 amendments to the Company Act and the AML Act are the main pieces of legislation requiring beneficial ownership information to be available.

Companies Act requirements

80. The Companies (Amendment) Act, 2016 (Act 920) was passed in August 2016 to compel companies to maintain beneficial ownership information and update same where necessary.

81. In respect of beneficial ownership information, section 32 of the Companies Act, setting out the obligation for companies to maintain a

register of members, was amended in order to specify the requirement for beneficial owners to now be included. Documents submitted must be validated by notary-public and there are fines for providing wrong information.

82. Section 32(b) sets out that where a person is not the beneficial owner of the interest, the register must set out the name of any former beneficial owner, personal details of the beneficial owner such as date of birth and address and the nature of the interest including the details of the legal arrangement in respect of the beneficial ownership.

83. Section 32(2) sets out that where a member of the company is not the beneficial owner, it must provide the company with the particulars of the beneficial owner at the time of becoming a member and is obliged to update the company of any change within 28 days (the company has to update the register within 28 days and the inform the Registrar within 28 supplementary days). In any event, the company must send at least once a year to the Registrar a return including the particulars of every member of the company and every beneficial owner of that company, i.e. the full name and any former or other name; date and place of birth; telephone number; nationality: residential, postal and email address (if any); place of work and position held; and the nature of interest including the details of the legal arrangement in respect of the beneficial ownership.

84. Beneficial owner is defined under the First Schedule to the Act as an individual:

- a. who directly or indirectly ultimately owns or exercises substantial control over a person or company
- b. who has a substantial economic interest in or receives substantial economic benefits from a company whether acting alone or together with other persons
- c. on whose behalf a transaction is conducted; or
- d. who exercises ultimate effective control over a legal person or legal arrangement.

85. Generally, the definition of beneficial owner is in line with that set out under the standard and the legal obligations for companies. It is noted that there is no specific mention that senior management can be identified the beneficial owners unless it is identified as the beneficial owners under letter a or b. Ghanaian authorities have clarified that the law as it stands presently has no threshold to meet the “substantial” control or economic benefits criterion. Ghanaian authorities have explained that currently this means that minutest interest must be declared and further clarified that RGD could determine the threshold periodically.

86. Section 32(14) of the Companies Act provides sanctions against members that would fail to provide information on their beneficial owners: a fine between 150 and 250 penalty units (GHS 72 to 120, EUR 13.8 to 23) and/or imprisonment between one and two years. The same sanction applies to a person who would provide false or misleading information to the Registrar. Section 32(15) provides sanctions against the company and every officer for non-compliance to record-keeping requirements which are set at 25 penalty Units per day for non-compliance, amounting to GHS 12 (EUR 2.3).

87. In respect of foreign companies (called external companies in Ghana's Companies Act), the recent 2016 amendment has also brought out a requirement that as a part of the documents to be delivered to Registrar by external company to establish a place of business in Ghana shall, provide a statement duly notarised in the jurisdiction of origin of the company giving the following particulars regarding the beneficial owners of the company: (i) the full name and any former or other name; (ii) the date and place of birth; (iii) the telephone number; (iv) the nationality, residential and postal address; and (v) the nature of the interest including the details of the legal arrangement in respect of the beneficial ownership.

Practical implementation of Companies Act requirements

88. The amendments to the Companies Act requiring all companies to maintain an updated register of beneficial ownership were passed in August 2016 and companies had two months from the entry into force of the amendment to provide beneficial ownership information to the Registrar, i.e. by October 2016 where a member is not the beneficial owner of the interest. However, in all other cases, as reported by Ghana, the first set of annual returns with the beneficial ownership information is to be received in 2018.

89. In May 2017, during the course of the onsite visit, officials from the Registrar commented that as yet no oversight mechanism was in place in order to verify companies' compliance with the new provisions of the Companies Act to maintain beneficial ownership information. As a result, in the course of the onsite visits conducted by the Registrar, oversight and verification of the availability of beneficial ownership information has not yet commenced.

90. Section 331A of the amended law states that RGD will collaborate with the competent authorities especially the Financial Intelligence Centre to verify the Beneficial Ownership information. Regarding compliance, Ghanaian authorities reported that the information system would act as basic check in ensuring the provision of such information at the point of registration. The system would require the provision of such information or notification of the absence of such information. Ghanaian authorities also

reported that there will be sensitisations to encourage the public to update their records. In respect of additional staffing plans as at January 2018, Ghana reported that they are underway. Therefore, Ghana is recommended to monitor the implementation of the legal requirements in the Companies Act requiring companies to maintain beneficial ownership information as well as the implementation of the Central Register with beneficial ownership information.

AML law requirements

91. Accountable entities within the scope of the AML Act are subject to the CDD and KYC requirements and in this regard will be subject to the requirement to maintain beneficial ownership information in respect of those clients for which they act.

92. In respect of the scope of the AML Law for the purposes of ensuring beneficial ownership of companies, it is noted that, in Ghana, there is no mandatory requirement for companies to have a bank account nor is there a requirement for entities to engage a trust and company service provider.

93. Ghana amended its AML Act in 2014 (AML (Amendment) Act 2014) to make explicit reference to beneficial ownership information and the requirement for this to be maintained by all accountable entities on the clients for which they act. Pursuant to Section 24 titled “Record Keeping”, an accountable institution is required to keep books and records with respect to its customers and their transactions and is obliged to ensure that the records and underlying documentation are available on a timely basis to the FIC and other competent authorities.

94. Section 24(2)(a) specifically sets out that the books and records required to be maintained include account files, business correspondence, and copies of documents evidencing the identities of customers and beneficial owners obtained in accordance with this Act. All books and records are required to be kept for a minimum period of five years.

95. A definition of “beneficial owner” was inserted by the AML Amendment Act at section 51 to mean “a natural person who ultimately controls or owns the right to or benefits from property, including the person on whose behalf the transaction is conducted” or “a person who exercises ultimate effective control over a legal person or legal arrangement”. This definition is in line with that required under the standard for beneficial ownership information to be maintained.

96. In regards to the practical implementation of those requirements, the Guideline issued by the BOG sets out guidance for all accountable entities on how to comply with the CDD obligations under the AML Act.

97. During the course of the onsite visit the assessment team met with members of the compliance teams from certain regulated entities who provided information as to how beneficial ownership information is verified by them in practice. Officials reported that service providers routinely adopt the cascading measures approach as set out in the FATF guidance notes, in particular, in respect of Recommendation 10, although the guidance is not updated based on the FATF 2012 interpretative notes. First they would tend to look for the identity of natural legal persons who ultimately have a controlling interest. Where doubt may arise as to the natural persons with the controlling interest being the beneficial owners (such as from google searches or use of other software) or where a natural person exerts control via ownership, the accountable entity would then look for the ultimate beneficial owner exercising control via legal persons.

Availability of beneficial ownership information in EOI practice

98. During the current peer review period, Ghanaian officials have reported that they did not receive any EOI requests pertaining to beneficial ownership information and peer input does not indicate any treaty partner ever requesting beneficial ownership information from Ghana. This fact, together with the recent introduction of legal obligations, means that the assessment of the availability of beneficial ownership in practice is not possible. While Ghana has reported an annual filing rate of 70% in the review period, there is a high proportion (26%) of companies registered with the Registrar that are not registered with the GRA. Ghana is recommended to take appropriate measures to monitor and enforce the compliance with the legal requirements to file annual returns with the Registrar and therefore have a more accurate overview on the number of companies which are active or have commenced business.

ToR A.1.2 Bearer shares

99. Ghana does not permit the issuance of bearer shares.

ToR A.1.3 Partnerships

100. As set out in the 2014 Report, the Incorporated Private Partnership Act (1962) (“Partnership Act”) is the statutory law governing the formation and governance of partnerships in Ghana. The Partnership Act s. 1 defines “partnership” as an association of two or more individuals carrying on business jointly for the purpose of making profits. Partnerships registered under the Partnership Act are considered separate legal entities but each partner is jointly and severally liable for the debts of the partnership.

101. This section of the report deals with partnerships consisting of 20 persons or less and of which a body corporate is not a member. A partnership or association consisting of more than 20 persons or of which a body corporate is a member, and has for its object the acquisition of gain, is obliged to be incorporated and registered under the Companies Act as a company. The requirements for legal ownership will be the same as those for companies as set out above (see section A.1.1 Availability of legal and beneficial ownership information for companies).

Legal ownership information

Registration of partnerships

102. As set out in the 2014 report, all partnerships consisting of 20 persons or less and of which a body corporate is not a member, are obliged to register with the Registrar-General's Department at which stage information on all of the partners is required. Any changes to information provided at the time of registration are required to be notified to the Registrar-General within 28 days of the change. Where the change is in the partnership's name or of the identity of the partners, the Registrar-General, upon notification of the change, issues an amended certificate of registration and issues a notice in the Gazette stating the terms of the new certificate. Partnerships are obliged to renew their registration annually by filing a statement of particulars with the Registrar-General that contains the same information required to be filed at the time of initial registration. Failure to provide a required statement for registration subjects each partner in the partnership to a fine (not exceeding 25 penalty units, i.e. GHS 12, EUR 2.3) for each day during which the default continues. In the case of liquidation of partnerships, it is noted that there are no provisions in the Partnership Act to address retention requirements with the liquidator as per the standard. Ghana has nevertheless explained that the records in respect of partnerships are to be maintained by the RGD (as in the case of companies, discussed in A.1.1 above) after dissolution.

103. As of October 2017, there were 859 partnerships carrying on business in Ghana registered with the Registrar-General.

Tax filing

104. In Ghana there is a process of dual registration for business and tax purposes in place, whereby all partnerships must apply for their TIN at the time of registering with the Registrar-General for business purposes. To obtain a TIN, partnerships are obliged to go to a local GRA tax office and provide the GRA with certified true copies of their stamped partnership agreement, certificate of registration of the partnership (which states the

names of the partners), and a copy of Form A which is the prescribed application form from the Registrar-General’s Department.

105. Partnerships are not considered to be separate taxable entities, instead they are treated as transparent entities through which partnership income flows to the partners and such share of income is included in the tax returns of its partners. All resident partnerships² or partnerships with a permanent establishment³ in Ghana must file a yearly partnership return containing the names and addresses of the partners and their allocable share of partnership income for that year. The duty to provide the partnership return rests with the active partner resident in Ghana or, where no partner is resident in Ghana, with the attorney, agent or manager of the partnership resident in Ghana. Failure to furnish a return to the GRA is an offence and subject to a penalty (four currency points in the case of a company and two currency points in the case of a self-employed person; i.e. GHS 4, EUR 0.7) in respect of each day during which the default continues. The GRA has reported the compliance rate for filing of partnership income tax returns to be between 55% and 74% depending on the tax type.

Beneficial ownership information for partnerships

106. The members of partnerships are individuals only, which means that the legal and beneficial ownership information will be the same (since nominees are not recognised in the Companies Act as well as none were encountered in practice in the review period). As set out above, ownership information on all partners is required at the time of registration as are any subsequent changes.

Foreign partnerships

107. A body corporate formed in accordance with the law of any foreign country, whether or not described as a partnership, cannot operate in Ghana unless it registers as a partnership under the Partnerships Act (unlike the

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2. A partnership is a resident partnership for a year of assessment if, at any time during the year of assessment, any partner in the partnership is a resident person (Income Tax Act, 2015 s. 101(2)).
 3. “Permanent establishment” means a place where a person carries on business, and a place where a person carries on business through an agent, other than a general agent of independent status acting in the ordinary course of business as such; a place where a person has, is using, or is installing substantial equipment or machinery; or a place where a person is engaged in a construction, assembly, or installation project for ninety days or more, including a place where a person is conducting supervisory activities in relation to such project (Income Tax Act, 2015 s. 107).

Companies Act, which allows for the registration of foreign companies as external companies). Therefore, the possibility to carry on business as a foreign partnership does not exist in Ghana without registering under the Partnerships Act.

Supervision by the RGD and GRA

108. As all partnerships are required to be registered with the RGD, they will come under the supervision programme of the RGD as set out above (see section A.1.1 Availability of legal and beneficial ownership information for companies). Ghana has reported that in 2017, about 800 partnerships have been levied with a penalty for non-filing of returns to the tune of GHS 235 000 (approx.) (EUR 42 300) although it is not clear whether the penalties were collected and if there were strike-offs as a result or if the partnerships eventually filed their returns. In the absence of data on the proportion of annual filings with RGD (as in the case of companies), it is not possible to assess the effectiveness of oversight with respect to ensuring availability of updated information on partners with the Registrar. Although Ghana reported that a total of 6 105 audits were conducted between 2014 and 2016, the proportion of partnerships covered could not be provided by Ghana.

Availability of ownership information in EOI practice

109. In practice, in the three-year period under review, none of the eight EOI requests sent to Ghana related to the identity of partners or beneficial owners of partnerships and of the EOI partners that provided peer input; none indicated that there were any issues in relation to partnership ownership. However, in the case that Ghana was to receive a request for legal or beneficial ownership information for a partnership, given the legal framework as well as the supervision programme, of those obligations in place by the GRA, Ghana should be able to provide this information.

ToR A.1.4 Trusts

110. The law of trusts in Ghana is derived from the common law and the United Kingdom Trustees Act of 1860 which evolved into the laws of Ghana and is still retained as part of the existing law (Courts Act (1993)).

111. At the time of the 2014 Report, Ghana was found to have a comprehensive legal framework in place to ensure that ownership and identity information pertaining to Ghanaian trusts or foreign trusts administered by a Ghanaian trustee was available. The availability of ownership and identity information in respect of trusts in Ghana was found to be in place through a combination of common law, AML and other regulatory requirements (for more detailed

information on these requirements, see paragraphs 144-159 of the 2014 Report). Since that time there has been no change to the legal requirements for legal owner and identity information in respect of trusts to be made available.

112. During the onsite visit, Ghanaian officials also reported that all trustees in Ghana holding real estate assets are subject to the requirement to register with the Lands Commission. Documents that must be submitted at the time of registration with the Lands commission include the trust deed, which will identify the trustee, settlor and beneficiaries or class of beneficiaries.

113. At the time of the 2014 Report, a recent amendment had been made to the AML Act to require that all trust and company service providers and professional trustees identify and maintain updated identity information on the settlors, trustees and beneficiaries for all trusts for which they act. As the requirement was introduced towards the end of the review period, Ghana was recommended to monitor its practical implementation to ensure that identity and ownership information on all settlors, beneficiaries and trustees in Ghana was being maintained.

114. In regards to the monitoring recommendation, a trustee in Ghana will be required to disclose the ownership information in order to ensure that the tax is levied appropriately. Therefore, this taxation treatment ensures that ownership information will be available with the GRA and trusts will be subject to the oversight and monitoring programme in place by the audit department of the GRA (as already set out above under section A.1.1).

115. In addition, trust and company service providers, being AML obligated entities, also come under the supervision programme of the FIC and the BOG. However, the Ghanaian authority report that there are 6 registered trustees and they have not encountered any trust and company service providers in Ghana as at December 2017.

Beneficial ownership information for trusts

AML Requirements

116. Trust and company service providers come under the scope of the AML Act requiring them to conduct CDD on all clients for which they act when they engage with a client and on an ongoing basis (see section A.1.1).

117. Ghana amended its AML Act in 2014 (AML (Amendment) Act 2014) to make explicit reference to beneficial ownership information and the requirement for this to be maintained by all accountable entities on the clients for which they act. A new section titled “Record Keeping” under section 24 of the AML Act requires accountable institutions to keep books and records with respect to their customers and their transactions and to ensure that the records and underlying documentation (including documents evidencing

the identities of customers and beneficial owners) are available on a timely basis to the FIC and other competent authorities. All books and records are required to be kept for a minimum period of five years.

118. A definition of “beneficial owner” was inserted by the AML Amendment Act at section 51 to mean “a natural person who ultimately controls or owns the right to or benefits from property, including the person on whose behalf the transaction is conducted” or “a person who exercises ultimate effective control over a legal person or legal arrangement”. This definition is in line with that required under the standard for beneficial ownership information to be maintained.

Non-professional trustees

119. As identified in the 2014 Report, there may be a small class of trusts, being ordinary trusts without a professional trustee, for whom an obligation to know the identity of the settlor arises only from the requirements of the common law. However, in the event that an ordinary trust has taxable income the trustee will have to register for tax purposes and will be subject to the provisions of the Income Tax Act, 2015 and must file an annual income tax return detailing any distributions made to beneficiaries. The beneficiaries will also have to file a tax return in respect of this income. The extent to which trustees are required to submit beneficial ownership information in line with the standard is unclear, although trustees in practice must have copies of the trust deed which will indicate beneficiaries. Further, as a number of ordinary trusts are registered with the Land Title Registry, information on the settlor and beneficiaries will also be maintained at the Registry in respect of some ordinary trusts. Nevertheless, Ghana is invited to ensure that beneficial ownership information in respect of all trusts, especially in those cases where the trustee is a non-professional trustee, is available.

Oversight of trust ownership and identity information

120. Although professional trustees are now a named accountable entity under the AML Act, as is the case for legal ownership information, and Ghana reported that as a result of the 2014 Phase 2 report recommendation, the Anti-Money Laundering Law was amended by Section 3 to give the GRA the power to ensure compliance of the Anti-Money Laundering ownership requirements for the Trust and Companies Service Providers in co-ordination with the Financial Intelligence Centre, no data on supervision/sanctions has been provided by Ghana. Oversight of professional trustees’ requirements to maintain beneficial ownership information was also identified as an issue in the June 2017 GIABA report of Ghana which assesses Ghana’s compliance with the FATF standard.

Trust information in EOI practice

121. In the three year period under review, none of the eight EOI requests sent to Ghana related to the identity of the settlor, trustee or beneficiary of a trust and of the EOI partners that provided peer input, none indicated that there were any issues in relation to trust information.

122. Although in the review period, in practice, there is no evidence to indicate the impact on availability of ownership information by the few trustees identified, however, in the absence of statistics and details on adequate monitoring for non-compliance in the non-financial sector (lawyers, TCSPs), Ghana is invited to implement effective supervisory measures to ensure availability of information on settlors, trustees and beneficiaries with all TCSPs.

ToR A.1.5 Foundations

123. As discussed in the 2014 report (paras 164-170), there is no separate Ghana law that allows for the creation of foundations, apart from those covered by the companies limited by guarantee under the Companies Act which are established for charitable purposes. As noted by the 2014 report, registration and tax filing requirements for companies in Ghana ensure the maintenance of ownership and identity information on a foundation's members and managers (foundation council). Further, as discussed in A.1.1, the new amendments to provide beneficial ownership information are applicable to all forms of companies including companies limited by guarantee, subject to the effectiveness of supervision/oversight as discussed in A.1.1. Also, given that foundations can be established only for public benefit purposes, cannot make distributions to their founders, and the funds are irrevocably attributed to the foundation, they appear to have limited relevance for the current assessment. While the 2014 report noted that foundations are not a common entity in Ghana, at the end of current review period, Ghana has reported that there were 18 590 Companies limited by guarantee governed by the Companies Act, and the exact number of foundations among them was not provided by Ghana. There were no EOI requests in the review period related to foundations in Ghana.

A.2. Accounting records

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

124. The 2014 Report concluded that requirements were in place for all relevant entities and arrangements to maintain accounting records, including underlying documentation, for a minimum period of five years. However, the 2014 Report noted that as amendments to the Internal Revenue Act to address

the lack of express obligations to maintain underlying documentations were only inserted in 2013, the obligations were untested in practice. Ghana was recommended to monitor the effectiveness of the new legal requirements to ensure that underlying documents are being maintained by all relevant entities. The Income Tax Act 2015 contains similar obligations.

125. Ghana, and in particular, the GRA, took sufficient measures to address the recommendation mentioned above in the current review period via its oversight programme. Therefore, the recommendation given in the 2014 Report is no longer applicable and is deleted.

126. During the current review period, Ghana received one request for accounting information relating to companies. However, due to issues relating to the proper receipt of requests (see section C.5 for more detailed analysis on this issue), the response was provided after more than 1 year in this case.

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

Legal and Regulatory Framework		
Determination: The element is in place.		
Practical implementation of the standard		
	Underlying factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice		
Rating : Compliant		

ToR A.2.1 General requirements and ToR A.2.2 Underlying documentation

128. In Ghana, the Income Tax Act, 2015, Companies Act and Partnership Act, collectively contain provisions that generally require the maintenance of accounting records that correctly explain all transactions, enable the financial position of entities and arrangements to be determined with reasonable accuracy at any time, and allow financial statements to be prepared (see the 2014 Report, section A.2). The obligations in the Companies Act and Partnership Act remain unchanged.

129. The Income Tax Act, 2015 s. 16 obliges all persons liable to tax in Ghana, other than employees with respect to their employment income, to maintain in Ghana the necessary records to explain the information to be provided in a return or in any other document to be furnished to the Commissioner-General under the Act or to enable an accurate determination of the tax payable by that person. For this purpose, the Act requires all businesses

to maintain records of all receipts and payments, all revenue and expenditure, and all assets and liabilities of the business (s. 16(5)). The term “business” is defined to include any trade, profession, or vocation (s. 133). Such records are required to be maintained for a period of not less than 6 years (s. 16(4)). Where a person does not maintain such records, the Commissioner-General may adjust that person’s liability to tax in a manner that is consistent with the intention of the Act (s. 16(3)). Moreover, a person who deliberately fails to maintain proper records for a year of assessment is liable to pay a penalty up to 75% of the amount of tax payable by that person for the year (s. 48). Taxpayers engaged in certain business (usually of an artisanal nature) designated by the Commissioner General are on the tax stamp regime. They are registered under small taxpayer office and are exempt from tax filings. Ghana reported at the end of review period, there are about 7 917 taxpayers on the tax stamp regime. Further, as noted by the 2014 report (Para 31), Companies operating in Ghana’s free zones are required to register with Ghana’s Registrar General and submit tax returns and audited financial statements on a yearly basis.

130. The tax return used by trusts (Partnership Return) requires trusts to attach copies of the “accounts including certified balance sheet as at the date to which the final accounts are made up”.

Liquidated Companies

131. As per the Companies Act, the modes of winding up of a company may be (a) by an official liquidation in accordance with the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180), or (b) by a private liquidation. All accounting records of liquidated companies are required to be retained for a minimum period of five years from the date on which they are prepared. The liquidator, as the company’s representative, is required to ensure that this requirement is complied with.

Oversight and enforcement of requirements to maintain accounting records

132. In terms of oversight of the compliance with the accounting obligations, the situation remains the same as described in the 2014 Report (See paras 202 to 219). Further, section 27 of Revenue Administration Act, 2016 (Act 915) imposes an obligation on all persons to keep documents, including accounting records. Consequently a person who fails to keep records is liable to pay for each month or part of a month during which the failure continues (a) 75% of the tax attributable to that period where the failure is deliberate; or (b) in any other case, the lesser of the amount referred to in paragraph (a) and 250 currency points.

133. The obligations to maintain reliable accounting records and underlying documentation pursuant to tax law are presided over by the GRA. All legal entities are subject to the same monitoring and inspection procedures by the GRA, with regards to their accounting record-keeping obligations under tax laws (see also section A.1.1 and the monitoring of Tax law obligations in practice).

134. There is a comprehensive system of oversight of the accounting obligations under the Income Tax Act, 2015 in place by the GRA in the form of desktop reviews and an active system of onsite audits of entities registered for tax purposes. Ghana has reported that the percentage of audits conducted on Large Taxpayers is 30% on a 3 year cycle based on a risk assessment methodology (including indications of fraud, compliance issues with return filing, continuous loss making, poor record keeping, no distinction between shareholders and management, frequent changes in accounting policy etc.). In addition special audits are conducted when the need arises to investigate specific areas of business transactions of companies for e.g. transfer pricing issues. The table below sets out the number of audits conducted by the GRA over the review period.

Year	Office category	Number of completed audits
2014	Large Taxpayers Office	368
	Medium Taxpayer Office	1 721
2015	Large Taxpayers Office	498
	Medium Taxpayer Office	1 802
2016	Large Taxpayers Office	572
	Medium Taxpayer Office	1 693

135. However, as noted above under section A.1.1, the rates of tax return filing with the GRA in Ghana are relatively low and amongst the medium and small taxpayer office, the rate of return filing is approximately 60% for medium taxpayers. However the materiality of risk for the small taxpayers (with annual turnover below EUR 17 000) and a filing rate of 50% is not significant. Ghana has reported that as a part of the risk profiling for audit processes where accounting records are checked the non-filers are prioritised.

136. As a result of the audits by the GRA over the review period, penalties have been levied. The details of penalties imposed by GRA in the audits over the review period for issues including in relation to accounting records is as follows. Ghana has reported that the increase in penalties is an element of the overall policy to increase compliance by taxpayers, in addition to prioritising non-compliant taxpayers for audits and/or prosecution of non-compliant taxpayers.

Year	Amount (GHS)
2013	2 773 613
2014	3 911 388.61
2015	6 879 980.28
2016	10 807 855.69

Availability of accounting information in EOI practice

137. The 2014 Report indicated that in the 2009-11 review period, Ghana received one EOI request in relation to accounting information relating to companies only. During the current review period, Ghana received one requests for accounting information relating to companies. However, due to issues relating to the proper receipt of those requests (see section C.5 for more detailed analysis on this issue), the response was provided after more than 1 year in this case.

138. Nevertheless, given the comprehensive legal framework that exists in Ghana for the maintenance of accounting information as well as the system of oversight in place by the GRA in respect of those obligations, should Ghana receive a request for accounting information, no issues are foreseen with availability of the information in Ghana.

A.3. Banking information

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

139. The 2014 Report concluded that element A.3 was in place and Compliant. The combination of the AML Act and the licensing requirements for financial institutions impose appropriate obligations on banks and deposit companies to ensure that all records pertaining to accounts as well as related financial and transactional information, are available.

140. The legal framework concerning the availability of banking information remains unchanged since the last review. In the current review period, although banking information was not requested, in the event that its treaty partners did request banking information, no issues are foreseen with its provision.

141. The EOIR standard now requires that beneficial information in respect of account holders be available. In this regard AML law in Ghana generally contains appropriate legal requirements for the beneficial owners of all bank accounts to be identified and information to be regularly updated.

142. Further, the compliance by banks of the requirements to maintain beneficial ownership information of their accountholders has been the subject of supervision and enforcement by the BOG who was found to have a good programme of onsite inspections in place. The Bank of Ghana has imposed penalties and revoked the licenses of two banks as a result of its inspections.

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

Legal and Regulatory Framework
Determination: The element is in place
Practical implementation of the standard
Rating: Compliant.

ToR A.3.1 Record-keeping requirements

144. As noted in the 2014 Report, all persons carrying on the business of banking are subject to both licensing requirements under Ghana’s Banking Act and customer due diligence and record retention requirements under Ghana’s AML Act (2008). These Acts oblige banks to maintain sufficient account information to permit reconstruction of individual transactions. Such records must be kept for a period of not less than six years after the date a transaction is concluded or the termination of the business relationship. The BOG has also issued AML/CFT Guidelines for Banks and Non-Bank Financial Institutions (The Guideline) including the Customer Due Diligence procedures which require banks to preserve their customer identification documents and all transaction records pertaining to the accounts. The AML Act also requires banks and other accountable institutions that establish a business relationship with a customer to keep records on the: identity of the person or the agent of the person.

145. There are penalties and court sanctions in place for non-compliance with the requirements under the Banking Act and the AML Act. As set out under section 67 of the Banking Act, any person who contravenes any provision of the Act, including the information keeping requirements, is deemed to have committed an offence and is liable on summary conviction to a fine not exceeding 500 penalty units or to imprisonment for up to two years or both. In the case of a company, each director or an officer will be considered to have committed the offence (s. 68(1)).

146. Similarly, non-compliance with the record keeping requirements of the AML Act is an offence and subject on summary conviction to a fine of not more than 500 penalty units (GHS 6 000 or EUR 1 150) or to a term of imprisonment of not more than 3 years, or both (s. 39(1)(a)). Where the offence is committed by a company or body of persons the penalty is a fine of not more than 1 000 penalty units (GHS 12 000 or EUR 2300) In the case of a

body corporate, other than a partnership, each director or an officer is considered to have committed the offence. In the case of a company, each director or an officer will be considered to have committed the offence (s. 39(2)).

Beneficial ownership information on account holders

147. The 2016 ToR specifically require that beneficial ownership information be available in respect of all account holders. In this regard, as described under section A.1.1 of this report, banks are required to undertake customer due diligence, on-going monitoring and record keeping in circumstances including one-off transactions and ongoing business relationships.

148. Pursuant to section 23 of the AML Act, all accountable entities that come within the scope of the AML Act are required to conduct KYC when they engage with a client and are also subject to requirements to conduct ongoing CDD.

149. Ghana amended its AML Act in 2014 (AML (Amendment) Act 2014) to make explicit reference to beneficial ownership information and the requirement for this to be maintained by all accountable entities on the clients for which they act. A new section titled “Record Keeping” under section 24 of the AML Act requires an accountable institution to keep for a minimum period of five years books and records with respect to its customers and their transactions and is obliged to ensure that the records and underlying documentation (including documents evidencing the identities of customers and beneficial owners) are available on a timely basis to the FIC and other competent authorities.

150. A definition of “beneficial owner” was inserted by the AML Amendment Act at section 51 to mean “a natural person who ultimately controls or owns the right to or benefits from property, including the person on whose behalf the transaction is conducted” or “a person who exercises ultimate effective control over a legal person or legal arrangement”. This definition is in line with that required under the standard for beneficial ownership information to be maintained.

Enforcement provisions to ensure availability of banking information

151. Ghana’s banking sector is made up for 33 banks. They are supervised by the BOG and subject to on-going supervision on their compliance with AML requirements, including the requirements to identify the beneficial owner of their customers.

152. A representative from one of the main commercial banks in Ghana reported during the course of the onsite visit to requiring extensive beneficial ownership information at the time of on boarding all clients. They use the

“World check” system to verify passports and other forms of identification submitted via this process. Account opening forms require the declaration of ultimate beneficiary.

153. During the peer review period, on an average 13 banks were subject to an AML focused on-site inspection. Desk-based reviews are done as part and parcel of on-site reviews of banks. There were three desk-based reviews performed during the peer review period. The details are as below:

	2013	2014	2015	2016	2017
BANKS	12	10	15	12	16
Rural and community banks			8	16	15
Savings and loans companies		9	11	10	
Micro finance companies				16	

154. The on-site reviews use a risk based approach to selecting files so that higher risk files are the subject of more reviews. Where failings are apparent, additional files may be selected to confirm any findings. Further, the compliance by banks of the requirements to maintain beneficial ownership information of their accountholders has been the subject of supervision and enforcement by the BOG who was found to have a good programme of onsite inspections in place. The Bank of Ghana has imposed penalties and revoked the licenses of 2 Banks as a result of its inspections.

155. Concerning the reliance of third party’s due diligence, in practice, Ghanaian authorities advise that considering the risks involved for the banks, they will perform their own independent due diligence despite the provisions in the AML framework that would allow them to rely on third party due diligence.

156. Banks and other financial institutions are also the main entities submitting suspicious activities reports (SARs) in Ghana.

Availability of bank information in EOI practice

157. The 2014 Report found that while Ghana did not receive any request for banking information from treaty partners, in the event that they had received a request, Ghana should have been able to provide all the necessary banking information to its treaty partners. In the current review period, Ghana did not receive any requests for banking information either.

Part B: Access to information

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

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

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

159. The 2014 Report found that Ghana’s competent authority had appropriate powers to access information for responding to EOI requests. The competent authority’s access to information is based on a comprehensive power to issue notices to the holders of information. The Internal Revenue Act was abolished and replaced with the Income Tax Act 2015 but the access powers remain globally the same as analysed in the 2014 report. There are no statutory bank secrecy provisions in place that would restrict effective exchange of information and banking information can be accessed by the GRA in the same manner as all other types of information.

160. During the previous review period, Ghana’s competent authorities successfully used their information gathering powers in order to obtain ownership and identity information which was obtained from its own databases as well as from a third party in one case. In practice, the tax authority first checked its own tax databases at the GRA as it has much information at its disposal. In the event that further information is sought, the tax authority usually then performed a search of the Companies Registry database and the information retained by the Registrar-General. Over the review period for the 2014 Report, nine out of ten requests were answered with information already at the disposition of the GRA within its own databases within 60 days. For the one other request the GRA accessed information from a third party.

161. During the current review period the GRA used its access power only to request information from another public authority – the Registrar. The other requests were for tax information available within GRA. As such, no issues are identified with the access powers.

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

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

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

163. Since the 2014 Report, there have been no substantial changes to the access powers of the GRA and the provisions in the previous Act are very similar to the new ones. As set out in the 2014 Report, the GRA has broad powers to obtain bank, ownership and identity information and accounting records from any person, whether or not liable to tax. Under the Internal Revenue Act before and now the Income Tax Act, 2015 s. 19(1) provide that the GRA can require, by notice in writing, any person to furnish it within the time specified in the notice any information required in the notice, or to attend for purposes of examination under oath concerning the tax affairs of that person or any other person. Where the notice requires the production of a book, record, or computer-stored information, it is sufficient if it is described in the notice with reasonable certainty (s. 19(2) of Income Tax Act, 2015).

Access to beneficial ownership information

164. Apart from the powers under Income Tax Act discussed above, that can be used to access beneficial ownership information, sections 33 and 35 of the Revenue Administration Act, 2016 (Act 915) empowers GRA to compulsorily obtain information for tax purposes along with effective collaboration with other relevant Government institutions to provide information to GRA. Under Section 35 of Act 915, GRA may request for information from any person. Section 33 of Act 915 grants GRA access to premises also to retrieve requisite information. The provisions of sections 81 and 82 of Act 915 make it an offence to make a false or misleading information to GRA or impede tax administration in this process.

Use of access powers in EOI practice

165. Over the review period, eight requests were sent to Ghana but only five of those successfully arrived in Ghana in the review period and all five were responded to.

166. For one request, all information was available within the GRA. For three requests, all of the requested information was retrieved from the Registrar. For one request, the information was retrieved from both the GRA and the Registrar.

167. On receipt of an EOI request at the offices of the GRA, the request is initially delivered to the Commissioner-General as the named competent authority under its agreements. The Commissioner-General reviews the request and then allocates the request to one of the three designated competent authorities within the GRA who is then responsible for ensuring this information is retrieved and for overall monitoring of the process. Currently, the three designated competent authorities are officers within the secretariat of the Commissioner-General being the Deputy Commissioner (Legal), the Assistant Commissioner, (Legal) and the Assistant Commissioner (International Affairs). The Assistant Commissioner (International Affairs) is the officer responsible for the day-to-day processing of all EOI requests (here on referred to as the EOI officer).

Access to information held at the GRA

168. The EOI manual sets out that the Head of the EOI Unit sends a letter to the Central Filing Office within the relevant GRA office (e.g. such as the Large Taxpayer office (LTO)) requesting the taxpayer file or extracts from the file relevant to the EOI request received from the peers. A file request form template is contained within the EOI manual. The manual sets out that the standard time for delivery of the file is 3 days. On receipt of the information, the EOI officer then copies the required information necessary to respond to the EOI request and returns the files to the Central Filing Office.

Accessing information held by the taxpayer, a third party or from other government organisations

169. Section 8(2)(a) of the EOI manual sets out the procedures to be followed when accessing information held by government authorities, as was the case for four of the five requests over the review period when information was gathered by the GRA from the Registrar.

170. In the case the information is publicly available, then the GRA does not need to exercise any official power in order to gather this information. However, as was the case for the four requests, the EOI Unit proceeded to issue a Notice to the head of the Registrar requesting the specified information.

171. A brief explanation of the purpose of the request is contained within the notice. The notice sets out that the requested information should be made available within 10 working days. However the requirement to provide the information within the limit of 10 days is only administrative and not a legal obligation. In order to ensure that this timeline is adhered to, the EOI officer sets a reminder in outlook and in the case that the information has not been provided in this time, the EOI officer chases the agency via phone call or via a visit to the premises.

172. Despite the above clear procedure, there were long delays for gathering the information that the Ghanaian authorities could not explain. However these delays were not attributable to a lack of access powers. Please see further discussion in Element C.5 below in this regard.

Access to banking information

173. Section 8(2)(c) of the EOI Manual sets out the procedures in respect of gathering information held by banks and financial institutions. Similar to those cases where information is held by another government entity the EOI Unit would issue a notice (as signed by the Commissioner-General) to the bank requesting that the information be provided within 10 days. After that period, a written reminder would be sent and the EOI unit would also consider whether such information may be available with the FIC, on the basis of a memorandum of understanding between both.

174. Ghana did not receive any requests for banking information over the review period. However, in the case that this information was requested, the GRA has reported that it would follow the above set out steps in its manual to ensure that it gathered all requested banking information. Further, in the course of the onsite visit, a representative from a commercial bank in Ghana reported that in the case it received a notice from the GRA requesting banking information; it would use all efforts to produce the requested banking information to the GRA at its earliest convenience. A representative of the BOG confirmed that this would not be problematic.

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

175. As set out in the 2014 Report, Ghana has no domestic tax interest with respect to using its information gathering powers for exchange of information purposes. The Internal Revenue Act s. 111 provided that to the extent that the terms of an international arrangement are inconsistent with the provisions of the Internal Revenue Act, the terms of the international arrangement prevailed. The new Revenue Administration Act in its S.98 includes a similar provision. In practice, no request was rejected or not answered because of a lack of domestic tax interest, but the new Act was not in force during most of the period.

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

176. In the 2014 report, it was noted that failure to comply with a request for information from the GRA is an offence and subject, on summary conviction, to a fine between GHS 120 and 1 200. The applicable civil and criminal penalties are now present in Sections 78 (one thousand penalty units and not more than two thousand and five hundred penalty units or to a term of imprisonment of not less than two years and not more than five years or to both), 81 (a fine of not less than five penalty units and not more than fifty penalty units) and 82 (a fine of not less than ten penalty units and not more than two hundred penalty units) of the Revenue Administration Act, 2016 (Act 915).

177. As previously described, the GRA has powers to compel the production of information from natural and legal persons, whether or not liable to tax, in response to an exchange of information request. Under the Income Tax Act, 2015, the GRA has powers of discovery and inspection and is able to compel the production of information from taxpayers and third party record keepers. Apart from the powers under Income Tax Act discussed above, that can be used to access beneficial ownership information, sections 33 and 35 of the Revenue Administration Act, 2016 (Act 915) empowers GRA to compulsorily obtain information for tax purposes along with effective collaboration with other relevant Government institutions to provide information to GRA. Section 33 of Act 915 grants GRA access to premises also to retrieve requisite information. The provisions of sections 81 and 82 of Act 915 make it an offence to make a false or misleading information to GRA or impede tax administration in this process.

178. Over the review period, in no cases did Ghana have to use its compulsory powers in order to compel the production of information for the purposes of EOI as in no case information was requested from a taxpayer. Ghanaian authorities have also submitted that it rarely has to use its compulsory powers to require taxpayers to produce information and in almost all cases once served with a notice to produce information even for domestic purposes, taxpayers are very compliant forthcoming with the timely production of the information. Ghana has informed that no penalties were imposed in the course of domestic proceedings/audits in the review period, as there were no refusals to provide information.

ToR B.1.5 Secrecy provisions

179. As set out in the 2014 Report (paragraphs 259 to 268), there are no secrecy obligations imposed by statute in Ghana including in respect of bank information or identity, ownership or accounting information concerning companies, partnerships, trusts or any other entity or arrangement. Bank

confidentiality does not apply in case of EOI requests. The concept of attorney-client privilege in Ghana is in line with that set out under the standard.

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.

180. The 2014 Report found that rights and safeguards applicable in Ghana were compatible with effective exchange of information. No notification requirement was provided under Ghanaian law. Moreover, whilst a person affected by an EOI request had a right to seek judicial review, no judicial proceedings had been brought against the Ghanaian authorities during the period under review for the 2014 Report.

181. There have been no changes since the 2014 Report and the GRA is not required to notify any taxpayer or third party of an EOI request. Further, Ghanaian officials have reported that they would not inform the taxpayer of the existence of an EOI request even when they would request the information from the taxpayer.

182. The 2016 ToR have introduced a new requirement where an exception to notification has been granted – in those cases the 2016 ToR require that there must also be an exception from time-specific post-notification. Ghana's law does not require notification; and therefore the change made in ToR did not have an impact in this review. Element B.2 continues to be in place and Compliant.

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

Legal and Regulatory Framework
Determination: The element is in place.
Practical implementation of the standard
Rating: Compliant

Part C: Exchanging information

184. Sections C.1 to C.5 evaluate the effectiveness of Ghana’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 the mechanisms respect the rights and safeguards of taxpayers and third parties and whether Ghana could provide the information requested in an effective manner.

C.1. Exchange of information mechanisms

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

185. The 2014 Report concluded that Ghana’s network of EOI mechanisms was “in place” and was rated Compliant. At that time, Ghana had 13 EOI agreements consisting of 11 bilateral DTCs, 1 TIEA and it had also signed and ratified the multilateral Convention.

186. Since the time of the 2014 Report, Ghana has ratified its DTC with Denmark and has also signed additional DTCs with Morocco, the Czech Republic, Mauritius and Singapore, all of which were signed in 2017 and are due to be ratified shortly. In addition, Ghana is currently negotiating DTCs with five other jurisdictions and a TIEA with one other jurisdiction. They have also signed protocols to the DTCs with Switzerland and the Netherlands but these protocols have not yet been ratified. In any event, these jurisdictions are already partners through the multilateral Convention, except Morocco which has not deposited its instruments of ratification. Since MAAC has 117 participants including Ghana, Therefore Ghana has 119 EOI relationships (Serbia, Montenegro and Liberia being the non-MAAC signatories among Ghana’s EOI network).

187. Neither Ghana’s EOI instruments nor its domestic law exclude the possibility of making and responding to group requests. Ghana has not received group requests in the review period but should it receive such requests in the future, Ghana’s competent authority advised that it is in a position to process group

requests. In such circumstances, the competent authority would need to receive some information identifying the group, such as bank account numbers, tax identification number or other identifiers that may be available depending on the case.

188. Therefore, as at the time of the 2014 Report, element C.1 remains determined to be “in place” and rated “Compliant”.

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

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

ToR C.1.1 Foreseeably relevant standard

190. Exchange of information instruments 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 2014 Report found that Ghana’s network of DTCs and TIEA generally followed the OECD Model Tax Convention and 2002 Model Agreement on Exchange of Information on Tax Matters, and were applied consistently with the Commentary on foreseeable relevance.

191. Ghana continues to interpret and apply the multilateral Convention, its DTCs and TIEA consistent with these principles.

192. None of Ghana’s EOI instruments exclude the possibility for making and responding to group requests. Ghana has not received group requests in the review period but has received requests that referred to several taxpayers as well as requests where the name of the taxpayer(s) was not provided. Ghana’s competent authority advised that in the event it were to receive a group request, it would be in a position to process such a request.

193. In practice, in cases where a request is unclear or incomplete, the Ghanaian authorities indicate that they would seek clarification or additional information from the requesting jurisdiction before considering whether to decline to respond it. Ghana did not need to seek clarifications on the foreseeable relevance of any of the five EOI requests it received over the review period. The competent authority has not questioned the foreseeable relevance of the EOI requests received.

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

194. The 2014 Report found that none of Ghana’s EOI agreements restricted the jurisdictional scope of the exchange of information provisions

to certain persons, for example those considered resident in one of the contracting parties. Similarly, the additional agreements that Ghana has since signed (Czech Republic, Mauritius, Morocco and Singapore) are also in line with the standard. They have also signed protocols to the DTCs with Switzerland and the Netherlands but as of January 2018 the protocol with Netherlands is yet to be ratified. Further, peers have not raised any issues in this regards in practice during the current review period.

ToR C.1.3 Obligation to exchange all types of information

195. The 2014 Report did not identify any issues with Ghana’s network of EOI instruments in terms of ensuring that all types of information could be exchanged and no issues arose in practice.

196. The additional instruments that Ghana has entered into since then do not contain any limitations in this respect either. During the present review period, Ghana exchanged different types of information (ownership, accounting information) including information held in a fiduciary capacity. No limitations were found in Ghana’s instruments and peers have not raised any issues in this respect.

ToR C.1.4 Absence of domestic tax interest

197. The 2014 Report did not identify any issues with Ghana’s network of EOI instruments s regarding a domestic tax interest and no issues arose in practice.

198. The additional instruments that Ghana has entered into since then also allow information to be obtained and exchanged notwithstanding it is not required for domestic tax purposes. In practice, no issue linked to domestic tax interest has arisen during the current review period and that is confirmed by peer input.

ToR C.1.5 Absence of dual criminality principles

199. The 2014 Report did not identify any issues with Ghana’s network of EOI instruments in respect of dual criminality and no issues arose in practice.

200. None of the EOI instruments concluded by Ghana since the 2014 Report apply the dual criminality principle to restrict the exchange of information and in practice. No request related to a criminal matter was received.

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

201. The 2014 Report found that Ghana’s network of EOI instruments provided for exchange in both civil and criminal matters and no issues arose in practice.

202. All of the EOI instruments concluded by Ghana since its last review provide for the exchange of information in both civil and criminal tax matters. In practice, Ghana received and responded to EOI requests in relation to civil matters only.

ToR C.1.7 Provide information in specific form requested

203. The 2014 Report noted that all of the EOI agreements concluded by Ghana allowed for information to be provided in the form of depositions of witnesses and authenticated copies of original records, to the extent allowable under the requested jurisdiction's domestic laws. The same applies to the new instruments signed since 2014. To date, Ghana has not yet been requested to provide requests in a specific form to a treaty partner. However, in the event that information is requested in a specific form, officials from Ghana's competent authority have reported that they will provide information in the specific form requested to the extent permitted under Ghanaian law and administrative practice.

ToR C.1.8 Signed agreements should be in force

204. The 2014 Report noted that Ghana had taken all steps necessary for its part to bring into force all instruments it has signed with the exception of one EOI agreement with Denmark, which has now been ratified.

205. As of June 2017, it has not yet ratified its TIEA with Liberia which was signed in February 2011 (the TIEA is pending before cabinet for approval). The Ghanaian authorities have not explained the reasons for the delay and Ghana is recommended to ratify this TIEA promptly.

206. Ghana signed new agreements with the Czech Republic, Mauritius, Morocco and Singapore in 2017 and as these agreements were only recently signed they have not yet been ratified by Ghana. Officials from Ghana have indicated that these agreements will be ratified shortly.

Bilateral EOI mechanisms

A	Total Number of DTCs/TIEAS	A = B+C	16
B	Number of DTCs/TIEAs signed (but not in force)	B = D+E	7
C	Number of DTCs/TIEAs signed and in force	C = F+G	9
D	Number of DTCs/TIEAs signed (but not in force) and to the Standard	D	7
E	Number of DTCs/TIEAs signed (but not in force) and not to the Standard	E	0
F	Number of DTCs/TIEAs in force and to the Standard	F	9
G	Number of DTCs/TIEAs in force and not to the Standard	G	0

ToR C.1.9 Be given effect through domestic law

207. Ghana has in place the legal and regulatory framework to give effect to its EOI mechanisms. No issues were raised in the 2014 Report in this regard, and there have been no changes in this respect since that time; no peers have raised any issues in this regard.

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

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

208. The 2014 Report concluded that Ghana's network of EOI instruments covered all relevant partners, meaning all those partners who were interested in entering into an EOI instrument with Ghana. Element C.2 was rated "Compliant".

209. Since that review, Ghana continued to expand its EOI network, as referenced under section C.1. In addition, they are currently negotiating DTCs with five other jurisdictions and a TIEA with one other jurisdiction and Ghana is recommended to continue to develop its treaty network with relevant partners as and when such need arises.

210. Comments were sought from Global Forum members in the preparation of this report and no jurisdiction advised that Ghana refused to negotiate or sign an EOI instrument with it.

211. As a result, element C2 remains determined to be "in place" and rated "Compliant". The table of determinations and ratings is as follows:

Legal and regulatory framework determination		
	Underlying factor	Recommendation
Deficiencies identified in the implementation of the legal and regulatory framework		
The element is in place.		
EOIR Rating		
Compliant		

C.3. Confidentiality

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

212. The 2014 Report found that the confidentiality of information exchanged with Ghana was adequately protected by obligations imposed under its EOI instruments as well as domestic legislation. Under Ghana's domestic law, there were penalties applicable in the event of a breach of the confidentiality obligations. There have been no changes since then. In addition, all of its newly signed agreements also provide for confidentiality provisions modelled on Article 26(2) of the OECD Model Tax Convention.

213. There were also adequate security measures in place throughout the processing of EOI requests to ensure the confidentiality of all received requests and all information sent back to the treaty partner. As a result, element C3 was determined to be "in place" and rated Compliant. The same measures are in place to ensure the confidentiality in the processing of all requests and the sending of all requested information to its treaty partners.

214. In respect of the processing of EOI requests, Ghana follows the principles as set out in the OECD issued guide "Keeping It Safe: The OECD Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes" first issued by the OECD and then endorsed by the Global Forum. The confidentiality provisions in place both from the perspective of the information received as well as the information exchanged are set out in detail in paragraphs 324 to 337 of the 2014 Report. In summary, there are clear security measures in place in the handling and storage of all EOI requests and related correspondence. All requests are maintained in a locked cabinet and are recorded in a password protected excel spreadsheet. Upon issuing notices for the requested information, confidential information such as the taxpayer name, is never disclosed.

215. In regards to personnel, all members of the EOI team are well aware of their confidentiality obligations by attendance at Global Forum organised training seminars as well as incorporating these principles into internal training conducted annually at the GRA. All GRA staff also take a confidentiality oath upon commencing service in the GRA and these obligations extend to information they processed in the course of their time as an official even after they have terminated their service with the GRA.

216. All of the requested information is sent via secure courier and copies of the requested information as well as the original request are locked in secure cabinets where they are maintained for a period of five years before being sent to the locked archives of the GRA. Although some of the EOI requests received by Ghana were kept by the former competent authority

during the period under review, he was still under the oath of secrecy and no breach took place during the period under review. Nevertheless, Ghana should ensure that its organisational processes and procedures are adequate to ensure the confidentiality of all information received from EOI partners.

217. Element C.3 continues to be determined to be in place and the rating remains Compliant. The table of determinations and ratings is as follows:

Legal and Regulatory Framework		
Determination: The element is in place		
Practical implementation of the standard		
	Underlying factor	Recommendation
Deficiencies identified in the implementation of EOIR in practice	Some of the EOI requests received by Ghana were kept by the former competent authority during the period under review, he was still under the oath of secrecy and no breach took place during the period under review.	Ghana should ensure that its organisational processes and procedures are adequate to ensure the confidentiality of all information received from EOI partners.
Rating: Compliant		

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.

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

219. At the time of the 2014 Report, for almost all of its agreements, the limits on information which must be exchanged under Ghana's EOI arrangements mirrored those provided for in the OECD Model DTC or TIEA. The 2014 Report concluded that both the legal framework and practices of Ghana concerning the rights and safeguards of taxpayers and third parties are in line with the standard and element C.4 was determined to be "in place" and rated Compliant with no recommendations issued.

220. In practice, as discussed in section B.1.5, no case arose during the period under review where a person refused to provide the requested information because of professional privilege. Ghana has never declined to provide information based on an invocation of privilege or any other professional secret and no peer indicated any issue in this respect. Ghanaian authorities have reported that since the competent authority never asked information to a lawyer, claims of legal professional privilege have never arisen in the case of an EOI request. More generally, this rarely arises in domestic practice. Therefore, the rights and safeguards pertaining to taxpayers and third parties in Ghana continue to be in line with the standard and are compatible with the effective exchange of information.

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

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

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.

222. In order for exchange of information to be effective, jurisdictions should request and provide information under its network of EOI instruments 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.

223. During the review period for the 2014 Report (from 1 July 2010 to 30 June 2013), 10 EOI requests were sent via regular mail to Ghana, all from one treaty partner. However, out of these 10 requests, only one had been received by Ghana. Once Ghana became aware of the requests, the Ghanaian EOI team made every effort to liaise with the sending jurisdiction who resent

the outstanding nine requests via encrypted email to the EOI Unit of the GRA at which time responses were provided to all in less than 60 days.

224. During the course of that review, the exact reason for the failure of the nine requests to reach the Ghanaian competent authority could not be deduced. Possible explanations included the fact that they may have been addressed to a former competent authority, the use of regular mail by the requesting party and the fact that a formal EOI Unit was only in place from July 2012.

225. The 2014 Report also noted that for the one request that did successfully arrive in Ghana over the review period, it took 18 months from the time when it was sent by the requesting jurisdiction to its receipt at the offices of the competent authority. This considerable delay was attributed to the fact that the request had been addressed to the previous competent authority who had delayed to redirect the request to the new competent authority.

226. Due to the issues with receiving requests and the lengthy timeliness in responding that resulted over the review period for the 2014 Report as well as its failure to communicate effectively with treaty partners and provide status updates, element C5 was rated Partially Compliant and the following two recommendations were issued:

- Ghana should communicate regularly with all treaty partners and monitor its newly implemented EOI processes to ensure that all requests are successfully received by the EOI Unit and responded to expeditiously.
- Ghana should provide status updates to its EOI partners within 90 days where relevant.

227. During the current review period, eight requests for information were sent to Ghana by five different treaty partners (1, 1, 1, 2 and 3). One of those requests was responded to within a timeframe of 180 days to one year and in the other four cases, the provision of the requested information took more than 1 year.

228. The remaining three out of the eight requests were sent in 2013 and 2016 by one treaty partner and none of those requests were successfully transmitted to Ghana. Ghana only became aware of those requests in the course of the peer review but at that time two of the requests (sent in 2013 and 2016) were no longer of interest to the treaty partner for timing reasons. The third request was resent to Ghana in September 2017 and an acknowledgment of receipt was sent to the requesting jurisdiction in October 2017. The EOI unit submitted that this request is being processed as expeditiously as possible.

229. From the above summary of Ghana's EOI activity during the review period, it is noted that issues persist both in successful receipt of requests as well as effectively communicating with requesting jurisdictions and the

timely action of requests once received. Status updates have not been provided in a timely manner and in all cases. Therefore, due to the substantial issues with the EOI process and organisation in Ghana as well as the fact that they have failed to action the recommendations from its 2014 Report, element C5 is rated as Non-Complaint.

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

Legal and regulatory framework determination		
Not Applicable		
EOIR Rating		
	Factors underlying recommendations	Recommendations
Practical implementation of the standard	Over the review period, eight requests were sent to Ghana. Four of those requests arrived at the GRA between March and September 2016 but were only delivered to the EOI Unit in January 2017 leading to considerable delays in practice in providing the requested information.	Ghana is recommended to revise its internal EOI processes for the receipt of EOI requests to ensure that all requests are processed and responded to in a timely manner.
	Of the five requests processed by Ghana over the review period, responses were provided between 180 days and one year in one case and in the other four cases responses took more than one year despite the fact that the information was held by the tax authority or another public administration (the Registrar), indicating systemic issues with the organisational processes in terms of non-adherence to the procedures of EOI Manual.	Ghana is recommended to revise its internal process within the GRA for processing EOI requests to ensure that all information is provided to the EOI Unit in a timely manner.
	During the three-year review period, Ghana did not provide a status update to its EOI partners within 90 days.	Ghana should provide status updates to its EOI partners within 90 days where relevant.
Non-Compliant		

ToR C.5.1 Timeliness of responses to requests for information

231. Over the period under review (1 October 2013 until 30 September 2016), eight requests were sent to Ghana from five treaty partners. However, due to internal organisational issues within the EOI team as well as the use of regular mail by its treaty partners (which has proven unreliable as documented in its 2014 report), only one of those requests arrived in Ghana over the review period. The table below summarises Ghana's response times.

Table 6. Timeliness of requests as sent to Ghana over the review period

	[2013-2014]		[2014-2015]		[2015-2016]		Total	
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	0		1	100	4	100	5	100
Full response: ≤90 days								
≤180 days (cumulative)								
≤1 year (cumulative)			1	100			1	20
>1 year					4	100	4	80
Status update provided within 90 days (for responses sent after 90 days)			1	100	0		1	20
Declined for valid reasons								
Failure to obtain and provide information requested								
Requests withdrawn by the requesting jurisdiction								
Requests still pending at date of review								

232. At the time of the 2014 Phase 2 review, although there were issues with requests being successfully received in Ghana, for the one request that had been received by the EOI team, the response took between 180 days and a year. It is noted that the information which was requested was very straightforward (confirmation as to whether or not a Ghanaian individual who has lived temporarily in the requesting jurisdiction was residing in Ghana) and the information was readily available in the GRA database.

233. Similarly, over the current review period, although five of the eight requests were successfully received by the GRA, firstly there were issues in the transmission of the requests to the EOI Unit within the GRA which took between four to nine months. Ghana responded to one of those requests within a period of 180 days and one year and the other four requests took over one year. Ghana did not provide a status update in one of those cases while the status updates in the other two cases were sent much later than 90 days. It is noted that for one of those requests all of the requested information was available with the GRA. For the other four, the information was held by the Registrar. It is unclear as to why there were such extensive timelines in providing the requested information when all of it was held by government entities.

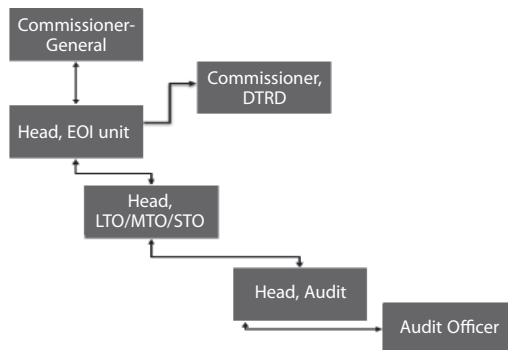
234. It is set out in the EOI manual that in a simple case where the information is entirely held in the tax files (which was one case over the review period), responding to the EOI request should take no longer than 10 working days from the receipt of the request. Nevertheless, in practice for the one request where all information could be accessed from the GRA, this in fact took 180 days to one year to respond to the treaty partner. For further details on the practices of receiving the EOI requests and providing to the Competent Authority of Ghana, in the current review period, please see the discussion below.

235. In addition, Ghana has not provided status updates to its treaty partners in all cases, a fact which has been highlighted by peers in the peer input. This continues to be an issue despite the fact that it was already highlighted in the 2014 Report – no corrective action has been taken since then.

ToR C.5.2 Organisational processes and resources

236. On receipt of an EOI request at the offices of the GRA, the request is initially delivered to the Commissioner-General as the named competent authority under Ghana’s agreements. The Commissioner-General reviews the request and then allocates the request to one of the three designated competent authorities within the GRA who is then responsible for ensuring this information is retrieved and for overall monitoring of the process. Currently, the three designated competent authorities are officers within the secretariat of the Commissioner-General being the Deputy Commissioner (Legal), the Assistant Commissioner (Legal) and the Assistant Commissioner (International Affairs). The Assistant Commissioner (International Affairs) is the EOI officer responsible for the day-to-day processing of all EOI requests (and head of EOI unit). The unit includes also two legal officers.

237. The organisational processes for exchanging information in Ghana remain to a great scale similar to the ones described in the 2014 Report (paragraphs 352-357). The workflow diagram of the EOI Unit is reproduced below:



238. On receipt of the request, the EOI unit firstly ensures that the request is valid and complies with the EOI request requirements set out in the agreement under which it has been made. On verification of the validity of the request, the EOI officer looks at the information requested to decide if he/she is capable of finding it within the tax database at the GRA.

239. However, there have been some changes to this practice since the 2014 Report and issues with the EOI organisational structure in Ghana, which have impacted the effective exchange of information. First, it was noted in the 2014 Report (paragraph 354) that once a request has been received and logged in the system by the EOI Unit, an acknowledgment is sent via courier mail. This has not been the practice during the current review period whereby acknowledgments of receipt of requests were generally not sent. Ghana has submitted that this was due to an organisational oversight.

240. Second, in regards to the EOI organisational process within the GRA, in the 2014 Report (paragraph 355) it was noted that where the information has to be accessed from a third party, a letter detailing the required information is sent to the local GRA office where the entity is registered whereby a local auditor will then proceed to hand-deliver the notice in order to access the information. According to internal GRA guidelines, the local offices have 10 days within which to furnish this information. However, over the review period for this report, when it has been determined that the request seeks information that is held by a third party (such as at the Registrar as was the case for four of the five actioned requests) it has in fact been the policy of the EOI Unit to forward the request to the Head of the GRA. The Head of the GRA who is based within the same GRA building in Accra as the EOI Unit is) then determines to which local unit of the GRA the request must be sent in order for the information to be collected. Considerable delays were identified at this stage. At certain times, the Head of the Audit Department was absent for personal reasons and there was no contingency plan in place and as a result, the processing of requests was suspended. This has introduced further processing delays as is evident in the discussion on timeliness above.

241. Third, while the Ghanaian authorities state that the Competent Authority changed in February 2016, and Ghana claim that they first notified the OECD of the change in Feb 2016 by regular mail, there is no record of its successful receipt at OECD and Ghana has not cross-checked the receipt of the same at OECD. Ghana subsequently submitted the change of contact by email in August 2016 to the secure database of competent authorities of the Global Forum which was notified in the database on the date of receipt. While Ghana has attributed the delay in responding to most of requests to delay on notification of change in the OECD competent authority database, it is not clear whether Ghana has informed the change of competent authority to its relevant partners on a bilateral basis between February 2016 and August

2016. Ghana stated that four of the requests were received by a former competent authority of the GRA between February 2016 and October 2016. It is however noted that 2 of these requests sent by a peer in September 2016 were addressed to the former competent authority despite the change on the OECD database in August 2016. This former competent authority was subsequently deployed to another unit of the GRA and did not declare having received the four EOI requests until his resignation from the GRA in January 2017, at which time he produced the requests to the EOI Unit.

242. Responses to these four requests were finally provided in October 2017 by regular mail and by email in November/December 2017. In respect of the request sent by peer in March 2016 and final response received in December 2017, the peer feedback stated that Ghana acknowledged the request in January 2017 and sent a status update in April 2017. This peer further reported that the information provided in the response was complete and as regards the usefulness of the said information, it stated that since the response was delayed, it could not be used in the assessment proceedings which initiated the request, however, it may be useful in subsequent proceedings under the tax law. As at 5 January 2018, feedback of the rest of the two peers on the responses sent by Ghana could not be obtained.

243. Ghana has indicated that it has since taken steps to restructure the operations of the EOI Unit. Ghana is digitising the recordkeeping of the EOI Unit and training staff on it. The administrative offices are being trained again on how to treat any packages that come addressed to the EOI unit or competent authority irrespective of the name addressed on the package. The partner organisations particularly the RGD are also undergoing a revamping of the internal processes to promote efficiency. Dialogues are also being held on ways to facilitate quicker turnaround times on requests. However, in light of all of the above issues in the processing of EOI requests, Ghana is recommended to implement or revise if necessary its internal process (with a specific project plan and deadline) within the GRA for processing EOI requests to ensure that all information is provided to the EOI Unit in a timely manner. Ghana should also consider communicating more effectively with its EOI partners, for instance by sending emails to confirm the sending or receiving of requests (without mentioning confidential data) or using encrypted emails.

Resources and training

244. Over the review period, training of EOI staff continued to be mostly conducted “on the job”. All staff is required to familiarise with the EOI Unit’s procedure manuals, as well as OECD and Global Forum publications concerning EOIR and AEOI. Moreover, two EOI officers have participated in a Global Forum training seminar and other officers have joined Global Forum

plenary meetings, Peer Review Group meetings and Competent Authority conferences. Ghana also sits on the Steering Group and keeps itself familiarised with changes in EOI via this forum.

245. Despite these training and awareness raising activities, the practice of the Ghanaian competent authority is not to the standard. In this context, the recent awareness raising and training activities mentioned above are welcome.

Outgoing requests

246. The 2016 ToR includes an additional requirement to ensure the quality of requests made by assessed jurisdictions.

247. Over the review period, Ghana sent three EOI requests to two jurisdictions. The procedure followed for sending outbound requests is laid out in Chapter 10 of the EOI Manual and involves validation of the EOI request form (received from LTO/MTO/STO) by EOI Unit (of legal basis for making the request, completeness of background information etc.) and endorsement by the Competent Authority with a cover letter specifying the details of taxpayer under investigations, the contact details of delegated Competent Authority as point of contact etc., before sending it by registered mail to the partner. From the peer input received from the other jurisdiction, both the peers seemed satisfied with the quality of the three requests. Follow-up questions or clarifications were not required from Ghana. From the perspective of sending requests, Ghana is regarded as being a co-operative treaty partner but Ghana sends only a limited number of requests to be fully assessed in this respect.

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

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

Annex 1: 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.

Element A.1.1: Companies

In regards to enforcement and the levying of sanctions, officials from the Registry reported that they issued press releases with regards to enforcing sanctions for non-filing of annual returns. The returns include any updates that may have taken place in the registered entity during the year of review. The sanctions for non-filing have been triggered (leading to delisting the entities) such that entities which fail to file returns transact no further business with RGD. Although the Registry has commenced oversight activities, this supervision program commenced late in the review period in the form of penalties for non-filing of annual returns in respect of 11490 Companies Limited by Guarantee and 45 267 Companies Limited by Shares. However it is not clear whether the penalties of approximately GHS 168 204 000 (EUR 30 276 720) raised have been collected and whether there were any strike-offs or if the penalised entities complied with (delayed) filing of annual returns. As a result, it is recommended that Ghana improves the system of oversight in place by the GRA, BOG and Registry and to ensure that it covers all entities, and that penalties are being enforced in practice.

Element A.1.4: Trusts

Ghana is recommended to ensure that beneficial ownership information in respect of all trusts, especially in those cases where the trustee is a non-professional trustee, is available.

Although in the review period, in practice, there is no evidence to indicate the impact on availability of ownership information by the few trustees identified, however, in the absence of statistics and details on adequate monitoring for non-compliance in the non-financial sector (lawyers, TCSPs), Ghana is invited to implement effective supervisory measures to ensure availability of information on settlors, trustees and beneficiaries with all TCSPs.

Element C1

As of June 2017, Ghana has not yet ratified its TIEA with Liberia which was signed in February 2011 (the TIEA is pending before cabinet for approval). Ghana is recommended to ratify this TIEA promptly.

Element C2

Ghana is recommended to continue to develop its treaty network with relevant partners as and when such a need arises.

Annex 2: List of Jurisdiction’s EOI mechanisms

1. Bilateral instruments for the exchange of information

EOI partner	Type of agreement	Date signed	Date entered into force
Barbados	DTC	12 Oct 08	Not in force
Belgium	DTC	22-Jun-05	17-Oct-08
Czech republic	DTC	11-Apr-17	Not in force
Denmark	DTC	20-Mar-14	15-Jul-2015
France	DTC	05-Apr-93	01-Apr-97
Germany	DTC	12-Aug-04	14-Dec-07
Italy	DTC	19-Feb-04	05-Jul-2006
Liberia	TIEA	24-Feb-11	Not in force
Mauritius	DTC	11-Mar-2017	Not in force
Morocco	DTC	17-Feb-2017	Not in force
Netherlands	DTC	10-Mar-08	12-Nov-08
Serbia and Montenegro	DTC	25-Apr-2000	Not in force
Singapore	DTC	31-Mar-2017	Not in force
South Africa	DTC	02-Nov-04	23-Apr-07
Switzerland	DTC	23-Jul-08	30-Dec-09
United Kingdom	DTC	20-Jan-93	10-Aug-94

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the amended multilateral Convention).⁴ The multilateral 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 Multilateral Convention was opened for signature on 1 June 2011.

The amended Convention was signed by Ghana in July 2012 and entered into force on 1 September 2013 in Ghana.

As of 5 January 2018, the amended Convention is also in force in respect of the following jurisdictions, with which Ghana can therefore 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,⁵ Czech Republic, Denmark, Estonia, Faroe Islands (extension by Denmark),

4. 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.

5. 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.

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, Pakistan, 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).

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.

This evaluation is based on the 2016 ToR, and has been prepared using the 2016 Methodology. The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 8 January 2018, Ghana's EOIR practice in respect of EOI requests made and received during the three year period from 1 October 2013 to 30 September 2016, Ghana's responses to the EOIR questionnaire and the follow-up questions, information supplied by partner jurisdictions, information independently collected by the assessment team, as well as information provided by Ghana's authorities during the on-site visit that took place from 10-12 May 2017 in Accra, Ghana.

List of laws, regulations and other material received

Commercial laws

Companies Act

Regulatory and anti-money laundering/anti-terrorist financing laws

AML Act

Tax laws

GRA Audit Manual

GRA EOI Manual

Authorities interviewed during on-site visit

Ministry of Finance

Ghana Revenue Authority

Representatives, Office of the Tax Commissioner
 The Registrar of Companies
 Registrar of Companies

Current and previous review(s)

This report is the third review of Ghana conducted by the Global Forum. Ghana previously underwent an EOIR review through two assessments during the first round of reviews: the 2011 Phase 1 Report and its 2014 Phase 2 Report. Ghana's two assessments during the first round of reviews were conducted according to the terms of reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology (2010 Methodology) used in the first round of reviews.

Summary of reviews

Review	Assessment team	Period under review	Date of adoption by Global Forum
Phase 1 report	Mr. Oscar Echenique of the México Tax Administration Service; Mr. Duncan Nicol of the Cayman Islands Tax Information Authority and Competent Authority; and Mr. Stewart Brant from the Global Forum Secretariat.	N/A	May 2011
Phase 2 report or 2014 report	Mr. Diego Marvan Más of the Large Taxpayer Unit of the México Tax Administration Service; Mr. Duncan Nicol of the Cayman Islands Tax Information Authority and Competent Authority; and Ms. Mary O'Leary from the Global Forum Secretariat.	1 July 2010-30 June 2013	October 2014
EOIR report, 2nd round of reviews	Mr Romain Perret, Government of France; Mr. Paul Metcalfe, HMRC, United Kingdom and Ms. Mary O'Leary and Mr. Bhaskar Eranki from the Global Forum Secretariat.	1 October 2013 to 30 September 2016	March 2018

Annex 4: Jurisdiction’s response to the review report⁶

Ghana has a long and established history of supporting and promoting the exchange of information for tax purposes, and contributing to improving global tax transparency. The Government of Ghana continues to take required actions to strengthen and enhance the enforcement and scope of existing domestic tax laws, counter multinational tax avoidance, and promote greater tax transparency. Ghana has signed the MAAC and is about to pass secondary legislation that will provide the legal framework for the implementation of the Common Reporting Standard. Consistent with our commitment to a number of global transparency initiatives, Ghana supports the role of the Global Forum and its peer review processes in assisting and assessing jurisdictions’ implementation of the international tax transparency standards.

Ghana appreciates the work undertaken by the assessment team in evaluating its regulatory framework against the revised EOIR Standard. We are also grateful for the detailed consideration as well as the insightful comments and observations provided by the Peer Review Group.

Consistent with the findings of the report, Ghana recognises that there are opportunities through which we can further strengthen the availability of beneficial ownership information in light of the new requirements under the EOIR standard. On the basis of the findings made with respect to elements A.1 and C.5, Ghana has put in place a dynamic work plan to ensure that the areas of activity relating to regulation of registered entities and processing of requests are strengthened and elevated to the required standard.

Notwithstanding that Ghana already has a wide range of beneficial ownership information available (which includes information available through our AML/CTF, taxation, companies law, common law fiduciary duties and other legal frameworks), Ghana is committed to continue to address the recommendations set out in this Peer Review Report and to demonstrate its improvements.

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

In assessing countries against the revised criteria for the EOIR standard, Ghana recognises the Peer Review Group's desire to ensure that issues pertaining to horizontal equity are appropriately taken into consideration as part of the evaluation process.

Ghana thanks the Peer Review Group for this report.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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

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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 GHANA 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 Ghana.

Consult this publication on line at <http://dx.doi.org/10.1787/9789264291119-en>.

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