GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

ANDORRA

2019 (Second Round)

OECD

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PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

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Table of contents

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 150 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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2010 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum in 2010.
2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.
2016 Methodology	2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015.
2016 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015.
AFA	Andorran Financial Authority
AML	Anti-Money Laundering and Countering the Financing of Terrorism
BOPA	*Butlletí Oficial del Principat d'Andorra* – Official Gazette
CDD	Customer Due Diligence
DTC	Double Tax Convention
EOIR	Exchange Of Information on Request
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
GDP	Gross domestic product
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes

Multilateral Convention (MAC)	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
PRG	Peer Review Group of the Global Forum
SA	*Societat Anònima* (Public Limited Company)
SC	*Societat Cooperative* (Co-operative Company)
SCR	*Societat Col lectiva* (Collective Company)
SL	*Societat de Responsabilitat Limitada* (Private Limited Company)
TIEA	Tax Information Exchange Agreement
UIFAND	*Unitat d'Intel·ligència Financera d'Andorra* (Financial Intelligence Unit)
VAT	Value Added Tax

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in the Principality of Andorra (Andorra) on the second round of reviews conducted by the Global Forum against the 2016 Terms of Reference. It assesses both the legal and regulatory framework as at 29 July 2019 and the practical implementation of this framework, in particular in respect of EOI requests received and sent during the review period from 1 April 2015 to 31 March 2018. This report concludes that Andorra is rated overall **Largely Compliant** with the international standard. In 2014, the Global Forum evaluated Andorra against the 2010 Terms of Reference and concluded that Andorra was rated overall Partially Compliant.

Comparison of ratings for First Round Report and Second Round Report

Element		First Round Report (2014)	Second Round EOIR Report (2019)
A.1	Availability of ownership and identity information	LC	**LC**
A.2	Availability of accounting information	LC	**LC**
A.3	Availability of banking information	C	**C**
B.1	Access to information	PC	**C**
B.2	Rights and Safeguards	PC	**LC**
C.1	EOIR Mechanisms	LC	**C**
C.2	Network of EOIR Mechanisms	C	**C**
C.3	Confidentiality	PC	**C**
C.4	Rights and safeguards	C	**C**
C.5	Quality and timeliness of responses	PC	**LC**
	OVERALL RATING	PC	**LC**

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

Progress made since previous review

2. Andorra has significantly improved its compliance with the international EOIR standard. It has effectively addressed the deficiencies that were identified in its 2014 Report by amending its legal framework and improving its practice. It has also taken legal and practical actions to comply with the new requirements of the 2016 ToR.

3. The major issues identified in the 2014 Report related to: the identification of the beneficiaries and the availability of accounting records of foreign trusts; the supervision of the obligation to register with the Companies Register and to keep accounting records, including underlying documents; the extent and the effective use of the access powers of the competent authority; the extent of the right and safeguards of the person concerned and the information holder; the access to confidential information, including the EOI request letter, in the course of administrative proceedings; the timeliness of the replies provided by Andorra and its communication with its EOI partners.

4. Since then, Andorra has strengthened its legal framework and practice and addressed these recommendations. Andorra has passed legislation to (i) ensure that ownership and accounting information are available for all legal arrangements, (ii) grant the competent authority the power to request any information from any information holder, and (iii) balance the rights and safeguards and confidentiality rules with the requirement of an effective EOI. In addition, Andorra has effectively used its access powers, enhanced its communication with its peers and significantly improved its timeliness in answering EOI requests.

Key recommendation(s)

5. The legal and regulatory framework of Andorra is now fully in place, but the implementation of recent changes should be monitored to ensure the standard is implemented in practice. this new assessment has identified some areas where improvements or supervision are required:

- A notable number of inactive companies in Andorra raise concerns regarding the availability of (i) up-to-date legal and beneficial ownership information and (ii) reliable accounting information.
- The length of the appeal process, which has a suspensive effect, may impede effective EOI and affect the timeliness of Andorra's responses to the EOI requests of its peers.
- The recent legal changes adopted, such as the obligation to keep and provide the Companies Register with beneficial ownership information and the introduction of an exception to the prior notification of

the person under investigation or the information holder, must be implemented and supervised in practice.

Exchange of information practice

6. During the review period, Andorra received 198 requests for information from nine EOI partners. France and Spain are the most significant partners (94% of the EOI requests received). While the number of requests received has significantly increased compared to the 2014 review period (29 requests), Andorra has substantially improved its response time to ensure that replies are in general provided in a timely manner. This trend is still improving. Finally, Andorra has not requested information from its EOI partners so far, but intends to do so in the near future.

Overall rating

7. Andorra has achieved a rating of Compliant for six elements (A.3, B.1, C.1, C.2, C.3, C.4) and Largely Compliant for four elements (A.1, A.2, B.2, C.5). Andorra's overall rating is Largely Compliant based on a global consideration of Andorra's compliance with the individual elements.

8. This report was approved by the Peer Review Group of the Global Forum meeting in October 2019 and was adopted by the Global Forum in November 2019. A follow-up report on the steps undertaken by Andorra to address the recommendations in this report should be provided to the Peer Review Group no later than 30 June 2020 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and Ratings	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		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Rating: Largely Compliant	A notable number of inactive companies that maintain legal personality and do not comply with their filing obligations raises concerns that updated legal and beneficial ownership information might not be available in all cases.	Andorra should review its system whereby a significant number of inactive companies remain with legal personality on the Companies Register.
	As the legal requirements for companies to maintain updated beneficial ownership information and to register their beneficial owners with the Companies Register have recently been introduced in Andorra, no supervisory and enforcement actions have yet been carried out.	Andorra should supervise the implementation in practice of these new obligations and take enforcement actions, where necessary.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place		
Rating: Largely Compliant	A notable number of inactive companies that maintain legal personality and do not comply with their filing obligations raises concerns that accounting records might not be available in all cases.	Andorra should review its system whereby a significant number of inactive companies remain with legal personality on the Companies Register.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place		
Rating: Compliant		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
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		
Rating: Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
Rating: Largely Compliant	During the review period, 38% of the EOI requests were subject to appeal and, in 14 cases, the whole procedure has lasted more than 180 days and, in one case, more than one year. Taking into account that the appeal procedure in Andorra has suspensive effect on the exchange of information, this may impede effective EOI and affect the timeliness of Andorra's responses to the EOI requests of its peers.	Andorra should monitor the exercise of the right of appeal to ensure that its use is compatible with an effective exchange of information.
	The exceptions to prior notification introduced in the Andorran legislation have been tested in practice only recently. While the seven first cases processed in the first quarter of 2018 were answered in an average time of 205 days, Andorra's response time has significantly decreased after the review period.	Andorra should monitor the practical implementation of the exceptions to prior notification to ensure that responses are always provided in a timely manner.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
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		
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		
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		
Rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Rating: Largely Compliant	Peers were in general satisfied with the timeliness and quality of the answers provided and the timeliness has further improved at the end of the review period. However, the requested information was not provided in all cases in a timely manner.	Andorra should continue to improve the timeliness of its replies.
	Andorra has made progress in providing status updates within 90 days in the event that it was unable to provide a complete response within that time to its EOI partners, in particular in the recent period. However, it did not provide such status updates within that timeframe in all cases.	Andorra should monitor the effectiveness of its new internal procedure to ensure it provides status updates to EOI partners within 90 days in all those cases where it is not possible to provide a complete response within that timeframe.

Overview of Andorra

9. This overview provides some basic information about the Principality of Andorra (Andorra) 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 Andorra's legal, commercial or regulatory systems.

Legal system

10. Andorra is a unitary, independent, democratic state subject to the rule of law (Constitution, Art. 1). Andorra is a parliamentary co-principality.[1]

11. The Andorran Parliament (*Consell General*) is formed by a single chamber of 28 parliamentarians elected for a term of four years through direct universal suffrage. It approves the budget, monitors the policies of the Government and adopts the laws.

12. The Government, which has a four-year mandate, holds the executive power and comprises the Head of Government and the ministers. The Head of Government, who is elected by the General Council, directs Andorra's domestic and international policies and national administration and wields regulatory power.

13. The judicial system comprises the following Courts:

- the *Tribunal Constitucional*, which interprets the Constitution, ensures conformity with the international treaties, guarantees the respect of fundamental rights and is entrusted to solve conflicts between constitutional bodies
- the *Tribunal Superior de Justícia*, which is the court of appeal
- the *Tribunal de Corts*, which tries major offences in the first instance
- the *Batllia d'Andorra*, which is the tribunal of first instance for civil, administrative, tax and criminal matters.

1. The Co-Princes (the French President and the Spanish Bishop of Urgell) are the joint and indivisible heads of State. They are not involved in Andorra's policy in practice.

14. The Andorran legal system is based on civil law tradition. The hierarchy of laws in Andorra is, from top to bottom: the Constitution, adopted by national referendum on 14 March 1993, followed by international treaties, organic laws, national laws, regulations and administrative acts. International treaties and agreements are integrated in the legal order of Andorra when they are published in the Official Gazette (*Butlletí Oficial del Principat d'Andorra* – BOPA) and cannot be amended or overridden by domestic laws (Constitution, Art. 3(4)). They take precedence over domestic legislation and may be directly invoked before the Andorran Courts.

Tax system

15. Since 2009, Andorra has initiated a reform of its fiscal model, which was historically based on indirect taxation, to introduce new direct and indirect taxes. The main taxes in Andorra are the following:

- A non-resident income tax has been introduced by the Law 94/2010 of 29 December 2010. Since 1 April 2011, the income earned on economic activities conducted in Andorra by entities and individuals non-resident for tax purposes as well as the income earned on employment by individuals non-resident for tax purposes are taxed at 10%.
- A corporate income tax has been implemented by the Law 95/2010 of 29 December 2010. Since 1 January 2012, the worldwide income of entities resident for tax purposes in Andorra is taxed at 10%. The following entities are deemed to be resident for tax purposes in Andorra: (i) those which are formed under the Andorran laws; (ii) those which have their registered office in Andorra; (iii) those which have their place of effective management in Andorra; and (iv) those which transfer their domicile in Andorra (Law 95/2010, Art. 7).
- A value added tax (VAT) has been introduced by the Law 11/2012 of 21 June 2012 on General Indirect Tax. The VAT rates vary from 0% to 9.5%, the normal rate being 4.5%. It is levied on supply of goods and services and importations.
- An individual income tax has been passed with the Law 5/2014 of 24 April 2014. Since 1 January 2015, this tax has been levied on the worldwide income generated by physical persons at a progressive rate (the top rate is 10%). The following natural persons are deemed to be resident for tax purposes in Andorra: (i) natural persons staying more than 183 days in Andorra over the calendar year, and (ii) natural persons whose main base or centre of their activities or economic interests is situated, directly or indirectly, in Andorra (Law 5/2014, Art. 8).

16. In 2018, the direct taxes and indirect taxes amounted to EUR 84.4 million and EUR 288.2 million respectively. They represented 19.5% and 66.7% of Andorra's tax revenues respectively.

Financial services sector

Financial system

17. The financial sector accounts for 18% of the gross domestic product (GDP) (EUR 2.7 billion). In January 2018, the financial sector was made up of 22 financial institutions: five banking groups, 12 asset management firms, two brokerage firms, and three investment advisors.

18. Banking and asset management are the largest sectors. The main business areas of the banking group are asset and wealth management, insurance and retail banking. Approximately 60% of the banking sector's business volume relates to private banking. As at 31 December 2017, the Andorran banking sector held EUR 46.1 billion in managed assets of which EUR 9.8 billion represent customer deposits and EUR 36.3 billion represent off-balance sheet assets. In particular, their foreign subsidiaries managed EUR 24.5 billion of assets.

19. In addition, at 31 December 2017, EUR 835 million of assets were advised on or managed (off-balance sheet) by non-banking financial institutions. This sector is small and mainly dedicated to financial advisory services (EUR 427 million of assets) and investment management services (EUR 408 million of assets). EUR 3.4 billion net assets, representing 100 collective investment schemes, were managed off-balance sheet by asset managers, 99% of which are undertakings for collective investment schemes owned by Andorran banks and only 1% of this is managed by independent asset managers.

20. Finally, total assets held by active insurance companies at the end of 2017 were EUR 1.2 billion and life insurance premia in 2017 were approximately EUR 160 million.

21. There are two professional associations: the Andorran Banking Association (ABA) and *l'Associació d'entitats financeres d'inversió* (ADEFI).

22. The Andorran Financial Authority (AFA) is responsible for the authorisation and prudential supervision of all Financial institutions and insurance companies.

Insurance system

23. The insurance sector is composed of 26 insurance companies (including 12 foreign insurance branches).

24. There are three professional associations: *Associació d'Assegurances d'Andorra* (AAA), *Associació de societats andorranes d'assegurances i reassegurances* (ASAAR) and the Andorran Banking Association (ABA).

Supervision of the financial and insurance systems

25. Financial and insurance entities operating within the Andorran financial and insurance systems are supervised by two authorities: the AFA and the *Unitat d'Intel·ligència Financera d'Andorra* (UIFAND).

26. The AFA is the prudential supervisor as well as the body responsible for providing licences to financial and insurance institutions, and assessing whether applicant entities, their shareholders, board of directors and managers comply with the regulatory requirements. It also advises the Government on matters relating to economic and financial policies. It ensures *inter alia* the enforcement of laws and regulations to safeguard the stability of the Andorran financial and insurance system.

27. The UIFAND is the Andorran Financial Intelligence Unit. It is an independent body whose mission is to promote, co-ordinate and supervise the anti-money laundering and financing of terrorism (AML) framework.

28. The AFA and UIFAND have concluded a Memorandum of Understanding in 2012 establishing the terms of their collaboration in many instances, such as in the authorisation process for new financial institutions in Andorra or in the authorisation processes linked to international activities of Andorran financial institutions.

AML Framework

29. Andorra adopted in 2017 its revised AML Act, Law 14/2017, which implements the EU 4th AML Directive. The AML Act is complemented by AML Regulations, Decree of 23 May 2018.

30. Andorra is member of MONEYVAL. Andorra was evaluated in September 2017 in MONEYVAL's fifth cycle of evaluations (based on the 2012 AML Methodology). In the 2018 enhanced follow-up report adopted in December 2018, Andorra received a largely compliant rating on Recommendation 10 regarding CDD of financial institutions, a compliant rating for Recommendation 11 on record-keeping, and a largely compliant rating for Recommendation 17 on Introduced Business. Recommendation 22 on

Designated Non-Financial Businesses Professions (DNFBPs) and Recommendation 24 on Transparency and beneficial ownership of legal persons were rated largely compliant. Recommendation 25 on Transparency and beneficial ownership of legal arrangements was rated as partially compliant due to (i) a definition of trust and company service providers narrower than required by the FATF standard, (ii) the absence of an obligation for trustees to declare their status to financial institutions or other DNFBPs if they are acting in that capacity professionally or non-professionally, (iii) the absence of sanctions in place for a person resident in Andorra acting as trustee in a non-professional capacity, and (iv) the lack of power for law enforcement authorities to set deadlines for information to be provided by reporting entities.

31. Since then, a Legal Arrangements Register was established on 6 February 2019 to which any individual, entity or legal arrangement managing or administering legal arrangements in a professional or personal capacity must be registered prior to carrying out this activity, supply and update legal and beneficial ownership information, and provide accounting information on an annual basis. In addition, the Government of Andorra has approved on 10 July 2019 amendments to the AML Act that should be entered into the Parliament by end August 2019. Andorra expects these amendments, which include a strengthening of the obligations of professional and non-professional trustees, to be adopted by the end of 2019 for an entry into force in 2020.

Part A: Availability of information

32. 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 banking 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.

33. The 2014 Report concluded that Andorra had a legal and regulatory framework in place that provides for the availability of legal ownership information for all relevant entities. This report nonetheless found that there was no legal obligation in Andorra to identify beneficiaries with less than a 25% interest in foreign trusts which have Andorran trustees or which are administered in Andorra. The report further explained that trusts are not recognised in Andorra and the Andorran authorities have never come across nor received an EOI request relating to a foreign trust. Although the materiality of this gap was considered low, Andorra was recommended to ensure in its laws availability of information on all beneficiaries of such trusts.

34. Regarding the implementation in practice of this element, the 2014 Report rated Andorra "Largely compliant". As the penalties to enforce the obligation for companies to register with the Companies Register had been introduced recently, Andorra was recommended to ensure a coherent, systematic and adequate oversight of the obligation to maintain ownership information, including by monitoring the enforcement of these new penalties.

35. These two recommendations have been addressed by Andorra:

- An obligation to identify all the beneficiaries of any legal arrangement irrespective of any threshold has been introduced in the tax and AML legislation.
- The obligation for companies to register with the Companies Register has been effectively monitored and enforced with sanctions being applied in case of failure to register.

36. The most recent assessment of Andorra's legal and regulatory framework has identified that 23.2% of the companies registered with the Companies Register are considered inactive. These companies are subject to an administrative blockade, which prevents them from fully operating in Andorra. Nevertheless, there is a risk that they could operate and interact exclusively with foreign entities and, in such a case, updated legal and beneficial ownership information may not be maintained by the inactive company or filed with an Andorran authority. Therefore, Andorra is recommended to review its system whereby a notable number of inactive companies remain with legal personality on the Companies Register.

37. The revised 2016 ToR now requires that beneficial ownership information on relevant entities and arrangements should be available. In Andorra, the definition of beneficial ownership and the methodology to be used to identify the beneficial owner(s) of a legal entity or arrangement comply with the standard. The availability of this information is ensured through different avenues.

- Regarding companies, this information is available with the companies, the Companies Register and AML obliged professionals, in particular notaries and banks. The information is also available with the Foreign Investment Register in the case of a foreign direct investment in Andorra.
- With respect to legal arrangements, this information is available with the newly established Legal Arrangements Register with which any trustee or administrator of a legal arrangement must be registered and to which beneficial ownership information must be supplied. It is also available with the professional trustees or administrators of such legal arrangements who are *de jure* AML obliged professionals and must identify and keep up-to-date beneficial ownership information.

38. The requirement for AML obliged professionals to maintain and keep up-to-date beneficial ownership information is effectively monitored by the UIFAND. However, the obligation for companies to maintain updated beneficial ownership information and to register their beneficial owners with the Companies Register has recently been introduced in Andorra and no enforcement actions have yet been taken. Therefore, Andorra is recommended to supervise the implementation in practice of these new obligations and take enforcement actions, where necessary.

39. During the current peer review period, Andorra received 198 requests, 45 of which related to legal ownership and 68 related to beneficial ownership. Where the request was valid, Andorra has always obtained the requested information from public authorities, financial institutions or other information holders. Peers were satisfied with the information provided by Andorra.

40. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
Determination: The element is in place.		
Legal and Regulatory Framework		
Deficiencies identified.	**Underlying Factor**	**Recommendations**
	A notable number of inactive companies that maintain legal personality and do not comply with their filing obligations raises concerns that updated legal and beneficial ownership information might not be available in all cases.	Andorra should review its system whereby a significant number of inactive companies remain with legal personality on the Companies Register.
	As the legal requirements for companies to maintain updated beneficial ownership information and to register their beneficial owners with the Companies Register have recently been introduced in Andorra, no supervisory and enforcement actions have yet been carried out.	Andorra should supervise the implementation in practice of these new obligations and take enforcement actions, where necessary.
	As the legal requirements for companies to maintain updated beneficial ownership information and to register their beneficial owners with the Companies Register have recently been introduced in Andorra, no supervisory and enforcement actions have yet been carried out.	Andorra should supervise the implementation in practice of these new obligations and take enforcement actions, where necessary.
Rating: Largely Compliant.		

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

41. As described in the 2014 Report, the Companies Act 20/2007 of 18 October 2007 provides for two types of companies: (i) public limited company (*societat anònima* – SA) and (ii) private limited company (*societat de responsabilitat limitada* – SL).

42. These companies are defined as voluntary associations of individuals or legally constituted bodies which, based on Articles of association, contribute capital in order to co-operate in the carrying out of a business or professional activity. The capital of an SA is divided into shares, while that of an SL is divided into participations. The term "shares" is used for both in this report. Companies have their own legal personality, separate from that of their members, who are only liable up to the limit of their contributions or holdings in the company (Companies Act, Art. 19). The minimum capital to form an SA and an SL is EUR 60 000 and EUR 3 000 respectively (Companies Act, Art. 14).

43. Since the 2014 Report, the co-operative company (*societat cooperative* – SC) has been introduced by the Co-operative Companies Act 5/2015 of 15 January 2015. SCs are entities, with their own legal personality, which associate individuals or legal entities that seek to improve the economic and social situation of their partners, with full autonomy of management, variable capital and internal democracy. SCs should not aim to make profits in the first place but to assist their members (Co-operative Companies Act, Art. 1). The provisions of the Companies Act apply to SCs to the extent that there is no specific provision or regulation.

44. As of 31 December 2018, there were 10 245 companies in Andorra: 1 368 SAs, 8 869 SLs, 1 SC and 7 branches of foreign entities were registered with the Companies Register.

Availability of legal ownership and identity information

45. As described in the 2014 Report, legal ownership information on companies is available in Andorra. The availability of legal ownership information for companies and branches of foreign companies is ensured in Andorra mainly through the registration process with the Andorran authorities, which involves in all cases an Andorran notary. A branch is a permanent establishment under Andorran laws.[2] In addition, legal ownership information is also available with AML obliged professionals (see paragraph 89), as well as with the companies and, to a certain extent, the tax administration. Since this report, Andorra has introduced some improvements to its legal and regulatory framework.

2. A branch is defined as an establishment of some permanent character and autonomy in management through which an enterprise fully or partially runs its activities and is synonym of permanent establishment (Companies Act, Art. 5).

Main source of legal ownership information: the registration process with Andorran authorities

46. The registration process of Andorran companies and branches (i.e. permanent establishment) in Andorra of foreign companies ensures in all cases the availability of updated legal ownership information. All companies and branches of foreign companies must be registered with the Companies Register. In addition, the creation of a branch in Andorra by a foreign company is a foreign direct investment, which must be registered beforehand with the Foreign Investment Register. These registrations always involve an Andorran notary.

Registration of all companies and foreign branches with the Companies Register

47. Every Andorran company (SC, SA, and SL) is created through the execution of a public deed authorised by an Andorran notary, which must be registered with the Companies Register (Companies Act, Art. 7 and 101; Co-operative Companies Act, Art. 9). These obligations also apply to branches of foreign companies.

Legal ownership information collected and checked by the notary

48. Andorran notaries play an important role in the registration process with the Companies Register. The creation of all companies and foreign branches as well as any subsequent changes in ownership must take the form of a public deed notarised by a notary in Andorra.

49. The notary has the obligation to verify that the deed fulfils all the legal requirements. The notary must also check and, if applicable, transcribe or attach all the necessary documentation to the public deed (Companies Register Regulations, Art. 64; Co-operative Companies Act, Art. 9). The deed of incorporation must include legal ownership information: (i) the detailed identification of all the shareholders, whether individual or entity, their contributions and their shares in the company, and (ii) the Article of association, which contains the company name, its corporate purpose, its capital, the contributions and shares of the founders and the identification of the first administrators (Companies Act, Art. 8(1); Co-operative Companies Act, Art. 10).

50. In addition, the notary must include the notarised public deed in the notarial protocol which consists of all the deeds and original acts authorised by the notary within a calendar year (Notaries Act, Art. 13). This protocol must include the name of the notary, the name of the person(s) appearing in the act, their nationality, residence and domicile, and the compulsory

documentation associated with the deed. All public deeds are kept permanently[3] (Notaries Act, Art. 46, 52 and 62).

51. A deed that contravenes the Notaries Act is not considered a public deed and can only serve as a private document. In addition to civil or criminal liability, the notary incurs disciplinary liability in case of a breach of the Notaries Act. The scale of the sanctions varies from a written reprimand or a fine to the exclusion from the profession, depending of the seriousness of the infringement (Notaries Act, Art. 20 and 27).

52. The four Andorran notaries employ around 40 clerks. Their compliance with the Notaries Act is subject to the supervision of the Ministry of Justice; however no such supervision was carried out during the review period. Notaries are also supervised by the UIFAND for their compliance with the AML legislation (AML Act, Art. 2 and 55) (see paragraphs 95-102 below). Two of the four notaries have been subject to on-site inspections carried out by the UIFAND during the review period. Recommendations were made where areas for improvements or deficiencies were identified. In one case, deficiencies were identified and led to (i) the elaboration of an action plan, the implementation of which was supervised by the UIFAND, and (ii) a fine of EUR 9 003. Although effective supervision is carried out by the UIFAND for AML purposes, Andorra should carry out regular inspections of notaries to ensure also their compliance with the Notaries Act and Regulations (see Annex 1).

Legal ownership information with the Companies Register

53. The required verifications made, the notary sends a copy of the notarised deed along with the required documentation, by electronic means, to the Companies Register within 15 days for its registration.

54. Upon receipt, the Companies Register's officers evaluate the legality of the documents received and verify that all the required information is provided (Companies Act, Art. 6 bis). Before registering the new information, the Register checks the registration history of the company for consistency.[4]

3. The notary must keep them for 25 years after their execution, then they are moved for 100 years to the General Archive of Protocols, which is under the custody of the Chamber of Notaries, and, finally, they are sent to the National Archives.
4. The "principle of sequence of the registrations" ensures that no new registration can be made until any previous required registration that is missing has been duly registered (Companies Register Regulations, Art. 5 and 6).

- When irregularities or errors are detected, the notary is informed and the registration process cannot be finalised until the relevant corrections or regularisations are made.
- Where all the legal requirements are met, the officers proceed with the registration of the company. They transcribe the identity of the shareholders, their contributions, their shares, the identity of the administrators of the company and the data of the Article of association into the Companies Register (Companies Regulations, Art. 24). The acquisition of the legal personality only occurs once the public deed of incorporation has effectively been registered in the Companies Register.

55. Every change of shareholder or administrator as well as the dissolution and liquidation of the company, the amendment to the Article of association or the establishment of a branch by foreign companies must be notarised and registered with the Companies Register within 15 days (Companies Act, Art. 20; Companies Register Regulations, Art. 10 and 30; Co-operative Companies Act, Art. 13).

56. The Andorran legislation provides for sanctions in case of failure to meet the registration and updating requirements. In particular, the Ministry of Economy can sanction with a fine between EUR 1 000 and 30 000 the following infringements of the company and/or its administrators (Companies Act, Art. 103 and 106; Co-operative Companies Act, Art. 49 and 52):

- failure by the company to notarise the deed of incorporation or any other act that must be notarised, including any ownership change
- a fault or gross negligence on the part of any administrators leading to the company's infraction mentioned above
- failure by the administrators to present the documentation to update the information registered in the Companies Register, including any ownership change.

57. In addition, the Companies Register receives each year the annual accounts of Andorran companies as well as branches of foreign companies, which include *inter alia* the identity of the shareholders with a capital share greater or equal to 10% (General Accounting Plan, Chapter 2 Section 2 no. 12). This information is crosschecked with the information in the Register. A fine ranging from EUR 90 to 12 000 is applicable depending on the extent of the breach of the accounting obligations and its reiteration.[5]

5. In addition, supplementary penalties such as a temporary ban on contracting agreements with the public authorities, receiving aid or subsidies, or benefitting from preferential tax regimes may apply (Accounting Act, Art. 40 to 43).

58. The Companies Register is computerised since 1983 and contains legal ownership information (the identity of the shareholders and their participation) and the identity and functions of the companies' administrators. The register is constantly and automatically updated with all ownership changes and the information registered is kept permanently. Three persons are currently employed by the Companies Register and the recruitment of two additional employees is scheduled for 2019.

59. The Companies Register, which is supervised by the Ministry of Economy, monitors the registration process. During the review period, 29 sanctioning procedures were initiated against companies that have carried out an economic activity without being registered (four of them were foreign companies). These cases were identified mainly through third party complaints but also following some investigations initiated *ex officio*. A total fine of EUR 192 627 was applied. The Companies Register has never come across a change of ownership not registered with the Companies Register. As explained in paragraph 51 above, a change of ownership not authorised by a public deed registered with the Companies register by the notary will not have any legal value with respect to third parties, including the company. Therefore, the 2014 recommendation made to Andorra has been addressed.

60. From January 2015 to December 2018, the Companies Register has registered 77 SAs, 3 217 SLs, 3 branches of foreign companies and 1 SC. At 31 December 2017 there were 3 193 companies in liquidation. During the liquidation period, only operations destined to the orderly extinction of the company can be carried out. The dissolution of the company is subject to the registration of a notarised deed of termination with the Companies Register.

Prior registration of branches of foreign companies and other foreign direct investments with the Foreign Investments Register

61. The legal requirements for foreign direct investments (FDI) in Andorra strengthen the availability of ownership information:

- Any FDI resulting in a holding of over 10% in Andorran companies or consisting in opening or extending branches in Andorra are subject to prior authorisation from the Ministry of Economy (Foreign Investment Act, Art. 10). The applicant foreign company must disclose all its owners holding more than 10% of the capital or voting rights and the identity of the beneficial owner(s) (Foreign Investment Regulations, Annex).
- In addition, every FDI, irrespective of any threshold, must be formalised in a notarised deed. The notary is obliged to verify that the deed fulfils all the legal requirements and to register the FDI with the Foreign Investments Register within 15 days (Foreign Investment

Act, Art. 20 and 21). The Foreign Investment Register contains the identification of the investors, their address, the identification of the company in which the investment is performed and the percentage of ownership interest gained, the nature and amount of the investment, the name of the notary and the public deed number (Foreign Investment Regulations, Art. 25).

- Finally, with respect to the establishment of a branch of a foreign company in Andorra, the notary must also send a copy of the notarised deed to the Companies Register as described in paragraph 53 above.

Complementary sources of legal ownership information in Andorra

62. Legal ownership information is also available from the AML obliged professionals (see paragraph 88 *et seq.*). This information should also be available with the company itself but the obligation to maintain it is not supervised. Some information relating to the founders of the company is also available with the tax administration. These sources of information could complement the information held by the Companies and Foreign Investment registers.

Company's shareholders register

63. Each Andorran company (SC, SA, and SL) has to maintain a shareholder register (Companies Act, Art. 20(2) and 21; Co-operative Companies Act, Art. 44). The register must contain the identity of the original and successive shareholders, their addresses and property rights. The change of shareholder requires a notarised deed registered with the Companies Register. The company must only consider persons who are registered in this book as shareholders.

64. The administrators of the company are responsible for maintaining and keeping up to date the register of shareholders within Andorra during the existence of the company.

65. In practice, the obligation to maintain an updated shareholder register is not directly supervised by any Andorran authority. However, in case of breach of this obligation that causes them economic prejudice, the company, its shareholders or its creditors can take legal actions against the administrators who are liable to a fine between EUR 1 000 and EUR 30 000.

Tax Administration Register

66. All taxpayers in Andorra, whether individuals or entities, domestic companies or branches of foreign companies, must be registered with the tax administration (see 2014 Report, paragraph 58). The tax identification number must be obtained before the beginning of the economic activity (Tax Decree, Art. 7). However, only the identity of the initial shareholders must be provided at the time of the tax registration and there is no requirement to update ownership information (Tax Decree, Art. 4). The tax administration has nevertheless a direct online access to the Companies Register.

Specific issues relating to availability of legal ownership information

Nominees

67. Nominee ownership is forbidden in Andorra (Parliamentary Decree of 10 October 1981, Art. 10). Breach of this prohibition can be sanctioned by a fine ranging from EUR 300 to 600. Moreover, shares must be assigned to their real and effective holder and cannot be registered in the name of any intermediary. In case of failure, the registration with the Companies Register will be null and void (Companies Act, Art. 15(3); Co-operative Companies Act, Art. 10 and 13). Finally, Andorran Courts have dealt with litigations concerning the legal entitlement of shares in several cases and have established that the person whose name is in the register of shareholders of a company is to be considered the owner of the shares, regardless of whether that person is holding the shares for someone else.

Inactive companies

68. Andorra has indicated that 2 376 companies were considered inactive at the end of the review period. This represents 23.2% of the companies registered with the Companies Register. According to Andorran authorities, these companies had no longer any activity at the time of the entry into force of the 2007 Companies Act and have not been liquidated. They are for the most part companies with a single shareholder (314) or family companies. Out of the 2 376 inactive companies, 1 861 have from two to ten shareholders.

69. An inactive company is a company that has failed to comply with its legal obligations. A company may be considered inactive on three grounds:

- a company has not updated the identity of its shareholders and administrators with the Companies Register two years after the entry into force of the 2007 Companies Act (i.e. after 2009) (Companies Act, Transitory Provision)

- a company has not deposited its annual accounts with the Companies Register for two consecutive years
- a company has failed to fulfil its tax obligation for two consecutive years. In that case, the company must be de-registered from the Tax Register, which does not imply any exemption from its tax obligations. The de-registration is published in the BOPA. The Companies Register is then notified of the de-registration (Companies Tax Act, Art. 48 *et seq.*).

70. An inactive company is under administrative blockade, meaning that no act relating to the company (e.g. transfer of shares, change of name, change of purpose of the company, etc.) can be registered with the Companies Register until the company complies with all of its obligations (see paragraph 54 above). The administrative blockade is made through the inscription of a marginal note in the Companies Register.

71. According to Andorra, the administrative blockade impedes the company from running a business in a normal way and limits its participation in commercial activities (including the possibility to open a bank account, to obtain a loan from a financial institution or to transfer or acquire an asset subject to public deed and/or registration with a public authority). Andorra has also indicated that it is considering the introduction of a mechanism to strike off inactive companies from the Companies Register.

72. Nonetheless, a company under administrative blockade remains in legal existence, it does not have an express legal prohibition from performing commercial operations and continues to have the legal obligation to comply with commercial and tax filing requirements. Their identification numbers provided by the Companies Register and the tax administration remain valid. In addition, since the free access to all the information maintained by the Companies Register is only possible by means of a written and justified request, and is not accessible online, business partners or foreign authorities may not be aware of the inactive status of the company.

73. In practice, there could be cases in which a non-compliant company continues to hold assets or conduct transactions entirely abroad without the need to engage with the Andorran financial system, an Andorran notary, other Andorran entities or authorities, and does not maintain or file up-to-date ownership and accounting information. The availability of adequate, accurate and up-to-date legal and beneficial ownership information for these entities might not be assured. Therefore, Andorra is recommended to review its system whereby a notable number of inactive companies remain with legal personality on the Companies Register.

Availability of beneficial ownership information

74. In accordance with the 2016 ToR, Andorra ensures that beneficial ownership information on companies is available. Andorra has introduced in its legal framework a definition of beneficial ownership and a methodology to be used to identify the beneficial owners, which are in line with the standard. Beneficial ownership information is available directly from companies, the Companies Register and AML obliged professionals, in particular notaries and banks. The information may also be available with the Foreign Investment Register (see paragraph 61 above). The oversight and enforcement framework in place in Andorra is effective with respect to AML obliged professionals, in particular through the monitoring carried out by the UIFAND. As the requirement for companies to maintain and register beneficial ownership information with the Companies Register has been recently introduced and no enforcement actions have been taken so far, Andorra is recommended to supervise the implementation in practice of these new obligations and take enforcement actions, where necessary.

75. The risk identified regarding inactive companies in Andorra and the correlative recommendation made to Andorra, which are described in paragraph 68 *et seq.* above, are also valid for beneficial ownership information.

Definition of beneficial ownership

76. The definition of beneficial ownership in Andorra is in line with the standard and includes a methodology to be used to identify the beneficial owner(s) of legal entities. The beneficial owner is defined as "any natural person(s) who ultimately controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted" (AML Act, Art. 3(3)).

77. This definition is complemented by a clear indication that the beneficial owner(s) of a legal entity includes at least:

> (i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with international law which ensure adequate transparency of ownership information.
>
> A shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25%

> plus one share or an ownership interest of more than 25% in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership.
>
> The existence of «control by other means» may be determined, inter alia, in conformity with the criteria established in Law 30/2007, of 20 December, on the accounting of entrepreneurs [Accounting Act].
>
> (ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who carry out the effective management through other means.
>
> (iii) if no person under point (i) and point (ii) is identified, the natural person who acts as the chief executive officer or with equivalent executive powers.

78. Andorra also confirmed that, where a trust or other legal arrangement meets the shareholding interest criterion mentioned in (i) above, the beneficial owners of that trust or legal arrangement must be identified as described in paragraph 117 below.

79. As indicated, the Accounting Act provides some additional guidance regarding the "control by other means" which could be characterised, for instance, by the power to appoint or dismiss the majority of the directors or the control of the majority of the voting rights through a shareholders agreement (Accounting Act, Art. 34).

Beneficial ownership information available with the Companies and the Companies Register

80. Since 1 January 2018, every Andorran company and every branch of a foreign company have been required to obtain and hold adequate, accurate and current information on their beneficial owners (AML Act, Art. 19). The beneficial ownership register of the entity must contain at least the name and last name, date of birth, nationality and country of residence of the beneficial owner(s) as defined by the AML Act as well as the nature and extent of their beneficial interest (Companies Act, Art. 21 bis). The breach of this obligation is sanctioned by a fine ranging from EUR 600 to EUR 15 000. A fine ranging from EUR 300 to EUR 3 000 can also be imposed on the administrators of the legal entity if the breach is attributable to their wilful misconduct or negligence (AML Act, Art. 73 and 74). In practice, where a doubt arises on the

identity of beneficial owners of a company, the UIFAND asks the company to provide this information.

81. In addition, upon registration, new Andorran companies and branches of foreign companies must provide the Companies Register with the identity of their beneficial owner(s) and their beneficial interest within 15 days of the authorisation of the incorporation deed by the notary. This information must be provided to the Companies Register by the entity's administrators or by the notary, if mandated to do so by them (Beneficial Ownership Register Regulations, Art. 2). In practice, this information must be filed in a dedicated template and accompanied by a statement signed by the administrators regarding the veracity and completeness of the information. This statement underlines their legal responsibility in case of untruthfulness or omission. The Companies Register can verify the correctness of the information provided by undertaking inspections.

82. Any change of beneficial owner must also be reported to the Companies Register. Where the change results from a resolution or transaction that should be authorised by a notary, such as a transfer of shares, the same procedure and deadline described in the previous paragraph apply. In the other cases, the company has to notify the Companies Register within two months following the act or event that has led to a change of beneficial owner (Beneficial Ownership Register Regulations, Art. 3).

83. In case of non-compliance with the obligation to provide the Companies Register with updated information, the administrators of the company are liable to a fine ranging from EUR 1 000 to EUR 30 000 (Companies Act, Art. 103 and 106).

84. The determination of the beneficial owner(s) and the transmission of the information to the Companies Register depend greatly on the administrators of the company. As indicated above, the AML Act and the Accounting Act provide some guidance on how to identify the beneficial owner(s). This guidance is also reflected on the form to be used to report the beneficial owner(s). In addition, the UIFAND issued in March 2019 a guideline for AML obliged professionals. This guideline, which is publicly available, may also be used by the company's administrators. It provides guidance, explanation and practical cases, including concrete illustrations of situations of control by other means.

85. The administrators of the company are no longer responsible for maintaining beneficial ownership information after the cessation of the company, unless they are the liquidators of the company. While the liquidators of the company must maintain beneficial ownership information for six years after the dissolution of the company, the Companies Register will keep this information permanently.

86. Pre-existing companies and foreign branches were required to provide the Companies Register with beneficial ownership information by 31 December 2018 (Beneficial Ownership Register Regulations, Sole transitory Provision). As of 14 June 2019, 5 665 out of 10 245 companies have submitted the information to the Companies Register (55.3% of the companies). The 2 376 inactive companies put aside, the level of compliance reaches 72%. No sanctioning procedures have yet been initiated against non-compliant companies. The Andorran authorities explained that the obligation for companies and foreign branches to disclose their beneficial owners is recent and they have decided for this first year to promote voluntary compliance. To that end, they have launched an awareness campaign targeting notaries, lawyers and persons engaged in an economic activity. They have also warned them that proceedings will soon be initiated. Andorra will start taking enforcement actions and verifying the information provided at the end of 2019.

87. As the obligation for companies to maintain updated beneficial ownership information and to register their beneficial owners with the Companies Register has recently been introduced in Andorra and no enforcement actions have yet been taken, Andorra is recommended to supervise the implementation in practice of these new obligations and take enforcement actions, where necessary.

Beneficial ownership information held by third parties

88. Beneficial ownership information on legal entities and arrangements is also available with AML obliged professionals engaged by them. AML obliged professionals are individuals or entities, resident in Andorra or acting through a branch in Andorra, and include financial institutions, lawyers, notaries, accountants, tax advisers, auditors and trust or company service providers (AML Act, Art. 2 and 8). They are required to identify the beneficial owner(s) of their customers and verify their identity as part of their customer due diligence (CDD) obligations.

89. AML obliged professionals must perform their CDD obligations *inter alia* when establishing a business relationship, when carrying out an occasional transaction that exceeds EUR 15 000 or when there is a suspicion about the veracity, adequacy or validity of previously obtained customer identification information (AML Act, Art. 8). They have to identify their customers, the persons appointed to act on behalf of them and the beneficial owner(s) of their customers. They have also to verify their identity based on information obtained from a reliable and independent source (AML Act, Art. 9(1)). AML obliged professionals cannot rely exclusively on the registers maintained by the companies or by the Andorran authorities (e.g. the Companies Register) (AML Act, Art. 19(5)).

90. They have also to ensure that the CDD documents and information are adequate and up-to-date by undertaking ongoing monitoring and periodic reviews on a risk based approach (e.g. for higher risk customers, the information must be updated more frequently) (AML Act, Art. 9(2)). On 7 March 2019, the UIFAND issued a technical communiqué, which is binding for all AML obliged professionals, to ensure that they regularly review their existing clients. The review frequency must be set in accordance with their risk exposure whenever there is evidence that the beneficial owner has changed or should a situation occur that justifies its review (e.g. company mergers or death of a shareholder). In any case, the frequency of this review should not exceed five years. The scope of this review implies a new evaluation in order to identify and verify the identity of the beneficial owner(s) (UIFAND Technical Communiqué – CT-O2/2019). In case of non-compliance, the sanctions mentioned in paragraph 93 below apply.

91. AML obliged professionals are allowed to rely on third parties to perform CDD measures (including identification of the beneficial owner(s)) provided certain conditions are met. In line with the standard, the relying provider must ensure that: (i) the third party is either an Andorran AML obliged professional or a foreign provider subject to, and supervised for, compliance with CDD and record-keeping requirements in a manner consistent with the Andorran legislation; (ii) the third party is not established in a high risk country; (iii) the third party provides immediately all the CDD information obtained and, upon request and without delay, any document gathered with respect to the CDD measures performed in relation to the relying party's customer. Notwithstanding the reliance upon a third party, the relying AML obliged professional remains responsible for any deficiency or failure with AML obligations (AML Act, Art. 18).

92. Failure to comply with the CDD obligations relating to the identification or verification of the customers or their beneficial owners is sanctioned with a fine ranging from EUR 90 001 to 1 000 000 for a legal person and from EUR 25 001 to 300 000 for a natural person.[6] Moreover, if the breach is attributable to the wilful misconduct or negligence of persons holding senior management positions, these persons are liable to a fine ranging from EUR 25 001 to 300 000 and/or a temporary or permanent suspension from office (AML Act, Art. 71, 74 and 75).

93. AML obliged professionals are required to maintain records, including identity and beneficial ownership information of their customers/clients, for at least ten years after the end of the business relationship or the date

6. Administrative sanctions, such as a temporary or permanent restriction on specific activities and a withdrawal or modification of the corresponding activity authorisation, can also be pronounced.

of the occasional transaction (AML Act, Art. 37). Failure to comply with the record-retention requirement is sanctioned with a fine ranging from EUR 15 001 to 90 000 for a legal person and from EUR 3 001 to 25 000 for a natural person.[7] Moreover, if the breach is attributable to the wilful misconduct or negligence of persons holding senior management positions, these persons are liable to the same sanction as natural person (AML Act, Art. 72, 74 and 75).

94. In practice, beneficial ownership information would be in most cases available with the Andorran notaries, who are required to maintain such information for FDIs, the incorporation and registration of companies or foreign branches, the transfer of shares, the appointment or dismissal of administrators, the modification of the Articles of association, the increase or reduction of the company's capital, and the reorganisation, merger, splitting or termination of a company. In addition, although there is no legal obligation for companies and branches to maintain a bank account in Andorra, they usually engage with a bank in Andorra in order to carry out their activity. In the last 15 years, the Companies Register has only identified three cases in which the deposit of contributions to a company was made in a foreign financial institution. The main reason is that to be able to operate in practice with both public and private institutions, a bank account in an Andorran bank is *de facto* needed.

Oversight and supervision of beneficial ownership obligations

95. The supervision of the AML obligations to identify and verify beneficial owners is mainly the responsibility of the UIFAND.[8] The Supervisory Division, which is composed of four officials, is in charge of supervising and monitoring compliance of all AML obliged professionals with their CDD, record-keeping and reporting obligations.

96. A comprehensive supervisory programme is in place in Andorra. It includes direction and guidance through technical communiqués, outreach activities, trainings, off-site and on-site inspections, and enforcement where deficiencies are identified (AML Act, Art. 55).

7. Administrative sanctions, such as a temporary restriction on specific activities and/or a temporary suspension from office, can also be pronounced.

8. Legal professions are also subject to the supervision of their professional bodies, which can sanction their members in case of non-compliance with any Andorran legislation. For instance, a notary who breaches the AML legislation commits an infringement under the Notaries Act. The notary may be subject to the expulsion from the profession, a five-year professional disqualification and/or a fine from EUR 5 001 to 50 000 (Notaries Act, Art. 25 and 27).

97. Raising awareness is one of the missions of the UIFAND and professional associations. This is also a duty for AML obliged professionals, which must ensure that their employees are aware of the AML legal framework, including through participation in training programmes (AML Act, Art. 42; AML Regulations, Art. 18). Failure to adhere to this obligation is an infringement, the sanction of which is described in paragraph 80 above. Several awareness actions were carried out during the review period:

- The UIFAND carried out four trainings relating to AML obligations between 2016 and 2017. Two of these trainings were held together with the Bar Association, members of which are Andorran lawyers. Another one was dedicated to notaries and their employees. In addition, the UIFAND and the Andorran Banks Association organised with the University of Andorra an AML training course in 2017 and 2018.
- In addition, the Association of Economists of Andorra, members of which are Andorran accountants and tax advisors, also indicated that it organises each year an AML training session open to all their members where AML procedures as well as any legislative or regulatory changes in Andorra are presented and discussed. In September 2017, a training on the modifications introduced by the AML Act was held and a dedicated newsletter was issued.

98. The UIFAND has also produced informative notes to support AML obliged professionals. The professional associations mentioned above have also provided their members with checklists and models of Know Your Customer forms. For instance, the Andorran Bar Association has prepared a handbook for its members to assist compliance with preventive measures (guidance, forms, and template documents).

99. To monitor compliance with AML obligations, the UIFAND is entrusted with a broad range of powers, such as the power to request information and documents from AML obliged professionals and the access in all cases to Registers maintained by the Andorran Government (AML Act, Art. 19(4)). The UIFAND can also carry out periodic on-site inspections without prior notice. It can impose administrative sanctions relating to minor offences under the AML Act. Where serious infringements are identified, it must convey them to the Andorran Government, which is the authority that can impose sanctions in those cases.

100. The supervision of the UIFAND is facilitated by the obligation for AML obliged entities to appoint an internal control body in charge of organising and monitoring compliance with the AML obligations and to report it to the UIFAND. They must also establish an internal audit process as well as control procedures (AML Act, Art. 40; AML Regulations, Art. 15 to

17). Every year, the UIFAND issues a technical communiqué by typology of AML obliged entities with guidelines regarding the content of the audit reports, which covers *inter alia* CDD and record-keeping requirements. Each audit report is analysed by the Supervision Division, who requires, if necessary, additional information. An informative note is issued for each report with the conclusions of the analysis. Failure to comply with these obligations is a serious infringement, the sanction of which is detailed in paragraphs 92 and 93 above.

101. In 2018, there were 650 AML obliged professionals in Andorra, including 5 banks, 14 insurance companies, 4 notaries, 196 lawyers and 147 corporate service providers (accountants, economists, auditors, tax advisors, etc.).[9] According to Andorra and the lawyers' representatives met during the on-site visit, the vast majority of the Andorran lawyers act only in their capacity as lawyer. UIFAND's on-site inspection is in general risk-based. During the review period, the focus of the four employees of the Supervisory Division was mainly on the banking and insurance sectors and the notaries: all the banks, 50% of the notaries, 30% of the insurance companies, 6% of the lawyers, accountants, economists and auditors have been subject to on-site inspections. During on-site supervision, compliance with CDD and record-keeping obligations is systematically checked through verification of samples. The resources of the UIFAND are appropriate to ensure an effective supervision of the AML compliance of banks and notaries, which are relevant sources of beneficial ownership information in Andorra.

102. After off-site supervisions or on-site inspections by UIFAND, recommendations are always made to AML obliged professionals to improve AML compliance, including when no breaches are identified. Some breaches related to CDD compliance have been identified by UIFAND and sanctions were taken. In 2017, two banks were sanctioned with a fine of EUR 140 000 and EUR 20 000 respectively (see paragraph 167 below). In 2018, a notary and an accountant were fined EUR 9003 and EUR 15 001 respectively and procedures have been initiated against a bank which was filed after investigations.

Availability of legal and beneficial ownership information in EOI practice

103. During the review period, Andorra was able to provide legal and beneficial ownership information to its partners, which have confirmed that they were satisfied with the quality and accuracy of the information provided.

9. The remaining AML obliged professionals are 249 real estate agents, 16 non-banking financial entities, 2 foreign post offices and 17 dealers in high value goods.

- Andorra received 45 requests for legal ownership information. The requested information was provided in all the cases. The information was obtained from the Companies and Foreign Investments Registers in 45 cases and crosschecked with the information provided by companies and third parties in 12 cases.
- Andorra received 47 requests for beneficial ownership information of entities. Andorra was able to obtain the requested information from public authorities, financial institutions and other information holders in all the cases where the request was valid (see paragraph 183 below).

A.1.2. Bearer shares

104. Since 1983, only registered shares can be issued in Andorra (Companies Act, Art. 15(3)). A 20-year transitional period for the conversion of the existing bearer shares into registered shares was granted. Companies that still had bearer shares by 2003 should have been deprived of legal personality and deleted from the Companies Register. However, in December 2013, the Companies Act was amended and a new provision to close companies with bearer shares was introduced (Companies Act, Fourth Transitory Provision). According to this provision, any company that had issued bearer shares in the past had until 16 June 2014 to convert the bearer shares into registered shares. In case of failure, the Minister of Economy initiated the definitive cancellation of the companies.

105. Of the 17 companies having bearer shares, four converted them into registered shares and 12 were officially cancelled on 19 November 2014 by publication of a notice of cancellation in the BOPA. The remaining company being party in a trial, the cancellation procedure is suspended until the end of the judicial procedure.

106. In practice, no issue was raised by peers regarding bearer shares.

A.1.3. Partnerships

107. Since the entry into force of the Companies Act in 2007, the constitution of Collective Company ("*Societat Collectiva*" – SCR), which is a general partnership, is not allowed in Andorra. However, the Companies Act allowed pre-existing SCRs to remain regulated by the Companies Regulations 1983. While a few SCRs were registered in the Companies Register prior to 1983, they have been liquidated or transformed into SLs or SAs. There is no SRC registered with the Companies Register anymore. Regarding foreign partnerships establishing a branch in Andorra, they are subject to the same provisions as for foreign companies. Therefore, there are no partnerships in Andorra.

108. During the period under review, Andorra did not receive any exchange of information requests concerning partnerships and no peer raised any concern.

A.1.4. Trusts

109. The 2014 Report (paragraphs 92-97) indicated that Andorran law does not recognise trusts or any other legal arrangements and Andorra is not a party to the Hague Convention on the Law Applicable to Trusts and on Their Recognition. However, no Andorran law prevents an Andorran resident to act as a trustee of a foreign trust. This assessment concluded that, although there were some mechanisms, in particular the AML legislation, to identify the parties to a foreign trust in certain circumstances, there was no obligation requiring the identification of beneficiaries with less than a 25% interest in those foreign trusts. Andorra was recommended to establish clear provisions in its laws to ensure availability of information on all beneficiaries of foreign trusts that are administered in Andorra or have an Andorran trustee.

110. Since the 2014 Report, Andorra has introduced changes to its tax and AML legislation to ensure that legal and beneficial ownership information is available for foreign legal arrangements, including trusts, in accordance with the standard. A Register of service providers to trusts and other legal arrangements (Legal Arrangements Register) has been established with which any trustee or administrator of a legal arrangement must be registered and to which legal and beneficial ownership information must be supplied. In addition, trustees and administrators of legal arrangements are AML obliged professionals and must identify and keep up-to-date legal and beneficial ownership information relating to the legal arrangement. Finally, the beneficial ownership definition in the context of legal arrangements is in line with the standard and includes *inter alia* the identification of all the beneficiaries irrespective of any threshold. Therefore, the 2014 recommendation has been addressed and the legal framework is in line with the standard. In practice, no legal arrangement has been identified in Andorra and no issue was raised by peers.

General Taxation Act

111. A Legal Arrangements Register was established on 14 February 2019 (General Taxation Act, Art. 68(6)). Any person, entity or legal arrangement, whether resident in Andorra or not, managing or administering legal arrangements in a professional or personal capacity, must be registered prior to carrying out this activity. The following information must be supplied (Legal Arrangements Register Regulations, Art. 4, 7 and 9):

- information related to the trustee(s) or administrator(s): identity of the natural person (name, date of birth, nationality and country of residence) or legal entity or arrangement (denomination), address, tax registration number, legal representative (for legal entities and arrangements), beneficial owner(s) as defined by the AML Act, nature and scope of the activities carried out
- information related to the beneficial owner(s) of the trust or legal arrangement as defined by the AML Act (see paragraph 117 below): identity of the beneficial owner(s) (name, date of birth and nationality), country of residence, nature and scope of the beneficial ownership status.

112. The trustees and administrators have the obligation to obtain and maintain adequate, accurate and current information about the beneficial owner(s). They must keep this information and the supporting documentation for a minimum period of 15 years from the cessation of the legal arrangement. Where a change occurs, such as a change of beneficial owner(s) or a cessation of activity, trustees or administrators must also update the information registered with the Register within 15 days (Legal Arrangements Register Regulations, Art. 10 and 13). These obligations are supervised by the tax administration.

113. In case of non-compliance with these obligations, the trustees or administrators are liable to a fine of EUR 1 000 for the first breach and EUR 3 000 for subsequent infringements (Legal Arrangements Register Regulations, Art. 16; General Taxation Act, Art. 127 and 128).

114. The information registered with the Register is kept permanently.

115. In practice, no trustee or administrator of legal arrangements has registered with the Legal Arrangements Register so far.

AML legislation

116. Trustees and administrators of legal arrangements are AML obliged professionals (AML Act, Art. 2(2)). Those who are not registered in a professional body recognised by the Government of Andorra are required to disclose their professional activity to the Ministry of Economy. The compliance with this obligation is monitored by the Ministry competent for Foreign Investment, which will deny any foreign investment requests if the professional has not complied with this requirement (AML Act, Second Additional Provision). Failure to register with the Ministry of Economy is sanctioned with a fine ranging from EUR 600 to 15 000 (AML Act, Art. 73).

117. Like all AML obliged professionals, trustees and administrators must understand the control structure of the legal arrangements they deal

with. Therefore, they must identify all the natural or legal persons involved in the legal arrangement (first layer). They have also to identify the beneficial owner(s) (second layer). The definition of beneficial owner(s) in Andorra complies with the 2012 FATF recommendations. The AML Act specifies that the beneficial owners of a trust include at least: "(i) the settlor; (ii) the trustee(s); (iii) the protector, if any; (iv) the beneficiaries, or where the individuals benefiting from the legal arrangement … have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means". For legal arrangements similar to trusts, the beneficial owners are the natural person(s) holding equivalent or similar positions (AML Act, Art. 3(3) and 9(5)).

118. Trustees and administrators of legal arrangements are bound by the same CDD and AML obligations as any other AML obliged professionals (see paragraphs 88 *et seq*. above).

119. The Andorran authorities indicated that no trustee or administrator of a legal arrangement has been identified so far. No peer has raised concerns regarding legal arrangements managed from Andorra.

A.1.5. Foundations

120. The 2014 Report (paragraphs 99-114 and 122-123) found that the rules regarding the maintenance of ownership and identity information in respect of foundations in Andorra were in accordance with the standard and effective in practice. It also concluded that the Andorran foundations were "not relevant entities for the purposes of this review".[10] Neither foundations for personal interest nor family foundations can be established. The present assessment also concludes that foundations in Andorra pursue exclusively general public interests and therefore are not analysed further.

121. Andorra has not received any information requests relating to an Andorran foundation during the review period and no peer has raised any concerns regarding Andorran foundations.

10. Andorran foundations must pursue non-profit activities and must have a general interest purpose. The assignment of assets to a foundation is irrevocable. Foundations do not have identified beneficiaries and they cannot make distribution to their members or founders. All their assets and liabilities are transferred upon dissolution to a public institution, a foundation or the Principality. Andorran foundations must be formed in a public deed, authorised by a notary and must be registered with the Foundation Register. They are also supervised by the Foundations Protectorate, which is operated by the Ministry of Justice and to which they must provide their annual report.

A.2. Accounting records

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

122. The 2014 Report concluded that the Andorran legal and regulatory framework on the availability of accounting records was in place but that it needed improvement as the Andorran legislation did not ensure that reliable accounting records or underlying documentation are kept for foreign trusts with an Andorran-resident administrator or trustee. This report also found that the availability of accounting records in practice was mainly ensured through the monitoring made by the Companies Register when annual accounts were deposited. However, there was no system in place to monitor the availability of underlying documentation. Therefore, Andorra was rated as "Largely compliant" with the international standard and was recommended to implement a system of oversight to ensure that all relevant entities keep full accounting records, including underlying documentation, for a minimum period of five years in practice.

123. These recommendations have been responded to by Andorra:

- The availability of accounting records relating to trust and other legal arrangements managed in Andorra is ensured. First, professional trustees or administrators of such arrangements must comply with the record keeping obligations foreseen by the 2017 AML Act. Second, those trustees or administrators who are not registered in a professional body recognised by the Government of Andorra must register their activity with the Ministry of Economy. Finally, any trustee or administrator of a legal arrangement, whether professional or not, must provide each year the Legal Arrangements Register with information regarding the income and profits obtained by the trust or legal arrangement, whether distributed or not, and the payments made to the beneficiaries. These new obligations complement the pre-existing accounting and tax obligations.
- In terms of supervision, Andorra has improved its oversight of the accounting requirements, in particular with respect to underlying documents. In addition to the monitoring exercised by the Companies Register for annual accounts, the availability of accounting records and supporting documents is supervised by the tax administration and, to a certain extent, by the UIFAND.

124. As indicated in paragraphs 68-73 above, 23.2% of the companies registered with the Companies Register are inactive. These companies are subject to an administrative blockade, which prevents them from fully operating in Andorra. Nevertheless, there is a risk that they could operate

and interact exclusively with foreign entities and, in that case, accounting information may not be maintained by the inactive company or filed with an Andorran authority. Therefore, Andorra is recommended to review its system whereby a notable number of inactive companies remain with legal personality on the Companies Register.

125. During the current review period, Andorra received 36 EOI requests relating to accounting information, which were all answered. Peers were satisfied with the accounting information provided by Andorra.

126. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
Determination: The element is in place.		
Practical Implementation of the standard		
Deficiencies identified.	**Underlying Factor**	**Recommendations**
	A notable number of inactive companies that maintain legal personality and do not comply with their filing obligations raises concerns that accounting records might not be available in all cases.	Andorra should review its system whereby a significant number of inactive companies remain with legal personality on the Companies Register.
Rating: Largely Compliant.		

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

127. As described in the 2014 Report (paragraphs 131 *et seq.*), accounting obligations in Andorra are derived essentially from the Companies and Accounting Acts and the AML Act. The Andorran tax legislation also requires taxpayers to submit tax declaration forms, which contain limited accounting information, such as the income statement and the balance sheet. The compliance with accounting obligations is essentially monitored by the Companies Register and the tax administration and, to a certain extent, by the UIFAND.

Requirements under the Companies and Accounting Acts

128. As indicated in the 2014 Report (paragraphs 132-148), all Andorran entrepreneurs, irrespective of their legal form (e.g. natural persons, legal persons such as companies, other entities, trustees and administrators of legal arrangements), have to maintain accounting books and records, which register all transactions chronologically, and have to create annual accounts in accordance with the provisions of the Accounting Act (Accounting Act,

Art. 1 and 2). The accounts must correctly explain the assets, financial position and profits of the entrepreneurs (Accounting Act, Art. 18). Accounting records include at least: (i) a journal that gathers, as entries and in chronological order, every operation carried out from day to day and (ii) the annual accounts, which include a balance sheet with opening balances and year-end inventory, a profit and loss account, the statement of changes in equity, the cash flow statement and the annual report. Detailed rules for the annual accounts are described in the General Accounting Plan, which is based on International Accounting Standards and International Financial Reporting Standards. These accounting obligations are also specified in the Companies legislation (Companies Act, Art. 70 *et seq.*; Co-operative Companies Act, Art. 44).

129. A simplified presentation of the annual accounts can be used for entrepreneurs that combine at least two of the following circumstances during two consecutive financial years: (i) the total assets do not exceed EUR 3 600 000; (ii) the total annual turnover does not exceed EUR 6 000 000; and (iii) the number of workers during the financial year is no greater than 25 (Accounting Act, Art. 17). The differences with the general presentation of annual accounts are a higher level of aggregation of the information and no obligation to prepare the cash flow statement (Decree of 15 February 2012 which approves the modification of the General Accounting Plan). However, the company is not relieved from the obligation to maintain accounting records and documentation as prescribed by the Accounting Act.

130. Regarding companies, those of the financial and insurance sector must have their annual accounts audited by an external auditor. Article 72 of the Companies Act provides that the annual accounts of other companies must be audited by an external auditor if two of the following circumstances prevail during two consecutive years: (i) total assets exceed EUR 3 600 000; (ii) net sales exceed EUR 6 000 000; (iii) more than 25 employees. However, this provision is subject to the enactment of the Audit Act which is still under technical discussions.

131. In addition, regardless of any threshold, the resolutions approving the company's annual accounts and profits distributions must be signed by the administrators within six months after the end of the fiscal year (Accounting Act, Art. 13 *et seq.*).

132. Entrepreneurs have also to maintain all accounting documents, correspondences, documentation and receipts relating to their activity (Accounting Act, Art. 7; Companies Act, Art. 70(2)). All entrepreneurs, including companies, must file their annual accounts with the Companies Register within one month after their adoption, along with a copy of the audit report, where required (Accounting Act, Art. 13 *et seq.*; Companies Act, Art. 72 and 73).

133. Entities operating in the Andorran financial system, including investment entities, must prepare their annual accounts in accordance with Article 18 of the Financial System Act 8/2013 of 9 May 2013 and with the Decree of 27 March 2019. They must comply with the International Financial Reporting Standards as implemented within the European Union. They must also submit their accounts to the Companies Register in accordance with the Accounting Act.

134. Foreign companies must prepare the annual accounts of their branches in Andorra in a manner consistent with the Accounting Act, file these annual accounts with the Companies Register and maintain the underlying documentation (Companies Act, Art. 5).

135. Accounting records and underlying documents must be kept in the offices of the entrepreneur in Andorra for a period of six years as from the end of the year to which they relate (Accounting Act, Art. 7 and 11; Companies Act, Art. 4 and 5).[11] The record-keeping obligation applies even in case of cessation, transfer or liquidation of the professional or economic activities. In the event of the dissolution of a legal entity, the Andorran liquidator is responsible for keeping the accounting records (Accounting Act, Art. 8). In addition, the Companies Register keeps the annual accounts and the audit reports for six years following the deposit (Companies Regulations, Art. 51).

136. Penalties apply in case of non-compliance with accounting obligations. The sanction varies from EUR 90 to 12 000 depending on the seriousness of the offence and the size of the enterprise. For instance, failure to hold the mandatory accounting records or to appoint an auditor, when it is required, are punished with a fine ranging from EUR 2 001 to 6 000. Failure to fulfil the obligation to file the annual accounts with the Companies Register in due time or to keep all accounting and underlying documents for the required period, including in case of cessation, is punished with a fine ranging from EUR 601 to 2 000 (Accounting Act, Art. 41 and 42). Further, while in default of filing annual accounts with the Companies Register, no other entries would be allowed to be made regarding the entity in question (Accounting Act, Art. 43). Finally, failure to deposit the annual accounts also implies the joint and unlimited liability of the administrators with regard to company debts that occur from the moment that the obligation to deposit is breached (Companies Act, Additional Provision). They are also liable to a fine of between EUR 1 000 and 30 000 (Companies Act, Art. 103 and 106).

11. A longer retention-period applies for companies, which have to maintain the accounting records and underlying documents for a six-year period as from the date of the approval of these records (Companies Act, Art. 70(2)).

137. The compliance of Andorran companies and branches of foreign companies with their obligation to fill annual accounts is supervised by the Companies Register and the tax administration. The employee of the Companies Register must check the documentation provided annually and verify that the structure and the content of the annual accounts are consistent with the General Accounting Plan. If no irregularities are identified, the registration is made and a certification accrediting it is provided to the company. On the contrary, in case of irregularities, the registration is not made and the company is provided with a delay of ten days to rectify, amend or complete the documentation. Andorra indicated that this situation happens rarely in practice. Finally, if the deposit of the documents has not been made one year after the end of the tax year, a note *ex officio* is added in the margin of the last registration made by the company to record the breach. The Minister of the Presidency of Economy and Business orders the publication of a warning in the BOPA to publicise the non-compliance of the company (Companies Regulations, Art. 44 *et seq*.). No registration with the Companies Register can be made until regularisation of the company's situation. During the review period, the Companies Register has reported that 67% of the registered companies have deposited their annual accounts, while 9.8% of them have not complied with this obligation for one year and the remaining 23.2% of companies are inactive and subject to administrative blockade.

Requirements under the tax legislation

138. In addition to their obligations under the Accounting Act, taxpayers must keep and maintain accounting records and supporting documents relevant for tax reasons. They also have to submit some accounting information in their annual tax return. For instance, companies that have an income of less than EUR 600 000 must provide a simplified income statement and balance sheet. Beyond this threshold, they must provide a profit and loss account, the statement of changes in equity and a normal balance sheet. The same obligation applies for branches of foreign companies. A tax return should also be filed for natural persons exercising an economic activity, which captures limited accounting data. As of 2018, there were 29 815 taxpayers in Andorra, including 10 878 Andorran and foreign companies.

139. In case of breach of the accounting obligations, different sanctions may be applied depending on whether a tax fraud is committed or not. In the absence of a tax fraud, a fine of 2% of the debits, credits or accounting entries that are omitted, inaccurate or falsified applies, with a minimum amount of EUR 150 and a maximum amount of EUR 3 000. A fine of 2% of the turnover of the offender applies in case of failure to maintain accounting records, with a minimum amount of EUR 600. In case of a tax fraud, a fine of 150% of the concealed revenues applies (General Taxation Act, Art. 128, 130 and 131).

140. The tax administration supervises the availability of accounting records, including underlying documentation. It is entitled to review all facts, operations and documents and verify the veracity of the data consigned in declarations and self-assessments. The tax administration is authorised to examine *inter alia* (i) the information included in the declarations and self-assessments, (ii) accounting records, (iii) public records and (iv) documents and registers required by tax legislation (General Taxation Act, Art. 87).

141. During the review period, the tax administration has increased its supervision of taxpayers' compliance with their tax and accounting obligations. The table below shows that the tax administration has carried out desk audits and on-site inspections. During the review period, 2 974 companies were controlled by the tax administration (about 30% of the companies). While the number of controls was very low in 2015 and 2016, it has significantly increased in 2017 and 2018. Indeed, direct taxation has only been introduced in Andorra in 2010 and the Andorran tax administration has increased its staff and expertise over the time. In 2019, there are 32 tax employees with supervising tasks. In addition, Andorra issues annually an audit plan and an action plan, which are based on risks.

Taxpayers' supervision in Andorra

		2015	2016	2017	2018
Number of taxpayers		24 985	26 710	28 167	29 815
Number of desk audits	(a)	1 623	1 567	6 134	6 697
Number of on-site inspections	(b)	112	115	436	184
Total number of controls	(a+b)	1 735	1 682	6 570	6 881
Level of coverage		7%	6.3%	23.3%	23.1%

142. The Andorran tax administration reported that the compliance rate for companies with their obligation to file a tax return was 61.2% in 2015, 60.7% in 2016 and 58.4% in 2017. Put aside the inactive companies, the level of compliance reaches 83.9% in 2015, 80.8% in 2016 and 76.1% in 2017. During the review period, the tax administration applied sanctions against 818 taxpayers, including 662 companies, for non-compliance with their accounting obligations. The total amount of the fines was EUR 6 662 216 (EUR 5 835 138 for companies).

Accounting requirements under the AML Act

143. Since the 2014 Report, Andorra has introduced new AML obligations and sanctions. AML obliged professionals, including trustees and administrators of legal arrangements, must retain, for at least ten years, receipts and registers of operations and transactions, account files and business

correspondence relating to their customers and, in case of failure, sanctions apply (see paragraph 93 above) (AML Act, Art. 37).

144. In practice, the accounting obligations related to AML requirements are to some extent monitored by the UIFAND, which can request any information or documents from AML obliged professionals and can carry out on-site inspections to verify their compliance with the AML Act. The UIFAND's supervisory activities during the review period are described in paragraph 101 above.

Accounting obligations of trustees and administrators of legal arrangements

145. Andorra was recommended in its previous report to ensure that all trustees of foreign trusts maintain reliable accounting records for the trusts, including underlying documentation. As indicated in paragraph 128 above, any trustee or administrator managing in a professional capacity a foreign trust or other legal arrangement must maintain and keep accounting records in the same way as any entrepreneur and is liable to the same sanction in case of failure. They must also comply with the accounting obligations of the tax legislation as described in paragraph 138 above. In addition, they are subject to the provisions of the AML Act and must therefore retain, for at least ten years from the date of termination of their management of the trust or legal arrangement, receipts and registers of operations and transactions, account files and business correspondence (see paragraph 143 above). Finally, to facilitate their supervision, trustees and administrators of legal arrangements who are not registered in a professional body recognised by the Government of Andorra must disclose their activity to the Ministry of Economy (see paragraph 116 above).

146. To complete these legal obligations, Andorra has established on 14 February 2019 a Legal Arrangements Register (see paragraphs 111 *et seq.* above). Any trustee or administrator of a legal arrangement, whether professional or not, must provide the Register each year with information regarding the income and profits obtained by the legal arrangements, whether distributed or not, and the payments made to the beneficiaries. This information must be provided by 31 March of the following year. In addition, when a trustee or an administrator stops administering a legal arrangement, the trustee or administrator must notify the Register and deposit the above-mentioned information (Legal Arrangements Register Regulations, Art. 11). The record-keeping obligations and the sanctions in case of non-compliance are those described in paragraphs 112-113 above.

147. During the review period, 50% of the notaries and 6% of the lawyers, accountants, economists and auditors, which are among the professionals that may be involved in the management of foreign trusts and legal arrangements,

were subject to on-site inspections by the UIFAND. None were found to be acting as a trustee or an administrator of a legal arrangement.

148. In conclusion, the Andorran legal framework that is in place ensures the availability of accounting records of any trusts or legal arrangements administered in Andorra in a professional capacity or not. In practice, Andorra indicated that compliance is ensured by the tax administration and the UIFAND. However, no trustees or administrators of legal arrangements have been identified so far by the Andorran authorities nor registered with the Ministry of Economy or the Legal Arrangement Register. As the Legal Arrangements Register, which strengthens the obligations of trustees and administrators of legal arrangements, has been in force since 14 February 2019, Andorra should monitor its implementation in practice (see Annex 1).

Availability of accounting information in EOI practice

149. During the review period, Andorra received 36 EOI requests relating to accounting information, which were all answered. None of them concerned an inactive company. Peers were satisfied with the accounting information (balance sheet, income statements, invoices, etc.) provided by Andorra.

A.3. Banking information

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

150. The 2014 Report concluded that record-keeping obligations of banks and their implementation in practice were in line with the standard. This conclusion is shared in the present report. Information regarding the account holder and the bank account, including records of transactions, is required to be maintained in Andorra by the Financial Institutions Act and the AML Act. This information must be available for ten years from the date of termination of the business relationship.

151. The 2016 ToR requires that beneficial ownership information in respect of account holders be available. In this regard, the Andorran AML legislation requires the identification of the beneficial owner(s) of bank accounts in line with the standard.

152. In case of non-compliance with the record-keeping obligations imposed by the Financial Institutions Act and the AML Act, sanctions are foreseen. The AFA and UIFAND are in charge of monitoring the practical implementation by financial institutions of these obligations. During the review period, they have effectively carried out off-site checks and on-site inspections. Some minor deficiencies were identified, recommendations were provided and sanctions were effectively applied.

153. During the review period, Andorra received 153 requests for banking information. Andorra provided the requested information in 146 cases (95.4% of cases). In the seven cases where the information was not provided, the availability of the banking information was not the issue. Peers indicated to be generally satisfied with the banking information provided by Andorra.

154. The table of determination and rating remains as follows:

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

A.3.1. Record-keeping requirements

155. The 2014 Report (paragraphs 163-175) found that banking information was available in Andorra through the obligations set out in the Financial Institutions Act and the AML Act. This conclusion remains valid in this report, taking into account the fact that the AML legislation has been strengthened in 2017.

156. The Financial Institutions Act requires all banks operating in Andorra to record their contractual obligations with customers and maintain records of all contractual documents. They must also keep records of all transactions and services provided and, at least, a record of orders and a register of transactions. These records must be kept for at least five years from the date of the order or transaction and must be sufficient to allow supervision by the AFA (Financial Institutions Act, Art. 15). In case of breach, an administrative fine of up to 2.5% of the net total annual turnover for entities and up to EUR 500 000 for a natural person can be applied. Other sanctions can also be applied such as a restriction of activities or the appointment of provisional administrators.

157. In addition, banks are AML obliged professionals (AML Act, Art. 2(1)). They must retain, for at least ten years, all documents and information relating to their clients but also receipts and registers of operations and transactions, account files and business correspondences. These documents must include information on the identity of the customer, the nature and date of the transaction, the origin of funds, the currency and amount of the transaction, and the purpose and intended nature of the business relationship with the customer. In case of failure, the sanctions described in paragraph 93 apply. In case of dissolution, the liquidators must retain the documents for ten years following the cessation of the bank.

Beneficial ownership information on account holders

158. The 2016 ToR specifically requires that beneficial ownership information be available in respect of all account holders. In Andorra, the AML legislation requires the identification of the beneficial owners of a bank account in line with the standard.

159. Banks have to apply CDD measures, in particular when establishing a business relationship or carrying out certain occasional transactions (AML Act, Art. 8): they are obliged to identify and verify the identity of their customers and identify the beneficial owner(s) based on documents or information obtained from reliable and independent sources. The definition of the term beneficial owner in the Andorran legislation as well as their identification process are compliant with the international standard (see paragraphs 76-77 and 117). The financial institutions must also conduct ongoing monitoring of the business relationship to ensure that the information and documents held are up-to-date (AML Act, Art. 9). These obligations are detailed in paragraphs 88 *et seq*. above. Failure to comply with their CDD or record keeping obligations is punished with the sanctions mentioned in paragraphs 92and 93 above.

Implementation of obligations to keep banking information in practice

160. Record-keeping obligations of banks and other financial institutions are supervised effectively in Andorra. The Andorran legislation provides a framework for internal and external supervisions of banks by the AFA with regard to the obligations established under the financial and insurance legislation and the UIFAND with regard to the compliance with AML obligations.

161. Banks must implement *inter alia*:

- a regulatory compliance body which, acting with functional independence, carries out the supervision of the continued and effective compliance of the bank with the relevant Andorran legislation (Financial Institutions Act, Art. 9)
- an internal audit body that, acting independently, supervises the suitability and effectiveness of the internal control system of the bank. Its annual audit report must be provided to the AFA (Financial Institutions Act, Art. 10). The internal audit body is also in charge of the supervision of the compliance with the AML legislation (AML Act, Art. 40(1)(b) and (c))
- external audits of the annual accounts of the bank and of its compliance with the AML legislation. A copy of the external audit report relating to the annual accounts must be provided to the AFA while a copy of the audit report relating to AML compliance must be provided to the UIFAND (Financial Institutions Act, Art. 19; AML Act, Art. 40(1)(a)).

162. Banks are also required to:

- designate at least one person of the internal control body to act as a representative before the UIFAND. This person receives inquiries and requests from the UIFAND (AML Act, Art. 40(3) and (4))
- establish in writing internal policies which cover inter alia: (i) admission of customers; (ii) due diligence with respect to the identification of the customer and of the beneficial owner(s); (iii) procurement of information on and verification of the identity of the customer and the beneficial owner(s); and (iv) measures for the conservation and updating of the documents and information (AML Regulations, Art. 17)
- raise awareness among their employees and train them with respect to their AML obligations (AML Act, Art. 42; AML Regulations, Art. 18).

163. The AFA and the UIFAND collaborate in many instances (e.g. in the authorisation process for new banks in Andorra). A Memorandum of Understanding was concluded to formalise their collaboration, which includes, for instance, the possibility of carrying on joint on-site inspections and exchanging information.

164. The AFA has a Supervisory Department comprised of 12 staff who are in charge of off-site or on-site supervisions. To perform its supervision, the AFA has extensive access powers, can obtain information from financial institutions and third parties and can carry out on-site inspections (AFA Act, Art. 4).

- The off-site supervision is an ongoing process performed on a routine basis which is conducted for all banks. It is based on periodic specific reporting (monthly, quarterly, semi-annual or annual), which include *inter alia* the AML report of the external auditor and the audited annual accounts. In practice, all these reports are reviewed. They contain information on and evaluation of the effectiveness of the internal control procedures implemented by each bank, which includes, for instance, control of the origin of the funds. Where issues are identified by the external auditors, they provide the bank with recommendations and an action plan, which are also transmitted to the AFA for off-site supervision. Where necessary, the AFA requests additional information from the external auditors and the entities.
- The on-site supervision is, in general, risk-based and defined in an annual thematic programme. The three-year programme adopted in 2018 includes the AML risk management. In practice, the AFA performs sample tests to ensure the identification of account holders and that transactional information is available. Following an on-site

inspection, an assessment report is produced with recommendations, if any. The prompt implementation of corrective measures is followed up by the AFA.

165. During the review period, the AFA reviewed 103 reports relating to six banks. In addition, the AFA also carried out 17 on-site inspections of banks. The AFA has reported that no deficiency has been found regarding the compliance of banks with their accounting and AML obligations.

166. As described in paragraphs 95 *et seq.*, the UIFAND supervises the compliance of the AML obliged professionals with the AML legislation. To that end, it carries out off-site and on-site supervisions. The UIFAND also sanctions minor administrative infringements to the AML legislation, sends the dossiers where serious or very serious infringements are identified along with a proposal of sanction to the Government, and submits cases where the commission of a criminal infringement is suspected to the Public Prosecutor's Office (AML Act, Art. 55).

167. During the review period, the UIFAND has actively supervised banks' compliance with their AML obligations. The first table below shows that the UIFAND has reviewed all the banks' external audit reports as part of its off-site supervision programme and has taken follow-up actions such as requesting additional information from the auditors or the financial institutions where clarifications or explanations were needed and issuing informative notes containing conclusions and recommendations for all financial institutions. The second table presents an overview of the measures of supervision carried out and the sanctions applied, if any. All banks were subject to off-site supervision and on-site supervisions. In addition, following the identification of deficiencies, two banks were sanctioned in 2017 with a fine of EUR 140 000 and EUR 20 000 respectively. The deficiencies identified were related *inter alia* to the CDD procedure in place (first case) and the internal control procedures (second case). Finally, a procedure initiated against a bank in 2018 was filed after the suspected breach was investigated.

UIFAND's follow-up on all the external audit reports

	2015	2016	2017	2018
Total number of banks	4	4	5	5
Additional information requested	2 (50%)	4 (100%)	3 (60%)	0 (0%)
Informative notes	4 (100%)	4 (100%)	5 (100%)	5 (100%)

Note: No additional information was requested in 2018 because all the banks were subject to on-site inspections.

Supervision of banks by the UIFAND

	2015	2016	2017	2018
Total number of banks under the supervision of the UIFAND	4 (100%)	4 (100%)	5 (100%)	5 (100%)
Total number of requests following off-site supervision	2 (50%)	4 (100%)	3 (60%)	-
Total number of on-site inspection	1 (25%)	-	1 (25%)	5 (100%)
Total number of cases where deficiencies where identified	-	-	2 (40%)	-
Amount of the fines applied (in KEUR)	-	-	160	-

Availability of banking information in EOI practice

168. Andorra received an increasing number of EOI requests for banking information totalling 153 during the review period as compared to 19 requests during the last peer review period. Andorra provided the requested information in 146 cases (95.4% of the banking information requests received). In seven cases, the information was not provided as explained in paragraph 186 *et seq.* below. In addition, the 21 requests received relating to beneficial owners of bank accounts were all answered. Peers indicated to be generally satisfied with the banking information provided by Andorra, which includes for instance account balances, bank statements, account opening contracts and powers, authorisation and signatures.

Part B: Access to information

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

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

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

170. The 2014 Report concluded that the access powers of the competent authority were in place, but some improvements were needed because the Andorran legislation did not provide the competent authority with the powers to access ownership information held by third parties or by the entities themselves, except from banks and other financial institutions. Therefore, Andorra was recommended to grant well-defined powers to the competent authority to obtain all relevant information in the possession or control of all persons within Andorra's territorial jurisdiction for EOI purposes.

171. Regarding the implementation in practice of this legal framework, the 2014 Report rated Element B.1 "Partially compliant" with two recommendations:

- According to Article 9(2) of the 2009 EOI Regulations, in case of joint bank accounts, the competent authority could only provide information related to the person who is the subject of the request. The 2014 Report noted (i) that it was unclear how Andorra would determine which information from joint bank accounts would be relevant or not for the requesting partner and (ii) that Andorra had no experience in exchanging information relating to joint bank accounts.

Therefore, Andorra was recommended to monitor its ability to obtain and provide information from joint bank accounts so that it does not prevent effective EOI.

- Although the competent authority has access to accounting information of all Andorran businesses irrespective of their legal form for EOI purposes, the 2014 Report noted that the competent authority had never used its access powers to obtain accounting information from companies or other persons during the previous review period. The accounting information was only provided by public authorities. Andorra was recommended to ensure that the competent authority fully exercises its access powers when necessary.

172. Since then, changes have been made to the Andorran legal framework and practice to respond to the three recommendations made.

- The 2017 EOI Act grants the competent authority with the power to obtain any information from any information holder within its territorial jurisdiction, including the person concerned.
- Andorra has effectively used its access powers to obtain accounting information directly from companies, where necessary.
- Andorra has monitored its ability to obtain joint bank accounts information under the 2009 EOI legislation. Although Andorra was able to provide the requested information in most of the cases, Andorra has acknowledged that, in some instances, it has experienced practical difficulties in gathering the requested information. With the adoption of the 2017 EOI Act and Regulations, the competent authority is now allowed to obtain all the information relating to a joint bank account and then can provide on a case-by-case basis the relevant information to the EOI partner. Since 10 June 2017, Andorra has sufficiently proven its ability to provide joint bank account information by replying to all but one of the 35 requests received.

173. In the current review period, Andorra has obtained and provided the information requested by its EOI partners in almost all cases. The few cases where the information was not provided were not due to limitations of the competent authority's access powers. Peers were generally satisfied with the information provided by Andorra and none of them has suggested that there were issues relating to access powers.

174. In light of the above, the table of recommendations, determination and rating is as follows:

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

B.1.1. Ownership, identity and banking information and B.1.2. Accounting records

175. The competent authority for EOI in Andorra is the Minister of Finance and the Secretary of State for International Financial Matters. The EOI Unit is a component of the Secretariat of State. The tax administration is not part of the competent authority.

Access powers

176. The 2014 Report found that, pursuant to the 2009 EOI Act, the competent authority had the power to request information from public authorities and financial institutions only. Therefore, Andorra was recommended to grant well-defined powers to the competent authority to obtain all relevant information in the possession or control of all persons within Andorra's territorial jurisdiction for EOI purposes.

177. Since then, Andorra has addressed the 2014 recommendations. It has first clarified the interpretation of the access powers granted by the 2009 EOI Act and Regulations, which eventually allowed the competent authority to obtain information from any person within the Andorran jurisdiction. This interpretation was confirmed by the Andorran practice (see paragraphs 180 *et seq.* below) and was supported by the Andorran Courts (e.g. *Batllia d'Andorra* – Decision no. 56/2016).

178. Second, Andorra has adopted on 25 May 2017 a new EOI Act which incorporates without ambiguity these clarifications and reinforces the access powers of the competent authority. The competent authority is granted with the power to obtain information (including ownership, accounting and banking information) from any information holder within Andorra's territorial jurisdiction, including the person concerned (2017 EOI Act, Art. 6). This access power applies *inter alia* to natural and legal persons, banks and financial institutions, public authorities and any person acting in an agency or fiduciary capacity, including nominees and trustees (2017 EOI Act, Art. 17(2)). These persons are obliged to transmit the information requested within ten business days. In case of failure, the sanctions mentioned in paragraph 193 below apply.

179. In addition, the competent authority can request the collaboration of other Andorran public authorities, such as the tax administration, the UIFAND or the AFA (2017 EOI Act, Art. 12(2)). It can request them to make enquiries, to inspect, search and/or seize documents. For instance, it can require the tax administration to "investigate, obtain and verify the information subject to international exchanges of information" (General Taxation Act, Art. 88(8)).

Access to information in practice

180. The competent authority consults directly the information saved in the databases maintained by the Government of Andorra. This includes for instance the Immigration Register (information on the residence), Companies, Foundations, Foreign Investments and Legal Arrangements registers (legal and beneficial ownership and accounting information) and the Trade Register (identification of entrepreneurs, their activity, the cessation of activity, etc.).

181. When the information is not directly accessible, the practice of the competent authority is to request it always from public authorities (e.g. other public registers, tax administration, the AFA, the UIFAND or the Social Security) and, if necessary, from other information holders, including the person concerned (e.g. natural or legal persons, AML obliged professionals, including financial institutions and legal professions).

Legal and beneficial ownership information

182. Regarding legal ownership information, the competent authority was able to answer the 45 requests received during the review period. It has usually obtained the information from the Companies Register or from other public authorities or registers (45 cases). When this information was not fully available with public authorities, it was also obtained from other information holders (12 cases), including during the period where the 2009 EOI Act was still applicable.

183. During the review period, Andorra received 68 EOI requests relating to beneficial owners of entities (47) or bank accounts (21). Andorra was able to obtain the requested information from public authorities, such as the *Comuns* and the Social Security (21 cases), financial institutions (38 cases) and from other information holders, such as the notaries and the insurance companies (8 cases). In only one case, the requested information was not provided to the EOI partner as the request was declined for a valid reason.

Accounting information

184. The 2014 Report noted that, although the competent authority has access for EOI purposes to accounting information for all Andorran

businesses, it had never used its access powers to obtain accounting information from legal or natural persons. The accounting information was only collected from public authorities, such as the Companies Register. Andorra was therefore recommended to ensure that the competent authority fully exercises its access powers when necessary.

185. During the review period, Andorra received 36 EOI requests relating to accounting information which were answered. In practice, the competent authority usually requests accounting information from both public authorities (in particular the Companies Register) and the natural or legal person holding them (if any). These latter are informed that a sanction could be imposed in case of failure to respond within ten business days (see paragraphs 192 and 193 below). If they have a delay in answering, the competent authority sends to the requesting jurisdiction the information it has already received from the public authorities to ensure a timely answer. When the accounting documents received from legal or natural persons provides for additional information, the competent authority sends a supplementary response to its EOI partner. In addition, where more detailed accounting information or underlying documents, such as invoices, are required, the competent authority has obtained them directly from the natural or legal person holding them (17 cases). The information holders, including natural and legal persons, have provided in all cases the requested accounting information.

Banking information

186. The 2014 Report concluded that the competent authority had access to banking information without limitation and had effectively exercised this power to obtain the requested banking information. Nonetheless, the same report found that, in case of joint bank accounts, the competent authority could only provide information related to the person who is the subject of the request and each account holder should be considered to have an equal interest in the account unless otherwise indicated (2009 EOI Regulations, Art. 9(2)). The 2014 Report noted that (i) it was unclear how Andorra would determine which information from joint bank accounts would be relevant or not for the requesting partner and that (ii) Andorra had no experience in exchanging information relating to joint bank accounts. Therefore, Andorra was recommended to monitor its ability to obtain and provide information from joint bank accounts so that it does not prevent effective EOI.

187. Andorra has monitored its ability to obtain information relating to joint bank accounts under the 2009 EOI Regulations, which was in force until 9 June 2017. It has acknowledged some difficulties in gathering joint bank accounts information in practice. In two situations, the work of the competent authority was nonetheless facilitated: i) when the concerned person has authorised the exchange of joint bank account information, and ii) when the

provisions contained in the AML Act were applied with respect to a beneficial owner. Andorra was able to provide information relating to joint bank accounts in most of the cases (40) for the period 1 April 2015 to 9 June 2017. In a few cases (4), the competent authority has not provided the requested information for the following reasons: (i) an appeal was initiated and is still pending before the *Tribunal Constitucional* (2 cases) ; (ii) the request was declined, as the clarifications requested by Andorra were not provided (1 case); and (iii) the EOI partner withdrew its request (1 case).

188. To address these difficulties, the 2009 provision on joint bank accounts has been removed from the 2017 EOI Regulations. In addition, the internal EOI Protocol of the competent authority provides that, in the case of joint bank accounts, the competent authority "will check that information has been provided about the whole of the bank account and all the joint holders. The information to be exchanged is determined on a case-by-case basis, so as not to restrict effective information exchange and ensure that the exchange is efficient". Since 10 June 2017, Andorra has provided joint bank account information in all but one of the 35 requests received. In one case, the requested information was not provided because additional information or clarifications were requested from the EOI partner which were not provided. Andorra should monitor the implementation in practice of this new legal framework to ensure that joint bank accounts information is provided in line with the standard in all cases (see Annex 1 below).

189. Finally, Andorra provided banking information not related to joint bank accounts to its EOI partners in 72 out of the 74 EOI requests received during the review period. In two cases, the information was not provided: in the first case, an appeal was initiated and is still pending before the *Tribunal Constitucional*; in the second case, while other information was provided, the banking information requested was not foreseeably relevant and the partner was satisfied with Andorra's response (see the previous paragraph).

190. Overall, during the review period, although the number of requests for banking information increased significantly, Andorra has provided the requested information for 146 out of the 153 requests received (95.4% of the cases). As indicated above, in the seven cases where the information was not provided, the reason was not a limitation of the access powers of the competent authority. The peers were in general satisfied with the banking information provided by Andorra.

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

191. 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 Andorran legislation explicitly provides that the competent authority must obtain and transmit the requested information even if it has no domestic interest in such information (2009 EOI Act, Art. 4(3); 2017 EOI Act, Art. 6(1)). Andorra's ability to obtain and provide information regardless of domestic tax interest was also confirmed by peers.

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

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

193. As described in the 2014 Report (see paragraphs 213 *et seq.*), the 2009 EOI Act contained sanctions for any person who failed to provide the information requested by the competent authority. Since the entry into force of the 2017 EOI Act, the applicable sanctions have been simplified and strengthened. Any person who fails to provide any information duly requested by the competent authority within ten business days or provides incorrect information is liable to a fine of 2% of its turnover of the year preceding the offence, with a minimum of EUR 10 000 and a maximum of EUR 100 000. In the case of persons who do not carry out economic activities, the fine is of EUR 10 000 (2017 EOI Act, Art. 13(2) and (4)).

194. In practice, the competent authority remains in regular contact with the information holder, who is informed that (i) a sanction under the EOI Act will be imposed if no response is received within ten business days and (ii) coercive measures may be taken under the General Taxation Act (see paragraph 179 above). Where the information is not provided within ten business days, the competent authority makes a formal requirement before starting the sanctioning procedure in order to speed up the collection of information. In case the information holder does not comply with the formal requirement, then the sanctioning procedure is engaged and the EOI partner is informed.

195. During the review period, there was no case where, after a formal requirement, the information holder refused or obstructed the provision of information requested for EOI purposes. Accordingly, no concerns in respect of Andorra's power to compel the production of the requested information were reported by peers either.

B.1.5. Secrecy provisions

196. The secrecy provisions protecting banking information and professional privilege contained in Andorra's laws were in line with the standard. Similarly, such secrecy provisions do not provide a basis for Andorra to decline to exchange information.

Bank secrecy

197. The 2014 Report found that the duty of secrecy of financial institutions and their employees (Law 8/2013, Art. 5(4)) was not preventing the competent authority from obtaining banking information. The competent authority was granted with the power to obtain for EOI purposes any relevant information held by banks or other financial entities in Andorra, notwithstanding any legal provision of equal or lower standing to the contrary (2009 EOI Act, Art. 4(4) and Derogation Provision).

198. The 2017 EOI Act provides the competent authority with the same power to obtain any relevant information held by financial entities for EOI purposes and states that in no case Andorra is prevented from supplying information solely because the information is held by a financial institution (2017 EOI Act, Art. 6(2) and 16(2)).

199. During the period under review, Andorra has obtained and exchanged banking information effectively and there was no case where the requested information was not obtained due to bank secrecy rules.

Professional secrecy

200. The Andorran legislation contains several provisions guaranteeing the professional secrecy of employees and professionals, such as notaries (Notaries Act, Art. 3(4)) and lawyers (Lawyers Act, Art. 13(2)). In line with the standard, secrecy covers only information which could reveal confidential communications between a client and a lawyer or other admitted legal representative where such communications are produced for the purpose of seeking or providing legal advice or for the purpose of use in existing or contemplated legal proceedings (2009 EOI Regulations, Art. 5). The 2017 EOI Act contains similar provisions (2017 EOI Act, Art. 6(4)). Therefore, the Andorran legal framework remains in line with the standard.

201. During the period under review, Andorra did not receive any requests for information that Andorra would consider covered by legal privilege or professional secrecy. It has also requested and obtain information from lawyers and notaries when requested. No issue in respect of application of professional legal privilege or secrecy in Andorra was reported by peers.

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.

202. The 2014 Report found that the competent authority has the obligation to notify the person holding the information and the person concerned, if different, of the receipt of a valid EOI request prior to exchanging information. However, the Andorran legislation did not provide any exception to the notification of the information holder and person concerned. Considering that this may unduly prevent or delay the effective EOI, Andorra was recommended that certain exceptions from prior notification be permitted. Therefore, the report concluded that Element B.2 was in place, but some improvements were needed. Taking into account the practical impact of this gap, it rated Element B.2 "Partially compliant".

203. Since then, Andorra has introduced a first exception to prior notification in 2014, which has been extended by the 2017 EOI Act. The exception is now granted in two circumstances: (i) where the EOI request is of a very urgent nature or (ii) where the notification of the EOI request is likely to undermine the chance of success of the investigation being conducted. The implementation of these exceptions was tested in practice with seven cases received in the first quarter of 2018. These requests were all processed without prior notification. However, they were answered in an average time of 205 days due to practical issues and requests for clarification before accepting granting the exception. While after the review period, the response time has significantly improved, Andorra is nonetheless recommended to monitor the practical implementation of the exceptions to prior notification to ensure that responses are always provided in a timely manner.

204. Where the exception to prior notification does not apply, the notified persons have the possibility to appeal the decision of the competent authority to process the EOI request successively before the Government of Andorra (administrative appeal) and, if not successful, before the Andorran Courts (ordinary judicial appeals). Where the conditions are met, they can also lodge two extraordinary judicial appeals. During the review period, 38% of the EOI requests were subject to appeal and, in a number of cases, the whole procedure has lasted more than 180 days and, in one case, more than one year. The main reason was that the notified persons have used all the possibilities offered by the Andorran legislation to challenge the decision of the competent authority, including by using the extraordinary appeal procedures. Taking into account that the appeal procedure has suspensive effect on the exchange of information, this may impede effective EOI and affect the timeliness of Andorra's responses to the EOI requests of its peers. While the impact on the EOI timeliness was limited during the review period and the number of appeals have significantly reduced after the review period, Andorra is nonetheless recommended to monitor the exercise of the right of appeal to ensure that its use is compatible with an effective EOI.

205. The standard was strengthened in 2016, and now requires that jurisdictions also provide for exceptions from time-specific post-exchange notification. In Andorra, when an exception to prior notification has been granted, the post-notification is done at a date which is defined in consultation with the requesting partner. This approach is in line with the standard.

206. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
Determination: The element is in place.		
Practical Implementation of the standard		
Deficiencies identified.	**Underlying Factor**	**Recommendations**
	During the review period, 38% of the EOI requests were subject to appeal and, in 14 cases the whole procedure has lasted more than 180 days and, in one case, more than one year. Taking into account that the appeal procedure in Andorra has suspensive effect on the exchange of information, this may impede effective EOI and affect the timeliness of Andorra's responses to the EOI requests of its peers.	Andorra should monitor the exercise of the right of appeal to ensure that its use is compatible with an effective exchange of information.
	The exceptions to prior notification introduced in the Andorran legislation have been tested in practice only recently. While the seven first cases processed in the first quarter of 2018 were answered in an average time of 205 days, Andorra's response time has significantly decreased after the review period.	Andorra should monitor the practical implementation of the exceptions to prior notification to ensure that responses are always provided in a timely manner.
Rating: Largely Compliant.		

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

Notification and appeal procedures

207. The 2014 Report (see paragraphs 226-236) described the notification and appeal procedures governed by the 2009 EOI Act and Regulations. These procedures have been clarified and improved by the 2017 EOI Act and Regulations in order to reduce their length to a maximum of 85 business days. These procedures, which are described in detail in Articles 7, 8 and 10 of the 2017 EOI Act, in Article 5 of the 2017 EOI Regulations, and in the competent authority's procedural protocols, are summarised in the following paragraphs.

208. Unless an exception to prior notification applies (see paragraph 217 *et seq.* below), the competent authority has the obligation to notify the person holding the information and the person concerned, if different, of the receipt of a valid EOI request. The notification is made by letter for Andorran residents or nationals, if they have an address in Andorra. In other cases, the notification is made by an edict published in the BOPA, which invites the person being notified to contact the Secretariat of State within ten business days. After this period, the notification is deemed made. In the case of a group request, the competent authority can choose to make the notification by letter or edict.

209. To be able to notify the person concerned where this person is identified otherwise than by name (including in case of a group request), the competent authority obtains first the identity and address from the information holder. The information holder, who must provide this information within five business days, cannot lodge an appeal against this request for the identification of the person concerned. In case of failure, the information holder is liable to the sanction mentioned in paragraph 193 above.

210. The person notified (i.e. the person concerned or other information holder) has the right to review the case file at the premises of the competent authority (see Confidentiality, paragraph 274 below) and to appeal the decision of the competent authority to process the EOI request before the Department in charge of administrative procedures of the Government of Andorra (administrative appeal) and, if not successful, before the Andorran Courts (judicial appeal). The judicial appeal is first lodged before the *Batllia d'Andorra* and, if not successful, an appeal can be lodged before the *Tribunal Superior de Justícia*. The competent authority can also appeal the decision of the *Batllia*. Each time, the appellants have ten business days after the notification of a decision, instead of the 13 calendar days previously applicable, to appeal to the next authority. The competent authority and the Courts, as the case may be, are also given ten business days to hear the parties involved and decide on the appeal.

211. Whether an appeal is lodged or not, the information holder has the obligation to provide the requested information to the competent authority within ten business days following the notification. In case of failure, the sanction mentioned in paragraph 193 above applies. Although this information cannot be provided to the EOI partner before the end of the whole appeal procedure, the competent authority is in a position to transmit immediately the requested information at the end of this procedure.

Practice

212. During the review period, 76 appeals against the decision of the competent authority to process the EOI requests were lodged before the Andorran Courts. These represented 38% of the EOI requests. The most common legal ground for appeal was the foreseeable relevance of the request. The outcome of the appeal procedure was generally in favour of the competent authority. So far, only one Court decision was not in favour of the competent authority because the information requested was for a period under which the EOI agreement was not in force.

213. The procedures have been longer during the review period, mainly because some appellants have used all the possibilities offered by the Andorran legal framework to challenge the EOI request, including the following extraordinary appeals:

- Where the Administrative Section of the *Tribunal Superior de Justícia* has issued a decision in favour of the competent authority, the appellants can bring an annulment appeal before the same Court seeking the invalidation of that decision within 13 working days on the grounds of a breach of fundamental rights or a procedural defect. Once the taxpayer has filed the appeal, the competent authority has a 13-day period to respond to the appeal. The Court has to issue a decision within 13 working days from this response.
- The appellants have also used the possibility to lodge a writ of *amparo* before the *Tribunal Constitucional*. The grounds are usually the violation of the rights recognised in the Andorran Constitution. This constitutional appeal has to be filed within 13 business days after the notification of the decision of the *Tribunal Superior de Justícia*. Once the appeal has been admitted by the *Tribunal Constitucional*, the parties have 13 business days to provide their allegations. Then the *Tribunal Constitucional* grants a new period of 13 business days for the parties to make their conclusions. Finally, the *Tribunal Constitucional* has to give judgment within two months.

214. These extraordinary appeals can extend the process by at least 160 days when there are no other delays in the judicial proceedings. So far, no appellant has won the extraordinary appeal lodged against the competent authority.

215. The table below shows that where the persons notified use all the possibilities of appeal offered by the Andorran legislation, the competent authority is not always able to provide the requested information in a timely manner. In 14 cases the whole procedure has lasted more than 180 days and in one case more than one year. Most of these cases were not handled under the 2017 EOI Act in force since 10 June 2017. During the review period, the persons notified used the extraordinary appeals in 12 cases (6.1% of the request received). Andorra also reported that for the whole 2018, only 9 judicial appeals were lodged (including 4 where extraordinary appeals were made) out of which 7 have lasted 180 days or more. It has also indicated that no judicial appeals, including extraordinary appeals, have been lodged between 1 January and 26 July 2019.

Length of the whole appeal procedure in Andorra

	2015 (April)	2016	2017	2018 (March)	Total
Number of EOI requests	36	63	81	18	198
Number of appeals exercised	14 (39%)	32 (51%)	28 (35%)	2 (11%)	76 (38%)
Number of cases where the Court has rejected the EOI	0	0	1	0	1
Number of cases where an extraordinary appeal was lodged	0	5 (7.9%)	7 (8.6%)	0	12 (6.1%)
Average of the whole procedure in case an appeal is lodged (from the receipt of the request to the transmission of the information)	276	156	159	234	-
Longest appeal procedure	438	239	287	279	-
Requests still pending	0	0	2	1	3

216. The improvements brought by the 2017 EOI Act to reduce the length of the ordinary appeal procedure have not been sufficiently tested in practice and their effect on the timeliness may still be affected when extraordinary appeals are lodged. Taking into account that the appeal procedures have suspensive effect on the exchange of information, this may impede effective EOI and affect the timeliness of Andorra's responses to the EOI requests of its peers. While the impact on the EOI timeliness was limited during the review period (see Element C.5.1 below) and the number of appeals have significantly reduced after the review period, Andorra is nonetheless recommended to monitor the exercise of the right of appeal to ensure that it is compatible with effective exchange of information.

Exceptions to prior notification

217. The 2014 Report concluded that the notification procedure in Andorra was not in line with the standard as there was no exception to the prior notification of the person under investigation and the information holder.

218. To address this legal deficiency, Andorra has first amended the 2009 EOI Act in 2014 to introduce an exception from prior notification according to which the secrecy of an EOI request will be maintained where the EOI partner (i) reasonably argues that disclosure of the information or the request can harm the investigation being undertaken and (ii) indicates that the investigation is conducted due to a serious offence under its tax legislation (2009 EOI Act, Art. 8(2)). Subsequently, the scope of the exception was broadened with the 2017 EOI Act, which provides now that the EOI request must be kept secret in two circumstances: (i) where the EOI request is of a very urgent nature or (ii) where the notification of the EOI request is likely to undermine the chance of success of the investigation being conducted.

219. A specific procedural protocol has been established which details the procedure to be followed by the competent authority when an exception to prior notification is requested.

- If the reasons why the exception should apply are not sufficiently substantiated in the EOI request, the competent authority will send a letter to the requesting jurisdiction explaining that the request cannot be processed under the "secret procedure". An opportunity is given to the partner to complete or amend its request.
- If a requesting jurisdiction provides sufficient evidence for an exception to be met, the competent authority ensures the secrecy of the request. The person under investigation is not notified and, therefore, cannot lodge an appeal, whereas the information holder is notified but is not authorised to lodge an appeal. The information holder is also legally obliged not to inform the person being investigated of the information notice. In case of failure, the information holder is liable to a fine of EUR 10 000 (2017 EOI Act, Art. 13(3)).

220. The exceptions from prior notification procedure and the secrecy procedure established by Andorra are therefore in line with the standard.

221. In practice, although Andorra has informed since 2014 its EOI partners of the introduction of an exception to prior notification, none of them has requested its application before 2018. From January to March 2018, the exception was requested in seven cases. In all these cases, Andorra has accepted the request of its EOI partners and has followed the secrecy procedure to obtain and provide the requested information. Although the requested information was provided in all the cases, the average time taken to answer these requests was 205 days. Andorra provided two explanations to this delay: (i) Andorra had requested from its partners additional information to support their requests for the application of the exception to prior notification which had lengthened Andorra's response time; (ii) these requests were the first ones to be processed in a secret manner and practical elements were

to be sorted out with the help of the Andorran Legal Department (e.g. the implementation of the post-notification procedure). Andorra has also reported that three other EOI requests were handled under the secrecy procedure after the review period, which were replied in 103, 93 and 75 days respectively. According to Andorra, its response time should continue to decrease as the competent authority has gained experience in processing requests where the exception applies. Andorra is nonetheless recommended to monitor the practical implementation of the exceptions to prior notification to ensure that responses are always provided in a timely manner.

Exception to time-specific post-exchange notification

222. The requirement to have an exception to time-specific, post-exchange notification was introduced to the 2016 ToR and therefore was not dealt with in the 2014 Report. In Andorra, an exception to post-exchange notification was first introduced in 2014, as an amendment to the 2009 EOI Act, and then clarified in the 2017 EOI Act. Where an exception to prior notification is granted, the competent authority must inform the concerned person of the EOI request after the requested information has been sent to the requesting jurisdiction. However, the date of the post-notification takes the circumstances of each individual case into account to ensure that the disclosure is not likely to undermine the reasons for which the requesting jurisdiction sought to have the request for information kept secret (2017 EOI Act, Art. 9(6)). As specified in its procedural protocol, the competent authority must communicate with the requesting competent authority to determine when the post-notification should take place. Following consultations with the requesting jurisdiction and once agreement is reached, the competent authority proceeds to the post-notification. The length of the postponement of the post-notification is not subject to any maximum deadline. Therefore, the post-exchange notification rule and its exception are in line with the standard.

223. In practice, Andorra has confirmed that it has contacted its EOI partners in the seven cases where an exception to prior notification was requested to determine the date of the post-notification. So far, Andorra has not yet proceeded to any post-notification. Peers have not raised concerns regarding the application of the post-exchange notification rule and its exception.

Part C: Exchanging information

224. Sections C.1 to C.5 evaluate the effectiveness of Andorra's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all Andorra's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Andorra's network of EOI mechanisms respects the rights and safeguards of taxpayers and whether Andorra can provide the information requested in a timely manner.

C.1. Exchange of information mechanisms

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

225. The 2014 Report concluded that Andorra's network of EOI mechanisms was is in place, but certain improvements were needed with respect to their legal implementation. First, EOI agreements were not given full effect through domestic law as there were some limitations on the authorities' powers to obtain necessary information for EOI purposes. Second, two TIEAs were not fully implemented due to a provision in Andorran legislation which restricts the ability of the competent authority to obtain and exchange information related to tax years beginning before the date of signature of an EOI agreement. Taking into account these two gaps, the Element C.1 was rated Largely compliant.

226. Since then, Andorra has addressed these two gaps. As indicated in Section B1 above, the competent authority now has the power to obtain any information from any information holder within Andorra to respond to an EOI request. In addition, the 2017 EOI Act also allows the competent authority to obtain and exchange information referring to tax years beginning before the date of signature of an EOI agreement, if it is specified by the concerned EOI agreement.

227. Andorra has also introduced in its legislation provisions and guidance for the receipt and processing of group requests.

228. In practice, Andorra applies its EOI agreements in accordance with the standard. However, during the first half of the review period, Andorra had (i) a restrictive interpretation of the foreseeable relevance standard in 11 cases (5.5% of the requests received) and (ii) questioned the relevance of seven EOI requests (3.5% of the EOI requests received) where the concerned persons were tax residents in Andorra or nationals of Andorra. Since the end of 2016, following decisions of Andorran Courts and bilateral communications with its EOI partners, Andorra has not raised these issues anymore as confirmed by the peers.

229. In addition to having the Multilateral Convention in force since 1 December 2016, Andorra had concluded a further nine new EOI agreements (two TIEAs and seven DTCs). To date, Andorra has EOI relationships to the standard with 128 jurisdictions.

230. The table of recommendations, determination and rating is as follows:

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

Other forms of exchange of information

231. In addition to exchanges on request, Andorra is implementing automatic exchange of financial account information with its first exchanges in 2018. Andorra also plans to implement an Inter-Governmental Agreement with the United States for automatic exchange of information under the Foreign Account Tax Compliance Act. A member of the Base Erosion and Profit Shifting Inclusive Framework, Andorra is also implementing automatic exchange of country-by-country reports and mandatory spontaneous exchange of tax rulings.

C.1.1. Foreseeably relevant standard

232. EOI mechanisms should allow for EOI on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. EOI in line with the standard of foreseeable relevance is possible with all the partners of Andorra.[12]

12. The 2014 Report (paragraph 252) noted that the TIEA with Liechtenstein provides in its Article 7(1)(d) that the requested jurisdiction may decline a request if the amount of tax or duty in question does not exceed the threshold of EUR 25 000, unless the case is "deemed to be extremely serious by the

233. To ensure the correct application of the foreseeable relevance standard, Andorra has introduced in its domestic legislation the list of information to be provided by its EOI partners to demonstrate that the requested information is foreseeably relevant for the application of its tax legislation (2009 EOI Act, Art. 4(1); 2017 EOI Act, Art. 5(1)). This list mirrors perfectly with the list of information to be provided under Article 5(5) of the Model TIEA and is consistent with Article 18 of the Multilateral Convention. Guidance is also provided to the competent authority in the EOI Regulations: for instance, the identification of the person under investigation may be realised by the name, the address, or any other information that would ascertain the identity of the person without confusion (e.g. an account number, passport number).

Foreseeable relevance in practice

234. As mentioned in the commentary on Article 26 of the Model DTC, "the standard of foreseeable relevance is intended to provide for exchange of information in tax matters to the widest possible extent". Two peers commented that Andorra had in some cases a restrictive interpretation of the foreseeable relevance standard concerning its EOI partners' grounds for believing that the information requested is held in Andorra or is in possession or control of a person in Andorra. In particular, Andorra sought clarification even when detailed factual elements were already provided by the requesting partners. This interpretation, which is not in accordance with the standard, has unduly delayed an effective EOI. This situation relates to 11 cases between April 2015 and end of 2016 and represents 5.5% of the requests received by Andorra during the review period.

235. Based on a recent case law of the Andorran Courts that rely on the application of the commentaries to the Model DTC and Model TIEA, the competent authority has confirmed to its partners that it is in a position to process these requests in line with the standard. In particular, Courts mentioned in their decisions that the standard of foreseeable relevance should be interpreted in such a manner to provide for EOI in tax matters to the widest possible extent.[13]

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applicant party". These concerns are now balanced by the existence of two other EOI agreements with Liechtenstein that are fully in line with the standard: the Multilateral Convention and a DTC, which allow the jurisdictions to exchange information to the standard.

13. For instance, in its decision 38-2017 of 3 May 2017, the *Tribunal Superior de Justícia* has made an application of the following commentary: "once the requesting State has provided an explanation as to the foreseeable relevance of the requested information, the requested State may not decline a request or withhold requested information because it believes that the information lacks relevance to the underlying investigation or examination".

236. Following this case law, Andorra has responded to its EOI partners. This is confirmed by the main peer affected by this interpretation (10 out of the 11 cases) which also indicated that Andorra has not requested clarifications based on this argument since end of 2016. In light of the above, Andorra should continue to interpret the foreseeable relevance standard to the widest extent possible (see Annex 1 below).

Requests for clarification or additional information

237. The procedural protocols of the competent authority provide guidance regarding the control of the foreseeable relevance of the information requested by the partners. When the competent authority detects that an EOI request is unclear or incomplete and may not meet the standard, it cannot reject the request without seeking clarification or additional information from the requesting partner. Andorra indicated that it has always followed this approach during the review period. A letter is sent within 60 days of receipt of the request explaining the issue and giving the partner an opportunity to amend or complete its EOI request.

238. During the review period, Andorra has sought clarification or additional information from its partners in 22 cases (11% of the EOI requests received). The number of requests for clarification sent by Andorra decreased significantly during the review period: these clarifications were mainly requested between April 2015 and end 2016 with 19 instances (86% of the requests for clarification). In practice, clarifications or additional information were requested in the following situations: (i) account numbers did not match with accounts maintained in the bank indicated in the request (4 cases representing 2% of the EOI requests received); (ii) lack of information to identify the holder of the information (7 cases representing 3.5% of the EOI requests received); (iii) the foreseeable relevance of the requested information was not sufficiently motivated (11 cases representing 5.5% of the EOI requests received). The later reason is explained in paragraphs 234-236 above.

239. Requests for clarification were sent to the partner within 60 days of the receipt of the EOI request in 36% of the cases (8 cases), between 60 days and 90 days in 32% of the cases (7 cases) and between 90 days and 180 days in 32% of the cases (7 cases). After receipt of the clarifications or additional information, Andorra has provided the requested information. Nevertheless, Andorra should monitor its procedures to ensure that its requests for clarification are sent in a timely manner to the requesting partners (see Annex 1 below).

Group requests

240. Andorra interprets its EOI agreements as allowing for the provision of information requested pursuant to group requests in line with the standard. In addition, Andorra has introduced in its domestic legislation the guidance relating to the foreseeable relevance of group requests mentioned in the paragraph 5.2 of the commentary to Article 26 of the Model DTC: the requesting jurisdiction must provide the following information in its group request: (i) a detailed description of the group, (ii) the specific facts and circumstances that have led to the request; (iii) an explanation of the applicable law and why there is reason to believe that the taxpayers in the group for whom information is requested have been non-compliant with that law supported by a clear factual basis; and (iv) a showing that the requested information would assist in determining compliance by the taxpayers in the group (2017 EOI Act, Art. 2(i) and 5(2); 2017 EOI Regulations, Art. 4). Andorra's procedure to deal with group requests is very similar to the one used for individual requests and is detailed in Andorra's procedural protocol for group requests.

241. During the review period, Andorra did not receive or send any group requests.

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

242. EOI with respect to all persons is possible with all the partners of Andorra. However, in seven cases (3.5% of the EOI requests) received in the first half of the review period, Andorra has questioned, through request for clarifications, the relevance of the EOI requests sent by one peer on the ground that the concerned persons were tax residents in Andorra or nationals of Andorra. This practice was not in line with the standard according to which EOI mechanisms provide for EOI in respect of all persons. Nevertheless, the Andorran Courts relying on the commentaries to the Model DTC and Model TIEA have confirmed that the competent authority can exchange information relating to all persons, including nationals and/or residents.[14] Based on this case law, Andorra eventually provided the requested information. The concerned peer has confirmed that this issue did not arise after end of 2016. Andorra has confirmed that it can now process such requests in line with the standard. In light of this, Andorra should continue to provide information without any restriction based on the residence or the nationality of the person concerned (see Annex 1 below).

14. For instance, decision 02-2017 of 25 January 2017 of the *Tribunal Superior de Justícia*.

C.1.3. Obligation to exchange all types of information

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

244. All of Andorra's EOI agreements allow the exchange of all types of information, including banking information. Moreover, Andorra is not prevented from supplying information held by a financial institution, nominee or person acting in an agency or a fiduciary capacity or information relating to ownership interests in a person.

245. During the review period, peers have not raised any issues in practice regarding the ability of Andorra to exchange any type of information.

C.1.4. Absence of domestic tax interest

246. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

247. Andorra's EOI agreements allow for EOI without any limitation due to domestic tax interest. As indicated in paragraph 191 above, the Andorran legislation explicitly provides that the competent authority will exchange the requested information even if it has no domestic interest in such information.

248. During the review period, Andorra has provided information in cases where it did not have a domestic tax interest and peers did not report any issues in practice with regard to domestic tax interest requirements.

C.1.5. and C.1.6. Absence of dual criminality principles and Exchange of information relating to both civil and criminal tax matters

249. There are no restrictions limiting EOI in criminal matters in any of the EOI agreements of Andorra and no condition of dual criminality applies. In practice, Andorra has not received any requests related to a criminal matter, so the issue did not arise in practice during the review period.

C.1.7. Provide information in specific form requested

250. There are no restrictions in the Andorran domestic laws and EOI agreements that prevent Andorra from providing information in different forms, as long as the form complies with Andorra's administrative practices.

C.1.8. Signed agreements should be in force

251. Andorra has an extensive EOI network covering 128 jurisdictions through 8 DTCs, 24 TIEAs, the EU-Andorra Convention and the Multilateral Convention. Out of these 128 jurisdictions, Andorra has an EOI instrument in force with 116 of them (see Annex 2 below).

252. Only the TIEA concluded with Liechtenstein on 19 September 2009 and entered into force on 10 January 2011 is not up to the standard. However, the Multilateral Convention is in force with respect to Andorra and Liechtenstein. These countries have also signed on 30 September 2015 a DTC up to the standard which has been in force since 21 November 2016.

253. The 2014 Report (paragraphs 276-278) described the procedure in Andorra to bring an EOI agreement into force. This procedure remains the same.

254. The following table summarises the outcomes of the analysis under element C.1 in respect of Andorra's bilateral EOI mechanisms:

EOI Bilateral Mechanisms

EOI relationships, including bilateral and multilateral (MAC) or regional mechanisms	128
In force	116
In line with the standard	116
Not in line with the standard	0
Signed but not in force	12
In line with the standard	12
Not in line with the standard	0
Bilateral mechanisms (DTCs/TIEAs) not complemented by multilateral or regional mechanisms	0

C.1.9. Be given effect through domestic law

255. The 2014 Report concluded that Andorra could not be considered to have given full effect to its EOI agreements through domestic law as several limitations in the availability of information in Andorra and access to information by Andorran authorities were identified at that time.

256. In addition, the 2014 Report also indicated that although the ToR does not require that information must be provided that relates to a taxable period before the entry into force of an EOI agreement, a jurisdiction should nevertheless comply with the relevant provision of the relevant EOI agreement. Based on this consideration, it was considered that the provision relating to the entry into effect with respect to criminal tax matters of the TIEAs with Monaco and San Marino could not be fully implemented. Indeed, the 2009 EOI Act restricted the ability of the competent authority to obtain and

exchange information related to tax years beginning before the date of signature of an EOI agreement.

257. Since then, Andorra has addressed these issues by putting in place a legal and regulatory framework that gives full effect to its EOI mechanisms. First, as mentioned above in Section B1 above, Andorra is able to obtain the requested information from any information holder within its jurisdiction. Second, unlike the 2009 EOI Act, the 2017 EOI Act provides that it applies to EOI requests relating to tax periods starting on or after the date specified in the relevant EOI agreement. Therefore, the competent authority can now use its access powers to obtain and exchange information referring to tax years before the entry into force of an EOI agreement, if provided under the terms of the EOI agreement (e.g. criminal tax matters).

258. Effective implementation of EOI agreements in domestic law has been confirmed in practice during the review period as there was no case encountered where Andorra was not able to obtain and provide the requested information due to unclear or limited effect of an EOI agreement in its domestic law. No issue in this regard was reported by peers.

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

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

259. Since the 2014 Report, which already found that Andorra was compliant with the standard, Andorra has ratified three TIEAs, one DTC and the Multilateral Convention. It has also signed and ratified the EU-Andorra Convention, which provides for EOI on request in line with the standard and covers the 28 EU Member States, two TIEAs and seven DTCs.

260. Andorra has therefore an extensive EOI network covering 128 jurisdictions through 8 DTCs, 24 TIEAs, the EU-Andorra Convention and the Multilateral Convention. Andorra's EOI network encompasses a wide range of partners, including all of its major trading partners, all the EU Member States, all the G20 members and all OECD members. All these agreements are published on the website of the Ministry of Finance and accessible at the following internet address: www.finances.ad/regulations.

261. Andorra has never refused to enter into an EOI agreement with any potential partner and continues to actively engage in negotiations with prospective treaty partners (e.g. DTC negotiations have been initialled with Belgium and the Netherlands). Therefore, the determination of Element C.2 remains "in place", and Element C.2 is rated "Compliant". Andorra should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1 below).

262. The table of determination and rating is as follows:

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

C.3. Confidentiality

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

263. The 2014 Report concluded that the confidentiality framework in Andorra was in place, but certain improvements were needed. Indeed, following their notification of the receipt of an EOI request, the concerned person and the information holder were granted the right to inspect the dossier containing all information obtained from the requesting jurisdiction, including the EOI request letter. Andorra was recommended to address this gap by ensuring that only the minimum information necessary to collect the requested information is disclosed in the notification process. In light of this gap, Element C.3 was rated Partially compliant.

264. Since then, Andorra has reviewed its notification procedure to ensure that only the minimum information necessary to collect the requested information is disclosed, including in the case of a group request. It has also clarified that in no circumstances the EOI letter and the correspondences between the competent authorities can be disclosed. Finally, Andorra has also detailed the applicable confidentiality rules in case an appeal is lodged. Now, the EOI dossier is only disclosed where an appeal procedure is lodged before the Andorran Courts. However, in that case, the requesting jurisdiction is always informed so that it can decide to withdraw its request if it does not want the entirety of the dossier, including the request letter, to be disclosed.

265. In addition, appropriate policies and procedures have been implemented in practice by Andorra to ensure that EOI documents are kept confidential in line with the standard. Accordingly, no case of breach of confidentiality has been encountered in the EOI context and no such case or concern has been reported by peers either.

266. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place.

Practical Implementation of the standard
Rating: Compliant.

C.3.1. Information received: disclosure, use and safeguards, and C.3.2. Confidentiality of other information

267. All EOI agreements concluded by Andorra have confidentiality provisions in line with Article 26(2) of the Model DTC or Article 8 of the Model TIEA and therefore ensure confidentiality of exchanged information in line with the standard. In addition, these provisions are transcribed in the Andorran domestic legislation (2009 EOI Act, Art. 6; 2017 EOI Act, Art. 17). Therefore, any information received by Andorra as requesting or requested jurisdictions must be kept confidential.

268. The legal obligation to maintain treaty-exchanged information confidential is supported by administrative and criminal sanctions applicable in the case of breach. Any authority or civil servant who does not respect the professional secrecy duty commits a serious administrative offence, the sanction of which may go up to dismissal (Civil Service Act, Art. 70, 71 and 72(1)(c)). In addition, criminal sanctions are provided by the Criminal Code (e.g. theft of documents, unlawful access to documents or disclosure of secrets). Any person who acts contrary to the secrecy rules may be subject, on conviction, to a fine up to EUR 6 000, or to imprisonment of six months to three years, and the prohibition to exercise any public office during a certain amount of time.

269. The 2016 ToR clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides for the authority supplying the information to authorise the use of information for purposes other than tax purposes, and where tax information may be used for other purposes in accordance with their respective laws. In the period under review, Andorra reported that there was one request where the requesting partner sought Andorra's consent to utilise the information for non-tax purposes to which Andorra gave its consent. Andorra did not request its partners to use information received for non-tax purposes.

Confidentiality in the course of the notification and appeal procedures

270. The 2014 Report noted that, after being notified of the existence of an EOI request, the information holder and the person concerned, if different, can consult the dossier containing all information provided by the requesting jurisdiction, including the EOI request (2009 EOI Regulations, Art. 6). As this was not in line with the confidentiality requirement, Andorra was

recommended to ensure that it discloses only the minimum information necessary to collect the requested information.

271. Until 9 June 2017, the Andorran legal framework was identical to the one reviewed in the 2014 Report. However, Andorra introduced in 2014 an exception to prior notification making the consultation of the dossier impossible, as indicated in paragraph 218 above. In addition, Andorra has clarified its practice regarding the notification procedure as well as the administrative and judicial appeals procedures. These improvements are incorporated in the 2017 EOI Act and Regulations in force since 10 June 2017.

272. When the exceptions to prior notification do not apply, Andorra ensures that only the minimum information needed to inform the information holder and the person concerned of the existence of an EOI request is disclosed in the notification procedure.

- Where the person to notify is resident in Andorra or has Andorran nationality and an address in Andorra, the notification letter contains only: the date of receipt of the EOI request, the requesting country, the EOI legal basis (only mentioned for the person concerned), the identification of the person concerned and the information requested (2017 EOI Regulations, Art. 5(1) and (2)).
- In other cases, the notification is made through the publication of an edict in the BOPA. In line with the standard, this edict only discloses the minimum information necessary for the notification (the first name, last name or company name of the person concerned) and the fact that this person should contact the Secretariat of State (2017 EOI Regulations, Art. 5(4); EOI General Procedural Protocol). Andorra has indicated that the publication of an edict in the BOPA is a usual way to reach persons that need to contact the Andorran authorities, including the Secretariat of State, for different kinds of administrative matters. Therefore, the publication of such edict *per se* is not likely to indicate that the person mentioned is subject to an EOI request.

273. In the case of a group request, the persons concerned can be notified by letter or by an edict published in the BOPA following consultation with the requesting jurisdiction. Unless agreed otherwise with the requesting jurisdiction, the following information is disclosed in the letter or in the edict: (i) identification of the requesting jurisdiction; (ii) EOI legal basis; (iii) periods for which information is requested; (iv) description of the group about which information is requested that allows the persons concerned to be identified, the content of which is agreed on a case-by-case basis with the requesting jurisdiction (2017 EOI Act, Art. 8; 2017 EOI Regulations, Art. 9).

274. Then, the notified person has the possibility of appearing before the competent authority to consult, in its presence and without any copies being allowed, the parts of the dossier that are not required to be kept confidential. In practice, this information is the same as the one to be included in the notification letter: the information for consultation is transcribed in a specific file, which is the only document the notified person can review. In case of a group request, the notified person may also access the description of the group that is subject of the request for information as it enables the identification of the persons concerned. In any case, the EOI request letter and the communications between the competent authorities must be kept confidential at all times (2017 EOI Regulations, Art. 6; EOI Procedural Protocols).

275. As described in paragraph 207 *et seq*. above, the person notified is allowed to appeal the decision of the competent authority to process the EOI request first before the Government of Andorra (Department in charge of administrative procedures) and, if this administrative appeal is not successful, before the Andorran Courts. In the course of the administrative appeal, the person notified cannot obtain more information than is indicated in the notification letter and/or in the file that can be consulted in the premises of the competent authority.

276. However, where an appeal is lodged before the Andorran Courts, the competent authority must deliver the entire dossier, including the EOI letter and all the correspondences between the competent authorities (Law on Administrative and Tax Jurisdiction, Art. 42). In that case, in line with the standard, the Andorran competent authority informs by letter its EOI partner that, within the framework of the court proceeding, access will be given to the complete dossier, without exceptions, so that the EOI partner has the possibility to decide whether it maintains its request or not.

277. Andorran EOI partners have confirmed that they are informed by Andorra where an appeal before the court is lodged and its consequences. However, one EOI partner has indicated that the time given to the requesting jurisdiction to decide whether it withdraws its EOI request or not is very short. This is the consequence of the short timeline (ten business days from the date of the filing of the appeal) given to the *Batllia* to issue its decision. Andorra has noted the concern of its partner and will modify its practice. It will now inform its EOI partner as soon as an administrative appeal is made that if a judicial appeal is launched afterward access to the dossier can be granted. It will also inform the EOI partner if a judicial appeal is effectively lodged. In both cases, the EOI partner will have the possibility to decide whether it maintains its request or not in case a judicial appeal is lodged and to report its decision to Andorra. Andorra should monitor the implementation of this new practice (see Annex 1 below).

278. In conclusion, the approach taken by Andorra is now in line with the standard. Therefore, the recommendation made in the 2014 Report has been addressed.

Practical measures to ensure confidentiality of the information received

279. Andorra has implemented strict confidentiality measures in its EOI process and practices. Andorra has in place appropriate policies and procedures to ensure confidentiality of the exchanged information. It has put in place an Information System Security Policy based on ISO 27001, which defines the global IT security policy for all departments of the Andorran Government and the security measures to be applied to the Information Systems. Each Head of Department is responsible for the implementation of this Policy.

280. The Human Resource Policy includes measures to prevent and/or to address confidentiality breach. In addition, all contracts signed with third parties contain a confidentiality clause which includes the commitment of strict secrecy and confidentiality. Contractors are also requested to inform their employees about the confidentiality clauses in their contract. A basic training is provided to all new staff, which includes a session on their duty of confidentiality and the sanctions in case of breach. The officers of the EOI Unit also attend specific trainings such as EOI seminars organised by the Global Forum. Finally, a departure policy is in place and former employees remain indefinitely bound by secrecy and subject to criminal penalties if they disclose confidential information.

281. Access controls are also implemented. The access to the buildings as well as to the office of the EOI Unit is under supervision with 24-hours security service and camera surveillance. The access to restricted areas (e.g. EOI Unit) is also controlled by a biometric reader, which is only given to authorised personnel. Visitors in these areas (e.g. maintenance staff from third party companies) are escorted at all times. The access system is centrally monitored and controlled by the Information Systems Department. Finally, a clean desk and clear screen policy is implemented.

282. There is also monitoring of potential breaches through access control tools as well as the duty of civil servants to report on suspicion of breaches (Code of Conduct, Art. l4). There are also measures to investigate, sanction and mitigate actual breaches.

283. All EOI requests are received by the EOI Unit and stamped "Confidential". The hard copy of the request is stored in the EOI Unit office in a locked cabinet and a record of the request is created in its database. Access to emails is restricted and needs an authentication with a User ID and a password. The IT system allows tracking of data access.

284. All received requests are checked against the competent authority's list provided by Andorra's EOI partner to ensure that the request was made by and replies are made to an authorised competent authority. All information received from EOI partners in response to Andorra's EOI requests should be forwarded to the tax administration with a notice highlighting that the use of this treaty protected information is governed by the provisions of Article 17 of the 2017 EOI Act.

285. During the reviewed period, no case of breach of confidentiality obligations in respect of the exchanged information has been encountered by the Andorran authorities and no concern in this respect has been indicated by peers either.

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.

C.4.1. Exceptions to provide information

286. All but one of Andorra's EOI agreements contain provisions on the rights and safeguards of taxpayers and third parties in line with the standard. They incorporate wording modelled on Article 26(3) of the Model DTC or Article 7 of the Model TIEA providing that requested jurisdictions are not obliged to provide (i) information which would disclose any trade, business, industrial, commercial or professional secret, (ii) information which is the subject of attorney-client privilege/legal privilege, or (iii) information the disclosure of which would be contrary to public policy. The one departure is complemented now by other EOI instruments that meet the standard.[15]

287. In addition, Article 16 of the 2017 EOI Act reproduces the exceptions to provide information included in Article 21 of the Multilateral Convention which are also in line with the standard. The domestic provisions relating to the professional privileges of the relevant professionals are also in line with the standard (see Section B.1.5 above). Peers have not indicated any issue relating to the application in practice of the exceptions to provide information included in their EOI agreements with Andorra or in the Andorran legislation.

15. The 2014 Report noted that the TIEA with Liechtenstein required the person concerned by the investigation to be informed in all cases by the requesting jurisdiction about its intention to make a request for information. This raised the risk of jeopardising the success of investigations and this agreement is not in line with the standard. Since then, the Multilateral Convention has entered into force with respect to both jurisdictions as well as a DTC, both compliant with the standard. Therefore, the issue raised in paragraph 313 of the 2014 Report is solved.

288. The table of determination and rating remains as follows:

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

289. The 2014 Report concluded that Element C.5 was "Partially compliant", with two recommendations made to Andorra:

- As answering EOI requests was generally slow, Andorra was recommended to ensure that replies are provided in a timely manner.
- As some communication problems were identified where the status of the EOI request was not communicated or EOI requests were rejected without seeking more information, Andorra was recommended to ensure that the competent authority communicates effectively with all its partners, including the provision of status updates within 90 days in all cases.

290. Since then, Andorra has improved the timeliness of its replies to its EOI partners and addressed the communication issues:

- Andorra has improved the timeliness of its replies in the context of a significant increase of its EOI activity with 198 EOI requests received during the review period. Despite special circumstances that have affected the ability of Andorra to process the EOI requests received at the beginning of the review period, Andorra replied within 90 days for 27.8% of the cases, within 180 days for 66.7% of the cases and within one year for 89.9% of the cases. Although (i) peers were in general satisfied with the timeliness and quality of the answers provided and (ii) the timeliness has further improved at the end of the review period, the requested information was not provided in all cases in a timely manner. Andorra is therefore recommended to continue to improve the timeliness of its replies.
- Andorra has also addressed almost all the communication issues identified in the previous report by implementing new procedures and practices in line with the standard. However, although improvements have been made in providing status updates where a request

could not be replied within 90 days, Andorra has not provided an update in all cases. Andorra is therefore recommended to monitor the effectiveness of its new procedures to ensure it provides status updates to EOI partners within 90 days in those cases where it is not possible to provide a complete or partial response within that timeframe.

291. The Andorran competent authority has appropriate human, material and procedural resources to carry out its EOI functions. While Andorra has not yet requested information from its partners, it has implemented a framework to ensure the quality of its future outgoing requests.

292. The table of recommendations and rating is as follows:

Legal and Regulatory Framework		
This element involves issues of practice. Accordingly, no determination has been made.		
Practical Implementation of the standard		
Deficiencies identified in the implementation of EOIR in practice.	**Underlying Factor**	**Recommendations**
	Peers were in general satisfied with the timeliness and quality of the answers provided and the timeliness has further improved at the end of the review period. However, the requested information was not provided in all cases in a timely manner.	Andorra should continue to improve the timeliness of its replies.
	Andorra has made progress in providing status updates within 90 days in the event that it was unable to provide a complete response within that time to its EOI partners, in particular in the recent period. However, it did not provide such status updates within that timeframe in all cases.	Andorra should monitor the effectiveness of its new internal procedure to ensure it provides status updates to EOI partners within 90 days in all those cases where it is not possible to provide a complete response within that timeframe.
Rating: Largely Compliant.		

C.5.1. Timeliness of responses to requests for information

293. From 1 April 2015 to 31 March 2018, Andorra received 198 requests for information from nine EOI partners. Andorra's most significant EOI partners for the period under review (by virtue of the number of exchanges with them) are France and Spain (94% of the EOI requests received). The information required in these requests[16] related mainly to (i) banking information (153 cases) (ii) legal and beneficial ownership information (45 cases and 68 cases respectively), and (iii) accounting information (36 cases). The requests concerned individuals as well as companies.

294. The following table relates to the requests received during the period under review and gives an overview of response times needed by Andorra to provide a final response to these requests together with a summary of other relevant factors relating to the effectiveness of Andorra's EOI practice.

Timeliness statistics

		April 2015-March 2016		April 2016-March 2017		April 2017-March 2018		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E+F]	50	100	65	100	83	100	198	100.0
Full response: ≤ 90 days		11	22	16	24.6	28	33.7	55	27.8
≤ 180 days (cumulative)		26	52	54	83.1	52	62.7	132	66.7
≤ 1 year (cumulative)	[A]	39	78	61	93.9	78	94	178	89.9
> 1 year	[B]	8	16	0	0	2	2.4	10	5.1
Declined for valid reasons	[C]	3	6	1	1.5	0	0	4	2
Status update provided within 90 days (for responses sent after 90 days)		18	48.6	21	43.8	53	96.4	92	66.2
Requests withdrawn by requesting jurisdiction	[D]	0	0	1	1.5	2	2.4	3	1.5
Failure to obtain and provide information requested	[E]	0	0	0	0	0	0	0	0
Requests still pending at date of review	[F]	0	0	2	3.1	1	1.2	3	1.5

Notes: a. Andorra counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about four persons in one request, Andorra counts that as one request. If Andorra received a further request for information that relates to a previous request, with the original request still active, Andorra will append the additional request to the original and continue to count it as the same request.

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

16. Some requests entailed more than one information category.

295. During the review period, Andorra provided responses to its partners within 90 days of receipt of their request in 27.8% of cases. Andorra's response rate is 66.7% within 180 days and 89.9% within one year. For 5.1% of the requests, a response was provided after one year had elapsed. Lastly, three requests were still pending at the review date, which represents 1.5% of requests received.

296. While the number of requests received by Andorra has significantly increased during the review period (198 requests) in comparison with the period reviewed in the 2014 Report (29 requests), Andorra has greatly improved the timeliness of its answers as shown in the table below:

		2014 report July 2011-June 2013		Current report April 2015-March 2018	
		Num.	%	Num.	%
Total number of requests received	[A+B+C]	29	100	198	100
Full response: ≤ 90 days		4	13.8	55	27.8
≤ 180 days (cumulative)		7	24.1	132	66.7
≤ 1 year (cumulative)	[A]	12	41.4	178	89.9
> 1 year	[B]	12	41.4	10	5.1
Requests still pending at date of review	[C]	5	17.2	3	1.5

297. Andorra explained that requests that are fully dealt with within 90 days typically relate to information already at the disposal of the competent authority. Reasons for requests not being fully responded to within 90 days do not relate to a particular type of information requested or to a particular type of access power used. Requests not fully responded to within 90 days relate to (i) cases where the competent authority has requested additional information or clarifications from the requesting jurisdiction to process the request and (ii) cases where the persons notified have used all the possibilities offered by the Andorran legal framework to contest the decision of the competent authority to process the request.

298. Regarding this last reason, the legal improvements brought by the 2017 EOI Act and Regulations described in paragraphs 207 *et seq.* to reduce the length of the appeal procedure to a maximum of 85 business days have been challenged by the possibility for the appellant to lodge extraordinary appeals (see paragraphs 213 *et seq.* above).

299. Andorra stressed that, during the first 12 months of the review period, its ability to answer EOI requests in a timely manner was seriously affected

by an exceptional and serious crisis,[17] the resolution of which involved all the resources of the competent authority and caused notable delays in the treatment of the EOI requests. This crisis was resolved end February 2016 allowing the resources of the competent authority to be reassigned to their ordinary tasks, including the management of EOI. The statistics for the following periods, which were not affected by this crisis, show a better timeliness.

300. The improvements made during the review period with respect to the timeliness of responses were a consequence of a number of actions taken by Andorra:

- The resources of the competent authority have increased from four to nine employees, who are mainly in charge of the EOI process. The EOI Unit staff has also gained experience in handling EOI requests, including through communication with other competent authorities and participation in Global Forum's events. The competent authority is appropriately staffed for processing the current number of EOI requests and is committed to increase its resources, if needed.
- Andorra has also improved its monitoring of the EOI requests received. Since June 2013, Andorra has used a scalable electronic database where the information relating to each request received is entered. This database allows the competent authority to keep track of all requests. The database generates an alarm every time a request reaches 30 days, 60 days from its receipt and before the 90-day deadline to send a status update. In addition, the competent authority has also an excel spreadsheet where all relevant information, such as deadlines, judicial processes, type of information requested or information provided, are registered. It allows the monitoring of the whole appeal procedure from its beginning to its end in order to reduce its length as much as possible.

301. Over the reviewed period, Andorra has declined four EOI requests representing 2% of received requests. The requests were declined because (i) no indication that the information requested was held in or controlled from Andorra was provided, (ii) the EOI agreement did not allow retrospectivity and (iii) the person concerned was not clearly identified (e.g. the name of the person or the account number are not provided in the request for banking information). Where a request is fully or partly declined, Andorra always allows the EOI partner to provide additional information in light of which the validity of the request is reviewed again.

17. On 10 March 2015, the United States administrative authority, the Financial Crimes Enforcement Network (FinCEN) classified an Andorran bank as a "financial institution of primary money laundering concern". This situation was close to causing a systemic crisis in Andorra.

302. No failure to obtain or to provide the requested information has been reported by Andorra during the review period. Andorra always provides partial replies to its EOI partners where possible.

303. Three requests have been withdrawn by Andorra's EOI partners following bilateral communication, as they were duplicates of other requests.

304. In conclusion, Andorra has provided most of the replies to its EOI partners in a timely manner during the review period. Andorra has significantly improved its response time compared to the period reviewed in the 2014 Report, while the number of EOI requests has also significantly increased. Although peers were in general satisfied with the timeliness and quality of the answers provided and the timeliness has further improved at the end of the review period, the requested information was not provided in all cases in a timely manner. Andorra is therefore recommended to continue to improve the timeliness of its replies. In addition, while the impact of the length of the appeal procedures has been limited, Andorra should continue to monitor the various elements that could affect its timeliness, in particular the length of the appeal procedures (see Section B.2 above).

Status updates and communication with partners

305. To address the communication issues with its EOI partners identified in the 2014 Report, Andorra improved its practice. The competent authority now has regular contacts through telephone or email with its two main EOI partners representing 94% of the requests received to update them with the latest status of their requests. Andorra has also held bilateral meetings and/or calls in order to agree on the operating procedures, to discuss some of the problems encountered or just to explain the Andorran processes relating to EOI and the main legal and practical changes introduced by Andorra. Peers have also indicated that the communication with the Andorran competent authority was easy.

306. Whereas Andorra rarely provided in the past status updates to its EOI partners when it was not able to answer the request within 90 days of its receipt, significant progress has been made with status updates provided in 66.2% of the cases. This was confirmed by peers. While status updates were only provided in 48.6% of the cases between April 2015 and March 2016 and in 43.8% of the cases between April 2016 and March 2017, they have reached 96.4% between April 2017 and March 2018. Andorra explained that, following the exceptional crisis mentioned above, the competent authority has actively worked to answer the delayed requests and therefore has not provided status updates in all cases. It also indicated that since the entry into force of the 2017 EOI Act in May 2017 status updates are now systematically provided.

307. Where the competent authority considers an EOI request (i) unclear or incomplete, (ii) not foreseeably relevant or (iii) has a different interpretation of an EOI agreement, it always requests clarifications, additional information or reformulation from its EOI partner before any rejection of the EOI request. During the review period, Andorra requested clarification in 22 cases (11.1% of the requests received). Aside from the clarifications requested by Andorra based on a restrictive interpretation of the foreseeably standard described in paragraph 234 above, peers did not report any issues with Andorra's clarification requests. Since 2017, the number of requests for clarification has significantly dropped (three cases representing 1.5% of the requests received).

308. In conclusion, Andorra has made progress in its communication with its EOI partners which addresses almost all the issues identified in the 2014 Report. However, although improvements have been made in providing status updates to its partners where a request cannot be replied to within 90 days, Andorra has not provided such an update within that timeframe in all cases. Andorra is therefore recommended to monitor the effectiveness of its new procedures to ensure it provides status updates to EOI partners within 90 days in those cases where it is not possible to provide a complete response within that timeframe.

C.5.2. Organisational processes and resources

309. The 2014 Report did not raise any concerns regarding the organisational processes and resources of the Andorran competent authority. The competent authority continues to have appropriate human, material and procedural resources to carry out its EOI functions.

Organisation and resources of the competent authority

310. In Andorra, the competent authorities for exchange of information in tax matters are the Minister of Finance and the Secretary of State. The EOI Unit established in 2011 is part of the Secretariat of State. The Secretariat of State is therefore in charge of administrative co-operation in tax matters but also of other international matters such as the Base Erosion and Profit Shifting Project or EU financial related matters.

311. The Andorran competent authority is clearly identified on the website of the Andorran Government and in the secure Competent Authorities Database maintained by the Global Forum. Finally, every time an EOI relationship is established with a new partner, Andorra provides this information. The Andorran competent authority also participates each year in the competent authorities meeting and plenary meeting of the Global Forum to meet counterparts.

312. Currently, nine persons (an increase of five persons since the last peer review) are working mainly on EOI: the Secretary of State, the Head of EOI unit, three economists, two lawyers and two administrative officers. The EOI Unit is appropriately staffed for processing the current number of EOI requests. Andorra has also indicated its readiness to increase the number of staff in case the number of inbound requests would increase, in particular as a consequence of automatic exchanges of information. The staff participates in EOI training and learns from the interactions with other competent authorities. The competent authority has also tools to monitor its EOI activity (see paragraphs 280 above).

Incoming requests

313. The steps in processing incoming requests are detailed in three EOI procedural protocols for the receipt and processing of EOI requests which ensures that incoming requests are appropriately handled: (i) general protocol; (ii) protocol for when secrecy is requested; (iii) protocol for group requests.

314. When an EOI request is received, the case is entered into the electronic database described in paragraph 300. The database gives an overview for the competent authority on all cases, allowing a follow-up with each case and officer, if needed. The status of the different cases is discussed monthly within the EOI team.

315. Then an acknowledgement of receipt is sent within seven days, which indicates that the person concerned will be notified or, where an exception to prior notification is requested, that no notification will take place until the request for secrecy is accepted or rejected.

316. The EOI Unit reviews the validity of the request with regard to requirements under the EOI agreement and domestic law. It verifies that the foreseeable relevance of the request is demonstrated (see Section C.1.1 above) and, if requested, that the conditions for the application of the exception to prior notification are met. In case a deficiency is identified, it communicates the issue to its partner within 60 days of receipt of the request and asks for further explanation or additional information. If the request is considered valid, it is processed with or without prior notification, as appropriate.

317. When the EOI request is valid, the competent authority requests the information holder to provide the requested information within ten business days, even if an appeal is lodged. The EOI Unit ensures that the information is obtained as described in paragraph 194. It also carries out the notification of the information holder and the person concerned, unless an exception applies.

318. Once the EOI team has gathered the information, it (i) verifies its completeness, (ii) checks that it meets the expectation of the partner and (iii) compares it to the information obtained from public authorities, which may have already been provided to the partner as a partial reply. However, the response letter prepared by the EOI team is signed by the competent authority and sent to the EOI partner along with the information requested only when the decision of the competent authority cannot be appealed anymore. The reply is sent by registered mail with acknowledgement of receipt, courier service or encrypted email (the attachment being encrypted too). The information provided is always stamped to remind that the use and disclosure of the information is governed by the applicable EOI agreement.

Outgoing requests

319. Andorra did not make any requests during the review period. However, it intends to start requesting information soon. In accordance with Article 14 of the 2017 EOI Act, the Andorran tax administration can address an EOI request to the Andorran competent authority, which will ensure that it meets the legal requirements and complies with the terms of the applicable EOI instrument before sending it to the relevant EOI partner. To ensure good quality of the outgoing requests, a specific procedural protocol provides guidance on the form and the content of the EOI request. Once the replies are received, the competent authority will provide them to the Andorran tax administration with an indication that the information must be kept confidential and used in accordance with Article 17 of the 2017 EOI Act, which reflects the confidentiality provision of the EOI instruments concluded by Andorra.

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

320. There are no factors or issues identified that could unreasonably, disproportionately or unduly restrict effective EOI in Andorra.

Annex 1: List of in-text recommendations

Issues may have arisen 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. However, in order to ensure that the Global Forum does not lose sight of these "in text" recommendations, they should be listed in an annex to the EOIR report for ease of reference.

- **Element A.1.1**: Although effective supervision is carried out by the UIFAND for AML purposes, Andorra should consider carrying out regular inspections of notaries to ensure also their compliance with the Notaries Act and Regulations (paragraph 52).
- **Element A.2.1**: As the Legal Arrangements Register, which strengthens the obligations of trustees and administrators of legal arrangements, has been in force since 14 February 2019, Andorra should monitor its implementation in practice (paragraph 148).
- **Element B.1.1** : Andorra should monitor the implementation in practice of the new legal framework entered into force on 10 June 2017 to ensure that joint bank accounts information is provided in line with the standard in all cases (paragraph 188).
- **Element C.1.1**: Andorra should continue to interpret the foreseeable relevance standard to the widest extent possible (paragraph 236).
- **Element C.1.1**: Andorra should monitor its procedures to ensure that its requests for clarification are always sent in a timely manner to the requesting partners (paragraph 239).
- **Element C.1.2**: Andorra should continue to provide information without any restriction based on the residence or the nationality of the person concerned (paragraph 242).

- **Element C.2**: Andorra should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 261).
- **Element C.3.1**: Andorra should monitor the implementation of its new practice so that the requesting jurisdiction has sufficient time to decide whether it withdraws its EOI request or not where a judicial appeal is lodged (paragraph 277).

Annex 2: List of Andorra's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Argentina	TIEA	26/10/2009	15/06/2012
2	Australia	TIEA	24/09/2011	03/12/2012
3	Austria	TIEA	17/09/2009	10/12/2010
4	Belgium	TIEA	23/10/2009	13/01/2015
5	Cyprus[18]	DTC	18/05/2018	11/01/2019
6	Czech Republic	TIEA	11/06/2013	05/06/2014
7	Denmark	TIEA	24/02/2010	13/02/2011
8	Faroe Islands	TIEA	24/02/2010	18/06/2011
9	Finland	TIEA	24/02/2010	12/02/2011
10	France	TIEA	22/09/2009	22/12/2010
		DTC	02/04/2013	01/07/2015
11	Germany	TIEA	25/11/2010	20/01/2012
12	Greenland	TIEA	24/02/2010	06/04/2013
13	Iceland	TIEA	24/02/2010	14/02/2011

18. 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.

	EOI partner	Type of agreement	Signature	Entry into force
14	Italy	TIEA	22/09/2015	08/06/2017
15	Korea	TIEA	23/10/2014	21/12/2016
16	Liechtenstein	TIEA	18/09/2009	10/01/2011
		DTC	30/09/2015	21/11/2016
17	Luxembourg	DTC	02/06/2014	07/03/2016
18	Malta	DTC	20/09/2016	27/09/2017
19	Monaco	TIEA	18/09/2009	16/12/2010
20	Netherlands	TIEA	06/11/2009	01/01/2011
21	Norway	TIEA	24/02/2010	18/06/2011
22	Poland	TIEA	15/06/2012	18/12/2013
23	Portugal	TIEA	30/11/2009	31/03/2011
		DTC	27/09/2015	23/04/2017
24	San Marino	TIEA	21/09/2009	07/12/2010
25	Spain	TIEA	14/01/2010	10/02/2011
		DTC	08/01/2015	26/02/2016
26	Sweden	TIEA	24/02/2010	11/02/2011
27	Switzerland	TIEA	17/03/2014	27/07/2015
28	United Arab Emirates	DTC	28/07/2015	01/08/2017

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[19] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

The original 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 Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by Andorra on 5 November 2013 and entered into force on 1 December 2016 in Andorra. Andorra can exchange information with all other Parties to the Multilateral Convention.

As of 26 July 2019, the Multilateral Convention is in force in respect of the following jurisdictions: Albania, Anguilla (extension by the United Kingdom), Argentina, Aruba (extension by the Netherlands), Antigua and Barbuda, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus[20], Czech Republic, Denmark, Dominica, El Salvador, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong, China (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau, China (China) (extension by China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Sain t Vincent and the Grenadines, American Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by, or its territorial application extended to, the following jurisdictions, where it is not yet in force: Armenia, Burkina Faso, Dominican Republic (entry into force 01/12/2019), Ecuador (entry into force 01/12/2019), Gabon, Kenya, Liberia, Mauritania, Morocco (entry into force 01/09/2019), North Macedonia,

20. See footnote 18.

Paraguay, Philippines, Serbia (entry into force 01/12/2019) and United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Agreement between the European Union (EU) and the Principality of Andorra

Andorra can exchange information relevant for direct taxes upon request with EU Member States pursuant Article 5 of the Amending Protocol to the Agreement between the European Community and the Principality of Andorra providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments. This Amending Protocol was signed on 12 February 2016 and came into force on 1 January 2017. EU Member States are Austria, Belgium, Bulgaria, Croatia, Cyprus[21], the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

21. See footnote 18.

Annex 3: Methodology for the Review

The reviews are based on the 2016 Terms of Reference and 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 evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 26 July 2019, Andorra's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2015 to 31 March 2018, Andorra's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Andorra's authorities during the on-site visit that took place from 4-7 February 2019 in Andorra.

List of laws, regulations and other materials received

Accounting Act 30/2007 of 20 December

AML Act 14/2017 of 22 June

AML Regulations of 23 May 2018

Financial System Act 8/2013 of 9 May

Financial System Disciplinary Regime Act of 27 November

Communiqué no. 163/05 and 234/13 issued by AFA

Companies Act 20/2007 of 18 October

Companies Regulations of 16 April 2014

Co-operative Companies Act 5/2015 of 15 January

Foreign Investment Act 10/2012 of 21 June

Foreign Investment Regulations

Companies Regulations of 19 May 1983

General Taxation Act 21/2014 of 16 October

Non-Resident Income Tax Act 94/2010 of 29 December

Income Tax Act 5/2014 of 24 April

Companies Tax Act 95/2010 of 29 December

Value Added Tax Act 11/2012 of 21 June

Tax Application Regulation of 2 November 2015

Accounting Act 30/2007 of 20 December

General Accounting Plan 15 January 2012

Accounting Register Regulations of 9 June 2010

Foundation Act 11/2008 of 12 June

Foundation Regulations of 1 April 2009

Criminal Code 9/2005 of 21 February

Notaries Act 11/2017of 25 May 25

EOI Act 10/2017 of 25 May

EOI Regulations of 31 May 2017.

Authorities interviewed during on-site visit

Ministry of Finance and the Secretariat of State for International Financial Matters

EOI Unit

Tax Authorities

Companies Register

Foreign Investment Register

Foundation Protectorate, Foundation Register and Association Register

Andorran Financial Intelligence Unit (UIFAND)

Andorran Financial Authority (AFA)

Notaries, Lawyers, Accountants and Bank representatives

Current and previous reviews

This report is the third review of Andorra conducted by the Global Forum. Andorra previously underwent a review of its legal and regulatory framework (Phase 1) originally in 2011 and the implementation of that framework in practice (Phase 2) in 2014. The 2014 Report containing the conclusions of the first review was first published in August 2014 (reflecting the legal and regulatory framework in place as of May 2014).

The Phase 1 and Phase 2 reviews were conducted according to the terms of reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of (date)	Date of adoption by Global Forum
Round 1 Phase 1	Ms Sylvia Moses (British Virgin Islands); Mr Juan Pablo Barzola (Argentina); Mr Beat Gisler (Global Forum Secretariat).	n.a.	June 2011	August 2011
Round 1 Phase 2	Mrs Manon Helie (Canada), Mr Juan Pablo Barzola (Argentina), Mrs Mélanie Robert and Mr Francesco Positano (Global Forum Secretariat)	1 July 2010 to 31 June 2013	May 2014	August 2014
Round 2	Ms Sylvia Gumbs (Saint Kitts and Nevis); Mr Frederic Batardy (Luxembourg); Mr Hakim Hamadi (Global Forum Secretariat)	1 April 2015 to 31 March 2018	July 2019	November 2019

Annex 4: Andorra's response to the review report

Andorra wishes to thank the Assessment Team, the Global Forum Secretariat and the Peer review Group for the work done on Andorra's report. Andorra wants to highlight the opportunity that this review has brought in order to show and share its commitment and improvements with all the members of the Global Forum.

Since 2009 Andorra has initiated a transformation process committed to transparency, international standards of exchange of tax information and the consolidation of a modern and fulfilled national tax and economic regulatory framework, equivalent to those of our neighbouring countries. It has been a tough work that Andorra has done with a notable success in a such short period of time and Andorra has done it with the conviction that this was the only path to follow. The outcome of the evaluation contained in this report confirms the improvement made by Andorra in all these areas.

Considering the previous evaluations, specially the Global Forum's report on the Peer Review Phase 2, implementation of the standard in practice, where Andorra was rated as "Partially compliant", Andorra is satisfied with the progress recognised by the Global Forum since this last evaluation.

Andorra agrees with the findings of the report and accepts the recommendations contained therein. Andorra's institutions will work to address these recommendations with the commitment that we have always shown in order to improve our EOI relationships with our peers and be fully compliant with the OECD standards.

Andorra's priority is to be as competitive as possible in a globalized economy, fully committed to transparency and compliant with the International standards, while continuing to improve the legal framework and ensuring the level playing field, but also guaranteeing the constitutional rights of our citizens.

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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 ANDORRA 2019 (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.

This report contains the 2019 Peer Review Report on the Exchange of Information on Request of Andorra.

Consult this publication on line at ***https://doi.org/10.1787/7f57533b-en***.

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