Global Forum on Transparency
and Exchange of Information for Tax Purposes

SUPPLEMENTARY PEER REVIEW REPORT
Exchange of Information on Request
2019 (Second Round)

CURAÇAO

OECD

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 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 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
BO	Beneficial Owner
BV	*Besloten Vennootschap* (Private Limited Liability Company)
Central Bank	Central Bank of Curaçao and Sint Maarten
DTC	Double Tax Convention
EOIR	Exchange Of Information on Request
EU	European Union
FATF	Financial Action Task Force
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
Multilateral Convention (MAAC)	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NOGNT	National Ordinance on General National Taxes
NOIAT	National Ordinance on International Assistance in the Collection of Taxes

NOIS	National Ordinance on Identification of Clients when Rendering Services
NV	*Naamloze Vennootschap* (Public Limited Liability Company)
SBAB	*Stichting Belasting Accountants Bureau* (Tax Audit Department of Curaçao)
TIEA	Tax Information Exchange Agreement
UBO	Ultimate Beneficial Owner

Executive summary

1. The present report assesses Curaçao's legal and regulatory framework as at 6 August 2019 and the practical implementation of this framework, in particular in respect of EOI requests received and sent during the review period from 1 July 2016 to 30 September 2018. This report concludes that Curaçao is overall **Largely Compliant** with the standard of transparency and exchange of information on request.

2. The report supplements the findings and analysis in the 2017 Report that had assessed Curaçao's legal and regulatory framework as of September 2017 and the practical application of that framework, in particular in relation to EOI requests processed during the period of 1 July 2013 to 30 June 2016 (see Annex 3 for details). The 2017 EOIR Report rated Curaçao overall "Partially Compliant" with the standard. Since then, Curaçao made progress in both its legislation and implementation of the standard in practice, which led to the present supplementary report.

Comparison of ratings for the initial and Supplementary Second Round Reports

Element		Second Round Report (2017)	Supplementary Report (2019)
A.1	Availability of ownership and identity information	PC	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	LC	C
C.1	EOIR Mechanisms	LC	LC
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 the 2017 Report on the transparency framework

3. Curaçao took measures to address recommendations made in the 2017 Report.

4. First, Curaçao amended the National Ordinance on General National Taxes (NOGNT) to elaborately explain the meaning of "ultimate beneficial owner" by explicitly including the "natural person who exercises effective control" or "on whose behalf a transaction is conducted" in the definition. On the practical side, Curaçao has amended the NOGNT to grant the Central Bank powers to co-ordinate closely with the Tax Authorities and monitor obligations of maintaining legal and beneficial ownership information, accounting and banking information by the entities represented by Trust or Company Service Providers (TCSPs) as required under Articles 43 and 45 of the NOGNT. Curaçao has also introduced in the NOGNT, administrative penalties on entities that do not comply with the requirements in the NOGNT for maintaining ownership information and enhanced penalties for those who do not provide the information requested by the Competent Authority.

5. During the review period, the Tax Audit Department of Curaçao (SBAB) undertook an enhanced monitoring and supervision programme to examine entities' compliance with the obligations to maintain legal and beneficial ownership information, accounting and banking information with them. This was carried out as a one-off exercise to test-check the level of compliance.

6. The issue with accessing information from certain entities that had challenged the Competent Authority's powers to access information from them on the grounds that they belonged to the earlier low-tax regime with special rights (grandfathered entities) pointed out in the 2017 Report, has also been resolved due to court rulings in favour of the Curaçaon Competent Authority. This has allowed addressing of a major impediment that had led to delays in accessing information held by grandfathered entities in the past.

7. Curaçao removed all the provisions in law that required notifying the taxpayer prior to exchanging information in order to address the recommendations made in this regard in the 2017 Report. Since information can now be exchanged without sending any notification to the person(s) concerned, the procedural time required for answering EOI requests is significantly reduced.

EOI practice of Curaçao is also improving

8. Curaçao received 104 requests and sent 3 requests during the current review period.

9. Curaçao has revised its EOI manual and put in place a more streamlined system to answer EOI requests. This has translated into an improvement in actual exchange of information with a significant reduction in the time taken by Curaçao to respond to requests from peers. Curaçao cleared the backlog of pending requests as at the end of the previous peer review period (for the 2017 Report) and more recently put in place the practice of providing status updates in all cases where requests could not be answered within 90 days. These measures have translated into reduction in the average time taken to answer requests by Curaçao to 194 days during the current review period compared to the 510 days during the previous peer review period, although there remains scope for further improvement.

Key recommendation(s)

10. Despite the significant improvements made by Curaçao since the 2017 Report, there are certain issues that need attention.

11. Since the enhanced and elaborate definition of "ultimate beneficial owner" has been recently introduced in the law, Curaçao needs to monitor that all legal entities and arrangements are complying with the definition as clarified by law especially in relation to identifying beneficial owners exercising effective control through other means.

12. Partnerships are legal arrangements in Curaçao. The definition of ultimate beneficial owner for partnerships excludes the cases where a natural person has less than 25% ownership in the capital or profits of a partnership. Curaçao should ensure that all natural persons having a share in the partnership are identified as beneficial owners.

13. More importantly, although penal provisions for non-compliance with the requirements to maintain ownership and accounting information and for providing the information when requested exist, in practice Curaçao needs to ensure that the enforcement provisions are used in a timely and effective manner to ensure the availability of and access to information at all times. Active enforcement measures may lead to higher levels of compliance and co-operation. Furthermore, where penalty has been imposed for non-compliance or non-co-operation, Curaçao must still use all efforts and other available enforcement powers to obtain the information before closing the request in consultation with the requesting jurisdiction.

14. A major departure from the 2017 Report was Curaçao's refusal to provide information in three cases involving criminal tax investigations. This stand seems to have resulted from the revocation of Article 30 (pertaining to notifications) of National Ordinance on International Assistance in the Collection of Taxes (NOIAT, also referred to as LIBB "*Landsverordening*

internationale bijstandsverlening bij de heffing van belastingen") which also provided for a consultation mechanism with the Minister for Justice while responding to requests pertaining to criminal tax investigations. In the absence of any other legal provision in this regard, the Curaçaon authorities interpreted this to mean that they were no longer able to exchange information in cases pertaining to criminal tax matters and had advised some of their peers to seek information under the mutual legal assistance process. This interpretation is against the standard and a recommendation has been made in this regard to ensure that Curaçao is able to exchange information in both civil and criminal tax matters. Curaçao has already amended its interpretation and EOI manual to reflect that where the relevant treaty provides for exchanging information in both civil and criminal tax matters, Curaçao will do so going forward. Further, Curaçao reopened these cases and reached out to the respective treaty partners and has now collected and provided the requested information in all these cases.

15. Even though Curaçao's EOI manual reflects the standard's requirements for ensuring the effectiveness of Curaçao's EOI mechanisms, there were instances in practice during the peer review period, which suggested that there was confusion about how the standard was to be applied. Although Curaçao is of the view that it closed certain cases in consultation with its treaty partner and hence, interpreted and applied the standard correctly, Curaçao's approach while handling the requests seemed to suggest that there was lack of clarity on foreseeable relevance and exchanging information in respect of all persons.

16. While Curaçao has made considerable improvement in terms of timeliness in responding to EOI requests, there is still scope for improvement and monitoring the EOI process. During the first two years of the review period, Curaçao did not provide status updates in all cases where requests could not be answered within 90 days. From the last year of the review period, status updates are being provided regularly and Curaçao needs to continue the practice. Further, there were instances during the review period where Curaçao erroneously turned down a request for information based on some confusion about the effective date of its bilateral treaty or due to some misunderstanding about its own legal provisions. These instances reflect a continued need for appropriate training for the EOI staff on the EOIR Standard and domestic EOI law as well as prompt communication with treaty partners to clarify any issues that could result in declining a request.

Overall rating

17. Curaçao has made significant progress in addressing the issues that had been raised in the 2017 Report. Furthermore, Curaçao has made efforts to answer requests from peers in a timely manner although there remains scope for improvement. Several important peers have expressed satisfaction with the information received and the co-operation extended by the Curaçao authorities in answering requests for information.

18. Having addressed recommendations in relation to the definition of "ultimate beneficial owner" and having taken some concrete steps for monitoring entities compliance with the requirements of maintaining ownership and identity information, the rating for A.1 has been upgraded from "Partially Compliant" to "Largely Compliant". Similarly, the issue with access to information held by grandfathered entities being resolved due to judicial finality and in practice, coupled with efforts to streamline access procedures in the EOI manual and in practice, the rating of B.1 has been upgraded from "Partially Compliant to "Largely Compliant". Finally, significant improvement in the timeliness and effectiveness of exchange of information in practice together with positive feedback on the same from most peers has amounted to an upgrade in the rating for C.5 from "Partially Compliant" to "Largely Compliant". Due to revocation of notification procedures, element B.2 has also been upgraded from "Largely Compliant" to "Compliant".

19. Overall, Curaçao's overall rating is upgraded from "Partially Compliant" as ascertained in the 2017 Report to "Largely Compliant" with the EOIR Standard.

20. This report was approved by the Peer Review Group (PRG) at its meeting from 30 September-2 October 2019 and was adopted by the Global Forum on 15 November 2019. A follow-up report on the steps undertaken by Curaçao 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 *(ToR A.1)*		
The legal and regulatory framework is in place	The new definition of ultimate beneficial owner for a partnership requires identification of only those natural persons with more than 25% stake as beneficial owners. For partnerships, being legal arrangements, all relevant natural persons with a stake in the partnership should be identified.	Curaçao should ensure that accurate beneficial ownership information of all relevant partnerships in Curaçao is available at all times.
Largely Compliant	Article 45 of the National Ordinance on General National Taxes has been amended recently and the definition of "ultimate beneficial owner" has been elaborated to bring it in line with the standard. Considering the relatively recent change, it could not be assessed in practice if all stakeholders adequately understand the new definition while identifying beneficial owners.	Curaçao should monitor that all legal persons and arrangements understand and apply the enhanced definition of "ultimate beneficial owner" capturing effective control (including through other means) for identifying and correctly reporting beneficial owners in all cases, and issue suitable guidance as necessary.
	While Curaçao has put in place a mechanism for co-operation between the Central Bank and the Inspectorate of Taxes specifically in relation to the monitoring and supervision of international (offshore) entities' obligations to maintain ownership and identity information under the tax law, the arrangement is fairly recent and has not been tested adequately in practice.	Curaçao must ensure that the recently introduced mechanism for co-operation between the Central Bank and the Inspectorate of Taxes results in effective supervision by the tax authorities of international entities' obligations to maintain identity and ownership information (including beneficial ownership) for the specified retention period as required under the tax law.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	While there is some oversight, there is no rigorous system in practice of monitoring entities' obligations in all cases and there is minimum enforcement and/or penalties applied generally to ensure the availability of ownership information. No sanctions were reported in relation to non-compliance noted during the enhanced monitoring programme.	Curaçao should ensure that authorities exercise the enforcement powers by way of imposing sanctions on non-compliant entities in a timely and effective manner in order to ensure the availability of ownership information at all times
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place		
Largely Compliant	While Curaçao has put in place a mechanism for co-operation between the Central Bank and the Inspectorate of Taxes specifically in relation to the monitoring and supervision of international (offshore) entities' obligations to maintain accounting information, the arrangement is fairly recent and has not been tested adequately in practice.	Curaçao must ensure that the mechanism for co-operation between the Central Bank and the Inspectorate of Taxes put in place results in effective supervision by the tax authorities of international entities' obligations to maintain accounting information, including underlying documents, for the specified retention period as required under the tax law, in accordance with the EOIR standard.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	Even when non-compliance with the availability of accounting information was noted in some cases during the review period and also during the enhanced monitoring exercise carried out by the tax audit department, Curaçao did not impose any sanctions for non-compliance with requirements of maintaining accounting information.	Curaçao should ensure that authorities with oversight responsibilities exercise the enforcement powers by way of imposing the penal sanctions on non-compliant entities in a timely and effective manner in order to ensure the availability of accounting information at all times.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place		
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) *(ToR B.1)*		
The legal and regulatory framework is in place		
Largely Compliant	Despite having sanctions for non-compliance with requests for information, the Curaçaon authorities have not applied enforcement procedures in a streamlined and effective manner to ensure compliance by information holders.	Curaçao should streamline the enforcement procedures to be followed by the authorities concerned for exercising access powers and ensure that all available enforcement powers are applied as required in cases where information is not provided by the information holders.
	Curaçaon authorities declined requests for information in three cases where the period to which the information pertained was beyond the statutory retention period without making an effort to check for the availability of some or all of such information from the information holders, before declining the requests.	Curaçao should ensure that where foreseeably relevant information has been sought by a treaty partner for periods beyond the statutory retention period for all or part of such information, access powers are similarly used to obtain all available information for exchange.

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 *(ToR B.2)*		
The legal and regulatory framework is in place		
Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
	In practice, there was some confusion in the application of the standard and the authorities were unclear about whether information for non-residents of the requesting jurisdiction was relevant and should also be exchanged.	Curaçao should ensure that its interpretation of the standard is applied correctly and information is exchanged in respect of all persons regardless of where they are resident.
Largely Compliant	Although there are no legal impediments to the exchange of information in matters of criminal tax investigations in the requesting jurisdiction, during the peer review period, Curaçao turned down three EOI requests for information on the grounds that requests pertaining to criminal investigations must be proceeded with under mutual legal assistance. While Curaçao has now amended its position in this regard, this stand was against the standard during the review period.	Curaçao should ensure that going forward, in practice, there is no impediment in exchanging information on civil and criminal tax matters and should ensure that all officials concerned are aware of Curaçao's legal position in this regard.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place		
Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
Largely Compliant	During the period under review, delays have been experienced in answering some EOI requests, and Curaçao did not always provide a status update to its EOI partners within 90 days when the Competent Authority was unable to provide a substantive response within that time.	Curaçao should ensure that it provides status updates in all cases where responses have not been provided within 90 days.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	Possibly due to lack of experience (as discussed in B.1 and C.1) in handling certain situations, Curaçao erroneously declined certain requests. In particular, in one case Curaçao initially refused to provide information to a treaty partner on the grounds that the Multilateral Convention was not in force for the requested period, while the TIEA was applicable, without discussing the issue with the treaty partner. This led to withdrawal of the request by the treaty partner.	Curaçao should provide more training to EOI staff and actively engage with its treaty partners and ensure that any legal issue pertaining to treaty provisions or their applicability are clarified mutually based on a common understanding before declining any request.

Overview of Curaçao

21. Curaçao forms part of the Kingdom of the Netherlands, along with the Netherlands, Aruba and Sint Maarten. Curaçao is self-governing to a large extent and accordingly, has legislative autonomy on various subjects, including taxes.

22. Curaçao has a diverse economy, which mainly includes oil refining, tourism and financial services, as well as shipping, international trade and other activities related to the port of Willemstad (like the economic zone). Between 2013 and 2017, the contribution of the financial intermediation sector to Curaçao's GDP was approximately 18%. This figure is decreasing due to the abolition of the old offshore tax regime (preferential tax rates from 2.4% to 3%). Although grandfathering rules apply until the end of 2019, many of the offshore entities have started to move their business from Curaçao to other jurisdictions.

23. The 2017 Report provides a detailed overview of Curaçao, its legal system, its tax system, its financial services sector and its AML framework. There is only one significant change in relation to the information provided in the 2017 Report. This change pertains to the discussion on the Corporate Tax System in Curaçao.

24. Curaçao used to follow the worldwide system of corporate income taxation. Since 1 July 2018, Curaçao has adopted a territorial system for corporate income taxation through an amendment to the National Ordinance on Profit Tax by emphasising a simplification of the rules and the protection of the tax base. This has been modelled after the OECD countries with territorial tax systems that have designed provisions that seek to prevent base erosion and profit shifting by multinational corporations. This means that resident legal entities (i.e. incorporated under domestic law or effectively managed in Curaçao) are subject to corporate income tax only on their income originating in Curaçao. The profit which originates abroad and which results from transactions with persons abroad, concerning the sale and delivery of goods or the performance of services for recipients, who live or are established outside of Curaçao, is not taxable in Curaçao. For the purposes of applicability of the territorial system, profits are not considered

to be originated abroad if they arise from real property located in Curaçao, and also from services or transfer of goods to tourists, if the services are provided in Curaçao or if the transfer of goods occurs in Curaçao. However, there are some exceptions to the territorial system for corporate income taxation and for such activities, worldwide income of the corporates continues to remain taxable in Curaçao, e.g. activities in the insurance and reinsurance business, the service of acting as the director of companies whose statutory seat or actual management is located in Curaçao and other services related to the trust business, services provided by civil law notaries, lawyers, public accountants, tax advisors, the exploitation of intellectual property adhering to the nexus approach and certain shipping activities.

Part A: Availability of information

25. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of bank information.

A.1. Legal and beneficial ownership and identity information

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

26. The 2017 Report had concluded that the legal and regulatory framework of Curaçao was in place regarding the availability of legal ownership information on relevant entities and arrangements but needed some improvement in relation to beneficial ownership. It had also concluded that the practical implementation of the standard in respect of legal and beneficial ownership information had material deficiencies likely to have a significant effect on exchange of information.

27. The 2017 Report had noted the different definitions for beneficial owner under the tax law and the AML law. While the definition under the AML law and its interpretation had been found to be broadly in line with the standard, the Report had identified a legal gap in relation to the definition of "ultimate beneficial owner" as defined in the National Ordinance on General National Taxes (NOGNT). The definition left some doubts about whether "natural persons exercising effective control over a legal person or arrangement" (even if such natural persons may not have adequate ownership interest over the equity) would also be identified. It was felt that where legal persons did not have a bank account in Curaçao, or did not engage an AML obliged person, the inadequate scope of the definition in the tax law might leave some scope for beneficial ownership information being not available.

28. Further, the 2017 Report had noted that although the obligations for maintaining beneficial ownership information had been introduced in the Tax Law in May 2013, tax authorities had not adequately monitored the new obligations. Further, there was no practical guidance issued on the meaning of the term "ultimate beneficial owners" and what information taxpayers needed to maintain.

29. Finally, the Report had noted the lack of enforcement and application of penalties to ensure the availability of information, be it on legal ownership or beneficial ownership.

30. Curaçao has elaborated upon the definition of "ultimate beneficial owner" in the NOGNT for all legal entities and arrangements. The new scope of beneficial owners includes the natural person exercising effective control over the legal entities and arrangements. Curaçao has made efforts to raise awareness about the elaborate definition. Nevertheless, a deficiency in relation to the definition of ultimate beneficial owners (UBO) for partnerships, which are a legal arrangement in Curaçao, remains.

31. Furthermore, in order to address the issues of monitoring compliance with laws requiring maintenance of ownership information and putting in place stronger mechanisms to oversee and enforce compliance, the quantum of penalties for non-compliance with the record-keeping requirements or non-co-operation with the authorities has been enhanced. A one-off enhanced monitoring exercise by the tax audit department (SBAB) was carried out to examine compliance of international (offshore) entities that are registered in Curaçao through TCSPs. Further, the Central Bank has been granted powers to monitor compliance with tax obligations of maintaining ownership information of entities represented by TCSPs during the course of supervision of the TCSPs and to share its findings with the Inspectorate of Taxes on a periodic basis.

32. During the current peer review period Curaçao received 104 requests, 65 of which related to ownership and identity information. Peers were generally satisfied with the information received. Curaçao was expressly asked to provide beneficial ownership information on 65 occasions and this information was generally provided to the satisfaction of the requesting peers.

33. Overall, progress has been made by Curaçao to address the recommendations made in the 2017 Report. The recommendations pertaining to enhanced definition of beneficial ownership as well as practical guidance on the term "ultimate beneficial owner" to taxpayers have been largely addressed except with respect to partnerships where a 25% threshold has been included for the identification of beneficial owners in a partnership. According to the standard, all natural persons with a stake in the partnership need to be identified as beneficial owners since partnerships are legal arrangements in Curaçao. Furthermore, Curaçao still needs to monitor and guide all legal entities and arrangements to ensure that the enhanced definition is being applied in practice for the correct identification of beneficial owners, especially in relation to natural persons exercising effective control by other means.

34. While Curaçao has made efforts to ensure better co-ordination between the Central Bank and the Inspectorate of Taxes in relation to the

supervision of international (offshore) entities through the supervision of TCSPs, Curaçao needs to ensure that the new collaborative mechanism works in practice and does translate into compliance by the international (offshore) entities.

35. Moreover, it is important that the Chamber of Commerce continues its monitoring of all entities' compliance with the requirement of having a local director and continues its strike-off programme. This in-text recommendation from 2017 Report is retained as such. The 2017 Report had also made an in-text recommendation in relation to the monitoring of the action plan by notaries, accountants and lawyers. This in-text recommendation is also retained as such.

36. Enforcement provisions still need to be promptly applied to ensure greater compliance and co-operation from information holders to hold all ownership and identity information. Hence, the third recommendation made in the 2017 Report is retained with some modifications. Overall, element A.1 is upgraded from being "Partially Compliant" as per the 2017 Report to "Largely Compliant".

37. The table of recommendations, determination and rating is as follows:[1]

Legal and Regulatory Framework		
	Underlying Factor	**Recommendations**
Deficiencies identified	~~Although this gap should be limited in practice, beneficial ownership information on domestic companies, partnerships, foundations and private foundations may not be available in case these entities do not hold a bank account with a Curaçaon bank or do not engage a local AML obligated person and the beneficial owner is not covered by the scope of the tax requirements (i.e. it is the natural persons who exercise the effective control over the legal person).~~	~~Curaçao is recommended to ensure the availability of information on the beneficial owners of all domestic companies, partnerships, foundations and private foundations in all cases.~~

1. The tables of determinations and ratings shown in this report display all recommendations that have been made in the previous report in strike-through and replaced, if necessary, with recommendations based on the current analysis, where the circumstances have changed. If circumstances have not changed, then the factor underlying the recommendation and the recommendation remain unchanged. New recommendations and factors underlying those recommendations are shown as underlined.

	The new definition of ultimate beneficial owner for a partnership requires identification of only those natural persons with more than 25% stake as beneficial owners. For partnerships, being legal arrangements, all relevant natural persons with a stake in the partnership should be identified.	Curaçao should ensure that accurate beneficial ownership information of all relevant partnerships in Curaçao is available at all times.
Determination: The element is in place but certain aspects of the legal implementation of the element need improvement**.**		
Practical Implementation of the standard		
	Underlying Factor	**Recommendations**
Deficiencies identified	~~New tax obligations were introduced in May 2013 requiring all entities to keep all ownership information, including information on all ultimate beneficial owners. Since the laws came into effect on 1 May 2013, there have not been regular oversight and enforcement activities to ensure these new obligations are adequately implemented in practice. In addition, no practical guidance has been issued on the meaning of term "ultimate beneficial owners" and what information should be maintained by the taxpayer.~~	~~Curaçao should monitor the implementation and operation of the laws requiring all entities to have available information on all ownership information, including information on all ultimate beneficial owners.~~
	Article 45 of the National Ordinance on General National Taxes has been amended recently and the definition of "ultimate beneficial owner" has been elaborated to bring it in line with the standard. Considering the relatively recent change, it could not be assessed in practice if all stakeholders adequately understand the new definition while identifying beneficial owners.	Curaçao should monitor that all legal persons and arrangements understand and apply the enhanced definition of "ultimate beneficial owner" capturing effective control (including through other means) for identifying and correctly reporting beneficial owners in all cases, and issue suitable guidance as necessary.

	While Curaçao has put in place a mechanism for co-operation between the Central Bank and the Inspectorate of Taxes specifically in relation to the monitoring and supervision of international (offshore) entities' obligations to maintain ownership and identity information under the tax law, the arrangement is fairly recent and has not been tested adequately in practice.	Curaçao must ensure that the recently introduced mechanism for co-operation between the Central Bank and the Inspectorate of Taxes results in effective supervision by the tax authorities of international entities' obligations to maintain all ownership information for the specified retention period as required under the tax law.
	While there is some oversight, there is no rigorous system in practice of monitoring entities' obligations in all cases and there is minimum enforcement and/or penalties applied generally to ensure the availability of ownership information. No sanctions were reported in relation to non-compliance noted during the enhanced monitoring programme.	Curaçao should ensure that authorities ~~with oversight responsibilities strengthen mechanisms to oversee entities' obligations and~~ exercise the enforcement powers ~~as appropriate~~ by way of imposing sanctions on non-compliant entities in a timely and effective manner in order to ensure the availability of ownership information at all times.
Rating: Largely Compliant Partially Compliant		

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

38. In Curaçao, companies are either public limited liability companies (NVs) or private limited liability companies (BVs). All NVs and BVs (including international (offshore) companies) must have at least one director resident in Curaçao and a registered office in Curaçao to obtain a business licence and conduct any business in Curaçao.

39. NVs or BVs owned by non-residents and which have business operations exclusively outside of Curaçao, may be granted a general foreign exchange exemption[2] and become international (most of them using the

2. Exemption from articles 10-16 of the Foreign Exchange Regulations issued by the Central Bank implies benefits like no requirement of having a foreign exchange licence for capital transactions with non-residents, or no licence fee charged on payments made to non-residents. With the introduction of territorial system for corporate taxation, it is likely that such international (offshore) companies will

grandfathered "offshore" tax regime) companies. Such companies (and other legal persons that have been granted the exemption) are required to have a licensed local representative by way of a Trust or Company Service Provider (TCSP) or they could be banks under the supervision of the Central Bank of Curacao and Sint Maarten at all times.

40. All companies (domestic and offshore) are liable to the tax law requirements applicable to all legal persons required to maintain an administration (maintain prescribed documentation) as per the NOGNT (including maintenance of legal and beneficial ownership information). They are also liable to file their tax returns annually. Further, the administration must be kept within Curaçao and must be readily available upon the request of the Tax Inspector.

41. As at 30 June 2019, there were 11 216 NVs and 8 001 BVs registered in Curaçao. Out of these, one third, i.e. 6 355 were international (offshore) companies (5 168 NVs and 1 187 BVs).

42. The 2017 Report had concluded that in relation to the legal ownership information, applicable Company law required the maintenance of all legal ownership information by Companies. The requirements of registering with the Chamber of Commerce (a public corporation set up by an Act of Parliament) ensured that the Trade Register captured the legal ownership information of all companies registered in Curaçao. Furthermore, the frequent use of the Trade Register maintained by the Chamber of Commerce of Curaçao ensured that up-to-date legal ownership information would be available in most cases. Moreover, the oversight programme by the Chamber of Commerce (introduced by O.G. 2016 no. 80, dated 28 December 2016) to strike-off and then dissolve non-compliant companies that did not maintain a local licensed representative or a local director was found to be appropriate and the 2017 Report had recommended strengthening and continuing the programme by way of an in-text recommendation (see Enforcement section below).

Definition of beneficial ownership

43. The 2017 Report had expressed doubts in relation to the availability of beneficial ownership information. Under the Tax Law (NOGNT), "persons liable to keep an administration" were required to keep a record of the "ultimate beneficial owners" of the entity with effect from 1 May 2013. The definition of "ultimate beneficial owner" covered the ultimate beneficiary of equity. However, the definition did not grasp "the natural person on whose

benefit from lower taxation as it is unlikely that they would have any income arising in Curaçao.

behalf a transaction is being conducted" and "the natural persons who exercise the effective control over the legal person […] by means of control other than direct control". The Report had noted that under the AML legislation (National Ordinance on Identification of Clients when Rendering Services (NOIS)), Customer Due Diligence (CDD) requirements would ensure that beneficial owners of legal persons and arrangements would be identified if they had a bank account in Curaçao or if they engaged AML obligated persons (like TCSPs) for formation, documentation or amendments to articles of incorporation. However, it was not mandatory for legal entities to have a bank account in Curaçao. Furthermore, in the case of foundations and private foundations, it was not necessary to engage an AML obligated person at all times. Thus, there was the apprehension that the beneficial owner may not be covered by the scope of the tax law requirements as NOGNT's definition of ultimate beneficial owner did not explicitly cover "the natural persons who exercise effective control over the legal person". Hence, the Report had identified a legal gap in relation to the definition of "beneficial owner" which could lead to situations where beneficial ownership information about legal entities like domestic companies, foundations and private foundations and legal arrangements like partnerships might not be available in Curaçao. However, this gap was expected to be limited in practice. Curaçao had been recommended to ensure the availability of information on the beneficial owners of all domestic companies, partnerships, foundations and private foundations in all cases.

44. In relation to the definition of "ultimate beneficial owner" (UBO), Curaçao has amended Article 45 of the NOGNT in July 2018 to now require that "ultimate beneficial owners" are "a) all natural persons who are the ultimate owners or who exercise effective control over the entity; and b) all natural persons for whose account a transaction or activity is being performed".

45. The amended Article 45 elaborately details the definition of beneficial owner in case of all relevant legal entities and arrangements. In the case of a company, the definition specifically provides that the ultimate beneficial owner would be a natural person who directly or indirectly owns 25% or more of the company. The same threshold of 25% applies for voting rights, share in the profits, and rights to the share upon dissolution of the company, for a natural person to be considered a beneficial owner. Further, the definition provides for control over the company by other means.

46. While the definition now includes the natural person who exercises "effective control by other means", there is no further guidance or elaboration on what it means to "exercise effective control through means other than ownership". This aspect should be clarified by the Curaçaon authorities to the various stakeholders so as to ensure that such beneficial owners are also effectively identified.

47. Lastly, in the event of inability to identify the beneficial owner based on direct and indirect ownership or control, the definition requires that the natural person(s) belonging to senior management would need to be identified as the beneficial owner.

48. Article 45 of the NOGNT requires that all legal persons must keep identity records of all directors, authorised representatives and ultimate beneficial owners in their possession. Companies are required to have copies of valid passport or valid driver's licence or a valid identity card of all identified natural persons. Article 43 (clause 6) requires that such documentation be kept for ten years from the date of any new entry or change in details.

49. Furthermore, Curaçao authorities have informed that there are plans of introducing a centralised Beneficial Ownership Register and they are working on a National Decree to operationalise the same. Provisions for setting up the BO Register have already been introduced into Article 45 of the NOGNT; however, it has not yet been operationalised. Once operationalised, the BO Register would be the central repository of all BO information on all legal persons and arrangements in Curaçao. The Register would not be public but the Public Prosecutor, the Central Bank of Curaçao and Sint Maarten, the Financial Intelligence Unit and the Inspectorate of Taxes would have access to it.

50. During on-site interactions with the private sector representatives of Tax Advisors and Trust Service Providers, it was learnt that Tax Authorities had conducted seminars and some awareness raising efforts to inform the stakeholders about the detailed definition of UBO as introduced into the law. In addition, the new Tax Returns (applicable from 2019 and covering the fiscal year ending 2018) have incorporated a requirement of reporting ultimate beneficial ownership in the tax returns themselves (See paragraphs 97 and 98 for discussion on tax return filing rates). Hence, updated UBO information on all legal entities would be available to the Tax Authorities going forward.

51. The definition for "ultimate beneficial owner" now contained in amended Article 45 is in line with the standard. However, considering that the concept has only recently been elaborated to include "natural persons exercising effective control (including by other means)", Curaçao still needs to carry out more monitoring and guide the stakeholders appropriately about identifying the correct beneficial owners in all cases especially where control is exercised by means other than direct control.

52. The table of legislation regulating beneficial ownership information of companies in the 2017 Report is updated as follows:

Legislation regulating beneficial ownership information of companies

Type	Company law	Tax law	AML Law
Private limited liability company	None	~~Some~~ All	Some
Public limited liability company	None	~~Some~~ All	Some
Foreign companies (tax resident)	None	~~Some~~ All	All

Enforcement measures and oversight

53. The 2017 Report had observed that while there was some oversight on the availability of ownership information, there was no rigorous system in practice of monitoring entities' obligations in all cases and there was minimum enforcement and/or penalties applied generally. Curaçao had been recommended to address these deficiencies. The 2017 Report's recommendation, although applicable in general to all types of entities, arose more acutely from the concern regarding supervision of international (offshore) companies that posed important risks to EOIR in practice. Domestic entities being subject to more frequent tax audits and having higher tax return filing rates were seen to be more supervised in general, compared to international (offshore) companies that might not be adequately complying with the requirements of having a local director or of filing tax returns. Hence, there were certain apprehensions of gaps in supervision that guided the recommendation in the 2017 Report. In relation to this recommendation, Curaçao has taken steps since the 2017 Report to ensure that there is monitoring of entities' obligations in all cases.

Chamber of Commerce's enforcement of registration requirements of legal ownership and monitoring of entities' status

54. First, the Chamber of Commerce that maintains the Trade Register has continued its programme of cleaning up of its Register by striking-off entities that do not have a local director. The Chamber of Commerce had been granted powers to strike-off and dissolve non-compliant entities by an amendment to Article 2:25 of Book 2 of the Civil Code in December 2016. The Chamber of Commerce had gone back to its records since May 1945 and had identified a total of 103 645 inactive registrations across all entities in the Trade Register, i.e. entities having not filed their annual return. Out of these, 25 855 were inactive proprietorships that are unlikely to be relevant[3] for the purposes of this report. Another 7 034 entities were terminated foreign legal entities, or terminated partnerships or entities that had moved their statutory

3. Proprietorships are local businesses and are mostly sole proprietorships run by individuals.

seat overseas since registration. 25 048 had already been dissolved and liquidated. For the remaining, 37 606 inactive entities in the Trade Register, the Chamber of Commerce had dissolved and liquidated 15 094 entities and 1 006 private foundations in 2017, and a further 2 047 entities in 2018. Further, in 2019, till May 2019, another 221 entities have been publically notified about impending dissolution in case they did not comply with the regulatory requirements of having a director in Curaçao. Fewer entities had been dissolved by the Chamber during 2018 because bulk of the entities without a director had been processed in 2017.

55. Second, during 2018, the Chamber started identifying the entities with only foreign directors (e.g. in cases where the local director had resigned). This new exercise has been procedurally more complicated and time-consuming but the Chamber has continued to work on this. The Chamber of Commerce informed that it has been also actively monitoring entities that are not found at their registered address or are unreachable. In those cases, the Chamber of Commerce has been converting such entities into non-active. Such a status renders them unable to legally carry out any business activities in Curaçao. The status is reverted to "active" only upon compliance by way of updating their address details with the Chamber and informing the Chamber of any other changes in management and details of the local director. The Chamber of Commerce has reported that it is actively examining the cases of about 21 285 inactive legal entities that have either a foreign director on their files (19 132) or do not have a director on file (633). Of those 19 132, a total of 9 870 are international companies, while 1 817 are inactive foundations.[4] The rest are local entities, which in due course will also be dissolved and liquidated by the Chamber in case of non-compliance. The 2017 Report had recommended in-text that Curaçao should finalise the strike-off programme of non-compliant international (offshore) companies and continue to closely monitor international (offshore) companies which become non-compliant with the obligation to have a local licensed representative at all times in Curaçao. While the Chamber of Commerce has continued the supervision, the recommendation continues to remain applicable and Curaçao is recommended that the Chamber of Commerce continues its programme of striking-off international (offshore) entities that do not have a local director in Curaçao. In general, the Chamber of Commerce must continue its monitoring of all non-compliant entities and keeping the Trade Register clean and up-to-date (see Annex 1).

4. The legal criteria for the procedure to dissolve legal entities are mentioned in article 2:25 of the Civil Code. The criteria are that a foundation must be at least one year without an office, or, in case an officer is registered, the officer passed away, or none of the officers registered is found to be available at the legal entities' address specified in the register, or the registration fee is left unpaid for a year.

Central Bank and Inspectorate of Taxes coordination on monitoring obligations to keep beneficial ownership information under AML and tax laws

56. The Central Bank regulates and supervises TCSPs under the National Ordinance on the Supervision of Trust Service Providers (NOST). TCSPs are licensed service providers for assisting the formation and compliance by international (offshore) companies and other international legal persons. Being also covered by the AML Law, TCSPs always had the obligations to maintain the beneficial ownership information of their clients, i.e. international (offshore) companies and other international legal persons to whom they rendered administrative services. The Central Bank had been monitoring TCSPs' compliance with these obligations. However, at the time of the 2017 Report, there was no formalised system of sharing of information between the Tax Authorities and the Central Bank. In fact, the Central Bank was not permitted to share the results of its supervisory actions with any other authority. The Central Bank was also not explicitly responsible for monitoring the requirements placed on legal entities themselves to maintain legal and beneficial ownership information under the NOGNT. Since the publication of the 2017 Report, Curaçao has put in place a formal process of co-operation and co-ordination between the authorities in charge of monitoring and enforcing laws related to the availability of ownership information.

57. By way of an amendment to Article 2(2)(c) of the NOGNT, with effect from 16 June 2018, it has been made possible to authorise employees of independent public entities to monitor whether taxpayers adhere to their obligations as mentioned in Chapter VI of the NOGNT, such as to keep an administration and to have ownership and identity information readily available in their files. In this respect, employees of the Central Bank, which is an independent public entity, have been specifically authorised to do this monitoring from 1 January 2019 on behalf of the Inspectorate of Taxes vis-à-vis the NOGNT obligations during its regular supervision under the NOST and share its findings with the Inspectorate of Taxes (including the Competent Authority) with respect to all institutions supervised by the Central Bank. Enforcement from a tax perspective remains the responsibility of the Inspectorate of Taxes. This means that now the Central Bank is in a position to supervise the international (offshore) companies' tax law obligations of maintaining ultimate beneficial ownership information in conformity with Article 45 of the NOGNT over and above the Central Bank's supervision of TCSPs under the NOST.

58. Any non-compliance observed by the Central Bank in relation to the international (offshore) companies during the course of its inspections over TCSPs can now be reported to the Inspectorate of Taxes for punitive action. Curaçaon authorities informed that the Central Bank, the Financial

Intelligence Unit, the Directorate of Fiscal Affairs and the Inspectorate of Taxes have been having bi-monthly meetings to keep one another informed for better co-ordination of supervision and monitoring.

59. Curaçao has also put in place a co-operation manual governing the sharing of information between the Central Bank of Curaçao and Sint Maarten and the Inspectorate of Taxes. The Supervisory Departments of the Central Bank and the Inspectorate have been given the responsibility of giving effect to the co-operation manual. The primary aim of the manual has been stated to be facilitating seamless information sharing to enhance the overall oversight and monitoring activities on all persons within the territorial jurisdiction of Curaçao who are in possession or control of bank, ownership, identity and accounting information. The secondary aims are cited as facilitating the process of information gathering in order to respond to EOI requests from Curaçao's treaty partners, as well as for facilitating the automatic exchange of information (AEOI) on the basis of the Common Reporting Standard (CRS) and Foreign Account Tax Compliance Act (FATCA). The manual envisages routine information sharing on an ongoing basis, as well as case specific (individual) requests for information sharing between the Inspectorate and the Central Bank. Since the Central Bank carries out supervisory management meetings and on-site examinations on TCSPs, under the manual, the Central Bank has been tasked to share all relevant ownership, identity and accounting information that it collates during such examinations with the Inspectorate on an annual basis. Further, the Inspectorate can also seek ownership and identity information on entities as required by Article 45 of the NOGNT through specific requests made to the Central Bank.

60. This new framework of collaboration in supervision between the Central Bank and the Inspectorate of Taxes has not yet been adequately tested in practice. The Curaçaon authorities informed that the Inspectorate of Taxes worked closely with the Central Bank to prepare oversight and enforcement measures for the intervening period prior to the coming into effect of the new arrangement. It prepared and executed (through the Tax Audit Department, SBAB) a one-off enhanced monitoring and oversight programme for monitoring entities' adherence to the obligations of chapter VI of the NOGNT that requires all "persons liable to keep an administration" to keep ownership information (including "ultimate beneficial owners" information). This enhanced oversight programme focussed on international (offshore) entities, which are represented through the local TCSPs in Curaçao. The checklist used by the Central Bank in its supervision of the TCSPs was adapted for this enhanced monitoring programme. Presentations were held and letters were sent to the TCSPs to inform them about the enhanced oversight and monitoring programme.

61. The programme was executed by the SBAB. The oversight programme commenced in the first quarter of 2018 and was concluded in the fourth quarter of 2018. The Inspectorate of Taxes compiled a list of all international (offshore) entities as well as the list of persons liable to keep the administration of these entities, from which the SBAB selected entities to be monitored at random. The SBAB used a checklist to register the type of information that was available and whether the information was complete. Information monitored by the SBAB included ultimate beneficial ownership information, legal ownership, accounting information and banking information. Out of the 80 licensed TCSPs in Curaçao, 51 TCSPs were considered for inspection by SBAB, and represented about 5 500 international entities. Out of these, SBAB officials examined the case files of 604 entities of which there were 124 private foundations, 217 international (offshore) companies and 263 onshore companies. SBAB found that 93% of the entities examined had maintained all the relevant legal and beneficial ownership information and had kept the same updated. Verification of the recorded BO information was carried out based on checklists prepared in consultation with the Central Bank. Curaçao has informed that during the exercise, SBAB officials carried out the checks based on the BO definition in the AML law, but after the new BO definition was introduced in July 2018, the new definition was used as a reference during the exercise. In all cases, emphasis was on checking if natural persons have been identified as BO and whether suitable identification documents like copies of passports and other recognised photo ID cards were being maintained. For the remaining 7%, SBAB explained that it was not the case that they did not have any information available. Instead, it was a case of very limited time granted to them to provide all the information. SBAB had granted a period of two weeks to entities to produce all the information called for. SBAB assured that based on their experience, given more time, all the information sought would have been made available. Curaçao has reported that compliance by these remaining 7% of entities would be followed up by the Central Bank in the course of its supervisory activities now that it also has the mandate to examine compliance with the NOGNT record keeping requirements. SBAB inferred from this exercise that there would be, in general, updated legal and beneficial ownership information on all international (offshore) companies and other international legal entities that were compliant with the obligation to have at least one registered local director in Curaçao.

62. During discussions, Central Bank officials observed that the high levels of compliance noted by SBAB in its monitoring exercise were not surprising because Central Bank at its own end had been carrying out such supervision of TCSPs all along. Being closely monitored and regulated by the Central Bank, TCSPs had always been aware of their obligations to maintain the required legal and beneficial ownership information for all their clients, which were all types of international legal entities including international

(offshore) companies. The Central Bank informed that during the period 2016-18, it had itself conducted seven full-scope and ten targeted scope on-site examinations on TCSPs. During the period, the Central Bank had imposed one administrative fine of ANG 5 000 (EUR 2 507) on a TCSP for not informing the Central Bank about the change in shareholder's structure of its client. The Central Bank informed that it had further conducted 25 on-site inspections and 33 management meetings in relation to AML/CFT compliance for licensed TCSPs, administrators and investment institutions that the Central Bank supervises. Thus, the Central Bank observed that it was already doing supervision and monitoring of TCSPs and will continue to do the same going forward.

63. During the on-site interactions with the private sector, the representatives of the Tax Practitioners and TCSPs confirmed the actions taken by the tax authorities since the 2017 Report. TCSP representatives informed that a significant number of TCSPs were examined by the SBAB under the monitoring programme. TCSPs were in a position to satisfy most of the queries raised by the SBAB. In some cases, where the information was not immediately available, efforts were made to obtain the information and present it to SBAB officials within the stipulated time and in most cases, SBAB officials' queries could be satisfied.

64. Going forward, the SBAB would not be carrying out a similar exercise in future as the Central Bank would be monitoring compliance by the international (offshore) companies through its supervision of TCSPs and would be sharing information with the Inspectorate of Taxes. This would be satisfactory insofar as the Chamber of Commerce continues cleaning up the register and monitoring it on a regular basis.

65. In general, since the 2017 Report, the supervisory arrangement appears to have been streamlined. Some concerted efforts have been made to supervise the international (offshore) companies' obligations of maintaining ownership and identity information. However, given that the arrangement with the Central Bank has been recently put into place, Curaçao is recommended to monitor its effectiveness to ensure that there is adequate and ongoing supervision of all international (offshore) companies in relation to their obligations to maintain ownership and identity information.

66. Curaçao has also amended Article 28a of the NOGNT in June 2018 to impose fines on entities that, amongst others, fail to comply with the requirements of maintaining ownership information as required by Article 45 of the NOGNT. Administrative penalty of ANG 25 000 (EUR 12 376) can be imposed for non-maintenance of ownership information. Prior to this amendment, there were no pecuniary administrative sanctions under the NOGNT and the only available recourse for non-compliance with Chapter VI of the NOGNT was to hold a taxpayer liable through criminal investigation and pursue criminal penalty, which had never been used in the past.

67. Under the NOIAT (National Ordinance for International Assistance in the Collection of Taxes, Curaçao's domestic law for allowing gathering of information for exchange of information purposes), there were provisions for imposing administrative sanctions of up to a maximum of ANG 10 000 (EUR 5 013) on the entity not complying with request for providing information (see section B.1 below). A penalty for not giving access to information requested in EOI cases does not amount to an enforcement system to ensure information would be available if requested. In practice, even this sanction was hardly applied during the review period and where applied was followed up after considerable elapse of time (see section B.1 below).

68. For penal sanctions to be effective, they need to be applied promptly. Moreover, upon imposition of penalties, there needs to be a follow-up on compliance for both – compliance with the requirement to pay the imposed penalty as well as the substantive issue on which the penalty was imposed. Otherwise, penal sanctions have little impact in terms of encouraging compliance and deterring non-compliance. Hence, it is recommended that the Tax Authorities proactively impose sanctions where non-compliance with the requirements of the NOGNT is noted and actively follow up on recovery of the penalties as well as on ensuring compliance subsequently.

Financial Intelligence Unit

69. The 2017 Report had also made an in-text recommendation (refer paragraph 125 of the 2017 Report) in relation to the supervision on relevant AML-obliged entities and persons (other than those regulated and supervised by the Central Bank like financial institutions and TCSPs) which were regulated by the Financial Intelligence Unit (FIU). The 2017 Report had observed that two audits of notaries and two of accountants had been carried out by the FIU during the review period. The Report had noted that after every on-site audit, FIU prepares a report containing the follow-up action plan for the supervised person. However, it had been felt that the implementation of the action plan by the persons concerned was not being monitored. Accordingly, Curaçao had been encouraged to monitor the implementation of the action plan by notaries, accountants and lawyers. In this regard, during the review period for this supplementary report, Curaçao has informed that the FIU had conducted one more on-site inspection of one notary who was fined by the FIU due to breach in customer due diligence and internal control systems. However, during this period, the FIU had to divert resources into the monitoring of estate agents and car dealers due to higher risks of money laundering noted in these sectors. Since the recommendation of monitoring the action plan for notaries, accountants and lawyers does not appear to have been adequately addressed, the same is retained as it is in-text in the supplementary report.

Availability of beneficial ownership information in practice in relation to EOI

70. During the review period, Curaçao was able to obtain beneficial ownership information in 52 out of the 65 cases where request for beneficial ownership was made by the peers. In two more cases, information had been obtained and exchanged after the review period. Further, in another two cases, information had been recently obtained and was in the process of being exchanged. Curaçao admitted failure to obtain beneficial ownership information in one case where the director of the entity concerned was missing and could not be traced and the Inspectorate of Taxes was in consultation with the Chamber of Commerce to strike-off the entity. Of these 65 requests, 33 requests were for BO information on companies. Peers expressed satisfaction with the information on beneficial ownership provided by Curaçao in all those cases where they received the information during the peer review period. The remaining requests pertained to the Netherlands and were pending for reasons other than availability of information as discussed in element B.1.

A.1.2. Bearer shares

71. Only international (offshore) companies (as opposed to companies doing business in Curaçao) can issue bearer shares. After examining the efforts made by Curaçao to address the recommendations on bearer shares made in the 2015 Report, the 2017 Report had concluded that the obligations imposed on TCSPs by the National Decree on the obligation to retain securities to bearer (NDRSB) have the effect of immobilising bearer shares, as well as of providing for adequate mechanisms to identify owners of bearer shares (paragraphs 145 and 146 of the Report). The Report was sanguine that the supervision and oversight activities carried out by the Central Bank on TCSPs' compliance with the immobilisation of bearer shares, since 2015, ensured that the information on all holders of bearer shares is available in all cases. The Central Bank had monitored 85% of the 957 international companies with outstanding bearer shares and had found that the bearer shares had been immobilised. The Report had nevertheless made an in-text recommendation to review the remaining 15%.

72. Curaçaon Central Bank has exuded confidence that all bearer shares have been immobilised based on the extensive exercise it had carried out in the past, which has already been reported in the 2017 Report.

73. Although Central bank is confident that there is full compliance by all TCSPs to ensure immobilisation of bearer shares, no further action in relation to the in-text recommendation of 2017 Report seems to have been taken although the Central Bank has continued with its regular oversight

programme of TCSPs. Accordingly, the in-text recommendation is retained as such. Central Bank has informed that it will continue to monitor compliance in this regard.

74. Curaçao did not receive any requests pertaining to bearer shares during the review period.

A.1.3. Partnerships

75. All partnerships are legal arrangements in Curaçao. The 2017 Report had noted that while information on the identity of partners for all types of partnerships (general, silent and limited partnerships) would ordinarily be available in Curaçao, there could be a potential gap in the availability of beneficial ownership information in the case of partnerships. If a partnership did not have a bank account in Curaçao, or did not engage an AML obligated person or if the beneficial owners did not fall within the scope of tax law requirements (being a natural person exercising effective control over the partnership although not having ownership interests), there would be a gap and beneficial ownership information on such a partnership would not be available. However, the Report had anticipated the gap to be small in practice.

76. The Chamber of Commerce has informed that there were only about 360 general partnerships in Curaçao and about 150 limited partnerships as of December 2018. Almost all general partnerships were domestic partnerships, while about 80 limited partnerships were reported to be international limited partnerships. International limited partnerships would engage a local TCSP in order to comply with the requirements of having a licensed local representative. In such cases, beneficial ownership information would be available as TCSPs are required to maintain BO information on their clients under NOST and AML law. Domestic partnerships doing business in Curaçao would have a bank account and hence, their beneficial ownership would be available. Generally, partnerships in Curaçao are formed either through notarial deeds or by private deeds. Notaries are themselves AML obliged. Notaries fall under the purview of supervision of the Financial Intelligence Unit (FIU) and are monitored (although monitoring could usefully be strengthened). Thus, the primary issue that could lead to the gap in the availability of beneficial ownership information would be where the erstwhile tax law definition of ultimate beneficial owner fell short of capturing the natural person exercising effective control on the partnership (in the absence of ownership of equity).

77. As noted in the case of companies, Article 45 of the NOGNT has been amended to address this concern. The revised definition provides for identifying, besides the owner of more than 25% of the equity of a legal entity, the natural person exercising effective control over the person. In the case of partnerships, it has been elaborated in Article 45 of the NOGNT that for partnerships, in any case, natural persons who are directly or indirectly

entitled to 25% or more of the share in the profits; or who can decide regarding changes to be made to the agreement forming the basis of the partnership, or in respect of implementation of a contract; or where a decision requires majority voting, can exercise directly or indirectly 25% or more of votes; or who upon dissolution of the partnership are entitled to 25% or more of share of the partnership; or who can exercise effective control over the partnership will be identified as beneficial owners. If it is not possible to identify such a person, then natural person(s) belonging to the senior management, who can bind the partnership, have to be identified as beneficial owners. If there is no senior management person who can bind the partnership, the natural person who is a director or a member of the board of the partnership needs to be identified as beneficial owner of the partnership. Further, this definition is applicable to all types of partnerships (general, limited and silent).

78. While the new elaborate clarification about the definition of beneficial owner does help in addressing the small gap alluded to in the 2017 Report, the definition places a threshold of 25% in relation to the ownership of equity in the partnership or share of profits. Partnerships are legal arrangements in Curaçao. Hence, all relevant natural persons who have an ownership stake in a partnership should be identified as beneficial owners. In practice, this may be a very small gap. Nevertheless, being a legal gap, it is recommended that Curaçao ensures that all beneficial owners of a partnership are identified in all cases.

79. The monitoring and enforcement of the relevant commercial law and tax law provisions remain under the purview of the Chamber of Commerce, and of the Inspectorate of Taxes and SBAB, respectively. The tax authorities monitor partnerships' compliance during tax audits.

80. During the review period, Curaçao did not receive any requests for information in relation to partnerships.

A.1.4. Trusts

81. In relation to trusts, the observations made in the 2017 Report continue to apply. The National Ordinance on Trusts requires registration of trust deeds with the Chamber of Commerce. A National Decree further stipulating the specific information that must be registered with the Chamber of Commerce has come into effect in June 2019 but applies to all trusts registered earlier as well. Information regarding the identity of the settlor, the names of beneficiaries and the trustee are to be included in the trust deed. A trustee is considered legal owner of the trust and is obliged to maintain a separate administration of each trust fund and to maintain records of each trust fund and is covered by the requirements of the NOGNT. Curaçaon professional trustees are AML obliged and are supervised under NOIS. There are 22 trusts registered with the Chamber of Commerce in Curaçao. The main

change in relation to the observations made in the 2017 Report is that the amended Article 45 of the NOGNT now specifically requires that in the case of trusts, the founders, the trustees, the protectors (if applicable), the beneficiaries (and if the individual beneficiaries cannot be identified, the group of persons in whose interest the trust is mainly established or operates), and any other natural person who by immediate or indirect property or through other means exercises ultimate control over the trust, must be identified as ultimate beneficial owners. This definition is in line with the standard.

82. Curaçao did not receive any requests in relation to trusts during the peer review period.

A.1.5. Foundations

83. The 2017 Report had noted that Article 45 of the NOGNT placed a requirement on all foundations and private foundations, including those that were not liable to tax, to keep identity information on all its ultimate beneficial owners – founders, beneficiaries, holders of certificates of participation and directors, and must have the information readily available if requested by the Tax Inspectorate. They are also subject to the requirements under the commercial laws and AML/CFT law in relation to keeping ownership information.

84. However, the 2017 Report noted that the oversight and enforcement of legal provisions was not complete. First, foundations, although registered with the tax authorities, were not required to file tax returns if they were not conducting a business. Private foundations are not allowed to run a business in the first place and therefore, never filed tax returns. There was no supervision by the tax authorities. Second, where foundations and private foundations engage TCSPs, such TCSPs would be obligated to maintain legal and beneficial ownership details of such entities. However, if a foundation did not require any foreign exchange exemption from the Central Bank, it would not require a TCSP and therefore the Central Bank would not capture it in its supervision. The 2017 Report had thus suggested that beneficial ownership information might not be available in all cases of foundations and private foundations.

85. As noted earlier, Article 45 of the NOGNT has been amended to more elaborately define ultimate beneficial owner. In the case of foundations, the new definition of ultimate beneficial owners explicitly includes the natural persons who are the founders, the directors, the beneficiaries (and if the individual beneficiaries cannot be identified, the group of persons in whose interest the foundation is mainly established or operates) or any natural person who exercises effective control over the foundation. The definition applies to private foundations as well. NOGNT requires that foundations and private foundations maintain the legal and beneficial ownership

details as they are legal persons "liable to keep an administration". Thus, all foundations and private foundations must maintain all identity and ultimate beneficial ownership as per law.

86. In addition to the above amendment, an obligation has also been placed on private foundations (but not on other foundations not doing any business in Curaçao) to file an annual tax return from 2019.

87. As noted in the 2017 Report, foundations and private foundations are established in Curaçao by notarial deed executed before a civil law notary in Curaçao. Notaries are AML obliged persons in Curaçao and are under the supervision of the Financial Intelligence Unit (FIU). As of December 2018, there were a total of 3 995 private foundations and 3 610 foundations in Curaçao as per the Trade Register. Out of the 3 995 private foundations, 3 088 were international private foundations. The remaining 907 private foundations are domestic private foundations and would not require the services of a TCSP. However, such private foundations would have engaged a civil law notary at the time of formation. Further, being domestic entities they would ordinarily have a bank account with a Curaçaon bank which would allow beneficial ownership information to be available to the bank (being AML obligated). Similarly, in relation to foundations, out of the 3 610 foundations, 3 233 are domestic foundations while 377 are international foundations. Thus, these 377 international foundations would have engaged a TCSP. Domestic foundations would have engaged a civil law notary at the point of formation and would ordinarily have a bank account and hence, would be engaging with an AML obligated person. As per the requirements of Article 45 of NOGNT, being entities obliged to keep an administration, all these entities are obliged to maintain up-to-date legal and beneficial ownership at all times.

88. Overall, in relation to foundations and private foundations, the essential risk is the limited supervision by the Tax Authorities that are the primary enforcers of the NOGNT requirements (although the Central Bank would have oversight over the international entities through its oversight of the TCSPs). In relation to the recommendation given in the 2017 Report, Curaçao's SBAB carried out the one-off monitoring and supervision exercise on TCSPs as discussed extensively in the section on companies. Curaçaon authorities have informed that during the exercise, 124 private foundations were test checked while examining the TCSPs' client files. The authorities were satisfied about the availability of the information.

89. In this regard, it is felt that the special monitoring and oversight programme carried out by SBAB was focused on private foundations that had engaged TCSPs as the sample of 124 private foundations was taken from the entities available with the TCSPs. Domestic foundations and domestic private foundations not required to engage TCSPs do not seem to have

been examined through this exercise and it was in relation to these entities that the 2017 Report had alluded to the potential risk of non-availability of information. It would have been ideal if the SBAB had included domestic foundations and domestic private foundations as well in the monitoring and oversight programme. With the introduction of the new requirement of filing tax returns, the Tax Authorities would be able to better supervise the compliance of all private foundations with the NOGNT requirements going forward. It is recommended that regardless of the tax filing obligations on domestic foundations and domestic private foundations, Tax Authorities monitor the compliance with the requirements of keeping legal and beneficial ownership information by such entities (see Annex 1).

90. In practice, Curaçao received 34 requests for information in relation to foundations (1) and private foundations (33) during the review period. Legal and beneficial ownership details were sought in 31 cases. Curaçao was able to provide the requested information in 26 out of the 31 cases. In one more case, the information had been obtained and was in the process of being exchanged. The remaining four requests were pending not because of lack of availability of information but due to a legal issue pertaining to Curaçao's special circumstances under the Kingdom of the Netherlands. This issue has been discussed under element B.1.

Other relevant entities and arrangements

91. The observations made in the 2017 Report continue to apply unaltered in relation to other relevant entities and arrangements such as co-operative societies, mutual insurance companies and associations with legal personality.

A.2. Accounting records

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

92. The 2017 Report had concluded that the legal and regulatory framework in relation to availability of reliable accounting records for all relevant entities and arrangements was in place and this remains the case in 2019. All entities and arrangements are required under company law and tax law to maintain adequate accounting records, including underlying documentation for at least 10 years.

93. The 2017 Report had noted that the obligations of domestic entities to maintain accounting information were primarily monitored by the tax authorities' audits which sought to cover all domestic companies for audit ideally at least once every five years and other domestic entities on a risk-based approach. However, the international (offshore) companies and similar

legal persons were not being adequately monitored on their obligations to maintain accounting information and Curaçao was rated Largely Compliant with the EOIR standard. The 2017 Report had concurred with the observation made in the Round 1 Phase 2 Report of 2015 that there was a lack of rigorous system of monitoring entities' obligations to keep accounting information in all cases and there was minimum enforcement and/or penalties applied generally to ensure the availability of accounting information in all aspects.

94. The 2017 Report had examined the work done by Curaçao to address the 2015 Report's recommendation. First, the Chamber of Commerce had taken steps to systematically strike-off non-compliant international (offshore) companies to ensure that they always have a local director or representative charged with the obligations to ensure the availability of accounting information. Hence, the in-box recommendation in the 2015 Report was retained as an in-text recommendation that the Chamber of Commerce should continue to strike-off non-compliant international (offshore) companies and to continue the monitoring of international (offshore) companies. The in-text recommendation is retained as such as the strike-off programme needs to be continued by the Chamber of Commerce in order to ensure that none of the international (offshore) entities is non-compliant with the requirement of having a local director who is either in possession of or has the power to obtain accounting information (see also section A.1.1 above).

95. Second, the 2017 Report had observed that while the tax authorities were continuing to carry out some monitoring activities through audits of local entities, no other mechanisms had been developed to monitor entities' obligations to maintain accounting information and to exercise the enforcement powers as appropriate to ensure the availability of accounting information at all times. In particular, while international (offshore) companies were subject to tax filing requirements, there were no regular oversight and enforcement activities carried out by the Curaçaon tax administration. Hence, the 2017 Report had recommended that Curaçao ensure that authorities with oversight responsibilities strengthen mechanisms to oversee entities' obligations and exercise the enforcement powers as appropriate to ensure the availability of accounting information at all times.

96. The tax return filing rate in Curaçao has varied between 69% and 83% for domestic companies and between 40% and 66%[5] for International (offshore) companies for the years 2014 to 2017. The Curaçaon authorities confirmed that the changes in the tax law by which Curaçao has moved to a territorial system of taxation, do not alter the position in this regard and all

5. Considering only active companies and not including the inactive companies which are in the process of being removed from the Trade Register by the Chamber of Commerce.

registered companies (including international companies) remain under an obligation to file their respective tax returns regardless of whether they have any taxable income in Curaçao.

Filing compliance rate of entities covered by the grandfathering rules

Calendar year	Active companies	Tax returns received	Compliance rate
2014	7 788	5 139	66%
2015	7 265	4 477	62%
2016	6 766	3 522	52%
2017	6 335	2 547	40%

Filing compliance rate of domestic companies

Calendar year	Number of entities	Tax returns received	Compliance rate
2014	13 657	10 567	83%
2015	13 937	10 544	83%
2016	14 311	9 934	78%
2017	14 562	7 453	69%

97. It is noticed from the table above that the filing rate of tax returns has been declining over the years in terms of absolute number of returns filed as well as in terms of percentage. Curaçao has explained that the SBAB's internal target is to carry out a tax audit on domestic companies ideally at least once in five years. Curaçao has informed that 1 300 to 1 500 audits on average were conducted annually for the years 2016 to 2018. The SBAB has 68 auditors divided among six teams who carry out tax audits based on an annual audit plan. Hence, regardless of the annual tax return filing rates, the Curaçaon authorities consider that their supervision over these companies is adequate. They add that all companies that fail to file their returns within 18 months from the end of the relevant tax year are issued estimated tax assessments. While this measure might have a deterrent effect on domestic companies, international companies generally do not pay taxes and would not be affected by it.

98. In relation to the international (offshore) companies and other entities, Curaçao carried out the one-off exercise of inspections on the TCSPs discussed in paragraphs 61 to 65 under element A.1. The SBAB audited 51 out of the 80 licenced TCSPs in Curaçao and examined about 600 client files (out of about 5 500 files maintained by the selected TCSPs) and noted a compliance rate of 93% (i.e. full compliance in about 560 files). SBAB checked the availability of accounting information as well as the requirement to retain such information for at least 10 years. In the 7% cases where partial information was available, SBAB was confident that all information would

be available if the TCSPs were granted more time to provide the missing information. SBAB officials informed that typically the missing information was accounting information pertaining to past years which entities were required to maintain as per the retention period requirements but did not have the documents available at short notice. The SBAB has not followed up further with these entities who did not maintain all the documents for the entire retention period nor has it imposed sanctions for non-compliance. The Curaçaon authorities have informed that the Central Bank will be following up with the remaining 7% of the entities during the course of its regular supervisory activities and will be ensuring their compliance with the requirements of accounting records under the NOGNT. The SBAB does not intend to renew the exercise as now the Inspectorate of Taxes has entered into a co-operation agreement with the Central Bank. Despite this exercise, which should have acted as an incitement to compliance, the compliance rate of tax filing is decreasing. Part of it can probably be attributed to late filing, but compliance by international companies remains clearly lower than the one of domestic companies, which is already not ideal.

99. The 2017 Report had already noted that the Central Bank, while supervising TCSPs, examines the Minimum Content Client Files and Compliance Check Client Files that prescribe a minimum set of documents that TCSPs must maintain on their clients. The accounting files of the international (offshore) companies kept by the TCSPs should include *inter alia* bank statements, profit tax filings, annual accounts and tax rulings (if applicable). Under the new co-operative arrangement with the Inspectorate of Taxes, the Central Bank will be in a better position to share its findings in relation to compliance by international (offshore) companies of the obligations under the NOGNT with the Inspectorate. This arrangement has the potential to alert the Inspectorate of Taxes to international (offshore) entities that are not complying with their tax filing requirements. However, the effectiveness of this new arrangement needs to be tested in practice.

100. In terms of sanctions, the Central Bank has the authority and powers to discipline TCSPs for non-compliance; it can revoke the licence of the TCSPs if significant non-compliance is noted. However, the enforcement powers in relation to the NOGNT vest with the Tax Authorities. This means that if non-compliance is noted in relation to maintenance of accounting information by international (offshore) companies, the tax authorities alone can impose sanctions on such entities after having performed an audit, which is also the only way today to ensure compliance with the record keeping obligation on underlying documents. Since the provisions for co-operation between the Central Bank and the Inspectorate of Taxes have only recently been formalised, it is recommended that Curaçao monitor the new mechanism to ensure compliance by the relevant entities to the obligation to keep adequate, accurate and up-to-date accounting information.

101. In practice, penalties and sanctions were not imposed promptly and effectively when non-compliance with the requirements of NOGNT was noted during the review period. This issue, discussed in section A.1, paragraph 69, is equally applicable in relation to availability of accounting information.

102. Overall, it was felt that Curaçao's approach to imposing sanctions for non-compliance with the requirements of maintaining accounting information and producing it when asked to do so, was tentative during the review period. Moreover, no cases of penalties or any other sanctions or warnings were reported as a result of the one-off enhanced monitoring and oversight exercise carried out by the SBAB even when about 7% of the entities did not have the necessary information available. It is felt that efficacy of sanctions in promoting compliance is adversely affected if the sanctions are not imposed promptly and effectively. Thus, the original recommendation made in the 2017 Report in this regard is modified to reflect the need for effective enforcement of sanctions.

103. During the current review period, Curaçao received 82 requests for accounting information. These requests pertained to 44 companies, 35 private foundations and 3 individuals. Out of these, Curaçao was able to respond to 67 requests during the review period. Nine requests from the Netherlands were pending for reasons specific to Curaçao's relationship with the Kingdom of the Netherlands. This issue has been discussed under B.1. Out of the 6 other pending requests, information had been received in 3 cases and was exchanged very recently, while information had been obtained in another 2 cases and was being quality checked internally before exchanging with the treaty partner. In one case where the director had gone missing, Curaçao accepted failure to obtain accounting information and the Inspectorate of Taxes had commenced talks with the Chamber of Commerce to strike-off the entity. Overall, barring one case, Curaçao did not report any issue in relation to the availability of accounting information in practice. Peer inputs received for the requests answered during the review period were generally positive and peers were satisfied with the accounting information in the closed cases.[6]

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

Legal and Regulatory Framework
Determination: The element is in place

6. For the four cases that were processed very recently and after the review period, peer satisfaction could not be assessed.

Practical Implementation of the standard		
Deficiencies identified	**Underlying Factor**	**Recommendations**
	While Curaçao has put in place a mechanism for co-operation between the Central Bank and the Inspectorate of Taxes specifically in relation to the monitoring and supervision of international (offshore) entities' obligations to maintain accounting information, the arrangement is fairly recent and has not been tested adequately in practice.	Curaçao must ensure that the mechanism for co-operation between the Central Bank and the Inspectorate of Taxes put in place results in effective supervision by the tax authorities of international entities' obligations to maintain accounting information, including underlying documents, for the specified retention period as required under the tax law, in accordance with the EOIR standard.
	~~While there is some oversight, there is no rigorous system of monitoring entities' obligations to keep accounting information in all cases and there is minimum enforcement and/or penalties applied generally to ensure the availability of accounting information in all aspects. In particular, while international (offshore) companies are subject to tax filing requirements, there are no regular oversight and enforcement activities carried out by the Curaçaon tax administration to ensure that they fulfil their accounting requirements.~~ Even when non-compliance with the availability of accounting information was noted in some cases during the review period and also during the enhanced monitoring exercise carried out by the tax audit department, Curaçao did not impose any sanctions for non-compliance with requirements of maintaining accounting information.	Curaçao should ensure that authorities with oversight responsibilities ~~develop mechanisms to monitor entities' obligations and cooperate effectively and~~ exercise the enforcement powers ~~as appropriate~~ by way of imposing the penal sanctions on non-compliant entities in a timely and effective manner in order to ensure the availability of accounting information at all times.
Rating: Largely Compliant		

A.3. Banking information

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

105. The 2017 Report had found that AML/CFT requirements were in line with the EOIR standard. Furthermore, the Central Bank carried out adequate oversight and enforcement activities over the 41 banks (11 local banks and 30 international banks). The report had noted that although some of the EOIR requests received over that review period could not be answered, the reason for the inability to respond to the requests laid in issues with access to information (B.1) and EOI practice (C.5) and was not because of any deficiencies in relation to availability of banking information. Hence, the element had been determined to be in place and was rated Compliant with the EOIR standard.

106. The 2017 Report had made an in-text recommendation that Curaçao should clarify the existing definition of beneficial owners of trusts to ensure that it covers all the aspects contained in the beneficial ownership definition under the standard. In this regard, Curaçao amended Article 45 of the NOGNT, duly incorporating in the definition of beneficial owners of a trust the founders, the trustees, the protectors (if applicable), the beneficiaries, or in so far as the individual persons who are the beneficiaries of the trust cannot be determined, the group of persons in whose interest the trust has been established, or is operative; or any other natural person who exercises effective control of the trust through immediate or indirect ownership or through other means. The in-text recommendation was in relation to the definition of beneficial ownership as given in the National Ordinance on the Identification of clients while rendering Services (NOIS) which defined beneficial owner as "the natural person who has contributed assets to a trust or private fund foundation, or is or becomes entitled to the assets or proceeds of a trust or a private fund foundation." The 2017 Report had noted that this definition was not fully in line with the requirements of the 2016 ToR. Now that Curaçao has introduced an elaborate definition for beneficial owner in the case of trusts in the NOGNT, the definition is indeed in line with the standard and does provide the required clarification. It is recommended that Curaçao ensures that while applying the definition of beneficial owners for trusts as per NOIS, banks and financial institutions refer to the clarification provided in the NOGNT definition (see Annex 1).

107. Over the review period, no deficiency in relation to the availability of banking information has been noted. Curaçao received 70 EOIR requests pertaining to banking information and was able to reply to all the requests. Banking information requested included bank statements of entities and arrangements, opening and closing of bank account statements and other

related documents. Peers were satisfied with the banking information received. The element is determined to be in place and rated Compliant.

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

Part B: Access to information

108. 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).

109. The tax authorities have the powers to make enquires, inspect documents, search and seize information. While the legal and regulatory framework had been determined to be "In Place" in 2017, its implementation had been rated "Partially Compliant". The 2017 Report concluded that there were primarily three issues with the Competent Authority's ability to obtain and provide information. First, some companies challenged the right of the competent authority to access information. Second, the process to gather information was not streamlined and resulted in inordinate delays in exchange. Third, the competent authority had not used enforcement measures against persons that failed to provide the requested information. Curaçao addressed these issues to some extent but problems in gathering the requested information persisted during the new review period and two new specific issues arose, in relation to requests related to criminal tax matters (now solved) and the special relationship with the Netherlands. Curaçao should further streamline the enforcement procedures to be followed by the authorities in cases where information is not provided by the information holders. Some other matters remain to be fully addressed but should no longer have an impact on EOIR.

110. The remaining observations made in the 2017 Report in section B.1 remain applicable as such. In light of the discussion below, 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		
	Underlying Factor	**Recommendations**
Deficiencies identified	~~Although the Curaçaon authorities consider that the law allows for access to information on entities covered under grandfathering provisions and court cases have been decided in favour of this interpretation, 23 EOI requests on these entities remained outstanding at the end of the review period and some of the positive Court cases have been subject to an appeal.~~	~~Curaçao should ensure that there are clear access powers to access information concerning entities subject to grandfathering provisions.~~
	~~Although Curaçao amended its EOI manual in August 2017 to streamline its procedure to access information, during the review period, Curaçao experienced long delays and some obstacles in the practical application of the procedure to access information, which resulted as of May 2017 in 58% of the requests responded to after one year or still pending at the end of the review. Since May 2017 and up to the cut-off date of this review (August 2017), Curaçao has worked on reducing the backlog of the EOI requests and on ensuring an efficient access to information.~~	~~Curaçao should monitor the streamlined procedure set out in the revised EOI manual to access information to ensure effective and timely exchange of information in practice.~~
	~~During the peer review period, Curaçao has not applied any enforcement powers, even where information that should have been in the possession of the person who was served the Notice to produce Information was in fact not produced.~~	~~Curaçao should ensure that enforcement powers are applied where appropriate in cases where information is not produced.~~

	Despite having sanctions for non-compliance with request for information, the Curaçaon authorities have not applied enforcement procedures in a streamlined and effective manner to ensure compliance by information holders.	Curaçao should streamline the enforcement procedures to be followed by the authorities concerned for exercising access powers and ensure that all available enforcement powers are applied as required in cases where information is not provided by the information holders.
	Curaçaon authorities declined requests for information in three cases where the period to which the information pertained was beyond the statutory retention period without making an effort to check for the availability of some or all of such information from the information holders, before declining the requests.	Curaçao should ensure that where foreseeably relevant information has been sought by a treaty partner for periods beyond the statutory retention period for all or part of such information, access powers are similarly used to obtain all available information for exchange.
Rating: Partially Compliant **Largely Compliant**		

Access to information held by international companies created before 2001

111. Curaçao has certain grandfathering provisions in relation to its international offshore entities set up prior to the tax reforms carried out in Curaçao in 2001, which provide them with a continuing low tax regime till the end of 2019. These provisions impacted exchange of information on request, as six such companies had filed cases challenging the Competent Authority's ability to seek information from them on grounds of the applicability of grandfathering provisions, although there was nothing in Curaçaon law to so curtail the powers of the Competent Authority.

112. These court cases had adversely impacted the exchange in practice. Although the Court of First Instance had ruled[7] in favour of the Competent Authority in all the six cases and the information had been obtained and exchanged in each of these cases, appeals against the judgements were still pending before the Appeals Court. Curaçao was recommended to ensure that there were clear access powers to access information concerning entities subject to grandfathering provisions.

7. Reference: 22 November 2016, BBZ nr. CUR201400396.

113. Since then, the Appeals Court has confirmed the decision of the lower court in favour of the Competent Authority.[8] No further appeals have been filed against the decision of the Appeals Court.

114. Further, since the decisions, the pending backlog of cases was cleared and there have been no objections from any of the international entities in responding to the Competent Authority's request for information on the grounds that they are covered by grandfathering provisions. Thus, the recommendation made in this regard is removed as the position on the access powers of the Curaçao Competent Authority is suitably clarified by the final and binding judicial pronouncements.

The practical process of gathering information

115. The 2017 Report noted the lack of a streamlined process for accessing and obtaining information. The absence of a specific procedure laid out for EOI had resulted in inordinate delays in obtaining and exchanging information for answering requests received during the review period (from January 2014 to July 2016). A revised EOI manual was put in place in August 2017, which detailed the procedure to be followed while answering EOI requests together with the access and enforcement powers available to the tax authorities obtaining the information. Curaçao was recommended to monitor the streamlined procedure set out in the revised EOI manual to access information to ensure effective and timely exchange of information in practice.

116. Since then, the procedure set out in the revised EOI manual to access information has been followed in most cases. This has resulted in significant reduction in the average time taken in processing the EOI requests, which declined from 319 days in 2016 to 146 days in 2017 and further to 117 days in 2018 (while the level of complexity of the requests remained constant).

117. In the current review period (1 July 2016 to 30 September 2018), Curaçao received 104 requests (of which 3 were withdrawn) out of which it was able to respond to 74 requests within one year while 12 requests were responded to after one year (as of 6 August 2019). Curaçao reported having imposed a penalty on an information holder during the review period for not providing the requested information and one more penalty in another case has been imposed in July 2019. Curaçao informed that none of the 11 pending requests were pending due to inability to access and obtain the required information (see paragraph 131).

118. Considering that the revised EOI manual has streamlined the information gathering procedures substantially compared to the previous review period, the in-box recommendation is replaced by an in-text recommendation

8. Reference: Court of Appeal, 29 May 2018, CUR2017H00001.

to continue monitoring that the procedure is adhered to in order to ensure effective and timely exchange of information in practice (see Annex 1).

Enforcement

119. The 2017 Report had observed that although the Curaçaon authorities had the necessary enforcement powers (including financial sanctions and search and seizure powers), they had never applied any, even in cases where the person in possession of the information was non-compliant with the request for information from the Competent Authority. Accordingly, Curaçao had been recommended to ensure that enforcement powers were applied where appropriate in cases where information was not produced.

120. This issue persisted during the current review period. Article 28 of the NOIAT had been amended and the range of penalties for non-co-operation with the Competent Authority's request for information for EOI purposes had been raised to ANG 100 000 to ANG 250 000 (EUR 50 133 to EUR 125 345) from the earlier maximum of ANG 10 000 (EUR 5 013). These are also over and above the amounts of ANG 25 000 to ANG 100 000 (EUR 12 535 to EUR 50 133) that are imposable for non-compliance under the provisions of NOGNT when the tax auditors seek information from a person.

121. However, although available, enforcement measures were seldom applied. Curaçao reported ten instances where there was a failure on the part of the information holder to provide the information when asked to do so and a penal procedure had been contemplated (out of 104 EOI requests received) during the review period. Curaçao informed that out of these:

- Six information holders provided the information upon initiation of penalty. Subsequently, penalties were not imposed on them.
- In one case, where information was requested in 2017, penalty was actually imposed in June 2018 under the earlier amounts of ANG 5 000 (EUR 2 507). However, Curaçao had informed that the amount of penalty had still not been collected at the time of the on-site in May 2019. It was only in April 2019 that the recovery of the penal dues had been referred to the Collection Department, which seized the bank account of the entity in July 2019.
- In one case dated end 2017, penalty was imposed in end July 2019 after the on-site. The information holder provided the information upon the imposition of the penalty and the information was exchanged.

- In the remaining two cases, penalties were initiated but not applied due the specific circumstances of these cases.[9]

122. Overall, penalties were hardly applied promptly and when applied were not followed up for compliance effectively.

123. Furthermore, the general understanding among the EOI unit members was that once a penalty by way of a stipulated fine was imposed on the non-compliant entity, the EOI request would be considered closed and no further enforcement actions for obtaining the information could be considered. Based on this understanding, the Curaçaon authorities were reluctant to impose penalties. It seems that they had even conveyed this position to some of their treaty partners with pending requests and the treaty partners had requested them to keep the requests open and not close the requests by imposing the penalties. In any event, imposition of a penalty does not prevent the Curaçaon authorities from exercising their powers to seize the required documents or information. Curaçao agreed to re-examine its interpretation in this regard. Curaçao should streamline and standardise the procedural steps once an information holder does not provide the sought information. The steps should be included in the EOI manual and could comprise easy-to-follow milestones, which make for a swift initiation and follow-through of the fine/penalty procedure until further means (like seizure) come into play. This would ensure that all appropriate available enforcement measures for accessing and obtaining information are suitably applied.

Access to information to answer EOI requests related to criminal tax matters

124. Another important issue that was encountered during the course of the current review was the ambiguity about the Competent Authority's access powers in relation to EOI requests where criminal offences pertaining to tax matters were under investigation in the requesting jurisdiction. This issue has had a bearing on element C.1.6 as well. In such cases of criminal tax investigations, in the past, information could only be exchanged by the Minister of Finance (Competent Authority) after the Minister of Justice had been consulted (see paragraph 258 of the 2017 Report). The 2017 Report had noted that this consultation was a necessary formality and would generally

9. In one case, the information holder or the director is missing and the Inspectorate, in consultation with the Chamber of Commerce, is working on striking off the company from the Register. In the other case, accounting information had been obtained from the accountant and exchanged with the treaty partner but beneficial ownership information was not available with the accountant. Curaçao reopened the case to acquire the missing BO information from other information holders just before the cut-off date.

be concluded within a 2-3 week timeframe. The Minister of Justice had never objected to the sharing of information.

125. Due to revocation in June 2018 of Article 30 of the NOIAT doing away with the Notification Procedures (see section B.2 below), the prescription of consultation with the Minister of Justice while addressing EOI requests pertaining to criminal tax matters had also been done away with. Curaçaon authorities had taken the view that in the absence of specific provisions on dealing with EOI requests concerning criminal tax matters, such requests would have to be answered under the mutual legal assistance process and not the EOI arrangements. Hence, three requests from treaty partners had been declined during the review period on the grounds that they pertained to criminal tax matters. During the on-site visit, the Curaçaon authorities agreed to reconsider their position and reached out to the respective treaty partners expressing Curaçao's willingness to share the information. Curaçao has since then, revised the EOI manual as well, to reflect the position that it will be taking on EOI requests pertaining to criminal tax matters. The following excerpt from the updated EOI manual reflects Curaçao's new position:

> Curaçao adheres to the international treaties on taxation, whether multi-lateral or bilateral, in which it states that Curaçao will exchange information for criminal tax matters. In this case Curaçao will engage the requesting country, in order to verify the priority of the request to speed up a request which is marked by the requesting jurisdiction as being an EOI for criminal tax matters. The scope of exchange of information covers all tax matters without prejudice to the general rules and legal provisions governing the rights of defendants and witnesses in judicial proceedings. Exchange of information for criminal tax matters is based on multi-lateral or bilateral taxation treaties. Curaçao follows the commentary of the OECD's article 26 of the Model Agreement, when it comes to adhering to its international treaties on taxation, which states the following: The privilege against self-incrimination should have little, if any, application in connection with most information requests. The privilege against self-incrimination is personal and cannot be claimed by an individual who himself is not at risk of criminal prosecution. The overwhelming majority of information requests seek to obtain information from third parties such as banks, intermediaries or the other party to a contract and not from the individual under investigation. Furthermore, the privilege against self-incrimination generally does not attach to persons other than natural persons. The Public Prosecutor's office will be notified, of a request marked as an exchange of information for criminal tax matters.

126. The above stand taken by Curaçao suggests that as long as the information does not need to be gathered from a natural person who is herself/himself the subject of criminal investigations in another jurisdiction, the Curaçaon Competent Authority would generally be able to access and provide information, and to simply notify the Public Prosecutor's office of this. The Curaçaon authorities have informed that the notification is a simple intimation and does not contain the details of the request. Further, Curaçao has assured that such notification given to the Public Prosecutor's office would in no way impede the exchange of information on request process or pose any delays.

127. The decision to not respond to requests involving criminal tax matters during the current peer review period does not appear to be based on any constraints over the access powers of the Competent Authority. It is largely due to the interpretation of the legal position in its domestic law based on which Curaçao refused to provide the requested information. Even in the updated EOI manual Curaçao had initially retained a sentence suggesting that requests pertaining to criminal tax matters are to be handled under the mutual legal assistance process. Very recently, Curaçao updated the EOI manual again in August 2019 to state that requests pertaining to criminal tax matters are to be answered based on bilateral and multilateral tax treaties. Indeed, after the on-site visit in May 2019, Curaçao has obtained and shared information in the three cases where it had turned down such requests during the review period. Further, another request pertaining to criminal tax investigations received after the review period, which had been initially similarly declined, has also been answered. Thus, Curaçao, in practice, was able to handle these requests. In order to avoid any confusion about its access powers in future, it is recommended that Curaçao suitably clarifies its stand on how EOI requests pertaining to criminal tax matters will be dealt with, to ensure that foreign criminal investigations do not act as a bar on the access powers of the Curaçaon Competent Authority (see Annex 1).

Not accessing information pertaining to periods beyond statutory retention periods

128. During the peer review period, there were three requests from the Netherlands which, Curaçao informed it had declined for valid reasons. The information sought in these requests pertained to periods beyond the prescribed retention periods in Curaçao. The information sought in one request was UBO information, accounting information, banking information and other information. In the other two requests, other information had been sought. Curaçao stated that upon being informed about the issue of exceeding the retention period, the Netherlands accepted the declining of such requests and the requests were closed. The authorities did check internally within

the tax department for the availability of the requested information before declining the requests. Curaçao has submitted that based on experience, information holders were unlikely to hold information beyond statutory limitation periods. However, it is learnt that Curaçaon authorities did not use their access powers to check for the availability of such information with possible information holders before proceeding to decline these requests based on an assumption that the information might not be available.

129. There is nothing in Curaçao's laws that prevents the Competent Authority from seeking any information beyond the statutory retention period for such information from any information holder, thus the exception of Article 26(3)(b) of the Model Tax Convention does not apply. However, it is a matter of general practice in Curaçao that authorities do not ask for information beyond the statutory retention period. It is possible that some or all of the information could have been available, obtained and exchanged if the authorities had made an attempt to reach out to the information holder. Commentary on Paragraph 4 of the Model Tax Convention (Paragraph 19.7) indicates that it "does not oblige a requested Contracting State to provide information in circumstances where it has attempted to obtain the requested information but finds that the information no longer exists following the expiration of a domestic record retention period. However, where the requested information is still available notwithstanding the expiration of such retention period, the requested State cannot decline to exchange the information available". Therefore, Curaçao is recommended to ensure that if foreseeably relevant information has been requested by a treaty partner, authorities concerned should make an effort to obtain such information even if the periods to which such information pertains, may *prima facie*, be outside the statutory retention periods and such requests should not be declined outright. Curaçao has informed that it will update its EOI manual and put in place a structured policy of using access powers suitably in cases where information sought is beyond retention period.

The special circumstances of certain pending requests from other members of the Kingdom of the Netherlands

130. In relation to 11 requests from the Netherlands during the review period, the Curaçaon Competent Authority encountered problems of accessing the requested information. Curaçaon authorities believe that these difficulties were primarily on account of a unitary judicial system that applies to all jurisdictions of the Kingdom of the Netherlands. In nine of these cases, the Dutch taxpayers had appealed in Dutch Courts against the Dutch Tax Authority for shifting the burden of proof on to the taxpayers and raising

assessments.[10] Since the Netherlands and Curaçao are part of the Kingdom of the Netherlands, Curaçao's view is that the court rulings and proceedings are enforceable within the whole kingdom. Curaçao felt that the on-going judicial proceedings in the Netherlands had prevented the Curaçaon authorities from obtaining the information. Curaçao informed that it is in continuous discussion with the Netherlands' Tax Authorities on how to resolve the impasse on nine cases.

131. In 1 of the 11 cases, the Netherlands obtained the information from Curaçao through the mutual legal assistance (through the intervention of the Public Prosecutor). Hence, the entity informed the Curaçaon Competent Authority that it had already extended cooperation and had provided the requested information. In another case, the Dutch tax authorities were in conversation with the entity itself and had filed an EOI request with Curaçao. Since the domestic means had not yet been exhausted, the entity had not provided the requested information to the Curaçaon Competent Authority. Curaçao was ultimately able to obtain information in both these cases. However, information was yet to be exchanged.[11]

132. The difficulties encountered by Curaçao's Competent Authority in accessing information in these cases have been due to the special circumstances between the Netherlands and Curaçao. While Curaçao believes that judicial proceedings in the Netherlands have a bearing in Curaçao, the Netherlands, on the other hand, is of the opinion that legal proceedings should not have a bearing on these cases. The two jurisdictions have agreed to test the matter by exchanging information in one case to ascertain the judicial view. Curaçao has assured that these difficulties would not arise in accessing information by the Competent Authority while answering requests from other treaty partners (except Aruba and Sint Maarten). Considering that Curaçao is working closely with the Netherlands to resolve the issues specific to the Kingdom, no adverse view on the issue may be drawn as this is an issue in the case of one particular treaty partner and does not appear to be a systemic issue with access. Nevertheless, Curaçao should extend all co-operation to the Netherlands Tax Authorities to arrive at a mutually acceptable solution for these cases (see Annex 1).

10. In the Netherlands, the initial burden of proof lies on the Tax Administration. The Dutch Tax Authorities had sought information from the taxpayers. Such information was not provided. Accordingly, the Dutch Tax Authorities issued a special notice to such taxpayers shifting the burden of proof on them and raising assessments. Taxpayers were in appeal against these assessments in the Dutch Courts.

11. Curaçao exchanged the information in one case after the cut-off date. The information gathered in the case where information had also been sought under mutual legal assistance, is still pending exchange.

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.

133. The 2017 Report had noted that notification rules had been introduced in 2013. The rules required that the person about whom information has been sought through an EOI request would be notified about such a request. Further, the rules stipulated a 15-day waiting period before the Competent Authority would exchange the information collected with the requesting jurisdiction. The 15-days waiting period was for the person concerned to submit a request to the Competent Authority for re-consideration about exchanging the collected information. Further, if the Competent Authority declined to change its decision to exchange the information, the person concerned could appeal before the Court of First Instance against such a decision of the Competent Authority. The notification rules provided for "urgent reasons" for which the Competent Authority could exchange the information without prior notification. In such cases, post-exchange notification was required within four months of exchanging the said information. There were no exceptions in the notification rules for time-specific post-exchange notification. In this regard, the 2017 Report had recommended that suitable exceptions from post-exchange notification requirement be introduced to facilitate effective exchange of information (e.g. in cases where the notification is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction).

134. The 2017 Report had also noted that it was not clear whether the deadline for the notification was respected in practice, as the whole information gathering process, from intake to actual exchange encountered several blockages during the review period. The report had noted that there had been six appeal cases where the taxpayer had requested the Competent Authority for re-consideration. Although some of these cases had been decided in favour of the Competent Authority by the Court of First Instance, they had been appealed against and the appeal was pending. Hence, Curaçao was recommended to monitor the implementation of the notification rules.

135. Since the 2017 Report, Curaçao has amended the NOIAT and Article 30 governing the notification procedures has been revoked. Hence, the notification procedure and the associated waiting time of 15 days has been done away with. The post-exchange notification requirement has also been abolished. This means that the Curaçao Competent Authority is no longer required to notify the person concerned about the EOI Request in his/her case. Hence, Curaçaon authorities would not be notifying the taxpayer in the case of Group Requests, even after the taxpayer has been identified.

Thus, on the issue of notification, Curaçao has suitably addressed the first recommendation made in the 2017 Report. Since the entire set of notification rules (as contained in Article 30 of NOIAT) have been removed, the second recommendation made in the 2017 Report also stands addressed.

136. Since there is no notification required to the subject of a request or to the information holder, the person concerned does not have any associated appeal rights. During the on-site, the Curaçao authorities confirmed that there has been no appeal after the notification procedure was repealed. Hence, now information can be exchanged without sending any notification to the person(s) concerned.

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

Legal and Regulatory Framework		
Deficiencies identified	**Underlying Factor**	**Recommendations**
	~~There are no exceptions from the post-exchange notification procedure in Curaçao.~~	~~It is recommended that suitable exceptions from post-exchange notification requirement be introduced to facilitate effective exchange of information (e.g. in cases in where the notification is likely to undermine the chance of the success of the investigation conducted by the requesting jurisdiction).~~
Determination: The element is in place, but certain aspects of the legal framework need improvements		
Practical Implementation of the standard		
Deficiencies identified	**Underlying Factor**	**Recommendations**
	~~Due to the difficulties and deficiencies in the EOI process during the peer review period, the procedures for notification that came into effect on 1 May 2013 have not been sufficiently tested in practice to ensure that they do not prevent effective exchange of information.~~	~~Curaçao should monitor the implementation of the 2013 rules and ensure that information can be provided in response to a request in a timely manner.~~
Rating: Largely **Compliant**		

Part C: Exchanging information

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

139. Curaçao has an EOI relationship with 128 partners through 24 bilateral instruments, two instruments[12] among the members of the Kingdom of the Netherlands), and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (see Annex 2). The number of partners increased since 2017 as more jurisdictions participate in the Multilateral Convention. The 2017 Report had observed that all EOI relationships met the standard but element C.1 was rated Largely Compliant with the standard because Curaçao had only recently moved away from a restrictive interpretation of the standard of foreseeable relevance and this recent change had not been evaluated in practice in the 2017 Report. Hence, the 2017 Report had recommended further monitoring of Curaçao's application of the foreseeable relevance standard in practice.

140. Curaçao had some difficulties applying its EOI mechanisms in accordance with the standard. In practice, there were a few instances where

12. The 1964 Consensus Kingdom Law governs EOI among Curaçao, Aruba and Sint Maarten. The Consensus Kingdom Law Netherlands Curaçao, came into force on 30 September 2015 regulating solely tax matters, amongst others the exchange of information, between the Netherlands and Curaçao as of tax year 2016. For the older tax years the 1964 Consensus Kingdom Law is still applicable for EOI between the Netherlands and Curaçao.

Curaçao closed the requests without providing the requested information after examining the information that was collected, on the grounds that the natural persons in whose regard the information was collected were not residents of the requesting jurisdiction, although the requests were closed in consultation with the requesting treaty partner. Thus, Curaçao did not exchange information in these cases even when the standard requires exchange of information in relation to all persons. Hence, the recommendation made in the 2017 Report is modified to recommend Curaçao to ensure that it correctly applies the standard and ensures that information is exchanged in relation to all relevant persons.

141. A separate issue that arose during the current review period pertained to Curaçao's declining of EOI requests in three cases of criminal tax investigations on the grounds that the requesting jurisdictions should seek assistance through the mutual legal assistance (see section B.1 above). This position has been revised by Curaçao after the onsite visit. Curaçao has amended its EOI manual and has made efforts to reach out to its treaty partners expressing its willingness to provide the requested information. However, it is essential that going forward there is no ambiguity on this issue among all Curaçaon authorities concerned and hence, it is recommended that Curaçao clearly articulate its position in this regard and ensure that EOI requests pertaining to civil and criminal tax matters are responded to as required by Curaçao's treaties and in accordance with the EOIR Standard.

142. 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**
	In practice, there was some confusion in the application of the standard and the authorities were unclear about whether information for non-residents of the requesting jurisdiction was relevant and should also be exchanged. ~~during the peer review period~~, ~~deficiencies in EOI prevented a complete assessment of the application of the foreseeable relevance standard by Curaçao in practice. In addition, Curaçao only amended recently its EOI manual to clarify how to interpret the foreseeable relevance standard, including regarding the determination of foreseeable relevance of group requests.~~	Curaçao should ensure that its interpretation of the standard is applied correctly ~~effective exchange of information~~ and information is exchanged in respect of all persons regardless of where they are resident.

	Although there are no legal impediments to the exchange of information in matters of criminal tax investigations in the requesting jurisdiction, during the peer review period, Curaçao turned down three EOI requests for information on the grounds that requests pertaining to criminal investigations must be proceeded with under mutual legal assistance. While Curaçao has now amended its position in this regard, this stand was against the standard during the review period.	Curaçao should ensure that going forward, in practice, there is no impediment in exchanging information on civil and criminal tax matters and should ensure that all officials concerned are aware of Curaçao's legal position in this regard.
Rating: Largely Compliant		

C.1.1. Foreseeably relevant standard and C.1.2. Provide for exchange of information in respect of all persons

Clarifications and foreseeable relevance in practice

143. The 2017 Report had not been able to evaluate the issue of foreseeable relevance in practice, due to deficiencies in EOI (element C.5). It had been observed in the 2015 Report that there were some problems in the way Curaçao applied the foreseeable relevance standard. The 2015 Report had noted that Curaçao was applying it not at the time of receiving the request but after collecting the information. This had not been found to be appropriate. The 2017 Report had noted that Curaçao had amended the EOI manual very recently to clarify the interpretation of the Standard. During the relevant review period for the 2017 Report, due to the myriad problems in EOI that Curaçao encountered, it could not be ascertained if Curaçao had applied an appropriate interpretation of the foreseeably relevant standard.

144. During the current review period, in relation to one treaty partner, there were seven requests where Curaçao closed the requests without exchanging the information it gathered, as the ultimate beneficial owner in relation to whom the information had been requested by the treaty partner was not a resident of the requesting jurisdiction. Curaçao, nevertheless, did so in consultation with the treaty partner.

145. The requesting jurisdiction, while placing the seven requests, informed Curaçao that the requests concerned a "resident with possible interest in the entity under investigation". After gathering the information, Curaçaon authorities noted that the ultimate beneficial owners did not have passports corresponding to the Requesting State. Hence, follow-up clarifications were sought from the Requesting State on whether the persons were resident during the investigation period. The Requesting State was informed that Curaçao would await its response to determine the way forward and take

decision on the requests. On being informed that the persons concerned were not residents of the requesting state during the investigation period, Curaçao concluded jointly with the requesting state that the information exchanged by means of the clarification request sufficed and that no further information needed to be exchanged. Hence the cases were closed. During the onsite visit, Curaçao explained that in these cases, foreseeable relevance was not applicable as, had the information gathered by Curaçao been available prior to starting investigation, the requests would have been declined at the assessment stage itself. Afterwards, Curaçao requalified these cases and explained that the cases were closed only because the gathered information did not match the requested information.

146. In this regard, two points suggest that Curaçao's application of the EOIR standard is still not firm and stable. First, the Standard requires that a jurisdiction must exchange information in respect of all persons (regardless of whether such person is resident of either Contracting State) as long as the requested information is available in that jurisdiction. Curaçao's view that, had the information about the residential status of the subjects of the requests been known at the time of preliminary processing of the requests, the requests would have been declined in the first instance, suggests that Curaçao would have applied the foreseeable relevance standard incorrectly. This stance would be contrary to the requirement of element C.1.2 and the Curacao EOI manual, which require information to be exchanged in relation to all persons regardless of whether they are residents or citizens of either jurisdiction. The divergence of explanations during the onsite visit and after the onsite visit suggests that the knowledge of the details of the standard is not yet fully established.

147. Secondly, Curaçao closed the request without exchanging the information after examining the information gathered. Foreseeable relevance should ordinarily be ascertained at the time of receiving the request and prior to starting the processing of the request. Clarifications to ascertain foreseeable relevance are generally to be sought at this initial stage. Once the request has been accepted for EOI as foreseeably relevant, unless the requested state becomes aware of facts that call into question the foreseeable relevance of the information sought, the request should be processed as foreseeably relevant.

148. Hence, even if the treaty partner accepted Curaçao's decision in the present cases, it is felt that there was some confusion in Curaçao's understanding and application of the standard. Curaçao is recommended to ensure that its interpretation of the standard is applied in accordance with effective exchange of information and information is exchanged in respect of all persons.

Group requests

149. During the current review period, Curaçao did not receive any Group Requests, therefore it is impossible to assess their handling in practice. Curaçao's EOI instruments or its domestic law do not exclude the possibility of making and responding to group requests. Curaçao indicated that in case a Group Request were to be received, it would be evaluated in line with the Commentary to Article 26 of the OECD Model Convention. Curaçao amended its EOI Manual in August 2017 to clarify the procedure for dealing with Group Requests and on assessing their foreseeable relevance in practice. The guidance in the revised manual follows the recommendations set out in the Commentary to Article 26 of the OECD Model Convention. The only change since the 2017 Report is that there will now be no notification process in relation to Group Requests as the notification procedure has been revoked.

C.1.3. Obligation to exchange all types of information and C.1.4. Absence of domestic tax interest

150. Curaçao's EOI instruments contain Article 5(4)(a) and (b) from the Model TIEA which provides that information held by banks, financial institutions, agents and fiduciaries must be exchanged as well as information regarding ownership. None provides for a condition of domestic tax interest. Various types of information were exchanged in practice and Curaçao has exchanged information in cases where the authorities had no tax interest in the information exchanged. These aspects of the Standard did not raise difficulties in practice.

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

151. All of Curaçao's EOI instruments provide for exchange of information in both civil and criminal matters, and in the latter case, regardless of whether the conduct under investigation, if committed in Curaçao, would constitute a crime. Curaçao received and answered requests related to civil matters. On the contrary, it received and declined answering requests related to criminal tax matters in the requesting jurisdiction.

152. This issue has been discussed under B.1 above as well.

153. Up to June 2018, the Competent Authority had to consult the Minister of Justice on EOI requests in connection with an investigation of criminal offences with regard to tax matters. It had been noted in the 2017 Report that in practice, the Minister of Justice had never objected to the exchange of information.

154. This position changed since the 2017 Report. With the revocation of Article 30 of NOIAT on the notification procedure, the procedure of consultation with the Minister of Justice too had been revoked. During the current review period, Curaçao had taken the view that in the absence of any prescribed procedure in the domestic law in relation to requests pertaining to criminal tax investigations in the requesting jurisdiction, it was appropriate to exchange such information by way of mutual legal assistance, i.e. via the office of the Public Prosecutor. Based on this interpretation, Curaçao had declined three requests from two peers during the peer review period. Another request received from a third peer after the peer review period, had been similarly declined.

155. However, there is no legal requirement in Curaçaon laws that information requested for criminal tax matters can only be provided through mutual legal assistance. Furthermore, all of Curaçao's DTCs and TIEAs provide for exchange of information in civil as well as criminal tax matters. Since treaty provisions would override any contrary domestic law provisions or apply where no domestic provisions exist, there did not appear to be any legal impediment for Curaçaon Competent Authority to respond to these EOI requests. Hence, it appeared to be a matter of interpretation that had been adopted internally by Curaçao. When requested to reconsider its position on this issue, Curaçaon authorities have revised this position in the EOI manual (as has been discussed elaborately under element B.1). Since the on-site visit in May 2019, Curaçao reached out to the peers who had placed requests on criminal tax matters. Curaçao authorities indicate having gathered the information requested in relation to all the three criminal cases after the review period and having exchanged it with the treaty partners in July 2019, such that the issue is completely closed.

156. Since Curaçao's interpretation of its legal position led to an inordinate delay in acting on the requests pertaining to criminal tax matters during the review period, Curaçao is recommended to ensure that it is always able to respond to all requests in civil and criminal tax matters and that all officials concerned are aware of Curaçao's legal position in this regard.

C.1.7. Provide information in specific form requested

157. The 2017 Report had concluded that the EOI agreements concluded by Curaçao allow for information to be provided in the specific form requested. Domestic law accommodates this requirement by requiring information to be produced orally or in writing, in the form and within the period determined by the Tax Inspector. There have been no changes in the legal framework. During the peer review period, Curaçao was not asked to provide any information in any specific form.

C.1.8 and C.1.9. Signed agreements should be in force and be given effect through domestic law

158. Curaçao has been encouraged since 2015 to work expeditiously to ensure the entry into force of the agreements with the British Virgin Islands (BVI) and Malta but since an EOI relationship exist with these two jurisdictions through the Multilateral Convention, the recommendation had no impact on the rating of Curaçao. Curaçao has informed that in relation to the agreement with BVI, it is awaiting ratification from BVI. In relation to the agreement with Malta, Curaçao has informed that the agreement had been signed and had been sent to the Kingdom Council of State for advice. Certain recommendations have been received from the Kingdom Council of State and Curaçao is working on them. Subsequently, the agreement will be resubmitted to the Minister of Foreign Affairs for proceeding with the Parliamentary Approval process in the Netherlands.[13] Therefore the process does not only involve Curaçao but also the Kingdom of the Netherlands. The in-text recommendation continues to apply (See Annex 1).

159. Curaçao has in place the National Ordinance on International Assistance in the levy of taxes (NOIAT) that governs and puts into effect the necessary legal and regulatory framework to give effect to its EOI mechanisms. Certain issues regarding access to information in cases covered by grandfathering provisions using domestic tax information gathering powers have been addressed as discussed in Section B.1.

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

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

160. The 2017 Report had found that element C.2 was in place and the element had been rated Compliant. The observations made in the 2017 Report continue to remain applicable as such.

161. Participation in the Multilateral Convention has increased since the 2017 Report and Curaçao has now 128 EOI partners. Besides the on-going negotiations for DTCs with Jamaica, Seychelles, UAE and Qatar noted in the 2017 Report, Curaçao has reported that negotiations for a TIEA with Germany and a DTC with San Marino are also underway. Further, the TIEA with Colombia that was under negotiations during the previous review period is still under negotiations and Curaçao intends to continue and conclude the procedure soon.

13. Paragraph 333 of the 2017 Report details the procedure followed in Curaçao to bring signed agreements into force.

162. Curaçao has never refused to enter into an EOI agreement. Curaçao is recommended to continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

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

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

C.3. Confidentiality

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

164. The 2017 Report had concluded that the legal and regulatory framework in Curaçao to ensure the confidentiality of information received was in place and the element had been rated as Compliant. Since then, there have been no significant changes in the procedures and legal framework in relation the confidentiality.

165. The 2017 Report had made an in-text recommendation that Curaçao should develop policies and practices for the management of vulnerabilities, including the performance of appropriate, risk-based penetration test annually and in case of significant changes. Curaçao has worked on this recommendation and has put in place suitable policies and practices. IT security and management of risks were elaborately described during the on-site visit. It was informed that risk based penetration tests of varying intensities were systematically being carried out on IT networks and critical systems on a regular basis. The employee departure policy, which was already in place, had been further enhanced. Suitable provisions had been made in relation to security issues of physical files. Overall, Curaçao has put in place adequate measures to address the recommendation, which is removed.

166. The other observations made in the 2017 Report remain unchanged. The determination for this element continues to remain "in place" and the element continues to be rated as Compliant.

167. The table of determination and rating continues to remain as follows:

Legal and Regulatory Framework
Determination: The element is in place

Practical Implementation of the standard
Rating: Compliant

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

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

168. The 2017 Report had concluded that the rights and safeguards of taxpayers and third parties in Curaçao were in line with the standard. The legal and regulatory framework was determined to be in place and the element was rated "Compliant". During the present period under review, there has been no change in relation to this element. In practice, Curaçao did not encounter any difficulties in responding to EOI requests due to the application of rights and safeguards in Curaçao.

169. The table of determination and rating continues to remain 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.

170. The 2017 Report had observed a deterioration in the timeliness in responding to EOI requests during the period from January 2014 to July 2016 compared to the period from 2011 to 2013 assessed in the 2015 Report. Curaçao had almost 45% pending requests at the end of the review period for the 2017 Report. Only 1% of the requests had been answered within 90 days, 2% within 180 days and 38% within one year. The Report had noted deficiencies concerning personnel resources and monitoring of internal deadlines. Furthermore, Curaçao's communication with partners was also deficient as it had not provided any status updates in any of the cases where requests had not been answered within 90 days. Although Curaçao had started working on clearing the past backlog of pending requests, in view of these serious issues, Element C.5 had been rated "Partially Compliant".

171. During the current review, Curaçao made persistent efforts to improve upon the recommendations made in the 2017 Report. Staff and other resources for the EOI unit were enhanced. An EOI Quality team was put in place with the task of monitoring the processing times taken for responding to requests. An Excel Mastersheet was put in place to track the requests and internally update the status of the requests on frequent and regular basis. EOI manual was further updated to streamline the process. There was greater co-ordination among different authorities for handling requests.

172. As a result of the efforts put in place, Curaçao was able to improve upon the timeliness of responding to requests significantly. While the requests answered within 90 days still remained around 18% (up from 1% in 2017 Report), the requests answered within 180 days were 53% (up from 2% in 2017 Report). Curaçao answered 71.2% requests within a year (as against only 38% in the 2017 Report). The improvement in timeliness has been much higher in the last two years of the review period, after putting in place the EOI manual and the monitoring system, and clearing of the backlog from the previous review period, which adversely affected the response time for the first year.

173. The efforts made by Curaçao in improving its internal organisation and overall effectiveness in providing information translated into much more positive feedback from peers, many of whom expressed satisfaction with Curaçao's responsiveness compared to the previous review period pertaining to the 2017 Report. Some peers have acknowledged the improvement in timeliness of responses from Curaçao. Further, one peer has reported receiving additional information beyond what was requested from Curaçao in one case, which assisted the peer in its tax investigations. Peers have commented favourably on the accessibility of the Competent Authority. Much of the improvement seems to have come about from the later part of 2017 and has continued all through the end of the review period and even beyond. This is in line with the streamlined procedures and enhanced resources that Curaçao put in place for EOIR.

174. While the efforts made by Curaçao have been impressive, there is still some room for improvement in communicating and clarifying issues with peers, including in providing status updates in cases where the request is not processed within 90 days. Moreover, some requests which were answered with delay or were erroneously declined reflect some confusions about treaty provisions and domestic legislation in the minds of the EOI staff. Such situations can be addressed through further training of the EOI staff and through active engagement with treaty partners to promptly clarify issues. Overall, considering the improvements made by Curaçao, the rating for element C.5 is revised to "Largely Compliant" as against "Partially Compliant" in the 2017 Report.

175. 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**
	~~While Curaçao worked on reducing the backlog of the pending EOI requests and on ensuring a stable EOI organisation since the end of May 2017, during the review period, there were serious deficiencies concerning personnel resources dedicated to EOI and monitoring of internal deadlines. This resulted in Curaçao not being able to respond in a timely manner to its requests. Two peers indicated that the lack of timeliness resulted in some cases in the withdrawal of the requests or the inability for the EOI partners to use the information provided by Curaçao.~~	~~Curaçao should continue its progress to improve the EOI processes and ensure that adequate resources are put in place to monitor its timeframe for providing quality and timely responses to EOI partners.~~
	During the period under review, delays have been experienced in answering some EOI requests, and Curaçao did not always provide a status update to its EOI partners within 90 days when the Competent Authority was unable to provide a substantive response within that time.	Curaçao should ensure that it provides status updates in all cases where responses have not been provided within 90 days.
	Possibly due to lack of experience (as discussed in B.1 and C.1) in handling certain situations, Curaçao erroneously declined certain requests. In particular, in one case Curaçao initially refused to provide information to a treaty partner on the grounds that the MAAC was not in force for the requested period, while the TIEA was applicable, without discussing the issue with the treaty partner. This led to withdrawal of request by the treaty partner.	Curaçao should provide more training to EOI staff and actively engage with its treaty partners and ensure that any legal issue pertaining to treaty provisions or their applicability are clarified mutually based on a common understanding before declining any request.
Rating: Largely Compliant ~~Partially Compliant~~		

C.5.1. Timeliness of responses to requests for information

176. Over the period under review (1 July 2016 to 30 September 2018), Curaçao received a total of 104 requests for information. The information requested related to (i) ownership information (65 cases), (ii) accounting information (82 cases), (iii) banking information (70 cases) and (iv) other type of information (94 cases). The entities for which information was requested[14] is broken down to (i) companies (63 cases), (ii) individuals (10 cases) and private foundations (31 cases). Curaçao's most significant EOI partners for the period under review (by virtue of the number of exchanges with them) were the Netherlands, Aruba, Spain, India, Sweden, Italy, the United Kingdom and the United States as against the Netherlands, Spain, France, India and Argentina during the review period of the 2017 Report. The following table relates to the requests received during the period under review and gives an overview of response times of Curaçao in providing a final response to these requests, together with a summary of other relevant factors impacting the effectiveness of Curaçao's exchange of information practice during the reviewed period.

Statistics on response time

		1 July-31 Dec 2016		2017		1 Jan-30 Sep 2018		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	24		50		30		104	100
Full response: ≤90 days		0	0	9	18	10	36.7	19	18.2
≤180 days (cumulative)		2	8.3	31	62	22	73.3	55	52.8
≤1 year (cumulative)	[A]	11	46	39	78	24	80	74	71.2
>1 year	[B]	3	12.5	5	10	4	13.3	12	11.5
Declined for valid reasons		0	0	1	4	0	0	1	0.9
Outstanding cases after 90 days		24	28.2	41	48.2	19	23.5	85	100
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		4	16.7	12	29.2	19	100	35	41
Requests withdrawn by requesting jurisdiction	[C]	1	4.2	2	4	0	0	3	2.8
Failure to obtain and provide information requested	[D]	0	0	2	4	2	3.3	4	3.8
Requests still pending at date of review	[E]	9	37.5	2	4	0	0	11	10.6

Notes: a. Curaçao counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Curaçao counts that as 1 request. If Curaçao received a further request for information that relates to a previous request, with the original request still active, Curaçao 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.

14. Some requests entailed more than one information category and/or more than one entity type.

177. Curaçao has informed that during the period under review, it had started with a backlog of about 70 requests from the previous period of review under the 2017 Report. This backlog was cleared during the current review period. Out of the 70 pending requests, 50 were replied to between June and August 2017 and at the cut-off date for that report, 20 requests from the previous review period were still pending. These 20 requests were also answered and the complete backlog of requests was cleared by Curaçao.

178. Curaçao has emphasised that in 2016, it was still putting in place procedures and organisation and training the staff. Hence, the timeliness of responding to EOI requests for 2016 was somewhat poor (i.e. comparable to the previous period). Due to the delays in 2016, the average time taken for responding to EOI requests has worked out to 180 days for the period under review for this Supplementary Report. To emphasise this point, Curaçao has informed that the average time taken to answer requests in 2016 was 296 days, which came down to 173 days in 2017 and to 129 days in 2018.

179. Compared to Curaçao's performance on timeliness in answering requests at the time of the 2017 Report, there is certainly a marked improvement. During the review period for the 2017 Report the average timeframe for answering requests was 510 days. Curaçao managed to respond to 18.2% of the requests within 90 days as against 1% during the previous review period under the 2017 Report. Similarly, requests answered within 180 days increased to 56% as against 2% in the 2017 Report. Within one year, Curaçao was able to respond to 71.2% of the requests as against 38% during the review period for the 2017 Report. The requests that were pending as of the cut-off date were 11% as against 45% reported in the 2017 Report. The two periods are considered comparable as the types of requests received has not changed and the volume has only slightly decreased (from an average of 5.2 to 3.9 requests per month). Furthermore, this improvement was recorded during the current review period while simultaneously clearing a backlog from the past of 70 open requests at the beginning of the current review period. The performance on timeliness has been much better in the last two years of the review period. It is notable that the full review period average has been pulled down by the performance in 2016 and the issues at that time were already noted in the 2017 Report. Curaçao has continued to work on improving the timeliness of responding the requests beyond the review period. Curaçao has informed that for the requests received in 2019, 63% were fully answered within 90 days and 75% within 180 days.

180. The improvement has come about due to efforts to streamline the process of answering requests and putting in place a dedicated team to oversee the functioning of the EOI unit. Moreover, collaboration with other supervisory agencies, especially the Central Bank, has increased substantially. The Tax Authorities have also undertaken measures to sensitise and

educate information holders like TCSPs to provide the information when called upon to do so. In addition, the impediments posed by the grandfathering provisions that impeded access to information held by grandfathered entities during the previous review period, have been resolved due to decision by the courts (of first instance as well as the Court of Appeal) in favour of the tax authorities. Moreover, with the revocation of the notification procedure, the waiting time associated with notifying the taxpayers has also been removed.

181. Curaçao explained that requests related to information already at the disposal of the competent authority (e.g. tax information such as residency status of a person, etc.) are fully dealt with within 90 days generally and that it has also been possible to gather and exchange information within 90 days in cases where the information had to be obtained from other information holders. Requests that are not fully dealt with within 180 days typically relate to complex queries covering a variety of types of information often involving multiple taxpayers. For instance, Curaçao mentioned a request that had eight bundles of information covering eight taxpayers. Curaçao informed that on most occasions each one of the requests involves multiple taxpayers. Very often collecting, compiling, performing quality checks on the received information, and preparing and sending the response takes a fair bit of time. This is especially so where the information received is in hard copy while it needs to be sent electronically as all documents have to be scanned and secured.

182. Although Curaçao has done markedly better from the previous peer review period, Curaçao should continue its progress to further improve the EOI processes and ensure that the timeliness of providing responses to requests continues improving (See Annex 1).

183. Curaçao has reported a total of 11 requests that were received during the review period but were still pending for issues identified earlier in the present report. 9 of these cases pertain to the Netherlands where litigation is ongoing. In the remaining 2 requests Curaçao has informed that the information has been gathered and is being internally checked for quality and completeness before it is exchanged.[15]

184. In the period under review, Curaçao sought clarifications in about 20% of the total EOI requests received. Curaçao explained that clarifications were sought in relation to typographical errors, lack of clarity on the identity of person under investigation, lack of clarity on the bank account mentioned in the request, absence of mention of reciprocity, relevant legal basis for exchange, absence of exhaustion of all available means, etc.

15. Curaçao informed that after the cut-off date information was exchanged in one of these cases. The case where information had been sought under the mutual legal assistance, information had been gathered but had not been exchanged.

185. Curaçao was unable to obtain and provide information in four cases. In one of the cases, the director of the entity was missing and the Inspectorate of Taxes has initiated consultation with the Chamber of Commerce to strike-off the entity. In relation to the other 3 cases, Curaçao was of the view that the requests had been "declined for valid reasons" as the information sought pertained to periods beyond the statutory retention period. However, as discussed in Paragraph 129 under B.1, Curaçao proceeded to decline these requests without making any efforts to check for available information even if, *prima facie*, the information sought pertained to periods beyond the statutory retention periods.

Status updates and communication with partners

186. Peer inputs received indicates that while most peers always received status updates from Curaçao in case Curaçao was unable to provide the information within 90 days, some peers rarely or never received such status updates. In fact, during the first two years of the review period, status updates were provided in only 16-30% of the relevant cases. It was only from 2018 that Curaçao provided status updates in 100% of the cases. Curaçao's EOI manual does require providing status updates to treaty partners where providing the requested information takes more than 90 days. Curaçao should ensure that it provides status updates in all cases where responses have not been provided within 90 days.

187. Most peers were satisfied with the availability and responsiveness of the Competent Authority and found it easy to establish contact with the Competent Authority through email. Curaçao Competent Authority communicates with treaty partners usually through emails for correspondence, although with some treaty partners registered mail is also used. Curaçao informed that telephonic discussions are also conducted to seek feedback when information has been provided. Such feedback is communicated to EOI officials who incorporate helpful suggestions for improving the quality of responses in other cases.

188. Curaçao erroneously declined one request received in February 2017 for information from a treaty partner on the grounds that the information sought was for years prior to the entry into force of the MAAC (1 December 2012). The treaty partner clarified that the information was being sought under the TIEA which was in force since 2008. Upon realising the error, Curaçao was willing to provide the information to the treaty partner but before it could do so, the treaty partner wrote to Curaçao withdrawing the request. Post on-site, Curaçao reached out to the treaty partner and offered to provide the information and explained the error in considering the applicable treaty. Curaçao has informed that the treaty partner has not responded yet to its offer of exchanging the information. Curaçao is considering spontaneously exchanging the said information with the treaty partner.

189. The above instance reflects that Curaçao did not communicate promptly with the treaty partner. There was a delay of about six months before Curaçao informed the treaty partner about its interpretation of the effective date of providing the information. A proactive approach of reaching out promptly to the treaty partner could have easily averted the situation. Furthermore, there seems to be a misunderstanding on the part of Curaçao of refusing to share information pertaining to period prior to the date of coming into effect of the Multilateral Convention. Prompt communication to clear misunderstandings with the treaty partner and explaining its interpretation of the treaty provisions and understanding the partner's interpretation could have resolved the situation. Hence, it is recommended that Curaçao communicates effectively and promptly with treaty partners and ensure that any legal issue pertaining to treaty provisions or their applicability are clarified mutually, based on a common understanding, before declining any requests.

C.5.2. Organisational processes and resources

Organisation of the competent authority

190. Since the 2017 Report, Curaçao has implemented certain changes by allocating more full-time resources for EOI work. At the time of the 2017 Report, the EOI team comprised only the Head of the Directorate of Fiscal Affairs, an EOI Co-ordinator and one support staff. Under the new arrangement, the Director of Fiscal Affairs, the Permanent Secretary of the Ministry of Finance and the Financial Economic Director of the Central Bank have been designated Competent Authorities. The Financial Economic Director of the Central Bank is actually temporarily involved in the EOI work as he was handling the work previously before taking up the assignment at the Central Bank. He has also been involved temporarily to ensure closer co-ordination between the Central Bank and the Inspectorate of Taxes for the purposes of the newly introduced co-operative supervision of Trust and Company Service Providers that the Central Bank undertakes.

191. Furthermore, the team has one EOI Co-ordinator, a two member EOI Quality team and one Tax Inspector at the Inspectorate of Taxes. At the SBAB (the Tax Audit Department), the EOI Team comprises one manager, one co-ordinator and varying number of tax auditors depending upon the amount of EOI requests. Curaçao has provided regular trainings to the staff involved in EOI work. This staffing appears to be appropriate to the volume of requests sent and received, i.e. 45 per year on average.

192. EOI Requests are received by the Competent Authority, usually the Director of Fiscal Affairs. The request is forwarded to the EOI Quality Team, which after preliminary checks for foreseeable relevance, forwards the request to the Inspectorate of Taxes for seeking information. The requests

are recorded in an Excel Mastersheet at the Directorate of Fiscal Affairs and are monitored for timeliness and status updates by the EOI Co-ordinator and the EOI Quality Team. If the information is available with the Inspectorate of Taxes from taxpayer files, the information is provided. Otherwise, the Inspectorate forwards the request to the SBAB (the Tax Audit Department) requesting the Tax Audit team to start an audit in the case to retrieve the requested information. In all movements of the file, confidentiality measures are strictly followed and only authorised personnel are allowed to be in physical possession of any files and are solely responsible for the confidentiality of the information.

193. For outgoing requests, the method of processing the requests as described in the 2017 Report is still applicable but is now documented in the EOI manual, as encouraged in the 2017 Report. During the period under review, Curaçao sent three requests for information from its treaty partners. No clarifications were sought from Curaçao and peers have informed that the requests met the foreseeable relevance standard.

194. Thus, since the 2017 Report, Curaçao has increased the deployment of personnel and resources to the EOI work. Further, Curaçao has put in place a mechanism to monitor the timeliness of responding to EOI requests. Since 2018, efforts have been made to ensure that status updates are provided in a systematic fashion. Curaçao has also updated its EOI manual putting in place a detailed mechanism for outgoing requests.

195. However, the present report notes some mistakes made by the competent authority of Curaçao in the handling of a few requests, which suggest that while the authorities have generally a much better understanding and handling of the requests compared to the previous period, there is still room for further improvement and further training is required on the international standard. It is recommended that Curaçao provides further regular training to all staff involved in EOI work. Curaçao has informed that trainings are being planned for 2019 and 2020. Further, the EOI manual will be updated as and when necessary.

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

196. There are no factors or issues identified outside of the sections above, that could unreasonably, disproportionately or unduly restrict effective EOI in Curaçao.

Annex 1: List of in-text recommendations

Issues may have arisen that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, there may be a concern that the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, such recommendations should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be mentioned in the text of the report. However, in order to ensure that the Global Forum does not lose sight of these "in text" recommendations, they should be listed in an annex to the EOIR report for ease of reference.

- **Element A.1.1**: Curaçao is recommended that the Chamber of Commerce continues its programme of striking-off international (offshore) entities that do not have a local director in Curaçao. In general, the Chamber of Commerce must continue its monitoring of all non-compliant entities and keeping the Trade Register clean and up to date.
- **Element A.1.1**: It is recommended that Curaçao monitors the implementation of the action plan by notaries, accountants and lawyers.
- **Element A.1.2**: The supervision and oversight activities carried out by the Central Bank as from 2015 on trust service providers' compliance with the immobilisation of bearer shares ensure that the information on all holders of bearer shares is available in all cases. The Central Bank is recommended to continue its monitoring activities on the immobilisation of bearer shares within the framework of its regular oversight programme of TCSPs.
- **Element A.1.5**: Regardless of the tax filing obligations on foundations and private foundations, Tax Authorities should monitor the compliance with the requirements of keeping legal and beneficial ownership information by such entities
- **Element A.3**: It is recommended that Curaçao ensure that while applying the definition of beneficial owners for trusts as per National Ordinance on Identification of Clients when Rendering Services, banks and financial institutions refer to the clarification provided in the National Ordinance on General National Taxation definition.

- **Element B.1**: Curaçao suitably clarifies its stand on how EOI requests pertaining to criminal tax matters will be dealt with, to ensure that foreign criminal investigations do not act as a bar on the access powers of the Curaçaon Competent Authority
- **Element B.1**: Curaçao should continue monitoring the streamlined procedure as updated in the EOI manual to ensure that the procedure is adhered to for effective and timely exchange of information in practice
- **Element B.1**: Curaçao is recommended to extend all co-operation to the Netherlands Tax Authorities to arrive at a mutually acceptable solution for the cases that are pending due to legal proceedings pending in the Netherlands and the applicability of the unified judicial system in the Kingdom of the Netherlands.
- **Element C.1.8**: The previous recommendation made in the 2017 Report, under which Curaçao is recommended to work expeditiously to ensure the entry into force of the agreements with the BVIs and with Malta, remains relevant and is retained. It is, however, noted that Curaçao has an EOI relationship with both jurisdictions under the Multilateral Convention.
- **Element C.2**: Curaçao is recommended to continue to conclude EOI agreements with any new relevant partner who would so require.
- **Element C.5**: Although Curaçao has done markedly better from the previous peer review period, Curaçao should continue its progress to further improve the EOI processes and ensure that the timeliness of providing responses to requests continues improving

Annex 2: List of Curaçao's EOI mechanisms

1. Bilateral international agreements for the exchange of information

	EOI Partner	Type of agreement	Signature	Entry into force
1	Antigua and Barbuda	TIEA	29-Oct-2009	5-Dec-2013
2	Argentina	TIEA	14-May-2014	08-Jan-2016
3	Australia	TIEA	1-Mar-2007	10-Oct-2010 (4-Apr-2008)
4	Bermuda	TIEA	28-Sep-2009	24-Mar-2015
5	British Virgin Islands	TIEA	11-Sep-2009	Not yet in force
6	Canada	TIEA	29-Aug-2009	1-Jan-2011
7	Cayman Islands	TIEA	29-Oct-2009	1-Dec-2017
8	Denmark	TIEA	10-Sep-2009	1-Jun-2011
9	Faroe Islands	TIEA	10-Sep-2009	1-Jul-2011
10	Finland	TIEA	10-Sep-2009	1-Jun-2011
11	France	TIEA	10-Sep-2010	1-Aug-2012
12	Greenland	TIEA	10-Sep-2009	1-May-2012
13	Iceland	TIEA	10-Sep-2009	1-Jan-2012
14	Malta	DTC	18-Nov-2015	Not yet in force
15	Mexico	TIEA	1-Sep-2009	4-Feb-2011
16	Netherlands	BRK	28-Oct-1964	1-Jan-1965
17	New Zealand	TIEA	1-Mar-2007	10-Oct-2010 (2-Oct-2008)
18	Norway	DTA	13-Nov-1989	10-Oct-2010 (17-Dec-1990)
		Protocol	10-Sep-2009	1-Sep-2011
19	Saint Kitts and Nevis	TIEA	11-Sep-2009	6-Nov-2014
20	Saint Lucia	TIEA	29-Oct-2009	1-Oct-2013

	EOI Partner	Type of agreement	Signature	Entry into force
21	Saint Vincent and the Grenadines	TIEA	28-Sep-2009	31-Jul-2013
22	Spain	TIEA	10-Jun-2008	10-Oct-2010 (27-Jan-2010)
23	Sweden	TIEA	10-Sep-2009	20-Apr-2011
24	United Kingdom	TIEA	10-Sep-2010	1-May-2013
25	United States	TIEA	17-Apr-2002	10-Oct-2010 (22-Mar-2007)

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).[16] 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.

The Multilateral Convention with the amended protocol was extended to Curaçao by the Kingdom of the Netherlands and entered into force on 01 September 2013 in Curaçao. Curaçao can exchange information with all other Parties to the Multilateral Convention, except other members of the Kingdom, i.e. Aruba, Sint Maarten and the Netherlands. Curaçao can exchange information with the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados,

16. 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.

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, Cyprus,[17] 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) (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) (extension by China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the United Kingdom), Nauru, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Peru, Poland, Portugal, Romania, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by, or its territorial application extended to, the following jurisdictions, where it is not yet in force: Armenia, Burkina Faso, Dominican Republic (entry into force 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), United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

17. 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.

3. Other relevant multilateral instruments

In the case of Curaçao, the other relevant multilateral instruments with respect to EOI are as follows:

- Tax Arrangement of the Kingdom of the Netherlands (*Belastingregeling voor het Koninkrisjk*, BRK) of 28 October 1964 (in force as of 1 January 1965), which is a multilateral agreement concluded among the former parts of the Kingdom – the Netherlands, Aruba, Curaçao and Sint Maarten (i.e. the former Netherlands Antilles) – for the avoidance of double taxation and the prevention of fiscal evasion. Under articles 37 and 38, it includes an EOI provision which generally follows the old wording of Article 26 of the OECD Model Tax Convention, i.e. before the inclusion of paragraphs 4 and 5 in the 2005 update.
- As of 1 January 2016, a new instrument called the BRNC (*Belastingregeling* Nederland Curaçao) came into force, covering two jurisdictions being the Netherlands and Curaçao. It is a bilateral tax arrangement for the avoidance of double taxation between the Netherlands and Curaçao, which includes an EOI clause in line with the international standard.
- EU Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments. This Directive aims at ensuring: (i) that savings income in the form of interest payments in favour of individual or residual entities being resident of an EU Member to State are effectively taxed in accordance with the fiscal laws of their state of residence; and (ii) that information is exchanged with respect to such payments. Since 2005, Curaçao has agreed to implement measures equivalent to these contained in this Directive via reciprocal bilateral agreements signed with each EU Member State (National Ordinance on Tax on Income and Savings [P.B. 2006, no. 50]). This now has been superseded by the CRS.

Annex 3: Methodology for the review

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

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 6 August 2019 for the 2019 Report, Curaçao's EOIR practice in respect of EOI requests made and received during the period from 1 July 2016 to 30 September 2018, Curaçao's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Curaçao's authorities during the on-site visit that took place from 6-10 May 2019 in Curaçao.

List of laws, regulations and other materials received

National Ordinance of General National Taxes

National Ordinance on Identification of Clients when rendering services

National Ordinance on International Assistance for the Collection of Taxes

Other laws received at the time of the 2017 Report and reported in Annex 3 of the 2017 Report were also available

Authorities interviewed during on-site visit

Directorate of Fiscal Affairs

Central Bank of Curaçao and Sint Maarten

Chamber of Commerce

SBAB

Inspectorate of Taxes, Curaçao

Financial Intelligence Unit

Representatives from the Chartered Accountants Association

Representatives from the Lawyers Association

Representatives of Trust or Company Service Providers Body

Representatives from the Curaçao Banking Association

Current and previous reviews

This report is the fourth review of Curaçao conducted by the Global Forum. Curaçao previously underwent a review of its legal and regulatory framework (Phase 1) originally in 2010 and a supplementary review (Phase 1) in 2011 and the implementation of that framework in practice (Phase 2) in 2013. The 2013 Report containing the conclusions of the first review was first published in November 2013 (reflecting the legal and regulatory framework in place as of May 2013).

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.

In 2017, the second round of review under the 2016 ToR was carried out in the case of Curaçao. Curaçao was rated overall Partially Compliant with the EOIR Standard. Several recommendations to improve the legal and regulatory framework as well as EOIR in practice were made in the 2017 Report.

Curaçao took certain measures to address the recommendations made in the Report and requested for a supplementary peer review report, as set forth in the 2016 Methodology.

Curaçao's request for a supplementary review was considered and approved by the Peer Review Group during its 30th meeting in September 2018. The current supplementary review has been conducted as a consequence of this decision.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of (date)	Date of adoption by Global Forum
Round 1 Phase 1	Major Fabio Seragusa (Italy), Mr Marvin Gaerty (Malta), Ms Renata Fontana (Global Forum Secretariat)	n.a.	May 2011	September 2011
Round 1 Phase 2 report	Lt. Col. Fabio Seragusa (Italy), Mr Aldo Farrugia (Malta), Mr Andrew Auerbach and Ms Audrey Chua (Global Forum Secretariat)	1 January 2011 to 31 December 2013	December 2014	March 2015
Round 2 initial report	Mr Philip Jude Mensah (Ghana), Mr Michael Urwyler (Switzerland), Ms Séverine Baranger (Global Forum Secretariat)	1 January 2014 to 30 June 2016[18]	August 2017	November 2017
Round 2 supplementary report	Mr Philip Jude Mensah (Ghana), Mr Garry-Philippe Obertin (Switzerland) and Mr Puneet Gulati (Global Forum Secretariat)	1 July 2016 to 30 September 2018[19]	August 2019	November 2019

18. Curaçao requested that its Round 2 EOIR review be accelerated. As a result, the peer review period should have been from 1 July 2013 until 30 June 2016. However, since the period of 1 July until 31 December 2013 overlapped with the assessment period under the 2015 Report, and considering that this period should not be assessed twice, the peer review period for the purposes of the 2017 Report has been reduced to a two and a half period, starting on 1 January 2014.

19. The peer review period would ordinarily have been three years, from 1 October 2015 to 30 September 2018. However, since the period 1 October 2015 to 30 June 2016 has already been covered under the 2017 Report, the peer review period for the purposes of the Supplementary Report has been taken as 1 July 2016 to 30 September 2018.

Annex 4: Curaçao's response to the Supplementary Review report[20]

Curaçao wants to start off by thanking the Assessment Team of the Peer Review Group of the Global Forum for the cooperation culminating in this Supplementary Review report.

Furthermore Curaçao reiterates its commitment to further implement the new Ultimate Beneficial Ownership definition and its accompanying monitoring and oversight mechanism whereby cooperation between the Central Bank of Curaçao and Sint Maarten and the Curaçaoan Tax Administration form the bedrock.

Equally important to mention is Curaçao's intention to implement a register that encompasses the Ultimate Beneficial Ownership information of all entities within the jurisdiction of Curaçao.

Additionally Curaçao will invest in training of the EOIR staff, focusing on the element of foreseeable relevance, in order to improve its performance on accurately interpreting the foreseeable relevance to improve its EOIR responses to Curaçao's treaty partners.

To conclude, Curaçao is also looking to improve on its communication with its respective treaty partners to further enhance the EOIR process and consequently the satisfaction of our treaty partners.

In light of the above Curaçao underscores its commitment made in the Global Forum to transparency on tax matters and agrees with the Largely Compliant rating of Curaçao's report underscoring its commitment in practice.

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

For more information
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