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OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information
on Request

DOMINICAN REPUBLIC

2019 (Second Round)



Global Forum on Transparency and Exchange of Information for Tax Purposes: Dominican Republic 2019 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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Table of contents

Reader’s guide	5
Abbreviations and acronyms	9
Executive summary	11
Overview of the Dominican Republic	19
Part A: Availability of information	25
A.1. Legal and beneficial ownership and identity information	25
A.2. Accounting records	52
A.3. Banking information	57
Part B: Access to information	61
B.1. Competent authority’s ability to obtain and provide information	61
B.2. Notification requirements, rights and safeguards	68
Part C: Exchanging information	69
C.1. Exchange of information mechanisms	69
C.2. Exchange of information mechanisms with all relevant partners	74
C.3. Confidentiality	75
C.4. Rights and safeguards of taxpayers and third parties	79
C.5. Requesting and providing information in an effective manner	79
Annex 1: List of in-text recommendations	89
Annex 2: List of the Dominican Republic’s EOI mechanisms	90
Annex 3: Methodology for the review	93
Annex 4: Dominican Republic’s response to the review report	96

Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multi-lateral 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.
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
CDD	Customer Due Diligence
DGII	National Internal Tax Directorate (<i>Dirección General de Impuestos Internos</i>)
DTC	Double Tax Convention
EOIR	Exchange Of Information on Request
FATF	Financial Action Task Force
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
RNC	National Registry of Taxpayers (<i>Registro Nacional de Contribuyentes</i>)
TIEA	Tax Information Exchange Agreement
UAF	Financial Intelligence Unit (<i>Unidad de Análisis Financiero</i>)

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in the Dominican Republic on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework as well as the practical implementation of this framework, in particular in respect of EOI requests processed during the review period of 1 April 2015-31 March 2018. This report concludes that the Dominican Republic is rated **Largely Compliant** overall. In 2016, the Global Forum evaluated the Dominican Republic against the 2010 Terms of Reference and reached an overall rating of Partially Compliant.

Comparison of ratings for the First Round Report and the Second Round Report

Element	First Round Report (2016)	Second Round EOIR Report (2018)
A.1 Availability of ownership and identity information	NC	LC
A.2 Availability of accounting information	LC	LC
A.3 Availability of banking information	C	C
B.1 Access to information	PC	LC
B.2 Rights and Safeguards	C	C
C.1 EOIR Mechanisms	C	C
C.2 Network of EOIR Mechanisms	C	C
C.3 Confidentiality	C	C
C.4 Rights and safeguards	C	C
C.5 Quality and timeliness of responses	PC	LC
OVERALL RATING	PC	LC

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

Progress made since previous review

2. The Dominican Republic has addressed numerous recommendations since the 2016 Report. The major issues identified in the report issued in 2016 related to: the availability of ownership information in respect of holders of bearer shares (element A.1); the lack of an effective oversight system to ensure compliance with ownership, identity and accounting information by entities that failed to register with the tax administration (elements A.1 and A.2); the timely access to banking information (element B.1); and the timeliness of responses to EOI requests (element C.5). All other elements were considered Compliant with the standard.

3. Since the last review, the Dominican Republic modified its legal framework and adopted a new Law on Anti-Money Laundering and Terrorist Financing (AML/CFT Law No. 155-17) in 2017 introducing measures to phase out bearer shares. The law prohibits the issue of new bearer shares, and companies with outstanding bearer shares had one year to convert them into registered shares, after which holders of such shares lose all rights inherent to the shares.

4. Several measures have been adopted to ensure that companies registered with the Mercantile Registry also comply with the obligation to proceed to register with the National Internal Tax Directorate (DGII, *Dirección General de Impuestos Internos*) and renew their business certificate every second year. The Dominican Republic improved cross-checking mechanisms and the interconnection between the Mercantile Registry and the Register of Taxpayers (RNC, *Registro Nacional de Contribuyentes*), and introduced new sanctions for legal entities and arrangements which failed to renew their business certificate with the Mercantile Registry or register with the DGII.

5. In addition, the Dominican Republic modified its provisions on banking secrecy, and the procedure to access banking information. The new provisions clarify that the DGII has direct access to banking information by making a request to financial institutions without the need of a court order or the intervention of the banking supervisor. These new access powers, in addition to procedural changes made in 2016 have resulted in improved timeliness of responses to EOI requests.

6. Finally, the Dominican Republic signed the Multilateral Convention on mutual administrative assistance in tax matters (MAC) on 28 June 2016 and deposited the ratification instrument on 2 August 2019, which will enter into force on 1 December 2019, significantly widening its network of EOI partners.

Key recommendation(s)

7. The four main issues raised by this report relate to: the monitoring of the availability of beneficial ownership information (element A.1); the appropriate supervision of inactive companies (elements A.1 and A.2); the effective implementation of new access powers (element B.1); and timely responses to EOI requests (element C.5).

8. The AML/CFT Law 155-17 entered into force in 2017 and introduced new identification and record keeping obligations for beneficial ownership information by all entities and arrangements at the time of registration, when a change occurs and through tax filing requirements. Similarly, amendments to the Monetary and Financial Law, which clarified the access powers of the tax administration to banking information, entered into force in December 2017. As these new provisions are recent, the Dominican Republic is recommended to monitor their effective implementation.

9. The Dominican Republic took several measures to address the issue of companies that failed to renew their business certificate or register with the DGII. However, companies which failed to renew their business certificate with the Mercantile Registry and did not comply with their tax return obligation during three consecutive years still have a legal existence and are not systematically struck-off from the Mercantile registry or liquidated. The Dominican Republic is recommended to continue to monitor inactive companies and review its system whereby non-complying inactive companies remain with legal personality on the Mercantile Register to ensure ownership information is available to the standard in all cases.

10. Finally, the Dominican Republic's ability to answer EOI requests effectively faced significant difficulties in the early part of the review period but procedural changes made in 2016 have resulted in timely responses for recent requests, with the last three requests being answered between 48 and 97 days. The Dominican Republic is therefore encouraged to monitor the effective implementation of the procedural changes.

Overall rating

11. The Dominican Republic has made significant improvements in the areas of availability of ownership information, access powers to banking information and timely exchanges with its partners. The legal and regulatory framework of the Dominican Republic is now fully in place, and the recommendations made in the current report all relate to the implementation in practice of this legal framework. On balance, the Dominican Republic is overall rated Largely Compliant with the EOIR standard.

12. The Dominican Republic has three treaty partners. It received 11 requests from two of them during the period under review and sent 10 requests to them. The volume of requests is similar to the last review period, but is expected to increase with the entry into force of the Multilateral Convention.

13. This report was approved at the Peer Review Group meeting in September 2019 and was adopted by the Global Forum on 8 November 2019. A follow-up report on the steps undertaken by the Dominican Republic to address the recommendations made in this report should be provided to the Peer Review Group of the Global Forum 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 (<i>ToR A.1</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Largely Compliant	The Dominican Republic has taken several measures to monitor companies that failed to register with the DGII or to renew their business certificate with the Mercantile Registry. However, inactive companies which have been non-compliant for more than three continuous years continue to retain legal personality.	The Dominican Republic should continue monitoring inactive companies and review its system that allows non-complying inactive companies to retain legal personality on the Mercantile Register to ensure ownership information is available to the standard in all cases.
	Law 155-17 on AML/CFT entered into force in 2017. It foresees the obligation to maintain and update beneficial ownership information with the register of taxpayers. These provisions were recently enacted and their implementation could not yet be fully assessed.	The Dominican Republic is recommended to monitor the effective implementation of rules concerning the identification and declaration of beneficial ownership information, notably by ensuring that adequate oversight and enforcement activities are carried out.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Largely Compliant	Accounting records for companies considered as inactive may not exist or may not be available during the period of inactivity.	The Dominican Republic should monitor compliance by inactive companies with their record keeping obligations to ensure that reliable accounting records are kept for all relevant entities and arrangements.
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Largely Compliant	The Dominican Republic modified its legal framework so that the competent authority can request banking information directly from financial institutions, without prior authorisation of the financial regulator or a court order. As these amendments were recently enacted, their effective implementation could not be fully assessed.	The Dominican Republic is recommended to monitor the effective implementation of recently amended legislation to ensure that banking information is accessed pursuant to an EOI request in a timely manner in all cases.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place.		
EOIR rating: Compliant		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
EOIR rating: Largely Compliant	The Dominican Republic's ability to timely answer EOI requests faced significant difficulty in the early part of the review period – with many requests taking nearly a year to receive a full response – but procedural changes made in 2016 have resulted in more recent requests being answered quite quickly, often within 90 days.	The Dominican Republic should ensure that its authorities continue to monitor the implementation of the new internal procedures to be able to respond to EOI requests in a timely manner.

Overview of the Dominican Republic

14. This overview provides some basic information about the Dominican Republic 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 the Dominican Republic's legal, commercial or regulatory systems.

Legal system

15. The Dominican Republic is a unitary state divided administratively in 31 provinces where the executive power is vested in department governors, municipal mayors and local administrators. The tax and company law regimes lay at the national level.

16. The legal system of the Dominican Republic derives from Romanic-Germanic law. The primary and supreme source of the law is the Constitution of the Republic. According to the Constitution, all treaties, agreements and conventions signed and ratified by the Dominican Republic have the same hierarchy. Next in hierarchy are the laws voted by the Dominican Republic Congress, regulations and other types of decrees from the executive power, rules and resolutions issued by institutions of the executive power, jurisprudence, uses and customs and the doctrine.

17. The judicial system consists of the Constitutional Court, the Supreme Court, Appeal Courts, Courts of first instance, Electoral and Administrative Courts. The Constitutional Court ensures the supremacy of the Constitution, and is in charge of the review of the constitutional validity of laws adopted by the Legislature, certain decrees issued by the Executive and has jurisdiction over cases related to the protection of fundamental constitutional rights. The Supreme Court is the court of highest instance regarding penal, civil, commercial, labour and administrative matters, including tax matters.

Tax system

18. The structure of the tax regime is contained in the Tax Code of the Dominican Republic and special complementary laws.¹ The Tax Code sets out the general tax principles, rules for the administration of taxes, penalties, procedures and collections.

19. The National Internal Tax Directorate (DGII, *Dirección General de Impuestos Internos*) is an independent government body responsible for internal revenue collection and administration on behalf of the Government of the Dominican Republic. The DGII is also responsible for the AML supervision of non-financial obliged entities. The Director of DGII is the Commissioner of Taxation (Commissioner) who is appointed by the President. The National Customs Directorate (DGA, *Dirección General de Aduanas*) is an independent government institution, responsible for the collection and administration of all taxes and duties related to foreign trade. The DGA ensures the correct enforcement of the laws in the scope of its competence, as well as ensuring compliance with all provisions allocated to international conventions, special laws and regulations.

20. The Dominican Republic tax system is based on the territoriality principle. All income derived from Dominican sources is subject to income tax. However, financial income earned worldwide by a Dominican resident is also taxable in the Dominican Republic. Permanent establishments of non-resident legal entities are subject to corporate income tax (ISR, *impuesto sobre la renta*) on their local income only or income generated by activities within the country. A company is resident in the Dominican Republic if it is incorporated under the laws of the Dominican Republic or its day-to-day management and control are exercised in the Dominican Republic at any time during the year of assessment.

21. Foreign companies and entities, and branches of foreign companies not having their effective management and control in the Dominican Republic, are subject to income tax on income from sources in the Dominican Republic, such as income attributable to a permanent establishment, at the same tax rates as resident companies. An exemption from the obligation to pay income tax exists for companies based in Free Trade Zones, for a maximum of 20 years. Nevertheless, these companies are still subject to the requirements of the Tax Code including all the formal duties required in article 50 and must file a tax return each year detailing the income earned, although it will be exempt from taxation.

1. Law No. 11-92 from 16 May 1992 and its amendments which lay down general provisions for taxes and legal interactions.

22. The Dominican Republic imposes a range of taxes which are collected at national level by DGII. Corporate income tax is imposed at a rate of 27%. Tax rates for individuals are progressive with a minimum rate of 15% after a non-taxable threshold of DOP 416 220 (approximately USD 8 626) and a maximum rate of 25%. Capital gains are taxed at a rate of 15-25% for individuals and at 27% when gains are incurred by an entity. The value added tax rate is 18%. Owners of real estate are subject to tax at a rate of 1% of the real estate value, with no property tax on rural properties.

23. Dividends paid to any resident or non-resident shareholder (individuals or entities) are subject to a 10% withholding tax. Withholding tax on royalties paid to a non-resident is levied at a rate of 27%. Interest paid to a recognised non-resident financial entity for a loan given to a Dominican company is subject to a withholding tax of 10% and in the case that the loan has been provided by a non-resident non-financial entity, tax is withheld at a rate of 27%.

Financial services sector

24. The Dominican Republic has a diversified financial system, which has undergone rapid expansion since the 1980s. It is composed of several activities, including banking, insurance and reinsurance activities, stock exchange related activities, the administration of investment funds and the administration of pension funds. Banking is the most significant component of the financial sector in the Dominican Republic. As of 30 November 2018, there were 52 banks operating in the Dominican Republic with 40 being domestically owned banks and the other 12 being subsidiaries of foreign banks. As of 30 November 2018, the total assets of the financial system amounted to DOP 1 733 379 million (USD 34 042 million).

25. The Central Bank of the Dominican Republic (*Banco Central de la República*) is the state-run central bank of the Republic. The Monetary Board, an institution of the Central Bank, regulates all financial sector activities in the Dominican Republic (art. 223, Constitution). The obligations of financial institutions are provided in the Monetary and Financial Law complemented by regulations.

26. The Monetary and Financial Administration (MFA, *Administración Monetaria y Financiera*) which is made up of the Central Bank, the Banking Superintendence (*Superintendencia de Bancos*) and the Monetary Board (*Junta Monetaria*), is the overarching body responsible both for directing monetary policy as well as regulating the financial sector in the Dominican Republic. To conduct business in the financial sector, all entities must be authorised firstly by the Banking Superintendence and by the Monetary Board. The Banking Superintendence is responsible for overseeing all regulated entities' compliance with the obligations under the Financial and Monetary Law, as well as the AML regime.

27. The Dominican Republic securities exchange is the *Bolsa de Valores de la República Dominicana* (BVRD) with an annual turnover in 2018 of approximately USD2 714 million. However, this only represents a small number of the overall transactions in the securities market, as these tend to place in over-the-counter transactions. Fifteen brokerage companies currently participate in the BVRD. In addition to the Financial and Monetary Law, the BVRD is also subject to the Law of the Stock Market (*Ley de Mercado de Valores*).

AML Framework

28. The Dominican Republic's compliance with the AML/CFT standard² is assessed by the GAFILAT, the FATF-style regional body for Latin America. The most recent review was conducted in 2017-18. Immediate outcome 5 concerning implementation of rules ensuring availability of beneficial ownership information in respect of legal persons and arrangements was rated Moderate and the Dominican Republic was found to be Largely Compliant with FATF's recommendations 10 (Customer due diligence for financial institutions), 22 (Customer due diligence for DNFBPs), 24 (Transparency and beneficial ownership of legal persons) and 25 (Transparency and beneficial ownership of legal arrangements). The report concluded that overall, financial institutions have experience in relation to the implementation of preventative measures. As regards banking and securities institutions, there is a good level of understanding of the AML/CFT risks and obligations. The report notes however that the enforcement of effective, proportionate and dissuasive sanctions by financial supervisors is limited. The report also highlights the good understanding of vulnerabilities of legal persons and arrangements, and welcomed the computerisation of the company registers and the National Registry of Taxpayers (RNC). The 2018 evaluation is available at www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/GAFILAT-MER-Dominican-Republic-2018.pdf.

Recent developments

29. Since the last EOIR report, the Dominican Republic has adopted the AML/CFT Law No. 155-17 on 1 June 2017, introducing several measures with regards to bearer shares, beneficial ownership information, and sanctions. First, the possibility of issuing new bearer shares has been eliminated,

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

and companies with outstanding bearer shares had one year to convert them into registered shares, after which holders of such shares lose all rights inherent to the shares. Secondly, the tax code was amended to introduce an obligation on all taxpayers to inform the tax administration about their beneficial owner(s). Similarly, Regulation No. 408-17 adopted on 16 November 2017 provides that persons and legal entities must provide their beneficial ownership information when they register with the DGII or when making changes in the national taxpayer register. Any change regarding the beneficial owners should also be included in the annual income tax return. Finally, an amendment was introduced to the Mercantile Register Law, adding a penalty for not complying with the obligation to provide information regarding changes in the business (including changes of ownership) or any other element that determines the obligation to modify the data in the Register. It will allow more effective sanctions to be applied to companies that do not renew their Mercantile Register certificate, thereby responding to a recommendation from the 2016 Report.

30. The Dominican Republic also adopted Law No. 249-17 on 19 December 2017, which expressly provides that the tax administration may request bank information directly to financial institutions, without the intervention of the Bank Superintendence or the Attorney-General. This amendment aimed at clarifying the Dominican Republic's access powers and improving the timeliness of answers to requests for banking information.

31. Finally, the Dominican Republic signed the Multilateral Convention for Mutual Administrative Assistance in Tax Matters (MAC) on 28 June 2016. The MAC underwent the constitutionality control as foreseen by the law and was promulgated by the Executive Power through Resolution No. 18-19 on 20 February 2019. The Dominican Republic deposited the ratification instrument on 2 August 2019, and it will enter into force on 1 December 2019.

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 bank information.

A.1. Legal and beneficial ownership and identity information

Jurisdictions should ensure that legal and beneficial ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

33. In the 2016 Report, the legal framework was found not in place because a deficiency had been identified in relation to bearer shares which could be issued by all Joint Stock companies in the Dominican Republic. Although ownership information on the holders of the shares might be maintained in certain cases under the requirements of the AML Law or Tax Code, there was no mechanism in place to ensure that the owners of such shares could be identified. In addition, the authorities were not able to quantify the number of bearer shares in circulation or issued.

34. Since then, the Dominican Republic amended its AML legislation (Law No. 155-17 on Anti-Money Laundering and Combatting the Financing of Terrorism). Article 103 of this law provides that company shares and debt securities represented by titles must be issued only in a registered form. In addition, the DGII has informed the representatives and shareholders of the 29 business companies that have issued bearer shares, including those issued prior to 2011, that they had to undergo a transformation process for these bearer shares into registered shares by no later than June 2018 (art. 305 bis Law 155-17). Fines have been imposed for companies that did not comply with this requirement by the said deadline, and all shares were abolished or converted into registered ones. The recommendation is therefore removed.

35. The 2016 Report also found that there was no oversight programme to ensure that ownership and identity information for all companies was available in practice. Moreover, it was reported that many companies on the registry failed to renew their business certificate and were subsequently treated as inactive (yet continued to have legal personality) or failed to register with the DGII. As a result, element A.1 was rated as “Non-Compliant”.

36. The Dominican Republic took several measures to address this gap, and identify companies which failed to register with the tax administration, or failed to renew their business certificate with the Mercantile Registry. Penalties were introduced for companies not complying with the obligation to update the Mercantile Registry, and ongoing monitoring is carried out to ensure that up-to-date information is available with the Mercantile Registry and the DGII. The Dominican Republic is recommended to continue to monitor the compliance with ownership and identity information obligations by all relevant entities and arrangements, and review its system that allows non-complying inactive companies to retain legal personality on the Mercantile Register, to ensure ownership information is available to the standard in all cases.

37. Finally, AML/CFT Law 155-17 was enacted and entered into force in 2017. This law provides new identification and record keeping obligations of beneficial ownership information by all entities and arrangements. Information on beneficial owner(s) of legal entities and arrangements should be available with the DGII through annual income tax filings requirements, and with AML obliged entities through customer due diligence obligations. The Dominican Republic is recommended to monitor the effective implementation of this legislation.

38. During the review period, the Dominican Republic received only a few requests, and none related to beneficial ownership information. The competent authority provided the legal ownership information requested by its partners.

39. 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
	The Dominican Republic has taken several measures to monitor companies that failed to register with the DGII or to renew their business certificate with the Mercantile Registry. However, inactive companies which have been non-compliant for more than three continuous years continue to retain legal personality.	The Dominican Republic should continue monitoring inactive companies and review its system that allows non-complying inactive companies to retain legal personality on the Mercantile Register to ensure ownership information is available to the standard in all cases.

	Law 155-17 on AML/CFT entered into force in 2017. It foresees the obligation to maintain and update beneficial ownership information with the register of taxpayers. These provisions were recently enacted and their implementation could not yet be fully assessed.	The Dominican Republic is recommended to monitor the effective implementation of rules concerning the identification and declaration of beneficial ownership information, notably by ensuring that adequate oversight and enforcement activities are carried out.
Rating: Largely Compliant		

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

40. The 2016 Report analysed the legal framework with regard to company formation and concluded that legal ownership and identity information should be available in respect of all companies in the Dominican Republic. However, in practice, this might not be the case for those companies that registered with the Mercantile Register but that did not proceed to register with the DGII. In addition, due to a low level of compliance for tax filing, the 2016 Report recommended to put in place an effective oversight programme to ensure compliance with ownership and identity information obligations by all relevant entities and arrangements and in case of non-compliance, to enforce penalties.

41. The various types of entities in the Dominican Republic are not categorised as companies or partnerships. Rather, the main type of entity is called a *Sociedad* which can be formed under the General Law of Commercial and Individual companies with limited responsibility (Law 479-08, *Ley General de las Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada* from here on referred to as the “Commercial Entities Law”). A distinction can be made between *Sociedades de Capital* (companies formed by capital) and *Sociedades de Personas* (companies formed by persons). All types of *sociedad* are treated as separate entities liable to taxes.

42. To facilitate a comparison with other reports, *Sociedades anónimas* (joint-stock corporations or SA), *Sociedades en comandita por acciones* (limited liability companies or SCA) and *sociedad de responsabilidad limitada* (SRLs) are most comparable to companies in common law countries and therefore dealt with in the Companies section of this report. *Sociedades en nombre colectivo* (SCs), and *sociedad en comandita simple* (limited liability partnerships or LLPs) are comparable to the concept of “partnership” which exists in many common law countries and are therefore analysed in the Partnerships section of this report.

43. In the Dominican Republic, companies (*sociedades de capital*) are incorporated pursuant to the Commercial Entities Law. There are three different types of company:

- *Sociedades anónimas* (SA, Joint Stock or Public Limited Company): the company's capital is divided into registered shares represented by negotiable share certificates. Shareholders can be either entities or individuals. As a general rule, shareholders' liability is limited to the amount of their capital contributions, except in case of fraud, and other specific exceptions provided for in the law (Section VI, art. 154-368 Commercial Entities Law).
- *Sociedades en comandita por acciones* (SCA, Limited Liability Company): the company's capital is divided into registered shares represented in negotiable share certificates. SCAs have two different types of members: (i) general partners (*socios gestores*) with unlimited liability who are responsible for the company's management and (ii) limited partners (*socios comanditarios*) whose liability is limited to the amount of their capital contributions (Section IV, art. 141-148 Commercial Entities Law).
- *Sociedad de responsabilidad limitada* (SRL): a commercial company formed by one or several members not personally liable for the company's debts. This also includes Simplified Limited Companies, which is a company where two or more partners are solely liable for the value of their stock. The quota holders' liability is limited to the amount of their capital contributions except for tax and labour liabilities (Section III, art. 89-140 Commercial Entities Law).

44. The statistics of March 2018 of the table below do not include 80 710 withdrawn companies that are currently in the process of expedite liquidation (see paragraph 65):

Type of company	Governing law	March 2016 statistics	March 2018 statistics
Joint stock company	Commercial Entities Law	20 814	1 650 ³
Limited liability company	Commercial Entities Law	95	97
SRL	Commercial Entities Law	85 417	122 927
Foreign companies ⁴	Commercial Entities Law	3 699	5 036

3. The lower number of Joint Stock Companies is due to the fact that in 2016, the data of companies that were not established under the current Corporate Law were provided. Companies that did not make the conversion are in the process of going through expedited liquidation. For that reason, there are currently 1 650 Joint Stock companies.
4. The statistics only includes foreign companies registered with the Mercantile Register, not all foreign companies registered in the DGII (see further the chapter

45. Legal ownership and identity requirements for companies are mainly found in the Commercial Entities Law. The following table⁵ shows a summary of the legal requirements to maintain legal and beneficial ownership information in respect of companies in the Dominican Republic:

Type	Company law	Tax law	AML law
Joint stock company	Legal – all	Legal – some	Legal – some
	Beneficial – none	Beneficial – some	Beneficial – all
Limited liability company	Legal – all	Legal – all	Legal – some
	Beneficial – none	Beneficial – all	Beneficial – some
SRLs	Legal – all	Legal – all	Legal – some
	Beneficial – none	Beneficial – all	Beneficial – some
Foreign companies (tax resident)	Legal – all	Legal – all	Legal – some
	Beneficial – none	Beneficial – all	Beneficial – some

Legal Ownership and Identity Information requirements

Companies Law requirements

46. All types of companies must be formed either under private or public deed (art. 13 Commercial Entities Law). The company deed must contain information on the legal representative, capital distribution, and details of the different types of shares it can issue (art. 14 Commercial Entities Law). Ownership information is not required.

47. All companies must be registered with the Mercantile Register at the Chamber of Commerce and Production (*Cámara de Comercio y Producción*) in the region of constitution (art. 5 Commercial Entities Law). Within a month of its incorporation by deed, all companies must deposit a copy of their constitutional deed to the Secretariat of the Mercantile Register. If the deed has been granted before a notary, a copy of the notarial certificate, proving the validity of the incorporation via public deed must be deposited as well (art. 15 Commercial Entities Law).

on foreign companies).

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

48. At the time of the registration, the following information must be provided by the owners or the legal representative duly authorised: the company name, address, details of its business activity, personal data of the shareholders and administrators, investment sums in the business activity, credit institutions with whom it has conducted or intends to conduct operations, and references from two established businesses (art. 10, Law 03-02). All companies are obliged to also deposit a document detailing the subscribed capital as well as a list of all the shareholders including their names, address, and the number of shares they hold (art. 42, Commercial Code). All documents deposited with the Mercantile Register are kept indefinitely.

49. In addition, all persons or legal entities registered in the Mercantile Register must renew their registration certificate in their corresponding Chamber of Commerce and Production every two years (art. 12 of Law No. 3-02 on Mercantile Register). The Mercantile Register and the Tax Administration must be notified of any changes to the business (i.e. changes in name, address, activity or capital, opening of commercial establishments, branches or agencies (art. 4 of Law 3-02)) within 30 days for the Mercantile Register and 10 days for the DGII (art. 50 of the Law No. 155-17). The Mercantile Register monitors the update of information by sending users alert emails when their registration is about to expire or expired. Since the 2016 Report, an amendment was introduced to the Mercantile Register Law, adding a penalty for not complying with the obligation to provide updated information (including changes in ownership) in the Register, with a penalty amounting from DOP 116 200 to DOP 464 760 (i.e. 10 to 40 minimum wages, USD 2 270 to USD 9 100).

50. There is a Mercantile Register for every Chamber of Commerce in the Dominican Republic (26 in total), so that the registration of companies is operated in a decentralised manner. The most important one is Santo Domingo in which approximately 90% of all companies are registered. A system called “Red Empresarial” was created for Mercantile Registers to have access to the other Registers. This system also allows for the sharing of shareholder information between registers. The system currently hosts 23 out of 26 registers (including the one of Santo Domingo)⁶. The following information is available to the public in Red Empresarial for the companies registered in these registries: business certificate, nationality of the company, office in which the company is registered, phone numbers, address, industry, email and number of employees.

6. The 3 localities (Elias Piña, Independencia and Pedernales) that are not yet in the network correspond to marginalised places with little trade flows. However, ownership is available with the Register of those Chambers of commerce and the DGII has the faculty to request any information that it requires, in agreement with the Federation of Chambers of Commerce, which in practice is answered as soon as possible.

51. In practice, 40% of registered commercial companies register in the Mercantile Register through the Single Window for registration of companies (“*Ventanilla Única de Formalización*”). The Single Window is an online platform involving four institutions with which registration is mandatory, i.e. the National Office of Industrial Property, the Chamber of Commerce and Production, the DGII and the Social Security Treasury. Supporting documentation must be provided and validated before the Mercantile Register Certificate is issued along with the RNC number.

Tax law requirements

52. After registering with the Mercantile Register, all types of companies must proceed to register for tax purposes in the National Registry of Taxpayers (RNC, *Registro Nacional de Contribuyentes*), maintained by the DGII (Art. 50 Tax Code). The tax registration form⁷ requires the name of the company, the company address in the Dominican Republic, a description of the activity, the exact address where the activity will be carried out, as well as information and identification documents for the company’s legal representative, including name, identity number, address and signature. A copy of the Mercantile register and a list of all shareholders must be attached to the form. Upon completion of this process, the company is issued a taxpayer identification number (RNC number). In practice, the DGII takes five days to issue the RNC number when the request is submitted in person, three days when the request is made online through the DGII website and one day when it is done through the Single Window platform (“*Ventanilla Única de Formalización*”).

53. Taxpayers are legally required to notify the DGII of any change to the information supplied at the time of the registration within 10 days (art. 50c of the Tax Code). Failure to comply with the requirements of registration or to inform the DGII of subsequent changes to the information supplied at the time of registration is an offence punishable with a fine equal to 5 to 30 times the minimum monthly wage (art. 254 and 257 Tax Code).

54. The Tax Code requires all companies to file an income tax return with the DGII annually, also providing any update of the information provided at the time of registration and any changes in shareholding (art. 50 and 330, Tax Code and Regulation No. 139-98). All information submitted by taxpayers shall be maintained for ten years (art. 30, General Law of the Nation’s Archive No. 481-08). The DGII however advised that the information is maintained indefinitely in practice.

7. Form RC-02 *Declaración Jurada para el Registro y Actualización de Datos de Sociedades*.

55. The obligation to register with the DGII extends to all entities operating in the Free Trade Zones in the Dominican Republic. Regardless of their tax liability, they are subject to the provisions of the Tax Code (art. 7), and have to file an income tax return (art. 116 of Regulation 140-98). Thus, all companies operating in the Free Trade Zones are required to comply with ownership information reporting requirements through registration and provide the DGII with any subsequent changes at the time of filing the income tax return.

56. During the onsite visit, the DGII reported that without a RNC number, it is impossible to carry out business activity in the Dominican Republic. For example, a RNC number is required for opening a bank account, or obtain a deed. In addition, if a company fails to renew its business certificate, the RNC number is invalidated and the company would not be able to conduct any commercial activity before the register is updated and the certificate renewed. Any interested part could verify the status of an RNC through the RNC query on the DGII website.

57. The 2016 Report highlighted that there was no cross-checking mechanism in place to verify whether companies proceed to register with DGII, and that the Dominican Republic was unable to quantify the number of companies that do not proceed to register with the DGII. While without a taxpayer identification number (RNC number) it was improbable that those companies could carry on business, there was no obstacle to these companies receiving dividends or conducting business activities abroad.

58. To address this issue, the Dominican Republic has adopted several measures. In the framework of the Administrative Co-operation Agreement signed with FEDOCAMARAS, the Federation of Chambers of Commerce in the Dominican Republic, the Mercantile Registry handed over in March 2017 its database of companies to the DGII, which was processed to identify those that have obtained their Mercantile Register certificate but are not registered with the DGII. The data provided by the Chamber of Commerce has been used for the cross-checking, verification and validation of information provided, manually and in mass. The DGII has carried out updating and maintenance campaigns with information obtained through the information exchange system with the Mercantile Registry. Companies identified were checked directly at the registered address stated in the Mercantile Registry. Companies which failed to comply are being sanctioned, in accordance with article 257 of the Tax Code. This process is being implemented gradually and in line with the procedures established in the Tax Code. So far, the quality and maintenance area of the RNC has verified the registration of approximately 17 230 companies with the information received from the Chambers of Commerce, and fine notices have been addressed to 658 companies for non-compliance of the formal requirement to register information.

59. The 2016 Report also noted that the obligation to renew the business certificate every two years lacked a monitoring system. The process of interconnecting both databases has been completed, enabling the DGII to have online access to the Mercantile Registry. The DGII and the Mercantile Registry constantly monitor the companies that register or make changes to their data through a platform in which both institutions are connected. This way, adequate follow up can be given to those companies who have obtained their Mercantile Register certificate and not their RNC number and to those that have not renewed their certificate with the Mercantile Register.

60. Finally, the Register Section of the DGII created the Register Quality and Maintenance Unit, in charge of supervising the quality of the information provided by companies and partnerships with or without legal personality, and to check timely compliance of the required corporate data.

61. During the onsite visit, the Dominican Republic reported that although the DGII receives on a weekly basis the newly incorporated entities from the Mercantile Registry, there is an ongoing project to improve the register and exchange information automatically in real time between the Mercantile Registry and the DGII to ensure that any update is transmitted on both sides. In the meantime, the DGII runs through the Mercantile Registry periodically to identify inconsistencies and update the information. The latest statistics of the companies registered with the Chamber of Commerce of Santo Domingo (representing 90% of companies registered in the Dominican Republic) and the companies registered with the DGII as of January 2019 are as follows: 113 599 companies registered with the Chamber of Commerce of Santo Domingo, and 113 272 companies registered in the DGII (including 8 486 foreign companies and about 2 000 joint ventures that are not required to register in the Mercantile Registry). The Dominican Republic reported that the difference between the two numbers is linked to a time lag, and that those companies are in the process of being registered with the DGII.

62. To conclude, the Dominican Republic has taken several measures to address the gap identified in the 2016 Report and monitor companies that failed to register with the DGII or to renew their business certificate with the Mercantile Registry. While there is still a gap between the number of companies registered with the Mercantile Registry and the DGII, it represents less than 10% of companies. The Dominican Republic should continue to monitor the compliance with ownership and identity information reporting obligations by all relevant entities and arrangements.

Inactive companies

63. The DGII requires updated ownership information on all shareholders through the filing of the annual tax return. Fines are imposed in case of non-compliance. The tax return filing compliance rate on 31 July 2019 was of 75% in 2015, 73% in 2016 and 68% in 2017. This can be explained by several factors, such as late filers (some taxpayers may still be filing 2017 returns) and companies that failed to comply, e.g. inactive companies.

64. Further, a taxpayer who fails to submit annual returns for three consecutive years is declared as inactive for tax purposes by the DGII (General Norm 05-2009). As a consequence, its taxpayer number is suspended and an alert is sent to the entity and to the Mercantile Register. This status prevents the taxpayer from performing any operations and using invoices. To reactivate a RNC number, the taxpayer must pay the appropriate fines, file the outstanding tax return and report the corresponding corporate updates. The DGII identified 5 656 companies considered inactive in the RNC register at the end of March 2018.

65. Furthermore, the DGII defines as withdrawn companies those that have been inactive for 5 years or more or that are in the process of liquidation or dissolution. These companies are notified to the Mercantile Register for amendment of their business certificate, to indicate that those companies are not compliant with their tax obligations and company law. The number of withdrawn companies in the National Register of Taxpayers is 80 710 (out of which 3 389 presented their dissolution before the Mercantile Registry and the DGII).

66. There is some oversight and monitoring of inactive and withdrawn companies through the annotation of the Mercantile Registry and the RNC. However, the Dominican Republic reported that inactive and withdrawn companies still have a legal existence, and may continue to conduct business outside of the Dominican Republic. This is also the case for companies which failed to renew their business certificate with the Mercantile Registry.

67. All companies in the Dominican Republic had to undergo a transformation process by 2011 to comply with the law, following a change of the Commercial Entities Law. In 2017, the Ministry of Industry, Commerce and SMEs adopted a resolution (Resolution 2017-160) to identify in the Mercantile Registry companies that did not comply with the transformation obligation of the Commercial Entities Law by 2011 (Law 479-08 amended by Law 31-11). This resolution creates a new legal status of “non-compliant with Law No. 31-11”, which is noted on the business certificate and in all certificates issued by the register. The Dominican Republic also reported that they are working on a new liquidation process to liquidate companies identified as “non-compliant”.

68. The Tax Administration is currently implementing a new procedure called “expedited liquidation” foreseen under Law 155-17. Article 107

amended the Restructuring and Liquidation of Companies and Physical Merchants Law by introducing a procedure by which the Tax Administration is empowered by regulation to institute an abbreviated procedure for liquidating entities that have outstanding debts to the Tax Administration or Social Security body. Specifically, the Tax Administration is authorised to reduce the timelines for processing a liquidation procedure and to modify certain procedures (such as allowing the grouping of companies together for liquidation if they have common characteristics). The purpose of this amendment to the liquidation law is to allow the Tax Administration greater latitude to take action against inactive companies, giving it grounds to institute liquidation procedures against entities that are in arrears with tax payments or filing obligations, resulting in the cancellation of the registration certificate.

69. Under this procedure, the DGII can liquidate entities that did not comply with the transformation obligation under the Commercial Entities Law by 2011, or withdrawn entities. The DGII is in the process of liquidating about 77 000 companies that never updated their legal status following the reform of the Commercial Entities Law, or that are considered withdrawn. The objective is to clean up the register and ensure that no entity incorporated under the former legislation pre-2008 and never updated its status is left. The norm on the General Standard for Expedited Liquidation has been published by the DGII on 21 February 2019 (General Norm 02-2019), identifying a list of companies to be submitted to this process. Law 155-17 establishes that these entities should be liquidated within a period of three years as from the publication of the general norm, i.e. by February 2022. The DGII is currently in the process of implementing the first cases, which will be submitted by the authorised liquidator to court for the purpose of final settlement by the end of the third quarter of 2019.

70. Nevertheless, companies which failed to renew their business tax certificate with the Mercantile Registry and did not comply with their tax return obligation during three consecutive years would only be noted as inactive in the DGII register, and their business certificate would be annotated in accordance. The DGII implements several measures such as crosschecks with the Mercantile Register, monitoring of banking movements, and blocking of assets. However, these companies would still have a legal existence and not be struck-off from the Mercantile registry or liquidated. Although inactive companies are not per se inconsistent with the standard, they should be expected to meet their return filing obligations and keep registers up-to-date. The Dominican Republic is recommended to enhance its monitoring of inactive companies and review its system that allows a significant number of non-complying inactive companies to retain legal personality in the Mercantile and Taxpayers Registers to ensure ownership information is available to the standard in all cases.

Information held by companies

71. Under Dominican Republic law, all companies must maintain a shareholder register which clearly sets out the name of the shareholders, the type of share, the nominal value of each share and the date of issue of each share (art. 34(a) Commercial Entities Law). Where decisions are taken collectively, companies must keep a record of the minutes of the general assemblies of the shareholders or owners of the corporate shares, as well as the meetings of the administrative or management bodies (art. 34(b) Commercial Entities Law). Such registers must be kept and be available upon request at the head office of the company (art. 35 Commercial Entities Law).

72. In the case of a transfer of a registered share, the company is obliged to update the shareholder register with the full name, address and nationality of the new shareholder (art. 305(I) for SAs, art. 86 for SCAs and art. 116 for SRLs, Commercial Entities Law). Until a person is entered into the register of shareholders, it does not have legal rights of a shareholder in respect to the company (art. 305(II) for SAs, art. 86 for SCAs, and art. 94 for SRLs). Similarly, in the case of a share transfer, the new shareholder is only recognised once it has been registered in the shareholder register. Pursuant to article 32 of the Commercial Entities Law, all companies are obliged to maintain all company records, including a record of the shareholder register for a period of ten years. The liquidation or dissolution of a company does not affect the record keeping obligations. The information should be kept by the competent Chamber of Commerce, the DGII and the court in charge of the liquidation (art. 50(h), Tax Code).

Nominee identity information

73. The concept of nominee shareholding that exists in particular in common law jurisdictions does not exist in the Dominican Republic. Where a person purports to hold property for the benefit of a third person, that third person would have no rights under the law to claim the property.

74. Further, pursuant to article 20 of the Commercial Entities Law, if a person were to hold shares in the name of another person, this action would be deemed as the interposition of people. This action is punishable with imprisonment of up to two years or a fine equal to DOP 697 140 (USD 13 630, i.e. 60 times the value of the minimum wage). Finally, where a person purports to hold property for the benefit of a third person, this may be deemed as tax fraud (art. 238(4) Tax Code), in which case this action would be punishable by imprisonment of up to two years (art. 239 Tax Code).

Foreign companies

75. All foreign companies must register with the Mercantile Registry as well as the DGII before carrying on business in the Dominican Republic. All companies are obliged to provide full shareholder information at the time of registration (art. 11 Commercial Entities Law). All foreign companies are obliged to supply information to the DGII, including an address in their jurisdiction of residence, company identification information including information on all shareholders with more than a 10% shareholding in a company (art. 1, Regulation 50-13), and notify the DGII of any change. All foreign companies are also obliged to submit an annual income tax return with updated shareholder information on all shareholders. Failure to register with the DGII and provide all of the required information, including ownership information, can be subject to a fine of DOP 58 100 to DOP 348 570 (USD 1 140 to USD 6 820, USD 11 850 to 71 100, i.e. equal to 5 to 30 times the minimum wage, art. 253-255, Tax Code). In addition, the DGII is able to require the production of ownership information from foreign companies at any time in relation to the administration and enforcement of the company's tax obligations (see section B.1).

76. Therefore, the combination of requirements under the Tax Code and Commercial Entities Law will ensure that ownership information in respect of all foreign companies carrying on business in the Dominican Republic is being maintained.

77. The DGII has clarified that registration in the Dominican Republic is required in order to undertake any type of business activity, in the Chamber of Commerce of the province where activities are carried out or headquarters are established. The DGII can control that foreign companies do register with the tax administration through the monitoring of certain transactions. Representatives of the Santo Domingo Mercantile Registry also highlighted that foreign companies follow the same registration process as domestic companies. Documents provided in the registration process must be authenticated by a notary. The total number of registered foreign companies before the DGII is 12 828, before the Chamber of Commerce Santo Domingo is 4 342 and before the other Chambers of Commerce is 1 285. The foreign companies registered before the DGII and not before the Chamber of Commerce of Santo Domingo are those registered to hold shares or movable and immovable property and not to develop commercial activities, which is the obligation established by the Law of the Mercantile Registry. These companies are registered in the DGII in a separate file, and they cannot carry out commercial operations until they enroll in the Mercantile Registry.

Legal ownership information – Enforcement measures and oversight

78. The DGII is responsible for overseeing compliance with the tax obligations of taxpayers, which are segmented according to their size. Large taxpayers are supervised by the *Gerencia de Grandes Contribuyentes*. The criteria used to qualify as large taxpayer includes the income generated by the entity as well as other criteria such as whether the company is part of a business group or belongs to a specific type of industry. Taxpayers who do not meet the income threshold might still be considered large taxpayers when the taxes they pay represent 70% of the total taxes paid in their region. They are known as local large taxpayers. Medium taxpayers are supervised by the *Gerencia de Fiscalización Externa de Medianos Contribuyentes*, and all other taxpayers are supervised by the *Gerencia de Planificación Control Tributario*.

79. The *Sub-Gerencia de Fiscalización Grandes Contribuyentes* (Large Taxpayers Unit) is in charge, within the *Gerencia de Grandes Contribuyentes*, of conducting specific and comprehensive audits for large taxpayers. Specific audits focus on one tax issue during one period and are usually desktop based while comprehensive audits assess all tax obligations of a large taxpayer within one tax period (12 months). The *Gerencia de Fiscalización Externa de Medianos Contribuyentes*, within the *Subdirección de Fiscalización*, audits medium taxpayers through specific and comprehensive audits. Specific audits are separated among value added tax (VAT) and income tax.

80. During the period under review, the Dominican Republic carried out a total of 38 671 audits (on-site and desk-based), representing 27% of the 142 131 companies registered with the DGII. The following on-site supervisory measures were carried out: 1 171 external audits to medium-size taxpayers, 542 external audits to large taxpayers and 5 459 preventive inspections to verify the compliance of small and medium taxpayers. During these audits, shareholder registers and ownership information were checked. The audits on medium taxpayers lead to penalties amounting to DOP 2 016 million (USD 39 million) and for large taxpayers fines collected amounted DOP 394 million (USD 7.7 million).

Availability of legal ownership information in practice in relation to EOI

81. During the period under review, the Dominican Republic received 11 requests for ownership information, among which four concerned legal entities. The peer inputs received reflected that they were satisfied with the responses provided by the Dominican Republic.

Availability of beneficial ownership information

82. The standard of transparency was strengthened in 2016 to require that beneficial ownership information on companies be available.

83. In the Dominican Republic, the beneficial owner(s) of a legal entity is available with the DGII through tax filings requirements, and with AML obliged entities through customer due diligence obligations. Each of these legal regimes is analysed below but both use the same definition of beneficial ownership.

Definition of beneficial ownership

84. The definition of beneficial owner is contained in Law 155-17 against Money Laundering and Combating the Financing of Terrorism from 1 June 2017. The beneficial owner is defined as the natural person who has the effective control or is the ultimate owner of a legal entity or an entity without legal personality (art. 104 paragraph 2, Law 155-17). A beneficial owner may be the natural person who will benefit from the person(s) making a transaction, even when the natural person does not appear as the owner or as the person formally controlling that operation. In the case of an ownership chain of titles, the law provides that natural person(s) holding or controlling directly or indirectly 20% of the shares of a legal entity, or the person with effective control or on whose behalf the transaction is made, must be identified as beneficial owner. Control can be exercised through the making of relevant or strategic decisions that affect the legal person. Persons who benefit from the capital or assets of the company must also be identified (paragraph 3). In case it is not possible to identify the beneficial owner applying the definition contained in the law, a senior managing official should be identified (art. 38, Regulation 408-17). This definition conforms to the definition in the standard. This law repealed Law 72-02, which provided that if there was a doubt whether a client is acting on behalf of a third party, obliged entities must seek information by all possible means, to determine the true identity of the depositor for whom the client was intervening.

Tax law requirements

85. Law No. 155-17 on Anti-Money Laundering and Combatting the Financing of Terrorism recently amended article 50 of the Tax Code. It provides that all legal entities and arrangements are required to identify their beneficial owner, and declare it to the DGII by 1 May 2018. This includes foreign entities and arrangements when they have a permanent establishment or a place of effective management in the Dominican Republic (art. 50c(1), Tax Code).⁸

8. The Tax Code and Regulation No. 139-98 establish that all Dominican or foreign companies obtaining income derived from Dominican sources are obliged to present their annual income tax declaration. If the company did not receive any income, it must complete an informative declaration including the information

86. Legal entities and arrangements are required to identify and maintain updated information on their beneficial owner(s) with the DGII (i) at the time of registration in the RNC through the completion of a specific form (annex D of the form RC-02), (ii) when a change in beneficial ownership occurs (within ten days), and (iii) every year when filing an income tax return (form IR2).

87. All legal entities, resident and non-resident, are required to keep for a period of ten years all underlying documentation to identify the beneficial owner(s). This obligation applies to legal entities acting in the Dominican Republic through a permanent establishment, entities having their management and control headquarters in the Dominican Republic, and those that due to the volume and characteristics of the profits obtained in the Dominican Republic would be required to declare those to the Tax Administration.

88. Non-compliance with the obligation to identify beneficial owner(s), as outlined in article 50 of the Tax Code, is punishable with a fine equivalent to DOP 58 100 to DOP 348 570 (USD 1 140 to USD 6 820, i.e. 5 to 30 minimum wages, art. 257 of Tax Code).

89. The Dominican Republic reported that when declaring the beneficial owner(s), the legal entity should provide a passport, an address, a telephone number of the natural person and the natural person also has to be registered with the DGII. Underlying documentation should be provided to the DGII with the corresponding form at the time of registration or tax return declaration (art. 39, regulation implementing Law 155-17). When beneficial owners are resident in the Dominican Republic, a cross-check is made with the Central Electoral Board, which is the entity in charge of granting the identification number and maintaining identification information on individuals.

Anti-money laundering requirements

90. Furthermore, article 38 of the AML/CFT Law 155-17 provides that all obliged entities must conduct customer due diligence measures in order to identify the beneficial ownership of their clients and to verify their identity through reliable sources. Due diligence should be performed before entering into a business relationship as well as during the relationship by monitoring activities and risk profile, including when necessary documents supporting the source or origin of the funds and purpose of destination.

91. Underlying documentation of CDDs should be kept for ten years regardless of the liquidation of companies or termination of a business

requirements established in Law No. 155-17 with the amendment of Art. 50, which sets the obligation to identify the beneficial ownership regardless of whether it has operations or not in Dominican Republic, as well as any update.

relationship. Obligated entities should have efficient mechanisms, and use documents, data or information obtained from reliable and independent sources, to update their clients' beneficial ownership information and maintain the necessary documentation available for their supervisory authorities (art. 39).

92. AML obliged entities in the Dominican Republic include financial entities (financial brokers, security brokers, the Central Bank of the Dominican Republic, fiduciaries, and others) and natural persons or legal entities performing other professional, business or entrepreneurial activities which by nature are susceptible to being used in money laundering activities and financing of terrorism (such as casinos, lotteries, real estate agents, precious metal traders, lawyers, notaries, and accountants).

93. Non-compliance with the obligation of identifying the beneficial owner is considered a violation punishable with fines ranging from DOP 5 million to 10 million (USD 100 000 to USD 200 000) if the obliged entity pertains to the financial sector, and from DOP 2 million to DOP 4 million (USD 40 000 to USD 80 000) for non-financial obliged entities.

Beneficial ownership information – Enforcement measures and oversight

94. The DGII in its capacity of Tax Administration is responsible for the supervision and enforcement of the obligation to maintain and update the beneficial ownership information with the register of taxpayers. As the obligation to submit beneficial ownership information to the tax administration is recent, the DGII undertook in September 2017 a communication campaign⁹ to inform taxpayers of their registration, data update and income tax return forms requirements, including the obligation to identify and declare their beneficial owner(s). The campaign included educational aspects on how to identify the beneficial owner and declare it.

95. During the peer review period, no sanctions were applied as the taxpayers had until 1 May 2018 to submit their annual tax return for 2017, including their beneficial ownership form. As of 31 March 2018, the DGII had a total of 142 131 registered companies (active and inactive, without including withdrawn companies), out of which 91.34% registered the beneficial owner(s). Companies that have not declared their beneficial owners have a mark in the pending registration of information update, which restricts procedures before the tax administration and alerts internal users about these breaches. These entities are also required to pay a fine for breach of the formal duties of taxpayers.

9. The educational campaign includes workshops for taxpayers on the identification of the beneficial owner, education guides on the identification of the beneficial owner, workshops to complete the BO form.

96. Following the adoption of Law 155-17 in 2017, the DGII has also been assigned the supervision of certain service providers regarding their record keeping obligation of CDD obligations on their clients in line with the AML/CFT provisions. AML obliged entities are supervised by sector as follows:

- The Bank Superintendence (*Superintendencia de Bancos*) supervises financial institutions and relevant entities that perform financial brokerage functions, such as fiduciary companies providing services to a financial institution or to a financial group (see A.3)
- The Superintendence of Securities (*Superintendencia de Valores*) supervises regulated entities authorised to operate directly on the Stock Market.
- The Insurance Superintendence (*Superintendencia de Seguros*) supervises relevant entities authorised to operate in the insurance sector.
- The Directorate for Casinos and Gambling of the Treasury Department (*Dirección de Casinos y Juegos de Azar del Ministerio de Hacienda*) supervises casinos, lottery stands, agencies and dealers.
- The DGII supervises relevant entities, including companies, individual enterprises or natural persons involved in business activities that fall under no State regulating body, including sole purpose companies that do not provide services to financial institutions or public offering. It includes the supervision of 1 535 accountants, 118 notaries and 14 *fiduciarios*.

97. During the period under review, the AML/CFT department of the DGII carried out 350 onsite inspections where the beneficial ownership documentation was checked. The department in charge of the RNC and the AML/CFT department may also request at any time the underlying documentation of the beneficial owner. As a result of the on-site inspections carried out in the course of year 2017, penalties have been issued consisting with corrective measures and information requirements that have allowed them to be supervised in an extra-situ manner. Likewise, feedbacks and follow-up have been offered to obliged entities for the correct implementation and compliance with AML.

Availability of beneficial ownership information in practice in relation to EOI

98. During the current review period, the Dominican Republic did not receive any request for beneficial ownership information.

Conclusion

99. To conclude, Law 155-17 which entered into force in 2017 provides that beneficial ownership information in the Dominican Republic is available with the tax administration through tax filing requirements and with AML obliged entities which conduct customer due diligence on their clients. The Dominican Republic undertook a comprehensive communication campaign to inform taxpayers about the new requirements and provided assistance in complying with those. The Dominican Republic is recommended to monitor the effective implementation of rules concerning the identification and declaration of beneficial ownership information, notably by ensuring that adequate oversight and enforcement activities are carried out.

A.1.2. Bearer shares

100. The 2016 Report found that the Dominican Republic was unable to quantify the possible number of entities that may have issued bearer shares or the possible number of bearer shares in circulation. Joint stock companies, which represented around 23% of all companies in the Dominican Republic might issue bearer shares, and the obligations under the AML law and the Tax Code for the reporting of ownership information for certain cases did not ensure that the owners of bearer shares could be identified. Therefore, the Dominican Republic was recommended to put in place appropriate reporting measures to ensure that owners of bearer shares can be identified in all cases.

101. Since then, the Dominican Republic passed tax transparency legislation (Law 155-17) which amended the Commercial Entities Law to abolish bearer shares. The legislation entered into force on 1 June 2017. Article 305 now requires that all company shares be issued in registered form, such that an owner's title to the share appears in a register kept by the company. The register must list the shareholder's name, nationality and domicile. Any shareholder not appearing in the company's register will not hold a valid title. In addition, the transfer of shares can only occur by written acknowledgement between transferor and acquirer with proper notification made to the company resulting in an updated register.

102. Article 305 bis of Law 155-17 creates a transition period in which persons holding bearer shares had one year from the law coming into force to convert the shares into registered form, i.e. by 1 June 2018. Any bearer shares not converted on time lost all legal rights. Affected shareholders had a subsequent one-year period to register their shares in order to obtain capital refunds associated with the shares, otherwise such amounts reverted to the company. Law 155-17 establishes sanctions in the range of between DOP 116 200 to 464 760 (i.e. 10 to 40 minimum wages, USD 2 270 to 9 100) for failure to comply with the obligation to provide information regarding ownership changes to the register.

Bearer shares in practice

103. When the new law entered into force, the DGII and the Mercantile Registry identified the companies that were allowed to issue bearer shares and had effectively issued such shares; 29 companies were identified. The conversion period foreseen in the law expired in 2018. Fines were imposed to companies that did not convert the bearer shares in due time, and holder of such shares cannot claim rights any longer. The status of the 29 companies is as follows:

- 10 companies made their conversion on 13 December 2018.
- 4 companies completed their dissolution process.
- 7 have been fined and are listed for expedited liquidation (see para. 63-70 on inactive companies).
- 1 has been fined for not updating data and for not engaging with the process of adaptation or transformation established in Law No. 479-08.
- 5 companies are in the process of being notified and sanctioned.
- 2 companies are in the process of receiving a fine and complying with the procedure established in article 103 of Law No. 155-17.

104. It is now prohibited to issue bearer shares in the Dominican Republic and bearer shares in circulation have been abolished or converted into registered ones. The recommendation is therefore removed.

A.1.3. Partnerships

105. The 2016 Report concluded that there are sufficient ownership obligations as well as a system of oversight in place in the Dominican Republic to ensure that updated information on all partnerships would be made available. There are comprehensive obligations established under the Commercial Entities Law, the Mercantile Registry Law and the Tax Code to ensure the availability of ownership information concerning partnerships which must be submitted to both the Mercantile Registry and the DGII. Foreign partnerships are not recognised in the Dominican Republic, unless registered to carry out business as a foreign company.

106. Pursuant to Decree 408-10 on Entrepreneurial Reorganisation, there are two types of partnership (*sociedades de personas*) that can be set up in the Dominican Republic:

- *Sociedad en nombre colectivo* (SC, General Partnership): a commercial entity with at least two partners (either natural or legal persons) who are jointly, personally and severally liable for the partnership's

obligations without any limitation (Section I, art. 59-74 of the Commercial Entities Law). The transfer of ownership in the partnership requires an amendment to the partnership's by-laws. As of 18 June 2019, there were 24 SCs in the Dominican Republic.

- *Sociedad en comandita simple* (LLP, Limited Liability Partnership): commercial entities whose capital is divided into parts or quotas (rather than shares) that can be traded, despite the fact that they are not represented in certificates (Section II, art. 75-88 Commercial Entities Law). The transfer of quotas requires an amendment to the partnership's by-laws. The partnership has two kinds of partners: (i) *socios comanditados* which are jointly and severally liable for the partnership's obligations such as in the *Sociedad en nombre colectivo*, and (ii) *Socios Comanditarios* who are the equivalent to quota holders in a *Sociedad de responsabilidad limitada*, hence their liability is limited to the amount of their capital contributions except for tax and labour liabilities. As of 18 June 2019, there were 5 LLPs in the Dominican Republic.

107. In addition, the Commercial Entities Law foresees the possibility to establish *sociedades accidentales o en participación* (joint ventures). They are a contract between two or more individuals involved in business who enter into an agreement for one or more specific business undertakings for a short term partnership, executed under one name and personal credit, where all participants share responsibility for the project's costs, profits and losses (Section V, art. 149-153 of the Commercial Entities Law). For all their actions, joint ventures have to indicate which companies are involved, and all authorities and entities would ask for the joint venture contract before making any operation. These partnerships have no legal personality and no business name, equity or registered address and are not subject to registration requirements. As they do not have legal personality and cannot hold real estate or own assets, they are not relevant for the purpose of the review.

Partners

108. Both SCs and LLPs may be formed by public or private deed (art. 13, Commercial Entities Law). Within a month of its formation by deed, a partnership must deposit a copy of its deed with the Mercantile Registry of the Chamber of Commerce in the region where it has been formed (art. 15, Commercial Entities Law). The registration with the Mercantile Registry gives the legal recognition to the partnership (art. 5, Commercial Entities Law).

109. Partnerships in the Dominican Republic follow the same registration process as domestic companies (see A.1.1 Companies Law requirements).

Information on the activity, the partners, including their names and address and information concerning the capital invested, should be provided at the time of registration. Changes in the partnership ownership information must be registered in the Mercantile Registry within one month of such change (art. 13, Mercantile Registry Law). All documents deposited with the Mercantile Registry are maintained indefinitely.

110. As for companies, all partnerships are required to register with the register of taxpayers (RNC) maintained by the tax administration (DGII). The registration requirements are the same as those for companies (see A.1.1 Tax law requirements). A list of all partners must be submitted. Upon completion of the registration, each partnership is issued a RNC number. In the event of any changes to the information supplied at the time of registration, those must be submitted to the DGII.

111. Failure to comply with registration requirements of the Tax Code is an offence punishable by a fine of DOP 58 100 to 348 570 (USD 1 140 to 6 820, i.e. 5 to 30 times the minimum wage, art. 257, Tax Code). Partnerships are subject to the same monitoring and oversight programme as that for companies. Supervision and oversight are carried out in the same way for partnerships as for companies (see relevant figures under A.1.1 above).

Beneficial ownership

112. The new requirement to file a declaration of the beneficial owner(s) with the DGII also applies to partnerships (see A.1.1 Availability of beneficial ownership information). Partnerships should provide information on their beneficial owner(s) at the time of registration, in the event of any change, and every year when filing an annual tax return. All partnerships are obliged to submit an Income Tax Declaration (Art. 116 of Regulation No. 139-98). Underlying documentation should be kept by a legal representative of the partnership during at least ten years (art. 50, Tax Code, as amended by Law 155-17). In case of violation of this obligation, they are subject to the same fines as companies (art. 257).

Foreign partnerships

113. A legal arrangement created in accordance with the law of any foreign jurisdiction (such as a common law partnership) cannot operate in the Dominican Republic unless it registers as a foreign company both with the Mercantile Registry and the DGII (art. 11, Commercial Entities Law). It will be subject to information keeping requirements as outlined above (see A.1.1 Foreign companies). In case a foreign partnership wishes to operate as a domestic partnership in the Dominican Republic, it would have to form a domestic partnership and be subject to all information keeping requirements.

Availability of partnership information in EOI practice

114. During the period under review, the Dominican Republic did not receive any request in relation to a partnership.

115. To sum up, any association of persons, whether domestic or foreign, must form a partnership under the laws of the Dominican Republic if it wishes to operate as a partnership in the Dominican Republic. Upon registration the entity will be obliged to comply with the filing of annual returns and the registration of changes in composition of partners as outlined above. There are comprehensive obligations to ensure that identity information on all partners of relevant partnerships is being maintained.

A.1.4. Trusts

116. The Dominican Republic does not recognise the common law concept of trust. However, the Law on Mortgages and Fideicomisos (Law 189-11) provides for a fideicomiso arrangement which has certain trust like features. The 2016 Report found that information keeping requirements and AML requirements on *fiduciarios* ensure that information on *fideicomisos* is fully available. In the event that a foreign trust was administered in the Dominican Republic or in respect of which a trustee is resident in the Dominican Republic, the 2016 Report concluded that the Dominican Republic has reasonable measures in place to ensure that identity information is available to its competent authorities.

117. In a *fideicomiso*, a *fideicomitente* (settlor) transfers the ownership of goods or rights to a *patrimonio fideicomitado*, which is a separate arrangement administered by a *fiduciario* (fiduciary) that holds the property for the benefit of a third party, who can be the settlor (art. 3, Mortgage and Fideicomisos Law). The purpose of the *fideicomiso* must be stated clearly in the contract. The *patrimonio fideicomitado* which holds the assets is not an entity but can exercise certain rights and is subject to certain obligations, both of which are exercised and fulfilled by the *fiduciario* who acts as administrator on behalf of the *patrimonio fideicomitado*. At the time of the purpose as stated in the *fideicomiso* agreement has been fulfilled, all assets held by the *patrimonio fideicomitado* are distributed either to the settlor or the beneficiary(ies).

118. An important feature of *fideicomisos* in the Dominican Republic is that only a limited number of persons may act as a *fiduciario*. *Fiduciarios* must be legal entities formed under the laws of the Dominican Republic whose activity is that of sole purpose companies, securities brokers, administrators of investment funds, banks, savings institutions, or other financial entities.

119. In order to operate as *fiduciario*, sole purpose companies must obtain prior authorisation from the DGII; securities brokers and administrators of investment funds need prior authorisation from the *Superintendencia de Valores* and banks and saving institutions require prior authorisation from the *Superintendencia de Bancos*. All other financial institutions require permission from the Monetary Board to undertake activities as *fiduciario* for a *fideicomiso* (art. 25, Mortgage and Fideicomisos Law).

120. The most common forms of *fideicomisos* are Administrative *Fideicomisos* (*fideicomiso de administración*), Investment *Fideicomisos* (*fideicomiso de inversión*) and Real Estate *Fideicomisos* (*fideicomiso inmobiliario*).

121. In the Dominican Republic, 24 companies are incorporated as *fiduciarios*, one financial intermediary institution provides *fideicomiso* services and 447 *fideicomisos* are registered in the DGII database.

Identity and beneficial ownership

122. A *fideicomiso* contract can be a private or public deed and must identify all parties to the *fideicomiso* (art. 12, Mortgage and Fideicomisos Law). The deed requires the signature of a Public Notary and a copy is maintained at the office of the notary where it is publicly accessible. All *fideicomiso* deeds must be registered with the Mercantile Registry (art. 17, Mortgage and Trusts Law), and subsequently in the register of taxpayers (RNC) with the DGII (art. 48, Mortgage and Trusts Law). At the time of registration with the DGII, *fideicomisos* must provide a copy of the deed, identification information on the settlor and the *fiduciario* with their RNC numbers, and corporate address, as well as information on the beneficial owner(s) of the *fideicomiso*. Changes in domicile, or any other change that may give rise to an alteration in the tax liability should be notified to the DGII within ten days.

123. In addition, sole purpose companies acting as *fiduciarios* of *fideicomisos* must submit to the DGII up-to-date information on an annual basis for all the *fideicomisos* they administer, including identification information about the settlors, *fiduciarios* and beneficiaries (first and last names, corporate name, Personal and Electoral Identity Card Number or National Taxpayer Registry Number (RNC)). This information must be submitted within the first 60 days of each year.

124. Non-compliance with the requirement of providing information to the Mercantile Register regarding changes in business activity or in any other element that require changing data recorded in the register is punishable by a fine from DOP 116 200 to 464 760 (USD 2 270 to 9 100, i.e. 10 to 40 minimum wages, art. 25, Law 3-02). Non-compliance with tax obligations is punishable by a fine of 5 to 30 minimum wages (art. 257, Tax Code).

125. In 2017, amendments to Article 50 of the Tax Code introduced new requirements where *fideicomisos* must submit information on their beneficial owner(s) at the time of registration, within ten days when there is a change and every year when filing their annual tax return (form RC-03). In addition, when entering into a business relationship and during the relationship, all AML obliged entities (including companies acting as *fiduciarios*) should identify and maintain updated the beneficial ownership of a *fideicomiso* arrangement by carrying out customer due diligence measures.

126. The beneficial owner of a *fideicomiso* is defined in the same way as for companies, i.e. as the natural person who has the effective control or is the ultimate owner of the arrangement (art. 104 paragraph 2, Law 155-17). The beneficial owner of a *fideicomiso* is the natural person who has the ownership of 20% or more of the goods and rights of the *fideicomisos*. When the beneficiaries are still to be designated, the class of beneficiaries for whose benefit the arrangement has been created or acts should be identified as beneficial owner(s). Finally, natural persons with effective control must be identified as beneficial owner. In particular, trustees or *fiduciarios*, settlors or *fideicomitentes*, *fideicomisarios* or beneficiaries of *fideicomisos* and foreign trusts.

127. The definition of beneficial owner of *fideicomisos* in the Dominican Republic includes a cascade approach. However, the 20% threshold of ownership rights in the definition is not in line with the EOIR standard. The standard requires that all parties of the trust, including the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, including through a chain of control or ownership, must be identified.

128. Nevertheless, this potential gap is addressed by another requirement contained in the same law: article 41 of Law 155-17 sets forth that sole purpose companies that are allowed to create and manage *fideicomisos* must perform CDD to identify all parties, including the settlor, beneficiaries and administrator, without the application of a threshold. In addition, during the onsite visit, representatives of the private sector highlighted that in practice, all *fiduciarios* and banks acting as fiduciary of a trust-like arrangement would identify all parts of a *fideicomiso* and would look through control by other means without applying any threshold, including in the case of foreign trusts. The application of the definition of beneficial owner of *fideicomisos* is in line with the standard.

Foreign trusts

129. The common law concept of “trust” does not exist in the Dominican Republic. The Dominican Republic clarified that sole purpose companies acting as *fiduciarios* of *fideicomisos* and other *fiduciarios* are not allowed to act as a trustee for a foreign trust. There is, however, no obstacle in the laws

of the Dominican Republic preventing a resident individual from acting as a trustee of a foreign trust, or for a foreign trust to invest or acquire assets in the Dominican Republic.

130. The Dominican Republic authorities reported that the situation where a resident would act as a trustee of a foreign trust did not arise in practice. However, even if it did so, the resident would have to declare it to the tax authorities as part of its annual income tax return, and fill-in the specific form for providing beneficial ownership information (see paragraph 86). It would therefore be required for him/her to know the identity information of the trust and have up-to-date beneficial ownership information in line with the standard and documentation available and at the disposal of the tax administration (art. 51.1, Tax Code). Moreover, the AML law requires financial institution and professionals such as lawyers, and accountants to perform CDDs and identify the beneficial owner of the trust would it be a Dominican resident. Failure to comply with the requirements of the Tax Code is an offence subject to a fine equal in amount to DOP 58 100 to 348 570 (USD 1 140 to 6 820 (i.e. 5 to 30 minimum wages, art. 257, Tax Code).

131. The authorities also reported that a foreign trust carrying on business in the Dominican Republic would have to register as a foreign company and all obligations applicable, including on availability of legal and beneficial ownership information as for foreign companies would also apply (see A.1.1 chapter on foreign companies).

132. To sum up, in the event that a resident would be acting as a trustee of a foreign trust, the trustee would not be authorised to engage in fiduciary services, and would have to submit and maintain information about the legal and beneficial owner(s) of the trust to the DGII.

Oversight and enforcement

133. The DGII is in charge of the supervision of sole purpose companies acting as *fiduciarios* of *fideicomisos*. In 2015, six fiduciary companies were given notice of non-compliance with the requirement of submitting information and a five-day period was granted for compliance. Only one out of the six companies did not submit the information in a timely manner, and a fine was imposed. In the following years, all companies acting as *fiduciarios* have complied with the reporting requirement within the period indicated above.

134. The new provisions on declaring and updating information about the beneficial owners of *fideicomisos* entered into force in 2017. The DGII received 408 forms to update the register of taxpayers as part as the annual tax return in 2017, representing 91% of all *fideicomisos* registered in the Dominican Republic. The DGII is following up with *fideicomisos* that have not declared their BO information through the issuance of a notice.

135. The DGII also received 393 requests for updating the information throughout the year. These updates correspond to modifications in the Register of Trusts that are made periodically (art. 17 of Law No. 189-11, art. 50 of the Tax Code and art. 10 of General Standard No. 01-15, on the Compliance with Duties and Tax Obligations of the Trusts). When the Update Request Form is completed, an annex in which the beneficial owner is identified must also be completed.

136. In addition, the Superintendence of Securities, supervising securities brokers and Administrators of Investment funds including some *fideicomisos*, conducted 201 in 2017 (21 in situ, 164 extra situ and 16 additional or special in situ). In terms of AML supervision, the Superintendence of Securities carried out 4 off-site and one on-site visit, and one inspection resulted in the issuance of an action plan requiring the obliged entity to correct the deficiencies identified.

137. Supervisory institutions monitor compliance with the legal obligations of *fideicomisos*. In order to enhance supervisory activities, an interinstitutional agreement was adopted on 8 January 2018 between the Bank Superintendence, the Superintendence of Securities and the DGII to supervise sole purposes companies in a co-ordinated manner. In enforcing this agreement, one consolidated supervision was initiated among the various institutions from August 2017 to February 2018, including supervision of the provisions of AML Law 155-17. During this period, onsite inspections were jointly carried out on five sole purpose companies, which cover 80% of *fideicomisos* registered in the Dominican Republic.

Availability of trust information in practice

138. In the three-year review period, the Dominican Republic did not receive any EOI requests for information relating to the identity of the parties of a domestic *fideicomiso* or foreign trust. With regards to domestic trust arrangements, there are sufficient legal and regulatory requirements for this information to be maintained both by the trust and public authorities, and the maintenance of this information and any subsequent changes is monitored. Regarding resident persons acting as non-professional trustees of foreign trusts, as explained above, there is no automatic registration mechanism, and the Dominican Republic is encouraged to monitor the presence of foreign trusts administered in the Dominican Republic to ensure that ownership information is available.

A.1.5. Foundations and Non-Profit Organisations

139. The concept of private foundation does not exist under the laws of the Dominican Republic. The Law on Non-Profit Organisations (Law 122-05) provides for the creation of public foundations that operate on a non-profit basis to address socially significant interests identified by the founders. In order to be authorised, the organisation must apply to the Office of the

Attorney General, and submit identification information of the members. Non-Profit Organisations must also register with the DGII, and submit all identification information concerning their founding members. They are required to file an annual tax return.

140. Non-Profit Organisations are now also required to submit information about their beneficial owners in their annual tax return (*Declaración Jurada Anual para Instituciones sin Fines de Lucro*, ISFL). The organisations should fill annex ISLFL-01-C on identification and update of beneficial owners of Non-Profit Organisations, according to the effective control of those organisations.

141. As regards public foundations that operate on a non-profit basis, the 2016 Report concluded that ownership and identity information is available within DGII in the same manner as for companies. The same provisions continue to apply.

A.2. Accounting records

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

142. The 2016 Report concluded that the legal framework was in place. It requires all merchants, legal entities, companies and partnerships to keep accounting information for a minimum of ten years. However, the 2016 Report found that not all companies registered in the Mercantile Registry have proceeded to register with the DGII. Consequently, they were not subject to the DGII oversight programme and as a result, accounting information may be unavailable in such cases. The Dominican Republic was recommended to ensure the compliance of the obligations to maintain accounting information for all entities. As a result, element A.2 was rated as “Largely Compliant”.

143. The Dominican Republic took several measures to ensure that companies registered in the Mercantile Registry renew their business certificate and proceed to register with the DGII. However, companies which fail to file their annual tax return with the tax administration are considered inactive, but remain in legal existence. There is a risk that accounting records for inactive companies may not exist or may not be available until reactivation or liquidation occurs. The Dominican Republic is therefore recommended to monitor the compliance with accounting obligations of those companies.

144. During the current review period, the Dominican Republic received 11 requests for accounting information and did not report any issues in obtaining such information in practice.

145. 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
	Accounting records for companies considered as inactive may not exist or may not be available during the period of inactivity.	The Dominican Republic should monitor compliance by inactive companies with their record keeping obligations to ensure that reliable accounting records are kept for all relevant entities and arrangements.
Rating: Largely Compliant		

A.2.1. General requirements

Commercial Code and Commercial Entities Law

146. The Commercial Code contains accounting requirements for all merchants. Merchants are defined under Article 1 as all persons who engage in a commercial activity and make it their habitual profession. As a result, all relevant entities including domestic and foreign companies, partnerships, and *fideicomisos* are subject to the accounting obligations set out under the Commercial Code.

147. General accounting record keeping obligations are set out under article 8 of the Commercial Code, which includes a general obligation for all merchants to “maintain a daily journal outlining all trade operations and all documents required to verify these operations”. Article 9 requires that an inventory be kept of all assets and liabilities in order to accurately prepare a balance sheet and profit and loss statement. Further, all merchants must maintain an “Inventory Book” and a copy of the balance sheet and income statement must also be recorded in the Inventory Book. Books and records of all merchants must be maintained for ten years (art. 11, Commercial Code).

148. Additional accounting requirements are foreseen under the Commercial Entities Law, which apply to all types of company and partnership, including foreign companies. All operations of commercial entities must be verified by proper accounting records in accordance with the principles established by the Institute of Certified Public Accountants of the Dominican Republic (art. 31, Commercial Entities Law). Accounting records should generate sufficient information for the preparation of “financial statements which reflect

the financial position, any changes in equity, cash flows and any disclosures which should be contained in notes to the financial statements”. All accounting records must be maintained in their original form for ten years (art. 32, Commercial Entities Law).

149. The obligations set out under the Commercial Code and the Commercial Entities Law cover the requirement to maintain a balance sheet, inventory books, accounting journals and a general ledger. These obligations apply to all relevant entities and arrangements carrying on a commercial activity in the Dominican Republic (but not investment entities, or those only carrying on commercial activities overseas).

Tax law

150. The Tax Code also imposes accounting records requirements. All entities, whether they are subject to tax or not, are under an obligation to maintain comprehensive accounting books which may be required by the tax authorities (art. 50, Tax Code). Accounting books must be kept for a minimum period of ten years in the Dominican Republic (art. 50(h), Tax Code). Non-compliance with those obligations is punishable with a fine equal in value from DOP 58 100 to DOP 348 570 (USD 1 140 to USD 6 820, i.e. 5 to 30 minimum wages, art. 257, Tax Code).

Trusts and similar arrangements

151. In addition to the above requirements, specific accounting requirements apply to *fideicomisos*. Pursuant to the Mortgage and Trusts Law, the *fiduciario* (or trustee) is bound to keep the assets that compose the *patrimonio fideicomitido* separate from its own assets (art. 29, Mortgage and Trusts Law). To meet this requirement, the *fiduciario* has to keep comprehensive accounting records in respect of each *patrimonio fideicomitido* to ensure that the assets are kept strictly separated. In addition, the *fiduciario* is obliged to maintain accounts and records of the *fideicomiso* in accordance with accounting practices and must render the accounts of the *fideicomiso* to both the settlor and beneficiary at least twice a year. These requirements ensure that the *fiduciario* is under an obligation to keep accounting records of the activities it undertakes with each *fideicomiso*.

152. A resident acting as a non-professional trustee of a foreign trust, he/she will be considered a “merchant” under the Commercial Code, and accounting obligations set out above would apply equally. In addition, a resident acting as non-professional trustee would have the obligation to comply with the formal duties of the taxpayers, including the obligation to keep books and accounting records, keep accounting documents for a period of 10 years and present the documents, reports and information required to the tax administration (Art. 50, Tax Code).

Entities that ceased to exist

153. As explained under A.1.1, a company which fails to submit annual returns for three consecutive years is declared as inactive for tax purposes by the DGII. These companies are not relieved of their accounting obligations, and can be subject to auditing controls.

154. Furthermore, the DGII defined as withdrawn companies those that have been inactive for five years or more or that are in the process of dissolution. In the liquidation process, the company must present a final income statement (R2F) and distribute the liquidated assets among the partners, according to their participation. The company must declare and register before the DGII a liquidator who is responsible for the information, taxes and pending obligations. The record keeping requirements exist regardless of the liquidation of the companies or termination of the business relationship. Accounting information should be kept in the court responsible for the liquidation and in the DGII (art. 50(h), Tax Code). This responsibility is extended to the liquidator, who must keep this information for 10 years and is designated jointly responsible for the company (art. 11, Tax Code).

155. Inactive and withdrawn companies which have not been liquidated still have a legal existence. Such entities do not file financial statements with the DGII. However, they may continue to conduct economic activity, particularly outside of the Dominican Republic (even if they cannot obtain a RNC certificate and their non-compliance would also be indicated on their business certificate registered in the Mercantile Registry). As a result, accounting records for inactive companies may not exist or may not be available during the period of inactivity until reactivation or liquidation occurs.

156. As explained under A.1.1, the expedited liquidation system would apply to any company non-compliant with its obligation to transform their legal status following the reform of the Commercial Entities Law in force since 2011. However, this liquidation process would not concern companies identified as inactive in the RNC. The Dominican Republic is therefore recommended to monitor the compliance of inactive companies with their accounting obligations to ensure that reliable information is available.

A.2.2. Underlying documentation

157. Article 8 of the Commercial code requires that “merchants” must maintain “all documents which enable all of the operations as recorded in their accounting ledgers to be verified”. As a consequence, all relevant entities in the Dominican Republic must maintain all underlying records such as receipts, invoices and contracts that are entered into and issued/received by the entity.

158. The provisions of the Commercial Entities Law, which apply to all companies and partnerships, add another layer to the underlying documents that must be maintained. All companies and partnerships are required to maintain all documents and factual information which will enable them to verify the operations that the underlying information supports (art. 32, Commercial Entities Law).

159. Pursuant to the Tax Code, entities must maintain all “ledgers, special registers, records, receipts, all proofs of payment and any document related to the operations and activities of the taxpayer” (art. 50(h), Tax Code). This requirement extends to all entities and individuals that are registered for tax purposes, regardless of their tax liability in the Dominican Republic, including companies operating in the Free Trade Zones. The 2016 Report concluded that the obligations set out under the Commercial Entities Laws and Tax Code are in line with the standard by requiring maintaining all relevant underlying documentation. The same conditions continue to apply.

Oversight and enforcement of requirements to maintain accounting records

160. The DGII is, in its tax-collecting role, the institution in charge of the compliance for relevant entities and arrangements of their accounting record keeping obligations, to ensure the quality of the information submitted in tax returns. The DGII has the power to sanction taxpayers of any kind in case of non-compliance.

161. The DGII conducts two types of verification checks: audits to review accounting records, and formal duty controls to conduct inspections to businesses, in particular to review invoices and other underlying documentation. In cases of non-compliance, monetary sanctions are provided. During the period under review, 235 penalties were imposed for failure to carry, keep and/or deliver the corresponding records and books.

162. During the onsite visit, the Dominican Republic explained that the audit office of the DGII elaborates every year a yearly plan taking into account sectors, types of taxpayers, size, and risks linked to the taxpayer. The type of audit carried out depends on the risk-level identified. During the period under review, the DGII has carried out 1 171 external audits to medium taxpayers, 542 external audits to large taxpayers, 5 459 preventive inspections to verify compliance with formal duties by small and medium taxpayers and 350 inspections regarding the prevention of money laundering to reporting entities it supervises.

163. In addition to the DGII, the Bank Superintendence oversees compliance by financial intermediation and foreign exchange entities (multiple banks, credit corporations, savings and loan associations, foreign currency

exchange agents, among others). The Superintendence of Insurance also monitors the compliance of companies issuing insurance policies and institutions participating in the stock exchanges market.

164. The 2016 Report found that there was no system of oversight in place to monitor entities' compliance with the obligations to maintain accounting information under the Commercial Entities Law, and thus companies registered with the Mercantile Register but not with the DGII were not subject to any supervision. The 2016 Report found that many companies failed to renew their business certificate with the Mercantile Registrar, and concluded that there was no oversight programme to ensure availability of accounting information for those companies, and recommended the Dominican Republic to put in place an effective oversight programme to ensure compliance with and enforcement of the obligation to maintain reliable accounting records and underlying documents for all entities.

165. Since the 2016 Report, the Dominican Republic took several measures to address this gap, notably by improving crosschecking mechanisms and the interconnection between the Mercantile Registry and the Register of Taxpayers, and by introducing new sanctions for legal entities and arrangements which failed to renew their business certificate with the Mercantile Registry (see A.1.1). As a result of exchange of information between the Mercantile Registry and the DGII, the Dominican Republic reported that there is a similarity in the corporate information that is handled. Given the 60 days deadline to register with the DGII, there is a difference in the companies registered of about 10% (see paragraph 61). In practice, the Dominican Republic has not had issues obtaining accounting information during the period under review and no peer input indicates any issue. However, as indicated above, there is a risk that companies which fail to comply with their reporting obligations but remain in legal existence might not have accounting records available. The Dominican Republic is therefore recommended to address this issue.

A.3. Banking information

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

166. The 2016 Report concluded that the legal and regulatory framework was in place. All requests for banking information had been answered and the implementation of the legal framework complied with the international standard.

167. The EOIR standard now requires that beneficial ownership information (in addition to legal ownership) in respect of accountholders be available.

This requirement is met through the provisions set out in the AML/CFT Law 155-17.

168. During the current review period, the Dominican Republic received 11 requests for banking information, and was able to provide it in all cases.

169. 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

A.3.1. Record-keeping requirements

Availability of banking information

170. All financial entities in the Dominican Republic are subject to the regulatory requirements as set out by the Monetary and Financial Administration, including the maintenance of records concerning all accounts and transactional information. Financial institutions are regulated in the Dominican Republic under the Monetary and Financial Law and the AML regime. The Monetary and Financial Administration, composed of the Monetary Board, the Central Bank and the Banking Superintendence, is the entity responsible for the regulation of the financial sector (art. 1(b), Monetary and Financial Law). The Banking Superintendence is in charge with overseeing compliance by all financial entities (banks, saving institutions, credit unions, lending associations and insurance operators) with the obligations set out under the Monetary and Financial Law.

Beneficial ownership information on account holders

171. The 2016 ToR specifically require that beneficial ownership information be available in respect of all account holders. This requirement is met through provisions of the AML/CFT Law 155-17.

172. Banks must conduct due diligence measures and identify the beneficial owner(s) of their current and potential clients (art. 38, Law 155-17). They are also required to conduct continuous due diligence during the course of the business relationship on their clients, through monitoring of transactions and activities, and requiring when needed documentation supporting the source or origin and the purpose or destination of the funds (art. 39, Law 155-17). All obliged entities, including financial institutions, are required to have efficient mechanisms for updating the available beneficial ownership information on

their clients and underlying documentation, according to the risk profile of the client (art. 36 and 39, Law 155-17). All records should be kept for ten years after the transaction is concluded and regardless of the termination of a business relationship (art. 51, Monetary and Financial Law).

173. The Banking Superintendence highlighted during the onsite visit that in practice, financial institutions update beneficial ownership information on their clients at least once a year. Such update should take place more frequently when there is a significant change in customer information or a higher risk profile of the client, through enhanced customer due diligence.

174. Non-identification of the beneficial ownership of a client and lack of due diligence represent a serious administrative infringement (art. 69, Law 155-17) and is punishable by a fine ranging from DOP 5 to 10 million (USD 40 000-200 000).

175. AML obliged entities may rely on another AML obliged entity for conducting due diligence measures. However, the final responsibility of client identity falls on the entity which delegated the identification and thus it should obtain immediately the identity information, as well as copies of the relevant supporting documents (art. 47, Law 155-17). During the onsite visit, representatives of the banking sector clarified that banks would only rely on CDDs carried out by another institution within the same banking group.

Availability of banking information in practice

176. The Monetary and Financial Law and the AML regime require banks to maintain beneficial ownership information and underlying documentation on the account holders, as well as information on transactions. The Banking Superintendence is the body responsible for the licensing and the ongoing supervision of all banks and deposit-taking institutions, as well as foreign currency exchange agents, carrying-on business in the Dominican Republic (art. 19, Monetary and Financial Law). The Banking Superintendence is also in charge of supervising financial institutions in respect to their AML obligations.

177. Within the Banking Superintendence, there is a department specifically responsible for the oversight of entities' compliance of the AML obligations. Supervisory activities include both desktop audits of the annual reports that licensed entities are required to submit and a comprehensive oversight programme. Desktop audits are conducted at least once a year for every regulated entity while the oversight programme is conducted at least once every three years. During the period under review, 134 penalties were imposed for infractions identified through the on-site supervision, amounting DOP 8 594 000 (USD 168 592).

178. Supervisory activities of the Banking Superintendence during the period under review are summarised in the table below.

Year	Number of onsite inspections	Number of penalties	Amount of penalties applied
2015	60	10	USD 49 039
2016	79	56	USD 28 183
2017	95	68	USD 92 032

179. The banking sector under supervision in terms of AML is composed, as of December 2017, of 112 entities: 60 financial intermediation entities (includes multiple banks, savings and loan associations, savings and credit banks, public financial intermediation entities, credit corporations), 47 exchange and remittance agents (specifically, 42 exchange agents and 5 remittance and exchange agents) and 5 *fiduciarios*. Supervision is carried out on a risk-based approach, taking into account clear guidelines regarding the determination of the level of inherent risks, evaluation of the effectiveness of risk management, the determination of the risk profile, the strategy and supervision plan, the methodology of supervision based on risk and other relevant aspects.

180. In addition to the field inspections, the Banking Superintendence issued an Internal Control Manual in 2015, and the instructions on the functions and responsibilities of compliance officers were updated. In 2017, the Financial Crimes Investigation Unit was created. Nineteen special inspections were carried out on 10 financial institutions that were presumed to be involved in financial brokerage activities outside of the Financial and Monetary Law.

181. To conclude, the customer identification obligations and record-keeping obligations set out under the AML/CFT Law and the Monetary and Financial Law require banking information to be available in the Dominican Republic, including beneficial ownership information, for all transactions by all account holders. These obligations are closely monitored in practice by the Banking Superintendence via desktop audits and onsite inspections, which significantly increased during the period under review. During the review period, the Dominican Republic successfully replied to 11 requests for banking information, and this is consistent with the feedback received from peers.

Part B: Access to information

182. 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).

183. The 2016 Report found that the DGII has significant access powers and resources to obtain information at its disposal, including ownership, identity, banking and accounting information. However, for accessing information directly from a bank or a financial institution, the DGII had to request the Office of the Attorney-General to obtain a court order to request the financial regulator to gather this information from the bank. This procedure caused issues with the implementation and delays in practice. Therefore, element B.1 was rated as “Partially Compliant” and the Dominican Republic was recommended to ensure that this procedure does not impede an effective exchange of information and to clarify it to ensure that it can be used to answer EOI requests in all cases.

184. The Dominican Republic amended the banking secrecy provisions of the Monetary and Financial Law in April 2017, which entered into force on 18 December 2017. The new provisions clarify that the DGII has access to banking information in order to comply with EOI agreements by making a request directly to financial institutions without the need of a court order or the intervention of the financial regulator. The new provisions have not been used for EOI purposes during the review period, but the DGII successfully

requested and received banking information directly from financial institutions in about 50 domestic cases and in five EOI cases after the review period. The Dominican Republic is therefore recommended to monitor the effective implementation of these provisions.

185. In the current review period, the Dominican Republic received 11 EOI requests for information and has been able to use its access powers and provide the requested information in all cases.

186. 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
	The Dominican Republic modified its legal framework so that the competent authority can request banking information directly from financial institutions, without prior authorisation of the financial regulator or a court order. As these amendments were recently enacted, their effective implementation could not be fully assessed.	The Dominican Republic is recommended to monitor the effective implementation of recently amended legislation to ensure that banking information is accessed pursuant to an EOI request in a timely manner in all cases.
Rating: Largely Compliant		

B.1.1. Ownership, identity and banking information

187. The DGII has broad access powers to obtain ownership, accounting and banking information from any person, for both domestic tax purposes and in order to comply with their international agreements. In addition, the procedure to access banking information has been clarified and simplified, and the DGII can request banking information directly from a financial institution.

Accessing information generally

188. Access to information by the DGII for compliance with its international agreements, including for EOI purposes, is provided for under Article 44 of the Tax Code which enables the Tax Commissioner to access information related to obligations under the Tax Code as well as other laws

(such as pursuant to an exchange of information request under an international agreement). The DGII has broad powers of inspection, audit and investigation and is empowered to:

- carry out inspections in offices, commercial and industrial establishments, transportation or premises of any kind; to perform inspections in private homes, a search warrant issued by Court Order is necessary
- require taxpayers or third parties to produce books, documents, business correspondence, goods and merchandise
- review and examine books, documents, goods and commodities inspected and safety measures for their conservation in the place where they are kept
- seize or retain documents, goods, merchandise or objects in infringement when the gravity of the case requires
- inspect inventories, or cross-check inventories with the stock as declared by taxpayers
- require taxpayers and third parties to maintain special books or records of their negotiations and operations as a means of explaining their tax compliance
- require taxpayers and other persons subject to the Tax Code to produce underlying documentation within the ten year retention period
- require that accounting records are supported by relevant documentary evidence.

189. The above listed powers under the Tax Code are sufficient to ensure that the competent authority has access to all ownership and identity information both for domestic and exchange of information purposes.

190. In practice, the main source of information for the DGII is the register of taxpayers where the DGII has access to an increasingly wide range of information collected as part of the registration and filing requirements (see A.1.1). While the EOI office has access to the basic information related to the taxpayer (such as name, address, RNC number and local office), the EOI office would ask the department in charge of the register or one of the local tax offices of the DGII to satisfy an EOI request. The DGII also has access to the Mercantile Registry, and can access ownership information, in particular through the business certificate which sets out all ownership details.

191. In cases where the information is in the possession or control of a third party, the EOI office requests the information via a notice from the information holder, without mentioning in the notice that it relates to an EOI request.

Accessing beneficial ownership information

192. Since 2017, all taxpayers must update the register of taxpayers with their beneficial ownership information through the filing of a specific form, at the time of registration, whenever there is a change in ownership and every year when filing the annual tax return. Beneficial ownership information is therefore directly available in the taxpayer database and the EOI unit would ask the department in charge to access the information requested.

193. Following the adoption of the AML/CFT Law 155-17, the DGII has been assigned the supervision of certain service providers regarding their record keeping obligation of CDD obligations on their clients in line with the AML/CFT provisions. As a consequence, the DGII could also access directly beneficial ownership information from an AML obliged entity which is required to conduct customer due diligence measures and keep underlying documentation. In that case, the purpose of the request would not be indicated and the EOI unit would specifically indicate not to inform the taxpayer. The EOI unit reported that it has not received so far a request for beneficial ownership information.

Accessing Banking Information

194. The 2016 Report analysed the procedures applied in the case of obtaining information generally and more specific rules for obtaining banking information. For banking information, a special procedure was in place whereby the DGII had to request the Office of the Attorney-General to obtain a court order to request this information from the Banking Superintendence, which then requested it from the financial institution, creating delays.

195. In order to clarify the access powers to banking information, the Dominican Republic enacted Law 249-17, amending the Monetary and Financial Law (art. 56(b)), which entered into force on 18 December 2017, and establishes that the tax administration (along with other public authorities such as the Financial Intelligence Unit (UAF, *Unidad de Análisis Financiero*)) may obtain information directly from banks and other financial institutions.

196. Financial institutions have 10 working days to respond to a request for information from the DGII. The authority requesting the information may change the deadline based on the urgency, specificity and volume of the information requested. Financial institutions may also request an extension of 10 days in case the volume or complexity of the information requested justifies it. Sanctions are foreseen under the Monetary and Financial Law if the financial institutions refuses to provide the requested information or does not provide it in the requested deadline. In case of a request from the DGII, sanctions applicable under article 257 of the Tax Code would apply as well.

197. To request banking information to the Dominican Republic, the requesting jurisdiction should provide some identification information of the taxpayer under investigation, such as the name and RNC number or birth date of the taxpayer, and when available, the name of the bank and account number.

198. The tax administration explained during the onsite visit that in practice, the EOI team would directly send a request for information if the financial institution were identified. If the EOI team does not know which financial institution is in possession or control of the information requested, it would make a request to the Banking Superintendence, which has wide databases and privileged channels of contacts with all financial institutions in the Dominican Republic. The Banking Superintendence does not have any authorisation role, but is a conduit to process the request for information in the most efficient way, and facilitate the collection of information. In both cases, the purpose of the request would not be notified to the financial institution. Financial institutions also implemented a system of designated persons in charge of managing requests for banking information to ensure confidentiality.

199. The Banking Superintendence produced a manual to explain the change to all financial institutions. It also conducted trainings to explain how the supervisor would be monitoring the compliance of this new obligation. The DGII also contacted the banks to explain the changes, clarify all doubts and establish working methods. Representatives of the banking sector met during the on-site visit confirmed that they could now answer directly to requests from the DGII.

200. In conclusion, the Dominican Republic modified its legal framework to clarify access to banking information. Education and training have been conducted to ensure that the new provisions are implemented in practice. The Dominican Republic indicated that during the period under review, it had not yet had EOI cases where it had to request information directly to a bank, but the new access powers have been used for about 50 domestic cases and for five EOI cases after the review period. The Dominican Republic should monitor the effective implementation of the new provisions to ensure that banking information is accessed in a timely manner.

B.1.2. Accounting records

201. The powers described in section B.1.1 relating to information other than information held by a financial institution can be used to obtain accounting information. In particular, the DGII specifically requires that taxpayers have to conserve accounting records and underlying documentation for ten years (art. 44(f) and (h), Tax Code).

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

202. The Dominican Republic has no domestic interest requirement to use its information gathering powers to answer EOI requests.

203. The use of the Dominican Republic's access powers for EOI purposes is based on their international agreements and the ways they have been given effect in domestic law (see paras 231-233 of the 2016 Report).

204. During the period under review, the Dominican Republic has received 11 requests. In one case, the Dominican Republic had no domestic tax interest and was able to provide the requested information. This is consistent with the feedback received from peers.

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

205. The Tax Code empowers the DGII to carry out investigations under search and seizure powers permitted by Court Order, including for EOI purposes (art. 44(a), Tax Code). The DGII may also request information in person and affidavits from taxpayers and third parties in order to verify facts related to their activities as well as requesting them to produce information or documentation (art. 44(i), Tax Code).

206. In the event of non-compliance with a request to produce information, the parties are liable to a fine ranging from DOP 58 100 to DOP 348 570 (USD 1 140 to USD 6 820, i.e. 5 to 30 minimum wages, art. 257, Tax Code). In addition, a taxpayer could be sanctioned with a fine consisting of 0.25 % of the total income declared during the previous tax period.

207. Moreover, the recently adopted AML/CFT Law 155-17 AML/CFT establishes a criminal offence for an employee, executive, officer, director or other authorised representative to intentionally fail to comply with a request of information for records as provided by the law (art. 4, Law 155-17). Such offence can be penalised with three to five years imprisonment, a fine from DOP 11 619 to DOP 23 238 (USD 22 700 to USD 45 450, i.e. 100 to 200 minimum wages) and permanent disqualification for performing any roles, providing advice or being employed by public entities or financial institutions, and from participating in the stock market.

208. During the period under review, the Dominican Republic has never had to use search and seizure for EOI purposes or apply sanctions, but the DGII has made use of enforcement measures and sanctions for domestic purposes.

B.1.5. Secrecy provisions

Bank secrecy

209. Article 56 of the Monetary and Financial Law established banking secrecy. The Dominican Republic has now amended that provision and replaced it with a confidentiality duty, allowing several public authorities, including the tax administration and the UAF, to directly request banking information to financial institutions (see section B.1.1).

Professional secrecy

210. The Standard provides that communications between a lawyer and a client can be kept confidential to the extent that they are produced for the purposes of seeking or providing legal advice or produced for use in existing or contemplated legal proceedings. The scope of attorney-client privilege in the Dominican Republic is set out under the Lawyers Code of Conduct. Professional secrecy extends to all “confidences” that the lawyer has had relayed to him/her by a client in the course of his/her profession (art. 17-18, Lawyers Code of Conduct). The Lawyers Code refers to secrets that the “client” has confided which infers that the extent of attorney-client privilege only encompasses professional communications disclosed in the course of the attorney-client relationship (see 2016 Report paras. 248-256). Further, the scope of professional secrecy would only cover circumstances where the lawyer was acting as attorney, solicitor or other admitted legal representative but would not extend to cases where a lawyer would be acting for a company as a director, or as a trustee.

211. To sum-up, attorney client privilege would only extend to communications which the client could reasonably have expected to be kept confidential. During the onsite visit, this interpretation was confirmed by a representative of the Bar Association. Therefore, secrecy provisions are found to be applied in line with the international standard in the Dominican Republic.

212. In practice, lawyers in the Dominican Republic have general traditional activities and are not involved in company management. No issue arose with regard to attorney-client privilege in the Dominican Republic in practice, and peers raised no issue in this regard.

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.

213. The 2016 Report found that the application of rights and safeguards in the Dominican Republic do not restrict the scope of information that the DGII can obtain for the purposes of responding to an EOI request. The element was determined to be “Compliant”. The same provisions continue to apply.

214. 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.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information

Notification

215. In the Dominican Republic, there is no obligation to notify the subject of a request for EOI before or after the information is gathered and exchanged.

216. If the taxpayer is the information holder, the Dominican Republic also reported that he/she would not be given the reason for the request of information. In respect of the requests received during the review period, the taxpayers were not notified.

Other rights and safeguards

217. There are no grounds for objection or appeal in the Dominican Republic in the case that information is requested by the DGII or to challenge any of the actions of the Tax Commissioner such as the exchange of information under an EOI request. Therefore, rights and safeguards are in line with the international standard and do not unduly prevent or delay effective exchange of information in the Dominican Republic.

Part C: Exchanging information

218. Sections C.1 to C.5 evaluate the effectiveness of the Dominican Republic’s network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all Dominican Republic’s relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether the Dominican Republic’s network of EOI mechanisms respects the rights and safeguards of taxpayers and whether the Dominican Republic 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.

219. The 2016 Report found that the Dominican Republic’s network of EOI mechanisms was comprised of one TIEA with the United States and two DTCs, with Canada and Spain. These agreements met the international standard and no issue arose in practice, therefore element C.1 was found in place and rated as “Compliant”.

220. Since then, the Dominican Republic signed the Multilateral Convention on 28 June 2016. It was ratified by the Senate of the Republic on 17 October 2018 and by the Chamber of Deputies on 5 February 2019. It was promulgated by the President of the Dominican Republic through Resolution No. 18-19 on 20 February 2019. The Dominican Republic deposited the ratification instrument on 2 August 2019 and the MAC will therefore enter into force in the Dominican Republic on 1 December 2019.

221. All international treaties must be approved by Congress (art. 93(1), Constitution) and they become law once they have been published in the official gazette of the Dominican Republic (art. 26, Constitution). In the event of a conflict between the provisions of an ordinary law and the terms of an international agreement, the provisions of the international agreement will prevail (art. 26(4), Constitution). However, the Constitution, as the supreme

body of law in the Dominican Republic, will prevail over international treaties. The ratification process provides for a constitutionality control by the Constitutional Court. The Dominican Republic reported that there are no conflicting provisions between the Constitution and the terms of its EOI agreements.

222. As regards EOI requests and provision of information, the competent authority is the Minister of Finance or his authorised representative. In practice, the Minister of Finance has delegated this power to the Director of the DGII.

223. The EOIR standard now includes a reference to group requests in line with paragraph 5.2 of the Commentary. In addition, the foreseeable relevance of a group request should be sufficiently demonstrated, and that the requested information would assist in determining compliance by the taxpayers in the group. The Dominican Republic received and processed one group request over the review period.

224. 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

225. The Dominican Republic is a developing country with no international financial centre and has not been asked to commit to automatic exchange of information. The Multilateral Convention and the TIEA with the United States also allows for automatic and spontaneous exchange of information. The DTCs also allows for spontaneous exchange of information. The Dominican Republic also signed a FATCA Intergovernmental Agreement with the US in 2016.

C.1.1. Foreseeably relevant standard

226. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. The Dominican Republic's DTCs follow the OECD Model Tax Convention and are applied consistent with the Commentary on foreseeable relevance. Similarly, the Dominican Republic's interpretation of the TIEA with the United States and of the MAC is in line with the international standard with regard to foreseeable relevance.

227. The Dominican Republic continues to interpret and apply its DTCs and TIEA consistently with these principles. Since the 2016 Report, the Dominican Republic also signed and ratified the MAC, therefore all EOI agreements of the Dominican Republic are in line with the standard.

Clarifications and foreseeable relevance in practice

228. The Dominican Republic requires that the requesting jurisdictions provide sufficient information to demonstrate the foreseeable relevance of their request and comply with the requirements outlined in the agreement. In practice, the Dominican Republic does not have a particular format for requesting jurisdictions to formulate a request. The request must include the name of the person(s) or legal entities, and if available an identification number, and a passport number or birthdate to allow for the identification of the taxpayer (internal procedure PRO-DCOOI-002)(however see paragraph 230240 below regarding group requests).

229. During the period under review, and in general in their EOI experience, the Dominican Republic has never declined a request for reasons of foreseeable relevance. The Dominican Republic reported that they have a broad interpretation of foreseeable relevance on condition that reciprocity is provided. This is consistent with the feedback received from peers.

Group requests

230. The Dominican Republic's internal procedure for incoming EOI requests does not foresee any specificities regarding group requests. Nevertheless, during the onsite visit, the Dominican Republic explained that the EOI unit deals with group requests in the same manner as an individual request, and would verify a number of elements to consider it relevant, i.e. identity information of the group, the specific facts and circumstances that originated the request and an explanation of the reasons to believe that the taxpayers in the request are not complying with the law (see element C.5 for details).

231. During the review period, the Dominican Republic received one group request concerning a criminal case. The request was considered foreseeably relevant and the peer was satisfied with the response received.

C.1.2 and C.1.3. Provide for exchange of information in respect of all persons and obligation to exchange all types of information

232. None of the Dominican Republic's EOI agreements restricts the jurisdictional scope of the exchange of information provisions to certain persons, for example those considered resident in one of the contracting parties (see 2016 Report paras. 277-281). Similarly, the 2016 Report did not identify any

issues with the Dominican Republic's network of agreements in terms of ensuring that all types of information could be exchanged. The Dominican Republic has full access to bank information for tax purposes in its domestic law (see section B.1.1), and pursuant to its treaties is able to exchange this type of information when requested.

233. During the period under review, the Dominican Republic has provided information regardless of whether or not the persons concerned were considered residents or nationals of either contracting party and in respect of all types of requested entity and has effectively exchanged all ownership, accounting and banking information where it was requested. This was confirmed by the inputs received from peers.

C.1.4. Absence of domestic tax interest

234. The 2016 Report did not identify any issue with the Dominican Republic's network of agreements regarding a domestic tax interest (see section B.1.3), and pursuant to its treaties the Dominican Republic is able to exchange all types of information when requested.

235. During the period under review, the Dominican Republic has been able to answer a request where it had no domestic tax interest. The peers also confirmed that the Dominican Republic has provided information regardless of whether or not it has an interest in the requested information for its own tax purposes.

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

236. The MAC, the TIEA and two DTCs provide for exchange in both civil and criminal matters and do not apply the dual criminality principle to restrict exchange of information.

237. Out of the 11 requests received during the period under review, the Dominican Republic indicated that some were related to criminal investigations. There is no impediment for the Dominican Republic to exchange information for criminal or civil matters, and all requests have been processed in a similar manner, without subjecting exchange to a double criminality requirement.

C.1.7. Provide information in specific form requested

238. The DGII applies its EOI mechanisms consistent with the OECD Model and so is prepared to provide information in the specific form requested. There is no impediment in the domestic law which would prevent information being obtained in the form requested, to the extent that it is consistent with the Dominican Republic laws.

239. During the period under review, one request specifically required witness depositions, and the Dominican Republic successfully answered such request in the specific format requested by the EOI partner.

C.1.8. Signed agreements should be in force

240. The Dominican Republic has a network of three bilateral agreements, which are all in force and in line with the standard.

241. In the Dominican Republic, the process for ratification of TIEAs and DTCs is the same. The President, the Minister for foreign affairs or someone authorised as the President’s representative must first sign the international agreement. Once signed, the agreement undergoes a constitutionality control by the Constitutional Court, and subsequently is ratified by the National Congress. No changes can be made to the text at this stage. Finally, the approved resolution is enacted by the Executive power, and becomes a law. The treaty is then ratified and the partner jurisdiction is notified accordingly.

242. The 2016 Report noted that the average time taken to ratify an agreement from the time of signing is one year. Therefore, the length of time in which the Dominican Republic ratifies its agreements is reasonable.

243. The Dominican Republic signed the Multilateral Convention for Mutual Administrative Assistance in Tax Matters on 28 June 2016 and the ratification and deposit of the instruments of ratifications took three years. This delay is due to the fact that the MAC underwent the constitutionality control as foreseen by the law and was ratified by both chambers before being promulgated by the President on 20 February 2019. The Dominican Republic should continue to monitor that signed agreements are brought into force expeditiously.

EOI Bilateral Mechanisms

		Total	Total bilateral instruments not complemented by the MAC	
A	Total Number of DTCs/TIEAS	(A=B+C)	3	0
B	Number of DTCs/TIEAs signed (but pending ratification), i.e. not in force	(B=D+E)	0	0
C	Number of DTCs/TIEAs signed and in force	(C=F+G)	3	0
D	Number of DTCs/TIEAs signed (but pending ratification) and to the Standard		0	0
E	Number of DTCs/TIEAs signed (but pending ratification) and not to the Standard		0	0
F	Number of DTCs/TIEAs in force and to the Standard		3	0
G	Number of DTCs/TIEAs in force and not to the Standard		0	0

C.1.9. Be given effect through domestic law

244. The Dominican Republic has in place the legal and regulatory framework to give effect to its EOI mechanisms. Once an international agreement has been ratified, it is granted a “*lex specialis*” status in the Dominican Republic. In the event of a conflict with the provisions of ordinary law, the provisions of the international agreement would prevail. Both the Dominican Republic’s DTCs and its TIEA are in force and have been given effect in this manner. The MAC has been ratified and will be given effect on 1 January 2020.

245. There have been no cases where information could not be made available due to any inconsistency or lack of domestic legislation being in force in the Dominican Republic.

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

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

246. The 2016 Report found that element C.2 was in place and that the Dominican Republic should continue to develop its EOI network with all relevant partners.

247. The Dominican Republic has three bilateral treaties providing for exchange of information, with Canada, Spain and the United States, which are main trading partners of the Dominican Republic. On 28 June 2016, the Dominican Republic signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The MAC was ratified on 2 August 2019 and will enter into force on 1 December 2019. This brings its number of EOI partners from 3 to 128.

248. The Dominican Republic reports that several countries have requested to enter into agreements with the Dominican Republic, and that discussions started with four jurisdictions. However, once the MAC enters into force, the Dominican Republic will be able to exchange information with those jurisdictions. The negotiation processes were then put on hold, awaiting the identification of additional elements going beyond the MAC, which would be included in a bilateral agreement.

249. Comments were sought from Global Forum members in the preparation of this report and no jurisdiction advised that the Dominican Republic refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, the Dominican Republic is recommended to continue to conclude EOI agreements with any new relevant partner which requests it.

250. 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. Confidentiality

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

251. The 2016 Report concluded that the applicable treaty provisions and statutory rules that apply to officials with access to treaty information and the practice in the Dominican Republic regarding confidentiality were in accordance with the standard.

252. Since then, the same confidentiality provisions continue to apply and are applied in practice.

253. 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

254. In the 2016 Report, the general domestic rules on confidentiality, read in conjunction with the confidentiality provisions contained in the Dominican Republic's exchange of information agreements, led to the conclusion that information exchanged with foreign authorities may only be disclosed to persons or authorities, including courts and administrative bodies, concerned with the assessment, collection, prosecution or enforcement of the tax law in question or in criminal proceedings related to such taxes.

255. Article 4(9) of the Dominican Republic's TIEA with the United States contains a confidentiality provision similar to the Model TIEA. Similarly, the Dominican Republic's DTCs with Canada and Spain contain provisions similar to Article 26(2) of the OECD Model Tax Convention and are therefore in line with the standard.

Domestic law

256. The Tax Code establishes the general rules pertaining to the disclosure of tax information in the Dominican Republic. Declarations and information received by the Tax Administration from taxpayers, representatives and third parties through any means are confidential and may be used by the administration for the purposes authorised by the law (art. 47, Tax Code). Confidentiality provisions apply also to information exchanged with a treaty partner, and that domestic provisions are consistent with the obligations set out in its EOI agreements (2016 Report, paras. 322-324).

257. The DGII also has internal policies in place, all of which include control measures to ensure the confidentiality of exchanged information, on: information classification and management; audit logs management in the tax system; communication and notably measures adopted to ensure the confidentiality of both internal and external communications; supervisors' responsibilities and their need to implement and maintain the highest confidentiality policies; management of and official response to any confidentiality breaches and confidentiality for email settings and use.

258. The DGII has the authority to impose penalties for disclosure of confidential information both for internal purposes and for requests related to international exchange. Public officials and contractors who disclose facts or documents known through their position as public employees can be subject to a suspension without pay for up to three months or may be removed from office (art. 259-260 of the Tax Code, and art. 82-84, Law 41-08). Further, if the information disclosed is used for the purposes of facilitating tax fraud, the public official would then be considered as an accomplice and liable to imprisonment from 6 days to two years (art. 236 and 239, Tax Code).

259. The 2016 Terms of Reference clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where 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. Such an exception is in accordance with the amendment to Article 26 of the OECD Model Tax Convention. In the period under review the Dominican Republic reported that there were no requests where the requesting partner sought the Dominican Republic's consent to utilise the information for non-tax purposes and similarly the Dominican Republic did not request its partners to use information received for non-tax purposes.

260. To sum up, the general domestic rules on confidentiality, in conjunction with the confidentiality provisions contained in the Dominican Republic's EOI agreements, ensure that information exchanged with foreign authorities may only be disclosed in accordance with the standard.

C.3.2. Confidentiality of other information

261. The confidentiality provisions in the Dominican Republic’s EOI instruments and domestic law do not draw a distinction between information received in response to requests and information forming part of the requests themselves. As such, these provisions apply equally to all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction.

Confidentiality in practice

262. The Dominican Republic had taken measures to ensure confidentiality from a physical storage perspective within the DGII as well as measures to ensure confidentiality in the handling, storage and transmission of information for all EOI requests.

Human resources

263. All candidates to the DGII are required to undergo comprehensive background and security checks to ensure that they will not pose any risk to security. Once appointed, all employees are subject to confidentiality obligations as set out in the terms of their employment and those set out under the Tax Code. All confidentiality obligations, processes and procedures are clearly outlined and explained during the induction training that all employees must undertake at the commencement of their employment with the DGII.

264. The DGII has also put in place policies addressing employees and contractors (PRO-RRHH-005, *Procedimiento de Reclutamiento y Selección*, Rev. B, Recruitment and Selection Procedure). Those policies include an induction period for new employees with training on the rules, laws, policies and procedures that govern the DGII in the field of information security. Additionally, another policy establishes various educational channels for creating and maintaining an organisational culture that values IT security, including annual workshops, meetings and email campaigns (POL-SEGE-005, *Política General de Seguridad de la Información*, General Policy on Information Security).

265. Officials directly engaged in EOI in the Dominican Republic have also attended various courses and workshops, such as the Global Forum Workshop on Confidentiality and Data Safeguards for automatic exchange of information in Washington, DC, United States (August 2017), the Workshop on Exchange of Information in Chile (March 2017), and the Virtual Course of Exchange of Information of the Inter-American Centre of Tax

Administrations (CIAT) (2018). They also have benefitted from Spanish technical assistance by attending an Internship on Exchange of Information in the Tax Administration in Madrid. All these courses have a strong confidentiality training component. In addition, internal training within the DGII is provided on a regular basis to remind and update employees of their confidentiality obligations and procedures.

266. The DGII has departure policies (PRO-RRHH-005) where all former employees are required to keep the information confidential, and are forbidden to use the information they had access to during the course of their employment. In case of a breach of confidentiality, criminal sanctions are applicable against the former employee.

Physical security measures

267. The DGII has an internal policy on the physical access to areas which contain digital or printed information, the use of official and visitor IDs, and access controls procedures for visitors and temporary contractors that may visit DGII offices (POL-SEFI-001, *Política de Acceso a la Sede Central*, Policy on Access to Central Headquarters). In order to access the building, a temporary pass is required and there are further security desks and personnel on each floor, including that containing the International Co-operation and Exchange of Information Department. Non-employees of the DGII are not authorised to enter the building without first registering at the front security desk.

268. In addition, the DGII put in place a clean-desk policy (POL-DSE-029, *Política de Escritorio Limpio*) aiming at establishing a culture of security, to reduce the threats and leaks of classified information. They use industrial paper shredders located on several floors to dispose of paper-based sensitive information.

Handling of EOI requests

269. The International Co-operation and Exchange of Information Department of the DGII undertakes the processing of EOI requests. Upon receipt of the EOI request, a hard file is opened and kept in a safe box located in the office of the head of the Department. During the onsite visit, the Dominican Republic indicated that those files would be moved to a bigger safe box located in the EOI unit with the expected increased amount of requests once the MAC will have entered into force. All EOI requests are recorded on an Excel sheet to which only the officials of the EOI unit have access.

270. All internal and external EOI-related correspondence within the DGII is transmitted in envelopes marked confidential, with a stamp specifying that the information is treaty protected. When the collection of the

information is processed by a local office, the EOI unit only provides the necessary information for the requested information to be collected, but never sends the letter from the EOI partner. The taxpayer does not have access to exchange requests either.

271. In cases of outgoing requests, when a regional office receives the information requested from an international partner, the information is only managed at the executive level. Confidentiality provisions are indicated and all documents are stamped to ensure that the information cannot be used for other purposes than the ones mentioned in the treaty.

272. The Dominican Republic indicated that until now there has been no breach of confidentiality in relation to an international request. They indicated that sanctions would apply and that the international partner would be informed if such case arise.

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.

273. The 2016 Report concluded that the Dominican Republic’s DTCs and TIEA protect rights and safeguards in accordance with the standard, and that most of these rights and safeguards are explicitly provided under domestic law. The scope of attorney-client privilege does not prevent access by the DGII to information requested in order to respond to an EOI request (see B.1.5 above). Element C.4 was found in place and as no issue arose in practice, it was rated as “Compliant”.

274. Under the current period under review, no issues in relation to the rights and safeguards of taxpayers and third parties have been encountered in practice in the Dominican Republic, and peers raised no issue.

275. 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.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.

276. The 2016 Report concluded that the Dominican Republic was able to fully answer EOI requests received in less than 90 days in 37% of all cases, and in 27% of all cases it took almost one year to provide the requested information. In cases where it did not respond in less than 90 days, the Dominican Republic did not necessarily provide updates to the requesting jurisdiction on the status of requests. As a result, element C.5 was rated as “Partially Compliant”.

277. The 2016 Report therefore recommended that the Dominican Republic’s authorities establish appropriate internal procedures to be able to respond to EOI requests in a timely manner and to provide status updates to its EOI partners where relevant.

278. The Dominican Republic has addressed the recommendations made in the 2016 Report by establishing an internal procedure for responding to EOI requests, which includes status updates for requests outstanding after 90 days. The timeliness of answers significantly improved during the last two years of the review period. The new procedure for accessing banking information (see B.1.1) was used after the end of the review period, where the Dominican Republic was able to provide banking information to a partner in less than 90 days.

279. However, over the review period (1 April 2015-31 March 2018), the Dominican Republic replied to requests within 90 days in 18% of the cases and within 180 days in 36% of cases in general. The Dominican Republic is therefore recommended to continue monitoring the implementation of the internal procedure for responding to EOI requests and for accessing banking information to be able to respond to EOI requests in a timely manner.

280. In all other respects, the Dominican Republic continues to perform to the standard in terms of responding to requests, which totalled 11 during the period under review. The organisation and procedures are complete and coherent and peers were generally very satisfied with the responses sent, and with their communication with the Dominican Republic’s competent authority.

281. 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
	The Dominican Republic's ability to timely answer EOI requests faced significant difficulty in the early part of the review period – with many requests taking nearly a year to receive a full response – but procedural changes made in 2016 have resulted in more recent requests being answered quite quickly, often within 90 days.	The Dominican Republic should ensure that its authorities continue to monitor the implementation of the new internal procedures to be able to respond to EOI requests in a timely manner.
Rating: Largely Compliant		

C.5.1. Timeliness of responses to requests for information

282. Over the period under review (1 April 2015-31 March 2018), the Dominican Republic received 11 requests for information. All related to ownership information, banking information, accounting information and other type of information (such as residence). The information requested related to legal persons (4 requests) and natural persons (7 requests). The Dominican Republic has had two EOI partners for the period under review. The response time to these EOI requests is tabulated below.

Statistics on response time

		Y1:		Y2:		Y3:		Total	
		April 2015- March 2016		April 2016- March 2017		April 2017- March 2018			
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	7	100	2	100	2	100	11	100
Full response:									
≤ 90 days		0	0	1	50	1	50	2	18
≤ 180 days (cumulative)		0	0	2	100	2	100	4	36
≤ 1 year (cumulative)	[A]	7	100	2	100	2	100	11	100
> 1 year	[B]	0	0	0	0	0	0	0	0
Declined for valid reasons		0	0	0	0	0	0	0	0
Outstanding cases after 90 days		7	100	1	50	1	50	9	82
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		4	57	1	100	1	100	6	67
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	0	0	0	0	0	0	0	0

Notes: a. The Dominican Republic counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, the Dominican

Republic count that as one request. If the Dominican Republic received a further request for information that relates to a previous request, with the original request still active, the Dominican Republic 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.

283. The Dominican Republic explained that requests that are fully dealt with within 90 days typically relate to information already at the disposal of the competent authority (e.g. tax information such as residency status of a person).

284. Until the change in the law in December 2017, delays in answering requests mainly related to the complex procedure to obtain banking information, whereby the DGII had to obtain a court order from the Office of the Attorney-General to request the information from the Bank Superintendent which requested it from the bank (see B.1). The new provisions expressly state that the Tax Administration may request banking information directly to financial institutions, without the intervention of the Bank Superintendent or the Attorney-General. This new procedure has not been used for EOI purposes during the review period but has been implemented for about 50 domestic cases and for five EOI cases after the review period and the Dominican Republic reported that it improves significantly the timeliness in accessing banking information, as it could provide a response within 90 days.

285. In the period under review, one request for clarification was made to the requesting jurisdiction by phone regarding a term used. The Dominican Republic reported that this request for clarification did not generate a delay in the response.

286. The timeliness improved during the review period, with a clear difference between the first year and the two following years. All requests received during the first year were answered between 180 days and a year, and those received during the two following years were all answered in less than 180 days. The Dominican Republic further reported that the requests received after the review period were answered in less than 90 days. The current practice is in line with the standard. However, considering that this has not been the case in the first year under review during which the highest number of requests was received, and that the volume of exchange has been too low since then to draw definitive conclusions, the Dominican Republic is recommended to continue monitoring the implementation of the new procedures to ensure that EOI requests are answered in a timely manner.

Status updates and communication with partners

287. The 2016 Report also identified that when the requests were not fully dealt with within 90 days, the Dominican Republic did not consistently provide update to the requesting jurisdiction on the status of the request. Since then, an internal procedure for responding to EOI requests was established in April 2016 and effective since 2017 (PRO-DCOOI-002, *Procedimiento Para Responder Solicitudes de Intercambio de Información Previo Requerimiento*), and an EOI Manual was developed. The new procedure includes regular status updates to the requesting jurisdiction. This new procedure also includes monitoring of deadlines with information holders to ensure timeliness of responses.

288. The new procedure has been successfully implemented in practice, as reflected in the statistics above (albeit in respect to a small number of cases). Peers confirmed that the Dominican Republic provided timely status updates for outstanding requests, and that whereas status updates were intermittent in the past, including during the first year of the peer review period, they have improved significantly during the review period. The recommendation from the 2016 Report is therefore removed.

289. Traditionally, the competent authority of the Dominican Republic has communicated with its partners by mail through a private courier. Email and telephone calls are used for status and requests for clarifications about ongoing cases, among others. Peers indicated that the Dominican Republic is an active and supportive partner, very responsive to their requests.

C.5.2. Organisational processes and resources

Organisation of the competent authority

290. The competent authority of the Dominican Republic is the Ministry of Finance. The Minister has delegated his prerogatives to the General Director of the DGII (Resolution No. 137-2014). In addition, the General Director of the DGII authorised the chief of the International Co-operation and Exchange of Information Department to act on his behalf in managing EOI treaties and agreements.

291. The EOI unit is established within the International Co-operation and Exchange of Information Department. It is composed of three persons – the Chief of the International Co-operation and Exchange of Information Department, a Section Chief and one analyst – whom, amongst other tasks, are responsible for the processing of EOI requests.

292. All international requests for information are handled and processed by the EOI unit. The EOI unit is responsible for communication with foreign competent authorities and for the administration of gathering the requested

information. This includes checking whether the responses sent by the regional offices contain all the requested information and are in the requested format, as well as sending reminders when the requested information has not been provided in the given deadline, asking an explanation as to why it is delayed.

Resources and training

293. The members of the EOI unit all have at least a diploma in business administration and between 8 and 29 years of experience working at the DGII. They are supported by an Advisor (legal expert) to the General Director, where necessary.

294. The staff has been trained in various domestic courses and workshops, and has taken part in working groups and technical assistance offered by the Global Forum and the Inter-American Centre of Tax Administrations (CIAT). Bilateral assistance has been provided by Spain, where a visit took place to learn from their experience and practices. Training on EOI has also been offered to other tax officials who are involved in the processing of EOI requests.

295. The Dominican Republic also reported that the staff in charge of EOI would increase, by recruiting two new persons in 2019 to handle the likely increase of number of EOI requests related to the entry into force of the MAC.

Competent authority's handling of incoming requests

296. While the experience of the Dominican Republic is fairly recent and the volume of exchanges of information limited, the authorities have developed in 2016 procedures detailing processes to be followed when responding to EOI requests and to request information from a foreign partner. Since the 2016 Report, the Dominican Republic also prepared an EOI Manual based on the draft EOI Work Manual of the Global Forum. The procedure and EOI Manual however no dot foresee any specificities regarding group requests. As the Multilateral Convention will enter into force in December 2019, the Dominican Republic should, where appropriate, update the procedure for responding to EOI requests, as well as the EOI manual, including information on group requests and application of the Multilateral Convention.

297. When a request for information is received, it is directly addressed to the International Co-operation and Exchange of Information Department (see C.3). Then the following steps are followed:

- Upon receipt of an information request, the Department Chief identifies the tax agreement and the requesting competent authority, the period of the request, and assigns the case to an EOI officer.

- The EOI officer will first proceed to analyse the content of the request and to check if the information required is covered by the purpose and scope of the agreement under which the request is received.
- Once the request is considered valid, the necessary translations are made and an acknowledgement of receipt is sent to the requesting jurisdiction in maximum 7 days.
- The EOI officer registers the case in an MS-Excel control chart, containing: the case number, the requesting jurisdiction, the competent authority, the reference number of assigned by the requesting competent authority, the name(s) and general information about the person(s) being investigated, the date of receipt and date of closing the case, the type of information requested, status and completed tasks.
- Reminder alerts are programmed in the calendar for monitoring and following up on deadlines.
- The official starts collecting the information.
 - Where the information needed to respond to a request is already in the hands of the tax authorities (tax, land, property and real estate information), the EOI official retrieves it from DGII's records and returns. The EOI unit only has access to some basic information related to the taxpayer (e.g. address, RNC number, local unit). When the information requested is not in a database accessible by the International Co-operation and Exchange of Information Department, the EOI unit manager requests the information via internal secure e-mail to the person in charge of the area responsible of such information. The response time for the request should not exceed 15 working days. When more detailed information is needed (e.g. tax returns, accounting information, audits), the relevant local tax office gets involved.
 - In cases where the requested information is in the hands of another governmental authority, the EOI official sends a communication signed by the Commissioner of the DGII requesting information to the institution in possession of it. Usually the process takes from 30 to 60 days.
 - Where the information holder is the taxpayer, the person or the entity subject to the enquiry, the EOI unit can contact the taxpayer or information holder and requests the information through the local office where the taxpayer is registered. In a majority of cases, the request is forwarded to a local unit of the DGII which collects the information. If the taxpayer refuses to provide the information requested, the corresponding area will proceed in

accordance with the administrative procedures in place for these purposes. The information gathering process takes between 15 and 30 days.

- Finally, where the information is held by a bank, the EOI official directly contacts the bank if the financial institution is indicated in the request or otherwise processes the request through the Bank Superintendence (see B.1. *Access to banking information*). The process takes between 10 to 60 days.
- Authorities and financial institutions may request an extension of 10 days in case the volume or complexity of the information requested justifies it. On the other hand, the DGII can also request the information within a shorter deadline when urgency is highlighted by the requesting jurisdiction.
- Once the information is gathered, the EOI manager reviews the information, ensures that the information is complete, and forwards it to the Department Chief for review and approval. The EOI official drafts an answer with the requested information attached, and sends it to the Commissioner of the DGII for review and signature. Once sent, a copy of the communication and requested information is maintained in a secured cabinet in the office of the head of the EOI unit.

298. During the review period, the Dominican Republic never declined a request, and made one request for clarification of a term used, over the phone, with the partner.

Outgoing requests

299. The Dominican Republic also set up a new procedure for outgoing requests. The Dominican Republic sent 10 requests for information to Spain and the United States during the review period.

300. When tax auditors are conducting an investigation and detect international transactions with a partner jurisdiction, and have exhausted all domestic means, they request a meeting with the Chief of the International Co-operation and Exchange of Information Department to discuss the case and the possibilities of processing a request. If the request is valid, and the requesting periods are covered by the agreement, the Chief requests remittance of the investigation description and the information required.

301. Once the information is received, the Section Manager writes the request together with the requesting area, secures the signature of the competent authority and sends it via private courier. Regular follow-up is made with the requested jurisdiction.

302. In practice, only one request has been considered not foreseeably relevant by an EOI partner at the beginning of the review period. The request concerned was not covered by the scope of the article, as no audit was ongoing on the taxpayer. The Dominican Republic explained that it was due to the lack of experience in EOI matters.

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

303. There are no factors or issues identified that could unreasonably, disproportionately or unduly restrict effective EOI in the Dominican Republic.

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.

- **C.1.8:** The Dominican Republic should continue to monitor that signed agreements are brought into force expeditiously (para. 243).
- **C.2:** The Dominican Republic is recommended to continue to conclude EOI agreements with any new relevant partner which requests it (para. 249).
- **C.5.2:** The Dominican Republic should, where appropriate, update the procedure for responding to EOI requests, as well as the EOI manual, including information on group requests and application of the multilateral Convention (para. 296).

Annex 2: List of the Dominican Republic’s EOI mechanisms

1. Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Canada	DTC	6-Aug-1976	23-Sep-1977
2	Spain	DTC	16-Nov-2011	25-Jul-2014
3	United States	TIEA	7-Aug-1989	13-Oct-1989

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

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).¹⁰ The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The 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.

10. 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 Multilateral Convention was signed by the Dominican Republic on 28 June 2016 and deposited the ratification instrument on 2 August 2019. It will enter into force on 1 December 2019 and into effect on 1 January 2019. The Dominican Republic can exchange information with all other Parties to the Multilateral Convention.

As of 7 August 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), Cyprus¹¹, 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, Saint 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.

11. 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.

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 (ratified on 2 August 2019, entry into force on 1 December 2019), Ecuador (entry into force on 1 December 2019), Gabon, Kenya, Liberia, Mauritania, Morocco (entry into force on 1 September 2019), North Macedonia, Paraguay, Philippines, Serbia (entry into force on 1 December 2019) and United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Annex 3: Methodology for the review

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

This evaluation is based on the 2016 ToR, and has been prepared using the 2016 Methodology. The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 16 August 2019, the Dominican Republic’s EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2015 to 31 March 2018, the Dominican Republic’s responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by the Dominican Republic’s authorities during the on-site visit that took place on 4-8 February 2019 in Santo Domingo.

List of laws, regulations and other materials received

Anti-Money Laundering laws

Law on Anti-Money Laundering and Combatting the Financing of Terrorism
(No. 155-17)

Constitution

Constitution of the Dominican Republic

Civil and Commercial Entities laws

Border Free Trade Zone Development Law (No. 28-01)

Civil Code (*Código Civil*)

Commercial Code (*Código Commercial*)

Commercial Entities Law No. 479-08 (*Ley General de las Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada*)

Decree 408-10 on Entrepreneurial Reorganisation (Partnerships Law)
Promotion of Free Trade Zones Law No. 8-90
Mercantile Registry Law No. 03-02 (*Ley de Registro Mercantil*)
Mortgage and Trusts Law No. 189-11 (*Ley de Fideicomiso*)
Regulation No. 50-13 (Foreign Companies)
Law on Non-profit Organisations No. 122-05
Regulation 40-08 of the Law on Non-Profit Organisations

Financial sector laws

Monetary and Financial Law No. 189-02 (*Ley del Sistema Monetario y Financiero*)
Stock Market Regulation Law No. 19-00

Tax laws

Tax Code (Código Tributario)
Regulation No. 139-98 (Income derived outside of the Dominican Republic)
Regulation 50-13 of application of Law No. 253-12.

Miscellaneous

Lawyers Code of Conduct (Código de Etica del Colegio de Abogados)

Authorities interviewed during on-site visit

Officials from the National Internal Tax Directorate (DGII, *Dirección General de Impuestos Internos*)
Officials from Ministry of Finance (*Ministerio de Hacienda*)
Officials from the Central Bank (*Banco Central*)
Officials from the Banking Superintendence (*Superintendencia de Bancos*)
Officials from the Mercantile Registrar (*Registro Comercial*)
Officials from Securities Superintendence (*Superintendencia de Valores*)
Officials from Financial Investigation Unit (*Unidad de Análisis Financiero*)
Representatives of banks, notaries, lawyers and accountants

Current and previous reviews

This report is the third review of the Dominican Republic conducted by the Global Forum. The previous reviews related to its legal and regulatory framework (Phase 1) in 2015 and the implementation of that framework in practice (Phase 2) in 2016.

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 of adoption by Global Forum
Round 1 Phase 1	Mr Rob Gray of Guernsey, Ms Carmen Arribas Haro of Spain and Ms Mary O'Leary of the Global Forum Secretariat	n.a.	May 2015	August 2015
Round 1 Phase 2	Mr Rob Gray of Guernsey, Ms Carmen Arribas Haro of Spain and Ms Mary O'Leary and Ms Ana Y. Rodriguez Calderon of the Global Forum Secretariat	1 July 2012 to 30 June 2015	November 2016	July 2017
Round 2	Ms Soledad Salman of Chile, Ms Tashia Chinnery of the British Virgin Islands and Ms Mathilde Sabouret of the Global Forum Secretariat	1 April 2015 to 31 March 2018	7 August 2019	8 November 2019

Annex 4: Dominican Republic’s response to the review report¹²

On behalf of the Dominican government, we appreciate the opportunity to present the progress we have made with the purpose to adapt the country to the important changes required by the Global Forum on Transparency and Exchange of Information for Tax Purposes, in order to ensure the availability and proper management of information, as well as the effective exchange of information for tax purposes.

We thank the Secretariat team for the hard work carried out to reflect the country’s efforts in this report after the Phase 2 evaluation in September 2016, and the subsequent Fast Track review in 2017. We would also like to thank the peer countries for their contributions.

The main recommendations of Phase 2 related to the need to establish an adequate mechanism to identify, in all cases, the owners of commercial companies and their transactions, as well as the shareholders of the Joint Stock Companies that have issued bearer shares before the transformation process.

In addition, recommendations were issued regarding the establishment of an effective supervision program to ensure compliance with the obligations to access all ownership information and relevant arrangements of the Dominican Republic, and that in cases of non-compliance, the sanctions are applied in practice.

Moreover, recommendations emerged relating to the lack of clarity of the process to access financial information.

The Dominican Government is committed to complying with the highest standards in terms of transparency and cooperation to prevent tax avoidance and evasion of economic agents with global operations, with the important legislative and administrative transformations we have made being proof of this.

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

In this regard, the Dominican Republic has made the recommended adjustments. For these purposes, Law No. 155-17 on Anti-Money Laundering and Terrorist Financing, has been enacted, through which Article 305 of Law No. 479-08 on Commercial Companies and Individual Companies with Limited Liability was modified, eliminating bearer shares.

In accordance with this legislation, all bearer shares must be and have already been made registered shares, for which a period was granted that in no case could exceed 1 year from the enactment of the legislation, which took place on June 1st 2017.

Since the aforementioned term has concluded, the holders of bearer shares are currently not enabled to exercise any corporate or economic rights related to them.

Additionally, through that same legislation, an expedited mechanism was established for the judicial liquidation of inactive companies that report outstanding debts or non-compliance with formal duties before the Tax Administration or Social Security Treasury. In that sense, companies that have not complied with the adequacy established in the General Companies Law are in the process of judicial liquidation. For this purpose, on February 2019, the DGII published the General Standard for Expedited Liquidation, by which around 77,000 companies were identified that never updated their legal status under the current Commercial Legislation, and will be subject to this process.

In the meantime, while the liquidation process is concluded, these companies are subject to permanent monitoring and have been flagged in the Mercantile Register indicating that the company “is not in accordance with the Commercial Law”, so they cannot perform any type of economic activity, including opening of bank accounts or any operation that requires a valid commercial registry, both in Dominican territory as well as in foreign jurisdictions.

On the other hand, a modification was made to the Tax Code, so that any legal person or entity without legal personality, resident and non-resident, has the obligation to register in the National Taxpayer Registry and the relevant special registries, to which they will provide the necessary information and will communicate their modifications in a timely manner, having to supply this registration to perform all acts indicated by the law, regulations or administrative acts; as well as having to maintain updated information.

This will force all entities to register before the DGII, regardless of whether or not they have operations or constitute taxable events in the Dominican Republic. Thus, the DGII will have the information of all the entities and the corresponding sanctions are established for the non-updating of data, which will be imposed by the institutions legally authorized for such purposes.

The legal changes, along with the improvements on the application of the Administrative Cooperation Agreement signed between the DGII and the Dominican Federation of Chambers of Commerce (FEDOCAMARAS), which allows the DGII to access the database of the Commercial Registry on all registered companies, guaranteeing that the identity information of all entities and arrangements are available in the Dominican Republic.

On the other hand, in Law No. 155-17, the definition of the final beneficiary was included, by which we have complied with the 2016 Terms of Reference, a commitment made following the request to use the Fast Track mechanism. With this definition already established, the corresponding actions have been carried out for its correct identification.

In this regard, the DGII has incorporated into the Taxpayer's Sworn Registration and Modification Statement, as well as in the Annual Income Tax Statement, an annex related to the identification of the final beneficiary, as a requirement for the acceptance of such statements. As a result, the system will not allow the taxpayer to submit his statement without completing said information.

Regarding the lack of clarity on DGII's authority to dispose of a taxpayer's financial information in a timely manner, through the enactment of Law No. 249-17 that regulates the Stock Market, the power to access this information directly without the need for a legal process was established.

With this measure, the Dominican Government guarantees that the Tax Administration has access to financial information in a timely manner, both for the compliance of its functions, and for exchanging information with partners that require assistance to prevent tax avoidance and evasion of multinational companies.

Additionally, we inform you that the Dominican Republic has complied with the requirements established for the entry into force of the Convention on Mutual Administrative Assistance in Tax Matters, a major step in the search for transparency, confirming our commitment to assist in the fight against international tax avoidance and evasion.

It is also important to note that the Dominican Republic has implemented the recommendations received under element C.5, reducing the response time to requests of information to less than 90 days. In this way, the country prepares to reply in a timely manner to the requests of information in the different ways established in the applicable instruments.

The Dominican Republic's commitment to the highest standards of transparency has been demonstrated with the implementation of all the measures recommended during the Phase 2 review.

The legislative modifications we have described are the result of a great consensus at a national level, expressed in the approval of Law No. 155-17 with 100% of the votes of the attending legislators, and its implementation has received the support of the highest level of the Dominican government and the business sector.

As you may notice, we have made important changes to ensure compliance with transparency standards, not only in order to comply with the standards of this Forum, but we are in accordance with the International Financial Action Task Force (FATF) standard, we have presented two reports following the Extractive Industry Transparency Initiative (EITI) standards, the Dominican Republic has also been readmitted into the Egmont Group and joined the BEPS Inclusive Framework, working alongside the Centre for Tax Policy and Administration.

We are committed to permanent improvement, so rest assured that the recommendations arising from this review will also be taken into consideration and the necessary actions will be implemented.

Finally, the Dominican Republic would like to reaffirm its gratitude to the evaluation team for their collaboration in this process, as well as to the members of the Peer Review Group for their contributions, with the hopes that all the efforts made and the commitment shown by the Dominican government in this process can be appreciated by this team as they have been reflected in the report that has been submitted for approval.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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

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GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information
on Request DOMINICAN REPUBLIC 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 the Dominican Republic.

Consult this publication on line at <https://doi.org/10.1787/7f68d3cf-en>.

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