GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

10 YEARS

Peer Review Report on the Exchange of Information on Request

URUGUAY

2020 (Second Round)

OECD

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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

BETTER POLICIES FOR BETTER LIVES

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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) 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 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

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AIN	National Internal Audit – Auditoría Interna de la Nación
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BCU	Central Bank of Uruguay – Banco Central del Uruguay
CVA	Clearance certificate
DGI	Tax Administration – Dirección General Impositiva
DNFBP	Designated Non-Financial Businesses and Professions
DTC	Double Tax Convention
EOIR	Exchange Of Information on Request
FATF	Financial Action Task Force
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
MEC	Ministry of Education and Culture – Ministerio de Educación y Cultura
MEF	Ministry of Economy and Finance – Ministerio de Economía y Finanzas
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NRC	National Register of Commerce
RNRCSF	Compilation of Regulation and Control Standards of the Financial System

SENACLAFT	National Anti-Money Laundering and Counter-Terrorist Financing Secretariat – Secretaria Nacional contra el Lavado de Activos y el Financiamiento del Terrorismo
SSF	Superintendence of Financial Services
TIEA	Tax Information Exchange Agreement
TIN	Taxpayer Identification Number
UI	Indexed Units[1]
UIAF	Information and Financial Analysis Unit
UYU	Uruguayan peso

1. An Indexed Unit is a financial unit specified in some laws. One UI was equivalent to UYU 4.16 (USD 0.119) at the end of the review period.

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Uruguay for the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 5 May 2020 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 October 2015 to 30 September 2018. This report concludes that Uruguay continues to be rated overall **Largely Compliant** with the international standard.

2. In 2014 the Global Forum evaluated Uruguay against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice (see Annex 3). The report of that evaluation (the 2015 Report) concluded that Uruguay was rated Largely Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

Element		First Round Report (2015)	Second Round EOIR Report (2020)
A.1	Availability of ownership and identity information	LC	LC
A.2	Availability of accounting information	LC	C
A.3	Availability of banking information	C	C
B.1	Access to information	PC	PC
B.2	Rights and Safeguards	PC	PC
C.1	EOIR Mechanisms	LC	LC
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

3. Uruguay has made significant progress in several areas since the previous review, but has not addressed all issues. In the previous Global Forum report (the 2015 Report) Uruguay received recommendations relating to both the legal framework and its implementation in practice. Monitoring and enforcement was one of the main areas for attention identified in the 2015 Report, referring to the reforms for bearer shares (element A.1), as well as the availability of underlying accounting documentation and the filing of annual accounts (element A.2). Recommendations were also made in relation to limitations on access to banking information (element B.1) and a lack of appropriate exceptions from notification procedures (element B.2). Uruguay was also recommended to take action to bring into force certain signed agreements and reconsider its interpretation of one TIEA already in force (element C.1) and continue to develop and expand its network of EOI arrangements. Finally, Uruguay was recommended to monitor its practical implementation of EOI processes and ensure updates on progress is provided to EOI partners.

4. Since the previous review, Uruguay has taken steps to address several of the recommendations. It has monitored and taken enforcement action to support the implementation of Law No. 19 288 on Identification of Owners of Bearer Shares. It has taken all steps necessary on its part to bring into force signed agreements and has brought into force new EOI agreements. The Multilateral Convention was signed by Uruguay on 1 June 2016 and entered into force on 1 December 2016 in Uruguay. Uruguay has also monitored and strengthened its EOI administration.

5. Law No. 19 484 was enacted in 2017 and this law strengthens Uruguay's ability to obtain legal ownership information and also addresses the new requirement under the standard to ensure that beneficial ownership information is available for companies and other body corporates, partnerships and express trusts.

Key recommendations

6. The recommendation made in the 2015 Report relating to the limitation on access to bank information in the period prior to 2 January 2011 is retained. Only one request was received for such information since the period reviewed in the first round and that request was judicially successful in the first instance and on appeal. This indicates that the legal framework can permit access to such earlier bank information, however judicial approval of such requests remains uncertain.

7. Two recommendations made in the 2015 Report related to a lack of appropriate exceptions to the notification requirements in Uruguay's legal framework are retained because there has been no change in substance to these gaps. One recommendation concerns the notification to account holders inherent in the process to obtain banking information, albeit limited in practice only to those account holders with a domicile in Uruguay. The other recommendation relates to the notification process required immediately prior to the exchange of information.

8. A new recommendation has been made that Uruguay continue to monitor and enforce compliance with obligations to identify, register and update legal and beneficial ownership records. Given that the beneficial ownership reporting introduced by Law No. 19 484 imposed deadlines falling in the latter part of the review period, limited active compliance and enforcement has been possible. During the on-site visit the National Internal Audit (AIN) demonstrated appropriate activities through that time for implementation of this law and to some extent continuing after the review period, however there was a lack of clarity on how this would move to long term plans, strategies and compliance activities.

9. Two new recommendations were made in relation to obtaining banking information. The first arises from the timeframes currently required to obtain banking information under the existing judicial process to lift bank secrecy. The current legal and procedural framework, even when administered optimally, appears unable to allow access to banking information within a time consistent with effective exchange. Notification requirements appear to be the cause of, or at least a significant factor in, the lengthy delays in some cases. Uruguay is recommended to examine the legal and procedural framework applying to the judicial lifting of bank secrecy and make such changes as may be necessary to ensure that judicial processes do not impede timely responses to banking information requests.

10. The second recommendation relating to banking information arises because three requests for banking information have not been successful under Uruguay's judicial procedures, and the judicial cases indicate that banking information cannot be obtained when the account holder has not been identified. These requests related to credit card information that were consistent with the example in the Commentary on Article 26 of the OECD Model Convention. Uruguay should ensure that all relevant bank information may be accessed for exchange of information purposes. This recommendation has also been made in relation to the ability to provide for effective exchange.

Overall rating

11. Overall, Uruguay has made significant progress in several areas. The legal and regulatory framework is substantially in place and there is a wide network of exchange arrangements. Volumes of exchange requests significantly increased in the review period to 211 requests over three years compared to 17 requests in the three years of the previous review period. Uruguay's administrative framework has proved capable of handling these volumes and peers were generally satisfied. Uruguay does need to maintain its initial progress in monitoring and enforcement for the availability of ownership information for the longer term, and improvements are required in the area of obtaining banking information. On balance, Uruguay is rated Largely Compliant with the EOIR standard overall.

12. This report was approved at the Peer Review Group of the Global Forum on 1 July 2020 and was adopted by the Global Forum on 18 August 2020. A follow up report on the steps undertaken by Uruguay 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 *(ToR A.1)*		
The legal and regulatory framework is in place		
Largely Compliant	The National Internal Audit (AIN) had carried out limited activities to ensure ongoing compliance by all entities with legal and beneficial ownership record keeping and registration obligations.	Uruguay should continue to monitor and enforce compliance with obligations to identify, register and update legal and beneficial ownership records.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place		
Compliant		
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place		
Compliant		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place, but needs improvement	Uruguay's ability to access bank information prior to 2 January 2011 may be limited under its domestic legislation. While statements and other transactional records should now be outside of the pre-2011 blackout period and available for the required 5-year period, the remaining legal gap applies only to opening documents and other background information for accounts opened prior to 2 January 2011.	Uruguay should ensure that all relevant bank information may be accessed for EOI purposes, regardless of the period to which the information relates, to ensure they can give full effect to their EOI agreements.
Partially Compliant	The judicial procedure for the lifting of bank secrecy has not been successful in three cases related to obtaining information on the holders of credit cards issued by Uruguayan financial institutions.	Uruguay should ensure that all relevant bank information may be accessed for exchange of information purposes, including when the account holder's name is not known.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place but needs improvement	Under the court process for accessing bank information, certain information must be provided to the Uruguayan court to which the relevant account holder (who may be the taxpayer) will have access. There are no exceptions to this notification of the account holder prior to exchange of information, for example where the information requested is of a very urgent nature, or where prior notification is likely to undermine the chance of success of the investigation in the requesting jurisdiction.	Uruguay should ensure that disclosure of information relating to an EOI request in the course of the court process to access bank information includes appropriate exceptions to notification prior to exchange of the information.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	Decree No. 313/011, as amended, requires the notification of the individual or entity concerned prior to the exchange of the information to another jurisdiction.	It is recommended that Uruguay clarifies that suitable exceptions from the prior notification requirement are permitted to facilitate effective exchange of information.
Partially Compliant	Under the process for accessing bank information when judicial authority is required to lift bank secrecy, the optimum timeframe to achieve this is approximately 88 days, but notification steps in this process can cause these timeframes to be substantially longer in practice. This is not compatible with effective exchange of information.	Uruguay is recommended to examine the legal and procedural framework applying to the judicial lifting of bank secrecy and make such changes as may be necessary to ensure that judicial processes and notification requirements do not impede timely responses to banking information requests.
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place but needs improvement	During the review period, Uruguay was not always able to obtain banking information when the account holder has been identified by information other than the name (see B.1). This may limit Uruguay's ability to fully exchange banking information in some cases.	Uruguay should ensure that all relevant bank information may be accessed for exchange of information purposes, including when the account holder's name is not known.
Largely Compliant	The interpretation by Uruguay of the entry into force provision of one TIEA concluded with a significant EOI partner during the period of review period is not in line with the international standard.	Uruguay must ensure that its interpretation of the entry into force provision of that TIEA does not restrict the exchange of information with that EOI partner.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place		
Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework determination:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
Largely Compliant	Requests were received for company ownership information for companies suspected of being related to particular taxpayers in the requesting jurisdiction. Uruguay's responses were limited only to stating that the taxpayer was not the beneficial owner, without identifying the actual owners.	Uruguay is recommended to seek clarification of requests in all cases where it is apparent that clarification could improve effectiveness.

Overview of Uruguay

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

Legal system

14. The Uruguayan Constitution establishes a democratic republic with a presidential system. State power is divided between the legislature, executive and judiciary. Uruguay has a civil law legal system, with a hierarchy of laws as follows: the Constitution; laws (including "decree-laws"[1]); and decrees, regulations and resolutions. Laws must be passed by the parliament, while decrees are issued by (i) the President acting with the Council of Ministers; or (ii) the President acting with the relevant Minister/Ministries. Regulations may be issued by the President or relevant Minister.

15. Legislative power is vested in the parliament (General Assembly), consisting of a Senate and a House of Representatives. The executive branch of government is led by the President and 13 cabinet ministers who make up the Council of Ministers. The judiciary is headed by the Supreme Court whose five judges are appointed by a two thirds majority of the General Assembly. The Supreme Court is the final court of appeal and is also responsible for judging the constitutionality of laws.

16. International treaties, including double tax conventions (DTCs), tax information exchange agreements (TIEAs) and the Multilateral Convention have the same status as laws made by the national government.

1. Under Uruguayan law, "decree-law" refers to the regulations issued during the last civil and military regime which ruled from 1973-85. Upon the return of democratically elected government some of these laws were validated by the parliament and they are now known as decrees with the force of law.

Tax system

17. The national tax system is administered by the *Dirección General Impositiva* (DGI). The principal national taxes are:

- VAT – imposed on goods and services at a general rate of 22%. Certain exemptions exist either in entirety or at a reduced rate.
- Corporate tax – imposed on companies and individuals engaged in business activities, either resident or with a permanent establishment, on Uruguayan source income (including capital gains) originating from services, economic, commercial and livestock activities. The rate is 25%.
- Personal income tax – imposed on Uruguayan resident individuals.
- Wealth tax payable by corporations and individuals on net assets located within Uruguay.
- Non-resident income tax – imposed on Uruguayan source income derived by non-resident individuals and entities.

18. An individual person is considered to be a Uruguayan resident for tax purposes if he/she is present in Uruguay for more than 183 days in a calendar year; or if directly or indirectly the economic activities or interests of the person are located in Uruguay. Companies are considered resident when they are incorporated under Uruguayan law or are re-domiciled in Uruguay. Foreign companies that have a permanent establishment in Uruguay are only taxable on Uruguayan source income. Partnerships and trusts are taxed on an entity basis (except for guarantee trusts).

19. In general, foreign source income is not taxable in Uruguay. However resident individuals are taxable on income from foreign passive investments.

20. Uruguay operates 12 free trade zones which are areas within the national territory within which commercial activities have certain tax exemptions and other benefits. A specific type of company (SAZF) may be incorporated that are permitted to operate only in these zones. SAZF companies are a subcategory of corporation and are subject to the same ownership and identification requirements as other corporations in Uruguay.

Financial services sector

21. There are 11 banks, 2 of which are state owned and these held 50% of the total assets held by banks at June 2018. The banking sector has a credit portfolio of USD 36 billion,[2] which equates to 58% of the Gross Domestic Product (GDP). There is also 1 financial house,[3] 1 off-shore financial institution, 1 co-operative financial institution and 1 company managing provident savings funds.

22. The securities market includes 3 stock exchanges, 36 issuers (25 of which are financial intermediation companies), 38 stock traders, 30 stockbrokers, 11 managers of investment funds and 173 investment advisors.

23. The Central Bank of Uruguay (BCU), through the Superintendence of Financial Services (SSF), is the overseeing body responsible for the regulation and control of banking entities. Currency exchange companies, stock exchanges, securities brokers, managers of investment funds and custodians or clearing and settlement houses must be authorised by the SSF. Credit managing companies must apply for registration in the Register maintained by the SSF prior to the start of activities. Professional trustees and investment advisors must register in the Register of the Securities Market held by the SSF.

Anti-money laundering framework

24. The Co-ordinating Commission against Money Laundering and Terrorist Financing (the Co-ordinating Commission) was established by Decree in 2007 to promote the development of co-ordinated actions by agencies with jurisdiction in the matter; to promote the development and implementation of an information network that contributes to the performance of the judicial power, the public prosecution service, the police force, the Information and Financial Analysis Unit and the National Secretariat for the Fight against Money Laundering and Terrorist Financing (SENACLAFT); and also to enable the production of statistics and indicators to facilitate the periodic review of the effectiveness of the system.

25. SENACLAFT is empowered to supervise DNFBPs,[4] co-ordinate and evaluate the implementation of technical and administrative activities

2. This data was provided in USD. 1 US dollar was equivalent to approximately 33 UYU at the end of the period under review.
3. An entity that is authorised to carry out any type of financial intermediation operation, other than the acceptance of deposits.
4. SENACLAFT's supervisory powers cover all entities that are DNFBPs as defined by FATF. The list and confirmation of the coverage can be found in paragraph CT195 of the Fourth Round MER approved in December 2019.

necessary for the functioning of the Co-ordinating Commission against AML/CTF. It promotes and co-ordinates actions to address the problem of money laundering and related economic and financial crimes and terrorist financing and acts as Uruguay's National Co-ordinator and representative to the Financial Action Task Force of Latin America (GAFILAT) which is the regional body associated with the global body the Financial Action Task Force (FATF). SENACLAFT also represents Uruguay before all specialised agencies and national and international events in the field.

26. The BCU has legal powers to issue regulations aimed at individuals or legal entities under its supervision to prevent money laundering (Law No. 17 016 of 28 October 1998, Law No. 18 401 of 24 October 2008 and Law No. 19 574 of 20 December 2017) and through its agency the SSF the BCU exercises oversight on the matter over the financial system in general, including, among others, banks and other financial intermediaries, currency exchange companies, insurance companies, members of the securities market, administrators of provident savings funds and companies providing transfers or remittances of funds. The UIAF also operates under the aegis of the BCU and it serves as a national centre for receiving and analysing suspicious transaction reports and other relevant information. Uruguay is a full member of the Egmont Group.

27. Uruguay has recently undergone an assessment on its compliance with the AML/CFT standard by GAFILAT.[5] Relevantly, the Fourth Round MER of Uruguay approved in December 2019 found Uruguay Largely Compliant on Recommendations 10 (Customer Due Diligence), 24 (Transparency and beneficial ownership of legal persons) and 25 (Transparency and beneficial ownership of legal arrangements). Immediate outcome 5 concerning implementation of rules ensuring availability of beneficial ownership information for legal persons and arrangements was rated at a moderate level of effectiveness. Some uncertainties were identified in relation to the timing of customer verification, the need to keep beneficial ownership information as up-to-date as possible, and the period for conserving records for companies. An obligation for shareholders and nominal directors to disclose the identity of their nominee to the company and to registries other than that of the SENACLAFT was not found. The range of sanctions for non-compliance with basic information requirements that may apply to corporate forms other than public limited companies was also found to be unclear.

5. The assessment report is available at gafilat.org.

Recent developments

28. Since the 2015 Report, Uruguay has enacted Chapter II of Law No. 19 484 of 5 January 2017 (Approval of Rules Converging with International Standards on International Fiscal Transparency, Prevention and Control of Money Laundering and Terrorist Financing) and its Regulatory Decree No. 166/017, of 26 June 2017, which requires identification of the beneficial owner of all Uruguayan business entities and legal structures, with an obligation to report all data to a Register managed by the BCU each time said data is changed. This law complements Law No. 18 930 of 17 July 2012, which required the identification of shareholders of companies or other entities that issued bearer equity interest, extending this obligation to all other Uruguayan business entities and legal structures, including the obligation to inform the BCU about the shareholders and holders of registered equity interest of the entities authorised to do so.

29. Uruguay ratified the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol of 2010 by Law No. 19 428 of 26 August 2016 (deposited on 31 August 2016) and it entered into force on 1 December 2016, applicable to fiscal years beginning on or after 1 January 2017.

30. Uruguay committed to implement the international standard for automatic exchange of financial information for tax purposes (CRS) with the first exchanges occurring in September 2018, relating to the fiscal year 2017. For this purpose Uruguay adopted the necessary regulatory framework which included:

- Chapter I of Law No. 19 484 of 5 January 2017 (Approval of Convergence Rules on International Standards on International Fiscal Transparency, Prevention and Control of Money Laundering and Terrorist Financing)
- Regulatory Decree No. 77/017 (as amended by Decree No. 243/018 of 13 August 2018)
- DGI Resolution No. 6396/2017 of 25 September 2017.

31. With regard to international integration and the growing demand for greater co-ordination between States and their respective tax administrations to combat erosion of the tax base and deterioration in revenue resulting from aggressive or abusive tax planning strategies, Uruguay has become part of the "Inclusive Framework" to implement the package of BEPS measures promoted by the OECD. Uruguay committed to implementing the minimum standard of BEPS measures. The legal framework implemented to carry out the BEPS Action Plan 13 is:

- Chapter IV of Law No. 19 484 of 5 January 2017 (Approval of Convergence Rules on International Standards on International Fiscal Transparency, Prevention and Control of Money Laundering and Terrorist Financing)
- Regulatory Decree No. 353/2018 of 26 October 2018
- Resolution of the General Tax Administration No. 94/2019 of 4 January 2019.

Part A: Availability of 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.

32. The 2015 Report concluded that Uruguay's legal and regulatory framework was "in place" and ensured the availability of legal ownership information at any time either from the public authorities (e.g. National Register of Commerce) or directly from the entities (shareholder register) or regulated third parties (notaries). It found that there were effective requirements in place to ensure the availability of ownership and identity information in respect of companies and partnerships. Law had been enacted to strengthen the reporting requirements and enforcement measures on bearer shares, addressing a concern identified in the 2012 Supplementary Phase 1 report.

33. For trusts, the 2015 Report found that there were clear requirements to keep identity information in respect of settlors, trustees and beneficiaries and no issues were found in practice. While foundations may be created under Uruguayan law, they are limited to non-profit activities and their significance is limited. A number of other entities and arrangements such as economic interest groups, informal partnerships and consortiums are possible and in all cases these were subject to requirements to maintain ownership and identity information in line with the standard. Informal partnerships and consortiums are discussed at sub-element A.1.3 and economic interests groups at sub-element A.1.5.

34. The 2015 Report also found that measures to ensure the effective enforcement of all of these obligations were generally in place. The only recommendation made was that Uruguay should continue to monitor the implementation of the relatively recent law on bearer shares. In the current review it was found that Uruguay had conducted sufficient monitoring and enforcement actions since the previous Report to ensure an effective implementation of that law and the recommendation has been met.

35. The standard was strengthened in 2016 with a new requirement that beneficial ownership on entities and arrangements should be available. The

main source of beneficial ownership information in Uruguay is a register maintained by the Central Bank of Uruguay (BCU).

36. A new recommendation has been made that Uruguay continue to monitor and enforce obligations to identify, register and update legal and beneficial ownership information on an ongoing basis.

37. Uruguay received 75 requests for legal and beneficial ownership information and peers were largely satisfied with the responses. In 5 cases there appears to have been misunderstanding over the scope of the requests from one peer, from which no conclusion could be drawn on availability of the underlying information.

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

Legal and Regulatory Framework		
Determination: The element is in place		
Practical Implementation of the standard		
	Underlying Factor	**Recommendations**
Deficiencies identified	The National Internal Audit (AIN) had carried out limited activities to ensure ongoing compliance by all entities with legal and beneficial ownership record keeping and registration obligations.	Uruguay should continue to monitor and enforce compliance with obligations to identify, register and update legal and beneficial ownership records.
Rating: Largely Compliant		

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

39. As described in the 2015 Report, companies are types of "business partnerships" under Uruguayan law. To facilitate comparison with other reports, *Sociedad de Responsibilidad Limitada* (SRLs), *Sociedades Anónimas* (SA) and *Sociedades en Comandita por Acciones* (SCA) are most comparable to companies in common law countries and are therefore dealt with in the sub-element A.1.1 section of this report. *Sociedades Colectivas* (SCs) and *Sociedad en Comandita Simple* are also types of "business partnerships" under Uruguayan law, but are comparable to the concept of "partnership" which exists in many common law countries and are therefore analysed in the sub-element A.1.3 section of this report. Details of the structure of each of these entity types remain as described in the 2015 Report.[6]

6. Other forms of association are co-operatives formed under Law No. 18 407 by persons who join for common economic, social or cultural needs; and agrarian associations and agricultural companies formed under Law No. 17 777.

Type of companies	Governing law	Statistics as of June 2014	Statistics as of December 2018
SRL	Business Partnerships Law	25 808	31 213
SA	Business Partnerships Law	19 657 with nominative shares 37 596 with bearer shares 33 with book entry shares	26 844 with nominative shares 21 902 with bearer shares 76 with book entry shares
SCA	Business Partnerships Law	51 with nominative shares 123 with bearer shares	78 with nominative shares 42 with bearer shares

40. The following table[7] shows a summary of the legal requirements to maintain legal and beneficial ownership information in respect of companies:

Type	Company registry law	Central Bank (BCU) registry law	AML law	Tax law
SRL	Legal – all Beneficial – none	Legal – all Beneficial – all	Legal – some Beneficial – some	Legal – all Beneficial – none
SA	Legal – all Beneficial – none	Legal – all Beneficial – all	Legal – some Beneficial – some	Senior managing officials only
SCA	Legal – all Beneficial – none	Legal – all Beneficial – all	Legal – some Beneficial – some	Senior managing officials only
Foreign companies (tax resident)	Legal – all Beneficial – none	Legal – all Beneficial – all	Legal – some Beneficial – some	Senior managing officials only

Legal ownership and identity information requirements

41. The 2015 Report concluded that ownership information in respect of companies, including foreign companies with a sufficient nexus, was required to be available in line with the standard. Since then, as explained in this report, new obligations on some companies to lodge ownership information with the BCU have further strengthened the availability of legal ownership information.

7. 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.

Registration requirements

42. All business partnerships (including companies) formed under Uruguayan law must have a business organisation agreement containing information that includes the name and address of the business partnership and identification of the founding members and their capital contributions.[8] The agreement is first registered with a public notary, who keeps the information in a notary register. Notaries are subject to AML obligations including customer due diligence.[9] The due diligence obligations are imposed under Article 13 of the AML Law and Decree 379/2018 which includes a requirement to identify the beneficial owners of the customer. Notaries are licensed by the Supreme Court and are supervised by SENACLAFT. Records must be kept for at least five years from the end of the customer relationship.

43. The agreement must then, within thirty days of execution, be registered in the National Register of Commerce (NRC) in order to have legal personality recognised. The NRC is administered by the General Registries Office within the Ministry of Education and Culture (MEC). The MEC checks that the document is duly notarised and checks that the business partnership has also registered with the tax administration (DGI). Obtaining a Tax Identification Number (*Registro Unico Tributario*, RUT) is a prerequisite for this business entity registration, thus ensuring that the entity is also known to the DGI. NRC registrations are published in the Official Gazette and are publicly available.

44. Any act that alters or extinguishes the registered information of an SRL type company (including a change of shareholder) is registrable in the NRC with the same formalities required as for initial incorporation. A transfer of interest in an SRL type company must be registered with the DGI before registering the transfer with the notary and in the NRC.[10] Registration in the NRC requires certification by a notary and the transfer of interest is not legally effective until registered in the NRC. All documents registered in the NRC are kept indefinitely.

45. SA and SCA type companies, agricultural companies, and any other legal person or entity that issues shares or equity interests are required to lodge a statement with the BCU identifying the owners of the shares or equity interests in the company, their percentage interest and an RUT. In the case of individual owners their name, domicile and RUT (or, if foreign, an identification issued by another jurisdiction) must be provided. In the case of owners

8. Article 6 of the Business Partnerships Law.
9. See paragraph 27 referring to the 2019 GAFILAT mutual evaluation report on AML. The 2019 report also records a range of monitoring and enforcement actions carried out by SENACLAFT covering notaries.
10. Section 22 of Law No. 18 930.

who are legal persons or other entities, the entity name, place and date of incorporation, address and RUT (or foreign identification number as applicable) are required as well as the name, domicile and identification number of the representative. The statements must be certified by a public notary who is, as noted earlier, subject to AML obligations including customer due diligence obligations.

46. Those companies and entities required to lodge a statement with the BCU as described above must submit new sworn statements to the BCU when any of this information changes, generally within 30 days of the change occurring.[11] The BCU retains information on its register for 10 years after an entity ceases to exist. SA and SCA type companies must themselves also maintain a share register in Uruguay and retain it for 5 years (in some cases up to 10 years).

47. Foreign companies that carry on business in Uruguay through a permanent establishment are required to register in the NRC including providing a copy of their contract of incorporation, their address and the identity of persons who will administer or represent the company. Modifications to the initial contract of incorporation of any registered foreign company, and any subsequent transfers of shares in a company other than a corporation, must be registered with the NRC. The registration of the foreign company in the NRC requires a public notary who is subject to the AML obligations noted previously.

48. Foreign companies carrying on business through a permanent establishment or having their place of effective management or having assets in Uruguay with a value exceeding UI 2 500 000 (USD 300 000)[12] in Uruguay must also provide information on the identity of their legal owners to the BCU and update any changes within 90 days. The provision of this information to the BCU requires a public notary.

49. Foreign companies subject to tax in Uruguay (those carrying on business through a permanent establishment in Uruguay) are required to register with the DGI at the time of starting or restarting taxable activity. Decree No. 166/017 also effectively requires registration with DGI if the foreign company is effectively managed or assets exceed UI 2 500 000 (USD 300 000), as an RUT number is required to be provided when registering with BCU.

50. As indicated in the 2015 Report, the concept of nominee shareholding does not exist in Uruguayan law. The concepts of a *mandatario* and *carta poder* do exist, however these are different from the concept of nominee

11. The period is 45 days in relation to ownership of bearer shares and 90 days if the owner is a non-resident.

12. The amount is specified in law as UI.

ownership. *Mandatarios* are persons acting as long term representatives of a shareholder, whose scope of representation is specified in the power of attorney under which such power is granted. Holders of *carta poder* are persons acting as short term representatives of a shareholder, such as for a specific meeting which the shareholder is unable to attend, as set out in a letter executed by a public notary. Neither a *mandatario* nor a holder of a *carta poder* is the legal or beneficial owner of the shares. Under Article 13(h) of the AML Law, a person who habitually exercises these functions is required to register with SENACLAFT.[13] Article 83 of Decree No. 379/018 requires such persons to disclose the identity of the nominator to SENACLAFT and report on the companies served.

Legal ownership information – Enforcement measures and oversight

51. Any business partnership (which includes companies) purported to be formed under Uruguayan law that fails to register its constituting agreement with a public notary cannot be registered in the NRC and has no legal existence. Updates to information registered with NRC (including transfers of ownership interests in an SRL) are not legally effective if the company fails to register the changes in the NRC. Changes cannot be registered in the NRC without providing a certification of lodgement of ownership information with the BCU (when applicable). A company is liable for any damages caused to third parties resulting from a failure to file necessary records to the NRC and directors are jointly and severally liable for such damages.

52. SA and SCA type companies, agricultural companies, and any other legal person or entity that has issued shares or equity interests and fails to register the ownership information or fails to submit new sworn statements to the BCU when any of the information changes are subject to penalties for such failure. Reporting institutions are not enabled to register acts and legal transactions in the Registers under the General Registration Bureau of the Ministry of Education and Culture without affirming that BCU information is up to date (Article 14 of Decree No. 247/012). This affirmation requires a notary, who is subject to AML obligations to carry out customer due diligence as previously noted. Registered acts and transactions remain enforceable in the event that an affirmation of lodgement with BCU (by affidavit) is later found to be incorrect. The making of a false affidavit is a criminal offence in Uruguay.

53. National Internal Audit (AIN) supervises compliance with obligations to lodge ownership information with the BCU. Non-compliance may

13. There were 179 such persons registered at 3 June 2020. During the four years to 2019 SENCLAFT carried out 77 inspections of these service providers.

be penalised with a fine up to 100 times the fine provided by tax law.[14] Representatives of the entity are also liable for the penalty to the extent of their personal responsibility for the non-compliance. Entities are restricted from distributing profits to unidentified owners and can be fined 100% of any amount incorrectly paid. AIN is required to notify the DGI of non-compliant entities for suspension of their clearance certificate (CVA). The CVA certifies that the particular taxpayer is up to date in the fulfilment of its tax and other formal duties and is frequently used in business activities as its status is a matter used by suppliers, financial institutions and others and is public information available from the DGI website. Suspension of the CVA can significantly inhibit a person's business activities in Uruguay but would not inhibit a company's activities outside of Uruguay, except to the extent that a foreign financial institution or authority may require a certificate of good standing from the company.

54. Failure to register with the DGI, failure to update registration information, or late registration of such information, is subject to financial penalty under Article 95 of the Tax Code that escalates according to the period of failure.[15] The DGI may, under Article 80 of Title 1 of the Amended Text of the DGI 1996, suspend the CVA and may, under Article 76 of the same law, also compel temporary suspension of operation of business premises for a continuing failure.

55. The BCU has in place automated controls on the quality and consistency of lodged ownership declarations.

56. AIN carries out a range of control activities to identify and sanction non-compliance. These have occurred progressively over time during and following the implementation of transparency measures. Initially this has related to Law No. 18 930 (bearer shares) and Law No. 19 288 (further remediation of information on bearers shares) and most of the enforcement activity during the period under review was focused on compliance with these laws as the most recently created obligations at that time. In 2015 and 2016, BCU data holdings were cross-checked against data recorded in the DGI and 9 442 entities were notified to the DGI for suspension of their CVA. Fines have been imposed on 567 entities for noncompliance with Law No. 18 930 with UYU 46 000 000 (USD 1 220 000) collected. Dividend withholding records were also obtained from the DGI for comparison to the BCU's ownership records.[16]

14. Penalised with a fine up to 100 times the maximum value of the fine for non-compliance with tax formalities (Art. 95 of the Tax Code).
15. Sanctions for failing to register range from UYU 42 (USD 12) to UYU 8 260 (USD 236) and sanctions for late registration or amendment range from UYU 7 000 (USD 20) to UYU 28 000 (USD 80).
16. No non-compliant payments were identified.

57. In 2017, 55 entities were audited for compliance with their obligations to register equity interest holders with the BCU: 40 were found to be compliant, 5 were finalised with no action required and 10 required further action.

58. Other control activities are driven by crosschecking the ownership database held by the BCU against data held in the NRC and by the DGI to ensure completeness and accuracy and notification to the NRC and the DGI as part of the application of sanctions when non-compliance is found (deregistration, removal of CVA).

59. The DGI includes ownership verification as a standard checklist procedure in fiscal audits. In each of the years 2015 to 2018 more than 400 such audits were undertaken (see paragraph 125 for details). In addition, there were 80 ex officio registrations of taxpayers during the period under review.

60. Overall the interactions between NRC, BCU and DGI registration requirements (supplemented with public notary involvement), the absence of legal effect if requirements are not met (for SRLs), the sanctions available and the enforcement activities of the DGI and AIN combine to create an integrated system for ownership and identity information.

Availability of beneficial ownership information

61. The EOIR standard was strengthened in 2016 with a new requirement that beneficial ownership information on companies and body corporates be available. In Uruguay the main mechanism for ensuring the availability of beneficial ownership information for companies are the obligations imposed by Law No. 19 484 of 2017. Financial institutions and other persons subject to AML obligations are required to identify and take reasonable measures to verify the identity of beneficial owners of customers. Most but not all companies will have a bank account in Uruguay and the BCU has used its access to the records of financial institutions to crosscheck records in the beneficial ownership registry that it maintains (see section A.3 for details on the AML framework).

62. The definition of beneficial owner is found in Article 22 of Law No. 19 484:

> a beneficial owner as "a natural person who, directly or indirectly, owns at least 15% of the capital or its equivalent, or of the voting rights, or who by other means exercises final control over an entity, which includes a legal person, a trust, an investment fund or any other pool of assets or legal structure. Final control shall mean the control exerted directly or indirectly through a chain of ownership or any other means of control. In the case of trusts, the individual or individuals who meet the conditions provided for above must be identified in relation to the settlor, trustee and beneficiary."

63. The definition is complemented by Decree No. 166/017[17] and guidance has been published by AIN on the application of this definition. The full definition conforms to the definition in the standard so far as identification of beneficial owners through ownership, voting rights or control by other means is required. Law No. 19 484 and Decree No. 166/017 do not explicitly require the identification of senior managing officials in cases where no other beneficial owners have been identified, however such individuals are required under tax law to be identified and their identity registered and maintained with DGI to obtain and hold an RUT, which is required to be quoted on filings with BCU in relation to ownership. The tax law also requires that registration details must be updated with the DGI in a timely manner when there are modifications. Separately, the Business Partnerships Law requires that the individuals who are administrators, representatives and directors of the entities covered by that law must register with the NRC and update it on cessation or revocation, failing which any act carried out by a person in that purported capacity is rendered unenforceable.

64. Under these laws all Uruguayan companies as well as foreign companies carrying on business through a permanent establishment or having their place of effective management in Uruguay or having assets in Uruguay with a value exceeding approximately UI 2 500 000 (USD 300 000) are required to carry out procedures to identify their beneficial owners and any changes in beneficial owners. The companies must maintain records collected for these purposes for five years from collection and the records must include the procedures applied and the identification documents relied upon. The records must be appropriate to allow reconstruction of the identification of the beneficial owners including through a chain of ownership – Article 14 of Decree No. 166/017. The same agencies authorised to access the information held in the BCU registry have the authority to obtain records of beneficial ownership maintained by companies.

65. In addition, these companies must lodge statements of beneficial ownership to the BCU, unless exempted (see below). The register maintained by the BCU is a single register that records both legal and beneficial ownership. Form B completed by companies is a combined form for these purposes and is lodged electronically through a public notary in possession of a digital certificate allowing lodgement through the BCU website. Decree No. 166/017 expressly requires the notaries to obtain from the company the beneficial ownership information required to be lodged and do so in compliance with their AML responsibilities including the reporting of suspicious transactions.

17. Decree No. 166/017 ensures the beneficial ownership definition also applies to foundations and non-profit organisations in relation to the Management Council, Executive Committee or a similar management body.

Their customer due diligence obligations are imposed by the AML Law and Decree 379/2019.

66. The information lodged includes the identifying information described in paragraph 45 for legal and beneficial owners of all shares and equity interests. It must include, when applicable, information on the chain of ownership leading to the beneficial owners of the shares.

67. SRL type companies and agricultural companies are exempted from lodging a statement on their beneficial owners with the BCU registry, provided that all of their shares are held by individuals who are the final beneficiaries of those shares. These companies must nevertheless maintain records identifying those individuals as beneficial owners.

68. Companies must submit new sworn statements to BCU when any of this information changes, generally within 30 days of the change occurring.[18] Failure to do so is subject to a penalty on the company of between UYU 42 000 (USD 1 200) and UYU 826 000 (USD 23 600). Companies are under an express obligation imposed by Article 26 of Law 19 484 to take measures to keep the information filed to the BCU updated. Companies have the power (and are required) to stop the payment of profits, dividends or distributions from liquidations to owners who fail to provide legal or beneficial ownership information, however no other power of compulsion has been provided to companies to collect this information.

69. Additionally, on formation all business partnerships (including companies) formed under Uruguayan law must have a business organisation agreement containing information that includes the name and address of the business partnership and identification of the founding members and their capital contributions.[19] The agreement is registered with a public notary, who keeps the information in a notary register. Notaries are subject to AML obligations including customer due diligence obligations requiring identification of beneficial owners when authorising a document. Any act that alters the business organisation agreement of any business partnership must also be executed before a notary. In the absence of such an action requiring notary engagement, a notary's knowledge of beneficial ownership is not necessary current.[20]

18. The period is 45 days in relation to ownership of bearer shares and 90 days if the owner is a non-resident.
19. Article 6 of the Business Partnerships Law.
20. Notary knowledge is a secondary source of information, as the primary source is either the BCU register or, for entities not required to register such information with the BCU, the entity itself.

Entities that ceased to exist

70. For entities that cease to exist, Article 183 of the Business Partnerships Law imposes an obligation on the partners or shareholders to collectively agree on who will retain the records of the entity, who may be the liquidator. In the event that this was not agreed and there was no liquidator, the responsible persons are those as decided judicially. The records must be kept for five years from when obtained. Additionally, ownership records filed with the BCU are retained by the BCU for so long as the entity exists, continuing for a period of 10 years after the entity has ceased to exist.

Beneficial ownership information – Enforcement measures and oversight

71. Companies are prevented from registering acts in the NRC without providing evidence of having lodged the statement of beneficial ownership with the BCU and certifying that there have been no changes since the most recent lodgement. When the act requires notarisation the notary is required to identify the beneficial owners and update the record at the BCU when necessary. Alternatively, if not required to lodge a statement with the BCU, a company seeking to register an act in the NRC that requires notary participation must provide a certification by a notary of the company's exemption from reporting. SENACLAFT is active in supervising notaries, with 480 onsite visits of notaries carried out over the three years ending 31 December 2018 and 40 notaries sanctioned over the same period. In May 2019 there were 7 368 registered notaries.

72. National Internal Audit (AIN) supervises compliance with obligations to lodge ownership information with the BCU and their intensive controls aim to assess the quality and accuracy of the information on companies registered in the BCU register. Refer to paragraphs 53-56 for details of sanctions and processes for ensuring completeness of reporting. Law No. 19 484 provided two timelines for registration of beneficial ownership. Entities already covered by Laws 18 930 and 19 288 were required to update their information registered with the BCU to include beneficial ownership information by 31 October 2017. SA type companies with nominative and book entry shares were required to register their beneficial ownership with the BCU by 30 June 2018 and SRL type companies and trusts (*fideicomisos*) were required to register their beneficial ownership with the BCU by 30 September 2018. All other entities subject to Law No. 19 484 were required to register by 30 November 2018.

73. Following the expiry of the first reporting deadline under Law No. 19 484, the checks being carried out in the audits mentioned in paragraph 57 were expanded to include verification of beneficial ownership information for completeness and veracity. AIN also identified all entities that registered under Laws 18 930 and 19 288 and further identified those that had not reported beneficial ownership information with the BCU. AIN

audited a targeted group of 508 entities in this process, for whom 254 (half) had no issues identified with their registered beneficial ownership information. The remaining 254 entities failed to confirm or update their ownership information and these were notified to the DGI for suspension of the CVA. Fines have also been imposed in audits and through voluntary payment for 253 entities with UYU 19 700 000 (USD 520 000) collected.

74. As the deadline for registration of beneficial ownership information of other entities fell towards the end of the current review period, AIN activities in support of Law No. 19 484 for such entities was limited to education and communication. Some compliance activities have been carried out in 2019. AIN selected 541 entities based on criteria considered to indicate higher risk to determine the accuracy of reported information. Beneficial ownership records, meeting minutes and dividend payments were checked, with most entities found to be compliant and a majority of the remainder found to have minor deficiencies.

75. Separately, another exercise was carried out in 2019 where the BCU identified all entities that filed statements declaring interests with unknown beneficiaries. Of the 269 entities in this category, 55 with higher proportions of undeclared ownership were selected. At the time of the on-site visit almost half had been satisfactorily resolved or explained, while the remaining cases continued.

76. The BCU's lodgement form is designed to identify whether, and the extent to which, beneficial owners have not been identified by the entity. The rate is less than 0.5% of lodgements and the BCU has conducted follow up inquiries finding, in the main, that omissions are due to errors in completing the form, ongoing ownership disputes or the entity awaiting further documentation from owners.

77. Given that the beneficial ownership reporting introduced by Law No. 19 484 imposed deadlines falling in recent period, limited active compliance and enforcement was possible so far.

78. During the on-site visit AIN demonstrated appropriate activities through that time for implementation of this law and to some extent continuing afterwards, however there was a lack of clarity on how this would move to long term plans, strategies and compliance activities. It was unclear how enforcement and monitoring would occur with sufficient coverage of companies to ensure their compliance with their obligations to maintain, report (when required) and update beneficial ownership information on an ongoing basis. Following the on-site visit Uruguay provided high level plans for AIN compliance activity indicating that ongoing resources are available. Uruguay should continue to monitor and enforce compliance with obligations to identify, register and update legal and beneficial ownership records.

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

79. During the period under review, Uruguay received 75 requests for ownership information. Peers generally reported that they obtained requested information from Uruguay and were largely satisfied with Uruguay's responses. One peer mentioned not receiving company legal ownership information in 5 cases. It is understood that the legal ownership was known to Uruguay in these cases but the responses were limited to confirming whether the particular person named in the peer's request was a legal or beneficial owner. There may have been a misunderstanding on either side on the phrasing of the request. This is further address for element C.5.

A.1.2. Bearer shares

80. The 2015 Report provided extensive detail on Uruguay's bearer share circumstances and the actions taken through Law No. 18 930 of 2012 and Decree No. 247/012 and the further remedial action taken through Law No. 19 288 of 2014 and Decree No. 346/014.

81. Briefly, Law No. 18 930 of 2012 introduced reporting mechanisms for bearer shares. Holders of bearer shares were obliged to report to the issuing entity, by 1 October 2012, various information including their identification information. The issuing entity was required to report the information received to the BCU by 1 December 2012 and issue a certificate to the shareholder evidencing its reporting to the BCU. Shareholders could report their information directly to the BCU in the event that the issuing entity failed to do so.

82. In relation to new issuance of bearer shares following Law No. 18 930, owners must report their information to the issuer within 15 days and the issuing entity must report to the BCU within 30 days of the expiry of the initial 15 day period. Failure by the owner is subject to fine and the suspension of rights to dividends and other rights associated with the shares. Failure by the issuing entity is also subject to fine and a prohibition of payments related to the shares. Should the failure of the owner to report continue past 90 days, they will permanently forfeit their rights. The same obligations and timeframes also applied in the case of a subsequent transfer of shares, with the new owner being obliged to report their identity information to the issuing entity.

83. As recorded in the 2015 Report, the earlier Phase 1 supplementary report had noted gaps in the reporting regime introduced by Law No. 18 930. Holders of bearer shares who failed to comply with their reporting obligations had their rights suspended rather than terminated. They could in effect remain anonymous until the point where they felt it necessary to exercise

their rights and re-activate those rights by rectifying their non-compliance. Furthermore, the unreported bearer shares could continue to be transferred undetected by the Uruguayan authorities. The new Law No. 19 288 was introduced in October 2014 to close these gaps.

84. Under Law No. 19 288, resident entities that had bearer shares outstanding on 1 November 2014 were given 90 days (ending on 29 January 2015) to inform the BCU of the owners of their bearer shares. Those failing to sufficiently notify ownership such that at least 50% of owners by paid up capital were identified were dissolved by operation of law. The dissolution is irreversible, there are no circumstances under which a dissolved entity can be reinstated. However, dissolved companies were given 120 days (ending on 29 May 2015) to liquidate, distribute proceeds and inform the DGI of the liquidation. Failure to liquidate within the 120 day period results in liability to a fine of 50% of the assets, which is recoverable by AIN from assets that have not been legitimately distributed in liquidation.

85. Concurrent with the obligations imposed on entities that had issued bearer shares, an obligation was also imposed on the holders of bearer shares to inform the company of their identity by 29 January 2015.[21] Failure by the bearer share holders to comply resulted in the automatic and irreversible loss of status as shareholders, forced liquidation of their lost interest and a reduction in the paid-in capital in the books of the entity. The issuing company is required to deduct fines payable under Law No. 18 930 from any proceeds of the forced liquidation payable to the former holders, with the issuing entity jointly and severally liable for the fine.

86. Law No. 19 288 strengthened the requirements on any transfer of interests, a failure to register the new ownership identity information (which requires the use of a public notary) within 90 days results in termination of all rights in relation to the shares, liquidation of the interest and withholding of an amount for payment of fines before distribution to the last registered holder.

87. The 2015 Report concluded that Law No. 19 288 in conjunction with the earlier Law No. 18 930 would ensure that ownership and identity information on all bearer shares will be available. However, as the new law was still being implemented at the time of the Report, Uruguay was recommended to continue to monitor implementation to ensure that information on the owners of bearer shares is made available in all cases.

21. A holder of bearer shares could alternatively inform the BCU of their ownership directly, which occurred in a small number of instances. This preserved the holders' rights in relation to the shares but was not included in calculating the company's compliance with the 50% threshold.

88. After the 2015 Report, Law No. 19 484 was introduced to expand the register maintained by the BCU to include legal and beneficial ownership information as explained at paragraphs 45-47. Ongoing monitoring and enforcement activities are now generally consolidated with AIN to ensuring the availability of legal and beneficial ownership overall, which has been described at paragraphs 56-58. However, further comment on the dissolution process specific to bearer share entities follows.

89. On 29 January 2015, 84 655 entities were dissolved by operation of Law No. 19 288 and relevant authorities including the General Registries Office (for the NRC) and the DGI have adjusted their registers accordingly. The dissolution event removes the corporate bond between partners and a timeframe for liquidation commences. The liquidation process is provided by Law No. 19 288 under which the assets of the dissolved entity must be wound up and distributed within 120 days. The entities no longer have legal personality after 29 January 2015. See paragraph 70 for the Business Partnerships Law requirement for retention of records for entities that cease to exist.

90. The liquidation process to distribute the assets of dissolved entities was not universally verified for all entities. A failure to liquidate within the 120 days allowed from dissolution and to notify the DGI accordingly created a liability to a fine of 50% of the value of any assets, but this was not universally pursued because many dissolved entities were already inactive or had no material assets. Liability for the fine is not time limited and any irregular holders of assets remain exposed to the risk of enforcement if identified at a later time.

91. AIN has followed a targeted process beginning with the pool of entities (6 336)[22] referred to in paragraph 185 of the 2015 Report as active but not compliant with Law No. 18 930. From that total, 5 489 entities were identified as being dissolved by Law No. 19 288 and therefore subject to liquidation and potential fine for non-compliance. This pool was further refined to exclude entities deemed low risk, either because they had not paid tax in the three years prior to May 2014 or were otherwise viewed as being of small or no economic size. Of these entities, 164 were identified as having assets greater than UI 7 500 000 (USD 900 000) and subjected to a control procedure. AIN requested information on the 164 entities from the DGI, which found that 50 entities had not notified the DGI of their liquidation within the required timeframe. AIN has also set up a voluntary fine payment process to facilitate the regularisation of liquidated assets from dissolved entities and received payment in 12 cases.

92. While Uruguay could do more to impose and recover fines relating to irregular assets remaining from the mandatory liquidation of non-complying

22. To which 51 SCAs were added, not included in the 2015 Report.

entities, this has not impacted the effectiveness of the dissolution process. The recommendation in the 2015 Report is therefore considered substantially addressed.

A.1.3. Partnerships

93. All commercial entities in Uruguay are "business partnerships". As noted at paragraph 39, for the purposes of this report *Sociedades Colectivas* (SC) and *Sociedad en Comandita Simple* (SCS) have legal personality, but are otherwise comparable to the concept of "partnership" which exists in many common law countries and so are discussed in this section. At 31 December 2018 there were 430 SC and 111 SCS entities. In addition Uruguay has 8 entities that are *Sociedades de capital e industria* in which ownership is divided between funding partners who contribute capital and working partners who contribute labour.

94. As described in the 2015 Report, partnerships in Uruguay are required to follow the same registration processes in the NRC and with the DGI as are required for companies. As concluded in that Report, these requirements ensure that the identity of partners is known for all partnerships formed under the Business Partnerships Law, including when there are changes in partners. Foreign partnerships that carry on business in Uruguay through a permanent establishment are required to register in the NRC in the same manner.

95. Partnerships are taxed at the partnership level in Uruguay and all partnerships formed under the Business Partnerships Law are subject to tax. All partnerships are required to register with the DGI at the time of starting or restarting taxable activity and the transfer of ownership in a partnership must be registered with the DGI as a pre-condition to registering the transfer in the NRC.

96. Law No. 19 484, as described in section A.1.1 of this report, also applies to partnerships in the same way as it applies to companies and so partnerships are required to identify their beneficial owners, register information on the beneficial owners with the BCU and update that information within 30 days of a change.[23] This includes foreign partnerships that have a permanent establishment in Uruguay, or are effectively managed in Uruguay or have assets in Uruguay exceeding UI 2 500 000 (USD 300 000). Uruguayan registered partnerships (but not the foreign partnerships mentioned previously) are exempted from the registration requirement if entirely owned by individuals who are also the beneficial owners. See paragraph 70 for the Business Partnerships Law requirement for retention of records for partnerships that cease to exist.

23. The period is 45 days in relation to ownership of bearer shares and 90 days if the owner is a non-resident.

97. The monitoring and enforcement actions and the interactions between the NRC, BCU and DGI registration requirements described in section A.1.1 of this report for SRLs equally apply to partnerships.

98. In the case of a foreign partnership with income, deductions or credits for tax purposes in Uruguay that does not have a permanent establishment in Uruguay, is not effectively managed in Uruguay and does not have assets exceeding UI 2 500 000 (USD 300 000) in Uruguay, the AML regime explained at A.3.1 is relied upon to meet the requirements for availability of legal and beneficial ownership information. The BCU register held details for 134 "other" foreign entities in June 2020, which included foreign partnerships and other types of entities, and excludes foreign corporations, limited liability companies and trusts.

99. There are comprehensive obligations to ensure that the identification of partners and the beneficial ownership of partnerships is available. In practice, during the period under review, peer input has generally not made a distinction between entity types that would allow a break out of data for partnerships as described in this section (if any). No issues with partnerships have been identified by peers.

100. Informal (or de facto) partnerships exist, but their members are jointly liable for the entity´s operations (Article 38 of Law No. 16 060). These arrangements are by definition not registered in the NRC. Nevertheless, these arrangements and the identity of the partners are required to be registered with the DGI if they start any taxable activity in Uruguay. Generally the partners of such informal partnerships will be individuals, however AIN has carried out cross checks of the DGI data indicating non-individual partners for comparison against the BCU data to ensure ownership information of these entities is registered. To the extent that an informal partnership engages with an AML obliged person, that obliged person must identify the partners and any beneficial owner of a partner.

101. A consortium (*consorcios*) is a contract arranged between two or more persons or entities to temporarily develop labour, services or goods. It does not have a separate legal personality. Its constitutional contract, which includes ownership information, must be registered with the NRC as well as any modifications to it. Decree 166/017 also extends to consortiums the obligation to file legal and beneficial ownership with the BCU. In practice Uruguay did not receive an EOI request for any informal or de facto partnership or any consortium during the review period.

A.1.4. Trusts

102. Uruguay's legal framework on the creation and governance of trusts (*fideicomisos*, which bear some similarities to trusts) was described in the

2015 Report. Briefly, express *fideicomisos* must be in writing, notarised by a public notary and the deed and any modification to it must be registered in the Private Acts Registry at the Ministry of Education and Culture. The 2015 Report concluded that there are clear requirements to keep identity information in relation to a settlor (*fideicomitente*), trustees (*fiduciario*) and beneficiaries (*beneficiario*). As of 31 December 2018 there were 599 general trusts (*fideicomiso generales*) and 103 financial trusts *(fideicomiso financiero*) registered in Uruguay.

103. Deeds are required to record the identity of the settlor, trustee and beneficiaries. Where the deed names a class of beneficiaries, the means of identifying future beneficiaries must be described. According to Article 19 of the Law of Trusts, the trustee is obligated to maintain all records related to the trust, including identification records, and this obligation continues for a period of 5 years after the trust comes to an end.

104. In the case of financial trusts, which are similar to unit trusts, only banks or fund management companies can act as trustees and these are always professional trustees and in all cases are subject to AML obligations.

105. In the case of non-financial trusts, any natural person or legal entity can be a trustee, however a trustee of five or more non-financial trusts (including foreign trusts) in a calendar year is deemed to be a professional trustee and must register with the Public Register of Professional Trustees administered by the BCU. At 22 April 2020 there were seven professional trustees meeting this requirement (not being banks or pension fund management companies). If the professional trustee is a company, it must provide legal and beneficial ownership information in respect of the company. All professional trustees are subject to AML obligations and are supervised by SENACLAFT, who carried out inspections for 27 trusts in 2018. Consequently the identity and any beneficial ownership of the settlor must be verified and known to a professional trustee and the identity and any beneficial ownership of a beneficiary must be identified and verified when a distribution is made.

106. All Uruguayan trusts and any foreign trust[24] with an Uruguayan resident trustee or manager are subject to the same ownership identification requirements of Law No. 19 484 as detailed in the companies at section A.1.1 of this report including the updating of such information, with beneficial owner defined to include settlors, trustees and beneficiaries and, in the event that such a person is an entity, tracing is required to identify the natural

24. Article 23 of Law No. 19 484 in the case of Uruguayan trusts and Article 24 of the same law in the case of a foreign trust with an Uruguayan resident trustee or manager.

person(s) who are beneficial owners. Any other natural person directly or indirectly exercising control over the trust must also be identified.

107. A foreign trust not meeting the above requirement will nevertheless also be subjected by Decree No. 166/017 to the same legal and beneficial ownership identification requirements of Law No. 19 484 if it has a place of effective management in Uruguay, carries on business through a permanent establishment or has assets exceeding UI 2 500 000 (USD 300 000) in Uruguay. In the case of financial trusts, these are additionally obliged to register and update beneficial ownership details with the BCU. Furthermore, if the financial trust makes a public offering of securities, there must be a registering entity certifying the ownership of the securities and their successive transfers.

108. There are comprehensive obligations to ensure that the beneficial ownership of trusts is available. In practice, during the period under review, Uruguay did not receive any EOI requests related to trusts as described in this section.

A.1.5. Foundations and economic interest groups

109. Uruguayan law provides for the creation of foundations, but these must only be non-profit entities. The foundation must be registered with the Civil Association Agency (part of the Ministry of Culture and Education) including the articles of incorporation and information including the foundation name and address, its purpose, initial capital, and the names of the members of the managing council. Members of the managing council, and any managers of the foundation, are required to reside in Uruguay. After liquidation, any assets remaining may only be donated to another not-for-profit organisation with similar activities or aim; or the assets become the property of the Minister of Culture and Education.

110. The legal and beneficial ownership identification requirements of Law 19 484 as already described for other entities also apply to legal structures such as foundations, and in the case of foundations and non-profit organisations the meaning of beneficial owner is extended by Decree No. 166/017 to include the management council, the executive committee or the corresponding management board.

111. Notwithstanding that foundations under Uruguayan law would generally be of limited relevance to EOI requests, during the period under review Uruguay did receive one exceptional EOI request relating to a foundation. The request sought information including beneficial ownership information and the requesting peer was satisfied with the information received from Uruguay.

112. An economic interest group (*Grupos de Interes Economico*) is a contract arrangement between two or more persons or entities in order to develop or facilitate the economic activity of its members. It is not permitted to collect or distribute profits. The contract should contain the management and representation rules and must be registered with the NRC including any changes to it, although its shares are not permitted to be transferred. Decree 166/017 also extends to an economic interest group the obligation to file legal and beneficial ownership with the BCU. In practice Uruguay did not receive an EOI request for any economic interest group during the review period.

A.2. Accounting records

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

113. The 2015 Report concluded that the legal framework was in place. Details were provided in the Report describing the obligations imposed on all traders by the Commercial Code, all entities regulated by the Business Partnerships Law, the trustees of all trusts created under Uruguayan law and all persons subject to Uruguayan income tax. However, the 2015 Report recommended that Uruguay should ensure that its monitoring and enforcement powers are sufficiently exercised in practice to support the record keeping and filing requirements applicable to entities not subject to tax in Uruguay.

114. Uruguay has taken some measures to address the recommendation and enhance the availability of accounting records more generally.

115. During the current review period, Uruguay received 84 requests for accounting information and no issues were reported by Uruguay or its peers in obtaining such information in practice.

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

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

A.2.1. General requirements

117. The legal framework requirements to keep accounting records under the standard are met by a combination of law requirements. Briefly, the Commercial Code requires all traders to keep a daily journal, inventory book and letter copy book and submit these to the NRC on an annual basis. The

Business Partnerships Law imposes accounting record obligations on entities subject to that law, and the Tax Code imposes obligations on all taxpayers and a range of entities not subject to tax in Uruguay. The various legal regimes were explained in detail in the 2015 Report and these remain in place. Additional details are provided in this report relating to ongoing monitoring and enforcement and addressing the previous recommendation.

Monitoring and enforcement by the National Internal Audit (AIN)

118. Business partnerships (all companies and partnerships) with total assets exceeding UI 8 000 000 (USD 950 000) or annual revenue greater than UI 26 300 000 (USD 3 000 000) are required to register their financial statements with AIN for the Register of Financial Statements (REC) under Law No. 16 060. Law No. 18 930 extends the obligation to include all non-resident entities exceeding certain income thresholds. The obligation is triggered if income from ordinary activities exceeds UI 26 300 000 (USD 3 000 000) and a lower threshold of UI 4 000 000 (USD 480 000) applies if at least 90% of income is from non-Uruguayan sources. The required accounting standards are based on International Financial Reporting Standards.

119. The REC moved to an electronic lodgement system from 2016. Penalties apply for late registration and for distributing profits without registration, and voluntary payment of late filing penalties is now also available online. AIN conducted multiple education activities through 2016 to inform business and financial services stakeholders to promote understanding and compliance. The focus then moved to initiating compliance monitoring activities from 2017. Control procedures were initiated with 640 non-compliant entities and a series of actions beginning with lodgement demands, suspension of CVA and then ultimately deregistration were pursued. AIN advised that these actions were repeated for the 2017 lodgement year with 500 non-compliant entities identified. The collection of fines for non-lodgement or late lodgement began in earnest in 2018 with UYU 5 200 000 (USD 140 000) paid in that year.

120. Annual lodgements in the REC have increased from 2 363 in the 2015 year to 4 570 in the 2018 year. Lodgements increased again in 2019 to 4 720. Included in those lodgements are a subset of lodgements required by Law No. 18 930 which extended the obligation to non-residents not subject to tax in Uruguay, which has shown an increase from 29 in 2017 to 356 in 2018. AIN's most recent assessment of the compliance rate for lodgements in the 2017 year by all obligated entities was 86.5%. The availability of the lodged information has also enabled a doubling in users accessing the records over the same period with 9 805 accesses in 2018. AIN carries out manual quality control procedures on the integrity of the information lodged. In 2018, AIN reviewed 904 lodged statements, representing 20% of the total lodged. New

reviews continued in 2019 with the stated aim of reviewing at least 10% of lodged statements.

121. It is clear that there has been a considerable improvement in the availability of registered financial statements. AIN's monitoring and enforcement activities include coverage of entities not subject to tax in Uruguay that are required to lodge financial statements in the REC. Information on entities not taxable in Uruguay that is held by the DGI is one source used for cross-checks by AIN in monitoring compliance with the REC. The DGI itself also carried out inspections during the review period on entities not subject to tax in Uruguay. As this extends to the keeping of underlying documentation, the DGI's activities are described in the next section.

Entities that ceased to exist and retention period

122. Article 80 of the Commercial Code requires that all traders keep their books throughout the lifetime of the company and for 20 years from the termination of the business or trade. For entities that cease to exist, Article 183 of the Business Partnerships Law imposes an obligation on the partners or shareholders to collectively agree on who will retain the records of the entity, who may be the liquidator. The retention period is 5 years. In the event that this was not agreed and there was no liquidator, the responsible persons are those as decided judicially. For trusts, the Law of Trusts No. 17 703 obliges a trustee to maintain all records of the trust and this continues for 5 years after the trust comes to an end.

123. A large number of entities were dissolved by operation of Law No. 19 288, see paragraph 84. These entities were subject to a presumptive liquidation process, which did not necessarily involve formal liquidation. While the obligation to retain records is as described above, the availability of accounting records and underlying documentation for these former entities was not comprehensively tested. However the dissolution under Law No. 19 288 was a singular event in January 2015 not expected to be repeated, the 5 year retention period has now passed, and no issues were found in practice during the review period.

A.2.2. Underlying documentation

Monitoring and enforcement by the DGI

124. The Tax Code requires that records be maintained for a minimum of five years. The Tax Code explicitly extends the record keeping obligations of Uruguayan taxpayers to maintain underlying documentation to also include those persons not subject to Uruguayan tax. Available sanctions include penalties, suspension of CVA and temporary closure of business premises, while

a lack of necessary records can also result in tax assessment on an assumed basis and a presumption of an intention to evade tax. The 2015 Report found that the DGI carried out a range of activities in support of the keeping and availability of accounting records and supporting documentation. These actions were considered adequate, and remained adequate during the current review period.

125. During the current review period, the Large Taxpayers Division carried out more than 30 intensive inspections each year, representing approximately 10% of the taxpayers under its purview. The Control Division carried out 400-500 intensive inspections on other entities each year. Non-taxable entities have been included. The existence of accounting records and supporting documentation is routinely verified in these inspections and tax assessments were issued on an assumed basis in 72 cases. The sanction of temporary closure of business premises for documentation failures was applied in 201 cases during the review period. Penalties totalling UYU 55 300 000 (USD 1 580 000) were imposed in 22 cases during the review period for failing to keep underlying documentation. SENACLAFT carries out control activities on free trade zone companies which include checks for accounting statements and underlying documentation, with 429 visits occurring in the three years ending 2018.

Availability of accounting information in EOIR practice

126. During the current review period, Uruguay received 84 requests for accounting information. Other than stating that requests related to companies, partnerships and individuals, peers did not elaborate on the types of information requested. Uruguay was able to respond to the received requests. The peers reported that they obtained requested information from Uruguay and they were generally satisfied with Uruguay's responses.

A.3. Banking information

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

127. The 2015 Report concluded that the legal and regulatory framework was in place. All requests for banking information had been answered and the implementation of the legal framework complied with the international standard.

128. The EOIR standard now requires that beneficial ownership information (in addition to legal ownership) in respect of accountholders be available. This requirement is met through the provisions set out in Law No. 19 574 and BCU regulations. The BCU, through the Superintendence of Financial

Services (SSF), carries out appropriate supervision and enforcement activities to support compliance with these obligations.

129. During the current review period, Uruguay received 96 requests for banking information. Other than the length of time required for some responses (discussed for element B.2), no issues were reported by peers.

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

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

A.3.1. Record-keeping requirements

Availability of banking information

131. Banks and all other persons carrying out financial intermediation activities in Uruguay are regulated in Uruguay by the BCU as part of Uruguay's AML regime. The previous AML requirements are explained in the 2015 Report at paragraphs 226-232. Since the 2015 Report, Uruguay enacted Law No. 19 574 in 2017 ("the AML Law") to strengthen the AML framework. Regulations have been issued in support of the AML Law – Compilation of Regulation and Control Standards of the Financial System (RNRCSF).

132. Article 21 of the AML Law requires banks and other reporting institutions to keep records of all transactions carried out with or for their customers, as well as records compiled in know-your-customer due diligence processes, for at least five years after the end of the business relationship. Article 297.1 of the RNRCSF establishes the need to update due diligence information periodically for all customers according to the risk, the frequency of which must be between one and three years for high and medium risk customers.

133. Article 297 of the RNRCSF specifies the information that banks must collect and maintain which includes, amongst other relevant information, the following data from their clients:

- full names
- copy of identification document or other official verification document
- tax identification number, Uruguayan or foreign
- address and contact information
- the identity of the senior managing officials and any persons authorised to act on behalf of the customer.

Beneficial ownership information on account holders

134. Article 295 of the RNRCSF establishes the obligation upon a bank to identify and verify the identity of the legal and beneficial owner of the account. Beneficial owner is also defined in that Article in identical terms to that as set out in paragraph 62 and is consistent with the standard, to the extent described in paragraph 62. The information that must be obtained includes that as described in the previous paragraph including the names of the persons who hold a senior management position within the legal person or arrangement (Article 297(2)(e)). Banks are required to identify and verify the identity of any person acting for another and must do so immediately. Simplified customer due diligence only applies to natural persons opening basic bank accounts and low thresholds apply. Banks can use a third party, but only within the framework of an agency contract. The RNRCSF provides that the banks own procedures must be applied, the principal remains responsible, and the principal must maintain and preserve the documentation. The outsourcing is subject to the approval of the BCU.

Oversight and enforcement

135. The BCU, through the SSF, continues to be the overseeing body responsible for the regulation and control of banking entities and its operations in this area are broadly the same as described in the 2015 Report. The BCU has adequate powers of inspection, oversight and investigation including the ability to require banks to present documents and provide information and substantial sanctions are available. The SSF continues to prepare and work to an annual supervision plan, which includes on-site and remote supervision. Over each of the years covered by the current review, SSF carried out between 9 and 13 on-site reviews of banks and other financial institutions, with most banks covered every year and all banks covered every two years, and includes the evaluation and verification of AML procedures and assurance of customer due diligence, knowledge of the client and beneficial ownership information. In the four years ending 2018 penalties were applied on 7 occasions following reviews of banks and other financial institutions, with a total amount of UYU 5 250 000 (USD 150 000) applied.

Availability of banking information in EOI practice

136. During the current review period, Uruguay received 96 requests for banking information. Notwithstanding the time delay issues that appear to be caused by the processes described in section B of this report in some cases, peers generally reported that they received requested information from Uruguay and were generally satisfied with Uruguay's responses. Peers did not provide information on the nature of information requested and whether it included beneficial ownership information.

Part B: Access to information

137. 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.

138. Banking information is discussed in several sections in this Part. As a guide, the power to access banking information is covered at B.1.1, bank secrecy is covered at B.1.5, notifications to account holders are covered at B.2, and issues relating to delays in obtaining banking information are also covered at B.2.

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).

139. The 2015 Report found that the DGI had significant access powers to obtain information within Uruguay, including ownership, identity, banking and accounting information. The access powers under the Tax Code and the interactions of those powers with other laws were described in that Report and the overall access regime has remained the same since then. New laws introduced since the 2015 Report such as Law No. 19 484 of 2017 and the AML Law are compatible with the DGI exercising those powers to access information to the same extent that it could during the previous review.

140. However, the 2015 Report made two recommendations to Uruguay. The first recommendation related to a limitation on Uruguay's ability to access bank information prior to 2 January 2011 under its legal framework. During the current review period Uruguay has been able to access such information in some instances and any residual gap is expected to have a limited

impact over time. The second noted that the effectiveness of its access powers for information on transactions taking place both before and from 2 January 2011 could not be assessed during the review for the 2015 Report (which ran from 1 July 2010 to 30 June 2013) and so Uruguay should ensure that all relevant bank information should be accessible in practice.

141. Prior to Law No. 18 718 in force from 2 January 2011, it was not possible to compel a bank to provide client information for EOI purposes. Law No. 18 718 permits the lifting of bank secrecy for these purposes from 2 January 2011 with judicial approval. This procedure had not been tested during the previous review period[25] but has been frequently initiated during the current review period and the recommendation is considered addressed. However, one issue arose during the review period on some specific banking data and Uruguay should address this issue.

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

Legal and Regulatory Framework		
	Underlying Factor	**Recommendations**
Deficiencies identified	Uruguay's ability to access bank information prior to 2 January 2011 may be is limited under its domestic legislation. While statements and other transactional records should now be outside of the pre-2011 blackout period and available for the required 5-year period, the remaining legal gap applies only to opening documents and other background information for accounts opened prior to 2 January 2011.	Uruguay should ensure that all relevant bank information may be accessed for EOI purposes, regardless of the period to which the information relates, to ensure they can give full effect to their EOI agreements.
	The judicial procedure for the lifting of bank secrecy has not been successful in three cases related to obtaining information on the holders of credit cards issued by Uruguayan financial institutions.	Uruguay should ensure that all relevant bank information may be accessed for exchange of information purposes, including when the account holder's name is not known.
Determination: The element is in place, but certain aspects of its legal implementation need improvement		
Practical Implementation of the standard		
Rating: Partially Compliant		

25. The 2015 Report noted that there were eight successful cases after the review period.

B.1.1. Ownership, identity and bank information

143. The 2015 Report analysed and described the procedures applied in the case of obtaining information generally, and more specifically rules for obtaining banking information. Generally, the same rules continued to apply through the current review period. The DGI makes use of powers provided in the Tax Code, particularly Articles 68 and 70. Article 68 provides a non-exhaustive list of powers which include the power to inspect or take possession of books and documents held by taxpayers and other responsible persons, carry out inspections of personal or real property, and require information from third parties. This is matched by Article 70, which imposes a mandatory obligation on other persons to provide information on tax matters to the DGI. Article 469 of Law No. 17 930 also reinforces the obligation of every government agency to co-operate in providing information to the DGI.

Accessing ownership information

144. In many cases the DGI will already be in possession of ownership information in circumstances described for element A.1 of this report. If not, or for the purposes of verification, the DGI's general access powers would apply and give access to ownership records kept by entities themselves, the National Register of Commerce (NRC) and other registries maintained at the General Registries Office, and client information on ownership held by notaries.

145. The DGI's general access powers appear to be sufficient to obtain beneficial ownership information now lodged with the BCU under Laws 18 930 and 19 484. These laws have in any case given the DGI express access to the information. Article 5 of Law No. 18 930 gives the DGI access to information administered under that law when access is for various tax purposes including for the purpose of exchange of information under a tax agreement. Article 39 of Law No. 19 484 grants access to the DGI in similar terms. DGI competent authorities have direct electronic access to the ownership registries of the BCU under a memorandum of understanding and it is in regular use. The access powers are exercisable in relation to meeting requests under all EOI agreements.

Accessing bank information

146. Since the 2015 Report, Uruguay enacted Chapter I of Law No. 19 484 and Decree No. 77/017, under which DGI routinely receives on an annual basis information from banks and other financial institutions on the balance, average balance, interest payments and other income paid to resident and non-resident clients. This reporting regime is Uruguay's implementation of the Common Reporting Standard to allow for automatic exchange of financial

account information. Uruguay's implementation goes beyond the minimum requirement to obtain information on Reportable Accounts held by non-residents or entities whose beneficial owner(s) are non-residents. It is in effect also a domestic reporting regime which requires the same information[26] for Uruguayan residents and beneficial owners as is reported for non-residents. This information was first received in the 2018 year, in relation to the 2017 calendar year.

147. Article 15 of Chapter I of Law 19 484 explicitly authorises the DGI to use the information reported to fulfil its duties to exchange information, and this covers EOI on request. The DGI has automated access to the information in a database and information contained in this database may be used to provide information without the necessity to undertake a judicial procedure. Account information of the kind not reported under the Common Reporting Standard (such as transactional details or accounts that are not depository) still requires the judicial procedure.

148. Other than the above, bank secrecy still applies in Uruguay as described in the 2015 Report and special procedures are necessary to access information held by banks. Generally, the DGI has the power to access banking information provided certain procedures are followed. The procedures to obtain banking information are detailed at B.1.5 and statistics are provided at B.2.

149. When authorisation is given, either by the account holder or by the court, the DGI then notifies the BCU and that authority acts to obtain the information from relevant financial institutions and provides it to the DGI.

150. For four EOI requests where information was sought that included the identity of a credit card holder, the judicial procedure for the lifting of bank secrecy was followed and the court rejected the application in three cases. The unsuccessful cases were later judgements and included a higher court than in the successful case. It is also understood that the circumstances of the requests were consistent with the example in paragraph 8(f) of the Commentary on Article 26 of the OECD Model Convention in the three rejected cases and the requests were made under an agreement with an equivalent provision to Article 26 of the OECD Model.

151. In the successful case, the application to the court related only to the identity of the credit card holder and this was approved by the court. The court recognised that the identification of the account holder was a necessary first step before the process to lift bank secrecy (described in section B.1.5) can be carried out. In particular, a request for voluntary lifting of bank

26. Additionally, an average balance or value of an account is reported, which is not required under the Standard.

secrecy must be made, and if a judicial procedure is necessary, the account holder must have the opportunity to be represented at the court. The judicial procedures to lift bank secrecy were not a barrier to the release of information which is limited only to the identity of the account holder. In contrast, for the three unsuccessful cases, the Appeal Court refused the applications for the lifting of bank secrecy. The judgements indicate that requests for the identity of the account holder are not possible under Uruguayan law, regardless of whether other information is also requested.

152. It is the view of the tax administration that obtaining the identity of an account holder is permissible under Uruguayan law and underlying account information can also be obtained, provided that a two stage judicial process is followed in which Uruguay first identifies the account holder,[27] allowing the second procedure for the judicial lifting of bank secrecy to be properly carried out. However, there have been no cases where this interpretation and the procedure could be tested since the review period.

153. There are substantial doubts over whether Uruguay's laws allow access to account information in all cases where the account holder has not been identified. Uruguay should ensure that all relevant bank information may be accessed for exchange of information purposes, including when the account holder's identity is not known.

B.1.2. Accounting records

154. The DGI's access powers are sufficient to obtain and provide accounting records for all relevant entities and arrangements, either through its own efforts or through other government agencies. Administratively the DGI and AIN have entered into an arrangement that expedites access where authorised DGI persons have free electronic access to the financial statements register maintained by AIN.[28]

155. The general access powers and government agency co-operation described in B.1.1 can be used to obtain accounting information. No issues were reported by Uruguay or its peers in this area for the review period.

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

156. As recorded in the 2015 Report, the access powers available to the DGI under Uruguayan law are not curtailed by the absence of a domestic tax

27. From 2018, Uruguay also has the ability to identify account holders of some accounts based on account details only, using the database described at paragraphs 146-147.

28. The register is also available to the public for a fee.

interest. There has been no change to this situation. During the period under review there were 18 requests that related to persons with whom Uruguay had no domestic tax interest. Information was obtained using the access powers as would be the case if Uruguay had a domestic tax interest.

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

157. In the event that a person refuses or otherwise fails to comply with a request for information, including for EOI cases, the DGI may:[29]

- impose a fine of between UI 1 800 (USD 208) and UI 1 800 000 (USD 208 000) for the contravention
- suspend the tax clearance certificate (CVA)
- seize the information, and may request the assistance of the police to do so
- if the person refuses admission to premises and police assistance is not initially sufficient, obtain a search warrant from the criminal court
- where a person is in contempt of court, penal sanctions of 3 to 18 months imprisonment can apply.

158. The DGI has a record of applying these sanctions, although none related to EOI cases during the review period. In the period under review, in the domestic context, 16 inspections were carried out where documents were seized. Some instances made use of police assistance. Four search warrants were requested and used in 2016. One case for criminal contempt was filed in 2017 and one in 2018.

159. In the case of banking information sought by the BCU on behalf of the DGI, the sanctions available to the BCU for failing to provide information range from warnings and fines to the suspension of the supervised entity's activities and revocation of the authorisation to operate. The BCU imposed monetary penalties in 29 instances for late responses, of which 24 related to EOI requests, but it was not necessary to apply more serious sanctions during the review period as financial institutions ultimately complied with all relevant requests.

29. Article 306 of Law No. 18 996, and Article 469 of Law No. 17 930, Article 307 of Law No. 18 996 and Article 173 of the Criminal Code.

B.1.5. Secrecy provisions

Bank secrecy

160. The 2015 Report described the legal framework for bank secrecy including the circumstances provided by law under which it may be lifted. While the procedures for lifting bank secrecy have been used effectively during the review period, issues with the time taken to conclude those procedures are discussed in section B.2 of this report.

161. When seeking banking information the DGI will first request the account holder to authorise the lifting of bank secrecy.[30] This step is not required when account holders are any of the following:

- taxpayers whose home address has not been filed at the DGI (this includes non-resident individuals and companies)
- withholding agents
- individuals or legal persons that can be used to conceal the identity of the true bank account holders
- individuals or entities that are not subject to tax in Uruguay.

162. If the account holder authorises the lifting of bank secrecy, no judicial process is required and the DGI will send a copy of the authorisation to the BCU who will then undertake procedures with the banks to obtain the information. The account holders provided such an authorisation in relation to 24 EOI cases during the review period. If authorisation is not forthcoming or the request for authorisation was not required due to meeting an exception described above, which happened in 36 EOI cases during the period, the DGI must then commence a process of obtaining authorisation from a court to approve the lifting of bank secrecy and the account holder has the right to be a party to the proceeding. All primary court decisions may be appealed to a higher court.

163. The procedure provided by Law No. 18 718 for the lifting of bank secrecy entered into force from 2 January 2011. A recommendation was made in the Phase 1 report in 2011, retained in the 2015 Report, relating to the limitation of access to prior year records. While there were only four

30. As explained at paragraphs 146-147, from 2018 Uruguay has a comprehensive financial account reporting regime modelled on the Common Reporting Stand that covers both residents and non-residents. As access to this information was only first available near the end of the current review period, it did not impact the scope of the requirement to use the judicial procedure to obtain bank information. It is likely to reduce reliance on the judicial procedure in subsequent years.

EOI agreements in force prior to 2 January 2011,[31] information or records may be generated in a period prior to 2 January 2011 but relate to a tax period relevant to a later EOI agreement. In particular, the Multilateral Convention entered into force in Uruguay in 2016 and does not make a distinction between information pre-dating or not a particular date, as it requires the exchange of any information relevant to a taxable year covered by the exchange of information provision. Uruguay is not in a position to give full effect to the Multilateral Convention.

164. When requesting the judicial lifting of bank secrecy for EOI cases, in practice the DGI does not make a distinction between the periods before and from 2 January 2011 in its request. There has been only one EOI request since 1 July 2013 for which DGI requested judicial lifting of bank secrecy for a period prior to 2 January 2011, received in December 2015 (i.e. prior to the current review period). The judge ordered the lifting of bank secrecy for information including for the period prior to 2 January 2011, however the decision was overturned on appeal.

165. There were no cases of requests during 2016, 2017 and 2018 where information relating to the period prior to 2 January 2011 was requested. While the relevance of older records recedes over time and the possibility of new EOI requests relating to the period prior to 2 January 2011 also recedes, requests are still possible. There is precedent for these to be judicially approved, as occurred with the most recent request, which was in 2015 and prior to the current review period.

166. Uruguay should ensure the access to all relevant bank information in practice, regardless of the period to which the information relates.

Professional secrecy

167. The 2015 Report identified that the concept of professional secrecy is indirectly recognised in the Uruguayan Constitution, but is subject to exclusions where a specific law so provides and the exclusion is for reasons of public interest. However, there is case law to support the position that accountants cannot invoke professional secrecy as a valid defence against the tax authorities. While no similar case law had arisen providing precedent for non-financial professions, it was posited that the same outcome could be expected. No further case law has developed during the review period or since that would disturb this expectation. There were no instances where professional secrecy or legal privilege were cited by information holders during the period under review.

31. DTCs with Germany, Hungary and Mexico and a TIEA with France.

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.

168. The 2015 Report found that the application of rights and safeguards in Uruguay's law did not generally impede access to relevant information, but could have a fundamental effect on EOIR in practice. Recommendations were made concerning a lack of appropriate exceptions to notification, both in relation to accessing banking information and a prior notification before exchange. The 2015 Report also analysed the procedures to lift bank secrecy and concluded that the timeline could take up to 180 days, which was confirmed in practice. It was also anticipated that this timeframe could shorten as judges became more familiar with the process. In any case, no adverse finding was made at that time on the procedures to obtain banking information.

169. There have been no changes to Uruguay's legal framework relevant to the lack of appropriate exceptions to notification in relation to accessing banking information and prior notification before exchange, so the recommendations previously made remain. In addition, the current review identified significant delays in some banking request cases which appear to be either caused or exacerbated by notification requirements.

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

Legal and Regulatory Framework		
	Underlying Factor	**Recommendations**
Deficiencies identified	Under the court process for accessing bank information, certain information must be provided to the Uruguayan court to which the relevant account holder (who may be the taxpayer) will have access. There are no exceptions to this notification of the account holder prior to exchange of information, for example where the information requested is of a very urgent nature, or where prior notification is likely to undermine the chance of success of the investigation in the requesting jurisdiction.	Uruguay should ensure that disclosure of information relating to an EOI request in the course of the court process to access bank information includes appropriate exceptions to notification prior to exchange of the information.

	Decree No. 313/011, as amended, requires the notification of the individual or entity concerned prior to the exchange of the information to another jurisdiction.	It is recommended that Uruguay clarifies that suitable exceptions from the prior notification requirement are permitted to facilitate effective exchange of 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	Under the process for accessing bank information when judicial authority is required to lift bank secrecy, the optimum timeframe to achieve this is approximately 88 days, but notification steps in this process can cause these timeframes to be substantially longer in practice. This is not compatible with effective exchange of information.	Uruguay is recommended to examine the legal and procedural framework applying to the judicial lifting of bank secrecy and make such changes as may be necessary to ensure that judicial processes and notification requirements do not impede timely responses to banking information requests.
Rating: Partially compliant		

Notifications for banking information requests

171. The 2015 Report analysed how Uruguay's procedures for the judicial lifting of bank secrecy result in notification of the account holder. The direct request to the account holder for voluntary lifting of bank secrecy described in paragraph 161 of this report is inherently a prior notification, albeit that it is confined only to those account holders who have a Uruguayan home address registered with the DGI. In all other cases where voluntary lifting does not apply, the judicial procedure becomes necessary and this also results in notification of the account holder.

172. Paragraph 307 of the 2015 Report recorded Uruguay's view that section 311 of the General Procedure Code may be relied upon to obtain Court approval for an exemption in a particular case from the requirement to notify the account holder before the information is accessed. The prospects of success for such a request remained untested through the current review period. As noted by the 2015 Report, even if success were presumed, the General Procedure Code does not appear to apply to prevent notification after access but before exchange.

173. The previous Report recommended that Uruguay should ensure that disclosure of information relating to an EOI request in the course of the court

process to access bank information should include appropriate exceptions to notification prior to exchange of the information. The circumstances giving rise to the making of that recommendation remain the same and therefore the recommendation is maintained.

Notification of the imminent exchange of information

174. The 2015 Report also identified a notification procedure required under Uruguayan law when the person subject to an EOI request is also a Uruguayan taxpayer. This requirement also did not provide for any exceptions (e.g. in cases in which the information requested is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction).

175. For any information to be exchanged, a notification process arises after the information to be exchanged is assembled but before the exchange takes place. Since November 2013, a notification is sent to persons who are being investigated in another jurisdiction, but only if such persons have a home address registered with the DGI. The notification allows the person to access the information to be sent by Uruguay during a five working day period. The requirement remains unchanged.

176. The compulsory notification provided to a person does not explicitly explain that the reason for the notification relates to international exchange of information, however the notice differs from similar domestic tax audit notices in one respect which can effectively inform the recipient that the information has been obtained for the purpose of international exchange.[32] The Uruguay authorities state that the person accessing the information does not have a legal right to prevent the exchange occurring,[33] but is afforded an administrative right make a submission to the DGI and the Ministry of Economy and Finance in relation to the information. This may be characterised as a right to be heard; it is not a right that leads to judicial challenge of the information or its use. For example, the person would have the ability to provide additional information which in that person's view would assist in clarifying or correcting the information obtained or held by the Competent Authority.

177. In the event that a requesting jurisdiction expressly requests Uruguay not to disclose that a request has been made and the DGI identifies that a notification is required, the DGI will contact the other competent authority

32. The notice relating to information obtained for international exchange will refer to Article 10 of Decree 313/011.

33. Article 150 of Decree No. 500/991 provides that this administrative right does not have a suspensive effect on the challenged act.

for instructions on whether to proceed or withdraw the request. During the review period there were 7 requests of this nature that would have been subject to the process for lifting of bank secrecy and in all of these cases the requesting competent authority was consulted before proceeding. In 4 cases the requests proceeded by agreement and in 3 cases[34] the scope of the request was reduced to information other than banking information.

178. In the 2015 Report a recommendation was made that Uruguay clarify that suitable exceptions from the prior notification requirement are permitted to facilitate effective exchange of information (e.g. in cases in which the information requested is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction). The circumstances giving rise to the making of that recommendation remain the same and therefore the recommendation is maintained.

179. Of the 211 information requests made during the period of review, 11 required a notification to be sent to a person being investigated in another jurisdiction. Of the 11 notifications, only 2 recipients responded and accessed the information subject to exchange. The representations made by the recipients in these two cases were disregarded by the DGI and the exchange proceeded.

180. There are no post-notification requirements in Uruguay.

Access to banking information – a lengthy process

181. The 2015 Report described new procedures for obtaining banking information, but these were not used during that review period and there was limited experience in the period after the review and before the report was finalised. With the elapse of time since 2015, the current review is now able to carry out an analysis of the practical operation of these procedures for a larger number of cases. There were 96 requests for banking information during the current review period. After excluding 36 cases that were declined or partially declined (to the extent that banking information was requested) for reasons of foreseeable relevance,[35] there were 60 cases actioned. Under Law No. 18 718 and Decree No. 282/011, the first step for the DGI in obtaining bank information is to ask the account holders whether they will voluntarily lift bank

34. By agreement in two cases and by default in the absence of a response from the competent authority in one case.

35. The declined cases were mainly from one jurisdiction and were declined on the grounds of not conforming to the equivalent of Article 5.5(d) of the OECD Model TIEA.

secrecy, which amounts to a notification.[36] Account holders voluntarily did so in 24 cases. So 36 cases required judicial intervention.

182. At the on-site visit the Uruguayan authorities stepped through each stage of the processes to lift bank secrecy, which can vary depending on whether secrecy is lifted voluntarily, whether a court decision is appealed by one party or both parties, and how much of the allowable time period permitted at some stages of the process is taken up by the relevant parties. The scenarios and timeframes are presented below, with the timeframe given being the total time from the day that the DGI receives the EOI request for bank information to the day that the DGI can provide the response.[37]

Scenario	Time to process and respond
Account holder voluntarily authorises the lifting of bank secrecy	30 working days
Account holder refuses or does not respond to request to voluntarily authorise the lifting of bank secrecy, necessitating the judicial procedure, which is not appealed by either party	88 working days
Judicial process as above, with either or both parties appealing	190 working days

183. A further variable that can significantly lengthen the time to complete the judicial process is Uruguay's requirement that the account holder be notified that a request has been filed with the court. If the account holder's address is registered with the DGI this would normally be done within 3 days of filing. However, if the account holder's address is not registered with the DGI, the process followed is to publish notice of the case in the Official Gazette. The information in the notice is that there is a court procedure that will occur in relation to the named person and that person has 90 days within which to inform the court of their representation, failing which the court will assign a legal representative for them. This can add 90 calendar days to the numbers provided in the table above. Judicial recess can also add time.[38]

184. On information provided by Uruguay, the average number of days taken for judicial cases finalised during the period under review was 216. For the 2018 year the average time was 183 days, though these measures do not

36. There are exceptions where this step is not required and lifting of secrecy can only be done judicially. See paragraph 281 of the 2015 Report and paragraph 161 of the present report.
37. Where any step in the process has a mandated maximum timeframe, the full time allowed is included in the calculation.
38. Each year there is a judicial recess from 24 December to the first working day of February in the following year, and another one from 1 to 15 July, that can extend the judicial timeframes.

include cases pending beyond the period under review. Two cases from the review period were still unresolved at April 2020, which Uruguay advises was due to the requirement to publish a notification in the Official Gazette, the non-appearance of the account holder in Court, and the Court requirement to then appoint legal representation for the defendant. The timeframes were consistent with peer input where comments were made in relation to delays in receiving banking information. The current legal and procedural framework, even when administered optimally, appears to be a contributing factor.

185. Uruguay is recommended to examine the legal and procedural framework applying to the judicial lifting of bank secrecy and make such changes as may be necessary to ensure that judicial processes and notification requirements do not impede timely responses to banking information requests.

186. As explained at paragraphs 146-147, from 2018 Uruguay has a comprehensive financial account reporting regime modelled on the Common Reporting Stand that covers both residents and non-residents. The DGI is authorised by law to use this information in meeting EOI requests. As access to this information was only first available near the end of the current review period, it did not impact the scope of the requirement to use the judicial procedure to obtain bank information. It is likely to reduce reliance on the judicial procedure in subsequent years.

187. No other rights or safeguards were found that would unduly prevent or delay effective exchange of information by Uruguay.

Part C: Exchanging information

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

189. The 2015 Report found that Uruguay had 31 EOI agreements, all meeting the standard, with 22 in force. Uruguay was recommended to take all steps necessary to bring all signed EOI agreements into force. Since then, all of the signed agreements have entered into force, with the exception of a TIEA with Brazil.[39] In addition, 5 new DTCs[40] and 1 TIEA were signed and have entered into force.

190. Uruguay signed the Multilateral Convention on 1 June 2016 and it came into force on 1 December 2016. Uruguay has 121 EOI relationships in force under the Multilateral Convention, plus DTCs in force with Paraguay and Viet Nam, giving 123 EOI partners (and 136 EOI relationships).

191. The Minister of Economy and Finance or their authorised representative is the competent authority for Uruguay. In practice the Minister delegates this power to the Director General for Revenue, the Deputy General for Revenue, the Director of the Large Taxpayers Division and the Head of the International Taxation Department.

39. Uruguay ratified the TIEA with Brazil on 29 December 2014 which, at the time of the on-site visit, had not been approved by the Brazilian parliament.
40. Two of the new DTCs are in addition to prior TIEAs with those jurisdictions.

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

Legal and Regulatory Framework		
	Underlying Factor	**Recommendations**
Deficiencies identified	During the review period, Uruguay was not always able to obtain banking information when the account holder has been identified by information other than the name (see B.1). This may limit Uruguay's ability to fully exchange banking information in some cases.	Uruguay should ensure that all relevant bank information may be accessed for exchange of information purposes, including when the account holder's name is not known.
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	The interpretation by Uruguay of the entry into force provision of one TIEA concluded with a significant EOI partner during the period of review period is not in line with the international standard.	Uruguay must ensure that its interpretation of the entry into force provision of that TIEA does not restrict the exchange of information with that EOI partner.
Rating: Largely Compliant		

C.1.1. Foreseeably relevant standard

193. Almost all of Uruguay's EOI agreements (TIEAs, DTCs, Multilateral Convention) refer to the concept of foreseeable relevance and adopt wording from, or with the same effect as, Article 26(1) of the OECD Model Taxation Convention.[41] The 2015 Report described the Guidelines issued by the Director General for processing EOI requests including the assessment of foreseeable relevance. Those Guidelines continue to be followed.

194. During the review period, 12 requests were refused in full on the grounds that foreseeable relevance had not been proven, and 27 cases had a refusal for this reason relating to part of the request. Both the full and partial refusals were principally on grounds relating to the equivalent of Article 5.5(d)

41. Uruguay's DTC with Hungary requires exchange of such information as is "necessary to the carrying out…". Uruguay interprets "necessary" consistent with the concept of foreseeable relevance.

of the OECD Model TIEA. In all cases, Uruguay followed the Guidelines to seek clarification of the foreseeable relevance before refusal and with the exception of one case, the refusal or partial refusal was due to non-response to the requests for clarification. In one case the provision of additional information by the requesting competent authority was not accepted by Uruguay as meeting the foreseeable relevance requirement.[42]

195. The Guidelines were amended by Resolution 1060/2019 to cover group requests. The assessment is the same, other than names not being required. No group requests arose during the review period.

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

196. None of Uruguay's EOI agreements are restricted for EOI purposes in relation to the "persons covered".

197. During the current review period, Uruguay was able to respond to requests regardless of whether or not the persons concerned were residents or nationals of either contracting party. No issues were raised by peers on these elements.

C.1.3. Obligation to exchange all types of information

198. Uruguay's DTCs, with two exceptions, mirror Article 26(5) of the OECD Model Tax Convention spelling out the obligation to exchange information held by financial institutions, nominees, agents; as well as ownership and identity information. All of Uruguay's TIEAs include a provision equivalent to Article 5(4) of the OECD Model TIEA relating to the same obligation. The exceptional DTCs relate to Germany, which is remedied by the DTC in force since 1 January 2012, and Hungary, which Uruguay advises is interpreted so as not to limit the exchange of information held by financial institutions, nominees or persons acting in a fiduciary capacity. Exchange with Hungary in any case can occur under the Multilateral Convention in force from 1 December 2016.

199. Jurisdictions cannot exchange in effective exchange of information if they are restricted or partly restricted from exchanging information held by financial institutions. As discussed under element B.1, there are reasons to doubt whether Uruguay's laws allow access to account information in all cases where the account holder has not been identified. Uruguay should ensure that all relevant bank information may be accessed for exchange of information purposes, including when the account holder's identity is not known.

42. The issue related to an unexplained mismatch in the fiscal period said to be under review and the period that was the subject of the request.

C.1.4. Absence of domestic tax interest

200. Uruguay's DTCs, with the same two exceptions mentioned in the previous paragraph, have an equivalent provision to Article 26(4) of the OECD Model Tax Convention obliging Uruguay to use its information gathering powers to obtain and provide information even when it does not have a domestic interest in the information. All of Uruguay's TIEAs include a provision equivalent to Article 5(2) of the OECD Model TIEA relating to the same obligation.

201. During the period under review there were 18 requests that related to persons with whom Uruguay had no domestic tax interest. Information was obtained with no distinction as to whether Uruguay had a domestic tax interest.

C.1.5. Absence dual criminality and C.1.6. Civil and criminal tax matters

202. All of Uruguay's EOI agreements provide for exchange of information for both civil and criminal tax purposes. There are no dual criminality provisions in Uruguay's EOI agreements. It continues to be Uruguay's policy to exchange information under its agreements irrespective of whether the conduct being investigated would constitute a crime in Uruguay.

203. During the period under review, Uruguay provided for information in response to requests related to criminal investigations in other jurisdictions. No statistics are available on whether dual criminality was present or absent because Uruguay advises that it does not subject requests to this analysis.

C.1.7. Provide information in specific form requested

204. There are no restrictions in Uruguay's EOI agreements that would prevent it from providing information in a specific form requested and to the extent possible under Uruguay's domestic laws.

205. For the period under review, Uruguay advises that there were no requests requiring information in a specific format.

C.1.8 and C.1.9. Signed agreements should be in force and in effect

206. Uruguay's EOI network comprises 37 agreements in force and in effect,[43] consisting of 21 DTCs, 15 TIEAs and the Multilateral Convention. The Multilateral Convention has been in force in respect of Uruguay since

43. The TIEA with Brazil that is not in force is not counted in these EOI agreements statistics.

1 December 2016. No specific domestic legislation is required to bring treaties into effect after ratification. A TIEA with Brazil was signed in 2012 and is still not in force, although Uruguay has taken all steps necessary on its part to bring it into force. The entry into force of the Multilateral Convention during the period under review offers an EOI relationship between the two countries and exchange of information in practice commenced during the period. The recommendation in the 2015 Report relating Uruguay action to bring two outstanding TIEAs into force has been met.

207. The 2015 Report described two interpretive issues with the TIEA between Uruguay and Argentina. The first relates to a difference in interpretation between the two countries on the time of application of the TIEA for criminal tax matters. As explained in the previous Report, Uruguay understood at the time of negotiating the TIEA that it would not apply to information generated before its entry into force,[44] a position that was conveyed during parliamentary debates. While the interpretation was refined such that a request would only be denied to the extent that the information is no longer in effect after the TIEA is in force (for example, point in time transactions before the TIEA, or records that are no longer current), a difference of interpretation remained.

208. With the Multilateral Convention's entry into force in respect of Uruguay from 1 December 2016 (the Convention already being in force for Argentina), the interpretive issue on providing information arising prior to the TIEA's entry into force is reduced, as exchange of such information can now occur under the Multilateral Convention.

209. The second interpretive issue has a residual application. Uruguay's view on the application of the entry into force date relating to non-criminal matters is that it does not apply to information generated prior to the entry into force of the TIEA if all of the effects of that information were also exhausted before the entry into force of the TIEA. For example, invoices, information on shareholders who ceased to be shareholders prior to the entry into force. There were three requests from Argentina during the review period that were denied on these grounds. Uruguay must ensure that its interpretation of the entry into force provision of this TIEA does not restrict exchange with this EOI partner.

44. The TIEA entered into force in February 2013.

EOI mechanisms

Total EOI relationships, **including** bilateral and multilateral or regional mechanisms	**136**
In force	**123**
In line with the standard	**123**
Not in line with the standard	**0**
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	**1**
In force	**1**
In line with the standard	**1**
Not in line with the standard	**0**
Signed but not in force	**0**
In line with the standard	**0**
Not in line with the standard	**0**

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

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

210. The 2015 Report found that element C.2 was in place and it was rated as Compliant. Uruguay has continued to develop its EOI network since then, with five new DTCs and one new TIEA. The Multilateral Convention was also signed by Uruguay and came into force on 1 December 2016. Negotiations on a DTC with two jurisdictions have concluded and negotiations are underway with three more jurisdictions.

211. Uruguay therefore has EOI agreements covering significant trading partners, Argentina, Brazil, China and Mexico. The Multilateral Convention has extended its exchange network widely to 135 jurisdictions and Uruguay continues to add to this mechanism through DTCs, to reach 136 jurisdictions in May 2020.

212. No peer reported that Uruguay had declined to enter into an EOI instrument. Uruguay should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

213. 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.

214. The 2015 Report found that element C.3 was in place and it was rated as Compliant. Since then, the same confidentiality legal obligations continue to apply and also continue to be applied in practice.

215. 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

216. Each of the EOI agreements concluded by Uruguay meet the standard for confidentiality reflected in Article 26(2) of the OECD Model Taxation Convention and Article 8 of the OECD Model TIEA. These confidentiality requirements are supported by Uruguay's domestic law.

217. Article 47 of the Tax Code applies equally to protect the request for information itself and includes background documents provided by an exchange partner, as well as any other information relating to the request such as communications between the EOI partners in respect of the requests. Resolution No. 1176/2013 reinforces the primary law by providing that the provisions in Article 47 of the Tax Code shall be applicable to all information provided and received by the competent authorities of the contracting parties and goes on to detail specific measures to ensure that this is achieved. All files related to EOI requests must be locked away and access is restricted to only those staff whose duties require such access. Electronic files related to EOI requests must also be secured with accesses restricted to necessary staff, including through the use of passwords. Each employee is accountable

for their use and non-disclosure of information. In essence, the DGI and its officers are required to keep confidential all information arising through administrative or judicial functions and can only be disclosed in due performance of those functions.

218. Resolution No. 1177/2013 supplements the preceding Resolution, stating that employees (including former employees) failing to comply with the confidentiality requirements will be subject to criminal, civil and administrative liabilities. Under Uruguay's Criminal Code, a breach of confidentiality may be subject to suspension of employment for between six months and two years, and fines. Fine amounts range from UYU 12 000 to 12 000 000 (USD 300 to 300 000). Misuse of information may result in imprisonment.

219. The scope of the confidentiality imposed by Article 47 relating to the EOI requests made or received by Uruguay prevents persons concerned by the EOI request from accessing the request, though such a person may access the information to be exchanged as described under element B.2.

220. Uruguay's special regime for accessing bank information requires the disclosure of certain information to the account holder and, when applicable, the court. The account holder would not in all cases be the taxpayer. The initial request to the account holder for voluntary lifting of bank secrecy provides no information regarding the existence or detail of an EOI request and is the same procedure that applies to access bank information for domestic purposes.

221. If it becomes necessary to file an application with the court for lifting of bank secrecy, Uruguay informs the requesting competent authority that an EOI request may be disclosed to the judge but neither the existence nor the detail of an EOI request is disclosed in communication to the account holder. The court will send notification to the account holder of the application for lifting of bank secrecy if the person's domicile is known and provided by the DGI. If the person's domicile is not known, a notification is published in the Official Gazette. Again, no information regarding the existence or detail of an EOI request is included and it is the same procedure that applies for domestic purposes.

222. 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 Uruguay reported that there were no requests where the requesting partner sought Uruguay's consent to utilise the information for non-tax purposes and similarly Uruguay did not request its partners to use information received for non-tax purposes.

C.3.2. Confidentiality of other information

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

Confidentiality in practice

Human resources and training

224. Prior to any appointment with the DGI, candidates undergo comprehensive background and security checks. Service providers and their staff are required to sign confidentiality agreements if their activities would bring them into contact with confidential information. All employees and contractors joining the administration undergo induction training on confidentiality and information security. There are ongoing awareness campaigns and resources provided to maintain employee knowledge of requirements. Comprehensive departure policies are in place to ensure accesses are cancelled. Confidentiality obligations continue after employment or contracts end.

Physical security and access controls

225. The DGI's premises have separate access for the general public and employees, security personnel in all access points to the building and around the facilities 24 hours a day, all year round. Premises where the confidential information is stored can be accessed by authorised personnel only and is contingent on their work duties. There are layers of video surveillance for monitoring of access points. There is a data centre with electronic access controls, locks and alarms. If hard copy files are created, these are specially colour coded and kept in robust locked storage when not being worked upon. When information exchange procedures end, physical documentation is stored in a specific sealed envelope, filed in locked storage cabinets located in secure rooms with tightly controlled access.

226. Access to Uruguay's IT systems are subject to the usual controls expected of a sophisticated tax administration including user management, access roles, robust passwords, access logs and encryption practices. Internal audits are carried out across the DGI and breaches have been subject to actual sanction, including one case that resulted in imprisonment (not EOI related). For the purpose of managing EOI requests, a system separated

from the general systems was implemented, to which only a small number of employees with EOI responsibility have access. This separate module clearly identifies the information as relating to EOI and therefore both hard copies and electronic records are kept separate without comingling with other tax information. The system and procedures are used for both outgoing and incoming requests and related information.

227. Uruguay states that there have been no cases of breach of confidentiality in relation to EOI requests. Consequently it has been unnecessary to impose any sanctions to date, although an appropriate sanction framework is available should it become necessary in the future. No peers raised issues in relation to information confidentiality.

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.

228. The 2015 Report concluded that Uruguay's EOI Agreements protect rights and safeguards in accordance with the standard, and element C.4 was found to be in place and was rated as "Compliant" notwithstanding that a narrow potential gap relating to attorney-client privilege could not be ruled out with absolute certainty. While there was judicial authority denying professional secrecy on disclosure of information related to criminal or unlawful acts, there were no court decisions on how this interacts with access provisions in the Tax Code. Nevertheless, Uruguay was rated as compliant on the basis that the professional secrecy exception for lawyers has in practice been interpreted in a restrictive manner that has not prevented tax authorities from accessing information.

229. Through the period under current review, no issues arose in relation to professional secrecy or other rights and safeguards of taxpayers and third parties and peers have raised no issues. Uruguay's exchange of information mechanisms are 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*). No requests were rejected for reasons related to professional secrecy or other rights and safeguards of taxpayers or third parties.

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

Legal and Regulatory Framework
Determination: The element is in place

Practical Implementation of the standard
Rating: Compliant

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.

231. The 2015 Report recorded that Uruguay had received 17 EOI requests, largely in the final year of the review period, so it was not possible to comprehensively assess the effectiveness of exchange in that Report. It did conclude that Uruguay had adequate resources and organisational processes in place to handle incoming EOI requests so far, as had been tested by the relatively low volume of requests received during the period reviewed. On the expectation that volumes would increase, the Report recommended that Uruguay monitor the organisational processes and resources to ensure that these remain adequate to ensure effective EOI in practice. An increase in volume of requests did in fact occur in the current review period. The structure, processes and resources put in place, including the implementation of an electronic EOI management system, proved to be adequate for the larger volumes during the current review period.

232. Uruguay was also recommended to provide status updates to EOI partners within 90 days in cases where it is not possible to provide a partial or complete response within that timeframe. A status update procedure has been incorporated and documented in Uruguay's EOI procedures. Uruguay advised, and peers confirmed, that status updates were provided for all relevant cases during the current review period.

233. During the current review period a relatively high proportion of requests were declined as invalid – 72 requests out of a total of 211; 48 of the declined cases were rejected for a lack of grounds for believing that the information was held in Uruguay or was in the possession or control of a person within the jurisdiction of Uruguay. Requests for clarification were sent in all of that category cases (48) before finalisation. A further 10 cases were declined on the grounds that the request related to a fiscal year out of scope of the relevant agreement.

234. If all declined cases are excluded, Uruguay's response rate during the review period for all requests accepted as valid was 51% within 90 days and 70% within 180 days.

235. 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	Requests were received for company ownership information for companies suspected of being related to particular taxpayers in the requesting jurisdiction. Uruguay's responses were limited only to stating that the taxpayer was not the beneficial owner, without identifying the actual owners.	Uruguay is recommended to seek clarification of requests in all cases where it is apparent that clarification could improve effectiveness.
	Requests were received for company ownership information for companies suspected of being related to particular taxpayers in the requesting jurisdiction. Uruguay's responses were limited only to stating that the taxpayer was not the beneficial owner, without identifying the actual owners.	Uruguay is recommended to seek clarification of requests in all cases where it is apparent that clarification could improve effectiveness.
	Requests were received for company ownership information for companies suspected of being related to particular taxpayers in the requesting jurisdiction. Uruguay's responses were limited only to stating that the taxpayer was not the beneficial owner, without identifying the actual owners.	Uruguay is recommended to seek clarification of requests in all cases where it is apparent that clarification could improve effectiveness.
Rating: Largely Compliant		

C.5.1. Timeliness of responses to requests for information

236. Over the current period under review (1 October 2015 to 30 September 2018), Uruguay received a total of 211 requests for information. Uruguay received EOI requests from 12 partners during the review period, with Argentina and Spain accounting for more than 85% of these requests.

237. The following table relates to the requests received during the period under review and gives an overview of response times of Uruguay in providing a final response to these requests, together with a summary of other relevant factors impacting the effectiveness of Uruguay's practice during the period reviewed.

		Oct 2015-Sept 2016		Oct 2016-Sept 2017		Oct 2017-Sept 2018		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	109		47		55		211	
Full response: ≤ 90 days		83	76	29	62	30	55	142	67
≤ 180 days (cumulative)		91	83	38	81	38	69	167	79
≤ 1 year (cumulative)	[A]	99	91	40	85	40	73	179	85
> 1 year	[B]	5	5	3	6	0	0	8	4
Declined for valid reasons		44	40	19	40	9	16	72	34
Outstanding cases after 90 days		22		18		22		62	100
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		22	100	18	100	22	100	62	100
Requests withdrawn by requesting jurisdiction	[C]	1	< 1	0	0	3	5	4	2
Failure to obtain and provide information requested	[D]	4	4	2	4	0	0	6	3
Requests still pending at date of review	[E]	0	0	2	4	12	22	14	7

Notes: a. Uruguay counts EOI requests by taxpayer, so that a separate request file is opened for each taxpayer.

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

c. The agreements with Ecuador and Spain provide for a response time of 180 days.

238. 75 requests were received for ownership information, 84 for accounting information, 96 for banking information and 193 sought other information.[45]

239. Included in the 211 requests were 3 requests for information "generated" before the entry into force of the relevant TIEA, discussed at paragraph 209 of this report; these requests are included in the "Failure to obtain and provide

45. Requests may seek more than one category of information described.

information requested" row in the above table. Additionally 72 other requests were declined during the period under review. The reasons can be broken down as follows:

- failure to address the equivalent of Article 5.5(d) in the OECD Model TIEA in the relevant agreement (48 cases, all relating to one partner jurisdiction)
- information related to tax periods not covered by the agreement (10 cases)
- information not included in the scope of the agreement (2 cases)
- requests sent by persons other than the competent authority under the EOI agreement, or other reasons (12 cases).

240. In all cases where the Article 5.5(d) equivalent was in question (grounds for believing that the information was held in Uruguay or was in the possession or control of a person within the jurisdiction of Uruguay), Uruguay sought clarification from the requesting partner and where no response was received within 90 days Uruguay's practice was to notify the partner that the case has been closed.

241. Four requests in the other reasons category were declined because the requests received only provided a judicial notice from a court in the partner jurisdiction without being accompanied by an explanation of the foreseeable relevance of the request.

242. Four requests were withdrawn by the requesting jurisdiction following a request for clarification to explain the foreseeable relevance of the requests.

243. The proportion of requests declined is comparatively high. However, aside from a handful of cases involving interpretive issues discussed in this report at C.1 and in the 2015 Report, the reasons for rejection were not unreasonable and were not considered to be reflective of systemic issues on the Uruguayan side.

244. Excluding declined requests, Uruguay was able to provide a full response to EOI requests within 90 days in 51% of cases and within 180 days in 70% of cases. Typically these requests would relate to information other than banking information or, if banking information was requested, the relevant account holder has voluntarily lifted banking secrecy. The issues with the timeliness of responding to requests for banking information have been analysed and a recommendation made under element B.2 of this report.

Status updates and communication with partners

245. The recommendation made in the 2015 Report relating to providing status updates to partners within 90 days when a response is not possible was implemented by Uruguay and was applied throughout the review period. Uruguay advised, and peers confirmed, that status updates were provided for all relevant cases during the current review period. The recommendation has been met.

246. Uruguay sought clarification of EOI requests on 62 occasions during the current review period. The main reasons for seeking clarification were to establish foreseeable relevance, including to establish reasons why the information may be in Uruguay or accessible from a person under Uruguay's jurisdictions or to identify the tax period or taxes under investigation. 90% of these requests related to one partner. In all cases clarification was sought by Uruguay and prior warning of case closure was always provided in case of non-response by the partner jurisdiction.

247. Peers indicated that Uruguay engages in regular contact by email in particular, as well as by courier letter and telephone. Communication was said to be fluent and peers were generally satisfied by responses or updates.

248. Peer feedback was received in relation to five cases where beneficial ownership information of a company was requested on the grounds that the company was related to an identified taxpayer in the requesting jurisdiction. According to the peer, Uruguay's response was limited only to stating that the taxpayer was not the beneficial owner, without identifying the actual beneficial owners. Uruguay is recommended to seek clarification of requests in all cases where it is apparent that clarification could improve effectiveness.

C.5.2. Organisational processes and resources

249. The 2015 Report found that the procedures established by the DGI, recorded in an EOI Manual, appeared sufficient to handle requests in a timely manner. The resources available were also assessed as sufficient to deal with the workload at that time. However at that time Uruguay did not yet have a demonstrated record of exchange in a sufficient number of cases to be assured of effectiveness in practice. Uruguay was recommended to monitor the application of the organisational processes as well as the level of resources committed to EOI purposes.

Organisation of the competent authority

250. The competent authority of Uruguay is the Minister of Finance. The Minister has delegated their authority to the Director General for Revenue. The Deputy Director General of the DGI is also authorised, as is the Director

of the Large Taxpayers Division and the Head of the International Taxation Department (ITD). The ITD is responsible for the day to day processing of EOI requests, both inbound and outbound.

251. The EOI Manual noted in the 2015 Report remains the key record of procedures followed by Uruguay in administering inbound and outbound EOI requests. The procedures and requirement to follow those procedures during the review period was governed principally by Resolution 1774/2014. It was updated by Resolution No. 1060/2019 to cover group requests.

Resources and training

252. There are eight persons in ITD available and trained to work on EOI matters, with several persons in other areas with some EOI training who could be called upon to assist from time to time, with supervision and covered by the same confidentiality obligations as core EOI staff. While the ITD does not have an autonomous budget within the Large Taxpayers Division, the ITD has been prioritised for the recruitment of personnel and in the allocation of material and technical resources. EOI requests are managed using an electronic system adapted by the DGI from a system provided by the OECD.

253. Generally the participants are university qualified in accounting or law, some to a postgraduate level. All have undergone EOI training, both in Uruguay and abroad. Technical assistance from the Global Forum secretariat was received in previous years and expertise has been well retained within ITD. This core group has assisted in providing training to the DGI's staff more generally on the benefits and use of EOI information, with internal training provided to more than 60 participants in 2016 and again in 2018.

Handling of EOI requests

254. The 2015 Report explained in some detail the procedures followed for EOI requests by Uruguay, which are mandated by the EOI Manual that continued to govern procedures through the current review period.

255. Briefly, inbound EOI requests are generally received by the office of the Director General, but on occasion may be received by the Director of the Large Taxpayers Division (both being competent authorities in the DGI), ultimately for administration by the EOI personnel in ITD. Uruguay generally receives requests by courier, which is preferred, but will accept requests by email. Internally EOI requests are worked on in hard copy, but the management system is electronic.

256. Requests are promptly acknowledged and a file is opened with a special colour marking with the EOI request placed within an envelope in the file. ITD will then verify that an Agreement covers the request, the request

has come from a valid competent authority and that the information requested is foreseeably relevant and valid in all respects. The case is then actioned according to where the information required is held, whether within the DGI, another government agency or other holder. Specific qualified personnel are assigned to deal with banking information requests due to the judicial procedures often required.

Outgoing requests

257. Uruguay sent 7 outbound requests over the review period, all of which were made to Argentina. No requests for clarifications arose, and the peer has raised no issues. The procedures required to be followed are contained in the same EOI Manual referred to earlier and carried out within the same organisational structure and authorities as for incoming requests.

Conclusion

258. While there are substantial delays in responding to requests for banking information, this appears to be caused by Uruguay's rights and safeguards framework assessed at element B.2 with consequential recommendation. Uruguay's organisational framework and procedures for requesting and providing information is otherwise generally effective and is rated as Largely Compliant.

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

259. Other than the matters identified earlier in this report, there are no unreasonable, disproportionate or unduly restrictive conditions on exchange of information existing in practice.

Annex 1: List of in-text recommendations

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

- **Element C.2**: Uruguay should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 212).

Annex 2: List of Uruguay's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Argentina	TIEA	23 April 2012	7 February 2013
2	Australia	TIEA	10 December 2012	1 July2014
3	Belgium	DTA	23 August 2013	4 August 2017
4	Brazil	TIEA	23 October 2012	Not in force
5	Canada	TIEA	5 February 2013	27 June 2014
6	Chile	TIEA DTA	12 September 2014 1 April 2016	4 August 2016 5 September 2018
7	Denmark	TIEA	14 December 2011	7 January 2013
8	Ecuador	DTA	26 May 2011	15 November 2012
9	Faroe Islands	TIEA	14 December 2011	19 February 2015
10	Finland	DTA	13 December 2011	6 February 2013
11	France	TIEA	28 January 2010	31 December 2010
12	Germany	DTA	9 March 2010	28 December 2011
13	Greenland	TIEA	14 December 2011	25 January 2013
14	Guernsey	TIEA	2 July 2014	6 October 2017
15	Hungary	DTA	25 October 1988	13 August 1993
16	Iceland	TIEA	14 December 2011	14 November 2012
17	India	DTA	8 September 2011	21 June 2013
18	Korea	DTA	29 November 2011	22 January 2013
19	Liechtenstein	DTA	18 October 2010	3 September 2012
20	Luxembourg	DTA	10 March 2015	11 January 2017
21	Malta	DTA	11 March 2011	13 December 2012
22	Mexico	DTA	14 August 2009	29 December 2010
23	Netherlands	TIEA	24 October 2012	1 June 2016

	EOI partner	Type of agreement	Signature	Entry into force
24	Norway	TIEA	14 December 2011	30 January 2014
25	Paraguay	DTA	8 September 2017	30 March 2019
26	Portugal	DTA	30 November 2009	13 September 2012
27	Romania	DTA	14 September 2012	22 October 2014
28	Singapore	DTA	15 January 2015	14 March 2017
29	South Africa	TIEA	7 August 2015	6 October 2017
30	Spain	DTA	9 October 2009	24 April 2011
31	Sweden	TIEA	14 December 2011	17 April 2015
32	Switzerland	DTA	18 October 2010	28 December 2011
33	United Arab Emirates	DTA	10 October 2014	13 June 2016
34	United Kingdom	TIEA DTA	14 October 2013 24 February 2016	20 October 2016 14 November 2016
35	Viet Nam	DTA	9 December 2013	26 July 2016

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).[46] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax cooperation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

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

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

As of 5 May 2020, the Multilateral Convention is also 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, Cabo Verde, 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,[47] 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, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Nauru, Netherlands, New Zealand, Nigeria, Niue, North Macedonia, Norway, Pakistan, Panama, 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 and Vanuatu.

47. Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

In addition, the Multilateral Convention was signed by the following jurisdictions where it is not yet in force: Armenia (entry into force on 1 June 2020), Benin, Boznia and Herzegovina, Burkina Faso, Gabon, Kenya, Liberia, Mauritania, Mongolia (entry into force on 1 June 2020), Oman, Paraguay, Philippines, Togo, Thailand (signed on 3 June 2020),[48] United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

48. This signature took place after the cut-off date of the present report and therefore this EOI relationship is not taken into account in the core text of the report.

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 5 May 2020 , Uruguay's EOIR practice in respect of EOI requests made and received during the three year period from 1 October 2015 to 30 September 2018, Uruguay's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Uruguay's authorities during the on-site visit that took place 16 to 18 December 2019.

List of laws, regulations and other materials received

The Tax Code

The Commercial Code

The Criminal Code

Law 16 060 (the Law on Business Partnerships)

Law No. 18 930 relating to bearer shares and foreign companies

Decree No. 247/012 on bearer shares

Law No. 19 288 on bearer shares

Decree No. 346/014 on bearer shares

Law No. 19 484 of 2017 (Approval of Rules Converging with International Standards on International Fiscal Transparency, Prevention and Control of Money Laundering and Terrorist Financing)

Decree No. 166/017 providing regulations for Law No. 19 484 of 2017

Law No. 18 407 on associations and co-operatives

Law No. 17 777 on agricultural companies

Law No. 18 718 on accessing bank information

Decree No. 282/011 on accessing bank information

Resolutions No. 1176/2013 and No. 1177/2013 relating to confidentiality

Resolution 1774/2014 on Exchange of Information Procedures

Resolution 1060/2019 on Exchange of Information Procedures

Compilation of Regulation and Control Standards of the Financial System (RNRCSF)

Authorities interviewed during on-site visit

The Ministry of Finance

The Uruguayan Tax Administration

The National Register of Commerce

The Central Bank of Uruguay

The National Internal Audit

National Anti-Money Laundering and Counter-Terrorist Financing Secretariat

Current and Previous review(s)

This report provides the outcome of the fourth peer review of Uruguay's implementation of the EOIR standard conducted by the Global Forum. Uruguay previously underwent a review of its legal and regulatory framework (Phase 1) originally in 2011 and a supplementary review in 2012, and the implementation of that framework in practice (Phase 2) in 2015.

These reviews were conducted according to the terms of reference approved by the Global Forum in February 2010 and the Methodology used in the first round of reviews.

Information on each of Uruguay's reviews is listed in the table below.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Mr Cleve Lisecki from the United States Internal Revenue Service; Ms Alexandra Storckmeijer Sansonetti from the Swiss Federal Tax Authority; Ms Caroline Malcolm from the Global Forum Secretariat	n.a.	July 2011	October 2011
Round 1 Supplementary to Phase 1	Mr Cleve Lisecki from the United States Internal Revenue Service; Ms Alexandra Storckmeijer Sansonetti from the Swiss Federal Tax Authority; Ms Doris King and Ms Renata Fontana from the Global Forum Secretariat	n.a.	August 2012	October 2012
Round 1 Phase 2	Mr Cleve Lisecki from the United States Internal Revenue Service; Mr Daniel Ruffi of the Tax Administration of Switzerland; Ms Séverine Baranger and Ms Mary O'Leary from the Global Forum Secretariat	1 July2010 to 30 June 2013	December 2014	March 2015
Round 2	Ms Kelly Storr from the Canada Revenue Agency; Ms Marlene Tapia from the Ministry of Finance of the Dominican Republic; Mr Ricky Herbert from the Global Forum Secretariat	1 October 2015 to 30 September 2018	5 May 2020	August 2020

Annex 4: Uruguay's response to the review report[49]

Uruguay wishes to acknowledge the hard work involved to produce this Second Round, which reflects the situation of our country in terms of transparency and exchange of information for tax purposes.

We would like to thank the assessment team for their hard work and guidance throughout this evaluation process. We would also like to extend our sincere appreciation to our colleagues in the Peer Review Group for their constructive comments and useful observations, and also to our EOI partners for their invaluable inputs and contributions. Finally, Uruguay would like to extend its sincere appreciation for the extraordinary work done by the Secretariat of the Global Forum.

We do recognize that we have received several recommendations that require attention and we will continue working closely with the Forum to facilitate the implementation of measures that are needed to comply with the international standard for exchange of information as recommended in this report.

Uruguay's commitment to fiscal transparency and effective exchange of information is strong and evidenced by the legal framework that rules the matter and our everyday contact with peers around the world. Uruguay will continue to support the efforts of the Global Forum in the years to come, in order to achieve a more transparent environment in tax matters.

49. 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 URUGUAY 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 Uruguay.

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