

GLOBAL FORUM ON
**TRANSPARENCY AND EXCHANGE OF
INFORMATION FOR TAX PURPOSES**



Peer Review Report on the Exchange of Information
on Request

BRUNEI DARUSSALAM

2020 (Second Round)

Global Forum on Transparency and Exchange of Information for Tax Purposes: Brunei Darussalam 2020 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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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

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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 160 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 ToR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015.
AMBD	Autoriti Monetari Brunei Darussalam
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BND	Brunei Darussalam Dollar
BO	Beneficial Owner/Ownership
Collector	Collector of Income Tax/Head of Tax Authority
CARO	Criminal Asset Recovery Order 2012
CDD	Customer Due Diligence
CSP	Company Service Provider
DNFBP	Designated Non-Financial Businesses or Profession
DTC	Double Tax Convention
EOIR	Exchange Of Information on Request
FIU	Financial Intelligence Unit
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IBC	International Business Company
IBCO	International Business Company Order

ILP	International Limited Partnership
ILPO	International Limited Partnership Order
ITA	Income Tax Act
ITO	International Trusts Order, 2000
LLP	Limited Liability Partnership
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NRA	National Risk Assessment
RIBC	Registry of International Business Companies
ROCBN	Register of Companies and Business Names
TCSP	Trust and Company Service Provider
TIEA	Tax Information Exchange Agreement

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Brunei Darussalam on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 20 December 2019 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of EOI requests received and sent during the review period from 1 July 2015 to 30 June 2018. This report concludes that Brunei Darussalam continues to be rated overall **Largely Compliant** with the international standard. In 2016 the Global Forum evaluated Brunei Darussalam in a review against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice. That report of that evaluation (the 2016 Report) concluded that Jurisdiction Brunei Darussalam was rated Largely Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2016)	Second Round EOIR Report (2020)
A.1 Availability of ownership and identity information	LC	PC
A.2 Availability of accounting information	LC	LC
A.3 Availability of banking information	C	PC
B.1 Access to information	LC	C
B.2 Rights and Safeguards	C	C
C.1 EOIR Mechanisms	C	C
C.2 Network of EOIR Mechanisms	LC	C
C.3 Confidentiality	C	C
C.4 Rights and safeguards	C	C
C.5 Quality and timeliness of responses	LC	LC
OVERALL RATING	LC	LC

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

Progress made since previous review

2. Since the 2016 Report, Brunei Darussalam continues to perform overall well.
3. Brunei Darussalam made progress concerning the 2016 Report recommendations in respect of removing obstacles to access powers and improving its network of exchange of information relationships, and showed successful practice of EOIR.
4. Challenges remain, in particular concerning beneficial ownership information.

Key recommendation(s)

5. Brunei Darussalam is recommended to improve the legal framework and supervision to ensure availability of beneficial ownership information for all companies, partnerships, trusts and foundations having a nexus in Brunei Darussalam. There is also scope for improvement of supervision to ensure the availability of accounting records and underlying documents and Brunei Darussalam is recommended to strengthen the supervisory framework in this respect.
6. In particular, Brunei Darussalam is recommended to improve the legal framework to ensure that ownership and accounting information is available in respect of ceased/struck-off/liquidated entities.
7. While Brunei Darussalam received very few requests (four) in the review period and answered them successfully, the practice is not sufficient to conclude that it is effective. Brunei Darussalam is recommended to monitor the organisational processes to ensure that responses are provided in a timely manner in all cases.

Overall rating

8. Brunei Darussalam has made significant improvements in the areas of network of EOI relationships and access powers. However, changes in its legal framework are required to comply with the standard as strengthened in 2016 in respect of beneficial ownership information. In terms of EOI practice, the four requests received in the review period do not amount to experience sufficient to fully assess the effectiveness of Brunei Darussalam's practice of EOIR. On balance, Brunei Darussalam is rated overall Largely Compliant with the standard of transparency and exchange of information on request.

9. This report was approved at the Peer Review Group of the Global Forum on 25 February 2020 and was adopted by the Global Forum on 27 March 2020. A follow-up report on the steps undertaken by Brunei Darussalam to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2021 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
The legal and regulatory framework is in place but needs improvement	There are no legal requirements for legal or beneficial ownership information to be retained in the case of companies that cease to exist (both voluntarily winding-up and by strike-off) unless they engaged an AML-obliged service provider. Further, in respect of the recently wound-up IBCs, in view of the closure of the offices of their registered agents, there is no person or authority in Brunei Darussalam in possession or control of their beneficial ownership information.	Brunei Darussalam should ensure retention of legal and beneficial ownership information of all Brunei Darussalam's companies and IBCs that ceased to exist for at least five years.
	The anti-money laundering framework (CARO) is the only source of beneficial ownership of domestic and foreign companies in Brunei Darussalam. However, there is no legal requirement to ensure that all domestic companies necessarily engage an AML-obliged service provider, thus beneficial ownership information may not be available for all domestic companies.	Brunei Darussalam is recommended to ensure that the beneficial ownership information is available for all domestic companies.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
<p>The legal and regulatory framework is in place but needs improvement <i>(continued)</i></p>	<p>There is no applicable definition of beneficial owner or guidance in respect of partnerships that may have domestic or foreign corporate partners. Further, it is not mandatory for partnerships to engage an AML-obliged service provider in law or in practice.</p>	<p>Brunei Darussalam is recommended to ensure that beneficial ownership information of partnerships is determined in line with the standards and is available in respect of all partnerships in Brunei Darussalam.</p>
	<p>There is no clear guidance to be followed for identifying all beneficial owners of a trust, and specifically in case the settlor(s)/trustee(s)/beneficiaries are not natural persons. Further, it is not mandatory for trusts having a nexus to Brunei to engage an AML-obliged service provider in law or in practice.</p>	<p>Brunei Darussalam is recommended to ensure the availability of beneficial ownership information in line with the standard in respect of all trusts having nexus to Brunei Darussalam.</p>
<p>Partially Compliant</p>	<p>During the review period, there were no adequate supervisory measures taken by the Register of Companies and Business Names or by the tax administration to ensure the availability and accuracy of legal ownership information, neither were any statistics available on the compliance rate of annual filings with the Register. Moreover, there is a substantial gap between the average number of companies annually filing returns with the tax administration on the one hand, and those registered with the Register of Companies and Business Names on the other hand.</p>	<p>Brunei Darussalam is recommended to ensure the design and implementation of an appropriate supervisory programme to ensure the availability of legal ownership information of all companies (domestic as well as foreign) in Brunei Darussalam.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	<p>The availability of beneficial ownership information in Brunei Darussalam is contingent upon effective implementation of the anti-money laundering obligations. While an onsite methodology exists and offsite methodology is currently being developed, there were no onsite visits conducted in respect of non-financial AML-obliged persons in the review period. Further, guidance to explain the provisions of anti-money laundering law (CARO) was issued in July 2019. According to the FIU, violations to the guidance could lead to sanctions, but this remains to be tested in practice.</p>	<p>Brunei Darussalam should ensure adequate supervision of the AML-obliged parties to ensure the availability of accurate and up to date beneficial ownership information for all relevant entities and arrangements.</p>
<p>Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)</p>		
<p>The legal and regulatory framework is in place but needs improvement</p>	<p>There are no legal requirements for accounting records to be maintained in the case of companies that cease to exist or are stricken off (both voluntarily and by court procedure) either in the Companies Act on the Income Tax Act or the Record Keeping (Business) Order.</p>	<p>Brunei Darussalam is recommended to ensure that accounting records of liquidated, dissolved or struck-off companies are retained for at least five years.</p>
	<p>Section 5 (Duty to keep and maintain records) of the Record Keeping (Business) Order does not cover the situations where a person carrying on business in Brunei Darussalam does not reside or have a representative there at all times.</p>	<p>Brunei Darussalam is recommended to ensure that there is always a person in Brunei Darussalam in possession or control of the accounting information.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Largely Compliant	With an average filing rate of 39% in the review period, there is scope for improving the tax return filing. Further, there is scope for expanding and deepening the coverage of monitoring by the Accounting Unit which supervises the Record Keeping (Business) Order.	Brunei Darussalam is recommended to strengthen the supervisory framework and its implementation to ensure the availability of reliable accounting records in Brunei Darussalam
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
The legal and regulatory framework is in place but needs improvement	There is no applicable definition or guidance on “beneficial owner” for partnerships that may have domestic or foreign corporate partners, where the partnership has a bank account in Brunei Darussalam. Similarly there is no applicable definition and guidance in respect of foundations that may come from foreign jurisdictions and open accounts in Brunei Darussalam to identify their beneficial owners in line with the standard.	Brunei Darussalam is recommended to ensure that beneficial ownership information is determined in line with the standards in respect of all partnerships and foreign foundations having a bank account in Brunei Darussalam.
	There is no clear guidance to be followed for identifying all beneficial owners of a trust, and specifically in cases where the settlor(s)/trustee(s)/beneficiaries are not natural persons.	Brunei Darussalam is recommended to ensure the availability of beneficial ownership information in line with the standards in respect of domestic and foreign trusts having bank accounts in Brunei Darussalam.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Partially Compliant	There is scope for improvement in the inspection of banks to ensure the availability of accurate and up to date beneficial ownership information of customers. In the review period, onsite visits by the Financial Intelligence Unit covered very few banks in Brunei Darussalam (only two local banks out of ten banks were visited in three years). Further, guidance to explain the provisions of anti-money laundering law (CARO) was issued in July 2019. According to the FIU, violations to the guidance could lead to sanctions, but this remains to be tested in practice.	Brunei Darussalam is recommended to strengthen its supervision of banks to ensure that accurate and up to date beneficial ownership information for all customers is maintained by all the banks in Brunei Darussalam.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
The legal and regulatory framework is in place		
Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
The legal and regulatory framework is in place		
Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place		
Compliant		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework is in place		
Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework is in place		
Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place		
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
Largely Compliant	With only four requests received in the review period, there is insufficient experience with the implementation of the element C.5 in practice to support a finding that EOIR is effective in practice. Further, in the review period, in two out of four requests which were not complex, Brunei Darussalam took longer than 90 days to provide the response and no status updates were sent in the interim.	Brunei Darussalam is recommended to monitor the organisational processes to ensure that responses are provided in a timely manner in all cases and status updates are provided in all cases where the response time is longer than 90 days.

Overview of Brunei Darussalam

10. This overview provides some basic information about Brunei Darussalam that serves as context for understanding the analysis in the main body of the report.

Legal system

11. Brunei Darussalam’s governance is based on the country’s written Constitution and the tradition of the Malay Islamic Monarchy. The Sultan of Brunei Darussalam, His Majesty Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu’izzaddin Waddaulah, is both head of State and head of government. The Sultan is assisted and advised by five councils whose members are all appointed by the Sultan, including the 16-member Council of Cabinet Ministers. The Sultan presides over the Cabinet as Prime Minister and also serves as Minister of Defence, as one among the two Ministers of Finance and Economy and Minister of Foreign Affairs. A Legislative Council with 29 appointed members was reactivated in September 2004, after a 20-year suspension,¹ to play an advisory role for the Sultan. A Religious Council and a Privy Council, whose members are appointed by the Sultan, deal with religious and constitutional matters respectively.

12. Brunei Darussalam’s legal system is based on common law and statutes. There is a single national law, and no sub-national powers. The judiciary comprises the Magistrates’ Courts, the High Court, the Intermediate Court and the Court of Appeals. For criminal cases the final appellate court is the Court of Appeal. Final appeal can, on agreement of both parties, be made to the Judicial Committee of the Privy Council in London in civil cases. When necessary, the common law of England and the doctrines of equity, together with statutes of general application, can be applied to fill in lacunae in Brunei Darussalam’s civil and commercial laws (s. 2 Application of Laws Act). All these courts are competent to handle tax cases. Brunei Darussalam

1. Formerly a protectorate state, Brunei Darussalam gained independence from the United Kingdom in 1984.

also has a separate system of Islamic courts that apply Shariah law in family and other matters involving Muslims.

13. Laws are generally passed by the Executive Branch as Orders pursuant to Art. 83(3) of the Constitution. Once approved by the Sultan, such orders are published on the Government Gazette and enter into force on the day the Sultan signs the Orders, unless provided otherwise. Each year, gazetted orders are converted into acts when the Attorney General publishes a revised edition of the new law to be included in the Laws of Brunei Darussalam (s. 3 Law Revision Act). Pursuant to the Interpretation and General Clauses Act 2001, rules, regulations, orders, proclamations or other documents that have the force of law and are annexed to their relevant parent acts are considered subsidiary legislation (s. 3). The power to make subsidiary legislation is regulated under s. 13 and s. 15 of the Interpretation and General Clauses Act. Subsidiary legislation is published in the Government Gazette (s. 16).

14. Sector-specific statutes provide supervisory authorities with wide powers to issue enforceable notices on licensed institutions. The notices issued under statutory enabling powers have the status of subordinate/secondary legislation and are legally binding.

15. Double taxation conventions (DTCs) are ratified upon issuance of an order by the Minister of Finance and Economy with the approval of the Sultan declaring that they should have effect notwithstanding anything in any written law (s. 41 Income Tax Act; ITA). This means that agreements are ratified through subsidiary legislation issued under the ITA and have the force of law. The DTC is ratified the day on which it is published in the Government Gazette as an attachment to the Sultan's order. The ratification order is made by the Sultan "in Council" (which means the Sultan acting after consultation with the Council of Ministers, but not necessarily in accordance with the advice of that Council, nor necessarily in that Council assembled). The draft ratification order is prepared by the Attorney General's Chambers. Brunei Darussalam have also concluded taxation information exchange agreements (TIEAs). For Brunei Darussalam the process to ratify TIEAs is similar to the process to ratify DTCs. The same applies to the Multilateral Convention.

Tax system

16. The tax administration agency is the Revenue Division of Brunei Darussalam's Ministry of Finance and Economy. All companies registered under the Companies Act in Brunei Darussalam are subject to tax. Their tax identification number is the same as their business registration number.

17. The ITA is the main piece of legislation governing taxation in Brunei Darussalam. Although the act provides for the taxation of all income derived by companies in Brunei Darussalam, income derived by individuals, partnerships and other entities or bodies of persons is in practice exempted from tax (First Schedule (1)(a)). Companies established according to the legislation on Brunei Darussalam International Financial Centre are also not subject to tax. Companies incorporated in Brunei Darussalam but having their control and management overseas will not be tax residents in Brunei Darussalam.

18. As a consequence, income tax is chargeable only to resident and non-resident companies. A company is resident in Brunei Darussalam if the management and control of its business is exercised in Brunei Darussalam. The place of incorporation is not relevant for the purpose of determining the company's tax residence. Income tax is charged on a territorial basis with a flat rate. The business income of non-resident companies is subject to tax if derived through a permanent establishment in Brunei Darussalam. The current corporate-tax rate is 18.5%. In addition, tax thresholds were introduced in 2008 to reduce tax burden of small and medium enterprises. Dividend income received from a company from the income which has already been taxed in Brunei Darussalam in the hands of the distributing company is exempt. Interest payments to non-residents are subject to a withholding tax of 2.5% since 2017. Withholding taxes are levied at a 10% rate on royalties paid to non-residents, and on payments for technical services, management or assistance fees and remunerations to non-resident directors. No withholding tax is levied on outbound dividends. Special rules apply to small and medium size enterprises² as well as to newly incorporated companies. Stamp duty is levied on a number of instruments, including mortgages, transfers of ownership and tenancy agreements.

19. Companies (resident and non-resident) engaged in the exploration and production of oil and gas in Brunei Darussalam are subject to a 55% petroleum profits tax on their dividends, under the Income Tax (Petroleum) Act. Income tax cannot be charged on income subject to petroleum tax (s. 45).

Financial services sector

20. The financial sector in Brunei Darussalam is dominated by the banking system which offers both Islamic and conventional banking services. Other financial service providers include insurance companies, finance

2. E.g. tax exemption for companies with gross sales or turnover that do not exceed BND 1 million (EUR 645 161), but they are still required to file annual tax returns.

companies, securities, mutual funds, money changing and remittance businesses. They are all licensed and supervised by the Autoriti Monetari Brunei Darussalam (AMBD) (s. 42 AMBD Order 2010).

21. Ordinary banks in Brunei Darussalam take deposits from the private sector and the Government and lend exclusively to the private sector. Islamic banking significantly accounts for financial sector assets and is regulated under the Islamic Banking Order 2008. Licensed finance companies are subsidiaries of banks and may only provide hire purchase and savings account products. As of June 2019, in Brunei Darussalam there were ten banks (five foreign branches, two local banks, one Islamic Trust Fund, one Small-Medium Enterprises Bank and one bank with restricted banking licence). The licensed banks have an asset base of BND 18 billion (EUR 12.06 billion) at the end of Q1 2019.

22. Rules applying to financial exchanges and persons providing advice in respect of managing or dealing in securities are contained in the Securities Markets Order 2013 (SMO). As a general rule, a licence is needed to carry on such business.

23. The provision of insurance services to persons resident in Brunei Darussalam is regulated under the Insurance Order 2006. The provision of insurance and takaful services³ to persons resident in Brunei Darussalam is regulated under the Insurance Order, 2006 and the Takaful Order, 2008.

Anti-money laundering framework and evaluation

24. The Asia Pacific Group on Money Laundering⁴ last published a Mutual Evaluation Report for Brunei Darussalam in 2010. The report rated R.33 (beneficial ownership of legal persons) and R.34 (beneficial ownership of legal arrangements) as partially compliant and noted the absence of beneficial ownership information. However the follow-up report of 2012 notes that with the implementation of CARO these concerns are largely addressed.

3. Takaful means an Islamic insurance where members pool in money to co-operate and guarantee each other against loss or damage.

4. The Asia Pacific Group on Money Laundering evaluates jurisdictions for compliance with anti-money laundering and combating the financing of terrorism (AML/CFT) standards. Its reviews are based on a country's compliance with 40 technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

Recent developments

25. Since the 2016 Report, the procedure to obtain an order of the High Court to seek access to banking information (s. 86J of the ITA), to overcome the secrecy provisions in Banking Order, Islamic Banking Order and International Banks Order, was repealed in 2017 and the new procedure introduced in section 55D of ITA allows the Collector to request protected information from banks without going through the High Court (see Section B.1 below).

26. Brunei Darussalam is committed to automatic exchange of financial account information (AEOI) however no exchanges could take place owing to lack of international legal framework during the review period. Brunei Darussalam will also exchange country by country reports from 2020. Brunei Darussalam signed the Multilateral Competent Authority Agreement for AEOI based on the Common Reporting Standards, on 12 December 2019.

Repeal of the regime of international business

27. Brunei Darussalam has in mid-2016 decided that the Registry of International Business Companies (RIBC) operations would be wound down and a notice⁵ to that effect was issued in May 2016 to all stakeholders. As such, all IBCs, including the Registered Agents, were advised to either migrate or wind-up by June 2018. As at August 2019, 12 027 IBCs have been struck-off, 1 486 have migrated to other jurisdictions and 19 have been wound-up. Further, licences have been suspended and existing licensees have surrendered their licences. In addition, the process for repealing the International Banking Order, 2000, International Insurance and Takaful Order, 2001 and Registered Agents and Trustees Licensing Order 2000 has commenced, while the Mutual Fund Order 2001 and the Securities Order 2001 (which governed International Funds and their managers) have been repealed. Services related to International Business Companies and ancillary services are now suspended and there are no licensees/registrations under those Orders.

28. In effect, the IBC regime of Brunei Darussalam is now non-existent and is not likely to pose any risk to tax transparency standards. Please see discussion in paragraph 56 for more details.

5. Notice No. RIBC/N-1/2016(1) titled “Suspension of Services” issued on 23 May 2016 by the Managing Director of AMBD.

Part A: Availability of information

29. 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.

30. The 2016 Report found that legal ownership information in respect of all relevant legal entities and legal arrangements was in place in Brunei Darussalam, in line with the standard. However, it was recommended to monitor the implementation in practice of the then recently introduced legal requirements to ensure availability of ownership information of international business companies (IBCs). Brunei Darussalam was rated as Largely Compliant with the standard on Element A.1.

31. Brunei Darussalam has in mid-2016, decided to wind down the operations of the Registry of International Business Companies (RIBC) and a notice to that effect was issued in May 2016 to all stakeholders. As such, all IBCs, including the Registered Agents, were advised to either migrate or wind-up by June 2018. In effect the IBC/International Trusts/International Limited Partnerships regime of Brunei Darussalam is practically non-existent (except for the 11 government-linked IBCs) and is not likely to pose any risk to tax transparency standards. Accordingly, the previous recommendation to monitor the implementation in practice of the then recently introduced legal requirements to ensure availability of ownership information of IBCs is deleted. In addition, this report does not discuss and analyse the legal provisions in respect of IBCs which were adequately covered in the 2016 Report (see paras 74-81, 96-106 and 113-116).

32. Legal ownership information continues to be available with the companies and with the Registrar of Companies for companies and partnerships. Brunei Darussalam's legal framework does not allow for creation of

foundations. The availability of ownership information for trusts is derived from the anti-money laundering framework (CARO).

33. The standard was strengthened in 2016 and now requires that information on the beneficial ownership of entities and arrangements be available. In Brunei Darussalam, this aspect of the standard is met through CDD requirements under the anti-money laundering framework (ss. 5 and 6 of CARO). A recent guidance⁶ issued in July 2019, explains the procedures to identify the natural persons for legal entities and legal arrangements as mandated by CARO, and is expected to aid in the availability of accurate beneficial ownership information.

34. However, there is no legal requirement for any entity or arrangement to necessarily engage an AML-obliged service provider, thereby not ensuring the availability of beneficial ownership information of all relevant entities and arrangements at all times. Brunei Darussalam is recommended to close this gap. Further, the supervisory measures to ensure the availability of legal as well as beneficial ownership information needs improvement and in view of the recently issued guidance to CARO which needs to be tested in practice, Brunei Darussalam is recommended to strengthen the supervision to ensure availability of up to date and accurate ownership information at all times. The guidance in respect of identifying all the natural persons who are beneficial owners of trusts having a nexus with Brunei Darussalam is not in line with the standards (ToR A.1.4) and Brunei Darussalam is recommended to amend the legal and regulatory framework accordingly. Further, Brunei Darussalam should ensure retention of legal and beneficial ownership information of all Brunei Darussalam's companies and IBCs that ceased to exist for at least five years.

35. During the current peer review period Brunei Darussalam received and responded to four requests in all, two of which sought ownership information, out of which one was related to a domestic company whereas the other sought information related to an IBC. The peer was satisfied with the information received. During the review period, Brunei Darussalam was never expressly asked to provide beneficial ownership information.

36. The table of recommendations, determination and rating is as follows:⁷

6. [https://www.ambd.gov.bn/SiteAssets/financial-intelligence-unit/General%20Guidance%2011July2019%20\(FINAL\).pdf](https://www.ambd.gov.bn/SiteAssets/financial-intelligence-unit/General%20Guidance%2011July2019%20(FINAL).pdf).

7. The tables of determinations and ratings shown in this report display changes made compared to the previous published report. On publication, the box will display as a clean version.

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	There are no legal requirements for legal or beneficial ownership information to be retained in the case of companies that cease to exist (both voluntarily winding-up and by strike-off) unless they engaged an AML-obliged service provider. Further, in respect of the recently wound-up IBCs, in view of the closure of the offices of their registered agents, there is no person or authority in Brunei Darussalam in possession or control of their beneficial ownership information.	Brunei Darussalam should ensure retention of legal and beneficial ownership information of all Brunei Darussalam's companies and IBCs that ceased to exist for at least five years.
	The anti-money laundering framework (CARO) is the only source of beneficial ownership of domestic and foreign companies in Brunei Darussalam. However, there is no legal requirement to ensure that all domestic companies necessarily engage an AML-obliged service provider, thus beneficial ownership information may not be available for all domestic companies.	Brunei Darussalam is recommended to ensure that the beneficial ownership information is available for all domestic companies.
	There is no applicable definition of beneficial owner or guidance in respect of partnerships that may have domestic or foreign corporate partners. Further, it is not mandatory for partnerships to engage an AML-obliged service provider in law or in practice.	Brunei Darussalam is recommended to ensure that beneficial ownership information of partnerships is determined in line with the standards and is available in respect of all partnerships in Brunei Darussalam.
	There is no clear guidance to be followed for identifying all beneficial owners of a trust, and specifically in case the settlor(s)/trustee(s)/beneficiaries are not natural persons. Further, it is not mandatory for trusts having a nexus to Brunei to engage an AML-obliged service provider in law or in practice.	Brunei Darussalam is recommended to ensure the availability of beneficial ownership information in line with the standard in respect of all trusts having nexus to Brunei Darussalam.
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
	<p>During the review period, there were no adequate supervisory measures taken by the Register of Companies and Business Names or by the tax administration to ensure the availability and accuracy of legal ownership information, neither were any statistics available on the compliance rate of annual filings with the Register. Moreover, there is a substantial gap between the average number of companies annually filing returns with the tax administration on the one hand, and those registered with the Register of Companies and Business Names on the other hand.</p>	<p>Brunei Darussalam is recommended to ensure the design and implementation of an appropriate supervisory programme to ensure the availability of legal ownership information of all companies (domestic as well as foreign) in Brunei Darussalam.</p>
	<p>The availability of beneficial ownership information in Brunei Darussalam is contingent upon effective implementation of the anti-money laundering obligations. While an onsite methodology exists and offsite methodology is currently being developed, there were no onsite visits conducted in respect of non-financial AML-obliged persons in the review period. Further, guidance to explain the provisions of anti-money laundering law (CARO) was issued in July 2019. According to the FIU, violations to the guidance could lead to sanctions, but this remains to be tested in practice.</p>	<p>Brunei Darussalam should ensure adequate supervision of the AML-obliged parties to ensure the availability of accurate and up to date beneficial ownership information for all relevant entities and arrangements.</p>
Rating: Partially Compliant		

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

37. Jurisdictions should ensure that information is available to their competent authorities that identifies the owners of companies and any bodies corporate. Owners include legal owners and beneficial owners (including, in any case where a legal owner acts on behalf of any other person as a nominee or under a similar arrangement, that other person), as well as persons in an ownership chain. The legal framework and practice to ensure the same for various types of companies in Brunei Darussalam is analysed below.

Types of Companies

38. There are three types of relevant companies in Brunei Darussalam: (a) Private Limited Companies (b) Public Limited Companies (c) Branches of Foreign Companies (see 2016 Report, paras 68-95).

39. The Companies Act provides for the creation of Public/Private Limited Companies. A minimum membership of seven is required for a company to become public while the membership in private companies can range from two to fifty. While companies need to have their registered office in Brunei Darussalam, as a general rule, shareholders need not be Brunei Darussalam citizens or residents and a subsidiary company may hold shares in its parent company. All domestic companies need to ensure one of the two directors (who need not be natural persons) or, where there are more than two directors, at least two of them are ordinarily resident in Brunei Darussalam (s. 138 CA).

40. Foreign companies are required to register with ROCBN to be incorporated as a branch in Brunei Darussalam but are required to appoint at least two resident authorised persons (s. 299 CA). Foreign companies may also have nexus in Brunei Darussalam, if they become tax resident by virtue of control and management of business exercised in Brunei Darussalam (S.2 of ITA).

41. At the end of May 2019, there were 13 319 Private Limited Companies, 26 Public Limited Companies (financial institutions) and 32 branches of foreign companies.

Legal ownership and identity information requirements

42. The legal ownership and identity requirements for companies are mainly found in the Companies Act (see 2016 Report, paras. 85-97). The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies.

Legislation regulating legal ownership of companies

Type	Company Law	ITA	AML Law
Private Limited company	All	Some	Some
Public Limited Company	All	Some	Some
Foreign companies (branches)	All	Some	Some

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

Availability with Companies

43. The Companies Act 2016 (s. 95) provides that every company incorporated in Brunei Darussalam maintains a register of members with names and addresses and occupations (if any) along with the details of shares held by each member and the dates of becoming/ceasing to be a member. The Brunei Darussalam authorities clarified that, in the case of a legal person being a member, the details of its registration are also captured in the register of members as a matter of practice (see 2016 Report, paras 107-112).

Availability with Registrar

44. The Companies Act 2016 provides that every company incorporated in Brunei Darussalam, upon registration with ROCBN has to provide details of members and file annual returns with updated ownership information (s. 107, CA) with names, addresses or occupations as well as the number of shares held at the date of return. Ownership changes (transfers and new allotments) in the interim are also recorded during the year by notices provided to the ROCBN within 28 days of the change being recorded by the company in its register.

45. All companies must also disclose nominee shareholding in their annual return to the ROCBN (s. 65, CA) which requires all nominees to disclose the identity of each person for whom the shares are held.

46. The Brunei Darussalam authorities clarified that, in the case of a legal person being a member, the details of its registration are provided in the annual return to be submitted to the ROCBN. In case there is an incorrect submission, there is fine of BND 100 (EUR 56) for each day of default and also a potential prosecution and imprisonment for two years (s. 312 CA).

47. Foreign companies are required to register with ROCBN and are subjected to the same obligations as domestic companies to file annual returns to the ROCBN (s. 107 CA) including a list with identity information of their members and shareholders.

48. The ROCBN retains the legal ownership information in perpetuity.

49. Companies face penalties for failure to lodge the prescribed documents or returns with the ROCBN or to keep any of the prescribed registers. In case of failure to lodge the return of allotment, offenders (i.e. every director, manager, secretary, or other officer of the company who is knowingly a party to the default) are liable to a fine of BND 250 (EUR 142) for every day during which the default continues (s. 45(3) CA). For failure to lodge the annual return of members or shareholders, the company and every officer of the company who is in default is liable to a fine of BND 50 (EUR 28) for every day during which the default continues (s. 109(4) CA). The same default

fine applies where a company not having a share capital has increased the number of its members beyond the registered number and fails to give to the Registrar notice of the increase (s. 55 CA). Failure to pay fines or penalties imposed by a Court or magistrate under the Companies Act may result in the company being struck off the ROCBN and dissolved (s. 316 CA).

50. Foreign companies that operate in Brunei Darussalam without registering or that fail to comply with any of the obligations under the Companies Act face a fine of BND 1 000 (EUR 570) and, in case of a continuing offence, BND 25 (EUR 14) for every day during which the default continues (s. 306 CA).

51. During the review period, there were insufficient verification and supervisory measures by the ROCBN to ensure the availability and accuracy of legal ownership information. Further no statistics were available on the compliance rate of annual filings with the ROCBN. At the onsite interactions, ROCBN officials informed that a risk-based approach to determine the companies that are to be visited for onsite purposes and monitored is under preparation. Brunei Darussalam is recommended to ensure the design and implementation of an appropriate supervisory programme to ensure the availability of legal ownership information of all companies (domestic as well as foreign) in Brunei Darussalam.

Availability with Tax Authorities

52. The annual tax returns are a supplementary source for legal ownership information for those domestic and foreign companies that are not exempted by the Collector (s. 52(2) of ITA; see 201 Report, para 91).

53. The Tax Authorities, during their audits, may conduct onsite visits to verify the legal ownership information. However, the average number of companies annually filing returns with the Tax Administration (around 2 750 out of an average of 11 000 registered in the tax database) is far lower than those registered with ROCBN (13 345) and around 2% of the companies are subjected to audit. Therefore the supervision by the Tax Authority is not adequate to ensure the availability of accurate ownership information.

Legal ownership information of companies with AML-obliged service providers

54. The AML framework in Brunei Darussalam is legislated in the Criminal Asset Recovery Order 2012 (CARO). Section 6 of CARO mandates that all Designated Non-Financial Business Persons (DNFBPs) (defined in section 2 of CARO to include lawyers, accountants and TCSPs) are required to obtain such information as is necessary to understand the ownership and control of the legal person. At the onsite interactions, the Brunei Darussalam's authorities and private sector have confirmed that this

would in practice mean obtaining shareholder information of the customer and all the entities in the ownership chain including documents like shareholder agreements to understand the control structure of the legal person.

55. While there is no legal requirement for any type of company to engage an AML-obliged service provider, it can be reasonably concluded that legal ownership information of a company (domestic/IBC) would be available in Brunei Darussalam whenever an AML-obliged service provider is engaged.

Closure of the International Business Companies regime

56. Up until mid-2016, there was an International Business Company regime, which was supervised by the Registrar of IBCS (as a part of AMBD) (see the 2016 Report, paras 74-81, 96-106 and 113-116). In 2016, it was decided, that RIBC operations would be wound down, and a notice⁸ to that effect was issued in May 2016 to all stakeholders. Notice RIBC/N-2/2016(2) which required all IBCs incorporated under International Business Companies Order, 2000 (IBCO) to migrate to the Registry of Companies and Business Names under the purview of the Ministry of Finance and Economy (ROCBN), or to migrate to another offshore jurisdiction or to commence winding-up. Any IBC remaining on the Register of IBC by 25 December 2017, which was eventually extended to 30 June 2018, would be struck-off from the register. In 2017 AMBD also amended the International Business Companies Order, 2000 (IBCO) to allow for the migration processes to the ROCBN. There are currently no licensees under the International Banking Order, 2000 (IBO), International Insurance and Takaful Order, 2002 (IITO) and zero activities under the International Limited Partnerships Order, 2000 (ILPO) International Trusts Order, 2000 (ITO).

57. Since 2014, RIBC embarked on an exercise to review the existing IBCs. First, RIBC sent letters to all IBCs who had yet to submit an annual return or pay the annual fee. The letter also sought to confirm whether the IBC was still carrying on business. If no response was received within 30 days, the RIBC would then proceed to strike off the IBC. If a response was received, the IBC was then requested to submit its annual return and pay annual fees. From 2006 until 2014, the RIBC struck off about 5 700 IBCs for non-payment of annual fees and/or failure to comply with section 6 of IBCO (permitted activities for IBCs). From 2014 till date, RIBC struck off another 6 292 IBCs for non-payment of annual fees and/or failure to comply with section 6 of IBCO, while 1 486 IBCs migrated to jurisdictions such as Labuan, Seychelles and Belize. Brunei Darussalam's authorities clarify that these

8. Notice No. RIBC/N-1/2016(1) titled "Suspension of Services" issued on 23 May 2016 by the Managing Director of AMBD and Notice RIBC/N-2/2016(2) titled "Closure of International Business Activities".

migrated IBCs are now considered as non-existent in Brunei Darussalam’s register and the IBCs continue to be IBCs in these other jurisdictions.

58. Additionally, as a result of the issuance of the notices, 11 registered agents have surrendered their licences and ceased their operations. The struck-off IBCs can’t be revived or restored to the register since the registered agents concerned have surrendered their licenses and there can’t be an IBC without an agent (Section 61 of IBCO). There are currently 11 IBCs listed in the register, all owned or linked to Brunei Darussalam Government entities. The AMBD has been tasked to supervise and monitor the remaining IBCs.

59. AMBD is now in the process of repealing the International Banking Order, 2000 (IBO), International Insurance and Takaful Order, 2002 (IITO), the International Limited Partnerships Order, 2000 (ILPO) and International Trusts Order, 2000 (ITO). IBCO and Registered Agents, Trustees Licensing Order, 2000 will only be repealed once all Brunei Darussalam Government-linked IBCs have finalised their migration/strike-off processes (however, no specific timeline could be provided by Brunei Darussalam in respect of migration/strike-off of Government-linked IBCs). Brunei Darussalam authorities advise that repeal procedures for all the above-mentioned laws, will be completed in the year 2020, except for IBCO and RATLO which would be repealed when the Government-linked IBCs migrate or are struck-off. The AMBD has been tasked to supervise and monitor the remaining IBCs. In effect, the IBC regime of Brunei Darussalam is practically non-existent and is not likely to pose any risk to tax transparency standards.

Beneficial ownership of companies

60. The EOIR standard was strengthened in 2016 with a new requirement that beneficial ownership information on companies should be available. There are no requirements in the annual tax return that capture the beneficial ownership information of companies, therefore the Tax Authorities do not have any beneficial ownership information. Similarly, there are no requirements to maintain beneficial ownership information in company law. In Brunei Darussalam, this aspect of the standard is met through CDD requirements under the Criminal Asset Recovery Order 2012 (CARO). The availability of beneficial ownership is analysed below.

Legislation regulating beneficial ownership information of companies

Type	Company Law	Tax Law	AML Law
Private Limited company	None	None	Some
Public Limited Company	None	None	Some
Foreign Companies (Branches)	None	None	Some

Beneficial ownership information of companies with AML-obliged service providers

61. The AML framework in Brunei Darussalam is legislated in the CARO. Sections 5(2) and 6 of CARO mandate that all financial institutions and DNFBPs (lawyers, accountants and TCSPs) identify the beneficial owners and obtain such information as is necessary to understand the ownership and control of the legal person. The definition of beneficial owners to be applied for this purpose is provided in section 2(1) of CARO as below:

“beneficial owner” means –

(a) a natural person who ultimately owns or controls the rights to and/or benefits from property, including the person on whose behalf a transaction is conducted;

(b) a person who exercises ultimate effective control over a legal person or legal arrangement;

(c) a natural person is deemed to ultimately own or control rights to or benefit from property within the meaning of subsection (a) when that person –

(i) owns or controls, directly or indirectly, including through trusts or bearer share holdings for any legal entity, 25% or more of the shares or voting rights of the entity; or

(ii) otherwise exercises control over the management of the entity.

62. At the onsite interactions, Brunei Darussalam authorities have clarified that a guidance note was in draft stage which would clarify the CDD procedures to all AML-obliged parties. The guidance⁹ was issued to the reporting entities via letters on 17 July 2019 by the FIU under s. 30(c) (Powers and Functions of FIU). Although there are no consequences for non-compliance with the guidance, that are mentioned in CARO or the guidance itself or the letter, in the view of the FIU, it may invoke sanctions under CARO for violations/non-adherence to guidance. The guidance sets out best practices to assist reporting entities in complying with the CDD requirements in the CARO and *inter alia* in para 4.3.2¹⁰ refers to identification of natural persons

9. [https://www.ambd.gov.bn/SiteAssets/financial-intelligence-unit/General%20Guidance%2011July2019%20\(FINAL\).pdf](https://www.ambd.gov.bn/SiteAssets/financial-intelligence-unit/General%20Guidance%2011July2019%20(FINAL).pdf).

10. b) Determining Beneficial Ownership of Customers

4.3 Under section 5(2) of CARO, Reporting Entities must determine the beneficial owner(s) of customers that are legal persons or legal arrangements. “Beneficial owner” is defined in CARO as:

in the determination of beneficial owner(s). Paragraph 4.3 of the guidance lays down the identification of beneficial owners as natural persons exercising control by direct or indirect ownership with more than 25% shares/voting rights and/or otherwise exercising ultimate effective control over the management of the company. Paragraph 4.5 further clarifies that, where a Reporting Entity is in doubt about whether a natural person is a beneficial owner, or where there is no beneficial owner exerting control, it should verify the identity of the person who is the senior managing official of the customer. This guidance to determine beneficial ownership in respect of companies is in line with the international standard.

63. The CDD information to be kept relates to the full name and address of the individual, identity card number or details of any official document of identity, date and place of birth.

64. The guidance further clarifies that, for beneficial owners of legal persons and legal arrangements the name of the person should be recorded along with supporting information clearly establishing the link between the person and the customer of which he/she is the beneficial owner.

65. This information is updated whenever there is a doubt that the previously obtained information is not adequate or if it is not in consistence with the risk-profile of the customer (ss. 8 and 13 of CARO). The risk-based frequency

4.3.1 A natural person who ultimately owns or controls the rights to and/or benefits from property, including the person on whose behalf a transaction is conducted;

4.3.2 A natural person who exercises ultimate effective control over a legal person or legal arrangement;

4.3.3 A natural person is deemed to ultimately own or control rights to or benefit from property when that person:

(i) Owns or controls, directly or indirectly, including through trusts or bearer share holdings for any legal entity, 25% or more of the shares or voting rights of the entity

(ii) Otherwise exercises control over the management of the entity.

4.4 It is important for Reporting Entities to understand that where there is a chain of ownership of legal persons or trusts between the customer and the ultimate beneficial owner(s), it is necessary to establish the names and respective beneficial ownership of all such legal persons or arrangements, until there are no further legal entities or trusts in the chain and the Reporting Entity is able to arrive at the name(s) of the natural person(s) who is/are the beneficial owner(s). For complex ownership structures, this may involve extensive research before the name(s) of the beneficial owner(s) is/are established.

for updating of CDD and beneficial ownership information that is generally followed by banks in Brunei Darussalam is one year for high risk customers, three years for medium risk customers and five years for low risk category. However, there is no clearly laid out written policy by AMBD/FIU in this regard. The authorities should clarify the rules concerning the updating of the information to ensure the proper application of the standard (see Annex 1). This CDD information is retained for seven years (s. 14(4)) of CARO.

66. There is no legal requirement for domestic companies to engage an AML-obliged service provider, and thus no certainty that beneficial ownership information is available in respect of all companies at all times. Brunei Darussalam is recommended to ensure that the beneficial ownership information is available for all domestic companies. Further, the guidance note was issued to reporting entities by way of letters and not a binding statutory obligation like the provisions of CARO. Brunei Darussalam is recommended that the recent guidance be monitored for effective implementation in practice to ensure that the beneficial owners of a company are accurately identified in all cases. In respect of beneficial ownership of foreign companies, as required under the standard, beneficial ownership should be available whenever an AML-obligated person is engaged by the foreign company.

Enforcement measures and oversight

67. The obligation to identify and verify the beneficial owners applies to financial institutions, designated non-financial business and professions, including “advocates and solicitors, notaries, other independent legal professions and accountants” (s. 2(1)). Failure to fulfil these obligations is liable to penalties which include a fine up to BND 1 000 000 (EUR 645 161) and imprisonment up to one year. Continuing offence would include a further fine of BND 100 000 (EUR 64 516) for every day during which the offence continues (s. 24).

68. There are 4 accountants, 20 lawyers and 8 CSPs who meet the DNFBP definition as identified based on questionnaire sent to them by FIU. The definition of DNFBPs for advocates and solicitors and accountants only apply to those that carry out transactions for a client concerning: (i) purchase and sale of real estate; (ii) management of client money, securities or other assets; (iii) management of bank, savings or securities accounts; (iv) organisation of contributions for the creation, operation or management of entities; (v) creation, operation or management of entities or arrangements, and purchase and sale of business entities. As not all advocates and solicitors and accountants conduct the above, it is necessary to periodically update this list of DNFBPs to know how many of them have the AML obligations under CARO. At the onsite interactions the lawyers and accountants demonstrated good knowledge of CDD procedures, although it was not clear if they fully understood and practised the verification for control by other means.

69. Brunei Darussalam authorities have indicated that the supervisory function of the FIU was brought in October 2017 (as a result of the NRA findings) and currently has four members. While an onsite methodology exists and offsite methodology is currently being developed, there were no onsite visits conducted in respect of DNFBPs in the review period. A risk-based approach to conduct on-site review for all financial institutions is in place (see section A.3 below). Given that the availability of beneficial ownership information in Brunei Darussalam is contingent upon effective implementation of the provisions of CARO, and since a guidance note has been recently issued, Brunei Darussalam should ensure adequate supervision of the AML-obliged parties to ensure the availability of accurate and up to date beneficial ownership information for all relevant entities and arrangements.

Nominees

70. Under the Companies Act, companies are required to maintain a register of disclosure of nominee shareholdings (s. 65(5), CA) thus ensuring the availability of identity information of persons whom the nominees represent. Fraudulently providing information is liable to a fine up to BND 5 000 (EUR 3 225) and/or imprisonment up to two years.

71. For nominees who are lawyers, accountants, trustees or financial institutions, CARO introduced requirements for identity information on their customers to be obtained and verified (ss. 5, 6, 7 and 13 of CARO). Failure to fulfil these obligations is liable to penalties which include a fine up to BND 1 000 000 (EUR 656 300) and imprisonment up to one year. These provisions are sufficient to maintain full information on the persons on whose behalf they hold the interest in the company.

72. ROCBN is responsible for oversight in this regard, including in cases where nominees are located outside Brunei Darussalam. Brunei Darussalam authorities could not provide any details on how the nominees outside Brunei Darussalam are supervised for their compliance with the requirements under CA to disclose their nominee shareholdings. However, as mentioned above, there is scope for improvement in the oversight by ROCBN (see para 69). Brunei Darussalam is recommended to ensure the design and implementation of an appropriate supervisory programme to ensure the availability of legal ownership information of all companies in Brunei Darussalam.

Companies that ceased to exist

73. There are no legal requirements for legal or beneficial ownership information to be retained in the case of companies that cease to exist (both voluntarily/winding-up and by strike-off, initiated by the company/court procedure) unless they engaged an AML-obliged service provider while they

were active or in operation, who may then retain the same for seven years. While the ROCBN holds the legal ownership information in perpetuity, it is not clear whether updated information is available, given the uncertainty on compliance with annual returns.

74. However, in respect of the recently wound-up IBCs along with the closure of the offices of their registered agents (as reported by AMBD officials at onsite visit), there is no further legal requirement to have any person or authority in Brunei Darussalam to be in possession or control of their beneficial ownership information. This could present a legal gap for availability of legal and beneficial ownership information of IBCs that are recently struck-off/wound-up.

75. Brunei Darussalam should ensure retention of legal and beneficial ownership information of all Brunei Darussalam's companies and IBCs for at least five years after they have ceased to exist or while struck off.

Availability of legal and beneficial ownership information in practice in relation to EOI

76. During the current peer review period, Brunei Darussalam received and responded to four requests, out of which one was related to legal ownership and identity information of a domestic company, while one related to IBCs, while there were no requests that sought beneficial ownership information. Peers were generally very satisfied with the information received.

A.1.2. Bearer shares

77. Bearer Shares have never been permitted under the Companies Act or the IBCO in Brunei Darussalam. Bearer share warrants are also expressly prohibited since 1 January 2015 (s. 73 of CA, see 2016 Report paras 130-137). The legal position has not changed and Brunei Darussalam authorities confirm that there are no bearer share warrants in practice. Therefore compliance with ToR A.1.2 is maintained in Brunei Darussalam.

A.1.3. Partnerships

78. The standard requires jurisdictions to ensure that information is available to their competent authorities that identifies the partners in, and the beneficial owners of, any partnership that (i) has income, deductions or credits for tax purposes in the jurisdiction, (ii) carries on business in the jurisdiction or (iii) is a limited partnership formed under the laws of that jurisdiction.

79. In Brunei Darussalam, there are domestic partnerships (governed by the Business Names Act) and limited liability partnerships (LLPs) governed by the LLP Order. At mid-2018, there were 1 197 general partnerships, and no registered Limited Liability Partnerships or International Limited Partnerships. There are no LLPs registered as the necessary regulations have not been made.¹¹

80. Until May 2016, it was possible to create International Limited Partnerships (ILPs) governed by IBCO (the equivalent of an IBC) but none had been created at the time of the 2016 Report and ILPs can no longer be created, since it was decided that RIBC operations would be wound down and a notice to that effect was issued in May 2016 to all stakeholders.¹² (For more information on LLPs and ILPs, see the 2016 Report, para 138-153.)

81. Domestic partnerships are not separate legal entities. However, if there are more than 20 partners, the partnership is converted to a limited company. Brunei Darussalam’s authorities advised that, as a general rule, administratively no foreigners are allowed to become partners in general partnership (only Bruneian citizens or Brunei Darussalam’s permanent residents are allowed. In addition, with the online registration system for new business names (see para 94 of 2016 Report) of ROCBN, foreigners will not be allowed to register as owner or partner, according to Brunei Darussalam authorities. (Please see paragraphs 84 and 85 below, for details on availability of information about foreign and domestic partnerships.)

Information on partners

82. While, there is no legal requirement on general partnerships to maintain a register of partners, it is unlikely that the resident partner of general partnership may not be in possession of the information about all the partners.

83. At the onsite visit, Brunei Darussalam authorities further explained that the majority of general partnerships are engaged in local trading, import-export business. Firms, individuals and corporations carrying on business under business names need to register under the Business Names Act.

84. Upon registration, partnerships are required to furnish to the ROCBN a statement in writing containing, *inter alia*, particulars on the general nature of the business, the principal place of business and the full

11. Similarly, the LLP Order envisages the possibility of registering foreign limited liability partnerships (s. 57(2)(a)) but regulations for their registration and regulation have not been made.

12. AMBD Notice No. RIBC/N-1/2016(1) titled “Suspension of Services” of 23 May 2016.

names, the usual residence and the other business occupation (if any) of every individual or a company who is a partner. Copies of identity cards, passports or other documents such as certificate of qualification or letters of consent may also be required. Changes in any of the registered particulars need to be filed within 14 days. When a foreign partnership is registered through a Brunei Darussalam’s agent, the agent must register and furnish particulars regarding the foreign partnership’s partners.¹³

85. Although domestic partnerships do not have to submit annual returns (unlike companies), they are obligated to notify the ROCBN whenever there is a change in the identity of their partners (s. 10 of Business Names Act). Similar to companies, with payment of a small administrative fee, members of the public are able to login to the ROCBN website to search for updated ownership information of domestic partnerships.

Beneficial ownership information on partnerships with AML-obliged service providers

86. There are no legal requirements in the partnership laws of Brunei Darussalam that would ensure the availability of beneficial ownership information of partnerships. There is no legal or practical requirement to ensure that an AML-obliged service provider is always engaged by the partnership. However, sections 5 and 6 of the CARO ensure that whenever a partnership (having one or more corporate partners) is the customer of a financial institution or DNFBP, the identity of the beneficial owner is obtained and verified. This information is retained for seven years (s. 14(4) of CARO).

87. There is no applicable definition of beneficial owner nor guidance in respect of partnerships that may have domestic or foreign corporate partners in the partnership. There is no mention in the guidance recently published that the definition of beneficial owner for companies should be applied to corporate partners.

88. In view of the lack of mandatory continuous engagement of AML-obliged service providers by partnerships in law or in practice, Brunei Darussalam is recommended to ensure that beneficial ownership information of partnerships is determined in line with the standard and is available in respect of all partnerships in Brunei Darussalam.

13. See ss. 5, 6(1), 10 and 15 of the Business Name Act and s. 3 of the Business Names Regulation.

Oversight, enforcement and availability of partnership information in EOI practice

89. Since general partnerships are not legal persons, they do not file tax returns and there is no oversight by the Tax Authorities over beneficial ownership information of partnerships in Brunei Darussalam.

90. While there was no material impact on the exchange of information in respect of partnerships (as there were no such requests) in the review period, at the onsite interactions the Brunei Darussalam authorities explained that the ROCBN is yet to initiate a risk-based supervision to ensure the availability of ownership information. Brunei Darussalam should ensure that there is adequate supervision of partnerships to ensure availability of accurate and up to date ownership information (see Annex 1).

A.1.4. Trusts

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

Trusts in Brunei Darussalam

92. Common law express trusts are recognised and can be created under Brunei Darussalam law. Foreign trusts can also be administered in Brunei Darussalam. The number of Trusts having nexus to Brunei Darussalam is unknown, as there is no central register of trusts or trustees.

93. Until May 2016, it was possible to create International Trusts governed by the International Trust Order, 2000 but none had been created at the time of the 2016 Report and they can no more be created, since the decision to wind up the RIBC operations in 2016. (For more information on International Trusts, see the 2016 Report, para 156-161.)

Identity and beneficial ownership information of trusts

94. Under the transparency and EOIR standard as strengthened in 2016, beneficial ownership information in respect of trusts should be available and include information on the identity of the settlor, trustee(s), protector (if any), all of the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust.

95. While there is no definition of beneficial ownership of trusts in CARO, this requirement is generally met whenever trusts engage an

AML-obliged service provider in Brunei Darussalam, in view of the requirement in CARO for identity information on the trustees, settlor and beneficiary of the express trust to be obtained and verified (s. 6(1)(c)), which applies to financial institutions, designated non-financial business and professions including “advocates and solicitors, notaries, other independent legal professions and accountants as well as all TCSPs” (s. 2(1)). Further, this information is retained for seven years (s. 14(4) of CARO). Failure to fulfil these obligations is liable to penalties which include a fine up to BND 1 000 000 (EUR 645 161) and imprisonment up to one year. Continuing offence would include a further fine of BND 100 000 (EUR 64 516) for every day during which the offence continues (s. 24). These provisions are sufficient in general to ensure the availability of all identity information of trustees, settlors and beneficiaries in Brunei Darussalam if an AML obligated service provider in Brunei Darussalam is engaged.

96. However, the requirement in section 6 of CARO, as explained in paragraph 4.11 of the recently issued guidance,¹⁴ to obtain information on identity information on the trustees, settlor and beneficiary of the express trust does not amount to identifying the natural persons who are beneficiaries, settlors, protectors (if any) and any other natural person exercising ultimate effective control over the trust to be identified as beneficial owners of the trusts. There is also no clear guidance to be followed in case settlor(s)/trustee(s)/beneficiaries are not natural persons. Therefore, Brunei Darussalam is recommended to ensure that accurate and up to date information on all the beneficial owners of a trust is available in Brunei Darussalam at all times, in line with the standard. Finally, since there is no requirement that AML-obliged professionals in Brunei Darussalam are necessarily engaged by the trusts, Brunei Darussalam is recommended to ensure the availability of beneficial ownership information in respect of all trusts having nexus to Brunei Darussalam.

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14. 4.11.3 For customers that are legal arrangements (trusts) Reporting Entities must:
- (i) obtain proof of the existence of the trust;
 - (ii) determine if the beneficiary of the trust property, or any other person with control over the trust property, including the trustee(s), the settlor, or the protector, is a PEP; and
 - (iii) obtain information on all persons who have authority to bind the trust.
- 4.11.4 For beneficial owners of legal persons and legal arrangements: the name of the person should be recorded along with supporting information clearly establishing the link between the person and the customer of which he or she is the beneficial owner. Reporting entities must also determine if the beneficial owners are PEP; [https://www.ambd.gov.bn/SiteAssets/financial-intelligence-unit/General%20Guidance%2011July2019%20\(FINAL\).pdf](https://www.ambd.gov.bn/SiteAssets/financial-intelligence-unit/General%20Guidance%2011July2019%20(FINAL).pdf).

97. The existing legal framework (CARO) also does not cover the situations where trusts are managed by non-professional trustees. At the onsite interactions, Brunei Darussalam authorities and private sector clarified that it is not a common practice in Brunei Darussalam to have trusts managed by non-professionals. Although there is no material impact in practice, Brunei Darussalam should ensure that identity and beneficial ownership information is available in respect of all trusts managed by non-professional trustees (see Annex 1).

Availability of trust information in practice

98. There were no requests in the review period seeking information in respect of domestic or international trusts.

A.1.5. Foundations

99. There are no foundations permitted under law in Brunei Darussalam and the Non-Profit Organisations (NPOS) monitored by the Registrar of Societies and Brunei Darussalam Industrial Development Authority are for charitable purposes and of insignificant number, rendering them irrelevant (see 2016 Report, paras 170-171).

A.2. Accounting records

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

100. The 2016 Report concluded that the legal and regulatory framework on the availability of accounting records and underlying documentation was in place. However, Brunei Darussalam was recommended to monitor the implementation in practice of the then recently introduced requirements under the Record Keeping (Business) Order, 2015 which ensured Brunei Darussalam’s full compliance with element A.2 and was rated Largely Compliant.

101. The legal framework continues and the oversight and enforcement measures are generally satisfactory with a scope for improvement to ensure the availability of reliable accounting records. During the current review period, Brunei Darussalam received three requests for accounting information and did not report any issues in obtaining such information.

102. However, there are no legal requirements to maintain the accounting records of dissolved/struck-off companies. Further, the supervision by the Accounting Unit in respect of Record Keeping (Business) Order and the overall supervision by the Tax Authorities need to be strengthened. Therefore, while the monitoring recommendation issued in the 2016 Report is deleted,

Brunei Darussalam is recommended to address these legal gaps and enhance its supervisory measures to ensure the availability of reliable accounting records in Brunei Darussalam. Brunei Darussalam remains Largely Compliant on the availability of accounting information.

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

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	There are no legal requirements for accounting records to be retained in the case of companies that cease to exist or are stricken off (both voluntarily and by court procedure) either in the Companies Act or the Income Tax Act or the Record Keeping (Business) Order.	Brunei Darussalam is recommended to ensure that accounting records of liquidated, dissolved or struck-off companies are retained for at least five years.
	Section 5 (Duty to keep and maintain records) of the Record Keeping (Business) Order does not cover the situations where a person carrying on business in Brunei Darussalam does not reside or have a representative there at all times.	Brunei Darussalam is recommended to ensure that there is always a person in Brunei Darussalam in possession or control of the accounting information.
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	With an average filing rate of 39% in the review period, there is scope for improving the tax return filing. Further, there is scope for expanding and deepening the coverage of monitoring by the Accounting Unit which supervises the Record Keeping (Business) Order.	Brunei Darussalam is recommended to strengthen the supervisory framework and its implementation to ensure the availability of reliable accounting records in Brunei Darussalam.
Rating: Largely Compliant		

A.2.1. General requirements

104. The Standard is primarily met by the provisions under the Record Keeping (Business) Order, 2015, which requires all the relevant domestic and foreign entities and legal arrangements to maintain accounting records in line with the standard and retain them for five years from the date of the transaction (see paras 204-205, 2016 Report).

105. The Record Keeping (Business) Order requires every business to keep and maintain records of every transaction carried out in respect of the business, and issue a printed receipt serially numbered for every sum received in respect of goods sold or services performed in the course of the business (s. 5(1)).¹⁵ “Records” include all accounting records and underlying documentation required under the standard. The definition of “business” under the Record Keeping (Business) Order, 2015 includes every form of trade, commerce, craftsmanship, calling, profession, vocation and any activity carried on for the purposes of gain. Brunei Darussalam’s authorities further advise that the term “business” in Recordkeeping (Business) Order 2015 (RKBO) covers investment companies (or other passive income earning entities/arrangements).

106. Company Law and ITA requirements complement the requirements under the Record Keeping (Business) Order. The requirements under these laws continue to remain the same as in the previous report (see paras 189-196).

A.2.2. Underlying documentation

107. The Record Keeping (Business) Order 2015, which came into effect on 23 June 2015, brings out that “Records” include all accounting records and underlying documentation required under the standard, such as “books of account recording receipts, payments, incomes and expenditure; invoices, vouchers, receipts and such other documents as in the opinion of

15. Duty to keep and maintain records:

- (1) Every person carrying on or exercising any business shall-
 - (a) keep and maintain records of every transaction carried out in respect of the business; and
 - (b) issue a printed receipt serially numbered for every sum received in respect of goods sold or services performed in the course of or in connection with such business and shall retain a duplicate of every such receipt.
- (2) Such person shall retain the records for a period of at least 5 years from the date the transaction takes place on or after the commencement of this Order. [...].

the Competent Authority are necessary to verify the entries in any books of account; and any records relating to any business” (s. 5(5)). The retention period of such records is also consistent with the standard with all records to be retained for at least five years from the date the transaction takes place on or after the commencement of this Order (s. 5(2)).

108. The requirements under the Companies Act and the ITA, as discussed in the 2016 Report (see paras 211-212), further supplement the compliance with the standard to ensure the availability of all relevant underlying documents.

Companies that ceased to exist

109. There are no legal requirements for accounting records to be maintained by any person in Brunei Darussalam (who would be in possession or control of the accounting records or underlying documents) in the case of companies that cease to exist (both voluntarily and by court procedure) either in the Companies Act or the Income Tax Act or the Record Keeping (Business) Order. The same applies to stricken off companies. Therefore, Brunei Darussalam is recommended to ensure that accounting records of liquidated, dissolved or struck-off companies are retained for at least five years.

Oversight and enforcement of requirements to maintain accounting records

110. The Accounting Unit of the Revenue Division is responsible for monitoring compliance with the Record Keeping (Business) Order. It currently counts three members. In the review period, awareness campaigns with industry practitioners were organised and broadly, two types of supervisory activities were carried out.

111. First, during the review period, the average tax return-filing rate was 39% and on an average 2% of the tax filers were subjected to tax audits. The tax audits resulted in additional revenue of EUR 12 680 604. However, the verification done on the accounting records is not to the full extent of the requirements under the Record Keeping (Business) Order, 2015. The Tax Authorities during their audits, may conduct onsite visits to verify the accounting records, but have not done so in practice.

112. Second, monthly notices calling for copies of accounting information were sent, sector-wise by the Accounting Unit. Out of the total 1 325 notices issued (representing about 3% of all sole-proprietorships and partnerships), 610 businesses submitted responses. The Accounting Unit officials opined that the reason for non-compliance by the remaining 715 businesses may be explained by some of them having ceased their business while some

partnerships/sole-proprietorships would have converted to limited companies. Nevertheless, the Accounting Unit has not conducted any onsite visits to these 715 businesses or any other business and no penalties have been imposed in the review period. The Accounting Unit officials further advised that the current focus is on planning outreach activities and onsite visits would be taken up subsequently. Further, at the onsite interactions it was clarified that s. 5 (Duty to keep and maintain records) of the Record Keeping (Business) Order does not cover the situations where the person carrying on business in Brunei Darussalam does not reside or have a representative in Brunei Darussalam at all times. Although there was no impact in practice, Brunei Darussalam is recommended to ensure that there is always a person in Brunei Darussalam in possession or control of the accounting information.

113. However, the average number of companies filing annual returns with the tax administration (around 2 750 out of an average of 11 000 companies in the Tax Database) is far less than those registered with ROCBN (13 345). Brunei Darussalam’s authorities advise that the discrepancy is attributable to companies that are struck-off in the Tax Database. Nevertheless, since they exist in the ROCBN they are valid companies and may engage in transactions of relevance to EOIR.

114. While there is a risk-based approach to select cases for audit, in view of the foregoing, the supervision by the Tax Authority to ensure the availability of reliable accounting information may not be adequate and requires significant improvement, particularly since the number of companies in the tax database is far less in comparison to those registered in ROCBN.

115. The company law also requires that proper books of account are maintained by domestic and foreign companies and the balance sheet to be filed along with the annual return. During the review period, as discussed in A.1.1, there were however, no onsite visits or any other significant supervision by ROCBN.

116. Overall, given that there is scope for improving the tax filing and companies’ annual return filing rates, and further expanding and deepening the coverage of monitoring by the Accounting Unit, Brunei Darussalam is recommended to strengthen the supervisory framework and its implementation to ensure the availability of reliable accounting records in Brunei Darussalam.

Availability of accounting information in EOIR practice

117. There were no adverse inputs from Brunei Darussalam’s peers on the availability of, access to and exchange in respect of accounting information. There were three requests for accounting information (including receipts, invoices, supporting documentation) in the current review period, which were responded to by Brunei Darussalam to the full satisfaction of the requesting peers.

A.3. Banking information

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

118. The 2016 Report concluded that the legal and regulatory framework was in place and its implementation in practice was rated as Compliant with the standard.

119. The standard now requires the availability of beneficial ownership information (in addition to legal ownership) in respect of accountholders. In Brunei Darussalam, the provisions of CARO mandate the identification of beneficial ownership information for bank account holders. However, the definition of beneficial ownership in CARO and the guidance recently issued do not capture the beneficial owners for partnerships, foundations and trusts, in line with the standard.

120. As of June 2019, in Brunei Darussalam there were ten banks (five foreign branches, two local banks, one Islamic Trust Fund, one Small-Medium Enterprises Bank and one bank with restricted banking licence). The licensed banks have an asset base of BND 18 billion (EUR 12.06 billion) at the end of Q1 2019. The supervision to ensure the availability of beneficial ownership information needs improvement.

121. During the current review period, Brunei Darussalam did not receive any requests for banking information.

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

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	There is no applicable definition or guidance on “beneficial owner” for partnerships that may have domestic or foreign corporate partners, where the partnership has a bank account in Brunei Darussalam. Similarly there is no applicable definition and guidance in respect of foundations that may come from foreign jurisdictions and open accounts in Brunei Darussalam to identify their beneficial owners in line with the standard.	Brunei Darussalam is recommended to ensure that beneficial ownership information is determined in line with the standards in respect of all partnerships and foreign foundations having a bank account in Brunei Darussalam.

Deficiencies identified	There is no clear guidance to be followed for identifying all beneficial owners of a trust, and specifically in cases where the settlor(s)/trustee(s)/beneficiaries are not natural persons.	Brunei Darussalam is recommended to ensure the availability of beneficial ownership information in line with the standard in respect of domestic and foreign trusts having bank accounts in Brunei Darussalam.
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	There is scope for improvement in the inspection of banks to ensure the availability of accurate and up to date beneficial ownership information of customers. In the review period, onsite visits by the Financial Intelligence Unit covered very few banks in Brunei Darussalam (only two local banks out of ten banks were visited in three years). Further, guidance to explain the provisions of anti-money laundering law (CARO) was issued in July 2019. According to the FIU, violations to the guidance could lead to sanctions, but this remains to be tested in practice.	Brunei Darussalam is recommended to strengthen its supervision of banks to ensure that accurate and up to date beneficial ownership information for all customers is maintained by all the banks in Brunei Darussalam.
Rating: Partially Compliant		

A.3.1. Record-keeping requirements

123. The 2016 Report found that legal provisions in CARO (s. 14) ensure the availability of banking information (identification of the account holder, transaction information) in line with the standard and there were effective and dissuasive sanctions (s. 23) for non-compliance to the tune of BND 1 000 000 (EUR 655 802) with a possibility for imprisonment up to one year.

124. As of June 2019, in Brunei Darussalam there were ten banks (five foreign branches, two local banks, one Islamic Trust Fund, one Small-Medium Enterprises Bank and one bank with restricted banking licence). The licensed

banks have an asset base of BND 18 billion (EUR 12.06 billion) at the end of Q1 2019. Further, as discussed in section A.1 above (see para 56), the IBC regime is now non-existent. Brunei Darussalam authorities advised that the banking sector is fully aware of the closure of the IBC regime, and considers that struck-off (i.e. inactive) IBCs do not have any banking operations.

Beneficial ownership information

125. The standard as strengthened in 2016 specifically requires that beneficial ownership information be available in respect of all account holders. Banks are obligated to conduct CDD and determine and verify the identity of the beneficial owner(s) of their customers in line with the provisions of CARO (ss. 5, 6 and 7).

126. The applicable definition of beneficial owners of partnerships and trusts in CARO is not in line with the standard. The non-binding guidance recently issued is deficient in respect of trusts and no specific guidelines are provided for partnerships and foundations, as described in section A.1 above and similar recommendations are made here.

127. Sections 8 and 13 of CARO require that ongoing due-diligence be done whenever there is a doubt on the adequacy of identification information previously obtained and by examining transactions to be in consistence with the risk-profile. The risk-based frequency for updating of CDD and beneficial ownership information that is generally followed by banks in Brunei Darussalam is one year for high risk customers, three years for medium risk customers and five years for low risk category. However, there is no clearly laid out written policy by AMBD/FIU in this regard. The authorities should clarify the rules concerning the updating of the information to ensure the proper application of this standard (see Annex 1). There are no provisions for simplified due diligence in CARO.

128. While the CARO allows reliance on third party CDD, it is limited to AML-obliged parties in Brunei Darussalam or those coming from jurisdictions with equivalent supervision of AML requirements as in Brunei Darussalam and the CARO further clearly places all responsibility on banks in Brunei Darussalam to ensure availability of CDD in compliance with CARO (s. 5(3)). In addition, Paragraph 4.9.1 of the guidance clarifies that CDD information should be provided immediately and underlying documents upon request. At the onsite interactions, the FIU confirmed that they have not encountered any introducers that were employed by the banks, in their onsite visits.

Supervision and oversight by AMBD

129. Failure to fulfil CDD obligations is liable to penalties which include a fine up to BND 1 000 000 (EUR 645 161) and imprisonment up to one year. Continuing offence would incur a further fine of BND 100 000 (EUR 64 516) for every day during which the offence continues (s. 24).

130. In practice, the Banking Supervision Unit of AMBD monitors compliance by banks with prudential reporting and disclosure requirements, while customer account information requirements are monitored by the Financial Intelligence Unit (FIU), which is a unit under AMBD.

131. The FIU is tasked with conducting AML/CFT onsite inspections of banks with the objective of assessing the banks' compliance towards Brunei Darussalam's AML/CFT legal requirements which cover the areas such as AML/CFT policies and procedures, implementation of "know your client" or customer due diligence procedures, identification of high risk customers and politically exposed persons, special monitoring of transactions, record keeping and ongoing due diligence, suspicious transaction reporting, AML/CFT compliance function, and AML/CFT training for staff.

132. Prior to the onsite visit by FIU, the areas of verification would be announced to the bank. List of customers along with their risk classification is obtained beforehand. At the onsite, selected CDD files would be examined. The verification would be in line with the risk and CDD policies of the bank, and it is verified whether the copies of identity information, information describing the ownership and control in relation to corporate customers is available. The FIU also checks the independent verification done by the bank to ascertain beneficial ownership from documents from ROCBN, etc.

133. The FIU has four staff whose full time responsibility is to plan and organise onsite visits to banks. At the onsite interactions, the FIU officials indicated that there are plans to further enhance the strength of FIU to broaden and deepen the onsite supervision on banks.

134. The FIU started planning onsite inspections to banks in October 2017 and prior to this the Banking Supervisors had visited one domestic bank (in 2016), and another one was visited within the review period (in 2018). While no sanctions/penalties were applied in the review period, these two onsite visits have resulted in some recommendations issued to update CDD, which were reportedly implemented by the banks. However, there does not seem to be any experience so far in verifying the beneficial ownership of foreign companies or complex cases or examining in detail for possibility of exercising beneficial ownership by other means than ownership.

135. Brunei Darussalam's authorities further advised that in Q1 of 2019, a risk assessment on all financial institutions and DNFBPs was conducted

by the FIU to identify high risk institutions for onsite examinations. To conduct the risk assessment, the FIU issued AML/CFT questionnaires to gather the necessary data and information as well as to understand the AML/CFT measures implemented by the obliged persons, including ten banks. After reviewing the information received through the questionnaire, Brunei Darussalam's authorities advise that two banks have been identified for onsite examination: one was visited in May 2019 and the other in November 2019. In addition, four banks are being monitored closely through offsite examinations in the form of progress reports and face-to-face meetings when necessary. As a result of these recent efforts, the FIU mentioned that they have not identified any irregularities in identification of beneficial ownership and no sanctions/remedial measures were required to be applied.

136. These encouraging improvements in the supervisory efforts/development of risk-assessment mechanisms are very recent. In the absence of a robust, widespread yet risk-based and periodic supervisory programme by the FIU, which would need more time to evolve and stabilise as a permanent phenomenon, it is difficult to ascertain whether the supervision of banks is adequate to reasonably ensure availability of accurate and up to date beneficial ownership information, in line with the standards, for all customers by all the banks in Brunei Darussalam. Further, guidance to explain the provisions of anti-money laundering law (CARO) and determining beneficial ownership for all legal entities and arrangements, was recently issued in July 2019 the compliance to which by all banks in Brunei Darussalam is yet to be tested and needs to be monitored.

137. Brunei Darussalam is therefore recommended to strengthen its supervision of banks to ensure that accurate and up to date beneficial ownership information for all customers is maintained by all the banks in Brunei Darussalam.

Availability of banking information in EOI practice

138. There were no requests in the current review period that sought banking information. The legal framework and practices of Brunei Darussalam need improvements to be in line with the requirements of the standard and ensure effective exchange of information if and when requests for banking information are sent to Brunei Darussalam.

Part B: Access to information

139. 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).

140. The 2016 Report found that Brunei Darussalam's Competent Authority has access powers generally in line with the standard. The legal framework was determined to be in place but needed improvement since there were no exceptions to the secrecy provisions for EOI purposes in respect of international trusts. Element B.1 was rated as Largely Compliant and, as access powers were untested, Brunei Darussalam was recommended to monitor the then recently brought in requirements under the Income Tax Act to ensure access to information for EOIR purposes.

141. Since the 2016 Report, changes have been made to ITA by introducing s. 55D, to expressly override the secrecy provisions in the Registered Agents and Trustees Licensing Order (s. 35). Further, there were no trusts ever registered under International Trust Order (ITO) and in view of the 26 May 2016 notice of AMBD, all RIBC services including in respect of ITO are now closed and it is not possible to register any new trust under ITO. Therefore the previous recommendation stands deleted.

142. In the current review period, Brunei Darussalam received four requests for information (legal ownership, accounting), and access powers were successfully exercised by the Competent Authority in responding to these requests. Accordingly, the recommendation to monitor the application

of the access powers when gathering information for EOI purposes is now deleted. After the review period, Brunei Darussalam has received two more EOI requests and indicates having answered both within 90 days.

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

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

B.1.1. Ownership, identity and banking information

144. The 2016 Report analysed the procedures applied in the case of obtaining information generally and more specific rules for obtaining banking information. Generally, the same rules continue to apply, except the procedure to apply to the High Court to overcome bank confidentiality, which has been repealed (See para 147 below for details).

Accessing information generally

145. The access powers for the Collector are derived from the provisions in s. 55 (Powers to call for returns and documents), s. 55A (calling for information), s. 55B (powers of discovery, inspections), s. 57 (calling for information from other government agencies) and amply complemented by monetary sanctions under s. 55C for non-compliance. These provisions allow for calling for various records, documents, banking information, ownership information and any other relevant information.

146. At the onsite interactions, the Brunei Darussalam Competent Authority clarified that the most commonly used access powers are s. 57 (calling for information from other government agencies) and there was no occasion to use s. 55A or s. 55B.

Accessing beneficial ownership information

147. In the current review period, there have been no requests for information on beneficial ownership. However, at the onsite interactions, Brunei Darussalam Competent Authority has assured that the exercise of access powers by the Collector under ss. 55 to 55D would be sufficient to gather beneficial ownership information from all relevant entities and arrangements or AML-obliged entities, since there are no specific secrecy provisions or limitations that obstruct the access powers in ss.55 to 55D. The

Brunei authorities confirm that sections 55 to 55D of the Income Tax Act are also currently used for domestic purposes, for example, for obtaining information from taxpayer for the purpose of tax assessment.

Accessing banking information

148. As discussed in the 2016 Report (see paras 245-248) the procedure was to seek order of the High Court to seek access to banking information (s. 86J of the ITA), to overcome the secrecy provisions in Banking Order, Islamic Banking Order and International Banks Order. This provision has been repealed and the newly brought in section 55D of ITA¹⁶ from June 2017 now allows the Collector to request protected information from banks without going through the High Court anymore. Brunei did not receive any requests for banking information, after the review period till February 2020.

149. There were no requests for banking information in the review period and the provisions remain untested. At the onsite interactions the Banking Sector representatives did not show full awareness of the recent amendments and the Revenue Division of Brunei Darussalam has proposed to conduct training, outreach activities to sensitise the banking professionals. Brunei Darussalam should monitor the implementation of recent amendments to ITA to ensure effective access of banking information (see Annex 1).

B.1.2. Accounting records

150. The powers described in section B.1.1 relating to information other than information held by a financial institution can be used to obtain accounting information.

151. During the current review period, Brunei Darussalam received three requests for accounting information and access powers were successfully exercised by the Competent Authority in responding to these requests by issuing notices under s. 55A to the Accounting Unit of the Revenue Division (since Accounting Unit of Revenue Division is the unit that overlooks the administration of the Recordkeeping (Business) Order 2015), which in turn sought the information from the companies concerned. At the onsite interactions, the Accounting Unit representative clarified that a notice is issued to the information holder under the Record Keeping Business (Order), to respond within 30 days usually. Under the Record Keeping (Business) Order 2015, failure to provide the required notice is an offence and liable on conviction to a fine not exceeding BND 1 000 (EUR 663) and, in the case of a continuing offence, to a further fine not exceeding BND 50 (EUR 33) for every day during which the offence continues after conviction. The

16. Income Tax Act (Amendment) (No. 3) Order, 2017 dated 29 June 2017.

Accounting Unit does not appear to perform any checks on the accuracy of information received from the information holder. The Competent Authority officials also mentioned that they rely on the information provided by the Accounting Unit (see A.2 for recommendation on enhanced supervision).

152. Further, at the onsite interactions it was clarified that s. 5 (Duty to keep and maintain records) of the Record Keeping (Business) Order does not cover the situations where the person carrying on business in Brunei Darussalam does not reside or have a representative in Brunei Darussalam at all times. Although there was no impact in practice, Brunei Darussalam should ensure that there is always a person in Brunei Darussalam in possession or control of the accounting information, to be accessed by the Brunei Darussalam Competent Authority and to enforce compliance if necessary (see A.2 and Annex 1).

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

153. There are no domestic tax interest restrictions in sections 55 to 55C of the ITA, which allow the Collector to seek information for the purposes of EOIR under Brunei Darussalam's EOI instruments. Brunei Darussalam's Competent Authority is able to use its access powers to obtain all requested information without regards to any domestic tax interest.

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

154. The enforcement provisions as discussed in the 2016 Report (see paras 267-271) which include powers of discovery and inspection by entering into any premises and to make necessary copies of information (including the digital/encrypted records) and monetary sanctions continue to operate in the current review period. They have not been applied in practice as information holders co-operated in providing the needed information.

B.1.5. Secrecy provisions

155. There are two types of secrecy or confidentiality provisions that are relevant for the purposes of this section: bank secrecy and professional secrecy. As discussed above (see para 147) bank secrecy is not (since June 2017) an impediment to exercise access powers in Brunei Darussalam.

Professional secrecy

156. Legal privilege, as defined in s. 861 of ITA,¹⁷ ensures that in a scenario of a client handing a document to a lawyer in an attempt to prevent it from falling into the hands of the tax authorities, this would certainly not attract a privilege. Only the situation of legal advice by the lawyer in defence of the taxpayer concerned attracts privilege, which is in line with the international standard (see 2016 Report, para 278).

157. The 2016 Report has however identified a legal gap in respect of secrecy provisions in accessing the information from international trusts in view of the provisions under the Registered Agents and Trustees Licensing Order (s. 35) and ITO (s. 90) (see paras 252-266). Brunei Darussalam was recommended to ensure that these domestic law provisions do not prevent effective exchange of information for tax purposes.

158. Since the 2016 Report, changes have been made to ITA by introducing s. 55D,¹⁸ which expressly overrides the secrecy provisions in the Registered Agents and Trustees Licensing Order (s. 35). The recommendation is therefore addressed and removed.

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17. “communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client” and “communications between: (i) a professional legal adviser and his client or any person representing his client; or (ii) a professional legal adviser or his client or any such representative and any other person, made in connection with, or in contemplation of, judicial proceedings and for the purposes of such proceedings, when they are in the possession of a person who is entitled to possession of them, but excluding, in any case, any communications or item held with the intention of furthering a criminal purpose. (iv) section 35 of the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000); and (c) the Collector issues a notice under section 55B(3) to a person to provide that information.”
18. 55D. (1) This section applies where – (a) the Collector requires any information for the administration of this Act, other than for an investigation or a prosecution for an offence alleged or suspected to have been committed against this Act; (b) the information is protected from unauthorised disclosure under any of the following laws (in this section referred to as the relevant laws) – (i) section 58 of the Banking Order, 2006 (S 45/2006), including any regulations made for the purposes of subsection (10) of that section; (ii) section 58 of the Islamic Banking Order, 2008 (S 96/2008), including any regulations made for the purposes of subsection (10) of that section; (iii) section 18 of the International Banking Order, 2000 (S 53/2000);.

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.

159. The 2016 Report found that there were no issues regarding prior notification requirements or appeal rights and the element was determined to be in place and rated Compliant. There are notification requirements to Banks and Trust Companies and there are also exceptions to prior-notification in line with the standard, in the cases of urgency or whenever it is likely to prejudice the investigations. The legal framework continues to be the same in the current review period.

160. The standard as amended in 2016 requires, in circumstances where an exception to notification has been granted, that there must also be an exception from time-specific post-notification. In Brunei Darussalam, there is no requirement to provide post-exchange notifications.

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

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

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

162. As discussed in the 2016 Report, there are no appeal rights on EOI matters.

Notification

163. As discussed in the 2016 Report (see para 286), there are notification requirements to Banks and Trust Companies under s. 86E of ITA whenever the information sought is protected under the respective confidentiality requirements.

164. There are exceptions to prior-notification in line with the standard as found by the 2016 Report (see paras 287-289), in the cases of urgency or whenever it is likely to prejudice the investigations. The legal framework continues to be the same and therefore continues to be in line with the standard.

Practice and conclusion

165. In the current review period there were no instances of notifying the taxpayer or third party as no banking information or information related to trusts was requested. In conclusion, the rights and safeguards (e.g. notification, appeal rights) that apply to persons in Brunei Darussalam are compatible with the requirement to ensure effective exchange of information.

Part C: Exchanging information

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

C.1. Exchange of information mechanisms

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

167. The 2016 Report concluded that Brunei Darussalam’s network of EOI mechanisms provide for effective exchange of information by ensuring that all the requests which meet the foreseeable relevance threshold can be responded to irrespective of the tax residency of the taxpayer in both civil and criminal matter without any limitation of domestic interest and including from information holders with fiduciary duties such as nominees and financial institutions. There was no EOI practice to assess the practical implementation of the provisions at that time. Brunei received four requests from two partners during the latest review period. This limited practice does not identify any problem in the interpretation and application of the treaties.

168. Since the 2016 Report, Brunei Darussalam signed the Multilateral Convention on 12 September 2017. The Multilateral Convention entered into force in Brunei Darussalam on 1 July 2019 (i.e. after the period under review). It has also signed a new DTC with Cambodia and a new TIEA (with India) which is not yet in force. Active DTC negotiations with three more jurisdictions are in progress.

169. As a result, to date, Brunei Darussalam has expanded its EOI Relationships from 28 in the previous review period to 138 jurisdictions,

thanks to the Multilateral Convention, 19 DTCs and 11 TIEAs. Out of them one DTC and two TIEAs are yet to be ratified. In addition, seven DTCs of Brunei Darussalam are not in compliance with the international standard, but three of them are complemented by the Multilateral Convention and the authorities are working on updating the EOI provisions in the treaties.

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

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

C.1.1. Foreseeably relevant standard

171. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic taxes of the requesting jurisdiction. The 2016 Report found that Brunei Darussalam’s network of DTCs follows the OECD Model Tax Convention, including in nine cases where the text of the treaty used “as necessary” as an alternative term to foreseeable relevance (see para 304 of 2016 Report). Brunei Darussalam authorities have confirmed that Brunei Darussalam and its partners interpreted the terms “as necessary” being fully equivalent to “foreseeably relevant” in the current review period. Similarly, Brunei Darussalam’s TIEAs follow the 2002 Model Agreement on Exchange of Information on Tax Matters. There were no adverse peer inputs on Brunei Darussalam’s interpretation of foreseeable relevance in the latest review period.

172. Brunei Darussalam interprets and applies its EOI instruments consistent with these principles. All of the new EOI arrangements which Brunei Darussalam has signed since the 2016 Report include the term “foreseeably relevant” in their EOI Article.

Clarifications and foreseeable relevance in practice

173. Brunei Darussalam requires that the requesting jurisdiction provides sufficient information to demonstrate the foreseeable relevance of the request, and would request for clarifications where necessary. However, in the current review period, there was no occasion for sending any clarifications to Brunei Darussalam’s partners.

Group requests

174. Brunei Darussalam's EOI Manual does not have procedures to determine foreseeable relevance and deal with group requests in line with the commentary to Article 26 of the OECD Model Convention. It is not clear whether the officials of EOI Unit are adequately trained to handle group requests in line with the commentary to Article 26 of Model Convention (for more details, see section C.5.2).

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

175. None of Brunei Darussalam's EOI agreements restricts the jurisdictional scope of the exchange of information provisions to certain persons, for example those considered resident in one of the contracting parties. There were no requests in the current review period, which sought information related to non-residents.

C.1.3. Obligation to exchange all types of information

176. The 2016 Report did not identify any issues with Brunei Darussalam's network of agreements in terms of ensuring that all types of information could be exchanged. The 2016 Report however noted that all the treaties of Brunei Darussalam do not have an explicit requirement comparable to paragraph 5 of Article 26 of the OECD Model Tax Convention which provides that a contracting state may not decline to supply information solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. Yet it does not create any automatic restriction on exchange of banking information since the commentary to paragraph 5 notes that even before the amendment in 2005, such co-operation was always possible and practised (see para 312 of 2016 Report). The additional agreements that Brunei Darussalam has entered into since the 2016 Report all include paragraph 5. There were no requests in the current review period relating to nominees or banking information. Brunei Darussalam confirmed that it would be able to exchange information in the absence of domestic tax interest in view of the absence of paragraph 5 of Article 26 of the OECD Model Tax Convention in Brunei's EOI agreements.

C.1.4. Absence of domestic tax interest

177. The 2016 Report did not identify any issues with Brunei Darussalam's network of agreements regarding a domestic tax interest and no issues arose in practice. The 2016 Report however noted that not all of the treaties of Brunei Darussalam have an explicit requirement mentioned in them to

provide information in the absence of domestic tax interest, although implicitly the co-operation was always possible (see para 314 of 2016 Report). The additional agreements that Brunei Darussalam has entered into since the 2016 Report all include paragraph 4 of Article 26 of the OECD Model Tax Convention which provides that a contracting state may not decline to supply information solely because it has no interest in obtaining the information for its own tax purposes. Peers have not raised any issues in practice during the current review period. Brunei Darussalam confirmed that it would be able to exchange information in the absence of domestic tax interest in view of the absence of paragraph 4 of Article 26 of the OECD Model Tax Convention in Brunei's EOI agreements.

C.1.5. and C.1.6. Civil and criminal tax matters

178. Brunei Darussalam's network of agreements provides for exchange in both civil and criminal matters (with no dual criminality restriction). There were no requests received in the review period which sought information for criminal tax matters.

C.1.7. Provide information in specific form requested

179. The Revenue Division applies its EOI mechanisms consistent with the EOIR standard and so is prepared to provide information in the specific form requested to the extent such form is known or permitted under Brunei Darussalam's law or administrative practice. In practice, there were no requests which sought 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

180. The 2016 Report noted that Brunei Darussalam had completed its ratification processes and was awaiting confirmation of ratification on four agreements. Brunei Darussalam was nonetheless recommended to bring its EOI agreements into force as quickly as possible as some delays had been noted (see para. 322). Brunei Darussalam signed the Multilateral Convention on 12 September 2017, and ratified it on 28 March 2019. The Multilateral Convention entered into force in Brunei Darussalam on 1 July 2019. By 20 December 2019, the TIEA with India (signed in February 2019) has been ratified by both India and Brunei Darussalam and has come into force from 30 January 2020 (which is beyond the cut-off date). Another TIEA, with France, remains not in force because France has not sent its notification (see the 2018 Report on France). An analysis of the treaty network of Brunei Darussalam as at the cut-off date is presented below.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	138
In force	125
In line with the standard	122
Not in line with the standard	3
Signed but not in force	13
In line with the standard	13
Not in line with the standard	0
Among which – Bilateral mechanisms (DTCs/TIEAs) not complemented by multilateral or regional mechanisms	4
In force	3
In line with the standard	0
Not in line with the standard	3
Signed but not in force	1
In line with the standard	1
Not in line with the standard	0

181. Out of the 30 bilateral EOI mechanisms of Brunei Darussalam 26 are complemented by the Multilateral Convention. Four DTCs are with countries which have not signed the Multilateral Convention, i.e. Cambodia, Laos, Tajikistan and Viet Nam. The DTC with Tajikistan is signed but yet to be ratified.

182. Brunei Darussalam is in the process of updating the provisions on EOI with seven countries primarily to ensure that paragraphs 4 and 5 of the model convention are explicitly reflected: Cambodia, China, Indonesia, Laos, Oman, Pakistan and Viet Nam. EOI with China, Indonesia and Pakistan can now be performed through the Multilateral Convention (the same will apply to Oman once the Multilateral Convention will have entered into force in Oman). Discussions are still ongoing with the three other partners. Brunei Darussalam should continue its efforts to ensure that all its EOI relationships are fully and explicitly in line with the EOIR standard (see Annex 1).

183. Brunei Darussalam has in place the legal and regulatory framework to give effect to its EOI mechanisms.

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

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

184. The 2016 Report found that element C.2 was in place and rated as Largely Compliant. Brunei Darussalam was recommended to continue to develop its EOI network with all relevant partners and to respond to all requests to negotiate EOI agreements (regardless of their form) in a timely manner.

185. Brunei Darussalam ratified the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention), as amended by the 2010 protocol, on 28 March 2019 and the convention applies from 1 July 2019 for Brunei Darussalam.

186. Since the 2016 Report, there were also no adverse peer inputs on delay or lack of co-operation on the part of Brunei Darussalam for negotiations of TIEAs or DTCs. Brunei Darussalam therefore has a wide treaty network covering all relevant partners and in consonance with the requirements of the standard. Accordingly the past recommendation is now deleted. However, Brunei Darussalam should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

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

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

C.3. Confidentiality

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

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

189. All the new EOI mechanisms entered into by Brunei Darussalam subsequent to the 2016 Report are also in line with the international standard on confidentiality. The table of recommendations, determination and rating is as follows:

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

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

190. There are adequate provisions in Brunei Darussalam’s exchange of information mechanisms to ensure confidentiality of the information received. Furthermore, all of Brunei Darussalam’s EOI arrangements require that any information received be treated as secret, and that disclosure of information received by the Brunei Darussalam authorities under an EOI arrangement is restricted to the circumstances covered by the arrangement.

191. In practice, the Brunei Darussalam’s EOI Manual clearly lays down the procedures to guide officers to ensure confidentiality in handling EOI matters (see also the 2016 Report, para 337). Confidentiality obligations also continue to apply after termination of the employment (s. 5 of Official Secret Act (Chapter 153)). All confidential files are kept locked at a secured cabinet which in turn are kept locked in a secured room. All communications via emails are zipped and encrypted with passwords.

192. The standard, as updated in 2016, clarifies that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides for the authority supplying the information to authorise the use of information for purposes other than tax purposes and where tax information may be used for other purposes in accordance with their respective laws. In the period under review, Brunei Darussalam reported that there were no cases where the requesting partner sought Brunei Darussalam’s consent to utilise the information for non-tax purposes.

C.3.2. Confidentiality of other information

193. Brunei Darussalam does not distinguish between any type of information exchanged, background documents and communication between the competent authorities or the respective tax administrations (see also 2016 Report para 341).

Confidentiality in practice

194. There has been no issues encountered in practice that raised any concerns on the confidentiality of information exchanged by Brunei Darussalam.

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.

195. Brunei Darussalam’s exchange of information mechanisms are fully in line with Article 26 of the Model Convention and Article 7 of the Model TIEA and ensure that no information is exchanged that is to be protected as a trade, industrial or commercial secret or which is subject to attorney client privilege or which would be contrary to public policy (*ordre public*).

196. In practice, authorities of Brunei Darussalam confirmed that they did not experience any practical difficulties in responding to EOI requests due to the application of rights and safeguards in Brunei Darussalam. The table of determination and rating therefore remains as follows:

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

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

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

197. The 2016 Report concluded that Brunei Darussalam has appropriate organisational processes and resources in place to ensure quality of requests and timeliness of responses within 90 days of receipt or by providing an update on the status of the request. However, since Brunei Darussalam had not received any requests, Brunei Darussalam was recommended to continue to monitor the practical implementation of the organisational processes of the EOI unit.

198. In the current review period, although peers were satisfied with the responses from Brunei Darussalam, two out of four requests took longer than 90 days and no status updates were sent, due to lack of awareness of the Brunei Darussalam EOI Unit. Brunei Darussalam is recommended to ensure that responses are provided in a timely manner in all cases and status updates are provided in all cases where the response time is longer than 90 days.

199. In all other respects, Brunei Darussalam continues to perform to the standard in terms of responding to requests, and organisation and procedures

are complete and coherent. 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		
	Underlying Factor	Recommendations
Deficiencies identified	With only four requests received in the review period, there is insufficient experience with the implementation of the element C.5 in practice to support a finding that EOIR is effective in practice. Further, in the review period, in two out of four requests which were not complex, Brunei Darussalam took longer than 90 days to provide the response and no status updates were sent in the interim.	Brunei Darussalam is recommended to monitor the organisational processes to ensure that responses are provided in a timely manner in all cases and status updates are provided in all cases where the response time is longer than 90 days.
Rating: Largely Compliant		

C.5.1. Timeliness of responses to requests for information

200. From 1 July 2015 to 30 June 2018, Brunei Darussalam received a total of 4 requests for information. The information sought in these requests related to (i) ownership information (1 case), (ii) accounting information (3 cases), while there were no requests for banking information. The entities for which information was requested is broken down to (i) companies (1 case), (ii) individuals (1 case), and (iii) IBCs (2 cases).

201. The partners who sent these requests were Malaysia and Indonesia. No requests for clarification were made by Brunei Darussalam to the requesting jurisdictions. The requests related to IBCs have taken less than 180 days and the other two cases, that took less than 90 days to respond to, were related to sole-proprietorship and a domestic company.

202. At the onsite interactions, it was clarified that although the requests were not complex, it was due to lack of awareness on the importance of timeliness that the handling of the cases by staff of the competent authority took longer than 90 days in two out of four cases processed by the EOI Unit

of Brunei Darussalam. Peers have not provided any adverse inputs on timeliness of responses by Brunei Darussalam. However, the Brunei Darussalam authorities have taken steps to improve the situation and all the members of EOI Unit are now trained to ensure timely responses in all cases.

Status updates and communication with partners

203. In both cases, where an answer was provided after 90 days, status updates were not sent. Peers were satisfied with the ease and effectiveness of communication with Brunei Darussalam. Nevertheless, Brunei Darussalam is recommended to ensure that responses are provided in a timely manner in all cases and status updates are provided in all cases where the response time is longer than 90 days.

C.5.2. Organisational processes and resources

Organisation of the competent authority

204. The Minister of Finance and Economy is the competent authority of Brunei Darussalam under Brunei Darussalam's DTCs and TIEAs and the Multilateral Convention. The four delegated Competent Authorities are the Collector of Income Tax, Director of Revenue Division, Assistant Director of Revenue Division and Senior Finance Officer of Revenue Division. The last three persons comprise the EOI unit, together with two EOI officers working full time in exchange of information on request and on automatic exchange of financial information. Staff in the EOI Unit are well qualified to handle the EOI work and have received trainings on subjects like Tax Certainty, Beneficial Ownership and EOIR Assessor Training, Common Reporting Standard of Automatic Exchange of Information. This is sufficient considering the current volume of EOI.

Competent authority's handling of the incoming requests

205. When a request for information is received by the Competent Authority, it is passed directly to the EOI Unit on the day it is received. The officer opening the request stamps it with the date of receipt and with a clearly visible confidentiality notice and passes it immediately to the Senior Finance Officer of Revenue Division who is Head of EOI Unit (HEOI). EOI files are kept in a locked cabinet at a secured room that can only be accessed by EOI officers.

206. The HEOI creates a new record of the request on the EOI database with the details of the case (i.e. case name, date the case was received, foreign reference number, requesting State, details of the information request, etc.),

a case reference number is allotted, and an acknowledgement letter is sent within seven days.

207. Every request is examined by the HEOI on receipt to determine the validity and completeness of the request in the light of the relevant treaty requirements, and whether the request is clear, specific and relevant. If the information provided is insufficient to process the case, then, depending on the circumstances, the competent authority will ask the requesting State, by letter, to provide more details to allow the request to be processed or return the request explaining the reason, e.g. not enough information to identify the taxpayer, or the reason for the request is not clear. Where a request is considered to be invalid or incomplete, Brunei Darussalam's EOI Manual mentions that the requesting State is notified of the deficiency within 60 days of receipt of the request. This has not happened during the review period.

208. Upon validation, the HEOI allocates the case to an EOI Officer responsible for gathering the information needed to respond to the request and drafting a response. If a notice calling for information has to be sent to a third party/taxpayer, the list of documents/information required is mentioned in the letter along with the legal basis to seek the same (S.41 of ITA). No details about the requesting State/underlying EOI mechanism/name of the taxpayer under investigation is revealed in the notice. Every time an action is taken on the request, the EOI database is updated. Once the information needed to respond to a request has been gathered, it is reviewed by the HEOI and submitted for signature by one of the other delegated competent authorities. Along with the response, a feedback on the usefulness of the information provided is also sought from the requesting State. Final response is transmitted by registered letter with copy of the information sent via encrypted email. All documents sent to EOI partners are marked to show their confidentiality status under tax treaty. Status updates are generally expected to be provided if the response cannot be provided within 90 days. However, in the review period, Brunei Darussalam could not provide the same in two cases (see para 202).

209. There were no practical difficulties Brunei Darussalam experienced in obtaining the requested information.

Group requests

210. Brunei Darussalam's EOI Manual does not have procedures to determine foreseeable relevance and deal with group requests in line with paragraphs 5, 5.1 and 5.2 (relating to group requests) of the commentary to Article 26 of the OECD Model Convention. Although during the review period, Brunei Darussalam did not receive any group requests, Brunei Darussalam should ensure that clear procedures are laid out and group requests are handled in line with the standards (see Annex 1).

Outgoing requests

211. Brunei Darussalam did not send any EOI requests in the review period. Brunei Darussalam may send outgoing requests in the future, and necessary guidelines for the same are available in their EOI Manual.

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

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

Annex 1: List of in-text recommendations

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

- **Element A.1.3** (para 90): Brunei Darussalam should ensure that there is adequate supervision of partnerships to ensure availability of accurate and up to date ownership information.
- **Element A.1.4** (para 97): Brunei Darussalam should ensure that identity and ownership information is available in respect of all trusts managed by non-professional trustees.
- **Elements A.1.1 and A.3** (para 65 and 127): The authorities should clarify the rules concerning the updating of the information to ensure the proper application of the standard.
- **Element B.1** (para 149): Brunei Darussalam should monitor the implementation of recent amendments to ITA to ensure effective access to banking information.
- **Element C.1** (para 182): Brunei Darussalam should continue its efforts to ensure that all its EOI relationships are fully and explicitly in line with the EOIR standard.
- **Element C.2** (para 186): Brunei Darussalam should continue to conclude EOI agreements with any new relevant partner who would so require.
- **Element C.5** (para 210): Brunei Darussalam’s EOI Manual does not have procedures to determine foreseeable relevance and deal with group requests in line with the commentary to Article 26 of the OECD Model Convention. Brunei Darussalam should ensure that clear procedures are laid out and group requests are handled in line with the standards.

Annex 2: List of Brunei Darussalam’s EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Australia	TIEA (Tax Information Exchange Agreement)	6 Aug 2013	25 Feb 2016
2	Bahrain	DTC (Double Tax Convention)	14 Jan 2008	18 July 2009
		Protocol	18 Dec 2012	31 Dec 2014
3	Cambodia	DTC	27 July 2017	26 Apr 2018
4	Canada	TIEA	9 May 2013	26 Dec 2014
5	China (People’s Republic of)	DTC	21 Sep 2004	29 Dec 2006
6	Denmark	TIEA	27 Jun 2012	17 Apr 2015
7	Faroe Islands	TIEA	27 Jun 2012	26 Mar 2016
8	Finland	TIEA	27 Jun 2012	1 May 2015
9	France	TIEA	30 Dec 2010	Not yet ratified in France
10	Greenland	TIEA	27 Jun 2012	7 Aug 2015
11	Hong Kong (China)	DTC	20 Mar 2010	19 Dec 2010
12	Iceland	TIEA	27 Jun 2012	19 Apr 2015
13	India	TIEA	28 Feb 2019	Not yet ratified in Brunei Darussalam ¹⁹
14	Indonesia	DTC	27 Feb 2000	3 Apr 2002
15	Japan	DTC	20 Jan 2009	19 Dec 2009
16	Korea	DTC	9 Dec 2014	14 October 2016

19. Both India and Brunei Darussalam ratified the TIEA and it is in force from 30 January 2020 (which is beyond the cut-off date).

	EOI partner	Type of agreement	Signature	Entry into force
17	Kuwait	DTC	13 Apr 2009	02 Jun 2011
		Protocol	11 Oct 2016	26 Oct 2018
18	Lao People's Democratic Republic	DTC	22 Apr 2006	20 Oct 2010
19	Luxembourg	DTC	14 Jul 2015	26 Jan 2017
20	Malaysia	DTC	5 Aug 2009	17 Jun 2010
21	Norway	TIEA	27 Jun 2012	27 Apr 2015
22	Oman	DTC	25 Feb 2008	28 Jun 2009
23	Pakistan	DTC	20 Nov 2008	25 Dec 2009
24	Qatar	DTC	17 Jan 2012	26 Aug 2016
25	Singapore	DTC	19 Aug 2005	14 Dec 2006
		Protocol	13 Nov 2009	29 Aug 2010
26	Sweden	TIEA	27 Jun 2012	20 Dec 2015
27	Tajikistan	DTC	3 Apr 2010	Not yet ratified in Tajikistan
28	United Arab Emirates	DTC	21 May 2013	21 Nov 2014
29	United Kingdom	DTC	8 Dec 1950	8 Dec 1950
		Agreement to amend DTC	11 Dec 2012	19 Dec 2013
30	Viet Nam	DTC	16 Aug 2007	1 Jan 2009

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).²⁰ 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.

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

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

The Multilateral Convention was signed by Brunei Darussalam on 12 September 2017 and entered into force on 1 July 2019 in Brunei Darussalam. Brunei Darussalam can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People’s Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus,²¹ Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, 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), Morocco, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama,

21. 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.

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

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Armenia, Benin, Bosnia and Herzegovina, Burkina Faso, Cabo Verde, Gabon, Kenya, Liberia, Mauritania, Mongolia, Montenegro, North Macedonia (entry into force on 1 January 2020), Oman, Paraguay, Philippines, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference 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 20 December 2019, Brunei Darussalam’s EOIR practice in respect of EOI requests made and received during the three year period from 1 July 2015 to 30 June 2018, Brunei Darussalam’s responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Brunei Darussalam’s authorities during the on-site visit that took place from 18-20 June 2019 in Brunei Darussalam

List of laws, regulations and other materials received

Authority Monetary Brunei Darussalam Order, 2010
Anti-Money Laundering Order, 2000
Banking Order, 2006
Business Names Act (Chapter 92)
Companies Act (Chapter 39) and Companies Act (Amendment) Order, 2010
Finance Companies Act (Chapter 89)
Income Tax Act (Chapter 35)
International Banking Order, 2000
International Business Companies Order, 2000
International Limited Partnership order, 2000
International Trusts Order, 2000

Islamic Banking Order, 2008
Limited Liability Partnerships Order, 2010
Record Keeping (Business) Order
Registered Agents and Trustees Licensing Order, 2000
Brunei Darussalam’s laws can be found on the website of the Attorney
General’s Chambers: www.agc.gov.bn

Authorities interviewed during on-site visit

Registrar of Companies and Business Names
Anti-Money Laundering Authority of Brunei Darussalam
Financial Intelligence Unit
Revenue Division
Attorney General’s Office

Current and previous review(s)

This report is the fourth review of Brunei Darussalam conducted by the Global Forum. Brunei Darussalam previously underwent a review of its legal and regulatory framework (Phase 1) originally in 2011. Since the legal framework to implement the standard was not in place, a supplementary review (Phase 1) was performed in 2015. The implementation of that framework in practice (Phase 2) was reviewed in 2016.

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

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Ms Mônica Sionara Schpallir Calijuri (Brazil), Mr Duncan Nicol (Cayman Islands) and Ms Francesca Vitale from the Global Forum Secretariat	n.a.	June 2011	October 2011
Round 1 Supplementary to Phase 1	Mr Andres Noel Sanchez Hernandez and Ms Flor Nieto Velázquez (Mexico), Mr Duncan Nicol (Cayman Islands) and Ms Audrey Chua from the Global Forum Secretariat	n.a.	August 2015	November 2015
Round 1 Phase 2	Ms Flor Nieto Velázquez (Mexico), Mr Duncan Nicol (Cayman Islands) and Ms Elaine Leong from the Global Forum Secretariat	1 July 2012 to 30 June 2015	August 2016	November 2016
Round 2	Ms Irene Chia (Australia), Mr Abdulrahman B. Almutiri (Saudi Arabia) and Mr Venkata Bhaskar Eranki from Global Forum Secretariat	1 July 2015 to 30 June 2018	20 December 2019	March 2020

Annex 4: Brunei Darussalam’s response to the review report²²

Brunei Darussalam wishes to express its sincere gratitude to the assessment team for assisting Brunei Darussalam throughout the Peer Review exercise.

Brunei Darussalam is pleased with the overall rating assigned under the current round of reviews based on the 2016 Term of Reference (TOR). It affirms the improvements made in its legal and regulatory frameworks including availability of ownership information and access to information for exchange of information. Brunei Darussalam has repealed the secrecy provisions of various orders by amending the Income Tax Act. This change allows the Collector of the Income Tax to request protected information from banks without going through the High Court anymore.

Brunei Darussalam attaches great importance to implementing international standards of transparency and effective exchange of information for tax purpose by signing the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) on 12 September 2017 which entered into force on 1 July 2019. This allows Brunei Darussalam, among others, to exchange tax information with all of its signatories countries. As a result, Brunei Darussalam’s EOI network has greatly expanded since the first round of peer review with the ratification of the Multilateral Convention.

Brunei Darussalam takes note of the recommendations made in the draft report especially in the areas of availability of beneficial ownership information and supervision of accounting information. Based on the draft report, Brunei Darussalam will actively pursue improvements to implement all the recommendations as stated in the draft report, with the earliest being those on EOIR processes. With all the continuous processes of improvements, Brunei Darussalam hopes that the improvements will help Brunei Darussalam to be in line with international standard particularly in the areas of tax transparency and exchange of information.

Brunei Darussalam attaches great importance to the Peer Review and will remain fully committed to the EOI Standard.

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

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information
on Request BRUNEI DARUSSALAM 2020 (Second Round)**

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This report contains the 2020 Peer Review Report on the Exchange of Information on Request of Brunei Darussalam.



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