GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

INDONESIA

2018 (Second Round)

OECD

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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

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Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbrevations and acronyms

AFITPL	Access to Financial Information for Tax Purposes Law
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BKPM	Indonesia Investment Co-ordinating Body
CC	Civil Code
CDD	Customer Due Diligence
CL	Commercial Law of 1847
ECRL	Enterprise Compulsory Registration Law
EOI	Exchange of information
EOIR	Exchange of information on request
FATF	Financial Action Task Force
DGT	Directorate General of Taxes
DTC	Double Tax Convention
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
GPTPL	General Procedures and Tax Provisions Law
GRILL	Government Regulation in Lieu of Law No. 1 (2017) regarding Access to Financial Information for Taxation Purposes
ITL	Income Tax Law
KYC	Know-Your-Customer
LEAS	Legal Entities Administration System

LLC	Limited liability company
LLCL	Law No. 40 (2007) on Limited liability company
MLPEL	Law No. 8 (2010) regarding Countermeasures and Eradication of Money Laundering (Money Laundering Prevention Law)
Multilateral Convention	The multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended
NBFI	non-bank financial industry
OJK	*Otoritas Jasa Keuangan*, Indonesia's Financial Services Authority
PPATK	*Pusat Pelaporan dan Analisis Transaksi Keuangan*, the Indonesian Financial Intelligence Unit
FL	Law No. 16 (2001) on Foundations (Foundations Law)
PRG	Peer Review Group of the Global Forum
TIEA	Tax Information Exchange Agreement
VAT	Value Added Tax
2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.
2016 Methodology	2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015.
2016 Terms of Reference (ToR)	Terms of Reference related to Exchange of Information on Request (EOIR), as approved by the Global Forum on 29-30 October 2015.

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Indonesia. It assesses both the legal and regulatory framework as well as the practical implementation of this framework in respect of EOI requests processed during the review period of 1 July 2014 to 30 June 2017 against the 2016 Terms of Reference on the second round of reviews conducted by the Global Forum. This report concludes that Indonesia is overall Largely Compliant with the standard.

2. Indonesia has been committed to the international standard of transparency and information exchange since 2009, at which point Indonesia entered into its first tax information exchange agreement. Indonesia was last reviewed in 2014, at which date Indonesia was rated Partially Compliant with the international standard on exchange of information (please see Annex 3 for more information on Current and Previous reviews).

Comparison of ratings for Phase 2 Review and current EOIR Review

Element		First Round Report (2011)	Second Round EOIR Report (2018)
A.1	Availability of ownership and identity information	LC	PC
A.2	Availability of accounting information	C	LC
A.3	Availability of banking information	C	LC
B.1	Access to information	NC	LC
B.2	Rights and Safeguards	C	C
C.1	EOIR Mechanisms	LC	C
C.2	Network of EOIR Mechanisms	C	C
C.3	Confidentiality	C	C
C.4	Rights and safeguards	C	C
C.5	Quality and timeliness of responses	LC	LC
	OVERALL RATING	**PC**	**LC**

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

Progress made since last review

3. The main progress of Indonesia relates to access to banking and securities information, which, at the time of the 2014 Report, required the name of the taxpayer who was the subject of the EOI request. For this reason, element B.1 on access to information by the competent authority was rated Non-Compliant. In 2017, Indonesia passed Government Regulation in Lieu of Law No. 1 (2017) regarding Access to Financial Information for Taxation Purposes (GRILL) and Law No. 9 (2017), together amending the procedure by which the competent authority may obtain bank information and removing bank secrecy with respect to requests for information for tax purposes. The legal and regulatory framework on access to information is now in place, and the amended procedure has been tested several times in practice, yielding good results. The rating of element B.1 is therefore upgraded to Largely Compliant and Indonesia is recommended to closely monitoring the implementation of the new Regulation. Since the last review, the network of partner jurisdictions with which Indonesia can exchange information on request has also been greatly enlarged and thanks to the change in access to banking information, is now in line with the standard. At the time of the last review, Indonesia had not yet ratified a number of agreements.

4. Since the last review, the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) has entered into force in Indonesia on 1 May 2015, bringing the number of EOI partners of Indonesia to 140, including 123 relationships in force.

5. Finally, Indonesia also took some commendable initiatives to improve tax compliance and the practice of exchange of information. First, important steps to address weaknesses in supervision as identified in the previous review have been taken and have led to an increase in tax compliance rates, but further efforts are needed to ensure adequate enforcement exists to ensure the availability of accurate information under company and tax law. Second, Indonesia reviewed the organisation and level of resources of its EOI unit, and took awareness raising initiatives to strengthen its co-operation with local tax offices, to improve its EOI practice. Although Indonesia has taken steps to improve the timeliness of its responses, further improvement is needed, especially when local tax offices are involved in the collection of the requested information. Indonesia is therefore recommended to continue its efforts on the availability in practice and timely access to information.

Key recommendations

6. As noted above, while some good progress was made in monitoring and enforcing the legal requirements on availability of relevant information, these efforts should be continued towards ensuring the full availability of ownership and accounting information. Indonesia is also recommended to continue improving its EOI processes to allow for timely responses to treaty partners.

7. The other recommendations made to Indonesia relate to new aspects introduced in the 2016 Terms of Reference (ToR): Indonesia's legal and regulatory framework and practices have also now been evaluated for the availability of beneficial ownership of relevant entities and arrangements as well as of beneficial owners of bank account-holders.

8. The concept of beneficial ownership is not new in Indonesian law and the anti-money laundering legislation allowed for some beneficial ownership to be available in practice but the legal and regulatory framework needed to be aligned with the international standards. Some improvements were made over the last three years, but some aspects need strengthening, in particular the identification of the beneficial owners of low AML risk entities/accounts. In addition, as several laws and regulations were passed recently, Indonesia should ensure that they are applied and interpreted in line with the standard.

9. Indonesia passed in March 2018 a Presidential Regulation on Beneficial Ownership Identification Principles for Corporations in Anti-Money Laundering and Counter-Terrorism Financing that requires all relevant entities to identify their beneficial owners and record such information in a public register, although new legal provisions still require further clarification. This regulation being very recent, it still needs to be complemented by guidance ensuring the full understanding and implementation of the new requirements in line with the international standard, and the implementation of these requirements should be monitored by the Indonesian authorities accordingly.

Overall rating

10. Indonesia is rated Partially Compliant for element A.1, Largely Compliant for elements A.2, A.3, B.1 and C.5, and Compliant for all other elements. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Indonesia is Largely Compliant. This new overall rating illustrates the improvements made by Indonesia in its implementation of the international standard.

11. In the three year review period from 1 July 2014 to 30 June 2017, Indonesia received 77 requests for information and sent 264 requests. In the previous review period, Indonesia had received 48 requests from 14 partners. Indonesia's main EOI partners for inbound requests were Australia, India, Japan and Norway. For outbound requests, Indonesia's main EOI partners over the review period were Hong Kong (China), Japan, Singapore and the United States. The requests sent to Indonesia were very diverse and covered information on the legal ownership of Indonesian entities (mainly companies), accounting information, banking information on entities and individuals, as well as other types of information, such as tax information. Indonesia successfully answered 97.5% of the received requests and its partners were satisfied with the quality of the requests for information send by Indonesia.

12. This report was approved at the PRG meeting in June 2018 and was adopted by the Global Forum on 13 July 2018. A follow up report on the steps undertaken by Indonesia to address the recommendations made in this report should be provided to the PRG no later than 30 June 2019 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determination	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place, but needing improvement	The existing AML obligations apply to the extent an entity or arrangement has a relationship with an obligated person. For the rest, the definition of "beneficial owner" as contained in Indonesia's new Presidential Regulation on Beneficial Ownership Identification Principles contains some ambiguities. It is not clear whether all beneficial owners need to be identified. Further, the definition imposes a 25% threshold on some types of entities, such as partnerships and foundations. Finally, in the absence of additional interpretive guidance, it is not clear whether the notions of direct and indirect ownership and control through other means will be adequately reflected.	Indonesia is recommended to ensure that beneficial ownership information is available in line with the international standard.

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Partially compliant	Notwithstanding that monitoring and enforcement of the obligation to submit a tax return (which contains legal ownership and identity information) covers all incoming tax returns, the overall compliance with this obligation remains low despite some improvement in tax compliance rate over the last 3 years. In addition, limited monitoring and enforcement takes place of other obligations to keep or submit legal ownership and identity information.	Indonesia should continue to make progress towards ensuring that its monitoring and enforcement powers are sufficiently exercised in practice to support the legal requirements which ensure the availability of legal ownership and identity information in all cases.
	Some professionals were subject to AML obligations in 2017 and new legal obligations ensuring the availability of beneficial ownership information of companies were introduced in 2018. However, the new legal obligations need to be supplemented by more detailed guidelines and the implementation efforts by relevant authorities appear to be fragmented. The agencies' plans to effectively supervise the new requirements have also not been finalised.	Indonesia is recommended to monitor the implementation of new provisions to ensure beneficial ownership information is available.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place		

Determination	Factors underlying recommendations	Recommendations
EOIR rating: Largely compliant	Notwithstanding some improvement in tax compliance rate over the last 3 years and the implementation of a compliance programme by the DGT, the compliance rate remains globally low and does not allow to ensure that accounting information is always available as required under the standard.	Indonesia should continue to make progress towards ensuring that its monitoring and enforcement powers are sufficiently exercised in practice to support the legal requirements which ensure the availability of accounting information in all cases.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place	Beneficial owner(s) of account-holders may be unidentified in respect of customers representing low risk for AML/CFT purposes.	Indonesia should ensure that beneficial owners of all account-holders are required to be identified.
EOIR rating: Largely compliant	Indonesia recently amended the obligations of banks to identify and verify the identity of the accounts holders and their beneficial owners.	Indonesia is recommended to monitor that all beneficial owners are identified in practice.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
EOIR rating: Largely Compliant	New legislation amending the procedure for accessing bank information entered into effect in 2017. The new procedure has been successfully applied to obtain bank information in several instances.	Indonesia should monitor the implementation of new provisions relating to access to bank information.

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 *(ToR B.2)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
EOIR rating: Compliant		

Determination	Factors underlying recommendations	Recommendations
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
The legal and regulatory framework	This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.	
EOIR rating: Largely compliant	Although since 2013 the Indonesian authorities have organised several programmes to sensitise officers and set new rules, there remains a lack of awareness to the importance of EOI at the level of local tax offices, which are responsible for collecting a significant part of the information for EOI purposes. Further, the procedures in place for local tax offices to collect information result in extremely protracted timelines. This has caused delays in responding to EOI requests in the first round of reviews and continues to be the primary source of delay.	Indonesia should monitor the implementation by the local offices of the procedures recently in place between the competent authority and local tax offices so as to respond to requests in a timely manner.

Overview of Indonesia

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

Economic background

2. Indonesia is Southeast Asia's biggest economy, the world's tenth largest economy in terms of purchasing power parity, and a member of the G-20. In 2016, Indonesia's GDP was USD 932.4 billion. Indonesia is also the world's fourth most populous nation, with a population of 216 million in 2016. Indonesia is ethnically diverse with more than 300 local languages and the official language is Bahasa. Indonesia's currency is the Indonesian rupiah (IDR).

3. Indonesia's main trading partners are China, United States, Japan, Singapore, and India. Approximately two thirds of Indonesia's exports are delivered to the Asia Pacific region, and approximately a quarter are delivered to Europe and North America. Indonesia is rich in natural resources, which comprise a significant part of Indonesia's exports.

Legal system and governance

4. Indonesia is a civil law country, the legal system for which is influenced by Roman-Dutch law, customary (or *adat*) law, and Islamic law. These three strands of law co-exist in modern Indonesia. A number of Dutch colonial laws are still in force; for instance, commercial law is grounded upon the Commercial Code 1847. However, the modern commercial legal framework is supplemented by a large number of new laws enacted since Indonesia's independence. These new laws include the Limited Liability Company Law 1995 (amended in 2007), Capital Market Law 1995 (amended in 2007) and Foundations Law 2001.

5. The hierarchy of laws in Indonesia is as follows: the 1945 Constitution; Decrees of People's Consultative Assembly; Law or Government Regulation in Lieu of Law; Government Regulations; Presidential Regulations/Decrees; Ministerial regulations and provincial/local regulations. Enacted tax treaties have the status of *lex specialis* and are ranked higher in the hierarchy of laws than domestic laws, while staying inferior to the 1945 Constitution.

6. Indonesia's judicial system consists of public/general courts, religious courts, administrative courts, the Supreme Court, the Constitutional Court, and various specialised courts. The Supreme Court is the highest court in the country and is the final court of appeal for criminal and civil tax matters. Public courts consist of district courts (situated in the municipalities) at the first level and the provincial courts at the appeal level. Administrative courts rule in matters of dispute involving state officials or government institutions. The Tax Court is the court of appeal in tax matters and is included in the system of Administrative Courts.

Taxation and international co-operation

7. Indonesia's tax system consists of taxes levied at the national and local levels. The primary taxes administered by the central government are the income tax, the Value Added Tax (VAT), and the sales tax on luxury goods (VAT BM). Local government bodies administer several types of local taxes, including, but not limited to, motor vehicle tax, surface water tax, hospitality tax, entertainment tax, and land and building tax but they do not administer any type of income tax.

8. The primary pieces of legislation in Indonesia's tax regime are the Income Tax Law (ITL) and the General Procedures and Tax Provisions Law (GPTPL). The GPTPL is supported by the Elucidation on the GPTPL. The Income Tax Law describe the tax liabilities of individuals and legal persons and set out applicable deductions and exemptions. The GPTPL governs Indonesia's system of taxation and sets out the powers and duties of the Director General of Taxes (including its access powers).

9. With respect to individuals, tax residency is established, unless otherwise provided in an applicable treaty, when he/she has a place of residence in Indonesia, is present in the country for more than 183 days within a 12-months period, or is present for a fiscal year and has the intention of residing in Indonesia. Non-residents are subject to a 20% withholding tax on Indonesia-sourced income. Nearly all incomes earned by individuals are subject to income tax, established on a progressive scale between 5% and 30%. Most of the individual income tax is collected through withholding by employers.

10. Tax residency for legal entities is based on registration or place of effective management. Each entity taxpayer must respect three groups of tax obligations: (i) its own tax liability; (ii) the obligation to withhold tax on the income of others and (iii) the obligation to collect indirect taxes. Tax is imposed upon receipt of taxable income with a flat rate of 25% of net taxable income.

11. A foreign company carrying out business activities through a permanent establishment (PE) in Indonesia has the same tax obligations as a resident. Hence, it has to settle its tax liabilities either by direct payments, third party withholdings, or a combination of both. Others foreign companies in Indonesia have to settle their tax liabilities for their Indonesian-sourced income through withholding of the tax by the Indonesian party paying the income.

Financial services sector

12. Indonesia's financial sector comprises three main subsectors: the banking industry, capital markets, and the non-bank financial industry (NBFI) (such as insurance companies, pension funds, venture capital companies and finance companies). Indonesia's financial sector is an important source of financing for domestic economic activities, providing an average annual funding of IDR 915 trillion (EUR 57 billion) during the period of 2012-16. During that period, the average annual growth of financial sector assets was 12.8%.

13. As of February 2018, Indonesia's banking industry comprises 102 conventional commercial banks, 13 sharia commercial banks, and 1 619 rural (including sharia) banks. Indonesia's banking sector is fairly concentrated; the largest four banks (three of which are state-owned) hold over 46% of total bank assets while the 15 largest banks hold nearly 64% of total bank assets. Indonesia's banking industry continues to play a dominant role in the national financial sector, holding around 75-80% of financial sector assets and equalling 55% of GDP in 2017. Banking sector assets in 2017 totalled IDR 7 513 trillion (EUR 468 billion), of which IDR 7 387 trillion (EUR 460 billion) was held by commercial banks. Foreign held asset in financial institution as of February 2018 about IDR 2 935.5 trillion (EUR 182 billion, or 30% of total assets held in financial institutions).

Anti-money laundering regime

14. Indonesia's AML/CFT regime was assessed by the Asia Pacific Group on Money Laundering in 2008, against the 2008 FATF recommendations. Indonesia was rated Non-Compliant on old recommendation 33 on legal

persons and beneficial owners and Partially Compliant under old recommendation 5 on customer due diligence. Since then, Indonesia has addressed most of the issues raised in the 2008 report. Indonesia is being assessed under the new 2012 FATF Recommendations by the Asia-Pacific Group on Money-Laundering (an FATF-style regional body), and has just enacted the Presidential Regulation 13/2018 on Beneficial Ownership Identification Principles for Corporations in Anti-Money Laundering and Counter Financing Terrorism in order to comply with FATF Recommendations 24 and 25.

15. Indonesia's AML regulatory framework is based primarily on Law No. 8 (2010) regarding Countermeasures and Eradication of Money Laundering (Money Laundering Prevention Law) (MLPEL), which replaced the legislation in place at the time of its 2008 AML/CFT assessment. The 2010 law regulates the application of due diligence measures by obligated persons for prevention of money laundering including beneficial ownership identification requirements, as well as the supervision of obligated persons. It applies to entities in the financial sector and to entities carrying out a regulated business or profession (as described by section 17(1) MLPEL). Along with this law, Government Regulation No. 43 (2015) is the primary regulation describing the obligations of Reporting Parties on AML. To provide guidance for DNFBPs, the Regulation mandates the relevant ministries or institutions to provide regulation on beneficial ownership principles for AML/CFT. The law is therefore complemented by regulations issued by the various regulatory authorities, including the Financial Services Authority (OJK, *Otoritas Jasa Keuangan*) and the financial intelligence unit (PPATK, *Pusat Pelaporan dan Analisis Transaksi Keuangan*).

16. Pursuant to sections 5 through 7 of Law No. 21 (2011) on the Financial Services Authority, OJK is the supervisory and regulatory agency for the financial services sector and financial services providers in Indonesia. OJK has also issued a number of regulations, the latest of which was Regulation No. 12 (2017) (OJK Regulation) on the Implementation of AML/CFT in the Financial Services Sector (OJK Regulation on AML/CFT) containing, *inter alia*, a definition of beneficial owner, rules on identification and verification of beneficial ownership, rules on risk assessment, risk mitigation, customer identification, and customer due diligence (CDD).

17. The financial intelligence unit (PPATK) and various Ministries have issued regulations for the non-financial sector, in particular lawyers, accountants and notaries. Most of the regulations issued in 2011-12 were repealed and replaced with new ones in 2017.

Recent developments

18. Two main changes occurred in Indonesia's legal and regulatory framework since the publication of the 2014 Report.

19. First, in order to address a fundamental deficiency in access to banking information for exchange of information purposes, Indonesia passed the Access to Financial Information for Tax Purposes Law (AFITPL). Section 4 of AFITPL states that DGT has the authority to request information and/or evidence or affidavit directly from financial services institutions and/or other entities.

20. The initial stage was the enactment of Government Regulation in Lieu of Law (GRILL) No. 1 (2017) concerning Access to Financial Information for Tax Purposes, which has been approved by the Parliament, and enacted as Law of The Republic of Indonesia No. 9 (2017) concerning Stipulation of Government Regulation in Lieu of Law No. 1 (2017) concerning Access to Financial Information for Tax Purposes (AFITPL). The AFITPL is complemented by the Minister of Finance Regulation No. 70/PMK.03/2017 concerning Technical Guidance on Access to Financial Information for Tax Purposes (as amended by Regulations No. 73/PMK.03/2017 and 19/PMK.03/2018). It forms the technical basis for AFITPL. As a result, the DGT no longer needs the name of the taxpayer to access information held by banks, and the name of the account-holder or the account number to access information on securities accounts held by custodians. The DGT can more easily compel all financial institutions to provide financial account information.

21. Second, Indonesia strengthened the availability of information on the beneficial ownership of relevant entities and arrangements with Regulation No. 13/2018 of the President of the Republic of Indonesia on Beneficial Ownership Identification Principles for Corporations in Anti-Money Laundering and Counter-Terrorism Financing, entered into force on 5 March 2018. This Presidential Regulation requires all entities to register information on their beneficial owners with Authorised Institutions (the Ministry of Law and Human Rights, the Ministry of Trade, the Ministry of Co-operatives and Small and Medium Enterprises, and institutions having the supervisory and regulatory authority of corporate business) as well as to hold such information in their records. The Indonesian authorities indicated that the Ministry of Law and Human Rights is preparing Guidance related to the implementation of the new Regulation, expected to be issued before August 2018.

22. In addition, the Indonesian authorities continued to strengthen their internal process on the handling of EOI requests with the issuance of regulations and circulars.

23. Indonesia also ratified the multilateral Convention on the Mutual Administrative Assistance in Tax Matters in 2015, allowing it to expand its EOI network. More recently, the DTC with Belarus entered into force on 9 May 2018, i.e. after the cut-off date for this report, and the entry into force of the DTC is therefore not taken into account in the core of the report (see C.1.8 in particular).

24. Finally, Indonesia committed to automatic exchange of financial account information and signed the Multilateral Competent Authority Agreement on the Common Reporting Standard on 3 June 2015. Indonesia will start exchanging financial account information automatically in September 2018.

Part A: Availability of information

25. 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.

26. The availability of legal ownership information in Indonesia was assessed in earlier reviews under the 2010 Terms of Reference. The 2014 Report concluded that Indonesia's legislative framework required legal ownership information to be available for all relevant entities, but that the regulatory authorities did not sufficiently supervise or enforce such obligations, particularly those arising under commercial law. As a result, the legal and regulatory framework for element A.1 was determined to be "in place" and its implementation in practice rated Largely Compliant with the international standard.

27. Indonesia's legal and regulatory framework for the availability of legal ownership information has not changed since the last review. Important steps to address deficiencies in supervision as identified in the previous review have been taken and have led to an increase in tax compliance rates, but further efforts are needed to ensure adequate enforcement exists to ensure the availability of accurate information under company law.

28. Indonesia's legal and regulatory framework and practices have also now been evaluated for the availability of beneficial ownership of relevant entities and arrangements, a new aspect introduced in the 2016 Terms of Reference (ToR). Until 2017, beneficial ownership information on relevant Indonesian entities and arrangements was mainly maintained by banks under their AML obligations, to the extent the entity or arrangement had a bank account in Indonesia. In accordance with Art. 3 of Government Reg. 43/2015 and several 2017 ministerial regulations, the following professionals are now AML obligated persons: accountant, public accountant, notaries, lawyers, and financial planner.

On 5 March 2018, Indonesia's President issued Regulation No. 13/2018 on Beneficial Ownership Identification Principles for Corporations in Anti-Money Laundering and Counter-Terrorism Financing. This Presidential Regulation complements the existing AML framework in that it requires all entities to register information on their beneficial owners with specific authorised institutions as well as to hold such information in their records. However, the regulation does not provide sufficient clarity on the application of the notions of direct and indirect ownership and control through other means, absent interpretative guidance to be issued, and there are doubts on the scope of the definitions of beneficial ownership for partnerships and foundations. These ambiguities may undermine the effectiveness of the Regulation. Further, a plan for implementation of such requirements has not yet been finalised so it remains to be seen how such provisions will be carried out in practice and supervised.

29. During the review period, Indonesia received 36 requests concerning ownership information (out of a total of 77 requests), with none requesting beneficial ownership information.

30. Element A.1 is determined to be "in place, but needing improvement" and rated Partially Compliant. The updated table of determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	The existing AML obligations apply to the extent an entity or arrangement has a relationship with an obligated person. For the rest, the definition of "beneficial owner" as contained in Indonesia's new Presidential Regulation on Beneficial Ownership Identification Principles applicable to all Indonesia entities and arrangements contains some ambiguities. It is not clear whether all beneficial owners need to be identified. Further, the definition imposes a 25% threshold on some types of entities, such as partnerships and foundations. Finally, in the absence of additional interpretive guidance, it is not clear whether the notions of direct and indirect ownership and control through other means will be adequately reflected.	Indonesia is recommended to ensure that beneficial ownership information is available in line with the international standard.
Determination: In place, but needs improvement		

Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	Notwithstanding that monitoring and enforcement of the obligation to submit a tax return (which contains legal ownership and identity information) covers all incoming tax returns, the overall compliance with this obligation is remains low despite some improvement in tax compliance rate over the last 3 years. In addition, limited monitoring and enforcement takes place of other obligations to keep or submit legal ownership and identity information.	Indonesia should continue to make progress towards ensuring that its monitoring and enforcement powers are sufficiently exercised in practice to support the legal requirements which ensure the availability of legal ownership and identity information in all cases.
	Some professionals were subject to AML obligations in 2017 and new legal obligations ensuring the availability of beneficial ownership information of companies were introduced in 2018. However, the new legal obligations need to be supplemented by more detailed guidelines and the implementation efforts by relevant authorities appear to be fragmented. The agencies' plans to effectively supervise the new requirements have also not been finalised.	Indonesia is recommended to monitor the implementation of new provisions to ensure beneficial ownership information is available.
Rating: Partially Compliant		

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

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

32. Only one type of company may be established in Indonesia and that is a *Perseroan Terbatas*, or limited liability company (LLC), pursuant to Law No. 40 (2007) on Limited Liability Companies (LLCL). If a company makes public offerings of its shares in the capital market, it is categorised

as a public company (listed company) and subject to both the provisions of the LLCL and Law No. 8 (1995) on the Capital Market (the Capital Market Law). For more information on the requirements for forming an LLC, refer to paragraphs 45-46 of the 2014 Report. As of November 2017, Indonesia had 1 049 721 limited liability companies, of which 553 were publicly listed; 299 928 of these companies are considered inactive taxpayers, and the Minister of Law and Human Rights has processed 2 733 dissolution applications during the review period.

33. Indonesia also categorises companies based on whether they have any foreign participation. Companies may be 100% Indonesian owned or if foreign-owned have some portion of foreign direct investment. In 2017, 25 067 companies had foreign direct investment.

34. In practice, Indonesia has successfully responded to 36 requests for legal ownership of companies (although sometimes only after significant delays associated with other aspects of the request, see below discussion under section C.5 on Requesting and providing information in an effective manner). Peers were generally satisfied with answers received. Indonesia has not received any requests relating to beneficial ownership.

Type	Company law	Tax law	AML law
Limited Liability Companies (LLC)	All (Legal)	All (Legal)	All (Legal and Beneficial)
Foreign companies	As LLC	As LLC	As LLC

Legal ownership information for companies

35. Legal ownership information is available in Indonesia for all relevant entities. The main sources of legal ownership information are through the company, registration and tax laws. The AML law complements these obligations to some extent as all companies in Indonesia must interact with an AML-obliged entity during either the formation, registration, share transfer, information updating or liquidation of the entity (providing ownership information via the due diligence process).[1] Under company and registration law,

1. Indonesian legislation provides a specific text for each AML-obliged entity: s. 2 of Minister of Law and Human Rights Regulation 9/2017 (Notaries); s. 2 of Minister of Finance Regulation 55/2017 as amended by 155/2017 (Accountants and Public Accountants); s. 4 of FIU Regulation 6/2017 (Investment Manager); s. 4 of FIU Regulation 7/2017 (Other Goods/Services Providers); s. 2 of Minister of Finance Regulation 156/2017 (Auction Houses); s. 4 of Minister of Law and Human Rights Regulation 10/2017 (Lawyers); s. 15 of FSA Regulation 12/2017 (financial institutions and financial sector).

legal ownership information is required to be held by the Ministry of Law and Human Rights, the Ministry of Trade, and the company itself. Legal ownership information will also be available with the tax authority as all entities incorporated or domiciled in Indonesia are required to register as taxpayers by filling out a registration form providing ownership information, and all taxpayers are required to file annual tax returns containing information on their owners.

36. Although all entities are required to register legal ownership information with at least one (and usually several) public authority, supervision of such requirements was not deemed adequate at the time of the last review. Indonesia was therefore recommended to ensure that its monitoring and enforcement powers were sufficiently exercised. Since then, important efforts have been made by the DGT to increase the rate of tax return filing, but other regulatory authorities still are not systematically supervising legal obligations to maintain or file ownership information (e.g. Ministry of Law and Human Rights and Ministry of Trade). Consequently, the recommendation issued in the 2014 Report remains but is amended to take into account the progress made.

Legal ownership information held in public registries

37. The main source of legal ownership requirements in Indonesia is company law (the LLCL) and Enterprises Compulsory Registration Law (ECRL). As noted in the 2014 Report, company formation includes registration in the public Register of Companies and in the public Register of Enterprises when business is conducted in Indonesia. Registration obligations have not changed significantly from the last review and, but the procedure did with the introduction of a full online registration. They are summarised below.

38. **Incorporation:** To incorporate, all companies must register with the Ministry of Law and Human Rights, after which the Ministry will issue a decree granting them legal status. Since 2016, registration must entirely be done by a notary through a secure online platform, the Legal Entities Administration System (LEAS) (https://ahu.go.id). This mechanism brings more notaries involvement in the registration and updating information of entities and only registered notaries can access this secure site. Supporting documentation must also be uploaded, along with an attestation by the applicant that all information submitted is correct. The procedure is governed by Regulation of Minister of Law and Human Rights No. 4 (2014) as amended by Regulation No. 1 (2016).

39. Companies with foreign ownership have an additional procedure to undergo prior to engaging a notary and registering with the Ministry of Law and Human Rights: they must first obtain a foreign investment permit from the Indonesia Investment Co-ordinating Body (BKPM). To obtain this

permit, an applicant must submit identity data of all foreign founding members. The BKPM will require proof of identity for a foreign individual (e.g. a passport) and a foreign business entity is required to attach its articles of association (in either English or translation into Bahasa Indonesia). Similarly, wholly Indonesian-owned companies with foreign directors must first obtain a permit from the Ministry of Manpower, obliging them to provide identity data of the foreign directors concerned.

40. **Registrar of Companies:** To be registered in the Register of Companies, a company applicant must provide to the notary appropriate founding and identification documents. The persons representing the applicant company (e.g. a director or someone with power of attorney) must appear before the notary and present the following information: date of the company's establishment, the incorporation documents, the incorporating decree from the Ministry of Law and Human Rights, and the entity's tax identification number. In addition, the notary must be provided with information regarding individual founders and all shareholders, including: full name, date and place of birth, occupation, address, and nationality. The articles of association will also have a list of shareholders, which the notary will check against the Ministry's database. Founding members that are foreign (either individuals or entities) will need to be verified through the BKPM's licensing process (described above).

41. Information submitted to the LEAS platform is also used to populate a Register of Companies held by the Ministry of Law and Human Rights. This register, which is publicly accessible, contains identity information on the legal owners of companies (i.e. their shareholders) (s. 29 LLCL). Changes in ownership must be reported to the Ministry of Law and Human Rights within 30 days from when they were recorded by the company (s. 56(3) LLCL). This entails the shareholding changes be written in a notarial deed, which the notary then provides to the Ministry of Law and Human Rights by electronically uploading the deed and amendment form in LEAS. Failure to follow this procedure for notifying the Ministry of Law and Human Rights of the ownership change will lead to a rejection by the Ministry of any transfer (s. 56(4)).

42. **Register of Enterprises:** Law No. 3 (1982) on Enterprise Compulsory Registration (ECRL) requires all companies incorporated and conducting business in Indonesia to register in the Register of Enterprise (s. 1 and s. 5 ECRL). Business is defined as any action, behaviour or activity in an economic sector for the purpose of gaining earnings or profits (s. 1(d) ECRL). The Register of Enterprises is maintained by the Ministry of Trade and is open to the public upon payment of a fee (s. 3 ECRL; www.kemendag.go.id/en/perdagangan-kita/company-directory/data-center-collection; http://sipo.kemendag.go.id/).

43. Once a new company has been registered in the Companies Register and all technical permits required for operation have been obtained, it then must also register (either directly or through use of a notary) in the Register of Enterprises. Registration in the Register of Enterprises requires submission of legal ownership information (i.e. information on shareholders) (s. 11(2) ECRL). Registration information must be renewed or confirmed every five years (s. 22 ECRL). Changes to ownership must be reported within three months of occurring (s. 25 ECRL). Failure to comply with registration or filing obligations is punishable by imprisonment and fines (see below section on enforcement for details).

44. Information submitted to the registers is held indefinitely, as long as the company exists. With respect to liquidated companies, the Ministry of Law and Human Rights maintains the documents for 10 years following the expiry of the Certificate of Registration, that must normally be renewed every 5 years, or the promulgation of the revocation of the company concerned in the Gazette by the Ministry of Law and Human Rights. The revocation happens within 14 days after the date of submission of a report by liquidators, as provided by the Commercial Law (s. 142, 143 and 152 of LLCL).

Legal ownership information held by the tax authority

45. All companies incorporated or domiciled in Indonesia are taxable persons under Law No. 7 (1983) on Income Tax (Income Tax Law; ITL). Pursuant to Law No. 6 (1983) on General Provisions and Tax Procedures (GPTPL), all taxable persons must register with a local office of the Directorate General of Taxes (DGT) in the location of business (s. 2 GPTPL). During registration, information concerning the identity of the founding members of a company must be provided, as they are included in the constitution documents (DGT Reg. PER-20/PJ/2013 as lastly amended by Reg. PER-02/PJ/2018). Companies are also required to file annual tax returns, to which a list of current shareholders must be annexed. Non-compliance with tax filing obligations may result in the imposition of a fine and/or imprisonment (see below section on enforcement).

Legal ownership information held by the company

46. All companies incorporated in Indonesia must maintain a register of shareholders at the company office (s. 50 LLCL). The register must contain the names and addresses of all shareholders. All changes in shareholding must be recorded in the shareholder register (s. 50(3) and s. 56(3) LLCL)

47. Under the LLCL (s. 147-152), a company can cease to exist by dissolution followed by liquidation, or by liquidation directly. The liquidation process of a company in Indonesia can be divided into three phases:

- within 30 days of the date of the company dissolution deed, the liquidator must announce the liquidation process through mass media and notify the Minister of Law and Human Rights through the LEAS; the liquidation notice includes: (i) company dissolution and its basis; (ii) liquidator's name and address; (iii) liability claim procedures; and (iv) term of the claim.
- In settling the company's assets, liquidators must: (i) record and collect the company's assets and liabilities; (ii) make an announcement in the mass media and the Gazette of the liquidated assets distribution plan; (iii) claim to the creditors; (iv) distribution to the shareholders; and (v) other necessary actions.
- The liquidator prepares and delivers a liquidation report at the shareholders meeting or to the Court; within 30 days of the shareholder meeting or Court's receipt of the report, the liquidator must inform the Minister and make an announcement in the mass media; the Minister then revokes the decree on legal status of the company, promulgates the revocation in the Gazette, and strikes the company from the Company Register and the Register of Enterprises.

48. There does not seem to be any provision mandating the liquidator to keep the company document for any period after the end of the liquidation process. However, as noted above the ownership information remains available with the public authorities.

Legal ownership information held pursuant to AML regulations

49. The AML legislation can be a source of legal ownership information in Indonesia as companies will engage an AML-obliged service provider in the formation or for some operations of the entity. In particular, notaries are always involved in company formation and are subject to requirements to identify the person(s) seeking to establish the company; legal changes arising in 2016 now require notaries to authenticate share transfers, involving them in the process of updating company information. Certain relevant professionals have become subject to Indonesia's AML regime only in 2017. For a more detailed discussion, refer to the section below on beneficial ownership under AML.

Legal ownership information of foreign companies

50. The standard requires that legal ownership information on foreign companies having a sufficient nexus to the jurisdiction be available. Examples of "sufficient nexus" include, for example, having a seat of management or headquarters in the jurisdiction.

51. Although foreign companies may establish branch or auxiliary offices in Indonesia, companies having a sufficient nexus as conceptualised in the ToR would have to incorporate (or register) as an Indonesian company. As such, there are no foreign companies as defined by the 2016 ToR in operation in Indonesia.

Enforcement and oversight

52. The Ministry of Trade, the Ministry of Law and Human Rights, and the DGT carry out supervision of registration, filing, and record-keeping obligations related to legal ownership information. The Ministry of Trade oversees the Register of Enterprises and the DGT oversees compliance of taxpayers with their tax obligations. The Ministry of Law and Human Rights conducts limited supervisory activities and acts primarily as a repository of information. The 2014 Report recommended that Indonesia more effectively exercise its supervisory powers.

53. The **Ministry of Law and Human Rights** is responsible for the maintenance of the Register of Companies. The Ministry explained that it generally does not detect any registration or filing violations, although it carries out spot checks of entries to ensure compliance. This is due mainly to the strong involvement in the process of notaries who are already tasked to check the accuracy of the documents (see para. 55). It does not appear that the information received is cross-checked with the one in the Enterprise Register. The Ministry explains that it bases its inspections on the national and sectoral risk assessments prepared by the Government. Due to findings in these risk assessments, the Ministry mainly focuses on spot checking companies in the mining and financial sectors. Other government institutions are able to notify the Ministry if they come across any violations in the course of their duties, but the Indonesian authorities have not indicated whether this was done routinely.

54. Where the Ministry of Law and Human Rights is made aware of a registration or filing violation (through its own spot checking or notification by another agency), it may, as a countermeasure against the defaulting company, block the company from accessing the Ministry's web platform until such time the deficiency is rectified. Errors are categorised as administrative (e.g. the name of a founder does not match in a cross-check against other databases) or substantive (e.g. the name of the company is against the public interest or illegal). Administrative errors are reported to the notary who registered the information to rectify and substantive errors may result in a block in the system. Suspension of access from the web platform limits the type of actions that may be performed by the company. For instance, the company will not be able to legally change its directors. Further, if the company has accounts with an Indonesian bank, the bank will need to access the Register of Companies to carry out certain transactions. The bank will therefore be notified of the block and is obliged to freeze the company's assets for the

duration the block is in place. It appears that generally, filing or registration deficiencies related to legal ownership information would qualify as an administrative error and would not result in a penalty. Statistics on the number of administrative and substantive errors identified during the review period is not available but the Ministry indicated that about a hundred companies were blocked in April 2018.

55. Supervision of the 17 018 notaries is carried out by the Ministry of Law and Human Rights, including as concerns compliance with their Know your customer obligation. The Ministry has established supervisory boards at the central, regional (i.e. provincial), and local (i.e. district or city) levels. The supervisory council consists of representatives from the Ministry, the notarial profession, and academic experts. The boards can initiate regular or periodic supervision. Local boards supervise notaries in their territory and are authorised to conduct examinations of notaries (including based on reports from the public) and make reports to the regional board. Local boards are not empowered to issue sanctions. Regional boards are empowered to issue administrative sanctions, such as oral or written warnings. Appeals to sanctions issued by the regional boards are made to the central board. The central board may also impose heavier sanctions, such as dismissal. In terms of professional oversight, supervision focuses on the documents required to be maintained and kept by the notaries, as well as any supporting documents. It is not known how many notaries were subject to inspection during the period under review, but 83 notaries received sanctions ranging from warning letter (50 cases), to 3-month temporary dismissal (30 cases) and definitive dismissal (3 cases) for administrative errors (e.g. absence of sufficient witnesses when reading the deed) or forbidden actions (e.g. running service outside coverage area or having concurrent position as civil servant).

56. The **Ministry of Trade** is responsible for the oversight of the Register of Enterprises and companies' obligations to register and file legal ownership information in such register pursuant to the Enterprise Compulsory Registration Law. Failure to register is punishable by imprisonment up to three months or a fine up to IDR 3 million (EUR 186) (s. 32 ECRL). Submission of incorrect or inaccurate information is punishable by imprisonment up to three months or a fine up to IDR 1.5 million (EUR 93) (s. 33 ECRL). Any person failing to perform an obligation under the Enterprise Compulsory Registration Law or refusing to submit any information required for registration may be subject to imprisonment for up to two months or a fine of no more than IDR 1 million (EUR 62) (s. 34 ECRL). The Ministry supervised up to eight companies per month in 2017, which is very low compared to the total number of companies. The principles underlying inspections and the measures taken after inspection are not known. Removal from the Register results from administrative action based on a company's dissolution, term expiration, or a court order, and does not result from non-compliance.

57. The obligation for a company to hold a shareholder register pursuant to the Limited Liability Companies Law is not directly supervised by any public body. The shareholder information, contained through notarial deeds and their supportive documents, should be kept by notaries, as per the Notary Law 2004, and who are themselves supervised as described in para. 55 above.

58. The **DGT** supervises the obligation to submit ownership information as part of an entity's annual tax return. For a detailed description of DGT's auditing programme, refer to section A.2 below. Non-compliance with tax filing requirements will result in a penalty of 200% of the unpaid/underpaid tax on the first offence and additionally subject to imprisonment for repeat offences (s. 13 and s. 38 GPTPL). At the time of the last review, compliance with tax obligations was low and company law requirements to register and update legal ownership information were not sufficiently monitored. Since then, efforts taken by the DGT to improve tax compliance initially appear to be bearing some fruit. The overall compliance rate has improved from 59.12% in 2014 to 70.03% in 2017 of the companies required to submit a tax return (i.e. half of the companies).

59. No change has occurred with respect to the supervisory activities of the Ministry of Law and Human Rights and the Ministry of Trade even though this supervision should be facilitated as a result of the online registration mechanisms and the involvement of notaries, themselves supervised by both ministries and the Notary Supervisory Board. On the other hand, the tax filing rate improved by 18.4%. As a result, the recommendation for Indonesia to improve its enforcement efforts remains but is amended to take into account the efforts already made.

Beneficial ownership information for companies

60. During the review period, the AML legislation was the primary source of beneficial ownership information in Indonesia, but companies had no obligation to engage with an AML obligated entity, and entities subject to CDD obligations were mainly banks. As of March 2018, all companies incorporated or doing business in Indonesia are obliged to identify, hold, and register information on their beneficial owners. Regulation 13/2018 of the President of the Republic of Indonesia on Beneficial Ownership Identification Principles for Corporations in Anti-Money Laundering and Counter-Terrorism Financing (Regulation 13/2018) creates a new public registry of beneficial ownership administered by the Ministry of Law and Human Rights. The Regulation applies to "corporations" defined as groups of people and/or properties, either a legal entity or non-legal entity" and therefore applies to LLCs. The Regulation also requires that companies hold such information in their own records.

61. As new legislation entered into force only very recently, its effectiveness cannot be ascertained. Further, ambiguities in the text and the need to harmonise the new law with existing and future legislation may lead to confusion in implementation, which is to be carried out by several agencies, although the intended goal is for all information systems to eventually feed into the Corporates Administration Services System (CASS) run by the Minister of Law and Human Rights.

62. In terms of enforcement and supervision of new beneficial ownership provisions, issues similar to those arising under legal ownership are anticipated. It does not appear that the Ministry of Law and Human Rights will supervise entries made into the CASS despite having the power to perform supervision and audits.

Beneficial ownership information held pursuant to AML and professional regulations

63. During the review period, the AML legislation was the primary source of beneficial ownership information in Indonesia but companies had no obligation to engage with an AML obligated entity, and entities subject to CDD obligations were mainly banks. As of 2017, most relevant professionals are now subject to Indonesia's AML regime. However, over the review period, obligations of relevant professionals to identify and verify the identity of their customers stemmed largely from professional regulations rather than AML legislation. A brief overview of customer identification and verification rules under Indonesia's AML framework is presented below; for a more detailed description of such obligations, refer to section A.3 below on banks.

64. Indonesia's AML regime covers banks and non-banking financial institutions, and entities operating in the financial services or another regulated sector, but not all professionals relevant to EOI. As of August 2017, following the enactment of the Ministry of Law and Human Rights Regulation No. 9 (2017), notaries are also now subject to customer and beneficial ownership identification and verification requirements. Previously, certified public accountants did not come within the ambit of Indonesia's AML regime. In 2017, Minister of Finance Regulation 55/PMK.01/2017 (as amended by 155/PMK.01/2017) subjected some certified public accountants carrying out certain activities related to real-estate transactions, investment transactions, financial management and corporate services (e.g. formation and management) to AML obligations; however, this does not encompass all public accountants performing audits of companies' financial records and does not cover beneficial ownership as per the standard. Lawyers are AML-obliged professionals and subject to CDD requirements (FIU Regulation 10/2017), but are not generally involved in company incorporation, formation, or management in practice.

65. A definition of beneficial owner is not contained in Indonesia's Money Laundering Prevention Law, however, but rather in separate Ministerial regulations issued by the various authorities with AML supervisory functions.

66. Indonesia's AML framework requires that all reporting parties (including obliged professionals, such as notaries and some public accountants) identify and verify the identity of their customers through customer due diligence (CDD) and Know-Your-Customer (KYC) procedures (s. 18 MLPEL). Reporting parties must also verify whether the customer is acting on behalf of someone else (s. 20 MLPEL), in which case the true owner or customer must be identified (s. 20(2) MLPEL).

67. All documents relating to identification must be maintained for at least five years following the termination of the customer relationship (s. 21(2) MLPEL). For the most part, all reporting parties are subject to the same CDD and KYC rules; for a more detailed description of these rules, refer to section A.3 on banks below.

68. Certain relevant professionals, such as certified public accountants, have additional professional requirements to identify customers. Public accountants are required under International Accounting Standards (ISA) to know their client and perform a risk assessment prior to establishing a business relationship. Similar to AML rules, ISA requires that a public accountant reviews the client, conducts an internal control assessment and a risk assessment (of business, accounting and tax risks).The public accountant will also need to understand the client's corporate and ownership structure, which will involve identifying the company's beneficial owners. This however, does not go as far as identifying all beneficial owners of their clients according to the standard.

69. As of 2017, notaries are also subject to AML obligations, requiring them to identify and verify the beneficial owners of their customers. The obligation of identification and verification of beneficial ownership covers control through ownership and other types of control, and identification of managers as a default position (s. 8 of Regulation of the Ministry of Law and Human Rights No. 9/2017). As AML obligations only arose very recently, notaries are still learning the various nuances in the concept of beneficial ownership. Notaries present at the on-site seemed to be mostly familiar with the concept of beneficial ownership in following the ownership chain to an ultimate beneficial owner (and not through other means of exercising control).

The new beneficial ownership public register

70. In March 2018, Indonesia introduced requirements relating to beneficial ownership into its legislative framework by way of a Presidential Regulation. As a regulation, in case of a conflict with another law, Presidential

Regulation 13/2018 will not prevail over the decrees of the People's Consultative Assembly, the Law of Government Regulation in Lieu of Law (GRILL) or the Government Regulations. This approach was followed to expedite the adoption of new beneficial ownership legislation, as passing a formal law is a time-consuming process. Indonesia considers that no conflicts should arise between these legislative texts. The Presidential Regulation 13/2018 acts to provide guidance on how to implement beneficial ownership identification procedures under the MLPEL. While the Presidential Regulation was initially drafted by the Indonesian FIU, the consultations and finalisation were performed by the Ministry of Law and Human Rights.

71. The Presidential Regulation 13/2018 requires all legal persons to identify their beneficial owners and register such information in the new CASS beneficial owner registry (s. 3 and s. 18). Information that must be registered includes name of the beneficial owner, pertinent identification numbers, birth date/place, tax identification number, and relationship of beneficial owner to the corporation (i.e. nature of beneficial ownership). All companies must appoint an officer or employee who will be responsible for carrying out the duties provided for in the Presidential Regulation (s. 14). All companies must have designated "at least one" beneficial owner (s. 3(2) Presidential Regulation 13/2018). The Indonesian authorities clarify that this wording does not allow a company to abstain from identifying all its beneficial owners and that it derives from the MLPEL that all beneficial owners must be identified. This remains to be tested in practice.

72. As with legal ownership, beneficial ownership information is recorded in the CASS by a notary public upon incorporation. Subsequent changes to beneficial ownership information are not required to be updated by a notary and can be done directly by the company itself in each database (s. 18(3)). Authorised institutions (the Ministry of Law and Human Rights, the Ministry of Trade, the Ministry of Co-operatives and Small and Medium Enterprises), should they learn of an update, may also update the ownership information in the system.

73. Beneficial ownership information must be updated on an annual basis, with changes recorded in the CASS within three days of occurring (s. 20 and s. 21 Presidential Regulation 13/2018). A timeframe of three days appears to be relatively short, but Indonesia considers it reasonable given the direct access the new electronic system provides. Indonesia should monitor compliance of companies providing ownership updates within the prescribed time period.

74. Beneficial ownership information must be recorded for both new and existing entities. New entities registering have seven days to complete the forms with beneficial ownership information (s. 19 Presidential Regulation 13/2018). Existing entities have one year from the date of entry

into force of the Presidential Regulation to enter the required information (s. 30 Presidential Regulation 13/2018), i.e. by March 2019.

75. The new CASS system utilises new fields pertaining to beneficial ownership that have been designed to track the language of the Presidential Regulation so that the applicant can select the type of beneficial ownership based on the provisions of the Regulation (i.e. it can choose the eligibility criteria according to the definition provided in the Presidential Regulation, for the relevant entity applies). The applicant may also select that its beneficial owners are the same as its legal owners. The system also has a colour coding system to designate what level of beneficial ownership information has been submitted: green indicates that beneficial ownership information has been fully provided, yellow indicates that beneficial ownership information has been partially provided, and red indicates that no beneficial ownership information has been submitted. For red or yellow indicators, the ministry responsible for supervising the entity will have a duty to enforce compliance by supplying the necessary missing data, i.e. the Ministry of Law and Human Rights for companies.

76. The Ministry explains that data submitted to the register will not be deleted, even when changes are made, so that a historical record of ownership is available. Old or outdated ownership information will simply be marked as such when new ownership information is submitted. Only where a company ceases to exist will such data be deleted from the online register (although such information will continue to be held in the Ministry's archives).

77. When asked, during the on-site visit, who would be responsible for designating the beneficial owner of the company, notaries responded that the company itself would be responsible for making that determination. Notaries will accept the information provided by the company and enter it into the system. They will cross-check the information to the extent it is available in the Register of Companies; i.e. notaries will not verify whether beneficial ownership information is correct beyond ensuring that the individual shareholders of corporate founding members match those in the Register of Companies (although Indonesia considers that the Regulation appropriately places the burden on companies to submit a correct information statement). For companies that have foreign corporate founders, they will require the foreign investment licence from the BKPM. Notaries will not check other registers, such as the Register of Enterprises.

78. Presidential Regulation 13/2018 generally defines beneficial owner as an individual who can appoint or dismiss directors, commissioners, administrators or supervisors in the corporation, has the ability to control the corporation, is entitled to and/or receives the benefit of the corporation directly or indirectly, and/or is the real owner of the funds or shares of the corporation and/or meets the criteria referred to in this Presidential

Regulation (s. 1(2)). The Regulation further elaborates on the criteria that may be applied in determining the beneficial owner of various types of entities.

79. With respect to limited liability companies, a beneficial owner is an individual who meets the following criteria:

i. shares or voting rights of more than 25%

ii. receives profits or income of more than 25% of the gains or profits of limited liability companies per year

iii. has the authority to appoint, replace, or dismiss members of the board of directors and commissioners

iv. has the authority or power to influence or control the company without having to obtain authorisation from any party

v. receives benefits from the company, or

vi. is the actual owner of the funds on a limited liability company stock holdings.

An individual who meets the criteria laid out in (iv), (v), and (vi) should not be the same as an individual who meets the criteria stated in (i), (ii), and (iii).

(s. 4 Presidential Regulation 13/2018)

80. Some aspects of the definition of beneficial owners in the Presidential Regulation as it pertains to limited liability companies would benefit from more detailed guidelines, which are intended to come in the form of individual Ministerial Regulations, but which have not yet been developed.

81. For instance, although the general definition of beneficial ownership refers to direct and indirect ownership, the concept of indirect ownership is not explicit in the definition specific to limited liability companies. Similarly, although control through other means is not fully elaborated, this form of beneficial ownership may be inferred from criteria referring to influence and authority over the company. Finally, it is questionable whether all of the criteria truly refer to beneficial ownership. Criterion (v) (receiving benefits from a company) is quite broad and could refer to a number of situations. Criterion (vi) (being an actual owner of the funds on a limited liability company stock holdings) appears to refer to legal ownership.

82. Although the general definition of beneficial owner in the Presidential Regulation appears to contain all of the necessary elements, additional guidance is needed to ensure that the interpretation of the Presidential Regulation is in accordance with the international standard. Indonesia is therefore recommended to ensure that beneficial ownership information is available

pursuant to the Presidential Regulation in line with the international standard, especially for entities that have no continuous relationship with an AML-obligated person who would keep up-to-date information.

83. Further, the definition of beneficial owner as promulgated in the Presidential Regulation does not match exactly the definition of beneficial owner in other relevant legislation, notably the OJK Regulation laying out customer identification rules for banks (see A.3.1 Availability of banking information). The Money Laundering Prevention Law does not contain a definition of beneficial ownership that is to be applied to all regulated entities and professionals; rather, this definition is legislated separately in the various Ministry regulations. Indonesia considers that the Presidential Regulation aptly implements the requirements contained in FATF Recommendations 24 and 25 regarding legal entities and arrangements. Nonetheless, Indonesian authorities state that they will be amending all relevant Ministerial regulations to harmonise the definition with that contained in the Presidential Regulation, but cannot provide a timeframe for this exercise. Considering the potential deficiencies identified in the new Presidential Regulation, it remains to be seen how obliged entities will apply the new definition.

84. The Presidential Regulation also categorises beneficial ownership information as:

i. identified beneficial owners: beneficial owners who have gone through the identification and verification procedures

ii. unidentified beneficial owners: a natural person determined to be a beneficial owner but not yet passed through the identification and verification procedures

iii. un-verified beneficial owners: identified as a beneficial owner but not yet passed through the verification procedure (s. 12(3)).

85. Section 15 of the Presidential Regulation establishes a four-step process for recognising the proper beneficial owners of a company:

1. the company determines which natural person(s) is the beneficial owner using the outlined criteria
2. beneficial owners will have identification details collected by the company, including full name, identification number, date and place of birth, nationality, address, country of origin, tax identification number, and relationship to the entity
3. the company must verify the beneficial owner by obtaining supporting documents that corroborate each piece of identification information
4. after all previous steps have been properly concluded, the company must submit the beneficial owner information to the CASS.

86. For beneficial ownership information collected by the Ministry of Trade, its platform will be integrated into CASS.

Beneficial ownership information held by the company

87. In addition to registering information of their beneficial owners, Section 22 of the Presidential Regulation 13/2018 states that corporations are required to retain related corporate beneficial owners documents for at least five years from the date of approval. This requirement covers not only the initial identification documents used to establish beneficial owners but also any documents supporting the changes to the entity's beneficial owners.

88. In the case of corporate dissolution, a liquidator is required to retain documents on beneficial ownership for at least five years (s. 22(2) Presidential Regulation 13/2018).

Beneficial ownership information held by the tax authority

89. The tax authority is not a primary source for beneficial ownership information for companies as beneficial ownership information is not required for registration with the DGT nor is beneficial ownership information generally required to be submitted in tax returns. However, as part of implementing its commitment to automatically exchange tax information, Indonesia enacted GRILL 1/2017 that gives the DGT authority to compel all financial institutions to provide financial account information. Pursuant to this power, the Minister of Finance Regulation 70/PMK.03/2017 (as amended by Regulation 19/PMK.03/2018) obliges all financial institutions to submit controlling person information (covering both residents and non-residents) to the DGT as part of the financial account information reported.

Enforcement and oversight

90. Section 24 of Regulation 13/2018 provides that "Corporations that do not implement the provisions referred to in Article 3 [on the identification of beneficial owners by companies], Article 14 [on the application of the principals on how to identify beneficial owners and appointment of a responsible officer] and Article 18 through Article 22 [on reporting of the information to the authorities, keeping and updating the information] are sanctioned in accordance with the prevailing laws". Indonesia explain that the nature and amount of the sanctions depend on each institution in charge of supervising the different categories of entities and persons (e.g. warning, public announcement, administrative fine). The Indonesian authorities add that in all cases, imprisonment up to seven years may also apply for knowingly providing false information, under section 242 of the Penal Code.

91. According to Indonesian authorities interviewed at the on-site visit, the "authorised institutions" responsible for the implementation and oversight of Presidential Regulation 13/2018 are the Ministry of Law and Human Rights and the Ministry of Trade. PPATK, which was the responsible body for drafting the legislation, does not play a role in its supervision. As described above with respect to supervision of legal ownership requirements, the Ministries carry out only limited oversight of registration and filing requirements. Neither Ministry has yet conceived the method of supervision that is to be carried out for new beneficial ownership requirements, which are much more complex than legal ownership information requirements and cannot be verified in the same manner. Further, the Ministries appear to be inadequately resourced to carry out such a role (the Ministry of Law and Human Rights having a total of 20 staff and the Ministry of Trade having 46 staff dedicated to identifying ownership errors in registration of over a million companies). As the Presidential Regulation entered into force only in March 2018, and existing companies have until March 2019 to comply, no enforcement actions have yet been taken.

92. Supervisory authorities interviewed at the on-site also appear to have a somewhat simplified conception of beneficial ownership in that most officials referred to a beneficial owner as the ultimate beneficial owner at the end of an ownership chain.

93. The Ministry of Law and Human Rights explains that as notaries only came under Indonesia's AML regime in August 2017 pursuant to Regulation No. 9, no AML supervision has yet taken place, although this is expected to commence in the end of 2018 with the next cycle of regular inspections (see also para. 55 on regular inspections and 104 on awareness of notaries). Indonesia is recommended to monitor the implementation of new provisions to ensure beneficial ownership information is available.

94. For the supervision of the AML obligations of banks, please see A.3 below.

95. In conclusion, the Indonesian authorities consider that beneficial ownership information is now available from financial institutions, non-financial AML-regulated professionals, and entities themselves. Furthermore, under the President Regulation 13/2018, entities must provide their beneficial ownership to authorised institutions. The Indonesian authorities are therefore confident that beneficial ownership information is always available and up-to-date. However, several AML provisions for professionals and financial institutions are recent, and while the Presidential Regulation entered into force in March 2018, pre-existing companies have until March 2019 to comply and it remains to be seen how the definitions and obligations will be implemented in practice by companies and notaries. Indonesia is therefore recommended to ensure that the various obligations on the identification of

beneficial ownership information are in line with the international standard and to monitor the implementation of the new provisions to ensure beneficial ownership information is available.

A.1.2. Bearer shares

96. Since 2008, companies are not permitted to issue bearer shares in Indonesia. All shares must be nominal (s. 48(1) LLCL). As described in the 2014 Report (para. 69 to 71), companies having issued bearer shares had one year to amend their articles of association following the enactment of the 2007 Limited Liability Companies Law to comply with new legal requirements. The Indonesian authorities have not indicated whether any company has been wound up for failure to amend their articles of association but consider that no bearer shares remain today.

A.1.3. Partnerships

97. Indonesian law provides for the formation of two types of partnerships with legal personality: general and limited partnerships. Both types of partnerships are governed by the Commercial Law of 1847 (CL) and the Civil Code of 1847 (CC). For more information on the nature of partnerships in Indonesia, refer to paragraphs 72-74 of the 2014 Report.

- General partnership (*Perseroan Firma*) – a partnership established to conduct business under a common business name where the partners (individual or legal persons) are personally and severally liable for the obligations of the general partnership (s. 18 CL). As of November 2017, 9 908 general partnerships were registered in Indonesia.
- Limited partnership (*Perseroan Komanditer/Commanditaire Vennotschap*) – a limited partnership where at least one of the partners merely provides capital and is liable for the obligations of the limited partnership to the extent of the capital contributed (s. 19 CL). As of November 2017, 1 188 768 limited partnerships were registered in Indonesia.

98. General partnerships are mainly used by professionals (such as lawyers and accountants) whereas limited partnerships are a popular form of doing business among small and medium sized enterprises. Foreign investment must be in the form of a Limited Liability Company (*Perseroan Terbatas*, see A.1.1) under Indonesian law and domiciled within the territory of the Republic Indonesia. Accordingly, foreign persons cannot become a partner in an Indonesian partnership and foreign partnerships are not authorised to operate in Indonesia.

99. Legal ownership information has been available for partnerships since the time of the last review. The new beneficial ownership provisions enacted in March 2018 extend to some extent to partnerships.

100. During the review period, Indonesia received one request for legal ownership information regarding a partnership. Indonesia was able to respond and the peer was satisfied with the information received.

Identification of the partners

101. Information regarding partnerships' partners is available with the Ministry of Trade and Enterprises, the DGT, and partnerships themselves. The registration procedure remains unchanged from the time of the 2014 Report and is briefly summarised below; for additional information on the registration process for partnerships, refer to paragraphs 75-80 of the 2014 Report.

102. All partnerships established and doing business in Indonesia are required to register via a notary in the Register of Enterprises (s. 8 ECRL). Registration requires the submission of identity information on all partners (s. 13 and s. 14 ECRL). Changes in ownership are required to be registered within three months of occurring (s. 25 ECRL). Failure to register the required information or submission of incorrect information is punishable by term of imprisonment or a fine (see below section on enforcement).

103. The DGT will also hold legal ownership information on partnerships. All partnerships are taxable persons and must register with the DGT (s. 2 ITL, s. 2 GPTPL). The annual tax return of a partnership must identify all partners (s. 2 and s. 3 ITL, s. 3 GPTPL). Non-compliance with tax filing requirements will result in a penalty (see below section on enforcement).

Beneficial ownership information for partnerships

104. Requirements for beneficial ownership information for partnerships stem primarily from the Presidential Regulation 13/2018, which complements the AML obligations to identify customers and their beneficial owners (to the extent a partnership has a relationship with an AML-obligated person). Following the Regulation's entry into force in March 2018, as with companies, partnerships now are required to register information on their beneficial owners in the CASS (s. 18 and s. 22). The Ministry of Trade is working to integrate its registration system to feed into the CASS.

105. Beneficial ownership information must also be maintained by the partnership and the notary for at least five years (s. 22(1) Presidential Regulation 13/2018). The Presidential Regulation defines documents that are

required to be maintained as any documentation of changes or updates or other related documentation (s. 22(3)).

106. Where a partnership has been dissolved, a liquidator involved in the liquidation process must retain information on beneficial ownership for at least five years (s. 22(2) Presidential Regulation 13/2018). As described above, the registers hold information indefinitely even if it is deleted from the public database. Authorities confirm that these records may be accessible by the tax authority.

107. Presidential Regulation 13/2018 defines a beneficial owner of a partnership as a natural person who meets the following criteria: (i) contributed more than 25% of the capital in a partnership; (ii) receives profits or income of more than 25% of the profit earned per year; (iii) has the authority or power to influence or control the partnership without having to obtain authorisation from any party; (iv) benefits from the partnership; and/or (v) is the actual owner of the funds on the capital and/or the value of goods deposited in a limited partnership (s. 8). An individual who meets the criteria laid out in (iv) and (v) should not be the same as an individual who meets the criteria stated in (i), (ii), and (iii).

108. Beneficial ownership information should be updated on an annual basis and changes should be recorded in the CASS within three days of occurring (s. 20 and s. 21 Presidential Regulation 13/2018).

109. As with companies, the definition of beneficial owner of partnerships requires further elaboration or guidance. From a plain reading of the definition, it does appear that any partner who has not contributed more than 25% of the capital or who does not receive more than 25% of the partnership's annual earnings would not be considered a beneficial owner. Indonesian authorities could not definitively say whether all partners should be considered beneficial owners. In the situation where all partners are natural persons, such information would be captured through registration of legal ownership or tax filings; partners with less than 25% ownership or profits interest may still be identified as beneficial owners under criteria (iv) and (v).

Enforcement measures and oversight

110. Partnerships are subject to oversight by the Ministry of Trade and the DGT. The Ministry of Trade is responsible for overseeing registration in and submission of information to the Register of Enterprises. The DGT is responsible for the oversight of partnerships' compliance with their tax obligations.

111. Failure to register the required information in the Register of Enterprises is punishable by a term of imprisonment of no more than three months or a fine not to exceed IDR 3 million (EUR 186) (s. 32 ECRL).

Submission of incomplete or incorrect information is punishable by a term of imprisonment of no more than three months or a fine not exceeding IDR 1.5 million (EUR 93) (s. 33 ECRL). In 2017, no penalties relating to partnerships were issued.

112. Partnerships are supervised by the various regional offices of the Ministry of Trade. Oversight of proper registration is carried out by the local office in which the partnership is located. The local office will inspect a partnership through both desk-based and on-site inspections. In 2017, the regional offices of the Ministry of Trade inspected 36 limited liability partnerships (out of over a million limited liability partnerships). In 2017, the Ministry of Trade supervised 18 general partnerships (out of 9 908 general partnerships). No deficiencies were identified in the course of these inspections but the sample for inspection was too small to draw definitive conclusions.

113. A tax return must be filed annually regardless of taxable income in a particular year; filing non-compliance will result in a failure to file penalty, a potential penalty of 200% of the unpaid/underpaid tax on the first offence, and potential imprisonment for repeat offences (s. 13A, s. 38 and s. 39 GPTPL). For a more comprehensive description of the DGT's audit programme, refer to section A.2 below.

A.1.4. Trusts

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

115. Indonesia has not signed the Hague Convention on the Law Applicable to Trusts, but Indonesian law does not prohibit Indonesian residents from acting as trustees, protectors or administrators of a trust set up under foreign law. As the concept of trust is not recognised in Indonesia, there is no body of law specifically governing trusts. However, ownership information for trusts is required to be held by a trustee under AML and tax law. There is also no obligation for trustees to register with any local authority.

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

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

Ownership information held pursuant to AML and financial regulations

118. Identity information on persons relevant to a trust would be available by way of AML, should the situation arise where a foreign trust is managed by an Indonesian resident. Indonesian trustees acting by way of business are subject to Indonesia's AML regime (s. 17(1) MLPEL), including the applicable KYC and CDD rules as described above (refer to section beneficial ownership of companies).

119. Concern was raised in the 2014 Report that although trusts are legally subject to Indonesia's AML regime, some aspects of the customer identification rules were not sufficiently clear with respect to trusts. Indonesia was therefore recommended to clarify a trustee's obligation to identify the settlor(s), trustee(s) and beneficiaries.

120. In 2017 Indonesia introduced an explicit obligation for financial services providers to identify and verify the beneficial owners of trusts, which are defined as the settlor(s), trustee(s), protector (if any), beneficiaries, and any controlling persons (s. 28(1) of the Head of Financial Service Authority Regulation No. 12/POJK.01/2017 on The Implementation of AML/CFT in the Financial Services Sector). Although this new obligation applies to financial institutions only (and not to all AML-obligated persons), considering the low prevalence of trusts in Indonesia, the recommendation is considered addressed (but see also section A.3 on banking information, particularly para. 210).

Ownership information held pursuant to tax law

121. Ownership information of a trust may be available to the tax authority if a foreign trust is managed by an Indonesian resident. The Indonesian tax authority has never encountered a trust and is unsure about the theoretical tax treatment of such an arrangement. As noted in the 2014 Report (para. 89), the DGT conjectured that a trust could be taxed as an "other form of entity" in which case the trust would be required to identify its owners in an appendix to its income tax return (s. 1(3) GPTPL and s. 2(1)(b) ITL). However, it is not clear that the persons relevant to a trust (i.e. the settlor, trustee and beneficiaries) would qualify as owners for the purpose of the tax return. The trustee and the beneficiaries could also have tax obligations linked to the incomes derived from the trust, with the same uncertainty on the availability of full identity information on all the other persons involved in the trust.

Enforcement measures and oversight

122. Trustees are subject to the AML supervision of OJK. OJK's programme of supervision is described above in the section on beneficial ownership of companies under AML. During the period under review, no authority encountered any trusts.

A.1.5. Foundations

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

124. In Indonesian, foundations (*Yayasan*) are governed by Law No. 16 (2001) on Foundations as amended by Law No. 28 (2004) (Foundations Law) (FL) and may be formed for social, religious, or humanitarian purposes (s. 1(1) FL). Upon dissolution, the assets of the foundation must go to another foundation or legal entity with similar goals, otherwise it reverts to the State (s. 68 FL). To achieve their objectives, foundations can conduct business by either establishing a business entity or participating in a business entity (s. 3 FL). As of November 2017, 293 206 foundations were registered as corporate taxpayers in Indonesia (including 92 294 considered as inactive).

125. Identity information on all persons relevant to a foundation is available through a combination of provisions in the Foundation Law and tax legislation.

126. During the period under review, Indonesia did not receive any requests relating to foundations.

Ownership information held by public authorities

127. The Ministry of Law and Human Rights holds the register of foundations. The registration requirements for foundations are summarised below; for a more detailed description of the registration process, refer to paragraphs 95-98 of the 2014 Report.

128. Foundations are established by notarial deed (s. 9(2) FL). The constitutional document must contain identity information on the founders, as well as the foundation council, i.e. the patrons, executives and supervisors (s. 14 FL). No information on beneficiaries is explicitly required although the 2014 Report noted that a class of beneficiaries may be inferred from the goals and objectives of the foundation. Even should this inference be true, it would not necessarily provide for identify information on all beneficiaries (however, see below section on the Regulation 13/2018). Changes to executives

and supervisors must be notified to the Ministry of Law and Human Rights within 30 days of occurring, but changes to patrons do not need to be reported, although they have the power to change the article of association, appoint and relieve the executives and supervisors (s. 28 FL, but they would be captured by the definition of beneficial owners below).

129. Although foundations can only be established for charitable purposes, they are allowed to carry out business activities in furtherance of charitable objectives. Section 3 of the Foundations Law permits foundations to undertake business activities to support the achievement of its goals and objectives by either establishing a business entity or participating in a business entity. Where a foundation carries out business, this business must be registered in the Register of Enterprises pursuant to the procedure described above in relation to companies, but not the foundation itself.

130. Following the entry into force of Regulation 13/2018, foundations are also subject to requirements to identify and register information on their beneficial owners in the CASS. Beneficial ownership information of foundations should be updated on an annual basis and changes should be recorded in the relevant register within three days of occurring (s. 20 and s. 21 Regulation 13/2018).

131. Regulation 13/2018 defines a beneficial owner of a foundation as a natural person who: (i) has initial wealth of more than 25% on a foundation as stated in the articles of association; (ii) has the authority to appoint or dismiss supervisors, administrators, and supervisors of the foundation; (iii) has the authority or power to influence or control the foundation without having to obtain authorisation from any party; (iv) receive benefits from the foundation; and/or (v) is the actual owner of the funds or other assets or equity participation in the foundation (s. 5). An individual who meets the criteria laid out in (iv) and (v) should not be the same as an individual who meets the criteria stated in (i), (ii), and (iii).

132. The definition of beneficial owner as it applies to foundations would appear to cover all relevant persons to a foundation; importantly, criterion (iv) would appear to cover beneficiaries, who are not explicitly required to be identified under the Foundations Law. Criteria (ii) and (iii) would appear to cover executives and supervisors, as well as other individuals exercising control over a foundation (such as the foundation council).

133. However, as noted above with respect to other types of entities, some aspects of the definition may cause confusion. Criterion (i) (having initial wealth of more than 25%) appears to refer to a founder who contributes more than 25% of the foundation's assets. This would then not cover all founders, should some have contributed less than 25% of the assets. However, as all founders are required to be identified by the Foundations Law, this concern

is not as pressing as it is with respect to partnerships (discussed above). Criterion (v) is likewise potentially confusing as it is unclear who would be the actual owner of the funds. Finally, as with companies and other entities, although the general definition of beneficial ownership refers to direct and indirect ownership, indirect ownership is not clearly covered by the specific definition. The Indonesian authorities explain that an individual who meets the criteria laid out in (iii), (iv), and (v) should not be the same as an individual who meets the criteria stated in (i) and (ii). Criteria (iv) and (v) can be interpreted as covering indirect owners of the foundations.

134. Beneficial ownership information collected by a notary or the foundation must be maintained for a minimum period of five years (s. 22 Regulation 13/2018). Documents that are required to be retained include any documentation of changes or updates or other related documentation (s. 22(3) Regulation 13/2018).

135. Taken altogether, the Foundations Law and the Regulation 13/2018 would appear to require the identification of all persons relevant to a foundation (founder, council members, and beneficiaries).

Ownership information held by the tax authority

136. As described in the 2014 Report, foundations are taxable as "corporations" under the Income Tax Law (s. 1(2)) on the dividend or proceeds received from the business entities they may own. Accordingly, they are required to register with the Director General of Taxes, which includes the submission of identity information (s. 2 GPTPL). The Indonesian authorities clarify that in the case of foundations, the documents to be provided are the (i) copy of constitution document (see s. 14(1) and 14(3) of FL: a constitution document consists of the article of association and other related documents, which at least containing the full name, date and place of birth, occupation, residence, and nationality of founders, patrons, executives, and supervisors) and its amendments; (ii) copy of foundation council ID card; (iii) copy of foundation council TIN; and (iv) statement of domicile from the foundation council.

137. Foundations also need to submit annual tax returns, which require identity information on the directors and supervisors, which was equated to executives and supervisors (s. 3 GPTPL). The tax authorities would not maintain information on the beneficiaries of foundations.

Ownership information held pursuant to AML and financial regulations

138. Foundations in Indonesia are required to engage a notary (which is an AML obliged service provider) at incorporation, as well as at registration in LEAS, changes to founding documents, and dissolution, but several years might elapse between these events, during which no update to the identification of beneficial owners would be made known to a notary. Where a foundation has an account with an Indonesian bank, the bank will be required to conduct CDD and KYC with updates (as described below under section A.3). In addition, a foundation often interacts with other AML obliged service providers, such as accountants, lawyers, or financial planner/investment managers.

Enforcement measures and oversight

139. The Ministry of Law and Human Rights has supervisory authority over foundations. Members of the foundation council that fail to comply with all requirements of the FL can be fined and imprisoned up to five years, and have an obligation to return any transferred assets. The Indonesian authorities have not indicated whether any controls are performed and whether these sanctions have been applied in practice.

Other relevant entities and arrangements

Cooperatives

140. Indonesian law provides for the possibility to establish co-operatives. Co-operatives are a group of persons (the "members"), performing business activities in a legal entity based on co-operative principle, to support their common interests. They are governed by the Law No. 25 Year 1992 on Co-operatives. As of January 2018, 269 347 co-operatives were identified in Indonesia.

141. Under Indonesian law, co-operatives are entities situated in the territory of Indonesia (s. 7(2)) created by Indonesian citizens (s. 18) upon specific principles as follows: voluntary and non-restrictive membership, a democratic management, profits distributed to members in proportion to their contribution, the payment of limited return on capital and self-reliance (s. 5). Co-operatives can be either primary, with a least 20 members, or secondary, gathering three primary co-operatives (s. 6). The establishment of a co-operative is done through articles of incorporation containing the by-laws (s. 6) and including among other information the list of names of incorporators. The co-operative society becomes a legal entity upon Minister of Co-operatives and Small and Medium Enterprises approval of its article of association (s. 9).

142. Ownership information is held by the DGT, the Minister of Co-operative and Small and Medium Enterprises and the co-operative itself through its Board of Management. While the Minister of Co-operative and Small and Medium Enterprises gives to the co-operative its legal status, the Board of Management (s. 30) maintains a membership register.

143. Co-operatives are also subject to income tax under the General Provisions and Tax Procedure Law. As a result, the co-operative has to file an annual tax return (s. 3 GPTPL), which includes a list of members comprising information such as their name, address and amount of contribution to the capital. As provided above for entities subject to the GPTPL, non-compliance with tax filing requirements result in a penalty.

144. With respect to beneficial ownership information, co-operatives fall under Regulation 13/2018 on Beneficial Ownership Identification Principles for Corporations in Anti-Money Laundering and Counter Financing Terrorism (Art 2) which complements the AML obligations to identify customers and their beneficial owners. Following the Regulation's entry into force in March 2018, the co-operatives are now required to register information on their beneficial owners in the CASS (s. 18 and s. 22). The requirements are the same as for partnerships and companies, described above.

145. In practice, no issues were identified by neither Indonesia nor peers inputs with respect to co-operatives.

A.2. Accounting records

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

146. The 2014 Report found Indonesia's framework for the maintenance of accounting records for all relevant entities and arrangements, including underlying documentation, for a minimum period of ten years to be line with the international standard. The legal framework for Element A.2 was determined to be "in place" and rated Compliant. Indonesia regulatory framework pertaining to accounting requirements has not changed significantly since the first round of reviews. Accounting requirements are imposed by the Tax Law, Commercial law, Corporate Documents Law and the AML/CFT legislation. The 2014 Report also noted that tax authority is responsible for the supervision of compliance with record-keeping obligations but that the overall compliance with this obligation was low (para. 43). In order to increase compliance effectivity, Indonesia has notably developed a compliance programme based on persuasive and punitive tools. Apart from these programmes, Indonesian law provides for the authority the possibility to conduct compliance and specific audits, make them responsible of the filing

of tax returns and allow them to request information directly to taxpayers. In case of non-compliance, penalties exist. The supervision by the DGT still needs to be strengthened in order to ensure an effective compliance rate.

147. Over the review period, Indonesia received 42 requests for accounting information.

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

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework		
Determination: In place		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	Notwithstanding some improvement in tax compliance rate over the last 3 years and the implementation of a compliance programme by the DGT, the compliance rate remains globally low and does not allow to ensure that accounting information is always available as required under the standard.	Indonesia should continue to make progress towards ensuring that its monitoring and enforcement powers are sufficiently exercised in practice to support the legal requirements which ensure the availability of accounting information in all cases.
Rating: Largely Compliant		

A.2.1. Obligations to maintain accounting records

149. Indonesian commercial and tax law contains comprehensive obligations for relevant entities and arrangements to maintain proper accounting records for a period of ten years. DGT's supervision programme consists of the filing of tax returns, tax audits and investigations, but also of compliance monitoring schemes in order to increase the compliance rate.

150. Requirements to maintain accounting records have not changed significantly since the last review and are summarised below.

Commercial law requirements to maintain accounting records

151. Under the Commercial Law (CL) and the Corporate Documents Law (CDL), companies are required to keep proper books and records to document their business activities and demonstrate their financial position. Such accounting requirements allow for business transactions to be explained, an entity's financial position to be discerned, and for financial statements to be prepared. Taken in total, they cover all relevant entities.

152. Section 6 of the Commercial Law provides that all business entities (including partnerships) must maintain and manage bookkeeping reflecting their financial position and all related commercial activities in such manner that demonstrating their rights and obligations in timely manner. Business entities are obliged to a prepare balance sheet within six months after the completion of the respective accounting year. The retention period for these documents is of 30 years (s. 6(3) CL). The Indonesian Criminal Law provides penalties in case of violation of obligations pursuant to s. 6 of the Commercial Law, including sanctions from a maximum imprisonment of one year and four months to seven years.

153. Under the Corporate Documents Law, companies and business incorporated and domiciled in Indonesia are required to prepare and keep records in accordance with the needs of the company (s. 8(1)). Records must comprise annual balance sheets, annual profit and lost statements, accounts, daily transaction journals or any writing containing information about the rights and obligation as well as other matters linked with the business activities of a particular company (s. 5 CDL). Such obligations apply to partnerships. Under the Corporate Documents Law, records must be maintained for at least ten years from the end of the financial year to which they related (s. 11).

154. However, as noted in the 2014 Report, the extent to which records are required to be kept under the Corporate Documents Law will depend on the nature of the business. Further, the Corporate Documents Law does not apply to businesses without business activities in Indonesia.

155. Companies that are subject to the Limited Liability Companies Law are also required to prepare annual report consisting of financial statements (balance sheet, income statement, cash flow statement, equity statement, and notes to financial statements). These financial statements must be prepared in accordance with internationally accepted accounting standards (s. 66 and s. 100 LLCL). Accounting records must be kept at the company's registered address (s. 100(2) LLCL).

156. Some companies must file audited financial statements with the Ministry of Law and Human Rights (s. 66(4) LLCL). Companies that are required to do so are: (i) those doing business in the financial sector; (ii) those issuing bonds sold to public; (iii) publicly listed companies; (iv) companies

owning assets or having turnover of at least IDR 50 billion (approximately EUR 3 078) (s. 68 LLCL). Such companies must submit their balance sheet and profit and loss statement for the financial year. As mentioned above, all documents submitted to the Ministry of Law and Human Rights are maintained indefinitely. The Indonesian authorities explain that in practice the Ministry can do annual checks but no statistics were provided on the number and depth of checks performed. Indonesia indicated that no deficiencies were identified during the review period.

157. The Decree of Head of Capital Market and Financial Institutions Supervisory Agency No. KEP-346/BL/2011 further requires publicly listed companies to submit periodical financial statements (mid-year and annual) to the Capital Market and Financial Institutions Supervisory Agency, which consists of balance sheet, income statement, cash flow statement, equity statement, and notes to financial statements. Annual financial statements must be attached with the audit report from a public accountant.

158. The Foundations Law also requires foundations to maintain books and records on the activities of the foundation in the form of financial documents (s. 48 FL). Foundations are also required to prepare annual financial reports, which must include the foundation's financial position, and a report on activities and cash flow (s. 49 FL). These obligations are subject to the same retention requirement as provided under s. 28 of GPTPL, i.e. 10 years.

159. Indonesian legislation does not contain any provisions specific to trusts, but as noted in the 2014 Report, trustees would have to keep a proper accounting of the trust assets to avoid being personally taxed on such assets. The situation has not changed since the time of the last review. None of the Indonesian authorities interviewed at the on-site reported having come across any foreign trusts being administered by Indonesian residents in the course of their duties.

Entities that ceased to exist

160. With respect to entities that have been liquidated or otherwise cease to exist, accounting information will be held by one of the supervisory agencies (without underlying documents), a person designed by the owners of the entity or a liquidator (including underlying documents). Where a company is required to file its audited financial statements in accordance with the Limited Company Law, the information will be held indefinitely by the Ministry of Law and Human Rights. In accordance with Decree of Head of Capital Market and Financial Institutions Supervisory Agency No. KEP-346/BL/2011, the Agency will also hold information on publicly listed companies (although this comprises a very small percentage of Indonesian companies).

161. More generally, when a corporation ceases to exist, the books and records must be kept by the person designated by the general assembly of shareholders or by the partners (and in the absence of such designation, designation is made by the court). This derives from the provisions of the Commercial Code 1847. Section 35 provides that "if no agreement has been made with regard to the books and papers, relative to the dissolved partnership, the same shall, after the liquidation and final separation of the partners, be deposited with the partner, which the majority of votes or at equal division, the Court of Justice shall appoint, under reserve of the partners or their representatives having free access thereto". Section 56 regarding companies refers to s. 35: "A dissolved company is wound up by the managing directors, unless otherwise stipulated in the articles of corporation. Section 35 is applicable in this respect".

162. In the meantime, accounting records will be held by a liquidator pursuant to the procedure described above in para. 47, since the latter acts as a representative of the corporate taxpayer in liquidation (s. 32(1)(d) of GPTPL). However, there does not seem to be any provision mandating the liquidator to keep the company document for any period after the end of the liquidation process.

163. During the review period Indonesia has not received any request regarding an Indonesian company that ceased to exist. Indonesia should take measures to ensure that accounting information available with legal entities which were terminated is kept in line with the standard also after they ceased to exist.

164. The above laws include limited or no sanctions for violation of the book keeping requirements. Sanctions are provided by the Tax Law (and imprisonment is possible for violations pursuant to the Criminal Law).

Tax law requirements to maintain accounting records

165. All taxpayers in Indonesia have obligations to maintain proper books and accounts. As described in the 2014 Report, all entities (including partnerships and foundations) incorporated or domiciled in Indonesia is subject to income tax (s. 2 ITL). Tax requirements to maintain accounting records are also in line with the international standard.

166. Section 28 of the Tax Code provides that corporate taxpayers must maintain their bookkeeping in good faith. Bookkeeping must reflect financial data and information including assets, liabilities, equity, income and expenses, and acquisition cost and sales of goods or services, which culminate in the preparation of financial statements, a balance sheet and an income statement for the respective taxable year (s. 1(29) GPTPL).

167. A person who fails to maintain records in Indonesia, or fails to show or make available accounts, records or other documents, is subject to a penalty of a term of imprisonment of up to six years and a fine of between two and four times the amount of the unpaid (or underpaid) tax (s. 39 GPTPL). Indonesia confirmed that the accounting obligations and the penalties induced by the violation of the latter still apply notwithstanding an absence of tax liability in the year concerned, but in case no unpaid or underpaid tax, the only available sanction is imprisonment.

Accounting information in EOI practice

168. Over the review period, Indonesia received 42 requests for accounting information. Indonesia has mostly exchanged the following types of accounting information: contracts and pricing agreements, financial statements, invoices, sales details, customs and shipping documents, procurement process, ledgers and accounting book, payment slips.

169. Over the review period, the length of time accounting information was exchanged ranged from less than 90 days to more than a year. The majority of accounting requests received by Indonesia over the review period were complex, involving multiple taxpayers and often requiring voluminous documentation. One of the requests that took over a year to be answered covered ten taxpayers and dated back 15 years. Accounting requests must often be sent to a local tax office for the information to be gathered, from the local tax office's files, directly from the taxpayers or related entity (sometimes including a visit) or through an audit. Finally, for some requests, the information was available with the DGT, which used the information in the annual tax return (but the request may include other types of information). For more information on access to accounting information and Indonesia's EOI practice, refer below to sections B.1.2 Accounting records and C.5 Requesting and providing information in an effective manner below.

A.2.2. Underlying documentation

170. Accounting records should include underlying documentation and should reflect details of all sums of money received and expended, all sales, purchases and other transactions and the entity's assets and liabilities.

171. As noted in the 2014 Report, all relevant entities are required to maintain underlying documentation as a part of their record keeping requirements under commercial and tax law. Accounting requirements have not changed significantly since the last review; for additional description of such obligations, refer to paragraphs 138-142 of the 2014 Report.

172. Section 28 of the Tax Code requires taxpayers to keep documents used as a basis for its books and records for a minimum period of ten years. Such documents include records of assets, liabilities, equity, income and expenses, sales and purchases, so that the amount of tax payable can be calculated (s. 28(7) GPTPL).

173. Under commercial law, section 11 of the Corporate Documents Law require that "evidences" of bookkeeping (described by section 6 as documents providing the basis for book keeping, reflecting changes in assets, liabilities and capital) must be kept for at least ten years.

174. As described below, underlying documentation is requested routinely in the course of DGT's audit programme in order to verify the taxpayer's accounting, either through a field audit or through a desk-based audit.

175. During the review period, Indonesia received requests for information including for underlying information such as contracts (20 requests), invoices (16 requests) and customs and shipping documents (12 requests). All of them have been answered.

Enforcement measures and oversight

176. The enforcement of the accounting obligations of relevant entities and arrangement is performed primarily by the tax authorities, with regards to the tax obligations to maintain accounts and records. As of 2017, the DGT had approximately 5 680 tax auditors and 7 000 other tax officials also able to conduct audits, for a total of 2.81 million corporate taxpayers registered and 33.1 million individual taxpayers. The Indonesian tax authorities realise the importance of tax returns compliance, hence, the DGT has set a sustainable compliance strategy in order to increase tax returns compliance rate, together with increased law enforcement actions.

Tax filing compliance

177. Indonesia distinguishes between "effective" and "non-effective" taxpayers. Non-effective taxpayers are those that no longer carry out any business; they can be those that were dissolved but for which the procedure leading to the issuance of a certificate of dissolution is ongoing or those who have not submitted a tax return for three consecutive years. Non-effective taxpayers are no longer required to submit annual tax returns. Indonesia indicated that in the event the tax authorities find a tax liability of a non-effective taxpayer, the latter would have to pay the amount corresponding to this liability.

178. At the time of the 2014 Report, the rate of non-effective taxpayers had risen over the review period from 12% in 2010 to 46% of all registered

corporate taxpayers in 2012. The report also noted that the tax compliance rate of Indonesian taxpayers was rather low: 51% among effective taxpayers in 2012.

179. Since the last review, Indonesia has taken steps to improve compliance among taxpayers and to strengthen its enforcement efforts. The DGT has initiated an awareness-raising campaign among certain sectors to improve compliance (e.g. business associations, professional associations of accountants and lawyers, enterprises with a certain number of employees). It is also going back through records of taxpayers that have been non-compliant for more than two years ago in an attempt to follow up with taxpayers that are still in default. Most of these programmes were initiated in 2015 and were based on four pillars: registration (taxpayer confirmation status and tax clearance), filing of tax return (dissemination of tax returns to the above mentioned professionals; providing facilities such as drop-boxes in public areas: malls, shopping centres and office/business districts, but also the possibility to file online), filing the tax return correctly (counselling and supervision) and tax payment.

180. As a first step, 24 million outstanding taxpayers were sent a warning letter that they are in default of tax obligations (s. 3(5a)). Negligence to the warning letter within a period of 14 days induced the sending of a repeat letter. In case of non-compliance, an audit would be launched. During the peer review period, ignored warning letters led to the issuance of 200% surcharge in 770 notices of underpaid tax assessments for incorrect or incomplete information in tax returns (s. 13A of GPTPL).

181. Further, the DGT has issued 5.6 million Notices on Tax Collection during the three years under review, their number increasing every year. In the first semester of 2017 alone, the DGT issued approximately 2.1 million tax collection notices.

182. The DGT has also initiated a tax amnesty programme in July 2016-March 2017 in an effort to encourage voluntary compliance. The DGT encouraged taxpayers to declare all hidden assets and to repatriate assets kept abroad to be invested in Indonesia. As a result, 973 426 taxpayers participated in that programme, IDR 4 884 252.6 billion assets were declared and IDR 114 540.37 billion were paid following redemption.

183. As a result in 2017, non-effective taxpayers represented 836 085 corporations (i.e. 29% of the total number of corporate taxpayers) and 6 687 578 individuals (i.e. 20% of the total number of individual taxpayers). This is a sharp improvement compared to the 46% of non-effective corporate taxpayers noted in 2012 in the 2014 Report but not yet back to the 13% counted in 2010.

184. Supervision of taxpayers in Indonesia is no small task. Indonesia tax authorities explain that to further complicate matters, sometimes warning letters do not receive their recipients due to faulty or incorrect addresses; this appears to be a not infrequent occurrence, although it has not impeded EOI in practice. As a result, following up on all non-compliant taxpayers proves to be difficult. Despite the difficulties, compliance among Indonesian taxpayers has been progressively growing since the 2014 Report, year by year, indicating that more taxpayers are aware and understand their obligation to file tax return, as illustrated in the table below:

Compliance rates

	2011	2012	2013	2014	2015	2016	2017
Compliance rate	46.23%	52.31%	56.21%	59.12%	60.42%	63.15%	70.06%

185. As a result of the various actions of the compliance strategy implemented by the DGT during the review period, in 2017, the overall compliance rate for taxpayers having an obligation to file an annual tax return (i.e. half of total taxpayers) was 70.06% and the compliance rate for corporate taxpayers was 70.96% (to compare with a rate of 57% in 2015). However, the overall compliance rate remains relatively low and there are still 29% of non-effective taxpayers.

Tax audits

186. The DGT categorises its audits into two types: those conducted to assess tax compliance and those for other purpose (such as to gather information in order to fulfil the request of information from tax treaty partner). With respect to compliance audits, the DGT has two types of risk based audits: (i) "bottom up" (where non-compliance or an irregularity is detected by a local office and communicated to central office who will send out a clarification letter to the taxpayer) and (ii) "top down", or Compliance Risk Management (where the central office selects taxpayers to be audited based on risk factors and instructs the local office to carry out the audit). The DGT categorises its taxpayers into various categories and periodically selects certain types of taxpayers (for instance in a specific sector, e.g. construction) on which to focus. The types of taxpayers selected depend on a risk-based analysis taking into account the sectors, data gathered from third parties and previous records.

187. The procedure for a compliance audit is as follows. Where a violation has been identified, the DGT first sends either a letter of warning or a letter of clarification to the taxpayer involved, who then has an opportunity to provide or correct the missing or inaccurate information. If the DGT is still unsatisfied

with the information provided, it may choose to conduct either a desk-based or field audit or immediately refer the taxpayer to the public prosecutor. With respect to desk-based audit, the auditee would be summoned to come to the tax office by a letter mentioning the relevant documents to be provided. With respect to field audits, the auditor directly goes to the auditee office/premises to request for relevant documents to be provided by the auditee. Auditees have an obligation to provide the relevant information, grant access to the auditors and give them clarification. In case of refusal, the place can be sealed until the auditee grants access. For both types of audits, the relevant information and supporting documents to be scrutinised are taxpayer profile, financial statements, tax returns, withholding information matching analysis, among others. An audit report will be prepared on the basis of the documents, clarifications asked and the record of the audit. The auditee may raise objection upon findings and reports during the audit closing conference. The audit is closed by the issuance of tax notices or any relevant output. Documents should be returned to the auditee within 30 days after the audit closing date.

188. Over the three year review period, the DGT conducted 246 301 compliance audits, for 198 641 corporate taxpayers (i.e. 7% of effective taxpayers) and 47 660 individual taxpayers (i.e. 0.2% of effective taxpayers). With respect to corporate taxpayers, audits were triggered mostly by overpaid tax return, liquidation, and special audit based on computerised risk analysis. Tax audits are not conducted purely to ensure that taxpayers keep their accounts but to ascertain that they have declared the correct income. The number of compliance audits stays relatively stable (the number of bottom up audits made on a routine basis has slightly increased). The revenue collected as a result of the audits has increased consequently from IDR 20 750 billion in 2014 to IDR 36 669 billion in 2015 and IDR 29 074 in 2016. There are no statistics on companies that were found to have not kept proper accounting records.

189. During the review period, 108 587 tax audits have also been conducted for other purposes (e.g. for collecting information related to inbound EOI request, tax objections, and tax recovery). In particularly, 146 audits were conducted to respond to EOI requests (among which 88 concerned corporate taxpayers and 58 concerned individual taxpayers).

Conclusion

190. Indonesia showed efforts to address the deficiency in tax compliance rate. The results of the different areas of the supervision programmes are progressively giving results. However, given the still low compliance rate and the difficulty in following-up the non-compliant taxpayers or the non-effective taxpayers, Indonesia should continue to strengthen its supervision and enforcement of accounting information obligations.

A.3. Banking information

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

191. Indonesia's AML regime includes comprehensive obligations on the part of banks and other financial institutions to verify the identity of their clients and maintain detailed and accurate records of their transactions and business relationships. Banks are also required to identify the beneficial owners of their customers.

192. The last round of reviews did not raise any concerns with respect to the availability of bank information in Indonesia. Element A.3 was determined to be "in place" and rated "Compliant".

193. The 2016 Terms of Reference now require banks to identify not only their customers, but also the beneficial owners of their customers. Indonesian banks are subject to such an obligation, but the applicable definitions of "beneficial owner" are not fully consistent among each other and the implementation of these recent provisions should be monitored to ensure their application is in line with the standard.

194. Banks appear to be well experienced in carrying out customer identification and verification measures. Such obligations are supported by a system of enforcement to supervise compliance.

195. Over the current review period, Indonesia received 31 requests for banking information. Indonesia has experienced delays exchanging bank information due to the procedure that was previously in place. However, in 2017, Indonesia revised its procedure for obtaining bank information and new procedures have been successfully tested in practice.

196. Given the foregoing, the updated table of determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of the legal and regulatory framework	Beneficial owner(s) of account-holders may be unidentified in respect of customers representing low risk for AML/CFT purposes.	Indonesia should ensure that beneficial owners of all account-holders are required to be identified.
Determination: In place		

Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	Indonesia recently amended the obligations of banks to identify and verify the identity of the accounts holders and their beneficial owners.	Indonesia is recommended to monitor that all beneficial owners are identified in practice.
Rating: Largely Compliant		

A.3.1. Availability of banking information

197. Indonesia's banking sector is comprised of 115 commercial banks, about 65 to 70 of which are Indonesian commercial banks and the remainder of which are branches of foreign banks. As of February 2018, Indonesia's banking industry comprises 102 conventional commercial banks, 13 sharia commercial banks, and 1 619 rural (including sharia) banks. The banking sector is relatively concentrated with approximately 50% of bank assets held by the top five banks. Four of the five largest banks in Indonesia are state-owned and most of the other large commercial banks are foreign owned. The banking sector in Indonesia is tightly regulated by OJK and the Bank of Indonesia (the Central Bank). Most banks in Indonesia service local customers and are focused on providing basic financial services, such as home loans, micro loans, and business loans for small and medium sized enterprises. Approximately 90-95% of banking customers are local customers, SMEs, and individuals. All financial products require a separate licence, which has to be pre-approved each year. Unless banks are licensed as a foreign bank, they cannot carry offshore products. Given the foregoing, banks report having a limited appetite for taking on foreign currencies.

General record-keeping requirements

198. In Indonesia, banks are required to identify and verify the identity of their customers, as well as maintain all records pertaining to accounts and transactions. Record-keeping requirements for banks and other financial institutions are contained in the OJK Regulation No. 12 (2017) on the Implementation of Anti-Money Laundering and Prevention of Terrorist Financing in the Financial Services Sector (OJK Regulation).[2]

2. This OJK Regulation repealed the following: Bank Indonesia (Central Bank) Regulation 12/20/PBI/2010 on AML/CFT for Rural and Sharia Bank; Bank Indonesia (Central Bank) Regulation 12/20/PBI/2010 on AML/CFT for Commercial Banks; OJK Reg. 22/POJK.04/2014 on AML/CFT for FSP in Capital Market; and OJK Reg. 39/POJK.05/2015 on AML/CFT for Non-Banking Financial Institutions.

199. Pursuant to section 56 of the OJK Regulation, banks must maintain documents associated with customer identification and verification for no less than five years following the termination of the business relationship or transaction or the discovery of any irregularities.

Legal and beneficial ownership information on account holders

200. The primary pieces of legislation governing the customer identification and due diligence responsibilities of Indonesian banks are the Money Laundering Prevention Law (MLPEL) and the OJK Regulation. The beneficial ownership presidential regulation 13/2018 applies to banks as companies, but is not relevant for the identification of the beneficial owners of their clients.

201. Banks are prohibited from opening anonymous accounts or accounts in fictitious names (s. 18 OJK Regulation). Banks may not conduct a business relationship with prospective customers without identifying the customer and understanding the customer's profile (s. 17 OJK Regulation and s. 18 MLPEL). Business relationships may not be established if the bank does not know the true identity of the prospective customer or doubts the completeness of customer identification documents (s. 18(2) OJK Regulation).

General customer identification and verification requirements

202. Pursuant to customer identification rules contained in the Money Laundering Prevention Law, banks, as with other reporting parties, are obliged to implement due diligence procedures. Such procedures must be applied when: (i) establishing a business relationship with a customer; (ii) they are involved in a transaction of at least IDR 100 million (EUR 6 667); (iii) a suspicious financial transaction takes place; or (iv) they have doubts regarding the accuracy of information received from a customer (s. 18(3) MLPEL and s. 15 OJK Regulations).

203. The identity of the customer must be established with a full name, identity document number, residential address, place and date of birth, citizenship (s. 20) and be verified through face-to-face meetings or electronic means (online video, in which case the ID documents requirement is stronger) using trusted and independent sources (s. 17 and s. 25 OJK Regulation). The Indonesian authorities clarified that the source must be photo-ID issued by government institutions/authorities, such as ID card (citizen card), passport, or driving licence. Banking representatives present at the on-site stated that generally, banking business in Indonesia is conducted on a face-to-face basis.

204. Banks must understand the corporate structure and nature of business of corporate customers. In addition to the identifying documents

described above, banks must also obtain: (i) financial statements or a description of the company's business activities; (ii) the company's management structure; (iii) the ownership structure of the company; and (iv) the identity of the company's directors or anyone who has authority over the board of directors (s. 22(1)(b) OJK Regulation).

205. All banks must carry out a customer risk assessment on all prospective customers (s. 2 OJK Regulation). The risk assessment is based on, *inter alia*, the customer profile, the nature of the customer's business, the frequency of transactions, the customer's ownership structure, the products, services, and distribution channels used by the customer (s. 16(1) OJK Regulation).

206. Banks are also required to monitor, on an ongoing basis, the transactions of their customers (s. 18(5) MLPEL). The OJK Regulation requires banks to have in place preventative policies and programmes to combat money laundering and terrorist financing. Such policies must include the monitoring of customer accounts and transactions and the evaluation of the results of the monitoring with an eye to reporting suspicious activities (s. 11(f) and s. 11(g) OJK Regulation).

207. Banking representatives present at the on-site visit confirmed that, in practice, banks ask for all of the requisite documentation required by law. They also reported using software to screen new customers, as well as check various sanctions lists (such as UN and OFAC blacklists). Once the initial KYC/CDD has been completed, the customer will be assigned a risk profile. If the customer is identified as high risk, managerial approval to open the account is needed.

Requirements to identify beneficial owners

208. Indonesia's AML regime requires banks to identify the beneficial owners of their account holders. All banks in Indonesia are required to have policies and procedures in place for the identification of the beneficial owners of their customers (s. 13(2) OJK Regulation). Banks must determine whether a customer is acting on his/her own behalf or on the behalf of someone else, in which case the bank is obliged to ascertain the identity of the true customer (s. 25(2) and s. 27 OJK Regulation). In all cases where the customer is deemed not to be the beneficial owner, the bank must identify the beneficial owner and perform the requisite customer due diligence (s. 28 OJK Regulation).

209. Section 1(20) of the OJK Regulation on AML applicable to banks and other financial institutions defines beneficial owner as "every natural person who

- is entitled to receive benefits from a client's account
- is the ultimate owner of the account, controls or authorises to perform the transactions

- controls a corporation or legal arrangement
- has ultimate control of transactions through legal entities or based on contracts".

210. The definition of beneficial ownership in section 1(20) is general and captures natural persons on whose behalf another person holds a bank account as well as beneficial ownership as defined in the standard.

211. Section 28 of the OJK Regulation specifies that, in the event that no individual has control through ownership, banks are required to identify and verify the identity of natural person (if any) that controls the corporation or legal arrangements through other forms (s. 28(2) OJK Regulation). In addition, the OJK Regulation provides that where no natural person is identified as a beneficial owner, the bank should identify and verify the identity of individuals holding positions as directors or the equivalent (s. 28(3) OJK Regulation).

212. OJK authorities at the on-site disagreed as to whether section 28(3) of the OJK Regulation would permit a financial institution to resort to senior management as the beneficial owner where a customer's ownership structure was too complex or layered to follow the chain of ownership to the end. However, section 28(7) of the OJK Regulation also prohibits banks from conducting business or establishing a relationship with a prospective customer where there is doubt as to the beneficial owner. Banks interviewed at the on-site visit stated that in general, the banking sector in Indonesia is fairly conservative with respect to interpretation of AML requirements and would in most cases reject customers where the beneficial ownership is in any doubt.

213. In addition, in the Minister of Finance Regulation No. 70/PMK.03/2017 on Technical Guidance on Access to Financial Information for Tax Purposes (as amended by Regulation 19/PMK.03/2018), all financial institutions must report the identity information of its foreign-resident customers (including the controlling person identity information) to the DGT in view of the automatic exchange of financial account information under the Common Reporting Standard. The Regulation implements the CRS in relation to account holders not resident in Indonesia, and was expanded in February 2018 to also cover financial accounts held by Indonesian residents. When the account holder is an entity, the bank must identify its controlling persons, defined as:

- A natural person who can exercise control over an entity through ownership interest, either directly or indirectly, at least 25% of the voting rights or value in an entity
- Where no natural person exercises control through ownership interests, a natural person who owns control authority over the entity

- Where no natural person exercises control through control authority, a natural person who holds the position as senior managing official in the entity.

214. The MoF Regulation further specifies that the term Controlling Persons must be interpreted in a manner consistent with the definition of beneficial owner as stated in the FATF's Recommendation 10 and its Interpretative Note of February 2012. As the MoF Regulation No. 70/PMK.03/2017 as amended entered into force recently, it remains to be seen how banks implement it together with the OJK Regulation.

215. A provision of the OJK Regulation however raises concerns, as s. 27(5) provides that "the obligation to conduct CDD to Beneficial Owner does not apply to prospective customer, customer or occasional customer acting for the benefit of another person has a low level of risk". The criteria to classify a client as low risk are: the client is an issuer or public company subject to disclosure requirements or a State institution or majority-state owned company; objective of the account opening is for payments or receipts of salaries, or for government programmes for the purpose of enhancing public welfare and/or alleviation of poverty (e.g. financial inclusion); or more generally the client has low risk based on risk assessment on the occurrence of Money Laundering and/or the Financing of Terrorism and meets the criteria of Prospective Customers with simple profiles and characteristics. The Indonesian authorities note that the wording does not mean that a low-risk customer/transaction is precluded from beneficial owner identification and verification. In addition, in relation to the last category of clients with low ML/FT risk, financial institutions may apply a separate simple CDD procedure (in which case this should be notified to the FSA). The Indonesian authorities assure that in practice, in accordance with the prevailing law and conservatism, bank representatives from the onsite visit and OJK confirm that beneficial owner identification applies with respect to low-risk prospective customer/transaction. Although most of the categories of low risk would cover individual clients or entities for which beneficial ownership is otherwise available, it remains that the application of the last criteria would depends on how it is interpreted and Indonesia should ensure that beneficial owners of all account-holders are required to be identified.

216. With respect to trusts, banks are explicitly required to identify the settlor, trustee, beneficiaries or class of beneficiaries, the protector (if any), and any individual controlling the trust (OJK Regulation s. 28(1)(c)). MoF Regulation No. 70/PMK.03/2017 also provides that banks must identify the controlling persons of a foreign-resident trust, i.e. the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term

means persons in equivalent or similar positions. The definition in the MoF Regulation is slightly broader and more precise than the one in the OJK regulation in that it expressly covers the possibility of several trustees and settlors; so Indonesia should ensure that all banks implement the regulations in conformity with the standard.

217. With respect to foundations, s. 20(1)(b) indicates that a beneficial owner may not have to be identified in every instance, as the Regulation only mandates identification "if the [legal persons] have one". This is not in line with the standard. In addition, although the OJK Regulation enumerates the individuals who must be identified for a foundation, i.e. at a minimum the management members, any person who holds authority over board members, or any person authorised to represent the foundation (s. 23(2)), it does not enumerate the beneficial owners of the foundations that must be identified.

218. The Indonesian authorities explain that in the making of AML/CFT legal framework, Indonesia considers the international standard (FATF Recommendation) and also all typical entities that exist therein, thus, the regulations enacted reflect Indonesian condition. In determining the beneficial owners of foundations, a threshold of 25% interest in assets is set to accommodate the nature of those entities, as foundations are statutory bodies consisting of assets separated, and allocated to achieve certain social, religious, or humanities objectives. It is unclear how the general provision is applied in relation to foundations. The Indonesian authorities also point to Presidential Regulation 13/2018 which enumerates the beneficial owners of a foundation (see para. 130 above). Although this text can serve as guidance to banks, it is not binding on them in their CDD activities. Indonesia is recommended to monitor that all beneficial owners of foundations are identified in practice.

219. Banking representatives interviewed at the on-site stated that they anticipate using the new beneficial ownership register created by the Presidential regulation 13/2018 as one source of customer identification, although they also asserted that they would double check the information contained in the register.

220. The updating and monitoring obligations of banks are not precise, in that they must "make efforts to update the data, information and/or supporting documents" but the OJK Regulation does not set any minimum frequency to these updates. Most of the monitoring refers to the transactions performed compared to the AML/CFT risk profile of the account holder (OJK Regulation s. 44 and 45), so updated CDD is only required if the customer profile changes or the banks become reasonably aware information is outdated. Indonesia is recommended to ensure that beneficial ownership information on account holders is kept up-to-date.

Reliance on identification measures of other institutions

221. The AML rules in Indonesia permits banks, or other financial institutions, to rely on another financial institution for customer verification where the latter institution is introducing a client to the former, but the ultimate responsibility remains with the bank (OJK Regulation s. 41). The bank must get the necessary information as soon as possible and ensure that the introducer is willing to meet requests for information and copies of supporting documents. Before co-operating with another institution, the bank must satisfy itself of the reliability of the introducer which has equivalent CDD procedures and is subject to supervision.

Enforcement and oversight measures

222. Violations of the OJK Regulation can result in, *inter alia*, a written reprimand, a fine, restrictions on certain business activities, dismissal of members of management, or blacklisting (s. 66 OJK Regulation). This applies in particular to failure to maintain correct records and to carry out the requisite customer identification procedures (KYC/CDD) and proper identification procedures.

223. Supervision of banks' AML obligations is carried out by OJK. Pursuant to Law No. 21 (2011) on the Financial Services Authority (FSA Law), OJK, Indonesia's Financial Services Authority, is responsible for the oversight of Indonesia's financial services sector (s. 5). Accordingly, OJK is responsible for the AML supervision of banks, Capital Market entities, and non-banking financial institutions. In 2017, OJK had in its central Jakarta office 378 bank examiners and 650 examiners for non-banking financial institutions and capital markets. The number has not changed significantly in last several years. OJK has multiple departments that are responsible for both the prudential and AML oversight of banks. In addition to these departments, there are also several specialist teams that specifically focus on specific risks, and which can be called upon to join an inspection team if particular expertise on a risk area is needed. One of the specialist risk teams is focused on AML/CFT risk. The AML/CFT risk unit has five staff. OJK has 35 offices overall (a central office in Jakarta and 34 regional offices) staffed with 378 bank supervisors. Bank examiners in OJK undergo continuous training. As of September 2017, OJK was responsible for the oversight of 1 917 banks in total.

224. OJK has an integrated programme of AML supervision for the whole financial sector that is the same for banks and non-banking financial institutions; as such, its programme of supervision is similar across the financial sector for all obligated parties. OJK employs a risk-based approach to banking supervision, last updated in January 2017.

225. Based on an assessment of the bank's soundness, OJK will assign a risk rating and then set up a supervisory plan. For the risk profile, OJK takes into account eight categories of inherent risks (and how inherent risks are mitigated by the risk management programme of the bank) as well as external (or industry) risks. The inherent risk taken together with the robustness of the risk management programme will determine the bank's net risk. Supervisors can adjust the ratings based on independent and/or external information received and findings from previous reviews. Risk ratings are continuously updated. The OJK has an independent unit that overviews all of the risk ratings assigned to banks.

226. High risk banks are inspected once a year (or more; there are currently 15), medium risk banks are inspected once every two years, and low risk banks are inspected once every three years. In practice, no bank has gone without an on-site inspection for more than three years. The intensity of the inspection is also determined by the rating: a bank can undergo a full examination or a more focused one. Focused (or targeted) supervisions are conducted as needed in addition to full-scope examinations. Over the review period, prior to the update of OJK's risk based approach, it conducted an AML examination of all banks once per year, although the examination would not necessarily be full-scope (depending on the bank's risk rating). When a bank is undergoing an inspection, its branches are also examined.

227. OJK's supervision programme consists almost always of on-site examinations. According to the law,[3] OJK has to conduct an on-site examination once a year. Prior to going on-site, OJK prepares an Audit Work Plan (AWP) for the on-site visit and asks the bank for the data it will need. With regard to AML/CFT, the team will generally ask for information, such as the organisational structure of the institution, any minutes of meetings relating to topics that will be addressed, the number of accounts, details of accounts, internal policies relating to relevant risks, training of staff, policies and procedures on risk analysis, and internal audit reports. The team also looks at the bank's corporate governance policies. The team generally requests the information about one month in advance and gives the bank approximately two weeks to provide the information (although more time may be allotted if needed). Examination teams usually consist of between two to four examiners and one to two IT specialists.

228. A full-scope on-site examination usually lasts for about ten days. The team will check the bank's internal controls and compliance with applicable

3. Central Bank Regulation No. 2/6/PBI/2000 on Banking Audit Procedures, OJK Regulation No. 11/POJK.05/2014 on Non-Banking Financial Institutions Audit Procedures, and OJK Regulation No. 41/POJK.03/2017 on Banking Audit Procedures.

AML and financial sector regulations through a sampling of customer files. The examination team will pull a list of all customer accounts and will sample the files through a randomised sampling that is generated automatically by specialised software. Examiners also will conduct a manual sampling (for instance of highest outstanding accounts). For large banks, examiners will generally sample about 18% of high risk customers, and smaller samples of medium and lower risk customers. The number of files selected depends on the size of the bank and complexity of its financial products and accounts. Examiners will also check to ensure that risk profiling has been performed correctly by the bank. The team will also check that the bank's policies and procedures are properly implemented in practice by interviewing both front and back office staff to check internal controls are being properly applied and that on-boarding procedures are being followed. Following the on-site, the team must fill out a worksheet covering all such issues. The team will also prepare an exit report detailing its findings and deficiencies to be rectified by a certain timeframe. Serious violations may be immediately sanctioned. The whole life cycle of the review lasts for about two to three months.

229. In terms of beneficial ownership and customer identification, inspection teams examine the CDD documents of each sampled file. Examiners will look at the parameters being applied by the bank, which questions are being asked during the on-boarding process, and whether the right forms have been filled out. They will also look for supporting documents such as identity cards. Examination teams will inquire how banks have identified the beneficial owners of their customers and will verify the accuracy of the bank's determination by carrying out spot checks. The team may go directly to the customer or investigate the customer to ensure the identification by the bank was correct. If a director is listed as a beneficial owner, the team will check the CDD performed by the bank to ensure it did not jump to an unwarranted conclusion.

230. Over the review period, OJK carried out and imposed the following inspections and penalties. OJK conducted 1 926 inspections of commercial banks in 2014 and 1 918 inspections in 2015. Over the preceding three years, OJK imposed the following numbers of sanctions: 582 in 2014, 816 in 2015, and 612 in 2016, including 25 letters to commercial banks concerning quality improvement of bank's compliance for AML/CFT requirements (i.e. none in 2014-15). The 15 banks identified as high risk of AML/CFT in 2016 must implement follow-up measures such as an AML/CFT examination was carried out in 2017, an evaluation of action plans and improvement to the policies and procedures to fulfil OJK Regulation 12 (2017).

Exchange of bank information in practice

231. Although the 2014 Report concluded that banking information was available, historically, Indonesia has encountered difficulties accessing bank information to fulfil requests for information from treaty partners. Previously, the DGT could not approach a bank directly to obtain the information requested, but had to send a request (via the Ministry of Finance) to the Governor of Bank of Indonesia (the Central Bank) for such information (see section B.1 on Access to bank and financial information below for more details).

232. Over the review period, Indonesia received 31 requests for bank information. Of these, five requests took more than a year to be fulfilled. Delays were attributable to the length of time required to request and then obtain bank information through the old procedure. The Indonesian authorities acknowledge that before the Law No. 9 (2017) (GRILL), the tax authority suffered difficulties due to the length of time taken, nonetheless, that burden never created a failure to provide requested banking information to the treaty/EOI partners. For more details on the specific reasons for delays, refer to section C.5 below. However, the DGT has since successfully obtained bank information directly from banks under the new law in four cases. In all cases, information was provided by the bank in a timely manner.

Part B: Access to information

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

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

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

234. Indonesia's tax authority has powers to obtain bank, ownership, identity, and accounting information. Indonesia's competent authority is empowered to obtain all such information from any Indonesian taxpayer or third party within its jurisdiction who is in possession of the information.

235. Indonesia's access powers were assessed under the 2010 TOR in the 2014 Report. At that time, Indonesian legislation contained requirements on obtaining bank information for exchange of information purposes that did not conform to the standard. Indonesia could not access bank account information without the name of the taxpayer. Element B.1 was thus determined to be "not in place" and rated Non-Compliant.

236. Since the last review, Indonesia passed Government Regulation in Lieu of Law No. 1 (2017) Concerning Access to Financial Information for Tax Purposes (GRILL) and the Law of The Republic of Indonesia No. 9 (2017) concerning Stipulation of Government Regulation in Lieu of Law No. 1 (2017) Concerning Access to Financial Information for Tax Purposes, amending the procedure for accessing bank information and allowing for bank information to be obtained in the absence of the name of the account-holder. The process to access banking information is now simpler and faster than before. Indonesia's access powers for all other types of information have not changed since the last review.

237. The 2014 Report noted that in some cases, e.g. where no Indonesian tax revenues are involved, only a limited range of compulsory powers is available to the Indonesian authorities to compel the production of information following an EOI request, which may lead to delays in obtaining the information. Indonesia was therefore recommended to reconsider the compulsory powers available to them in this regard. The legislation has not been amended since then, and the recommendation remains unaddressed. However, the potential issue has not materialised during this review period (nor during the period reviewed in the 2014 Report) and the existing compulsory powers appeared to provide sufficient deterrence against non-compliance. The recommendation is therefore removed from the box of recommendations, and moved down to an in-text recommendation to monitor the appropriateness of the available enforcement powers and consider amending them if need be in the future.

238. The updated table of determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	**Recommendation**
Deficiencies identified in the legal and regulatory framework		
Determination: Not **In place**		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	New legislation amending the procedure for accessing bank information entered into effect in 2017. The new procedure has been successfully applied to obtain bank information in several instances.	Indonesia should monitor the implementation of new provisions relating to access to bank information.
Rating: Largely Compliant		

239. The Minister of Finance is the designated competent authority under Indonesia's double taxation conventions (DTCs), Tax Information Exchange Agreements (TIEAs), and the Multilateral Convention. The Minister of Finance has delegated the role of competent authority to the Director General of Taxes and Director of International Taxation (the second being part of DGT). The Director of International Taxation is authorised to handle all matters related to EOI.

B.1.1. Ownership, identity and bank information

240. The Indonesian competent authority has broad access powers to obtain ownership, identity and banking information from any person for both domestic tax purposes and in order to comply with obligations under Indonesia's information exchange treaties. The DGT's access powers are primarily contained in the Consolidation of Law of the Republic of Indonesia No. 6 of 1983 Concerning General Provisions and Tax Procedures (GPTPL).

Access to ownership and identity information

Legislation framework for access to ownership and identity information

241. As described in the 2014 Report, the DGT has four ways to collect ownership and identity information. The DGT can collect the information:

i. Directly in the DGT databases

ii. gather the information from another government entity (s. 35A GPTPL), or

iii. Through a local tax office to collect the information from the Indonesian taxpayer who is the subject of the EOI request by way of a letter or visit to the taxpayer or by way of a tax audit (s. 29 GPTPL); or failing that, request the local tax office to seek the information from a third party information holder linked to the concerned person (s. 35 GPTPL) or

iv. From the Directorate of Tax Intelligence through intelligence gathering procedures.

242. To collect information from a taxpayer directly, DGT local offices can conduct an audit (point (iii) above). Audits may be performed to test tax compliance or for other purposes in respect of the implementation of Indonesia's tax laws (s. 29(1) GPTPL). Section 29 specifically states that a tax audit can be conducted for the purpose of obtaining information requested by Indonesia's treaty partners, even when the person has already been the subject of an audit for the same period. A taxpayer under audit must provide all necessary information requested, including books and records and other documents related to business activities (s. 29(3) GPTPL). The taxpayer must also grant access to premises as deemed necessary and assist the tax auditors in carrying out the audit. Requested information must be provided by the audited taxpayer no later than one month after the formal request is delivered (s. 29(3)(a) GPTPL).

243. The GPTPL also allows the DGT to seek information from a third party information holder (points (ii) and (iii) above). Third parties include business partners, banks, public accountants, notaries public, tax consultants, administrative offices and or other parties that have had a "relation" with (e.g. in relation with the business activities of) a taxpayer who is under audit, collection, or investigation. For the purpose of implementing tax rules, any information or evidence from such third parties may be requested in writing by the DGT (s. 35 and 35A GPTPL, as well as a number of memoranda of understanding with other administrations).

244. Where a treaty partner seeks information on a person who is not registered in DGT's databases (e.g. a foreign person), the DGT turns to the Directorate of Tax Intelligence to apply intelligence gathering procedures (point (iv) above). As described in the 2014 Report, the Directorate of Tax Intelligence may start a preliminary criminal investigation, a standard tax audit, or simply open a file. The Directorate of Tax Intelligence is empowered to obtain information from taxpayers, third parties or government authorities.

245. Each of these powers is further detailed in regulations.

246. The Indonesian authorities indicate that access to beneficial ownership information is possible through the same powers. In particular, the tax legislation does not provide for any exception for information held by banks (see below). According to the DGT, "evidences" that can be asked from a financial service (as contained in the MoF Regulation No. 70/2017) is interpreted very broadly and covers all types of documents, including supporting documents and CDD and KYC documentation. Most of the representatives of the banking sector met during the onsite visit agreed that CDD and KYC documentation would be covered by "evidences" that the DGT can require from them and stated that they would provide such information if requested. Some were hesitant about providing CDD and KYC documentation, although they did not provide a categorical refusal. The authorities firmly stated that there could not be doubt about the coverage of beneficial ownership information. More generally, while the AML law does not provide for an explicit provision lifting the confidentiality duty of AML subject persons to share information with the tax authorities, s. 35(2) GPTPL clearly indicates that "Where the parties as referred to in paragraph (1) have a duty to withhold confidential information, such duty shall be negated for the purpose of tax audit, tax collection, or tax crime investigation, except for a bank etc.". Therefore non-financial subject entities can also answer a request from the tax authority to provide beneficial ownership information collected on the basis of the AML legislation without breaching their AML confidentiality duty.

247. As noted under section A.1.1, Indonesia was not requested to provide beneficial ownership information during the review period and Indonesia is recommended to monitor the practical access to beneficial ownership in practice.

Gathering ownership and identity information in practice

248. The route chosen to collect information is decided on a case-by-case basis. The DGT does not have to resort to its access powers where the information is available in the tax administration's database to which the EOI units have access. The DGT reports that for simple requests asking for legal ownership information, it can provide the answer from its own databases. Information which can be found in the tax administration's databases includes the identity of the taxpayers (name, address, TIN), the type of business performed, tax returns, tax paid, etc. The databases also contain the online submissions and third party data collected automatically and periodically through the application of section 35A. In total, 67 government agencies, institutions, associations and other parties submit information related to taxation. As concerns individuals, not all individuals resident in Indonesia are registered in the DGT database: as per 30 June 2017, the Indonesian population that is registered for income tax purposes is now approximately 13%. During the review period, Indonesia fully answered 14 requests from DGT database and provided partial response from its database in 11 other cases. The requests that have been fully answered from the information available in the databases related mainly to the current address of taxpayers and their tax return document.

249. In most cases when more substantial information is required, audits are performed by the local tax office. The local office can first simply request the information to the taxpayer or third party, and if needed open an audit. Over the review period, 16 requests required an audit to be answered (the procedure for auditing by the local tax office is discussed more below in section C.5). When information is required from third parties (s. 35), the auditor's request for information or evidence must contain at least the taxpayer's identity, the information or evidence requested and the purpose for requesting information (examination, preliminary evidence examination, criminal investigation, tax collection or objection process; see also section B.2 below). During the period under review, the competent authority did not ask information from the Register of Companies. Audits performed took on average 4 months (including the time between the instruction and the sending of the letter to the taxpayer).

250. During the review period, 15 requests were passed to the Director of Tax Intelligence, when the person concerned by the request was not registered in the DGT databases. The procedure took on average 103 days.

Access to bank and financial information

251. Since the last review, Indonesia amended its laws relating to access to bank and financial information. The new procedure for accessing bank

information is described below; for a description of the procedure that was previously in place, refer to paragraphs 186-196 of the 2014 Report. The Indonesian competent authority now also has broad access powers to obtain bank and other financial information under an amended legal framework, which came into force towards the end of the review period in May 2017. Changes in both Indonesia's legal framework and practice in accessing bank information are discussed below.

Legislation framework for access to bank information

252. At the time of the last review, and during most of the current review period, Indonesia's procedure to obtain bank information was not in line with the international standard as it required the identity of the accountholder and the DGT was not entitled to seek bank information directly from the financial institution. Where the taxpayer in question was undergoing a tax audit, the procedure to obtain bank information was governed by section 35 of the GPTPL. Section 35(2) stated that the confidentiality or secrecy requirements of a bank (contained in section 40 of the Banking Law) can only be waived on a written request from the Minister of Finance. Where the taxpayer was not undergoing an audit, the basis to obtain bank information was governed directly by section 41 of the Banking Law, which required written permission from the Governor of Bank of Indonesia (the Central Bank) to lift confidentiality. In both cases, the DGT had to ask the Minister of Finance to submit a written request for the information to the Governor of Bank Indonesia. Pursuant to the Banking Law, the request for a waiver had to contain the taxpayer's identity (s. 41).

253. Similarly, securities information (such as shares or bonds) could only be obtained with the identity of the accountholder. Pursuant to the Capital Markets Law 1995, requests for securities information had to be made to OJK by the DGT and had to contain the identity of the accountholder or the number of the account (s. 47(3)). Given the foregoing, element B.1 was determined to be not in place and rated Non-Compliant in the 2014 Report.

254. Following the last review, Indonesia enacted Government Regulation in Lieu of Law No. 1 (2017) (GRILL) and Law of the Republic of Indonesia No. 9 (2017) concerning Stipulation of Government Regulation in Lieu of Law No. 1 of 2017 (Law No. 1 2017) to lift the requirement that the accountholder be identified by name and to allow the DGT to seek information directly from the bank or financial institution without having to seek permission (via the Minister of Finance) from the Central Bank.

255. The GRILL states that access to financial information for tax purposes includes access to receive and obtain financial information when implementing tax laws and Indonesia's tax treaties. Towards this end, the DGT

is authorised to request information and/or evidence or affidavit from financial services institutions, other financial service institutions and/or other entities (s. 4(1)). Further, the GRILL nullifies sections 40 and 41 of the Banking Law with respect to EOI (s. 8(2) GRILL) (see also below section on bank secrecy).

256. The new legal framework, applicable to any type of banking information request, no longer requires the identity of the accountholder to access bank or other financial information. To implement the GRILL, Indonesia enacted the Minister of Finance Regulation No. 70/PMK.03/2017 concerning Technical Guidance on Access to Financial Information For Tax Purposes (MoF Regulation No. 70/2017) as lastly amended by Minister of Finance Regulation No. 19/PMK.03/2018. The condition of requiring the name of the taxpayer/accountholder or the account number to access information no longer exists. The request for information form allows for the following to be used to identify the account: name, address, TIN, national ID number, passport number, temporary residence number, or another identifier.

257. The new procedures for accessing bank information governed by MoF Regulation No. 70/2017 are further elaborated in the Circular of Director General of Tax Number 16/PJ/2017 concerning Request for Information and/or Evidence or Affidavit to Financial Information for Tax Purposes (Circular No. 16). Separate procedures are provided for obtaining bank information for various tax purposes; the procedure for obtaining information for EOI is described in Letter F of Circular No. 16. Pursuant to Circular No. 16, the DGT is authorised to make a request for information and/or evidence or affidavit directly from the financial institution for a number of reasons, including implementing Indonesia's international agreements. The request to the bank must include the information requested, the format and means of providing the requested information, and the reason for the request (s. 15(2) MoF Regulation No. 70/2017).

258. According to the DGT, "evidences" that can be asked from a financial service (as contained in the MoF Regulation No. 70/2017) is interpreted very broadly and covers all types of documents, including supporting documents and CDD and KYC documentation.

259. Indonesia also has in place compulsory powers to obtain bank information in cases of non-compliance. Pursuant to MoF Regulation No. 70/2017, banks are provided 30 days to provide the requested information. If the bank does not respond within the stipulated timeframe, the DGT will send a warning letter (s. 32(C)). In cases of continued non-compliance, the DGT can initiate a preliminary investigation (s. 33(1)). If the preliminary investigation determines that the bank intentionally did not comply, criminal sanctions may apply (see below section on compulsory powers). Where a preliminary investigation leads to a formal investigation, the tax authority may apply its audit powers under section 44 of the GPTPL, which would allow for the gathering of the requested information.

Accessing bank information in practice

260. Of 31 requests received for bank information during the review period, 4 took less than 90 days to answer while 8 took more than a year. Information was obtained through either the old procedure described in the 2014 Report, by resending the request for banking information on the basis of the new law when the response had not yet been received, or by asking directly the bank also on the basis of the new legislation.

261. In practice, Indonesia has experienced difficulties obtaining bank information under the old procedure. Previously, the Governor of Bank of Indonesia had the discretion to grant or deny the request for bank information within 14 days and has always granted the permission to request information and issued a written order to the bank in question to provide the requested information to a specified tax official. While banks are required to execute a written order or permit from Bank Indonesia, there were no exact timelines and no sanction applied if the bank cannot fulfil that obligation, according to Bank of Indonesia Regulation 2/19/PBI/2000. The old procedure was used during the reviewed period to answer 14 EOI requests.

262. Following the enactment of new legislation, the DGT has conducted an awareness-raising campaign of the new procedure to obtain bank information to ensure that industry is aware of new obligations. Banking representatives interviewed during the on-site visit demonstrated that the awareness-raising campaign was successful. All were aware of the new procedures and confirmed that they would respond to a request from the DGT for bank account information, even if the accountholder was not named or account number not provided, as long as the account could be identified. The Indonesian authorities stated that all banks have committed to provide all required banking information, including CDD and KYC documentation needed for tax purposes.

263. The DGT has successfully applied to new procedure for accessing bank information in practice to respond to 17 requests. The requests asked for supporting document related to KYC and CDD, account balance as per specific date, letter of credit, and bank statements. Five of the banks contacted were able to provide the requested information within a month – the fastest took 18 days. Twelve of the banks were not able to provide a response within the 30 day timeframe. The DGT sent a warning letter and re-sent the notice for production of information with a specific deadline included. The information was subsequently provided and exchanged. For more information on timeliness, refer to section C.5 below. As the enactment of the new procedure is recent, and while it has been successfully applied in a few times already, Indonesia should monitor the implementation of the new provisions relating to access to bank information.

264. The DGT has not yet received a request for bank information where the bank was not named. However, it reports that should that occur, it will write to all 116 commercial banks to seek the information. Banking representatives interviewed at the on-site visit confirmed that they would be able to check whether they hold the account even if the bank was not specifically named in the request.

B.1.2. Accounting records

265. The DGT can access accounting information to the same extent and in the same manner as with respect to ownership and identity information described above.

266. The DGT did not need to apply its access powers to gather accounting information in every case during the reviewed period. Section 4 of the GPTPL requires all corporate taxpayers and individuals who are obliged to keep accounting records to attach financial statements to their tax returns. In such cases, some accounting information should be available in the databases of the competent authority. During the current review period, 15 requests on accounting information out of 42 were answered using annual tax returns, obtained directly from DGT databases.

267. Indonesia had to apply its access powers in 27 other cases. The DGT reports that in most cases, requests for accounting information must be sent to the local tax office for two main reasons: (i) the information is held by the local tax office and is not reported in the annual tax return (e.g. copy of invoice, purchase order, bill of lading, letter of credit, sales detail; copy of agreement/contract); or (ii) due to the complexity of the request, an audit is required (e.g. clarification on income reported in Indonesia (existence of the income); clarification on fees paid to/from Indonesia entity; primary adjustment for transfer pricing cases).

268. The local tax office gathered the information by asking it directly to the taxpayer or related entities (including by a visit to the taxpayer) in 16 occasions and opened an audit in 11 occasions. Seven requests for accounting information took more than a year to be answered. Generally, requests for accounting information received by Indonesia tend to be complex requests, often including multiple taxpayers or involving transfer pricing issues (which often require detailed documentation in the form of contracts and agreements, customs terms, shipping documents, invoices, etc.). For more details on timeliness, refer to section C.5 below.

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

269. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. The domestic legislation expressly provides that the competent authority can obtain information for the purpose of exchanging it with a treaty partner. The situation has not changed since the last round of reviews. During the review period, this matter has never been raised by Indonesia and no peers raised any issues in this regard.

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

270. Jurisdictions should have in place effective enforcement provisions to compel the production of information. A third party information holder who would deliberately fail to provide the requested information or would provide false information is punishable by imprisonment up to one year and a fine up to IRD 10 million (EUR 623).

271. Specific sanctions also apply in the case of a request for banking information: the maximum sanctions may be a fine of IRD 1 billion (EUR 62 300), and one year of imprisonment in case of false statement or concealment (s. 7 of the AFITPL). The procedure follows a 5 steps path. A request for clarification is first sent, than a warning letter. Without any answer or an unsatisfactory one, the DGT may conduct a preliminary investigation, and if wrongdoing is found, open a formal investigation. This investigation should be conducted by a civil servant investigator of the DGT (s. 30-33 MoF No. 70(2017)).

272. Where taxpayers fail to provide information that they are legally obliged to provide, they are subject to imprisonment between six months and a six years, and a fine of between twice and four times the amount of un(der) paid tax. However, as the 2014 Report noted, the financial sanction may be difficult to impose since it relates to the losses incurred to the revenue of the State while answering an EOI request is not meant to generate revenues for Indonesia. Therefore, contrary to cases where an Indonesian taxpayer is audited for tax purposes (which could trigger a financial penalty since a domestic audit is directly linked to Indonesian tax revenues), the DGT has a limited range of powers at its disposal to compel production of the information; indeed, imprisonment may be considered as a disproportionate measure. Indonesia was therefore recommended to reconsider the compulsory powers available to its tax authority. The situation has not changed, except the introduction of specific sanctions in case of a request for banking information.

273. In practice, during the review period, taxpayers or other information holders always provided the requested information so no sanctions were applied. In particular, it has never happened that the information holder was re-audited for EOI purposes after having refused to provide the requested information. Since this potential issue has not materialised during this review period, the recommendation is moved from the box to in text and Indonesia is recommended to monitor the appropriateness of the available enforcement powers and consider amending them if need be.

B.1.5. Secrecy provisions

274. Secrecy provisions in a jurisdiction should not impede the exchange of information and appropriate exceptions should be allowed where information is sought in connection with a request for information under an EOI agreement.

Professional secrecy provisions

275. The 2014 Report deemed that the scope of professional privilege in Indonesia to be in line with the standard. That legal framework has not changed since then and no issues have arisen in Indonesia's EOI practice.

276. In Indonesia, professional secrecy is overridden where the information subject to privilege is required for tax purposes. Certain professionals, such as attorneys and notaries, are subject to professional duties of confidentiality, as mandated by law (s. 4 Notary Law 2004 and s. 19 Advocates Law). However, pursuant to the GPTPL, where a person has the obligation to keep information secret, this obligation is waived for the purposes of a tax audit, tax collection or an investigation in a criminal tax case (s. 35(2)). Professional secrecy can also be waived pursuant to the Minister of Finance Regulation 87/PMK 03/2013, which covers third parties (such as notaries, accountants, and tax consultants) who may have information related to a taxpayer. For additional information on professional secrecy, refer to paragraphs 216-223 of the 2014 Report.

277. During the period under review, the DGT did not need to obtain information from a third party information holder that may benefit from secrecy rights, such as an accountant, attorney or notary.

Bank secrecy

278. Pursuant to section 40 of the Banking Law, bank information is subject to confidentiality. Prior to the enactment of the GRILL, such secrecy could only be waived by the Governor of Bank of Indonesia, which did not cause a problem during the review period.

279. As of 2017, bank secrecy provisions no longer apply in tax matters. The competent authority no longer has any restrictions to obtain, directly or indirectly, information held by a bank or other financial institutions for tax purposes. As such, sections 40 and 41 of the Banking Law are no longer valid insofar as they relate to the exchange of financial information (s. 8(2) GRILL).

280. As described above, the competent authority has been able to gather bank information directly from the bank itself under the new procedure.

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.

281. Application of rights and safeguards in Indonesia do not restrict the scope of information that the tax authorities can obtain.

282. The first round of reviews found the notification rules and safeguards in Indonesia to be in line with the standard. Indonesian law contains no requirements to notify any person of an EOI request.

283. There has been no change in the applicable rules or practice since the last review. Therefore, the table of determination and rating remains as follows:

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

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

284. The rights and safeguards contained in Indonesian law are compatible with effective exchange of information, as was the case in the previous review. Indonesian law contains no requirements to notify the person who is the object of a request for information, either before the information is exchanged (prior notification) or within a certain period of time after the information is exchanged (time specific post notification).

285. When seeking information from an Indonesian taxpayer or third party information holder, the DGT will describe the information requested, the reason for such request (the reason given for EOI cases is "for the purpose of tax examination"), identifying information as needed cite section 35 of GPTPL (duty to provide information). As noted in the 2014 Report, the requesting jurisdiction is not named, nor the relevant EOI agreement.

286. Where the treaty partner does not wish for the taxpayer who is the subject of the request to be alerted to the existence of an EOI request, the DGT will attempt to seek the information from other sources. In practice, no treaty partner made such a request during the review period.

287. As noted in the 2014 Report (para. 225-227), there are no appeals procedures for taxpayers or other third parties who are approached to provide information for EOI.

Part C: Exchanging information

288. Sections C.1 to C.5 evaluate the effectiveness of Indonesia's EOI in practice by reviewing its network of EOI mechanisms – whether these EOI mechanisms cover all its relevant partners, whether there are adequate provisions to ensure the confidentiality of information received, whether they respect the rights and safeguards of taxpayers and third parties and whether Indonesia 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.

289. Indonesia's network of EOI agreements comprises 70 DTCs,[4] 6 TIEAs, and the multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention). Since the first round of reviews, Indonesia has ratified the Multilateral Convention and entered into one new TIEA with The Bahamas. In total, the number of EOI partners raised to 140 mainly due to the expansion of the number of jurisdictions participating in the Multilateral Convention.

290. Of Indonesia's 76 bilateral agreements, 73 are to the international standard and 69 are in force.

291. The last review did not find any substantial issues with Indonesia's EOI network, but delays occurred in ratifying a number of agreements. Further, issues identified with respect to element B.1 impacted Indonesia's ability to carry out the terms of its exchange agreement with respect to bank information. As a result, element C.1 was determined to be "in place, but needing improvement" and rated Largely Compliant.

292. Indonesia ratified the Multilateral Convention on 21 January 2015. The Multilateral Convention entered into force in Indonesia on 1 May 2015.

4. Indonesia also has a DTC with Switzerland that does not contain EOI provision.

Indonesia has also amended its legal framework to remove restrictions on accessing bank information. In practice, Indonesia's EOI instruments are generally applied in line with the standard.

293. The updated table of determination and rating is as follows:

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

C.1.1. Foreseeably relevant standard

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

295. As noted in the 2014 Report, three of Indonesia's agreements (with Germany, Singapore, and the United Arab Emirates) provided for exchange of information only as necessary for the fulfilment of the provisions of the agreement and therefore did not meet the international standard. With respect to Germany and Singapore, exchange of information to the standard is now possible under the Multilateral Convention. However, as the United Arab Emirates has signed, but not yet ratified, the Multilateral Convention, exchange of "foreseeably relevant" information with this treaty partner remains potentially problematic. Indonesia's new TIEA with The Bahamas contains language that meets the foreseeable relevance criterion.

296. During the review period, Indonesia sought clarification on foreseeable relevance in two cases, but did not decline these requests. No peers raised any issues related to Indonesia's requests for clarification.

297. The 2016 Terms of Reference also addresses group requests. None of Indonesia's EOI agreements contains language prohibiting group requests, nor is any such provision is contained in Indonesia's domestic law. Indonesian authorities indicate that no special information is needed for group requests. Over the review period, Indonesia did not receive any group requests. However, Indonesia's competent authority explained that should a group request be received, foreseeable relevance would be interpreted in accordance with the OECD Model Tax Convention and its Commentary. The DGT would need a description of the group that can help understanding the correlation between the taxpayers in the group as well as the backgrounds and circumstances that have led to the request.

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

298. Indonesian law contains no restrictions on persons in respect of whom information may be exchanged. As noted in the 2014 Report, 18 of Indonesia's DTCs do not specifically include an article extending exchange of information to persons other than residents of the contracting states. However, 15 of those agreements provide for the exchange of information as is necessary for carrying out the provisions of the domestic laws of the contracting States. The remaining three (with Germany, Singapore and the United Arab Emirates) still do not have such language, although exchange of information to the standard is now possible with Germany and Singapore under the Multilateral Convention. Exchange of information to the standard will also be possible with the United Arab Emirates once the Multilateral Convention is in force in that jurisdiction.

C.1.3. Obligation to exchange all types of information

299. At the time of the last review, not all of Indonesia's EOI agreements contained language similar to that of Article 26 of the OECD Model Tax Convention or the OECD Model TIEA providing for the exchange of all types of information, including bank information, information held by a fiduciary or nominee, or information concerning ownership interests. Although the absence of this paragraph does not automatically create a restriction on exchange of bank information, at the time of the last review, exchange of bank information was possible under conditions in Indonesia's domestic laws that were more restrictive than the standard. Since the 2014 Report, Indonesia has amended its procedures to access bank information to remove these restrictions (see above section B.1). In practice, Indonesia has now applied its new procedure and successfully exchanged bank information under several of its bilateral agreements.

300. Further, restrictions in exchanging bank information with certain partners (Austria, Luxembourg and Singapore) have also been addressed as exchange of information to the standard is now possible with them under the Multilateral Convention.

C.1.4. Absence of domestic tax interest

301. EOI partners must be able to use their information gathering measures even though invoked solely to obtain and provide information to the requesting jurisdiction. Although not all of Indonesia's EOI agreements contain language similar to that of Article 26 of the OECD Model Tax Convention or the OECD Model TIEA in requiring EOI regardless of the existence of a domestic tax purpose, the 2014 found no such restrictions in Indonesia's EOI practice. There has been no change in the present review.

C.1.5. Absence of dual criminality principles

302. There are no dual criminality provisions in any of Indonesia's EOI agreements. Indonesia has never declined a request on the grounds of a dual criminality requirement. Although not all of Indonesia's EOI agreements contain language similar to that of Article 26 of the OECD Model Tax Convention or the OECD Model TIEA in requiring the exchange of information regardless of the existence of a domestic tax purpose, the 2014 Report found no such restrictions in Indonesia's EOI practice. There has been no case of request in a criminal tax matter in the present review.

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

303. All of Indonesia's agreements provide for EOI in both civil and criminal matters. In practice, all the requests received during review period related to civil tax matters.

C.1.7. Provide information in specific form requested

304. None of Indonesia's agreements prevents exchange of information in the form requested, as long as this is consistent with Indonesia's administrative practices. During the review period, Indonesia has not been asked to provide information in a specific form.

C.1.8. Signed agreements should be in force

305. Indonesia's EOI network consists of 70 DTCs, 6 TIEAs, and the multilateral Convention on Mutual Administrative Assistance in Tax Matters.

306. During the last review, Indonesia had not ratified a number of agreements that had previously been signed more than several years prior. Since the 2014 Report, Indonesia has ratified the Multilateral Convention and has taken steps to ratify several agreements (as described below). Accordingly, the recommendation issued in the 2014 Report is considered fully addressed.

307. In respect of the seven agreements not yet in force, Indonesia has completed the ratification process for one and is proceeding to ratify four: the length of the ratification process of two (Bahamas and San Marino) has been impacted by discussions on whether the text should be amended to include automatic exchange of information but they are supplemented by the Multilateral Convention such that the EOI relationship is in force with each of them. One agreement is expected to be ratified in the coming weeks (Belarus) and the fourth one by end June (Serbia). For the other two agreements, both parties have agreed to revise the provisions of the agreement before ratification.

Bilateral EOI mechanisms

		Total bilateral instruments	Bilateral instruments not complemented by the Multilateral Convention
A	Total number of DTCs/TIEAS (A = B+C)	76	24
B	Number of DTCs/TIEAs signed (but pending ratification), i.e. not in force (B = D+E)	7	5
C	Number of DTCs/TIEAs signed and in force (C = F+G)	69	19
D	Number of DTCs/TIEAs signed (but pending ratification) and to the Standard	7	5
E	Number of DTCs/TIEAs signed (but pending ratification) and not to the Standard	0	0
F	Number of DTCs/TIEAs in force and to the Standard	65	19
G	Number of DTCs/TIEAs in force and not to the Standard	4	0

C.1.9. Be given effect through domestic law

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

309. The process of ratification in order to give effect or enter an agreement into force is regulated under Law No. 24 (2000) on Treaties. Tax-related

treaties (in this case relating to the exchange of information on request) fall under the category of treaties that must be ratified in the form of Presidential Regulation. The process for ratification has not changed since the time of the last review (see paragraph 262 of the 2014 Report).

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

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

310. Indonesia has a broad network of EOI agreements, covering 140 jurisdictions through 70 DTCs, 6 TIEAs, and the Multilateral Convention. Indonesia's EOI network encompasses its major trading partners.

311. The last round of reviews did not identify any major issues with the scope of Indonesia's EOI network or its negotiation policy or processes. Element C.2 was deemed to be "in place" and Compliant. Since the last review, Indonesia has entered into one new bilateral agreement. With the ratification of the Multilateral Convention, Indonesia's treaty network has been broadened from 76 jurisdictions to 140.

312. Over the current review period, no peers indicated that Indonesia had refused to negotiate or sign an EOI agreement when requested. As the standard ultimately requires that jurisdictions establish an EOI relation up to the standard with all partners who are interested in entering into such relation, Indonesia should continue to conclude EOI agreements with any new relevant partner who would so require**.**

313. The update table of determination and rating is as follows:

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

C.3. Confidentiality

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

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

315. The first round of reviews found that all of Indonesia's agreements contained confidentiality provisions, the interpretation for which was modified to be consistent with the international standard. Indonesia's domestic legislation and practices also protected the confidentiality of information exchanged with treaty partners.

316. The situation with respect to confidentiality has not changed since the last review. Therefore, the table of determination and rating remains as follows:

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

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

317. All of Indonesia's exchange agreements contain provisions ensuring the confidentiality of information exchanged thereunder in accordance with the standard.

318. Indonesia's domestic legislation also contains safeguards to protect the confidentiality of sensitive information. All information and data known by or provided to a tax official pursuant to his/her official duties must be treated as confidential and may not be disclosed to unauthorised persons (s. 34 GPTPL). Breach of confidentiality is subject to imprisonment and monetary penalties (s. 41 GPTPL). The preceding rules regarding confidentiality have not changed since the last review. For a more detailed description of such rules, refer to paragraphs 267-273 of the 2014 Report. In addition to the foregoing, Indonesia also passed Minister of Finance Regulations No. 70 (as amended by Regulation No. 73) and 39/PMK.03/2017 in 2017 confirming the confidentiality of information exchanged pursuant to an EOI agreement, complemented by a DGT Regulation No. 28 approved on 29 December 2017. Confidentiality rules apply not only to information exchanged with treaty partners, but also to any information arising from communications between competent authorities.

319. The 2016 Terms of Reference clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where this is otherwise agreed between the Parties and in accordance with their respective laws. This exception was introduced with the 2012 amendments to Article 26 of the OECD Model Tax Convention, and previously was an optional text proposed in the commentary to this Article. For the purpose of court proceedings (whether in tax or non-tax matters), confidentiality may be waived upon permission by the Minister of Finance (s. 34(4) GPTPL). However, the Indonesian authorities confirm that EOI information may not be provided to other authorities as the treaty provisions trump domestic law. In the period under review Indonesia reported that there were no cases where it requested its partner to use the information for non-tax purposes.

320. All information received pursuant to an EOI agreement is maintained with adequate confidentiality protections. The offices of the tax authority are located on secure premises, equipped with Closed-Circuit Television (CCTV) and 24 hour security. Access to the offices of the competent authority is restricted by key card entry. All visitors must log in at the front desk and must be accompanied by a member of staff at all times. According to the DGT's Decree KEP-210/PJ/2015 regarding Specific Code on Exchange of Information, all EOI documents are scanned and stored on a dedicated server. DGT's Circular SE-56/PJ/2011 concerning Guidelines for Encryption and Key Management governs the encryption and storage of electronic data.

This dedicated server is only accessible by EOI personnel. All hardcopies related to EOI document are kept in secure-locked cabinets located in a dedicated storage room locked and only accessible by responsible officials and their managers. EOI staff must record in an EOI logbook any access to these documents. The handling of confidential documentation is governed by DGT Circular SE-32/PJ/2012 regarding Document Management Procedure. DGT Circulars on the physical storage and disposal of sensitive documents require that they are properly labelled "Highly Confidential", "Confidential" or "Restricted" and can only be disposed of by burning or shredding. Information is normally transmitted to treaty partners by courier, but can also be sent via encrypted email.

321. Policies are also in place to ensure confidentiality of correspondence between the Indonesian competent authority and local tax offices. Such correspondence must be sent as confidential government mail through a registered mail service, and always addressed personally to the responsible officer. The letter is put inside a sealed DGT envelope, with two stamps (one stating "Highly Confidential" and the other "Competent Authority Office"). DGT internal procedures dictate that a letter with a "Highly Confidential" stamp may only be opened by the official to whom the letter is addressed. Unauthorised opening of correspondence is a criminal offence (ss. 430-432 Penal Code).

322. Further, staff policies and procedures protect the confidentiality of information relating to the conduct of official duties. DGT's recruitment policies prohibit the hiring of any persons with a criminal record and require special vetting for certain positions, including those in the EOI unit (such as a compliance check including of their financial background, with an annual obligation of declaration of their financial assets). The selection criteria include indicia on integrity. Executive positions require an enhanced process, which includes an assessment conducted by independent certified assessors, as well as a Track Record and Integrity Check, pursuant to the Ministry of Finance Announcement PENG-01/PANSEL-JPTP/2016. Regular reviews on the implementation of code of ethics and discipline by staff are conducted every month. Special reviews into a particular staff member may be conducted by the internal compliance division upon request. Staff receive ongoing training on confidentiality and information security. The DGT Code of Conduct also includes a clean desk policy and requires staff to store all physical documents and media devices in a locked cabinet or desk drawer at the end of each day. The DGT Codes of Conduct and Ethics contain administrative penalties for violations of confidentiality provisions.

323. Over the review period, no cases arose where confidential information relating to an EOI request was improperly disclosed (e.g. contrary to the

terms of the instrument under which it was provided). No issues on confidentiality have been raised by peers.

C.3.2. Confidentiality of other information

324. Confidentiality rules apply to all types of information exchanged, including information provided by a requesting jurisdiction in a request, information transmitted in response to a request and any background documents to such requests. Indonesian authorities confirmed that in practice they consider all types of information relating to a request confidential (including tax returns, financial statements, any information obtained during an audit or from a third party information holder, and documents about the taxpayer in question).

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.

325. 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, or where the requested information would disclose confidential communications protected by the attorney-client privilege.

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

327. There has been no change in this area since the last review. Moreover, input from Indonesia's peers did not indicate any concerns regarding the application of the aforementioned rights and safeguards or their impact on EOI in practice during the period under review. The table of determination and rating remains as follows:

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

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

C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner

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

329. *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.

330. *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.

331. *Restrictive conditions*: EOI assistance should not be subject to unreasonable, disproportionate, or unduly restrictive conditions.

332. The 2014 Report concluded that Indonesia's response times to requests for information from treaty partners required improvement (of 48 requests over the review period, Indonesia answered only 15% within 90 days). Significant delays often occurred due to difficulties in obtaining bank information and because of lengthy procedural timelines when local tax offices were involved in gathering the information.

333. Since then, Indonesia has revised its procedure for obtaining bank information; however, as the new procedure was enacted towards the end of the review period, its impact on Indonesia's response time is limited, not only in scope but also in time.

334. Moreover, during the present review, Indonesia again experienced systematic delays fulfilling requests for information. Of 77 requests received, Indonesia answered 32% within 90 days and 52% within 180 days. Although, this represents an improvement from the last review, the root cause for protracted timelines (delays in local tax offices) has not been fully addressed. In

light of the foregoing, the updated table of recommendations and rating is as follows:

Legal and Regulatory Framework		
This element involves issues of practice. Accordingly no determination on the legal and regulatory framework has been made.		
Practical implementation of the standard		
	Underlying Factor	**Recommendation**
Deficiencies identified in the implementation of EOIR in practice	Although since 2013 the Indonesian authorities have organised several programmes to sensitise officers and set new rules, remains a lack of awareness to the importance of EOI at the level of local tax offices, which are responsible for collecting a significant part of the information for EOI purposes. Further, the procedures in place for local tax offices to collect information result in extremely protracted timelines. This has caused delays in responding to EOI requests in the first round of reviews and continues to be the primary source of delay.	Indonesia should monitor the implementation by the local office of the procedures recently in place between the competent authority and local tax offices, so as to respond to requests in a timely manner.
Rating: Largely Compliant		

C.5.1. Timeliness of responses to requests for information

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

336. The DGT internal Manual and regulations regarding exchange of information set internal deadlines compatible with timely exchange of information (see section C.5.2 below). In practice, Indonesia's response times to EOI requests over the period under review show improvement from the last round, but are not yet satisfactory. Over the period under review (1 July 2014 – 30 June 2017), Indonesia received a total of 77 requests for information. For these years, the number of requests Indonesia answered in 90 days, 180 days, one year and over one year are tabulated below.

Statistics on response times

	1 July-31 Dec 2014		1 Jan-31 Dec 2015		1 Jan-31 Dec 2016		1 Jan-30 June 2017		Total	
	Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	6	100	20	100	27	100	24	100	77	100
Full response: ≤90 days	2	33	8	40	9	33	6	25	25	32
≤180 days (cumulative)	3	50	14	70	15	55	8	33	40	52
≤1 year (cumulative)	5	83	18	90	18	66	23	96	64	83
>1 year	1	17	2	10	8	30	-	-	11	14
Status update provided within 90 days (for responses sent after 90 days)	4	100	12	100	18	100	18	100	52	100
Declined for valid reasons	-	-	-	-	-	-	-	-	-	-
Failure to obtain and provide information requested	-	-	-	-	-	-	-	-	-	-
Requests withdrawn by the requesting jurisdiction	-	-	-	-	-	-	-	-	-	-
Cases where clarifications sought subsequently closed due to lack of response from the requesting jurisdiction.	-	-	-	-	1	4	1	4	2	2.5
Requests still pending in April 2018	-	-	-	-	-	-	-	-	-	-

Notes: Indonesia counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, 1 request is counted.

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

337. Over the three year period under review, Indonesia responded to 32% of requests (25 requests) within 90 days, 52% (40 requests) within 180 days, and 83% (6 requests) within a year. 11 requests (14% of requests) took more than a year to be answered. The DGT reports that for 18% of requests (i.e. 14), the information was already in the databases of the tax authorities and they were answered within 90 days. Where information could not be found in the tax administration's databases and had to be sought from the local tax office, 14% were fulfilled within 90 days, 20% in 180 days, 20% in a year, and 26% in over a year. The DGT did not decline any requests over the period under review.

338. Where information had to be sought from an external source (such as a bank), the competent authority, the response time greatly varied, from less than 90 days in 4 cases to more than a year in 6 cases. As noted in the previous review, where responses are provided, but only after a significant lapse of time, the information may no longer be of use to the requesting authorities. During the current review, it was the case with respect to at least one

request that the information was no longer useful to the treaty partner for this reason. A treaty partner indicated that it was in the process of withdrawing the request with respect to the outstanding pieces of information. Another partner indicated that due to the delay in receiving a response, the matter had become urgent since the statute of limitation would expire at the end of the year. As a result, the information would not be of use afterwards. In those two cases, it seems that delays were also experienced with international courier companies and regular post; such that partners agreed to continue exchange through secure emails.

339. Indonesia receives many complex requests often involving multiple taxpayers and types of information, which is a legitimate reason for a longer response time. In particular, Indonesia frequently receives requests relating to transfer pricing issues, which require the gathering of voluminous and detailed accounting materials (including invoices, accounting books, ledgers, financial statements, primary adjustments for transfer pricing cases, distribution and service agreements, wholesale and retention prices, loan agreements, interest payments, and dividend payments). In one instance, for a request that took more than a year to fulfil, Indonesia exchanged 31 boxes of invoices. Such information would not normally be submitted to the DGT in routine tax filings and must be obtained through an audit by a local tax office.

340. The 2014 Report also noted that for requests relating to criminal tax proceedings or unregistered taxpayers, the timelines may also be protracted as the case must be referred to the Directorate of Intelligence and Investigation. During the review period, 15 cases were sent to the Directorate of Intelligence and Investigation, with an average of 103 days to fulfil the request – between 5 and 284 days depending on its complexity.

341. However, as in the previous round, the primary cause for prolonged timelines was not the complexity of requests, but rather the need to obtain information through the local tax offices. Of the 11 requests taking more than a year to fulfil, all but one have been sent to the local tax office. If the local tax office determines that an audit is necessary to respond to a request from the central office, it will apply the usual deadline of four months, as set within the Minister of Finance Regulation Number 17/PMK.03/2013 concerning Tax Audit Procedures as amended by Minister of Finance Regulation Number 184/PMK.03/2015, as the local tax offices generally disregard shorter timelines requested by the DGT EOI Unit.

342. The competent authority also reports that in all cases, no matter the complexity of the request, the local tax audit takes the full amount of time (four months) to complete the audit required to gather information from a taxpayer. It is recognised that requests requiring an audit are time consuming to fulfil; however, delays do not generally arise from the audit itself.

343. In addition, as noted in the 2014 Report, the local tax offices do not appear to prioritise or have procedures in place that fully appreciate the time sensitive nature of EOI requests. Even requests not requiring an audit can take longer than six months to fulfil: no audit was conducted in four requests answered after more than a year (but some partial answer was provided within 90 days). The DGT indicated that among these four cases one needed to be processed by the Directorate of Tax Intelligence, as a non-Indonesian taxpayer was concerned, and three were responded partially within 90 days. In one case, delays occurred where the information was already in the central database but the local tax office still needed to provide physical documents as requested by the partner jurisdiction.

344. Over most of the review period, delays often also occurred when a request was for bank information due to the previous procedure in place for obtaining financial information and the application of secrecy provisions. Six of the requests taking more than a year related to bank information. One such request for banking information was sent by the EOI Unit to the FIU, and after enactment of the new law on access to banking information, the EOI unit asked the information directly to the bank, received it and sent it to the requesting partner. As mentioned above in relation to access to banking information (under section B.1), this request was one of several that were fulfilled under the new procedure following the enactment of the GRILL. Banking requests fulfilled under the new procedure were satisfied in between 18 and 116 days.

345. In a few cases, delays resulted from requesting clarification from the treaty partner. Generally, clarifications related to materials that were missing or unreadable. In two instances, the treaty partner did not respond to Indonesia's request for clarification (in one case, a request for a translation of the request to English and in the second case, a request for information on the background, allegations, and suspicions of the treaty partner's tax administration). Indonesia considers both of these cases closed due to lack of response after 90 days of sending the request for clarification. In one case, Indonesia indicated that since the address of the taxpayer could not be recognised, the request had been forwarded to several local offices potentially responsible, within a month. A partial response was sent back to the EOI Unit two months after, allowing it to send a partial response to the partner, including a confirmation regarding the correctness of the given address.

346. Taking into consideration all of the foregoing, the long response times do not appear to stem primarily from the complexity of requests received or the abilities and resources of the competent authority (see also below), but rather from the bottlenecks still experienced when involving the local tax offices and, to a lesser extent, other authorities. Although revisions to the procedure to obtain banking information has streamlined the process

for gathering this specific type of information, engagement with the local tax offices to obtain other types of information has not sufficiently improved since the last review.

Internal process for status updates

347. At the time of the last review, Indonesia did not provide updates to treaty partners for all requests taking more than 90 days to fulfil. Since then, Indonesia has revised its practice to now provide status updates in cases that take longer than 90 days to be fulfilled (as has been confirmed by peer input), along with any partial information that is available. During the period under review Indonesia provided such a status update for all requests for which Indonesia needed more than 90 days to provide the answer. Status updates were provided in the form of mere status update, partial information with status update, or request for clarification. Peer input confirms Indonesia sends status updates after 90 days most of the time now, often with partial information. The gap between the statistics provided by Indonesia and by the peers is due to difficulties in communication, especially when the status update or partial answer was sent by regular post or even courier in one case (see also para. 324). As such, the recommendation from the last review relating to status updates is considered fully addressed.

C.5.2. Organisational processes and resources

348. The last round of reviews found Indonesia's organisational processes and the level of resources available for the exchange of information needing improvement. In the current review, the level of resources in the central office of the competent authority is deemed adequate. Further, notwithstanding the delays experienced at the level of the local tax offices, the DGT (head office) is efficient in its execution of inbound EOI requests.

349. In March 2016, a newly dedicated unit for EOI, Sub-directorate of Exchange of Information was established under the new Directorate of International Taxation.

Resources and training

350. Indonesia's competent authority is the Director of International Taxation (DGT), who is tasked to perform all responsibilities related to international taxation including exchange of information. The Directorate of International Taxation has been established in March 2016 to perform all responsibility related to international taxation including Exchange of Information that previously performed by Directorate of Tax Regulations II. It includes a sub-directorate of exchange of information, which consists of

three EOI units with different geographical competence: ASEAN countries, non-ASEAN Asia Pacific region, and other jurisdictions. Every unit is managed by a Section Chief. In total, the sub-directorate for EOI has 23 staff, who generally have a tax or legal background.

351. In terms of training, Indonesia has conducted several domestic EOI workshops and seminars attended by EOI staff over the period under review. The DGT conducts EOI trainings on a routine basis for the tax administration's employees both in headquarters and regional offices. Topics have included enhancing understanding of the income tax, GPTPL (including confidentiality provision of section 34), domestic law of EOI, DGT's Corporate Values (including Integrity), which cover awareness on the confidentiality of information in the DGT, including data received from partners through EOI. In addition, specific topics and complex cases such as transfer pricing are also being discussed. Further, EOI staff have attended Global Forum trainings on EOIR and automatic exchange of information.

352. Since the last review, Indonesia has taken steps to strengthen the co-ordination between the competent authority and local tax offices, although the reasons underlying delays on the part of local tax offices remain. Indonesia has conducted EOI workshops and trainings to local tax offices, both at the headquarters and in different regions, for 1 124 officials including auditors responsible for gathering information for exchange purposes. The EOI Unit has also held consultations and discussions with the local tax offices regarding the cases.

353. In addition to training seminars to local tax offices, the DGT also invited some of headquarters officials whose works related to EOI mechanism, such as officials from Directorate of Tax Objections and Appeals, Directorate of Tax Audit and Collection, Directorate of Tax Intelligence to attend these training sessions.

354. Although the head office appears to be well aware of the importance of EOI, it does not appear that this is yet the case of all local officials despite the awareness raising efforts of the EOI units. Delays still occurred when requests are required to be fulfilled through the local tax offices.

Inbound requests

355. The process by which the DGT executes inbound requests is governed by regulations and standard operating procedures which together constitute the administrative manual for EOI and describe the workflow procedures in a detailed manner. During the review period, the prevailing regulation concerning inbound requests was the Directorate General of Taxes Regulation PER-67/PJ/2009. It is now complemented with DGT Regulation PER-28/PJ/2017 and the Ministry of Finance Regulation No. 39/PMK.03/2017,

complemented by Standard Operating Procedure (SOP) No. KPC34-0003 regarding Procedures of Forwarding Information Request and Response from DGT to a treaty partner and SOP No. KPC34-0004 regarding Procedures of Exchange of Information. These texts are further complemented by the Ministry of Finance Regulations No. 70/PMK.03/2017 with respect to financial information, and PMK.03/2013 with respect to request for information to third parties bound by secrecy obligations.

356. The new regulation PER-28/PJ/2017 now provides for a general deadline: the EOI requests should be responded within 90 days (s. 7(3)). If an audit takes longer, then a status update must be prepared.

357. When a request is received, it is logged in the DGT's password-encoded database and assigned by the Section Chief of the relevant unit to an EOI official. The database contains the reference number of each case, as well as details of the request, such as the name of the taxpayer, the requested information, and where the information is located. The database also includes information on the status of the request so that the progress of the EOI officer fulfilling the request may be monitored by his/her manager.

358. In application to Regulation PER-67/PJ/2009, the Director of Tax regulation II (or assigned responsible EOI office), upon receiving a request, checked the request to ensure that it meets the aforementioned criteria and that all necessary background information has been provided. While the verification should be done as soon as the request is received, an acknowledgement of receipt, a first status update, a request for clarification or a decline to answer should be sent in writing within 14 days from acceptance of the request by the Director. Over the period under review, Indonesia requested clarification on requests from treaty partners in six instances. In four of these cases the clarification requests were sent within 14 days after the request was received.

359. Once the request has been verified, the EOI officer must determine whether it may be fulfilled by the tax authority, or whether the information must be sought from an external source.

360. When the information is available within the DGT, the request is processed directly, or a letter describing the case is sent to the Tax Office with a copy to the head of the DGT Regional Office if the required information relate to taxpayer data and information contained in the relevant regional Tax Office. The Director had 14 days to draft a response letter to the partner jurisdiction. During the period under review, only 5 cases out of the 14 requesting information already held in DGT's databases were fully responded within 14 days. When the taxpayer did not have an identification number, the letter was sent the Directorate of Intelligence and Investigation, with a 30 day deadline to answer (which was provided after 103 days on average, see para. 326). The same deadline was given to other government authorities.

361. When the information required is available with the taxpayer, a letter describing the Partner country request is sent it to the relevant regional office, and DGT Regulation No. 67/2009, Appendix I, required the information to be provided to the central office within 30 days from the receipt of the internal information request letter. After receiving a request, the local office determines whether it needs to conduct an audit to obtain the information. If so, the local office must send an official request for an audit to the DGT head office, which usually takes two weeks to approve the request. Only after the local tax office receives the official approval letter can it initiate the audit process. Pursuant to Ministerial Decrees No. 17 (2013) and 184 (2015), an audit for a reason other than compliance is provided a maximum time of four months to be completed. The DGT may stipulate a shorter timeframe for the execution of the audit, but in practice, the local tax offices generally disregard shorter timelines requested by the DGT EOI Unit in favour of the four month timeframe as allowed by law.

362. With respect to request to third parties, Regulation 87/PMK.03/2013 provides that they should submit the information within 7 days. Should the request for information or evidence be not fulfilled, the DGT may send a warning letter that should be responded to within 7 days. In case of non-compliance, parties would be subject to criminal sanctions. This has not happened in practice. Bank information was received between 18 days and a month in application of the new provision on access to bank information.

363. Indonesia should monitor the implementation by the local office of these new procedures between the competent authority and local tax offices so as to respond to requests in a timely manner.

Outbound requests

364. The DGT is also the competent authority for outbound requests, which are handled by the Sub-directorate of Exchange of Information in the various units, as elaborated above. As with inbound requests, the rules and procedures for outbound requests are governed by Ministry of Finance Regulation No. 39/PMK.03/2017 and the Directorate General of Taxes Regulation PER-67/PJ/2009.

365. Over the three year period under review, Indonesia sent a total of 264 requests for information. Outbound requests must meet the following criteria: (i) all domestic measures must have been exhausted; (ii) it must not be speculative and must present background information which has have a clear correlation with the information requested; (iii) it must be based on reasonable suspicion and conjecture; (iv) the information requested must be believed to be located in the treaty partner's jurisdiction; (v) does not result in the disclosure of trade secrets, business, industry, commerce or expertise

(either by containing or by seeking such information); and (iv) does not relate to Indonesian state secrets, public policy, sovereignty, security of state, or national interests. EOI staff must analyse an outbound request to ensure that it is in accordance with the aforementioned criteria. Where the request is incomplete and/or does not meet the criteria, the EOI staff member handling the request must ask the tax officer initiating the request to complete it or meet the criteria. The Indonesian authorities indicate that in practice, some initiating units were not aware of the criteria, due to less experience in making an EOI request. In some instances, they did not clearly describe the background of the transactions nor request the data/information properly. When such thing happened, EOI staff initiated a meeting to discuss the case and then completed the request.

366. Once the EOI officer has checked the request and all criteria have been satisfied, the EOI officer prepares a request letter in English, which is reviewed by the Section Chief, the Deputy Director, as well as the Director of International Taxation, who signs the letter. The request letter will then be delivered to the treaty partner's competent authority by registered express mail service, unless the treaty partner asks for requests to be sent via secure, encrypted email.

367. Of the 264 requests sent by Indonesia over the review period, clarification was sought in only 13 cases. All requests for clarification were acknowledged and answered in a timely fashion. When a request for clarification is received, the EOI unit seeks clarification directly from the requesting unit. Requests for clarification from peers generally related to seeking additional background information and confirming the taxes implicated. In a few cases, treaty partners asked for clarification on the relevance of the information requested. However, input from peers noted that Indonesia's outbound requests generally met the foreseeable relevance standard. The quality of outbound requests appears to be generally good.

368. For the outbound exchange of information on request, the DGT provides feedback on the usefulness of the information received from the treaty partner, such as the additional tax revenue for example.

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

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

Annex 1: List of in-text recommendations

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

- Element A.1.1: Beneficial ownership information must be updated on an annual basis with changes recorded in the CASS within three days of occurring. Indonesia should monitor compliance of companies providing ownership updates within the prescribed time period.
- Element A.2: Indonesia should take measures to ensure that accounting information available with legal entities which were terminated is kept in line with the standard also after they ceased to exist.
- Element A.3: Indonesia is recommended to ensure that beneficial ownership information on account holders is kept up-to-date.
- Element B.1.1: Indonesia was not requested to provide beneficial ownership information during the review period and Indonesia is recommended to monitor the practical access to beneficial ownership in practice.
- Element B.1.4: Indonesia is recommended to monitor the appropriateness of the available enforcement powers and consider amending them if need be.
- Element C.2: Indonesia should continue to conclude EOI agreements with any new relevant partner who would so require.

Annex 2: List of Indonesia's EOI mechanisms

1. Bilateral international agreements for the exchange of information

No.	EOI partner	Type of agreement	Date signed	Date entered into force
1	Algeria	DTC	28 April 1995	21 November 2000
2	Armenia	DTC	12 October 2005	12 April 2016
3	Australia	DTC	22 April 1992	14 December 1992
4	Austria	DTC	24 July 1986	1 October 1988
5	Bahamas	TIEA	25 June 2015	Not yet in force
6	Bangladesh	DTC	19 June 2003	11 July 2006
7	Belarus	DTC	19 March 2013	9 May 2018[a]
8	Belgium	DTC	16 September 1997	7 November 2001
9	Bermuda	TIEA	22 June 2011	23 November 2017
10	Brunei Darussalam	DTC	27 February 2000	3 April 2002
11	Bulgaria	DTC	11 January 1991	25 May 1992
12	Canada	DTC	16 January 1979	23 December 1980
13	China (People's Republic of)	DTC	7 November 2001	25 August 2003
		Protocol	26 March 2015	16 March 2016
14	Croatia	DTC	15 February 2002	16 March 2012
15	Czech Republic	DTC	4 October 1994	26 January 1996
16	Denmark	DTC	28 December 1985	29 April 1986
17	Egypt	DTC	13 May 1998	26 February 2002
18	Finland	DTC	15 October 1987	26 January 1989
19	France	DTC	14 September 1979	13 March 1981
20	Germany	DTC	30 October 1990	28 December 1991
21	Guernsey	TIEA	27 April 2011	22 September 2014

No.	EOI partner	Type of agreement	Date signed	Date entered into force
22	Hong Kong (China)	DTC	23 March 2010	28 March 2012
23	Hungary	DTC	19 October 1989	15 February 1993
24	India	DTC	27 July 2012	05 February 2016
25	Iran	DTC	30 April 2004	1 December 2010
26	Isle of Man	TIEA	22 Juni 2011	19 September 2014
27	Italy	DTC	18 February 1990	2 September 1995
28	Japan	DTC	3 March 1982	31 Desember 1982
29	Jersey	TIEA	27 April 2011	22 September 2014
30	Jordan	DTC	12 November 1996	22 December 1998
31	Korea	DTC	10 November 1988	3 May 1989
32	Democratic People's Republic of Korea	DTC	11 July 2002	25 February 2004
33	Kuwait	DTC	23 April 1997	11 December 1998
34	Lao People's Democratic Republic	DTC	7 September 2011	11 October 2016
35	Luxembourg	DTC	14 January 1993	10 March 1994
36	Malaysia	DTC	12 September 1991	11 August 1992
		Protocol	20 October 2011	15 July 2010
37	Mexico	DTC	6 September 2002	28 October 2004
		Protocol	6 October 2013	Not yet in force
38	Mongolia	DTC	2 July 1996	7 January 2000
39	Morocco	DTC	8 June 2008	10 April 2012
40	Myanmar	DTC	1 April 2003	Not yet in force
41	Netherlands	DTC	29 January 2002	30 December 2003
42	New Zealand	DTC	25 March 1987	23 June 1988
43	Norway	DTC	19 July 1988	16 May 1990
44	Pakistan	DTC	7 October 1990	28 February 1991
45	Papua New Guinea	DTC	12 March 2010	5 March 2014
46	Philippines	DTC	18 June 1981	20 May 1982
47	Poland	DTC	6 October 1992	25 August 1993
48	Portugal	DTC	9 July 2003	11 May 2007
49	Qatar	DTC	30 April 2006	19 September 2007
50	Romania	DTC	3 July 1996	13 January 1999

No.	EOI partner	Type of agreement	Date signed	Date entered into force
51	Russia	DTC	12 March 1999	17 December 2002
52	San Marino	TIEA	25 September 2013	Not yet in force
53	Serbia	DTC	28 February 2011	Not yet in force
54	Seychelles	DTC	27 September 1999	16 May 2000
55	Singapore	DTC	8 May 1990	25 January 1991
56	Slovak Republic	DTC	12 October 2000	30 January 2001
57	South Africa	DTC	15 July 1997	23 November 1998
58	Spain	DTC	30 May 1995	20 December 1999
59	Sri Lanka	DTC	3 February 1993	21 June 1994
60	Sudan	DTC	10 February 1998	7 August 2000
61	Suriname	DTC	14 October 2003	11 June 2013
62	Sweden	DTC	28 February 1989	27 September 1987
63	Syrian Arab Republic	DTC	27 June 1997	1 January 1999
64	Tajikistan	DTC	28 October 2003	Not yet in force
65	Taiwan	DTC	1 March 1995	December 1995
66	Thailand	DTC	15 June 2001	23 October 2003
67	Tunisia	DTC	13 May 1992	12 April 1993
68	Turkey	DTC	25 February 1997	6 March 2000
69	Ukraine	DTC	10 April 1996	9 November 1998
70	United Arab Emirates	DTC	30 November 1995	8 November 1996
71	United Kingdom	DTC	5 April 1993	14 April 1994
72	United States	DTC	11 July 1988	30 December 1990
73	Uzbekistan	DTC	28 August 1996	11 November 1998
74	Venezuela	DTC	27 February 1997	18 December 2000
75	Viet Nam	DTC	22 December 1997	10 February 1999
76	Zimbabwe	DTC	31 May 2001	Not yet in force

Note: a. This EOI instrument entered into force after the cut-off date for this report and is the entry into force of the DTC is therefore not taken into account in the core of the report.

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

The Convention on Mutual Administrative Assistance in Tax Matters (the 1988 Convention) was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the amended Convention).[5] The Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

Indonesia signed the amended Convention on 3 November 2011. It deposited its instrument of ratification with the Depositary on 21 January 2015 and the Convention entered into force for Indonesia on 1 May 2015.

Currently, the amended Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curacao (extension by the Netherlands), Cyprus,[6] Czech Republic, Denmark, Estonia, Faroe Islands (extension by Denmark),

5. 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.

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

In addition, the Multilateral Convention was signed by, or its territorial application extended to, the following jurisdictions, where it is not yet in force:[7] Armenia, Bahamas (entry into force on 1 August 2018), Bahrain (entry into force on 1 September 2018), Brunei Darussalam, Burkina Faso, Dominican Republic, El Salvador, Gabon, Grenada (signature on 18 May and instruments deposited on 31 May; entry into force on 1 September 2018), Hong Kong (China) (extension by China, entry into force on 1 September 2018), Jamaica, Kenya, Kuwait, Macau (China) (extension by China, entry into force on 1 September 2018), Morocco, Paraguay, Peru (entry into force on 1 September 2018), Philippines, Qatar, Turkey (entry into force on 1 July 2018), the United Arab Emirates (entry into force on 1 September 2018) and the United States (the original 1988 Convention is in force since 1 April 1995 and the amending Protocol signed on 27 April 2010).

7. Note that while the last date on which the changes to the legal and regulatory framework can be considered was 27 April 2018, changes to the treaty network that occur after that date are reflected in this Annex.

Annex 3: Methodology for the review

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

The assessment of Indonesia's legal and regulatory framework for transparency and exchange of information and of the practical implementation of that framework under the 2016 ToR was based on Indonesia's EOI mechanisms in force at the time of the review, the laws and regulations in force or effective as at 27 April 2018, Indonesia's EOIR practice in respect of requests made and received during the three year period from 1 July 2014 to 30 June 2017, Indonesia's responses to the EOIR questionnaire, information supplied by partner jurisdictions, independent research and information provided to the assessment team prior, during and after the on-site visit, which took place from 27-30 November 2017 in Jakarta, Indonesia.

List of laws, regulations and other material received

Commercial law

Company Law 2007

Commercial Law 1847

Company Compulsory Registration Law 1982

Corporate Documents Law 1992

Foundation Law 2001

Minister of Law and Human Rights Regulation No. 4 (2014) as amended by Regulation No. 1 (2016)

Ministry of Law and Human Rights Regulation No. 9 (2017) on the Application of Know Your Customers Principles for Notaries

Minister of Finance Regulation 55/PMK.01/2017 (as amended by Regulation 155/PMK.01/2017)

Bank of Indonesia Regulation 2/19/PBI/2000

Minister of Finance Regulation 87/PMK 03/2013

Tax law

General Procedures and Tax Procedures Law (GPTPL)

General Procedures and Tax Procedures Law Elucidation

Income Tax Law

Tax Code

Government Regulation in Lieu of Law No. 1 2017 Concerning Access to Financial Information for Tax Purposes

Law No. 9 2017 concerning Stipulation of Government Regulation in Lieu of Law No. 1 (2017) concerning Access to Financial Information for Tax Purposes

Minister of Finance Regulation No. 70/PMK.03/2017 Concerning Technical Guidance on Access to Financial Information for Tax Purposes as amended by Regulations No. 73/PMK.03/2017 and 19/PMK.03/2018

Minister of Finance Regulation No. PMK.03 Concerning Procedures for the Exchange of Information Based on International Agreements

DGT Regulation No. 67/PJ/2009 Concerning Procedures for the Exchange of Information Based on International Agreements

DGT Regulation PER-28/PJ/2017 of 29 December 2017 on Procedures of Exchange of Information on Request in order to Implement International Agreements

DGT's Decree KEP-210/PJ/2015 regarding Specific Code on Exchange of Information

Minister of Finance Regulation Number 17/PMK.03/2013 concerning Tax Audit Procedures as amended by Minister of Finance Regulation No. 184/PMK.03/2015

Ministry of Finance Regulation No. 39/PMK.03/2017

Standard Operating Procedure (SOP) No. KPC34-0003 regarding Procedures of Forwarding Information Request and Response

SOP No. KPC34-0004 regarding Procedures of Exchange of Information

Financial section regulations/AML

Prevention and Eradication of the Crime of Money Laundering Law

Government Regulation No. 43 (2015)

OJK Regulation No. 21 (2011) on the Financial Services Authority

OJK Regulation No. 12 (2017) on The Implementation of AML/CFT in the Financial Services Sector (OJK Regulation on AML/CFT)

Presidential Regulation 13/2018 on Beneficial Ownership Identification Principles for Corporations in Anti-Money Laundering and Counter-Terrorism Financing

Authorities interviewed during on-site visit

Government authorities

Directorate General of Taxes

Ministry of Finance (Fiscal Policy Unit)

Ministry of Law and Human Rights

Ministry of Trade

Financial Intelligence Unit (PPATK)

Financial Services Authority (OJK)

Private sector representatives

Indonesian Bankers Association

Notaries Association

Indonesian Institute of Certified Public Accountants (ICPA)

Institute of Indonesian Chartered Accountants

Current and previous reviews

This report provides the outcomes of the third peer review of Indonesia's implementation of the EOIR standard conducted by the Global Forum. Indonesia previously underwent EOIR peer reviews in 2011 and 2014 conducted according to the ToR approved by the Global Forum in February 2010 and the Methodology used in the first round of reviews. The 2011 review evaluated Indonesia's legal and regulatory framework as at July 2011. The 2014 review evaluated Indonesia's legal and regulatory framework as at 26 May 2014 as well as its implementation in practice during a three year period (from 1 January 2010 to 31 December 2012).

Summary of Reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Phase 1 report	Ms Helen O'Grady, International Tax Branch of the Office of the Revenue Commissioners, Ireland; Mr Francesco Bungaro, Ministry of Economy and Finance, Department of Finance, International Relations Directorate, Italy; and Mr Mikkel Thunnissen from the Global Forum Secretariat.	Evaluation of the legal and regulatory framework only	July 2011	October 2011
Phase 2 report	Ms Ann O'Driscoll, International Branch of the Office of the Revenue Commissioners, Ireland; Ms Yunjung Seo, International Tax Division of the Ministry of Strategy and Finance, Korea; and Mr Mikkel Thunnissen from the Global Forum Secretariat	January 2010 to 31 December 2012	May 2014	August 2014
2018 EOIR report	Mr Matthieu Boillat, Ministry of Finance (Switzerland); Mr Michael Stansfield, Competent Authority (United Kingdom); and Ms Kathleen Kao (Global Forum Secretariat) replaced by Ms Gwenaëlle Le Coustumer at the end of the review process.	1 July 2014 to 30 June 2017	7 May 2018	13 July 2018

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

Indonesia wishes to thank the Global Forum Secretariat, the Peer Review Group, and the assessment team for the extraordinary work throughout the Indonesian second round peer review. Indonesia also conveys its gratitude to all PRG Members for their valuable and important inputs, comments and discussion for Indonesia, in order to improve Indonesian transparency and exchange of information legal frameworks and its implementation.

The Indonesian peer review report has been communicated to all Global Forum members. The report drives us to revamp some deficiencies according to the recommendations given. We will make these recommendations a top priority in favor of Indonesia's commitment to support transparency and exchange of information for tax purposes.

The Indonesian government is developing action plans and practical guidance, and is going to intensify its monitoring to ensure that information is available in line with the international standard.

In terms of power to obtain information, Indonesia ensures that this matter will no longer be an issue as the new legal framework has been successfully applied to obtain banking information more effectively and efficiently. Consequently, Indonesian statistics on element C.5 shows progress from the last review. This new legal framework is also a legal instrument for Indonesia to show and embody its commitment to the automatic exchange of financial account information for tax purposes this coming September.

Indonesia has now been on the right track to contribute to the world in fighting against tax evasion, money laundering, and counter terrorism financing. As a part of the global community, Indonesia has always been committed to the international standards in those areas.

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

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GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request INDONESIA 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 150 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 Indonesia.

Consult this publication on line at ***http://dx.doi.org/10.1787/9789264302754-en***.

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