

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

Peer Review Report on the Exchange of Information
on Request

CYPRUS

2020 (Second Round)

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

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 160 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
ACCA	UK Association of Chartered Certified Accountants
ACTL	Assessment and Collection of Taxes Law (Amendment) (No. 78) of 2014
Administrative Services Law or ASP Law	Law Regulating Companies Providing Administrative Services and Related Matters of 2012
AIFML 2013	Alternative Investments Fund Managers Law of 2013
AIFL 2018	The Alternative Investments Funds Law of 2018
AML	Anti-Money Laundering
AML Directive or AMLD	Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
ASP	Administrative service provider
ATAD	Directive (EU) 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market, known as the Anti-Tax Avoidance Directive (as amended)
ATAD II	Council Directive (EU) 2017/952 of 29 May 2017 amending ATAD
BO	Beneficial owner

CBA	Cyprus Bar Association
CBA Directive	Prevention of Money Laundering and Terrorist Financing Directive to the Members of the CBA, dated September 2015
CBC	Central Bank of Cyprus
CBC Directive	Directive of the CBC to Credit Institutions on the Prevention of Money Laundering and Terrorist Financing, issued in February 2019
CCN	Common Communication Network (EU)
CDD	Customer Due Diligence
Companies Amendment Law	Companies amendment law N149(I)/2018
Companies Law or CL	Companies Law, Cap.113 (as amended including Companies Law (Amending) (No. 4) Law of 2015)
Companies Register	Register of companies maintained by the Registrar
Competent Authority	Such persons of ITAD authorised to handle and sign EOI requests, as delegated by the Minister for Finance or their authorised representatives to the CTD
Co-operative Societies Rules or CSR	Co-operative Societies Rules of 1987 up to 2012
Co-operative Societies Law or CSL	Co-operative Societies Law of 1985 to (No. 4) of 2013
CTD	Cyprus Tax Department
CySEC	Cyprus Securities and Exchange Commission
CySEC Directive	Directive of CySEC for the prevention and suppression of money laundering and terrorist financing
DAC	EU Directive on administrative co-operation in the field of taxation (as amended)
Registrar	Department of Registrar of Companies and Official Receiver, and registrar of partnerships (as applicable)
DTC	Double Tax Convention
EOI	Exchange of information

EOIR	Exchange Of Information on Request
EU	European Union
FATCA	Foreign Account Tax Compliance Act
FIU	Financial Intelligence Unit
Gazette	Official Gazette of Cyprus
GDP	Gross Domestic Product
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
ICA	International Co-operative Alliance
ICPAC	Institute of Certified Public Accountants of Cyprus
ICPAC Directive	Directive to the members of ICPAC on anti-money laundering and combating terrorist financing activities
ITAD	International Tax Affairs Division of the CTD
ITL	Income Tax Law 2002 (as amended)
MER	Fifth round mutual evaluation report on Cyprus adopted by MONEYVAL in December 2019
MONEYVAL	Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
PBNL Amendment Law	Partnerships and Business Names amendment law N147(I)/2018
PBNL	General and Limited Partnerships and Business Names Law, Cap.116 (as amended)
PSMLTFL	Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-19
SE	Societas Europae (also known as a European company), a public limited-liability company that allows businesses to be run in different European countries under a single set of rules
SE Regulations	European Public Limited Company (SE) Regulations 2006

Standard	Standard on Transparency and Exchange of Information on Request, as set out in the 2016 ToR
TCSP	Trust or Company Service Provider
Troika	European Commission, European Central Bank and International Monetary Fund
TIEA	Tax Information Exchange Agreement

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Cyprus as part of the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 28 September 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 January 2016 to 31 December 2018. This report concludes that Cyprus continues to be rated overall **Largely Compliant** with the international standard. In 2015, the Global Forum evaluated Cyprus against the 2010 Terms of Reference and assigned it an overall rating of Largely Compliant (see Annex 3).

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2015)	Second Round Report (2020)
A.1 Availability of ownership and identity information	Largely Compliant	Partially Compliant
A.2 Availability of accounting information	Largely Compliant	Largely Compliant
A.3 Availability of banking information	Compliant	Compliant
B.1 Access to information	Compliant	Compliant
B.2 Rights and Safeguards	Compliant	Compliant
C.1 EOIR Mechanisms	Compliant	Largely Compliant
C.2 Network of EOIR Mechanisms	Compliant	Compliant
C.3 Confidentiality	Compliant	Compliant
C.4 Rights and safeguards	Compliant	Compliant
C.5 Quality and timeliness of responses	Largely Compliant	Largely Compliant
OVERALL RATING	LARGELY COMPLIANT	LARGELY COMPLIANT

Note: the four-scale ratings are Compliant, Largely Compliant, Partially Compliant and Non-Compliant.

Progress made since previous review

2. Since receiving a Non-Compliant rating in 2013, the advancements in transparency in Cyprus have been significant, leading to an upgrade of Cyprus' overall rating to Largely Compliant in 2015. Following the Global Forum report in 2015, Cyprus has continued to foster a burgeoning culture of compliance and has made further strides in its regulatory oversight regime, as evidenced in this Report. This reports maps the areas where further improvement is needed to fully align Cyprus' legal framework and practices with the international standard.

3. The remaining issues identified in the report on Cyprus in 2015 related to the availability of ownership information and timeliness as regards the exchange of information. While the availability of information on companies and partnerships had significantly improved since the previous review (2013 Report) on account of the increased numbers of annual returns submitted to the Registrar and the tax authorities, new procedures regarding the monitoring and enforcement of compliance with these filing obligations were yet to be fully implemented. Since 2015, Cyprus has made significant progress in addressing some of the issues outlined above. Following the recommendation in the 2015 Report to observe monitoring and enforcement, the powers of the registrar of companies have been enhanced. Statutory forms for registered entities have been redesigned to try to enhance the accuracy of the information submitted and Cyprus has also significantly improved compliance rates in respect of tax return filings. The Registrar now has the power to strike off any partnership which fails to submit any document required to be submitted by law (e.g. annual return and accounts). Progress should continue to reach a satisfactory level.

4. Although response times to incoming EOI requests had improved since the 2013 Report, not all EOI requests were responded to in a timely manner during the 2015 Report review period, mostly due to a backlog of outstanding requests. Cyprus was recommended to ensure that all EOI requests were responded to in a timely manner. Since the 2015 Report, Cyprus has also made good progress on its EOI infrastructure and network. Overall its timeliness has improved and peers are generally satisfied with their EOI relationship with Cyprus.

Key recommendations

5. In light of the standard as strengthened in 2016, this review has focused on additional criteria, including the availability of and access to beneficial ownership information. Beneficial ownership information on general partnerships, limited partnerships and foreign partnerships with a nexus

in Cyprus may only be available to the extent that they have an on-going relationship with a Cypriot AML-obliged person. There are also concerns regarding availability of beneficial ownership information for express trusts governed by the laws of Cyprus, administered in Cyprus or in respect of which a trustee is resident in Cyprus. It is not clear that Cyprus has taken all reasonable measures to ensure that beneficial ownership information is available in such circumstances.

6. Although compliance rates for filing annual returns with the registrar of companies and filing timely tax returns with the tax authority have significantly improved over time, in relation to all entities and arrangements they could be improved. It is not clear whether tax filings are submitted on an annual basis and whether information required to be filed with the registrar and tax authorities are filed in a timely manner. Cyprus is recommended to effectively monitor and enforce the obligations to file up-to-date legal ownership information with the Registrar and file timely tax returns with the tax authorities, which support the availability of information in Cyprus. Cyprus is also recommended to provide status updates to its EOI partners within 90 days where it is not able to provide a full response within that time period.

Exchange of information practice

7. Cyprus received 2 508 EOI requests during the review period (from 1 January 2016 to 31 December 2018). This represents a 58% increase in comparison with the previous review period for the 2015 Report. In general peers were satisfied with their EOIR relationship with Cyprus but they noted certain restrictive practices, in particular foreseeable relevance issues, including queries raised by Cyprus to the requesting jurisdiction regarding one intra-group case and whether and why the requested information would be required for tax proceedings in requesting jurisdictions and concerns of the Competent Authority as to whether the requesting jurisdiction had not exhausted all means and may be engaging in fishing expeditions. As a result of the issues identified by peers in respect of the exchange of information in practice, recommendations have been included in this Report regarding Element C1 (EOIR mechanisms) and Element C5 (quality and timeliness of responses).

Overall rating

8. Cyprus has achieved a rating of Compliant for six Elements (A.3, B.1, B.2, C.2, C.3, C.4), Largely Compliant for three Elements (A.2, C.1, C.5) and Partially Compliant for one Element (A.1). Although Cyprus has made significant improvements in its EOI infrastructure and in supervision

and monitoring, some shortfalls regarding the availability of information and exchange of information in practice have remained. The overall rating Largely Compliant is based on a global consideration of its compliance with the individual Elements.

9. This report was approved at the Peer Review Group of the Global Forum on 19 November 2020 and was adopted by the Global Forum on 11 December 2020. A follow up report on the steps undertaken by Cyprus 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 for peer reviews and non-member reviews.

Summary of determinations, ratings and recommendations

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
<p>The legal and regulatory framework is in place but needs improvement.</p>	<p>Beneficial ownership information on relevant entities and arrangements in Cyprus may only be available to the extent that they have an on-going relationship with a Cypriot AML obliged person which will perform customer due diligence. The obligation for all entities and arrangements to obtain and hold their beneficial ownership information to file it in the central register of beneficial owners is not implemented yet. Owing to the definition of “control by other means”, it is possible that certain arrangements such as family offices and straw man arrangements may be missed. In addition, the AML law does not include a specific definition of beneficial ownership for a partnership.</p>	<p>Cyprus is recommended to ensure that beneficial ownership information is available in respect of all relevant entities and arrangements in line with the standard. In particular, Cyprus should ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership so that beneficial ownership information is available in respect of all partnerships that have income, deductions or credits for tax purposes in Cyprus, carry on business in Cyprus or are limited partnerships formed under the laws of Cyprus.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
<p>Partially Compliant</p>	<p>Although compliance rates for filing annual returns with the registrar of companies and filing timely tax returns with the tax authorities have significantly improved over time, there is still room for improvement in relation to all entities and arrangements. Natural persons and companies can provide services under the ASP law without requiring a licence in certain circumstances. In addition, not all relevant partnerships may be subject to filing requirements.</p>	<p>Cyprus is recommended to effectively monitor and enforce the obligations to file up-to-date legal ownership information with the Registrar and the tax authorities, which support the availability of this information in Cyprus.</p>
	<p>During the review period, beneficial ownership information was kept with AML obliged persons if engaged by an entity or arrangement. Since the review period, Cyprus law requires companies (including companies which are partners in a partnership) to maintain beneficial ownership information but this obligation has not been subject to monitoring and enforcement. Nominees are not obliged to disclose their nominee status on the register of members retained by companies.</p>	<p>Cyprus is recommended to enhance the monitoring, supervision and enforcement of the implementation of beneficial ownership obligations and ensure that beneficial ownership information held by AML obliged service providers and by companies is complete and accurate (including in any case where a legal owner acts on behalf of any other person as a nominee or under a similar arrangement, such other person).</p>
<p>Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)</p>		
<p>The legal and regulatory framework is in place but needs improvement.</p>	<p>A court may allow accounting records to be destroyed in under five years in a court-ordered winding up.</p>	<p>Cyprus is recommended to update its legal framework to ensure that persons granted custody of books and papers of a company in a court-ordered winding up must retain those records for at least five year.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	<p>Companies may redomicile out of Cyprus and there are no legal obligations to support the availability of full accounting records and underlying documentation in Cyprus for a minimum period of five years. Financial statements and tax returns will nonetheless be available with government authorities and transactional records will be retained by AML obliged persons, including auditors.</p>	<p>Cyprus is recommended to ensure that all accounting information is consistently available in practice in relation to companies that redomiciled out of Cyprus for a minimum period of five years</p>
<p>Largely Compliant</p>	<p>Although the availability of accounting information has significantly improved since 2015, monitoring and enforcement of compliance with filing obligations are yet to be fully functional, in particular in relation to partnerships. There are discrepancies between the numbers of companies registered with the Registrar and the tax authorities and the treatment of companies considered to be inactive. Although following strike off from the Companies Register a company ceases to exist for Cypriot law purposes, the large numbers of companies for which the strike off process has been halted (79 000) is cause for concern, as they may not file required accounting documentation. It is also not clear whether accounting information is filed on time with the Cypriot authorities, irrespective of the tax filing year, which may cause issues regarding the availability of up-to-date accounting information.</p>	<p>Cyprus should adequately monitor and enforce the obligations to keep accounting information and file audited accounts it with the Registrar of Companies and the tax authorities to ensure the availability of accounting information in Cyprus.</p>
	<p>No monitoring and enforcement was performed on the comprehensive accounting record keeping obligations introduced in 2013 on certain trusts as well as on companies incorporated in Cyprus but managed and controlled in another jurisdiction.</p>	<p>Cyprus should monitor the practical implementation of the obligations to keep comprehensive accounting information in Cyprus.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
The legal and regulatory framework is in place	The AML law does not include a specific definition of beneficial ownership for a partnership.	Cyprus is recommended to ensure that banks are obliged to obtain and retain beneficial ownership information on customers.
Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
The legal and regulatory framework is in place		
Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
The legal and regulatory framework is in place		
Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Largely Compliant	With respect to the exchange of information in practice, peers have expressed concerns regarding a restrictive interpretation of the foreseeable relevance test, which has been an impediment to effective EOIR. Accordingly, Cyprus has refrained from exchanging information on persons that did not appear to be a resident in the requesting jurisdiction. In some instances, as there was a concern about revealing the full name of the beneficial owner, Cyprus stated the initials of the relevant person and his/her jurisdiction and provided other requested information and documentation. This is a restrictive application of the bilateral and multilateral EOI instruments of Cyprus.	It is recommended that Cyprus exchange all information requested as appropriate under the Standard and exchange information that is foreseeably relevant for carrying out the provisions of a DTC or to the administration or enforcement of the domestic tax laws of the requesting jurisdiction, in respect of all persons, i.e. whether or not they are resident in the requesting jurisdiction.
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework is in place		
Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework is in place		
Compliant	The disclosure to third party information holders of the foreign tax authority which has made the relevant EOI request, where this is not necessary for gathering the requested information, is not in accordance with the Standard.	Cyprus should not disclose to third parties information that is not needed to obtain the information requested.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place		
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
Largely Compliant	Response times to incoming EOI requests have clearly improved since the 2015 Report, and this is confirmed by peers. Nevertheless, internal deadlines were not always met during the three-year review period of this report. Not all EOI requests have therefore been responded to in a timely manner.	Cyprus should ensure that all EOI requests are responded to in a timely manner.
	Status updates were not always provided to peers.	Cyprus is recommended to provide status updates to its EOI partners within 90 days where it is not able to provide a full response within that time period.

Overview of Cyprus

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

Legal system

11. Cyprus is a republic with a presidential system of government. Executive power is exercised by the President of Cyprus and the Council of Ministers, legislative power is exercised by the House of Representatives and judicial power is exercised by the courts.

12. As a former British colony until 1960, the legal system in Cyprus is primarily common law and most of the laws in Cyprus are based on this system (e.g. company, contract and tort law). However, there are some areas of law (e.g. administrative law) which are based on the civil law system observed in other European countries. The legislative framework and hierarchy is set out below.

- a. The **Constitution** and the **laws made under the Constitution** by the House of Representatives. Following the accession of Cyprus to the EU in 2004, the Constitution was amended so that EU law has supremacy over the Constitution and national legislation.
- b. **International treaties, conventions and agreements** entered into in accordance with the provisions of Articles 169.1 and 169.2 of the Constitution, and published in the Gazette, have superior authority to any municipal law, subject to reciprocity application (Article 169.3 of the Constitution).
- c. **Subsidiary legislation**, which is passed by virtue of enabling provisions set out in various laws.
- d. **The laws in force by virtue of Article 188 of the Constitution** (i.e. laws in force prior to the coming into operation of the Constitution which continue in force and are construed and applied with such modification as may be necessary to bring them into conformity with the Constitution).

- e. **Common law and equity.**
- f. **The law and principles of Vakfs**, referred to in Article 110.2 of the Constitution.¹
- g. **The Acts of Parliament of the United Kingdom**, which were applicable to Cyprus immediately before 16 August 1960, save in so far as other provisions have been or will be made by any law made or becoming applicable under the Constitution and in so far as they are not inconsistent with, or contrary to, the Constitution.

Tax system

13. Cypriot tax law was consolidated and updated in a major 2003 reform, which aimed to harmonise the tax code to align with the EU *Acquis Communautaire*, the EU Code of Conduct for Business Taxation and the OECD project on eliminating harmful tax practices.

14. Income tax is levied under income tax laws and is assessed and collected under the Assessment and Collection of Taxes Law (Amendment) (No. 78) of 2014 (ACTL). Income tax laws apply to both individuals (income tax) and legal entities (corporation tax). Partnerships are not subject to tax as standalone entities as they are considered transparent but the income of the partners, who can be individuals or corporates, is allocated and assessed separately.

15. Cypriot residents are subject to tax on their worldwide income and non-residents are subject to tax on Cyprus-source income. Residency for tax purposes means (i) a company whose management and control is exercised in Cyprus and (ii) an individual who resides in Cyprus for more than 183 days in a calendar year. In addition, an individual can be a Cyprus tax resident after 60 days if certain criteria are met. In order to calculate chargeable income, income from all sources is considered and all allowable expenses and charges incurred wholly and exclusively for the purposes of the relevant trade, personal allowances (for individuals) and capital allowances (including wear and tear allowances (where applicable)) are deducted.

16. The income tax rate for individuals is applied on a progressive scale up to 35%. A corporation tax rate of 12.5% is levied on the chargeable income of companies although rates for certain types of income are higher, for example, “passive” interest income is subject to a 30% tax rate and taxable dividend income is subject to a 17% tax rate.

1. Vakfs is the dedication of property (or other assets) for religious or charitable purposes.

17. The tax system is a combination of revenue assessed and self-assessment systems. Companies and self-employed individuals fall under the self-assessment system. A pay as you earn (PAYE) system is in operation for employees. Employees, as well as companies and self-employed individuals who have not settled their tax liabilities through self-assessment, are assessed. Companies are required to submit tax computations and audited accounts, prepared by an authorised qualified accountant operating in Cyprus, to Cyprus Tax Department (CTD). The year of assessment follows the calendar year and assessment is on a current year basis.

18. A Special Defence Contribution (SDC) is imposed on income received or deemed to have been received by any person who is tax resident and domiciled in Cyprus, and by any nominal person who is tax resident in Cyprus on dividend income (17%), interest income (30%) interest income from debentures (3%) and rents (3%). It is understood that the term “domiciled in Cyprus” is defined in the SDC Law as any person (a) who has either his/her domicile of origin in Cyprus or domicile of choice if certain criteria are met or (b) who has been a tax resident of Cyprus for 17 years out of the last 20 years (before the tax year). There is an exception to (a), namely that a person is not domiciled in Cyprus (regardless that he/she has domicile of origin in Cyprus) if that person has acquired and maintains a domicile of choice outside Cyprus and he/she was not a tax resident in Cyprus for any period of at least 20 consecutive years before the tax year or that person was not a tax resident of Cyprus for the all the tax years 1995-2014.

19. Capital gains tax is levied at the rate of 20% on gains arising from the disposal of immovable property situated in Cyprus and of shares consisting of immovable property situated in Cyprus.

20. Stamp duty applies to documents transferring title to certain assets situated in Cyprus. Modernisation of the stamp duty Law is underway and new draft legislation has been submitted to Parliament.

Financial services sector

21. Cyprus is a centre for international finance and trust and company formation activities. In 2019 the financial sector (including banking, investment and insurance) contributed in the order of 7.6% of its GDP and the trust, company and administration services sector contributed likely less than 1% of the GDP, as estimated by Cyprus.² In spite of economic turbulence experienced in recent times, the financial sector in Cyprus has remained a stalwart. Financial intermediation accounted for approximately 7.8% of the Cypriot

2. Other key contributors to GDP in Cyprus are wholesale and retail trade, tourism, and real estate.

GDP in 2010. The 2013 Report noted that financial and insurance activities accounted for approximately 8.4% of its GDP in 2012, decreasing slightly to 8% at the time of the 2015 Report, and returned to 8.5% in 2018. For the purposes of this Report, Cyprus has reviewed the contribution of the financial sector to the Cypriot economy and its percentage distribution of gross value added by economic activity, confirming that the relevant percentages as viewed in the national accounts have been 11.4% in 2016, 10.1% in 2017, 8.5% in 2018 and 7.6% in 2019.³

22. The total assets of Cypriot banks were EUR 52.7 billion at the end of 2018. The Cyprus banking system consists of the following:

- relatively large domestic credit institutions (Bank of Cyprus, Hellenic, RCB) holding 79% of total assets
- subsidiaries of Greek banks (Alpha, Eurobank, and National Bank of Greece), holding 15% of total assets
- other foreign/smaller banks holding 6% of total assets.

23. During the past six years, the Cypriot banking sector downsized significantly. Cyprus notes that this downsizing is a result of de-risking via the sale of Greek operations and other overseas subsidiaries, a decrease in domestic bank lending, write-offs of bad debts, carve outs for non-performing exposures at the Co-operative Cyprus Bank and the sale of the Bank of Cyprus non-performing exposures portfolio. As of March 2019 the size of the banking sector was contracted significantly to 269% (total assets/GDP) compared with 631% of GDP in 2012.

24. The regulatory infrastructure is as follows:

- a. The **Ministry of Finance** is responsible for regulating the financial sector, in particular credit institutions, capital markets and the insurance industry.
- b. The **Ministry of Labour, Welfare and Social Insurance** regulates pension funds and the competent supervisory authority is the Registrar of Occupational Retirement Benefit Funds.
- c. The **European Central Bank** supervises the banks operating in the Eurozone pursuant to the Single Supervisory Mechanism.
- d. The Central Bank of Cyprus (**CBC**) is responsible for monitoring and safeguarding the stability of the financial sector and chairs the

3. See Annual National Accounts, 1995-2019 file, Percentage Distribution of Gross Value Added by Economic Activity https://www.mof.gov.cy/mof/cystat/statistics.nsf/economy_finance_11main_en/economy_finance_11main_en?OpenForm&sub=1&sel=2.

National Financial Stability Committee, which considers financial stability and crisis management at a domestic level. The CBC licenses and supervises banks, payment institutions, electronic money institutions, credit acquiring firms, currency exchange offices and financial leasing companies. Since 2013, the CBC has introduced new rules regarding the operation of banking institutions in Cyprus and issues regular guidance (which is known as a directive, and which constitutes secondary legislation, in Cyprus (**Directive**)).

- e. The Cyprus Securities and Exchange Commission (**CySEC**) is the independent public supervisory authority responsible for licensing and supervising the capital and stock exchange market and entities, including investment firms, funds and fund managers. CySEC is generally responsible for supervising the investment services market, transactions in transferable securities and the collective investment and asset management sector. CySEC also supervises the firms offering administrative services (i.e. ASPs) which do not fall under the supervision of ICPAC or the CBA.
- f. The Institute of Certified Public Accountants of Cyprus (**ICPAC**) supervises the accounting profession and licenses and supervises accounting professionals who provide administrative services.
- g. The Cyprus Bar Association (**CBA**) supervises the legal profession and licenses and supervises legal professionals who provide administrative services.

25. The financial institutions in Cyprus, as of September 2020, are as follows:

Financial Sector

Type of Entity/Professional	No. Licensed/Regulated/Registered ^a
Credit institutions (banks)	29
Securities i.e. Cyprus Investment Firms – CIFs	229
Life Insurance	10
Money service businesses	5
Other Payment Institutions	4
E-money Institutions	13
Exchange offices	4
Credit acquiring companies	5
Internally Managed Investment Funds	66
External Investment Fund Managers	34

Note: a. Note the reporting period for the figures in respect of the CySEC supervised entities is 31 December 2019. The ICPAC related figures are 19 December 2019. The CBC figures are as of November 2020.

Non-Financial Sector

Type of Entity/Professional	No. Licensed/Regulated/Registered
Casinos	1
Real estate agents	353
Advocates	4 209 ^a
Lawyers' Companies	791 ^b
Accountants and Auditors	711 ^c
ASPs licensed by CySEC	159
ASPs licensed by ICPAC	325
ASPs licensed by CBA	1 375 ^d

Notes: a. As of 31 December 2019.

b. As of July 2020.

c. This figure includes some ASPs licensed under ICPAC that hold both an audit and ASP licence. The figure for accountants/auditors not holding an ASP licence is 517.

d. As of July 2020.

26. As set out in the table above, there is a significant ASP sector in Cyprus, most of which are licenced by the CBA as a number of attorneys operating in Cyprus also provide corporate services.⁴

4. Reflecting on the financial and administrative services sector in Cyprus for the purposes of this report, the Cypriot authorities have noted that the figures provided relate to the persons licensed and able to offer such services, not to the economic activity relating to these activities. Cyprus has provided the example of a lawyer who is involved in legal advice/litigation and could provide administrative services but does not necessarily do so and the Cypriot authorities see this activity generally diminishing. Cyprus has further noted that a proxy for this activity is the registration of new companies. In paragraph 47 of the Cyprus' MER, the number of new company registrations does not follow the economic growth trend, between 2014 onwards which, in the view of Cyprus, indicates that this sector is shrinking. Although it is noted that paragraph 48 of the MER provides that there was an increase in the registration of companies between 2016 and 2018 which was "highly correlated with GDP growth rate, which was 4% over those years", for the purposes of this report, Cyprus has noted that additional data from the website of the Registrar provides that in 2019 there were 12 781 new company registrations, representing a decrease of the order of 12% in comparison to 2018, although GDP growth of the economy in 2019 was 3.2%.

Anti-Money Laundering Framework

27. The primary AML/CFT law in Cyprus is the Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-19 (PSMLTFL), which, inter alia, defines the AML obliged entities (article 2A) and sets out: money laundering and predicate offences (articles 3-5); tracing, freezing and confiscation procedures (articles 6-36); rules for international co-operation (articles 37-43); orders for the disclosure of information and summary inquiry (articles 44-53), and the rules for the establishment and functioning of the Financial Intelligence Unit (FIU), which is the Unit for Combating Money Laundering (MOKAS) (articles 54-57).

28. The PSMLTFL also stipulates the duties of the supervisory authorities which include CySEC, the CBA, ICPAC, the CBC, and the Tax Commissioner (articles 58-79) (the **AML Supervisory Authorities**).

29. The fifth round mutual evaluation report on Cyprus was adopted by MONEYVAL in December 2019 (**MER**). The view of MONEYVAL is that although some elements in the Cypriot AML regime function adequately (for example, Cyprus understands ML/TF risks, there is a good level of domestic co-operation between Cypriot authorities and the banking sector has become more effective at mitigating risk), there remain shortcomings which may be hindering the effectiveness of the AML regime and commentary and recommendations in the MER indicate that improvements are warranted in its AML/CFT measures. While most of these risks relate to specific ML and TF issues which are not within the scope of this Report, the MER is an important reference point, particularly as a well-functioning AML regime could also assist ensuring transparency and effective EOI for tax purposes. Cyprus was rated as having a moderate level of effectiveness for Immediate Outcome 5 (on transparency of legal persons and arrangements), largely compliant with recommendations 10 (on customer due diligence by banks), 22 (customer due diligence by designated non-financial businesses and professions (DNFBPs)), 24 (transparency and beneficial ownership of legal entities) and 25 (legal arrangements).

30. The MER highlights the following issues that could be of relevance for the present review:

- Cyprus is a company formation and administration centre and is accordingly exposed to ML risks associated with legal persons created therein and faces a heightened risk of legal persons being misused for ML/TF. The competent authorities are aware of the vulnerabilities to misuse.
- By 2018, more than 68 000 companies had been struck off the register for failure to submit an annual return but there remained around 63 000 companies whose strike off was suspended due to claims

made by creditors, including public authorities such as the Tax Department and the Social Insurance Services. MONEYVAL noted that there would be a renewed effort by the Registrar to proceed with the strike-off of those companies but having a sizeable number of companies whose basic information was not up-to-date, albeit they were publicly identified as being under a strike-off procedure, raised concerns.

- Although significant efforts have been made to establish a comprehensive ASP regulatory and supervisory framework, there was no comprehensive mechanism to verify that all non-resident owned or controlled legal persons or arrangements were using the services of a Cyprus licenced ASP.
- ASPs, who were considered a “primary repository of BO information”, did not appear to uniformly apply beneficial ownership requirements; and there were concerns regarding the effectiveness of the supervision of ASPs. Where a legal person or arrangement held a bank account with a Cypriot bank, this gap was somewhat mitigated. The MER has therefore recommended enhancing existing measures to continue the significant efforts already made by Cyprus to establish a comprehensive ASP regulatory and supervisory framework in recent years.
- Dissuasive and effective sanctions have not been issued under Cypriot AML law in respect of the violation of beneficial ownership requirements or related requirements under the Administrative Services Law.

31. The MER also highlights several positive elements in the Cyprus regime, most notably the establishment of a trust register which was considered a step beyond international practice, the adequate application by banks of beneficial ownership requirements, the effective powers of Cypriot authorities to access information in a timely manner, the enhanced powers of the Registrar and the improved imposition of sanctions for late or non-submissions of annual returns. The MER also notes that requests for beneficial ownership information in the context of AML investigations are “very common” and BO information is obtained, and exchanged, by the Cypriot authorities in a timely manner.

32. As a trust and company formation and administration centre, a sizeable portion of the legal persons and arrangements in Cyprus are managed by ASPs on behalf of non-residents and feature international corporate structures. Cypriot authorities confirmed to MONEYVAL that between 20% to 30% of all Cypriot registered legal persons are beneficially owned/controlled by non-residents. Beneficial owners primarily reside in Greece, Russia,

Switzerland, Ukraine and the United Kingdom. MONEVVAL has noted that this estimation is likely to be higher in reality as it is based on CBC data as regards the share of total deposits held by non-resident beneficial owners and does not take into account the bank accounts held by legal persons outside Cyprus.

33. In recent times, the Cyprus investment programme (CIP), which facilitates the acquisition of Cypriot (and thereby EU) citizenship, has been the subject of considerable media scrutiny and the MONEYVAL MER has noted that the CIP is “material within the economy of Cyprus” and “inherently vulnerable to abuse for ML purposes”, highlighting that the total volume of funds invested under the CIP for the period 2013-18 was EUR 6.64 billion and that real estate constituted the most common type of investment.

34. Since the MER, Cyprus is conducting risk assessments for ML/FT on the use of virtual assets and virtual asset providers, the Ministry of Interior is conducting a risk assessment on ML/TF regarding the NGO sector with technical assistance from the EU and a draft bill for the transposition of the 5th AMLD, and to introduce some legislative recommendations of MONEYVAL, has been published for consultation with a view to submitting the draft bill to Parliament and the enactment of the bill by the end of 2020.

35. Cyprus has noted that, with respect to the MER analysis, the most common non-resident reason for setting up a company to establish a complex corporate structure in Cyprus is for tax purposes, and as such tax purposes can only materialise if there is management and control in Cyprus, management, directors etc. are required, which brings such companies within the scope of the AML regime.

Recent developments

36. Since 2015, Cyprus has participated in other international initiatives towards transparency and exchange of information. Cyprus has enacted national legislation on the automatic exchange of financial account information within the EU pursuant to DAC, internationally under the Common Reporting Standard from 2015 (as an early adopter) and with the US under FATCA from 2017. Cyprus has also committed to share information on cross-border tax rulings within the EU under DAC during 2017 and has enacted domestic legislation to allow for country by country reporting (CBCR) under the OECD project on base erosion and profit shifting (BEPS). Finally, draft legislation on the disclosure obligations for intermediaries in relation to cross boarder arrangements is expected to be enacted in November 2020.

37. Several amendments to the domestic legal and regulatory framework are also in progress. The funds industry has developed considerably since the previous reports. Therefore the Companies Act is expected to be amended before the end of 2020 in order to streamline the process of registering variable capital investment companies and to bring the Companies Act in line with the Open-Ended Undertakings for Collective Investment (UCI) Law and Related Laws as well as the Alternative Investment Funds Law.

38. In addition, an amendment to the General and Limited Partnerships and Business Names Law (PBNL), is expected to be introduced by the end of 2020 to allow for the introduction of a new type of limited partnership with separate legal personality, for the funds industry, which will be operating as an Alternative Investment Fund regulated by the Cyprus Securities and Exchange Commission. It is intended that the new type of limited partnership will be included in the beneficial ownership register for legal entities to be maintained by the Registrar.

39. The 5th AMLD which, inter alia, imposes the obligation to set up beneficial ownership registers for corporate and other legal entities, is expected to be transposed into Cyprus law later in 2020. The draft bill was published for public consultation on 6 August 2020. A software system is being developed to facilitate the collection of all beneficial ownership and identity information regarding corporate and other legal entities, by the Registrar of Companies, expected to be implemented in November 2020. The technical requirements for the development, operation and maintenance of a software system to support the register have been developed and a relevant public tender will be issued later in 2020 by the Cypriot Authorities. The Cypriot register is expected to be connected to the European Central Platform (BRIS) in 2021.

40. Late filing fees for overdue submissions of certain key statutory filings for companies, partnerships and overseas companies has recently been introduced under the Companies Amendment Law and the PBNL amendment Law for limited companies, overseas companies and partnerships respectively and is expected to enter into force (and implemented by the Registrar) at the end of 2020. While the late filing fee legislation was published in the Gazette on 18 December 2018 and set for implementation on 18 December 2019, in an effort to mitigate the impact the Covid-19 pandemic had on the corporate and business environment and in line with the EU plan for economic recovery, the date of implementation of the late filing fee measure was extended to 18 December 2020 to give time to companies to recover.

41. In August 2020 it is understood that the CTD introduced a number of provisions aimed at improving tax compliance and strengthening tax collection including: all individuals who have gross taxable income are obliged to file a tax return, irrespective of the tax free threshold; taxpayers registered

in the tax registry should inform the CTD of any changes affecting their tax data within 60 days from the relevant change; Companies that are Cyprus incorporated but non-Cyprus tax residents must inform the Commissioner of Taxation of the state of their business activities within 60 days of incorporation and the Commissioner of Taxation may enter and inspect business premises, or other premises where business activity is carried out, at any reasonable time without prior notice.⁵

42. Cyprus has introduced numerous changes in its legislative framework to reflect EU and OECD developments, in particular ATAD II and the Dispute Resolution directive.

5. The legislation or guidance implementing these measures has not been furnished to or reviewed by the Assessment Team.

Part A: Availability of information

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

A.1. Legal and beneficial ownership and identity information

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

44. The 2015 Report found that Cyprus had a robust legal and regulatory framework in place requiring the availability of legal ownership and identity information in respect of relevant entities and arrangements. No changes have been made to the overall legal framework for those legal entities and arrangements reviewed in 2015, although some changes have been introduced into Companies Law and the General and Limited Partnerships and Business Names Law (PBNL Law) further ensuring availability of ownership information in the Companies Register and strengthening the monitoring and enforcement powers of the Registrar.

45. Past recommendations have focused on the practical implementation of the law in Cyprus. In particular, the 2015 Report included a recommendation to monitor the implementation of revised monitoring and enforcement procedures regarding obligations to file up-to-date ownership information on companies and partnerships with the Registrar and the tax authorities. This review finds that monitoring and enforcement procedures continue to improve and filing rates have increased; however there remains room for further improvement. While the rates for filing annual returns with the Registrar have improved, there is room for improvement in relation to all entities and arrangements. Moreover, the rates for filing documentation with the tax authorities have not significantly or comparably improved. As a result, the 2015 recommendation has been retained.

46. The standard of transparency and EOIR was strengthened in 2016, particularly to require that beneficial ownership information of relevant legal entities and arrangements, be available. The primary source of beneficial

ownership information remains the anti-money laundering regime in Cyprus. Some further obligations have been introduced for companies to keep individual registers of their own beneficial owners, in preparation for their compilation in a future central register, but these new obligations do not seem to have been implemented and no monitoring or supervision has been performed to date. As a result, beneficial ownership information on relevant entities and arrangements may not be available where they do not have an on-going relationship with a Cypriot AML obliged person.

47. The recommendations, determination and rating are as follows:

Legal and Regulatory Framework: In place, but needs improvement

Deficiencies identified/ Underlying Factor	Recommendations
<p>Beneficial ownership information on relevant entities and arrangements in Cyprus may only be available to the extent that they have an on-going relationship with a Cypriot AML obliged person which will perform customer due diligence. The obligation for all entities and arrangements to obtain and hold their beneficial ownership information to file it in the central register of beneficial owners is not implemented yet. Owing to the definition of “control by other means”, it is possible that certain arrangements such as family offices and straw man arrangements may be missed. In addition, the AML framework does not include a specific definition of beneficial ownership for a partnership.</p>	<p>Cyprus is recommended to ensure that beneficial ownership information is available in respect of all relevant entities and arrangements in line with the standard. In particular, Cyprus should ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership so that beneficial ownership information is available in respect of all partnerships that have income, deductions or credits for tax purposes in Cyprus, carry on business in Cyprus or are limited partnerships formed under the laws of Cyprus.</p>

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/ Underlying Factor	Recommendations
Although compliance rates for filing annual returns with the registrar of companies and filing timely tax returns with the tax authorities have significantly improved over time, there is still room for improvement in relation to all entities and arrangements. Natural persons and companies can provide services under the ASP law without requiring a licence in certain circumstances. In addition, not all relevant partnerships may be subject to filing requirements.	Cyprus is recommended to effectively monitor and enforce the obligations to file up-to-date legal ownership information with the Registrar and the tax authorities, which support the availability of this information in Cyprus.
During the review period, beneficial ownership information was kept with AML obliged persons if engaged by an entity or arrangement. Since the review period, Cyprus law requires companies (including companies which are partners in a partnership) to maintain beneficial ownership information but this obligation has not been subject to monitoring and enforcement. Nominees are not obliged to disclose their nominee status on the register of members retained by companies.	Cyprus is recommended to enhance the monitoring, supervision and enforcement of the implementation of beneficial ownership obligations and ensure that beneficial ownership information held by AML obliged service providers and by companies is complete and accurate (including in any case where a legal owner acts on behalf of any other person as a nominee or under a similar arrangement, such other person).

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

48. The 2015 Report concluded that legal ownership information was available in respect of all companies, although there remained issues with practical implementation, in particular compliance as regards filing annual returns with the Registrar and tax documentation with the tax authorities. As beneficial ownership information on all companies should now also be available under the standard as strengthened in 2016, Cyprus's compliance with that aspect of the Standard is considered below.

49. There are six types of companies in Cyprus, all of which are regulated by the Companies Law (CL) which has been amended to also include

the provisions of the Council Regulation (EC) No. 2157/2001 regarding the SEs. A summary of each company type is below.

- **Type 1: Private limited liability companies (by shares)** are established under section 3 CL, constitute 94% of all legal persons in Cyprus and are considered to be the preferred choice of corporate vehicle used by non-resident investors to structure and manage their assets. The liability of the members of this type of company is limited to the amount unpaid (if any) on their shares.
- **Type 2: Public limited liability companies (by shares)** are also established under section 3 CL. A minimum of seven shareholders is required for a public company and the company may extend any invitation to the public to subscribe for its shares.
- **Type 3: Company limited by guarantee with share capital and Type 4: Company limited by guarantee without share capital** (together with Types 1 and 2, hereinafter referred to as Cyprus Companies) are also established under section 3 CL. The liability of members is limited to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up.
- **Type 5:** sections 346 to 353 CL govern foreign companies which operate in Cyprus (**Overseas Companies**). Overseas Companies which are incorporated outside Cyprus and establish a place of business in Cyprus are required to register and file documentation with the Registrar within one month of such establishment. The establishment of a place of business in Cyprus does not constitute the creation of a new legal entity in Cyprus but allows entities incorporated in a jurisdiction outside Cyprus to operate as a branch in Cyprus and the Cypriot authorities have confirmed for this Report that Overseas Companies must maintain a place of business in Cyprus to conduct business. The term “place of business” is not defined in Cypriot law. Section 347 CL refers to “Documents etc. to be delivered to Registrar by Overseas Companies *carrying on business in [Cyprus]*” (capitals and emphasis added) and subsection 347(1)(d) requires Overseas Companies to provide the names and addresses of persons resident in Cyprus authorised to accept notices to be served on the company.⁶ Overseas Companies can hold immovable property in Cyprus.

6. The view of Cyprus is that such subsection 347(1)(d) CL infers that the place of business is the location where notifications and notices are sent by the Registrar and which includes notifications concerning share transfers or share registration. Cyprus has noted that, in other words, the term “place of business” functions in the same way that the “registered office address” of a limited

- **Type 6: SE companies, or *Societas Europaea***, are European public limited liability companies (by shares or by guarantee with a share capital) which have the meaning assigned by Article 1 of Council Regulation (EC) no. 2157/2001 and which may be registered in Cyprus. The main objective of the SE infrastructure is to allow companies incorporated in different EU member states to move their seat easily within the EU without being dissolved.

Legal Ownership and Identity Information Requirements

50. In Cyprus, legal ownership information is generally available, primarily with the relevant company through its register of members kept at the registered office of the company, the Registrar and the Cyprus Tax Department (CTD). Information filed with the Registrar is also publicly available via the website of the Registrar. AML obligations are an additional source of legal ownership information and will be covered in the beneficial ownership subsection below.

51. The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies:

Legislation regulating legal ownership of companies

Type	Company Law	Tax Law	AML Law
Private company	All	All	Some
Public company	All	All	Some
Overseas company	Some	Some	Some
SE	All	Some	Some

Note: The table shows each type of entity and whether the various rules applicable require availability of information for “all” such entities, “some” or “none”. “All” 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” means that an entity will be required to maintain information if certain conditions are met.

company incorporated in Cyprus functions and it is clearly evident from sections 347(1)(a)(ii) and 352 of CL that the term “place of business” is used to describe the physical place (address, postal or other) where all notifications are left or sent by post.

Company Law and Tax Law requirements to register and keep ownership information

52. The legal ownership and identity requirements for companies are set out in the 2015 Report. All companies are obliged to retain updated shareholder information pursuant to the Companies Law and legal ownership information is also required to be retained by the Registrar and the tax authorities. Advocates play a key role in the provision of corporate services in Cyprus. Only advocates may draft memoranda and articles of association of a company or SE. As a result, information regarding the founders (i.e. initial shareholders/members) of companies should also be available with lawyers and other persons providing administrative services in Cyprus.

53. In Cyprus, a company is not considered to be an entity with legal obligations and rights unless it has registered with the Registrar. In order to incorporate a Cyprus Company, a practicing advocate must provide a statutory declaration of compliance to the Registrar.⁷ Cyprus Companies are obliged to retain legal ownership information on their membership from the outset. In the case of a company limited by share capital, the name and number of shares held by each subscriber must be included in the memorandum of the company together with identity details regarding their identification or passport number (if non-national), residential address and nationality. For companies limited by guarantee, at registration the memorandum must state the number of members, their names and the same identity details as for a company limited by share capital.

54. The tax regime provides that all Cyprus Companies, Overseas Companies and SEs are obliged to register in the tax register of the CTD (Tax Register) and obtain a tax identification code immediately after registration or, in the case of an Overseas Company, immediately after registration or after becoming tax resident in Cyprus. To register with the CTD, the articles of association of the company are attached to a form (TD 2001) submitted. Thus CTD would have information on founder shareholders of Cyprus companies in all cases, and on overseas companies depending on the foreign law of incorporation.

55. In relation to updated information, Cyprus Companies are obliged to keep an updated register of members. Every new person whose name is entered in its register of members is treated as a member of a Cyprus Company and shareholders acquire title to membership of the company once their name is entered in the register of shareholders. The company certifies the title to the relevant share and such certification is *prima facie* evidence

7. Section 17 Companies Law, section 11(5) Advocates Law. The term practicing advocate' is defined in sections 2 and 1(1) of the Advocates Law and means a licensed advocate who is supervised by the CBA.

of title for the member. The register must be kept at the registered office of the company in Cyprus, or at another office in Cyprus and companies are required to notify the Registrar of the place where its register of members is kept and any change in that place (section 102 CL).⁸ Any change in the allotment of shares and the transfer of shares in a private company with share capital must within one month of the allotment and 14 days of the registration in the register of members respectively be notified to the Registrar (sections 51 and 113A CL). While legal ownership information is held by the Registrar, the CTD, banks, service providers and the company itself (through its register of members kept at the registered office of the company), the primary source/authority to obtain legal ownership information for EOI purposes is the Companies Register which is publicly available via its website.

56. There is also an obligation on Cyprus Companies which have share capital to file an annual return with the Registrar. The annual return states the legal ownership details at the time of the annual return's reference date and provides the Registrar with a mechanism to verify whether the records held in the Companies Register are accurate and up-to-date. The returns can be accessed via the e-search system on the Registrar's website once they have been accepted by the Registrar.⁹

57. Similarly, all Cyprus Companies are required to file income tax returns to the CTD, including Cyprus incorporated companies which are managed and controlled abroad. Annual tax return filings must include complete details of all shareholders and their number of shares at the beginning and end of the year.

58. Within one month of establishing a place of business in Cyprus, Overseas Companies are obliged to submit statutory forms and provide a written report signed by its authorised person to the Registrar including the name and legal form of the company and the name of its branch (if different), the head office and address of the Overseas Company and the address of the place of business and, where applicable, its "register abroad... where its basic data has been entered". Overseas Companies are obliged to furnish the Registrar with a true copy of their constitutional documents, address and (as noted in paragraph 49 above) persons resident in Cyprus authorised to accept notices on behalf of the company which is completed by way of the written report

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8. All Cyprus Companies are required to have a registered office in Cyprus which is notified to the Registrar upon incorporation of the company. Thereafter, any change in the registered office address must be notified to the Registrar within 14 days after the change (section 102 CL).
9. See <https://efiling.drcor.mcit.gov.cy/DrcorPublic/SearchForm.aspx?sc=0&cultureInfo=en-AU>. There are some limited exceptions to the requirement to file a return, primarily for newly incorporated companies (sections 118 and 119 CL).

referred to above and signed by the authorised person. Overseas Companies are obliged to inform the Registrar of any changes in their constitutional documents, address, information relating to the winding up of the company and persons resident in Cyprus authorised to accept notices on behalf of the company within the prescribed time, which is currently 15 days.¹⁰

59. Accordingly the Registrar should have information on Overseas Companies, albeit not up to date legal ownership information through the company law regime. The tax obligations below provide additional requirements in respect of ownership filing obligations for Overseas Companies.

60. Concerning European Public Company of Limited Liability (by shares of by guarantee) (SE, type 6), the law governing SEs is set out primarily in the SE Regulations, together with EU legislation. The initial shareholders of an SE must be declared upon the registration of an SE in Cyprus in the memorandum or the articles of association of the SE or in a declaration signed by a director or the secretary of the SE. Any share allotments must be notified to the Registrar and, similar to Cyprus Companies, an SE is also obliged to file an annual return (using the same form) with the Registrar once a year which includes up-to-date legal ownership information.¹¹

Document retention

61. The records of a company in Cyprus should generally be kept by the company, in the registered office address maintained in Cyprus.

62. Since October 2013 all new company registrations with the Registrar have an electronic file publicly available via the website of the Registrar. The physical files of all Cyprus Companies, Overseas Companies, partnerships and business names that were registered prior to October 2013 and were active at that time were scanned on to the system in November 2015, excluding the physical files of SEs which are expected to be scanned on to the system towards the end of 2020.

63. The electronic file of a company is kept indefinitely in the Companies Register regardless of the company's status (active, struck off or dissolved). If there is no electronic file (i.e. company did not have an active status as at 2013), a physical file containing all legal ownership documentation is kept with the Registrar for up to 20 years from the date of its strike off. Following

10. See section 349 of the CL (timeline was introduced with the Amendment Law N149(I)/2018).

11. The law governing the European Public Company is the Council Regulation (EC) no 2157/2001 of 8 October 2001 and the Companies Law. The arrangements for the role of employees in an SE are regulated by the regulation (EC) No. 86/2001 of the Council.

that period, the physical documents of all dissolved companies with no electronic file are sent to the State Archives to be retained.

64. Identity and legal ownership information is also declared in a company's income tax return (TD 4) on an annual basis and all supporting documents in respect of the information submitted is required to be maintained for at least six years for audit purposes.

Companies that cease to exist

65. Part 5 of the Companies Law deals with the winding up of companies (i.e. Cyprus Companies, Overseas Companies which are registered under the Companies Law and SEs)¹² and Part 6 sets out the rules for receivers and managers. Winding up may be concluded by court order, voluntarily or subject to the supervision of the court. The procedure for liquidation is separate to the company law regime and falls under the supervision of the Department of Insolvency. Following a recent law for the establishment of a new insolvency department (N68(I)/2020) on 16 June 2020 the procedure for a receiver-manager has also been transferred from the Registrar to the Department of Insolvency.

66. The Registrar may compel companies to either comply or face strike off. If the Registrar has reasonable cause to believe that a company is not carrying on business or if the company omits to file required documents, the Registrar may initiate strike off procedures. Notification letters are sent to the company's registered office address, the name of the company is published in the Gazette for a 3-month notice before strike off and, if non-compliance continues, the relevant company is struck off and dissolved (section 327 CL).

67. The consequence of strike off is that a company no longer exists for the Cypriot authorities, although, following publication of a company's strike off in the Gazette, the liability of every director, manager officer and shareholder of the company continues and may be enforced as if the company had not been dissolved. With respect to the persons responsible for the maintenance of ownership information for struck off companies, as per the preceding sentence, the former directors remain responsible for maintaining an up-to-date register of members and register of directors at the registered office of the company following strike off.¹³ This obligation continues for 20 years, which is the timeframe for allowing companies to be reinstated (see paragraph 68 below). There is an exception to directors' obligations in

12. An SE company may be wound up either through voluntary wound up or by liquidation by court. Both procedures for the winding up of an SE fall under the competencies of the Department of Insolvency.

13. Sections 105(4) and 192(7) CL.

the case of a Cyprus Company which redomiciles out of Cyprus, in which case the responsibility falls to obliged entities (e.g. auditors) to retain client records, including ownership information, for five years after the end of the business relationship or following completion of an occasional transaction.¹⁴

68. A company may be reinstated on the Companies Register by court order, up to 20 years from the date of its strike off and is considered to have continued in existence as if its name had not been struck off (s. 327(7)). In order to reinstate a company, the Court may order the submission of all the necessary documents (i.e. annual returns) for updating the company's register kept by the Registrar, the payment of overdue fees as well as a restoration fee in the amount of EUR 160 (s.327(7)(c) CL and CL Regulations 2013). During the review period 1 356 companies were reinstated on the Companies Register. Cyprus has noted that during the same period, 74 790 companies were struck off the Companies Register and hence the percentage of reinstated companies amounted to 1.8% of the total strike offs.

69. When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of in such a way:

- as the court directs, in the case of a court-ordered winding up
- as the company by extraordinary resolution directs, in the case of a members' voluntary winding up
- as the relevant committee of inspection¹⁵ or creditors of the company may direct, in the case of a creditors' voluntary winding up (section 320 CL).

70. The timeframe for liquidation depends on the particulars. In the case of a company wound up by court order, compulsory liquidation is completed within a period of 18 months but this can be further extended by court order following an application by the official receiver or liquidator.¹⁶ In the case of a winding up by the members of the company, if the process is not concluded within one year, the liquidator may request an extension in time from the members of the company.¹⁷ In practice, the process by way of court order and wind up by members is concluded within one and half years on average. In the case of winding up by the creditors, if the process is not concluded within one year, the liquidator may request an extension in time from the creditors of the company.¹⁸ In practice, the process is concluded within two years on average.

14. Section 68 PSMLTFL.

15. A committee appointed by the creditors consisting of a maximum of five people.

16. Section 239A of CL.

17. Section 272(1) of CL.

18. Section 282(1) of CL.

71. The Companies Law provides for two ways to dissolve a company following strike off. The first is dissolution as a result of the actions emanating from section 327 of CL and the strike off of the company. Where a non-compliant company is struck off the Companies Register and that company has assets, on the basis of the provisions of section 328 of CL its assets belong to Cyprus and shall vest and may be dealt with in the same manner as other *bona vacantia* accruing to Cyprus. The second way to dissolve a company is dissolution/liquidation of a company via Court or voluntary liquidation and this falls under the competencies of the Department of Insolvency and not of the Department of Registrar of Companies (as noted above). During the review period, 6 734 companies were struck-off because of dissolution/liquidation by the Department of Insolvency.¹⁹ In this case the handling of the assets of these companies is the responsibility of the liquidator appointed, to manage before the final dissolution of the company. Other than in the case of a court-ordered dissolution, the person responsible for the custody of books and records of a dissolved company is the liquidator.

72. As a result, the liquidators or any person to whom the custody of the books and papers has been committed pursuant to the above, is obliged to keep its records/books up to five years from the date of its dissolution following its winding up²⁰ except in the case of a court-ordered winding up in respect of which Cyprus has confirmed that records may be authorised to be discarded in less than five years. Cyprus advised that in practice it would be in very rare occasions that the court would order the destruction of records sooner than the regular retention period provided in the law. Cyprus is nonetheless recommended to update its legal framework to ensure that persons granted custody of books and papers of a company in a court-ordered winding up must retain those records for at least five years (see Annex I).

Corporate mobility obligations

73. Sections 354B to 354I of the Companies Law facilitate the transfer of the registered office of companies incorporated abroad to Cyprus and sections 354J to 354O allow companies incorporated in Cyprus to continue to exist under another legal regime (without being wound up), by transferring their registered office outside Cyprus after they are struck off the Register. In Cyprus this is known as redomiciliation. Cyprus has noted that on average there are 30 redomiciliations outside Cyprus per year and there were

19. This was 2 101 (2016), 2 472 (2017) and 2 161 (2018).

20. Section 320(2) provides for a specific five year timeframe. Section 320(3) allows an official receiver to prevent the destruction of books and papers of a company which has been wound up and enables creditors or contributors to appeal to the relevant court for directions in this regard.

128 redomiciliations (transfer of seat) into Cyprus per calendar year for the period 2014-18.

74. The application for redomiciliation of the registered office of an overseas company into Cyprus must be submitted to the Registrar and the Companies Law sets out a detailed process for the directors of the relevant company to follow including the provision of solvency declarations and the resolution (or the equivalent document) authorising the company to register as continuing in Cyprus. The Cyprus' Registrar ensures that the company applying for redomiciliation into Cyprus has been struck off the register in its country of origin before issuing the certificate of continuation (s. 354(G) CL).²¹ The company transferring its seat into Cyprus, following the issuance of a certificate of continuation from the Registrar, is considered a Cyprus Company and as such, must maintain legal ownership information and accounting information and submit the annual returns and financial statements as of the time of its transfer to Cyprus. There is no requirement for accounting information and underlying documents for the periods prior to the redomiciliation of the company in to Cyprus be transferred to Cyprus. It is possible, however, that records may be available as they may be required to facilitate the operations of the company but this is not required in law.

75. The redomiciliation of a Cyprus Company transferring its seat outside Cyprus follows a similarly detailed process for the directors of the relevant company to follow outlined in the CL (354J-354O). Interim financial statements up to the date of the decision of the shareholders of the company to relocate must be presented to shareholders and filed with the Registrar, all fees and filing obligations (including pending annual returns) must be complied with and all taxes due must be paid prior to strike off. Notably, the Cyprus Company ceases to be a registered company in Cyprus from the date of issuance of the certificate of continuation by the competent authority of the jurisdiction where its seat is transferred. Following this, the Registrar proceeds to strike the company off the Companies Register and issues a certificate of strike off. The information of the struck off company is kept in the Companies Register indefinitely. A certificate of continuation or equivalent in the other jurisdiction is a pre-requisite for the strike off process. Following redomiciliation, there are no legal obligations for directors and officers to maintain the books and records of the company in Cyprus. Ownership information filed with the authorities or that might be available with AML-obliged persons that had a business relationship with the company would remain

21. Section 354(G) of CL provides that “within a period of six months from the date of the issuance by the Registrar of the temporary certificate of continuation, the overseas company shall submit evidence to the Registrar from the competent authority of the country or jurisdiction of its incorporation, that it has ceased to be a company registered in the country that it was originally incorporated. ...”.

available. AML obliged service providers maintain information about the company and its beneficial owners for five years and auditors are obliged to keep their records for audits performed on the relevant company for five years.

Implementation and enforcement

Registration in practice

76. Companies must register with the Registrar and the CTD. The number of companies registered in Cyprus has not changed significantly since 2015, although at the time of the 2015 Report it was expected that, as a result of the compliance campaign launched by Cyprus, the total number of registered companies would decrease to around 130 000 by the end of 2015, compared to more than 270 000 at the time of the 2013 Report and approximately 250 000 as at July 2015.²² This did not occur as there were still 215 346 companies registered at the end of 2018, primarily as a significant number of companies selected for strike off by the Registrar are still waiting to be struck off (due to objections by CTD and other creditors, as noted at paragraph 84 below) and due to new registrations (around 13 300 every year).²³ As of 31 December 2018 the companies registered in Cyprus were as follows:

Type	Company	2015 Report	31 December 2018
1	Private company limited by shares	Approximately 250 000	215 346
2	Public company limited by shares	574	562
3	Company limited by guarantee, and not having a share capital	708	552
4	Company limited by guarantee, and having share capital		39
5	Overseas Company	[Not specified]	1 075
6	SE	20	21
Total		Approximately 251 000	217 595

22. As a result of voluntary strike off and forced strike off due to non-compliance.

23. For the years 2015 to 2018, the Registrar incorporates approximately 13 280 limited liability companies. For the same reference period (2015-18), the Registrar registers annually approximately 73 overseas branches and 10 SEs. During the review period, a similar number of new entities were registered with the CTD (13 285 in 2016, 13 058 in 2017 and 13 916 in 2018).

77. There are 203 841 “active” legal entities for tax purposes recognised in the CTD registry at 31 December 2018 (the terms active and inactive do not exist in tax laws but are used for practical purposes). “Inactive” companies in the CTD registry are those that have already been dissolved from the registrar of companies, so the registration number in the Registrar and in the CTD should match but there is a difference of 13 754 companies between the Companies Register and the CTD register. Cyprus has noted that the difference is mainly due to the fact that not all companies registered with the Registrar proceed, as per their statutory obligation, to register with the CTD and there can be time lags between the registration with Registrar and CTD and between the strike off from Registrar and CTD. The Companies Registrar reports that at the end of every month it notifies the CTD of the month’s new company registrations for further actions. Through the monitoring of companies’ compliance through campaigns (regarding the filing of annual returns and accounts), the CTD is alerted to the existence of such companies and proceeds with actions against them.

Enforcement of obligation to file legal ownership information with the Registrar

78. While legal ownership information is retained by several sources in Cyprus, the Registrar is the primary source for such information for the Competent Authority. As a matter of law, the Registrar should have on file up-to-date information (including on the directors, secretary, shareholders and changes in legal ownership details) on Cyprus Companies as well as annual returns and there is a reasonably robust enforcement regime in place to ensure that legal requirements are met.

79. As noted in the 2015 Report, the Registrar has made significant improvements to its enforcement and oversight infrastructure over the past number of years. The Registrar has actively followed up on companies that are not filing required information in a timely manner and has been making material changes in its legal and operational framework to enhance its monitoring and enforcement powers.

- a. A third cleansing process is currently underway to clean up the Companies Register.
- b. An updated version of the online submission for annual returns was launched in September 2018 to improve the accuracy of information provided.
- c. In May 2018 an open tender was procured for the development and implementation of a new IT system for the Registrar. This new system would allow for automated procedures to monitor compliance, issue letters and notifications, rank companies by their filing

history and select companies for various actions such as prosecution and/or strike-off.

- d. A late filing fee for overdue submissions of statutory filings has recently been introduced (18 December 2018) under the Companies Law and the PBNL for limited companies, overseas companies and partnerships respectively and is expected to be implemented later than planned in late December 2020 (delayed due to COVID-19).

80. As a policy, Cyprus monitors compliance with filing annual returns rather than generally taking direct enforcement measures.

81. The Registrar has implemented three large scale compliance campaigns in 2014-16, 2017 and 2019 for companies.²⁴ The compliance campaigns aimed at (a) clearing the Companies Register of non-active companies and (b) forcing non-compliant companies to bring in overdue historic annual returns and accounts, thus updating the Companies Register and related electronic files. During the first compliance campaign, which took place between 2014 and 2016 – “comply or face strike off” – notification letters were sent to the registered office of more than 150 000 companies. Of this number, the names of 94 895 companies were published in the Gazette allowing three months to comply before being struck off. A total of 55 222 companies (out of the 74 790²⁵ strike off during the review period) were struck off the Companies Register on 11 January 2016. The efforts of the Registrar has led to the submission of a large number of returns and accounts. The compliance campaigns instigated a bulk of annual return submissions and by the end of 2016, more than 556 000 annual returns together with their accounting records were filed in relation to the years 2008-14. In the following four years (2015-19) additional compliance campaigns were launched, with the filing of more than 683 000 annual returns. As a result, 87% of registered companies with an obligation to submit an annual return (i.e. the number obliged was 192 259 companies as at 22 July 2020) filed one or more annual returns for the period 2008-18 (against 53% in the 2015 Report). Although this does not mean 87% yearly compliance since one filing in several years is sufficient to be counted, there has been progress since the 2015 Report. The average yearly compliance during the period 2015-19 is 67%.

24. The first campaign concerned annual returns, the second campaign (2017-18) concerned the payment of the annual fee (through this campaign an additional 10 542 non-active companies were struck off the register) and the third campaign (regarding the filling of annual returns) began in 2019.

25. 74 545 private companies limited by shares, 44 public companies limited by shares, 196 companies limited by guarantee without share capital, 5 companies limited by guarantee having share capital.

82. The third campaign is ongoing. It was launched in October 2019 and notification letters were sent from October 2019 to January 2020 to the registered office address and secretary of 127 337 companies and the publication of the names of non-compliant companies in the Gazette for the three month notice before strike off was programmed for September 2020. However, in an effort to mitigate the impact COVID-19 had on the corporate/business environment and in order to allow companies time to recover, the publication of non-compliant companies in the Gazette has been postponed to January 2021. Cyprus considers that when the strike off process for the companies selected for strike off to date and the new compliance regime is completed, the size of the Companies Register is expected to decrease considerably, albeit somewhat above the estimated number of 130 000 companies in the 2015 Report, taking into consideration new registrations. Although following strike off from the Companies Register a company ceases to exist for Cypriot law purposes, the large numbers of companies for which the strike off process has been halted (79 000) is cause for concern as they may continue to do business and not file required ownership documentation. When the Registrar is informed by the CTD or other creditors that the objection to strike off is lifted, the Registrar re-instigates the process and following the strike off the company is dissolved and can no longer do business. Cyprus should monitor the roll out of the third compliance campaign and ensure that companies which ought to be struck off the Companies Register pursuant to the enforcement regime are struck off (see Annex 1).

83. The total number of companies that have been struck off since September 2014 (commencement of the compliance campaigns) raised to over 102 000²⁶ companies which represents 25% of the total registered companies (as at 31 July 2020).²⁷

84. Cyprus has noted that a reason the significant decrease of companies did not occur was due to additional processing by government authorities such as CTD (for tax debt or arrears and non-filers) and Social Insurance Services (for social insurance payment obligations) and in cases where creditors have raised objections to the dissolution of the companies. The CTD differentiates, as regards the companies to be struck off by the Registrar, the companies that might have had some economic activity and resulting tax obligations and the companies without any economic activity, for which the CTD would not object to strike off. In late 2019 it was agreed that the CBC would inform the Registrar which of the companies listed for strike off by the Registrar have bank accounts which would help the CTD to differentiate. At the same time, the CTD began investigating the companies and

26. Between 27 August 2014 and 14 November 2018.

27. 411 648 companies were registered with the Registrar since the establishment of the Companies Register.

approximately 10 000 companies have been cleared for strike off by the CTD since late 2019.

85. Although monitoring and enforcement has significantly improved, compliance with filing with the Registrar is still somewhat deficient and the Competent Authority cannot entirely rely on information filed with the Registrar by companies at all times. Cyprus has noted that the issue is not the failure to file annual returns but non-compliance by a number of companies with the statutory obligation to file audited accounts with an annual return (because these companies do not wish to or cannot incur the costs associated with filing audited accounts in bulk), which in the view of Cyprus does not impact the availability of legal ownership information. Cyprus further notes that the non-compliance results from failures to prepare audited accounts. The information kept in the audited accounts are not used to confirm or verify legal ownership information for the company. This information is already notified to the Registrar by the company during the course of the year on the relevant statutory form (depending on the change), which is not the annual return form. **Cyprus should nonetheless enhance monitoring and enforcing the obligations to file up-to-date legal ownership information on companies with the Registrar.** The CTD has noted that as a matter of practice, in all letters sent by ITAD to the taxpayers which are companies requesting information, the companies are requested to confirm the Registrar's information by comparing it with the information in their register of members. As up-to-date information should be retained by companies themselves in the register of members, this may at times be a more appropriate starting point for ownership information requested in an EOIR case.

86. In relation to penalties, there are a number of sanctions set out in the Companies Law which range in severity depending on the documentation that is required to be filed. The company and every officer is liable to a default fine not exceeding the amount of EUR 42 for every day non-compliance continues in respect of several types of failures, including the failure to notify the Registrar (within the specified period) of: any changes in the registered office address; change of directors and secretary; transfer of shares; change of the address where the register of members is kept; change of the articles; and the late submission of annual returns. Companies are also liable to a fine not exceeding the amount of EUR 85 for every day non-compliance continues for failure to notify the Registrar of a change of the memorandum and an administrative penalty not exceeding EUR 8 543 for failure to submit annual returns. If any person in any return, report, certificate, balance sheet, or other document, wilfully makes a false statement, they are liable to imprisonment not exceeding five years or a fine not exceeding EUR 85 430 or to both such imprisonment and fine.

87. As a result of the compliance campaigns carried out by the Registrar from 2014-18, the sanctions imposed for the late filing of an annual return and accounts amounted to EUR 7 390 320. During 2016-18, the Registrar imposed sanctions for the late filing of annual returns which amounted to EUR 3 588 720. The figure is high due to the application of the sanction on each annual return missing. If a company has not filed three consecutive annual returns, the sanctions imposed will be applied for each pending filing. These high numbers also show that a satisfactory level of compliance is not yet achieved.

Enforcement of obligation to file ownership information with the Cyprus Tax Department

88. The CTD should receive ownership information as part of the annual tax return filings by companies. Thus, when receiving a request for information on the ownership of a company, the Competent Authority may begin by consulting the tax file of the company. The average compliance rate for filing companies' income tax return for revenue years required to be submitted during the review period (2014-16)²⁸ was 71.1%.²⁹ With respect to timeliness in filing company tax returns, filing during the period 2014-16 was 55.3% on average, where filing was three months late filing compliance reached approximately 67% and where returns were 9 months late the rate was 68.5%. This rate is not satisfactory and the compliance rate for filing tax returns is based on CTD "active" companies, which do not include those for which there is a reasonable cause to believe that they not carrying on business or in operation. This is a cause for concern as it is not clear what the exact figures for complying with tax filing requirements are.

89. Previous reports have raised concerns regarding the lack of a robust supervisory or enforcement regime in relation to the non-filing of tax returns in Cyprus. The CTD has attempted to improve its enforcement and monitoring tools through several risk-based compliance campaigns, the imposition of penalties for late submission and non-filing of tax returns and communication campaigns with current or previous managers or agents (e.g. directors and auditors). The CTD has also initiated a cleansing campaign similar to the Registrar and the legal unit has prosecuted approximately 1 000 companies on an annual basis for the failure to file tax returns (approximately 800) and other returns. It is understood that the maximum and average penalty amounts have increased over time and they are referenced to in paragraph 227 of this report.

90. During the review period for this Report, the CTD sent more than 15 000 nudge letters for the filing of income tax returns and more than

28. As filing is completed on the basis of previous tax years.

29. The annual compliance rate is 71% for 2014, 73.2% for 2015 and 69% for 2016.

29 000 for other tax obligations informing taxpayers of their failure to file tax returns. Cyprus has confirmed that 60% of taxpayers who received nudge letters then filed a return and the response to the compliance campaigns can be concluded from the overall increase of income tax returns submitted during 2016-18, as shown in the table below. The submission figures in the table below indicate the number of tax returns submitted in each calendar year irrespective of the revenue year they refer to. The increase during the calendar year 2018, was related to the nudge letters sent during the compliance campaigns. The compliance rate for income tax returns for the tax year 2017 was 73%, while for 2018 it was 63.5%. The deadline for 2018 return was initially 30 March 2020 but it was extended to 30 June 2020 due to the COVID-19 pandemic. The CTD further noted that in its experience many of the companies that do not initially comply with the deadline, do file three to nine months after the initial deadline.

Taxable year	Submissions of income tax returns
2016	114 257
2017	99 669
2018	133 913

91. Given the issues outlined above in respect of inconsistencies between filing annual returns, filing tax returns and the companies on the CTD register and the Companies Register, **Cyprus should enhance the monitoring and enforcement of the obligations to file up-to-date ownership information on companies and partnerships with the tax authorities.**

Availability of legal ownership information in practice in relation to EOI

92. Peers were generally satisfied with the legal ownership information received in relation to their EOI with Cyprus.

Nominees

93. The 2013 and 2015 Reports of Cyprus note that only AML obliged entities are permitted to hold shares as a nominee (i.e. on behalf of another person). It is understood that such entities must retain up-to-date identity and beneficial ownership information on the relevant company.

94. Nominee shareholders are relatively commonplace in Cyprus due to the high number of non-resident investors with legal entities or arrangements established in Cyprus. Cyprus has noted that the term “nominee shareholder” is not a legally recognised term in Cyprus and that third parties which can offer the services of holding shares are licensed and supervised under the

ASP Law. Nominees are not required to declare in the register of members kept by companies that they act as nominee for third parties. Accordingly, the Registrar may be unaware that a shareholder on the books of the company is acting as nominee. However, there is no legal way for a nominee shareholder who is not licensed and regulated under the ASP Law to be lawfully acting on behalf of a third party as it would otherwise be a criminal offence and accordingly, natural persons and companies may only legally provide corporate services without a licence when such services fall within the specific exceptions in in the ASP law, set out in greater detail at paragraph 103 below. Nominee shareholder services are a specific category in the ASP Law which require a licence and there are no exceptions available for natural persons or companies providing such services.

95. The MER notes that the majority of financial flows in and out of Cyprus are conducted through stand-alone asset management vehicles or international corporate structures which are generally characterised by the presence of nominee shareholders and several layers of intermediary persons and several jurisdictions involved.³⁰ The MER further notes that non-resident owned legal entities are generally used as holding companies or for shipping and investments and higher-risk features, which includes the use of nominee shareholder arrangements, are widely used in complex structures and primarily used for tax purposes. As noted by MONEYVAL, the Cypriot authorities understand that legal persons with nominee shareholder arrangements are generally set up for tax purposes, and are “inherently risky”. The Competent Authority has reported not having experienced difficulty accessing ownership information due to the presence of a nominee. In addition, the CBC reports having made efforts to curtail the use of shell companies and nominee structures through guidance issued to credit institutions in 2016 and then through the Directive of the CBC in February 2019.³¹ The CBC

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30. MER paragraphs 626 and 627, see MONEYVAL 2013 Special Assessment – an average of four individuals and three countries of residence or incorporation are involved.
31. CBC Directive para 4.9 is specifically dedicated to the prohibition of relationships with shell banks. A shell bank is defined as a credit or financial institution or an institution that carries out activities equivalent to those carried out by credit and financial institutions, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group. See also 1.2 “In determining the risk appetite of the credit institution and the customer acceptance policy, due consideration should be given to shell companies, complex business structures, and the risks that such entities may accumulate and the implementation of enhanced due diligence measures for the effective monitoring and mitigation of such risks, provided that the credit institution is capable to undertake and monitor this risk.”

Directive notes that shell companies which do not have a physical presence and activities in the country of incorporation are one of the most popular means of money laundering due to the particular difficulties encountered in determining the real shareholders/beneficial owners of accounts in the name of organisations with legal identity and terrorist financing. The CBC Directive provides that credit institutions should take all appropriate measures to fully establish the control structure and ownership of companies and verify the identity of the beneficial owners (natural persons) and the natural persons exercising the actual control of the company.³² However, the use of nominees adds a layer of complication in an EOIR case in particular where the nominee is not declared to be acting as such in the documents retained by the Registrar or CTD or the company books where beneficial ownership information is sought.

96. Cyprus has noted that the setup of the framework, for the provision of administrative services to companies and trusts, relies on the total licensing, regulation and supervision of the sector. As such, by identifying the name of licensed service provider, Cyprus authorities would be aware that a nominee structure may be present and that AML obligations would require the identification of the nominator. Cyprus notes a strength of the framework relies on the fact that in Cyprus all entities providing such services became obliged entities as per the ASP Law and any non-lawyers or accountants offering such services had to be licensed and supervised by the Cyprus Securities and Exchange Commission.

97. Nevertheless, it remains that professional nominees (individuals or companies providing nominee services either from Cyprus or abroad) need not indicate their nominee status in the register of members of a company or in share trust documents signed with the nominator with the company in Cyprus or any other government authority in Cyprus. **Cyprus is recommended to monitor the availability of beneficial ownership information of legal entities having nominee shareholdings.**

Availability of beneficial ownership information

98. Under the standard as strengthened in 2016, beneficial ownership information on companies should be available. In Cyprus, this aspect of the Standard is addressed through the AML regime (which contains the definition of beneficial ownership) and the administrative services sector. The definition of beneficial ownership is defined in the AML law (in particular the PSMITFL). In addition, more recently, companies have been obliged to keep beneficial ownership information and the Registrar is in the process of

32. Para 4.13.7. The definition of shell company is set out in detail at paragraph 151 CBC Directive.

setting up a beneficial ownership register through which beneficial ownership information will be retained.

99. During the review period, beneficial ownership information in respect of companies was held by obliged entities regulated by the two main laws governing administrative services and AML, namely the Administrative Service Provider (ASP) Law and the Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-19 (PSMLTFL). They govern the operations of corporate service providers, auditors and lawyers carrying out certain services (e.g. being a director of a company or a company secretary, holding shares on behalf of third parties or updating a shareholder register) and credit institutions.

100. As a result, provided a company engaged an AML obliged entity or opened a bank account, up-to-date beneficial ownership information for AML purposes was available with obliged entities during the review period. There is no such obligation that all entities and arrangements contract an AML-obliged person on a constant basis. Advocates must be retained in order to form a company but this would be a once-off event. Cyprus companies must have their accounts audited by a licensed auditor subject to AML requirements but this would generally be on an annual basis, although this is not the case in every circumstance (i.e. ICPAC has confirmed that, for example, in most cases auditors' interim audits, internal audits and VAT audits must be performed on a three month basis). Non-resident owned or controlled legal entities and arrangements must engage a licensed ASP resident in Cyprus (subject to a threshold discussed in paragraph 104). The coverage is therefore large but not constant.

101. In April 2018, new AML provisions³³ were introduced into Cypriot law to transpose the 4th AMLD and to accordingly establish and maintain a register of beneficial owners of corporate and other legal entities. Following the introduction of the 5th AMLD, Cyprus will introduce a mechanism via the Registrar to enable the collection of beneficial owner information related to companies and full access will be granted to the AML Supervisory Authorities.³⁴

102. The following table shows a summary of the legal requirements to maintain beneficial ownership information in respect of companies.

33. See (Amendment) Law N.13(I)/2018 of Anti-Money Laundering Combating the Financing of Terrorism [Law] of 2007 (Law 188(I)/2007).

34. This mechanism will act as an interim measure in order to set up a beneficial ownership register which would in turn be connected to other EU registers through the European Central Platform (BRIS) by 10 March 2021. The company law regime will be amended to take account of the responsibility of the Registrar to maintain the beneficial ownership register for companies and other entities.

Type	Company Law	Tax Law	AML Law
Private company (Types 1, 3, 4)	Some	None	Some
Public company (Type 2)	None	None	Some
Overseas company (Type 5)	None	None	Some, when they have a relationship with an AML obliged person
SE (Type 6)	None	None	Some

Administrative Service Providers Law – scope and coverage

103. ASPs are mostly auditors, external accountants, legal advisors³⁵ and tax advisors. Under the ASP Law, any person providing administrative services to a legal entity or arrangement, including acting as a nominee shareholder, director or company secretary or providing a registered address must obtain a licence. This includes natural persons. The provision of directorship and secretarial services by natural persons is allowed without a licence under the ASP Law under certain prescribed conditions. In such instances, the administrative services can only be provided to certain specified persons³⁶ and the services cannot be advertised or used to attract clients.

35. The majority of the law firms in Cyprus are companies which are registered as ASPs and wholly owned by lawyers. Advocates may offer ASP services and there are no prohibitions on providing legal advice to a client and offering ASP services, such as being a director or company secretary of that client, at the same time.
36. (A) undertaking director duties: (a) in a company the securities of which are admitted to trading on a regulated market; (b) in a company which is regulated by a supervisory authority and according to that authority's regulatory framework is obliged to appoint independent non-executive directors; (c) where Cyprus or a public body or organisation holds the majority of its shares; or (d) in a company which is owned by: (i) at least 25% by the person (or company or companies wholly owned by the person) providing the relevant services and/or his/her spouse and/or members of his/her family and/or the spouse's family; or (ii) a trust where either the person providing the relevant services, and/or his/her spouse and/or any person with whom the person providing the relevant services and/or his/her spouse has a family relationship, are the sole beneficiaries; (e) in a company which is the sole employer of the person providing the services or a company who is a member of a group of companies where the employer is also a member; (f) a company which is a subsidiary of a company described above; (g) in less than 10 companies not counting companies referred to in above and provided that the relevant person or persons do not jointly control the board of the relevant company.
- (B) Undertaking secretary duties by a natural person resident in Cyprus where: (a) at least 50% of the shares in the company are owned as per (A)(d) above;

There is another category of exception for companies providing services to similar specific persons.³⁷ These exceptions are best understood in the context of the Cyprus economy where there are many local small and medium sized businesses (SMEs) and, by carving out this exception, Cyprus separated such SMEs from companies with foreign ownership and complex structures. Most of the SMEs are family-run and local businesses with a strong physical presence in Cyprus through the day-to-day involvement of the directors and shareholders in the companies which are natural persons. Although such SMEs are required to engage an auditor and will need an advocate to form the company, on an ongoing basis they should not require the services of an AML obliged service provider and the risk in respect of such SMEs in respect of EOIR appears to be low. It is, however, noted that natural persons and companies may therefore be released from the obligation of having an ongoing relationship with an AML obliged person in such circumstances and, particularly given that Cyprus is a trust and company formation and administration centre, this creates a risk. We also do not know what proportion of ASPs operating in Cyprus fall within this exception.

(b) the same circumstances as (a) but all shareholders of the relevant company are natural persons who are residents of Cyprus and the threshold is 25% of shares; (c) the company is the sole employer of the person providing the services or a company who is a member of a group of companies where the employer is also a member; of (d) the company is a subsidiary of a company described above.

(C) The provision of trustee services when these are provided towards a trust where the person providing the administrative services is a settlor or where all the beneficiaries of the trust are himself and or his/her spouse and/or his/her family members and/or his/her spouse's family members.

(D) The undertaking of trustee duties in a trust created under a will of a natural person.

(E) The management of bank accounts of companies that meet the criteria of (A) (a)-(d) above.

37. (F) The provision of administrative services exclusively for parent undertakings, as per fn 44 (A)(a) above provided that the company has as a secretary either an eligible person or a natural person resident of Cyprus.

(G) The provision of trustee services when these are provided towards a trust where: (i) Such company is owned exclusively by one natural person and/or his/her spouse and/or his/her family members and/or his/her spouse's family members; (ii) all the beneficiaries of the trust are the natural person referred to in (G)(i) above and/or his/her spouse and/or his/her family members and/or his/her spouse's family members; and (iii) the company has as a secretary either an eligible person or a natural person resident of Cyprus.

104. As a result, mainly licensed persons which are supervised by CySEC, CBA or ICPAC may provide administrative services, as specified in section 4 of the ASP Law (and also set out in section 2A(d) of the PSMLTFL) and they are obliged to maintain/keep adequate, accurate and updated beneficial ownership information of legal entities and arrangements which should be available for inspection by the competent authorities and the FIU at all times. The Cyprus authorities noted that should an unlicensed person or entity try to perform any of the services subject to licence, competitors would immediately notice and report them to the supervisor. Other venues for identifying unlicensed professionals include complaints from the general public or circumstances where an unlicensed person attempted to open a bank account on behalf of a customer, this would raise red flags and the authorities would be made aware. On-site and off-site monitoring by supervisors (including monitoring of media or specific publication) also identified cases where professionals were offering regulated services but did not hold an appropriate licence. The Cypriot authorities were made aware of unlicensed persons/entities offering such services during the review period. The CBA has confirmed that one indictment has been issued for an ASP who was found offering services without having registered at the ASP registry maintained by the CBA. This was discovered during an on-site inspection of the Compliance Department of the CBA. 200 ASPs were also identified via the CBA's ASP registry which, although registered, had not paid their annual fees. These now continue to provide services and the CBA has issued fines in addition to the owed annual fee. The CBC has also confirmed that they have encountered such cases although no statistics are available at this time.

105. All companies registered in Cyprus are subject to statutory audit on an annual basis and are obliged to prepare audited financial statements under article 152 of the Companies Law. As a result, all professionals supervised by ICPAC licensed to offer audit services are obliged entities and must know their customers and maintain and make available beneficial ownership information. ASPs cannot prepare audited financial statements unless they hold an audit licence from ICPAC and cannot offer audit services unless they are AML obliged. In addition, the ASP Law requires all companies which are owned or controlled by a non-resident person to engage the services of a licensed ASP, unless the director or company secretary of the company owns at least 25% of the company and the share capital is not held on behalf of third persons.

106. In practice, Cyprus is a trust and company formation and administration centre and used for international corporate and family office structures. Accordingly, a significant number of legal entities and arrangements in Cyprus are beneficially owned by non-resident persons. Where legal owners and beneficial owners are not the same person and the entity or arrangement is beneficially owned or controlled by non-residents, availability of information

on the beneficial owner is often reliant on the ASP who is administering the legal entity or arrangement or on the bank if a bank account is maintained in Cyprus. The exact number of legal entities and arrangements under ASP management or how many of these types of entities or arrangements have bank accounts in Cyprus is not known.³⁸ Cyprus has noted that “irrespective of the proportion of companies with foreign ultimate beneficial owners (calculated as an educated guess by the authorities between 20%-30%), the control mechanisms that have been introduced, are there to cover all eventualities” and “the authorities are working in any case, towards conducting an exercise in order to determine the proportion of active companies with no Cyprus bank account.” While the regime is reasonably extensive, in the recent MER, MONEYVAL has raised concerns that there is no comprehensive mechanism in place to verify that the requirement to engage the services of a Cyprus-licensed ASP is applied for all non-resident owned/controlled legal persons/arrangements. The present report shares the concerns raised in the MONEYVAL report (further detailed below and in the recommendations herein).

Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-19

107. The PSMLTFL sets out the types of obliged entities in Cyprus for AML purposes in section 2A. Obligated entities include credit and financial institutions, accountants, independent legal professionals and natural or legal persons providing certain corporate services such as the formation of companies and acting as a director (ASPs). As the formation of companies in Cyprus is governed by the Companies Law and the Advocates Law, and can only be performed by a licensed registered legal professional (rather than by any ASP), advocates are involved in company formation services from the get-go in Cyprus. Trustee services fall under the administration services as defined under article 4 of the ASP Law which is covered in paragraphs 103 to 106 above and article 2A(c)(ee) of the PSMLTFL applies to an independent legal professional when it participates, whether acting on behalf of a client in a financial or real estate transaction, or by assisting in the planning or carrying out of a transaction for its client concerning the creation, operation or management of trusts.

108. Obligated persons are required to carry out identification procedures and CDD measures, including identifying customers and verifying the customer’s identity and the identity of its beneficial owners (section 6) in the following circumstances (among others):

- a. at the establishment of a business relationship

38. MONEYVAL MER, paragraph 617.

- b. when carrying out an occasional transaction of a certain value
- c. when there is a suspicion of ML or TF
- d. when there are doubts regarding the veracity or adequacy of previously obtained client identification data.

109. The identification and CDD measures to be carried out include identifying and verifying customers on the basis of data obtained from a reliable and independent source and identifying the beneficial owners of customers and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including taking reasonable measures to understand the ownership and control structure of the customer. There is detail provided as regards verification procedures in the Directives referred to later in this section and section 61 PSMLTFL sets out the ways to apply CDD and identification procedures.

110. The definition of beneficial owner is set out in the PSMLTFL and broadly follows the Standard. Obligated entities are required to identify and verify (1) the natural person who ultimately owns or controls a corporate entity through share ownership (by at least 25%) or through control by other means or, if no such person is identified after having exhausted all possible means, (2) the natural person who holds the position of senior managing official.³⁹

39. The term “beneficial owner” is defined as meaning any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted and includes at least:

(A) in the case of corporate entities:

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

111. The definition specifies that “control by other means can be verified, *inter alia*, based on the criteria provided for in section 142(1)(b) (consolidated financial statements) and section 148 (company subsidiaries) of the Companies Law”. It is not clear how these provisions will interact in the identification of beneficial ownership by control through means other than ownership. Cyprus has noted that the identification of beneficial ownership by control through means other than ownership may include a shareholders’ agreement, a shareholder and company agreement or any other rights/powers granted by the memorandum and articles of association or any other document regulating the function of the company or the right/power to appoint senior managing officials. The CBA reviews consolidated financial statements, conducts web searches and screening and reviews information provided by other AML supervisory authorities. CySEC has noted for this report that examples of control by other means include identifying the relevant persons through interviews with the client, identifying the approved signatories (which indicates senior management function) and reviewing the classes of shares to identify majority voting rights if there is no shareholding majority (stated on the shareholders’ agreement). The CySEC Directive provides that in the cases where the ultimate control rests with the persons who have the power to manage the relevant funds, accounts or investments of the legal person without requiring authorisation and who would be in a position to override the internal procedures of the legal person, the obliged entity should verify the identity of the natural persons who exercise ultimate control even if those persons have no direct or indirect interest in the relevant legal entity. CySEC has further noted that in practice, if it is not possible to identify persons with control through ownership or if there is doubt that those persons are in fact the beneficial owners, then persons who control by other means should be identified. The ICPAC Directive also provides guidance on control by other means for corporate entities. The Cypriot authorities

person, or by multiple corporate entities, which are under the control of the same natural person or persons.

Provided further that the control by other means can be verified, *inter alia*, based on the criteria provided for in section 142(1)(b) (consolidated financial statements) and section 148 (company subsidiaries) of the Companies Law;

- (ii) the natural person who holds the position of senior managing official if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under sub paragraph (i) of the present paragraph is identified, or if there is any doubt that the person identified is the beneficial owner: Provided that the obliged entity shall keep record of the actions taken in order to identify the beneficial ownership under sub paragraphs (i) and (ii).

consider that leaving the term “control by other means” undefined allows for the use of judgement and also allows the authorities to probe further on whether the test has been met. Given the significant presence of complex corporate structures in Cyprus, however, **Cyprus is recommended to ensure that beneficial ownership information is available in respect of all relevant entities and arrangements.**

112. The Cyprus authorities indicate that the elements of identification to be kept include the name and first name of the beneficial owners, their date of birth, address and TIN. No explicit reference to such elements of identification is made in the primary AML/CFT law but specific details are set out in the directives issued by the AML Supervisors which is secondary law in Cyprus.

113. Cypriot AML law allows obliged entities, under certain conditions, to rely on third parties to apply client identification and CDD measures but they retain ultimate responsibility for compliance (section 67 PSMLTFL). Such third parties must make CDD information immediately available to such persons. Such third parties are limited to (a) any credit and financial institution, legal professional, accountant, auditors, tax advisor and any person providing administration services under article 4 of the ASP Law or (b) institutions or persons in an EU member state or a third country and which (i) apply CDD and record keeping measures which are consistent with the measures pursuant to EU law; and (ii) are subject to supervision which is consistent with the relevant requirements of the EU Directive. Reliance on third parties established in high-risk third countries is prohibited.

114. The CySEC Directive also provides that obliged entities may rely on third parties only at the outset of establishing a business relationship or the execution of an occasional transaction for the purpose of verifying the identity of their customers, and after having applied due diligence measures on the third party and signed an agreement with it. Likewise the ICPAC Directive includes identical provisions and further provides that obliged entities must take appropriate steps to ensure that the third party to be relied on will provide the original documentation upon request and copies of those documents immediately for the establishment of the business relationship (paragraph 5.9.1 of the ICPAC Directive) and satisfy itself that the third party implements client identification procedures and CDD in line with AML law (section 61 PSMLTFL).

115. Cyprus legal and regulatory framework on reliance on third parties meets the standard.

116. Identification of beneficial owners is mandatory, as provided for by the PSMLTFL and the directives issued by the supervisory authorities (which constitute secondary law). Section 63 of the PSMLTFL provides that

an obliged entity may apply simplified due diligence on a risk-sensitive basis. The directives of the AML Supervisory Authorities provide further detail on the circumstances for conducting simplified DD and, in certain directives, the requirements for conducting such DD.⁴⁰ While guidance is provided on the tools to use in applying simplified due diligence, the directives provide that certain adjustments can be made to reflect the assessment of low risk. The CBA and ICPAC worked together to collaborate on their guidance and to ensure that service providers were approaching due diligence in the same manner. It is noted that the Cypriot authorities consider that all three supervisors follow the same policies with respect to simplified due diligence. However, in order to ensure that the other AML Supervisory Authorities take the same approach, and to ensure that due diligence is consistently applied in a uniform manner, Cyprus should review and monitor the simplified due diligence regime and ensure consistency across the supervisors (see Annex 1).

117. Obligated entities are required to maintain the following information for a period of five years after the end of the business relationship with their customer:

- a. copies of documents and information required for compliance with the prescribed CDD requirements
- b. relevant correspondence documents with customers and other persons with whom a business relationship is maintained (section 68 PSMLTFL)
- c. relevant evidence and records of transactions which are necessary for the identification of transactions (section 68(1)(b) of the PSMLTFL).

118. As part of the CDD requirements, obliged entities are required to update their records on an on-going basis and be prepared for ongoing monitoring by the AML Supervisory Authorities, including queries in respect of the identity and ownership structure of customers and transaction monitoring. Risk assessments are required to be updated in accordance with the proportionality of the risk. The CBC Directive requires credit institutions to ensure that client identification information is completely updated throughout the business relationship and the institution's policy and procedures for the prevention of money laundering should determine the timeframe for updates, depending on the risk of each customer. The CBC Directive was recently updated to highlight that CDD should not be conducted just at the new client level but throughout the business relationship with clients. The CBA Directive, CySEC Directive and the ICPAC Directive similarly require an updating of the information based on the risk level of the clients. The

40. CBC Directive section 4.6, ICPAC Directive section 5.8, CySEC Directive Part IV and para 23, CBA Directive section E8.

CBC Directive, the CySEC Directive, the CBA Directive⁴¹ and the ICPAC Directive also include a list of events which should trigger an update.⁴²

119. The CBA Directive provides that law firms should perform CDD updates for: high risk clients, every year; medium risk clients, every 2-3 years; and low risk clients, every 4-5 years. The ICPAC Guidance Paper on the Risk Based Approach suggests that due diligence and monitoring for low risk be undertaken at least every three years, for normal risk every two years and for high risk yearly, with board of director approval for continuance of relationship; and the results of updating should be documented in a client risk assessment form and placed in the personal file of each client.⁴³ The CySEC Directive, while providing significant instructions to obliged entities as regards the update of CDD, does not prescribe minimum frequency for updating as per the CBA Directive or ICPAC Guidance. Accordingly, Cyprus should ensure that mandatory rules exist for all AML-obliged persons on what would constitute acceptable frequency for updates to ensure the availability of adequate, accurate and up-to-date beneficial ownership information (see Annex 1 and para 248).

120. Finally, the beneficial owners of the obliged persons themselves are identified at the time of licensing. As part of the CySEC licensing process, natural persons considered to be beneficial owners, have controlling interest, or hold a management position in an obliged entity, including AML compliance officers, are assessed in respect of their fitness and appropriateness. Provision of false or misleading information or documentation, or the withholding of material information, is subject to an administrative fine and may constitute a criminal offence.

Registers of beneficial ownership information – EU 4th and 5th AML Directive

121. Companies incorporated in Cyprus are required to “obtain and hold adequate, accurate and current information on their beneficial ownership, including on the beneficial interests held” (section 61A(1) of the PSMLTFL). Section 61A(4) provides that the information obtained by companies “is held in a central register”. From the information collected during and after the

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41. E.3.2. Examples provided in the guidance include changes of the client beneficial ownership, key management, services provided, line of business general affairs and geographical area of operations.
 42. Paragraph 83, 85 CBC Directive; Paragraph 18 CySEC Directive ; Paragraph 5.3.1 to 5.3.6 ICPAC Directive; E.3.2 CBA Directive.
 43. IPAC Guidance Paper on the Risk Based Approach, updated August 2020, page 8. The risk classifications are defined therein. The Guidance Paper is secondary legislation in Cyprus.

onsite visit, it seems the obligation in paragraph 1 has not been implemented in practice yet, as its main purpose is for companies to collect the information that will populate the future central register of beneficial owners of companies (and other legal entities) set in paragraph 4, which was legally created by the same April 2018 amending law, but is not yet operational. However, there is no further regulation or guidance on how companies should identify and verify the identity of their beneficial owner or how frequently to update it. It appears no monitoring is performed on the implementation of the obligation for companies to obtain their beneficial ownership information until the deadline for the future central register of beneficial owners is set. Cyprus has noted that the current mechanism for ensuring beneficial ownership information is through AML obliged entities i.e. companies offering administrative services to clients (including foreign clients), banks which facilitate accounts for clients, auditors (as all companies must prepare audited accounts) and lawyers.

122. To implement the provision on the creation of a central register, the Registrar is in the process of developing a temporary system, expected to be implemented in the fourth quarter of 2020. An announcement made by the Registrar will grant companies six months to file their beneficial ownership information with the Registrar.

123. On this temporary system, all beneficial ownership details will be collected and kept until the development of a more permanent IT solution to support the running and maintenance of the register of beneficial owners (e.g. monitor compliance, issue letters and notifications, apply penalties, select companies for various actions such as prosecution and penalties). Cypriot authorities also report that work is underway regarding the drafting of regulations to support the maintenance of the register.

124. In conclusion, beneficial ownership information on relevant entities and arrangements in Cyprus may only be available to the extent that they have an on-going relationship with a Cypriot AML obliged person which will perform customer due diligence, as the obligation for all entities and arrangements to obtain and hold their beneficial ownership information to file it in the central register of beneficial owners is not implemented yet, in the absence of implementing regulations. **Cyprus is recommended to ensure that beneficial ownership information is available in respect of all relevant entities and arrangements.**

Implementation and enforcement in practice

125. The AML Supervisory Authorities (i.e. CySEC,⁴⁴ CBA, CBC and ICPAC) have specialised AML/CFT units and have developed risk-based approaches to supervision, including off-site and on-site assessment procedures. They monitor, evaluate and supervise the application of PSMLTFL and of the relevant Directives issued, by the obliged entities, including the obligation to maintain beneficial ownership and identity information for legal persons and arrangements.⁴⁵ Regulated entities for AML purposes are required to designate a member of their board of directors to be responsible for the implementation of AML provisions and each of the authorities has an active assessment programme which aims to ensure that the obliged entities which are under their supervision (lawyers, accountants, ASPs) adhere to the law and directives, and maintain the required beneficial ownership information, in particular where director, shareholder or company secretary services are carried out.

Licensing

126. The three ASP law supervisors maintain an up-to-date register of all licensed ASPs and employees which is publicly available. Failure to furnish updated information to the three supervisors on an ongoing basis may result in penalties.⁴⁶ MONEYVAL has noted that Cypriot authorities presented numerous examples of requests to ASPs for beneficial ownership information which were carried out effectively but the application of beneficial ownership requirements by ASPs was not uniformly convincing and MONEYVAL remains concerned about the effectiveness of aspects of the licensing and supervision of ASPs. The present assessment also identified the same concerns as MONEYVAL.

127. As set out above, CySEC's licensing process includes a check of the beneficial ownership of applicants to avoid potential conflicts of interest and ensure the service provider is fit for the task. In addition, CySEC operates a certifications regime whereby individuals who perform significant functions (i.e. provision of investment services, fund management, compliance officers) are required to pass a written examination and complete continuous professional development on an annual basis to remain on the public register of certified persons.

44. Persons providing administrative services, according to section 4 of the Administrative Services Law and who are not supervised by ICPAC or CBA, are required to obtain an authorisation as per the provisions of the Administrative Law and are regulated and supervised by CySEC for AML/CFT purposes.

45. Section 59(4) of the PSMLTFL.

46. Section 26 Administrative Services Law.

128. ICPAC also has a licencing regime in place. The majority of ICPAC members hold membership with the ACCA and ICAEW in the United Kingdom and AICPA in the United States. Up until 2019, background checks were performed through an online automated system where an applicant was not a Cypriot resident. As of January 2019, an approved policy of the board of directors requires background checks to be performed for all licensed practitioners during the application phase (and annually upon renewal). Currently, there are no non-residents holding any type of ICPAC licence certificate. ICPAC delivers licences only to Cyprus registered firms.

129. An overview of the CBA practice is set out under paragraph 147 below.

Non Compliance

130. AML law in Cyprus contains several provisions to address non-compliance, including non-compliance with the availability and updating of beneficial ownership information. The AML Supervisory Authorities have the power to impose a wide range of sanctions pursuant to the PSMLTFL (section 59(6)), including:

- a. an administrative fine of up to EUR 1 000 000, after affording the supervised person an opportunity to be heard; and if that person derived a benefit from a breach above that amount, an administrative fine up to an amount of at least twice the amount of the benefit derived from the breach; and in the event the breach continues, an administrative fine of up to EUR 1 000 for each day the breach continues
- b. amend or suspend or withdraw the licence of operation of the supervised person
- c. a temporary ban against any person discharging managerial responsibilities in an obliged entity or any other natural person who may be held responsible for the breach from exercising managerial functions in the obliged entity.⁴⁷

Cyprus Securities and Exchange Commission (CYSec)

131. CySEC applies a comprehensive supervision framework (known as RBSF), based on the evaluation of risks in respect of regulated entities, and which includes onsite and offsite supervision in order to assess the adequacy and suitability of the measures and procedures applied for the prevention

47. In addition, the Administrative Services Law and the Directives of the AML Supervisory Authorities (except the CySEC) also set out a penalty regime.

of ML/TF in the capital and stock market sector. The frequency and type of inspections depend on the risk categorisation of each regulated entity. Currently, the frequency and scope of onsite inspections are set annually for High-Risk, every 2-5 years for Medium-High risk, every 5-8 years for Medium-Low risk and ad-hoc-if an event occurs (based on a triggering event) for Low-risk obliged entities. CySEC specialised AML/CFT Department employs 11 staff members. As of 30 September 2019, the number of ASPs, collective investment funds and Cyprus investment firms under CySEC supervision was 99 and 244 respectively.

132. Off-site inspections are conducted on the basis of a risk-based assessment procedure pursuant to the annual reports of the licensee compliance officers and the internal audit reports on the prevention of ML/TF, which include a review of minutes of the meetings of directors of the regulated entity. Compliance officers must submit information to CySEC every month and the CySEC board imposes sanctions and revokes licences for noncompliance.

133. Every year, onsite inspections are performed on about 7 ASPs and 12 CIF. On-site inspections are performed using a specific detailed CySEC AML/CFT Audit Programme that currently covers the areas of Jurisdictions, AML Governance Activities, Activity Monitoring and Reporting and Clients and is based on disclosures, procedures and controls and substantive testing (on a sample basis). The AML/CFT Audit Programme contains specific tests for natural and legal persons. Prior to the onsite inspection, CySEC obtains data on beneficial owners including information on the name, country of residence, ID or passport number, nationality, possible inclusion in the International Sanctions adopted by the UN Security Council and/or the Restrictive Measures adopted by the Council of the EU. This data is used as selection criteria, for the sample of clients to be inspected during the onsite visit and CySEC monitors the adequacy of the CDD and beneficial ownership identification performed by its obliged entities.

134. If the findings of the onsite inspection are considered serious and/or repeated, the case is presented to the CySEC's board who decides whether to call the regulated entity for written and, if necessary, oral representations. The CySEC board may impose administrative sanctions and its decision, together with the name and type of the regulated entity, the nature of the offence, the sanctions imposed and information on appeal status, is made publicly available on the CySEC website.

135. If the findings of the onsite inspection are not considered serious and/or repeated, the weaknesses/deficiencies identified are included in a warning letter sent to the regulated entity with the requirement to take specific minimum corrective measures/actions within a predefined timeframe, which normally vary from one to five months, on a case by case basis. About

10 warnings have been issued every year in 2016-18 following onsite inspections. The regulated entity must provide a “Compliance Confirmation” to CySEC. For a number of regulated entities, a “follow-up” onsite inspection is performed. During the review period, 3 of such follow-up inspections were carried out in the ASP sector in 2016, 6 in 2017 and 5 in 2018. In case of non-compliance, the matter is brought before the CySEC Board to consider taking actions against the regulated entity without any further notice.

136. The CySEC has issued three fines in the period 2016-18 for a total of EUR 48 000. This concerned the application of general CDD measures, the identification or verification of beneficial ownership information, failures concerning enhanced due diligence and ongoing monitoring of clients/transactions.

137. CySEC publishes common weaknesses, deficiencies and best practices identified as a result of the onsite/offsite inspections performed on its website on a regular basis to help inform the market and maintain regular common standards. CySEC also published a dedicated best practice note on beneficial ownership for legal persons on its website in February 2020 following the publication of the Financial Action Task Force best practice report on beneficial ownership for legal persons.⁴⁸

Institute of Certified Public Accountants of Cyprus (ICPAC)

138. ICPAC has outsourced its monitoring function to the UK Association of Chartered Certified Accountants (ACCA). There are three full time ACCA senior reviewers permanently resident in Cyprus as well as a large team at their head offices in London who support the work and the reviews performed in Cyprus.

139. The ICPAC/ACCA monitoring programme covers the compliance of all licensed practitioners (ICPAC supervised 920 obliged entities in 2019 i.e. accountants, auditors, tax advisors, consultants, ASPs and insolvency practitioners) with the provisions of AML/CFT law, ASP Law and the ICPAC regulations. The ACCA reviewers evaluate the licensed entities policies and procedures (including those relating to beneficial ownership and identification) and confirm the proper implementation and compliance of the AML laws. Certified copies of identity cards/passports are required. Proof of address, background screening of clients and their beneficial owners and documentation of the ownership structure and economic profile of the client is part of the review.

48. FATF (2019), Best Practices on Beneficial Ownership for Legal Persons, FATF, Paris, www.fatf-gafi.org/publications/documents/beneficial-ownership-legal-persons.html.

140. ICPAC performs annual off-site surveillance, which involves (a) gathering information via a designated AML questionnaire and processing the results to calculate a risk score for every licensed entity and (b) the review of the annual compliance officers' report (which was implemented in 2015). ICPAC indicates a 100% compliance rate with these filing obligations. The off-site review is an annual requirement for all licensed practitioners.

141. On-site inspections are generally based on the results of off-site surveillance and the relevant firm's risk classification (assessed annually following the results of the surveillance). The inspections are performed within two years of the licensing of all firms. Afterwards, the frequency of the visits depends on the risk classification, from inspection every one or two years for higher risk obliged entities to an inspection every six years for low risk obliged entities.

142. The number of AML reviews performed are as follows:

Year	ASP	Auditors	Total
2016	79	57	136
2017	52	67	119
2018	43	79	122

143. ICPAC reports that the results of on-site inspections have indicated that there is overall compliance with the requirements of AML laws and regulations and significant improvements have been noted during the second monitoring visits.⁴⁹ ICPAC reports that in 2019 there were no cases amongst the ASPs monitored where proper KYC procedures had not been implemented and that they had a good understanding of their clients and their beneficial owners. Furthermore, 70% of ASPs used automated online screening tools for their background checks and enhanced due diligence measures were followed where the clients were classified as high-risk.

144. ICPAC holds annual training seminars and issues guidelines to assist obliged entities in complying with obligations and requirements. ICPAC also presents training seminars on common findings, i.e. summarising weaknesses, deficiencies and best practices identified through its onsite activity, which is also published on its website on an annual basis.

49. Where weaknesses are identified during ICPAC monitoring visits, obliged entities are required to follow a targeted remedial action plan within a defined timeframe. Where significant findings were identified during the AML Rules and Regulations review, an early follow up visit was performed and where repetitive or serious deficiencies were identified, warning letters were issued to the practitioners. Where non-compliance was identified, the practitioner was referred to the Disciplinary Committee for sanctioning.

145. ICPAC publishes all sanctions on its website and its quarterly magazine, both of which are available to the public. During the review period, 23 reprimand letters have been issued and 80 financial penalties amounting to approximately EUR 40 000 in total. The sanctions imposed by ICPAC in 2020 as a result of off-site surveillance were not processed or published due to the restrictions of COVID-19.

146. No issues have been identified by ICPAC relating to record keeping obligations of licensed practitioners.

Cyprus Bar Association (CBA)

147. The CBA has a dedicated and autonomous AML department, which currently consists of six supervisory officers. A specialised AML committee has also been designated which has an advisory role.

148. The CBA performs off-site inspections where data and relevant information are collected from CBA supervised members, through the submission of an AML questionnaire,⁵⁰ Annual Compliance Reports and AML manual; and on-site inspections whereby audits of the firms of supervised members are carried out further to a risk-based assessment. Since 2013, the AML department has conducted on-site inspections of advocates and, from 2014, LLCs and ASPs. Depending on their risk classification, advocates should be inspected from every year to every five years.

149. Prior to the on-site inspection, the CBA requires from the obliged entity a copy of its internal AML manual. During the on-site visit, the Supervisory Control Officer of the AML Department interviews the relevant obliged entity in accordance with the CBA audit checklist. On-site inspections are generally conducted as “full-scope” inspections, i.e. compliance checks with respect to all client due diligence obligations (including internal controls and manuals) and other preventive measures as well as inspection of the entity’s files (e.g. PEPs, trusts, high-risk countries). On-site inspections differ in intensity depending on the size, extent of services, and risk level of the inspected entity. After an on-site inspection, an inspection report is drawn up containing any identified deficiencies and corresponding recommendations. The entity must provide the CBA with an action plan to remedy deficiencies and the CBA sets a timeframe for its implementation. If a follow-up inspection is considered necessary, it usually takes place within six months after the initial inspection. If the CBA then ascertains that the entity did not comply with

50. The data requested through the AML questionnaire covers the following ML/TF risk factors: countries and geographical areas; customers and delivery channels; products and services; and elements of governance and internal control relevant to AML/CFT.

the action plan, a warning letter is issued, or if the deficiencies are severe, the case is referred to the Board of the CBA for the imposition of administrative sanctions. If no (earlier) follow-up inspection takes place, there is a follow up as regards remedial actions at the next on-site inspection.

150. In the period 2013-18, six licences were withdrawn, of which (a) three were due to breaches of AML/CFT requirements and (b) three were due to the provision of false or misleading beneficial ownership information (breaches of the licencing requirements).

151. The CBA has been conducting thematic reviews on an ad hoc basis. For example, the CBA conducted reviews following the so-called Panama Papers (72 regulated entities were the subject of dedicated on-site reviews in 2015 and 2016) and Laundromat cases.

Conclusion

152. During the review period, beneficial ownership information was kept with AML obliged persons if engaged by an entity or arrangement. However, the maintenance of beneficial ownership information was not always at an adequate level and the requirement to engage an AML-obliged ASP for non-resident owned/controlled legal persons does not appear to be verified by supervisors other than on a sample basis. Since the review period, Cyprus law requires companies (including companies which are partners in a partnership) to maintain beneficial ownership information but this obligation has not been subject to monitoring and enforcement. **Cyprus is recommended to monitor, supervise and enforce the implementation of beneficial ownership obligations and ensure that beneficial ownership information held by AML obliged service providers and by companies is complete and accurate.** In addition, Cyprus is recommended to monitor, supervise and enforce the implementation of beneficial ownership registers in companies so as to ensure information in the central register of beneficial ownership will be adequate, accurate and up to date (see Annex 1).

Availability of beneficial ownership information in practice in relation to EOI

153. In relation to the availability of beneficial ownership information, although for the most part peers are satisfied, some concerns have been raised by peers.

- One peer noted that Cyprus enquired as to why beneficial ownership information should be available to the authorities in Cyprus and why it should be exchanged (this case and related cases are further analysed in Part C.1 of this report). In this case, a misunderstanding and delay arose from a letter sent to the peer from Cyprus requesting

confirmation regarding reciprocity (in order to use the EOI Power). For one peer as regards two cases, no replies were received in response to requests for beneficial ownership information. In the first case, the peer did not receive any reply. In the other case, the auditors in the requesting authority had to close the tax investigation after two years waiting, due to time limitations (the information was provided afterwards, see section C.5 below). Cyprus considers that these cases are a result of a misunderstanding between the peer and the Competent Authority and in particular as regards the second case, the Competent Authority informed the peer that the case was in progress but the peer replied to inform Cyprus that the case was closed. The Cyprus' Competent Authority sent the relevant information three days following that correspondence. It is understood that both cases were resolved and the peer in question was generally satisfied with the responses received from Cyprus.

- Another peer (with which a significant number of exchanges were made) noted that in most cases the Competent Authority of Cyprus did not provide beneficial ownership information when requested. That peer noted that the Competent Authority of Cyprus did not provide beneficial ownership information approximately in 375 cases (out of 617 requests). The Competent Authority of Cyprus provided detailed responses concerning directors and shareholders of Cypriot companies but did not provide beneficial owners of Cypriot companies for the most part. Cyprus has noted that they did not consider that the relevant peer had exhausted all means in their jurisdiction before sending a request to Cyprus (those cases are also covered under Part C.1 of this report).

A.1.2. Bearer shares

154. As noted in the 2015 Report, bearer shares can be issued by public companies limited by shares only when they are listed on a regulated market (and when allowing for such issuance in their constitutional documents) and no bearer share warrants currently exist. In the 2015 Report Cyprus was able to confirm that bearer shares issued by public companies were voided with reasonable exactitude, which provided some comfort that the risk that bearer shares could be issued and in existence by Cypriot companies without the knowledge of the Cypriot authorities was minimal. Cyprus has confirmed for the purpose of this report that there are no bearer shares in circulation.

A.1.3. Partnerships

Types of partnerships

155. There are two types of partnerships in Cyprus, namely general partnerships and limited partnerships, both governed by the General and Limited Partnerships and Business Names Law, Cap. 116 (as amended) (PBNL).⁵¹ Partnerships are not considered legal entities in Cyprus.

Type	Description	Number as on 31 December 2018
General Partnership	Section 5 PBNL	5 736
Limited partnership	Section 47 PBNL	832
Total		6 568

Source: Registrar.

156. In keeping with other common law jurisdictions, general partnerships in Cyprus are recognised as the relationship between persons carrying on a business in common with a view of profit (PBNL, section 5). Every partner in a general partnership is liable jointly with the other partner(s) for all of the debts and obligations of the partnership incurred while he/she is a partner.

157. A limited partnership consists of (a) one or more persons who are general partners and who are liable for all debts and obligations of the partnership; and (b) one or more persons who are limited partners, who contribute capital or property and are allotted a certain number of interests at the time of entering the limited partnership and who are not liable for the debts or obligations of the partnership beyond the amount contributed.

158. In addition, under the Standard, identity and beneficial ownership information should be available in respect of foreign partnerships where such partnerships carry on a business in Cyprus or have income, deductions or credits for tax purposes in Cyprus. There is no prohibition in Cyprus laws for foreign partnerships to carry on a business in Cyprus. Cyprus has noted in respect of foreign partnerships that there are no provisions in the PBNL Law on such type of partnership i.e. this is not a term used in Cyprus or specifically referred to in the law. The Cypriot authorities do not consider foreign partnerships to be common in Cyprus. All partnerships (general and limited) registered under the PBNL Law are considered Cyprus partnerships, and must have a principal place of business in Cyprus from where they carry on business in Cyprus.

51. Translation of specific sections of the PBNL has been furnished but a complete up-to-date English translation of the PBNL has not been furnished.

Identity information

159. All partnerships (whether limited or general) carrying on a business in Cyprus must be registered with the Registrar (section 50 PBNL). The registration process is similar to the process for companies and registration is required within one month from the date of the establishment of the partnership (section 51 PBNL). Any person can register a partnership either by paper or online and there is no requirement in law or practice for a service provider to file. Online registration is completed via a platform of the government gateway portal “ARIADNI” which just requires confirmation of the user’s name and email and thereafter the registered user can submit applications for name approval, registration and the issuance of certified copies.

160. Upon registration, information including the name and surname, the nationality, the usual residence and the occupation of each of the individuals who are partners, whether general or limited, and the corporate name and registered office of every corporation which is a partner must be submitted. The names of the general partners who are authorised to administer the affairs of, manage and sign for the partnership, must also be registered.

161. Once all documents are filed, and provided that the Registrar is satisfied that all relevant legal requirements for the establishment of the partnership have been met, the Registrar issues the certificate of registration and the registration number of the partnership. Failure to register a limited partnership with the Registrar results in limited partners being deemed general partners and thus the partnership is considered to be a general partnership (section 48 PBNL).

162. In addition, every partnership is obliged, within 60 days from the date of its establishment, to submit the relevant application for obtaining a tax number and registering with the CTD. The number of partnerships registered with the CTD (4 900 at 31 December 2018) is considerably below the figure registered with the Registrar (6 568 during the review period). Cyprus indicates that this is because it counts only “active” partnerships for tax purposes in the CTD registry. Where a partnership has income, deductions or credits for tax purposes in Cyprus, such partnership should file with the CTD and accordingly ownership information should be available with the CTD.

163. Whenever a change occurs in any of the particulars registered, the Registrar must be notified of the change within seven days of the date of such change. As soon as the Registrar registers the changes in the particulars of partners, these changes are available on the e-register of General and Limited Partnership and Business Names for the public to access via the e-search facility.

164. Partnerships that have as a general partner a domestic or foreign company⁵² and/or a partnership established in Cyprus or in another EU country⁵³ (i.e. 15% of registered partnership) are required to submit annual returns with up-to-date information regarding the registered particulars (section 64A(1) PBNL). Audited financial statements are also submitted in such circumstances. No filing obligations are currently imposed for in other circumstances, including for partnerships whose general partners are (i) trusts managed in Cyprus or elsewhere or (ii) partnerships established outside the EU and therefore not all relevant partnerships may be subject to filing requirements. As a result of the compliance campaigns implemented in 2018-19 for partnerships having the obligation to submit an annual return, 151 partnerships filed at least one annual return for the years 2014-17 and as at 17 July 2020 a total of 654 annual returns have been filed, which has, according to the Cypriot authorities, raised the percentage of compliance for partnerships to 15.6%. **Cyprus is recommended to enhance the monitoring and enforcement of the obligations to file up-to-date ownership information with the Registrar.**

165. Some information should be available with the tax authorities. Partnerships registered with the tax registry are not expected to file Income Tax Return for Companies (TD4) but partners are expected to file individual tax returns as per their percentage of ownership based on the audited accounts of the partnership via the Income Tax Return for Individuals (TD1) and companies file TD4 forms which include a detailed breakdown of profit and loss and capital allowances attributable to each partnership interest held by the relevant company.⁵⁴ As a result of these requirements, information on the identity of partners would be available in respect of registered limited partnerships and general partnerships that carry on a business in Cyprus.

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52. Companies with limited liability, established in accordance with the Companies Law; companies of a member state of the EU; or companies established in third countries, which have the respective legal form of a company. Article 64A(1) of PBNL law, Part IV of the Companies Law, entitled “Annual Report” (articles 118 to 122) and “Financial Statements and Audit” (articles 141 to 169).
53. Partnerships which have been established in accordance with the General and Limited Partnership and Business Names Law or partnerships and private companies of another member state of the EU whose legal form is listed in the law. Article 64A(1) of PBNL law, Part IV of the Companies Law, entitled “Annual Report” (articles 118 to 122) and “Financial Statements and Audit” (articles 141 to 169).
54. Column 2.3.11 TD4 Form.

Oversight and enforcement of identity information

166. The role of the Registrar is to keep an updated register of entities and the Registrar also retains certain information for partnerships. The enforcement and monitoring regime in respect of partnerships was bolstered in 2018 with the introduction of the PBNL Amendment law, although it is still to be confirmed whether the penalty regime and amounts are dissuasive enough to ensure compliance.

- Any person failing to register a partnership or notify a change in the particulars of a partnership is liable on summary conviction to a default fine not exceeding EUR 50 for every day the failure continues, and the court can order that the information must be furnished to the Registrar.⁵⁵
- There are late filing fees in place for failures to submit information up to EUR 500.⁵⁶
- If a person wilfully furnishes false information, such person is liable to a fine not exceeding EUR 2 562 or to imprisonment for a term not exceeding two years, or both.⁵⁷
- The Registrar also has the power to strike off the register of partnerships any partnership which fails to submit any document required to be submitted by law, including an annual return.⁵⁸

167. Similar to the compliance campaign undertaken for companies, the Registrar has initiated a compliance campaign for partnerships regarding the requirement to file annual returns.⁵⁹

55. This was increased from EUR 42 following the introduction of section 61A(2) PBNL Amendment Law.

56. There is a late filing fee for i) failing to notify the Registrar of any change in the principal place of business address, the details of the individual partners and the corporate name and registered office of every corporation which is a partner. The fee is EUR 50 on the first day of non-compliance and a further charge of EUR 1 for every day the failure continues up to the maximum of EUR 250 for each infringement; ii) the late submission of annual returns and accounts not exceeding the amount of EUR 50 upon the first day of non-compliance and a further charge of EUR 1 for every day the failure to comply continues for the first six months, raising up to EUR 2 for every day thereon the failure to comply continues, up to the maximum amount of EUR 500.

57. Section 63 PBNL.

58. Section 9 PBNL Amendment Law.

59. As with companies, the new late filing fee regime has been postponed to December 2020 due to COVID-19.

168. Notwithstanding this regime, partnerships have not always been compliant with Cypriot filing requirement and although there are considerable monitoring and enforcement powers in place, the Registrar does not carry out monitoring or verification as regards the identity information retained and submitted in relation to partnerships. Accordingly, responsibility for the verification of ownership information primarily rests with the partnerships themselves unless an AML obliged service provider is engaged for the partnership.

169. At 31 December 2018, of the 6 568 registered partnerships 959 had a filing obligation (because they had a company or partnership as a general partner)⁶⁰ This number increased to 967 by 17 July 2020. Only 15.6% (151 out of the 967 partnerships with this obligation) of the registered partnerships with an obligation to submit an annual return with accounts filed one or more annual returns for the period (2014-17), as at 31 December 2018. No partnerships has been struck off the Register for reason of non-compliance to date. The Registrar is working with these partnerships to further complete their files where there are still annual returns missing. Cyprus expects that the material changes introduced in the PBNL law will significantly increase partnerships' compliance in the forthcoming campaigns. Cyprus has confirmed that as there is no obligation for a partnership to file a tax return, there are no available records from the CTD on partnership filings. Due to the deficiencies in the monitoring and enforcement regime as regards partnerships, **Cyprus is recommended to enhance the monitoring and enforcement of the obligations to file up-to-date legal ownership information with the Registrar and the CTD** to ensure that information therein is accurate and can be exchanged with EOI partners.

Beneficial ownership

170. Limited and general partnerships are not considered legal entities in Cyprus⁶¹ and consequently they will not be included in the Register of beneficial owners of corporate and other legal entities to be established and maintained by the Registrar, save for the new type of limited partnership referred to in the Recent Developments section above. However, if the partner in a general partnership or limited partnership is a Cyprus company, the beneficial ownership information of that partner will be kept in the Register of beneficial owners of corporate and other legal entities. At present, beneficial ownership information on partnerships in line with the Standard may not be available when they do not have an on-going relationship with a Cypriot AML obliged person.

60. As of 14 September 2020, this figure was 658 partnerships (having a corporate partner).

61. Section 5(2)(b) and section 47(6) of PBNL.

171. Obligated service providers under the PSMLTFL that are most related to partnerships would be banks when they have opened a bank account. The ASP Law also provides that the management of general or limited partnerships and the provision of general or limited partners in a partnership are considered to be administrative services for the purposes of that law (and therefore within the scope of AML rules). It is not known how frequently these services are provided in Cyprus, although Cyprus notes that, as in the case of legal entities, this provision of partners as a service can be undertaken only by licensed and regulated ASPs. It might be possible to reconstruct the beneficial ownership of partnerships, especially when all persons involved are natural persons, but a list of beneficial owners is not kept as such and it is unclear how the authorities would identify them all in situations that are not straightforward, for instance when a person exercises control through other means than being a partner. When partners are Cyprus corporations, they would also need to know their beneficial ownership structure, to the extent mentioned under A.1.1. The developments on beneficial ownership on companies generally apply where the client is a partnership.

172. In terms of definition of beneficial ownership of partnerships under the AML framework, the definition in the PSMLTFL first addresses legal entities (part (a)), then trusts (b) and then “legal arrangements similar to trusts” (c) and notes that in such cases, the beneficial owner is the “natural person holding equivalent or similar positions to the persons referred to in [the definition of a beneficial owner of a trust]”. While this should cover all relevant persons relevant for a trust as per paragraph 199 below, the lack of a specific dedicated definition for beneficial owners of partnerships and the merging of the definitions for trusts and partnerships, given how different they are, in the AML regime is cause for concern. It is noted that the directives of the AML supervisory authorities treat trust arrangements separately to partnerships and provide further guidance on how beneficial owners should be identified, but they do not consistently meet the standard as a definition of partnerships is not specified.

173. The ICPAC Directive and CBA Directive provide similar guidance as regards the identification and verification process for partnerships. Obligated persons should identify the principal partners and persons with significant control in line with the requirements for natural persons (such as identification by name etc.). The ICPAC Directive notes that for clients which are functioning under a partnership agreement, obliged persons may need to adopt a hybrid approach, depending on the nature (physical or legal) of the partners involved. Obligated persons are required to obtain a thorough understanding of the affairs and participation in the partnership, identifying and verifying any partners with significant roles in the partnership, for example general partners that may have the right to represent and/or manage

the partnership.⁶² The CBC Directive and CySec Directive provide similar guidance i.e. that in the cases of accounts of partnerships, the identity of their partners and beneficial owners and of all persons duly authorised to operate the accounts, should be verified in line with the procedures applied for natural persons. Furthermore, in the case of partnerships, the original or a certified copy of the partnership's registration certificate should be obtained. Banks are required to obtain documentary evidence of identity.⁶³

174. Similar to Element A.1.1 above, foreign partnerships operating in Cyprus may engage an AML obliged service provider. A foreign partnership carrying on a business in Cyprus will usually have a business relationship with an obliged entity (e.g. bank, lawyer, accountant), which means that the information on the partners and beneficial ownership of this partnership will be present in Cyprus through an AML obliged entity. As there is no restriction for partners as to whether their residential address or registered office is in Cyprus or abroad and where the general partner is a foreign company with a registered address abroad, the details as regards the identity of the beneficial owner must be obtained by the accountant and auditors for the preparation of audited accounts in Cyprus.

175. Although the AML supervisory authorities do provide some guidance, there remains no specific definition of the beneficial ownership of a partnership. **Cyprus should ensure that the beneficial owners of partnerships are required to be determined in accordance with the form and structure of each partnership so that beneficial ownership information is available in respect of all partnerships that have income, deductions or credits for tax purposes in Cyprus, carry on business in Cyprus or are limited partnerships formed under the laws of Cyprus.**

176. Oversight and enforcement of AML obliged persons is the same as indicated under section A.1.1.

Availability of partnership information in EOI practice

177. Cyprus has indicated receiving no requests for exchange of information on the identity of partners or beneficial owners of partnerships.

A.1.4. Trusts

178. The creation of trusts in Cyprus is generally governed by common law, supplemented by the following laws in Cyprus (see the 2015 Report for more details):

62. 5.5.4 and 5.5.5 ICPAC Directive and E.5.4 and E.5.5 CBA Directive.

63. 4.13.6.

- Trustee Law: enacted in 1955, based on the English 1925 Trustees Act, regulates the functioning of trusts, in addition to the specific terms stipulated in the Trust Deed of each trust.
- International Trusts Law: concerns international trusts and builds on the existing Trustees Law.
- Hague Convention on the law applicable to trusts and on recognition thereof.
- PSMLTFL and ASP law include obligations regarding the provision of trust services.

Requirements to maintain identity information in relation to trusts

179. The ASP law governs the management or administration of trusts, including the undertaking or provision of a trustee (wherever the trusts are set up or established) and the management, investment or marketing of the assets of a trust. ASP Law licensed persons are obliged to make sure that a trust subject to Cyprus law which has at least one trustee who is resident in Cyprus is included in a trust register maintained by one of the supervisory authorities.⁶⁴

180. Natural persons may provide administrative (including trust) services without authorisation under the ASP Law, provided such services are not advertised or used to attract clients or offered or provided to persons other than those specifically referenced in ASP Law. This includes the provision of trustee services by a settlor or where all the beneficiaries of the trust are the service provider or the beneficiary's spouse or family (up to fourth degree of relation) and the undertaking of trustee duties in a trust created under a will of a natural person.⁶⁵

181. Companies can provide trust services without requiring ASP Law authorisation (again provided such services are not advertised or used to attract clients or offered or provided to persons other than those specifically referenced in ASP Law) where such company is owned by a natural person and or their spouse or family (up to fourth degree of relation), all the beneficiaries of the trust are the natural person referred to above and the company

64. Article 3(7) and article 5(2) ASP Law – Section 5(2) of the ASP Law provides that a trustee is obliged to make sure that at all times a trust subject to Cyprus Law has at least one trustee who is a Cyprus resident. According to section 26 of the ASL Law, a person in violation of sections 5, 24 or 25A is guilty of a criminal offence. Also, sections 27 and 29 provide for administrative and civil sanctions.

65. See sections 3, 4 and 5 ASP Law.

has as a secretary either an “eligible person”⁶⁶ or a natural person resident in Cyprus (with certain conditions).

182. Section 3(7) of the ASP Law provides that any person providing the management and administration of trusts – either ASP licensee or not – should have accurate and updated information on the following categories, where and if these are available: “(a) trustees; (b) settlors; (c) beneficiaries or information on the class of beneficiaries including the beneficiaries to whom any distributions have been made pursuant to the trust; (d) protector, where applicable; (e) investment advisor, accountant, tax consultant, where applicable; (f) the activities of the trust.” The person providing the trust services must keep this information in Cyprus and make the information available for disclosure to and inspection by the Cyprus authorities at all times.

183. Although non-professional trustees may provide certain trust services in Cyprus (in particular, it is understood, to family members) without supervisory scrutiny, the ASP Law and PSMLTFL should require the retention and verification of identity information via obliged entities such as banks. Cyprus should therefore monitor non-professional service providers acting as trustees to ensure that there is no gap as regards the availability of identity ownership (see Annex 1).

Beneficial ownership information on trusts

184. The ASP Law and the PSMLTFL establish requirements for AML-obliged persons providing trust services to identify and collect beneficial ownership information for trusts. There are two categories of obliged persons in this regard:

- independent legal professionals who create, operate or manage trusts or other similar structures

66. Under the ASP Law, only “eligible persons” may provide administrative services unless specified otherwise. Such persons are (a) “exempted persons” (i.e. lawyers, certain partnerships, certain subsidiary companies which are regulated by the CBA and accountants, certain partnerships, certain subsidiary companies licensed and regulated by ICPAC) and (b) “licensed persons” (i.e. company holding an authorisation under the ASP Law). As exempted persons are exempt from most of the provisions of the ASP Law, the ASP Law generally only applies to licensed persons and there is a separate regime for CBA and ICPAC licensees (ICPAC Regulation covers a number of provisions provided by the ASP Law which apply to all ASP licence holders). Natural persons employed by an eligible person are exempted from the ASP Law only to the extent they provide administrative services in the course of exercising the work assigned to them by their employer.

- natural or legal persons acting as, or arranging for another person to act as, a trustee or a trustee of express trusts or similar legal arrangement.⁶⁷

185. Where such obliged persons fall within these categories, CDD and identification procedures must be followed in respect of every person to whom such administrative services are offered (section 60 PSMLTFL). Such procedures include gathering appropriate, reliable and independent information to verify the identity of the obliged person’s customer, i.e. the trust for these purposes, on the basis of documents, data or information obtained from a reliable and independent source and identifying the identity of the trust’s beneficial owner and taking reasonable measures to verify that person’s identity so that the obliged person is satisfied that it knows who the beneficial owner of the trust is. Obligated persons are also required to take reasonable measures to understand the ownership and control structure of trusts and to assess and, depending on the case, obtain information on the purpose and intended nature of the business relationship.

186. The definition of beneficial owner set out in the PSMLTFL follows the Standard. The definition clarifies that the term “beneficial owner” is defined as meaning any natural person who ultimately owns or controls the customer ... and includes at least ... in the case of trusts: (i) the settlor; (ii) the trustee or commissioner; (iii) the protector, if any; (iv) the beneficiary, or where the individual benefiting from the legal arrangement or legal entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means.

187. The Directives of the AML Supervisory Authorities also provide some guidance on identification and beneficial ownership information obligations regarding trusts.

- a. The CySEC Directive, point 10 of the 5th Appendix, includes specific customer identification measures in relation to trusts.
- b. The CBA Directive and ICPAC Directive also provides for the collection of information on trusts and other similar legal arrangements and stipulates a non-exhaustive list of information to be collected for the KYC/CDD process, including the complete understanding of the client’s business and economic purpose.

188. From a review of the legal framework, identity and beneficial ownership information in respect of trusts is generally available. Although the supervisory approach is to some extent fragmented, as per Element A.1.1 in

67. Article 2A of the PSMLTFL Subsection (c)(ii)(ee) and Subsection (d)(iv).

respect of the retention by authorities of up-to-date information, information is available where AML regulated services are provided in respect of trusts by both the obliged entities. The AML Supervisory Authorities who retain information in their Trust Registers in respect of trustees, settlors, protectors, beneficiaries, any person holding effective control over the trust together with information on the activities of the trust and information on the investment advisor, accountant and tax consultant for the trust.⁶⁸

189. Cyprus has further imposed obligations in respect of trustees whether they are acting in a professional or personal capacity. Article 61B of the PSMLTFL⁶⁹ imposes obligations on trustees or commissioners of any express trusts to obtain and hold adequate, accurate and up to date information on beneficial ownership regarding the trust including the identity of the settlor, trustee or commissioner, protector, beneficiary or class of beneficiary and any other natural person exercising effective control over the trust. The obligations apply to “other types of legal arrangements with a structure of functions similar to trusts” (article 61B(7) introduced in 2018).⁷⁰

Oversight and enforcement

190. The provision of administrative services to a trust in Cyprus without authorisation is a criminal offence (section 26 of the ASP Law). The ASP Law (article 27) and the Directives of the AML Supervisory Authorities also set out a penalty regime (see section A.1.1) as each of the AML Supervisory Authorities supervises each licensee type. No separate sanctions or penalties have been imposed to any licensed professional offering trustee services.

191. The law imposes obligations on non-professional trustees, owing to the nature of the role, but non licensees are not supervised. The Cyprus authorities indicate that the existence of trusts is limited to Cypriot families. Although this may be the case (and therefore materiality may be low), this statement is not supported by evidence and accordingly, Cyprus should monitor the provision of trust services by non-professional trustees to ensure that

68. Article 25A Administrative Services Law and article 3(7).

69. Article 61B provides that a trustee of any express trust obtains and holds adequate, accurate and up-to-date information on beneficial ownership regarding the trust, which shall include the identity of: (a) the settlor; (b) the trustee; (c) the protector; (d) the beneficiary or class of beneficiary; and (e) any other natural person exercising effective control over the trust.

70. There are other sources of law regarding non-professional trustees. If a trust is involved in the transfer of land/immovable property, the trust must be registered at the Department of Lands and Surveys, submitting also the trust deed. All trusts opening a bank account in Cyprus for a Cyprus trust must provide evidence of registration of the trust to the bank (CBC Directive).

beneficial ownership information is available in respect of all express trusts which are governed by the law of Cyprus, administered in Cyprus or in respect of which a trustee is resident in Cyprus (see Annex 1).

Availability of trust information in EOI practice

192. Information on trusts was sought by two peers during the review period, and in both cases peers were satisfied with the information exchange with Cyprus.

A.1.5. Foundations and other relevant entities and arrangements

193. The Cypriot legal and regulatory framework does not provide for the establishment of foundations (but providing administrative services to foundations is authorised).

194. Cyprus has traditionally had an active co-operative societies sector and in recent times has fostered a developing funds industry. A summary of these other entities and arrangements is set out later in this section.

Type	Description	Governing law	Number as on 31 December 2018	Source
Co-operative society	ICA definition ^a	Co-operative Societies Law Co-operative Societies Rules	67 (15 of which are “inactive”)	Authority of Co-operative Societies Register of Co-operative Societies
Fund	AIFMs (Internally Managed)	AIFML 2013	1	CySEC internal registry
Fund	AIF Fund (Internally Managed)	AIFL 2018	1	CySEC internal registry
Fund	AIFLNP (Internally Managed)	AIFL 2018	62	CySEC internal registry
Fund	UCITS (undertakings collective investment in transferrable securities)	Open-Ended Undertakings for Collective Investment (UCI) Law of 2012	9	CySEC internal registry
Fund	AIF (Externally Managed)	AIFL 2018	27	CySEC internal registry
Fund	AIFLNP (Externally Managed)	AIFL 2018	38	CySEC internal registry

Note: a. An autonomous association of persons united voluntarily to meet their common economic, social, cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

195. Funds can be set up as (i) a limited liability company under the CL (and operate as a Fixed or Variable Investment Company in accordance with the provisions of the AIFL); (ii) a partnership, in accordance with the

provisions of the Partnership Law; and (iii) a Common Fund⁷¹, in accordance with the provisions of the AIFL. It is understood that funds operate in the same manner as companies in relation to the identification and verification of beneficial owners. The definition of “beneficial owner” as mentioned in section 2 of the PSMLTFL also applies to funds. Guidance regarding specific customer identification measures for funds is provided in CySEC Directive⁷² and a CySEC circular notes that funds must adhere to EU risk factor guidelines.⁷³ CySec has confirmed that from their experience, no material or serious weaknesses, or deficiencies, were identified as regards the identification of beneficial owners of funds.

196. The co-operative societies sector in Cyprus has significantly changed over the last few years. As of 1 July 2017, all co-operative credit institutions were merged with the Co-operative Central Bank (“CCB”) and the business operations of CCB were then acquired by Hellenic Bank. On 3 September 2018, the CBC revoked the licence of the CCB to operate as a credit institution and its name was changed to the Co-operative Society of Asset Management (also known as “SEDIPES”). The purpose of SEDIPES is mainly to manage non-performing loans which were not acquired by the Hellenic Bank. The 67 registered co-operative societies listed above do not include 25 holding co-operative societies, 19 of which are inactive and hold a small number of shares of SEDIPES.

197. All Co-operative Societies are required to be registered with the Authority of Co-operative Societies. Article 12A(7) of the Co-operative Societies Law provides that registered co-operative societies must keep a register (“Co-operative Societies Register”) in which the identity data, address and number of titles each person owns are recorded for every category of shares or other titles or instruments. Members of co-operative societies can only be (i) co-operative societies registered in Cyprus and (ii) natural persons who reside at or own immovable property within the area of operations of the

71. A Common Fund is neither a company or a partnership. A Common Fund is a form of Collective Investment Scheme based upon contractual law. Common Funds are not separate legal persons and therefore they are always under the management of a regulated Fund Management Company. Common Funds are included in the European Directive 2009/65/EC on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS),.

72. Fifth Appendix at 7.

73. Joint Guidelines under articles 17 and 18(4) of Directive (EU) 2015/849 on simplified and enhanced customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions.

co-operative society. Cypriot law does not require that natural persons should be only Cypriot. Therefore, members could also be non-Cypriot natural persons who reside or own immovable property within the area of operations of the co-operative society.

198. In addition to the law, article 14 of the Co-operative Societies Rules⁷⁴ state that every registered co-operative society must keep a “Members Register” which includes identity details of each member, i.e. where the member is (a) a natural person, the name, identity card number, age, occupation and address and shares possibly held by the person and (b) a registered co-operative society, the name, number of the registration certificate, address and shares held by the co-operative society. Every six months, registered co-operative societies are required to send the list of members who were registered or deleted in the previous six months to the Commissioner of the Authority of Co-operative Societies.

199. The term “beneficial owner” is defined as meaning any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted and includes at least: ... (c) in the case of legal entities, such as foundations, and legal arrangements similar to trusts, the natural person holding equivalent or similar positions to the person referred to in paragraph (b). Paragraph (b) relates to trusts as presented in A.1.4. This would cover all relevant persons. **The same issues as identified under A.1.1 apply to other legal persons** (paragraphs 110 to 112).

A.2. Accounting records

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

200. The Cypriot legal and regulatory framework generally contains adequate requirements for all relevant entities and arrangements to keep reliable accounting records and underlying documentation for at least six years. However, the retention of records for a minimal period of five years may not be ensured for companies that undergo a court-ordered winding up process. The requirements are set out in the tax regime and the Companies Law together with the specific rules for partnerships, co-operative societies and trusts.

201. At the time of the 2015 Report, Cyprus had just introduced comprehensive accounting record obligations for certain trusts and for companies

74. Co-operative Societies Law is the primary legislation and the Co-operative Societies Rules is secondary legislation issued by virtue of the Co-operative Societies Law.

managed and controlled abroad and was recommended to monitor the practical implementation of those obligations. This recommendation remains. More generally, although robust monitoring and enforcement rules were in place, at the time of the 2015 Report the implementation required improvement. Although Cyprus has made progress with respect to compliance rates with filing annual returns to the Registrar, and has noted that a culture of timely compliance has been encouraged and fostered by compliance campaigns, and changes to the law over time, delays with attaching audited accounts to annual returns has led to some issues and the compliance rate for filing tax returns could be improved. Cyprus has noted that the reason why delays are evident in the compliance of companies with filing accounting obligations is because it takes a long time for auditors to prepare and audit accounts, especially when there is a bulk of pending years to prepare. There is also some concern regarding the enforcement of record retention rules in respect of companies who redomicile out of Cyprus. As a result, the 2015 Report recommendations have been retained with some amendments to ensure that adequate monitoring and enforcement is taking place.

202. The recommendations, determination and rating are as follows:

Legal and Regulatory Framework: In place but needs improvement

Deficiencies identified/ Underlying Factor	Recommendations
A court may allow accounting records to be destroyed in under five years in a court-ordered winding up.	Cyprus is recommended to update its legal framework to ensure that persons granted custody of accounting records of a company in a court-ordered winding up must retain those records for at least five years.
Companies may redomicile out of Cyprus and there are no legal obligations to support the availability of full accounting records and underlying documentation in Cyprus for a minimum period of five years. Financial statements and tax returns will nonetheless be available with government authorities and some transactional records will be retained by AML obliged persons, including auditors.	Cyprus is recommended to ensure that all accounting information is consistently available in practice in relation to companies that redomiciled out of Cyprus for a minimum period of five years.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying Factor	Recommendations
<p>Although the availability of accounting information has significantly improved since 2015, monitoring and enforcement of compliance with filing obligations are yet to be fully functional, in particular in relation to partnerships. There are discrepancies between the numbers of companies registered with the Registrar and the tax authorities and the treatment of companies considered to be inactive. Although following strike off from the Companies Register a company ceases to exist for Cypriot law purposes, the large numbers of companies for which the strike off process has been halted (79 000) is cause for concern, as they may not file required accounting documentation. It is also not clear whether accounting information is filed on time with the Cypriot authorities, irrespective of the tax filing year, which may cause issues regarding the availability of up-to-date accounting information.</p>	<p>Cyprus should adequately monitor and enforce the obligations to keep accounting information and file audited accounts with the Registrar of Companies and the tax authorities to ensure the availability of accounting information.</p>
<p>No monitoring and enforcement was performed on the comprehensive accounting record keeping obligations introduced in 2013. on certain trusts as well as on companies incorporated in Cyprus but managed and controlled in another jurisdiction.</p>	<p>Cyprus should monitor the practical implementation of the obligations to keep comprehensive accounting information in Cyprus.</p>

A.2.1. General requirements

203. In Cyprus, accounting records must be retained by companies, partnerships, trustees, co-operative societies and service providers and submitted to Cypriot authorities through financial statements, which are required pursuant to company law, and tax returns, which are required under tax law. The requirement that accounts must be audited provides additional comfort as regards availability of accounting information.

204. Accounting books and records are generally required to be kept for six years, and this may be longer in certain instances. For example, if a matter is still under examination for a tax year beyond the retention periods, the books and records may be required to be kept until the matter is settled. Cyprus has confirmed that there were EOI cases during the review period where taxpayers and third parties retained information for longer period and were able to co-operate with the CTD.

Tax Law

205. All companies, partnerships (where the general partner is a (i) company or a (ii) partnership within the EU including Cyprus), corporate trustees and co-operative societies which are resident in Cyprus or deriving an income from Cyprus and overseas companies⁷⁵ which have a branch in Cyprus are obliged to prepare and file audited financial statements.⁷⁶ Statutory audits require a statutory auditor or audit firm approved by the Auditors Law to be engaged.⁷⁷ As the only approved body of auditors under Cypriot law, ICPAC members, carry out the required audits. The responsibility and the power to monitor auditors is assigned to ICPAC through the delegation agreement between ICPAC and the Cyprus Public Oversight Board. In accordance with the Auditors Law, ICPAC has outsourced this function to the ACCA since 2005.

206. In addition, all companies, partners, trustees (i.e. corporate trustees and individuals acting as trustees) and co-operative societies are obliged to submit tax returns on an annual basis even if managed and controlled outside Cyprus or deriving passive income only. The profit and loss account and balance sheet information (as per the audited accounts) are filed as part of the company tax return.

207. It is possible for the same person (auditors can be natural persons or legal entities under the definitions of the Auditors Law) to be both the auditor of a company and its accountant, conditional to satisfying the provisions of the ICPAC Code of Ethics (developed by the International Ethics Standards Board for Accountants (IESBA)), e.g. separate individuals should

75. Section 350 Companies Law for Overseas Companies, section 152A Companies Law for Cyprus Companies.

76. Article 152A Companies Law provides that audited financial statements must be prepared and filed and a registered auditor must perform the audit. The authorisation of an approved audit body to perform the statutory audit is set out in the Auditors Law N.53 (I)/2017.

77. Trusts (i.e. the legal arrangements) are not required to prepare audited financial statements under the law, although Trustees which are companies are required to prepare financial statements.

be responsible for each function to avoid the risk of self-review or conflict of interest. This practice may be prohibited by the policies of some Cypriot accounting/audit firms. While this practice raises concerns regarding potential conflicts of interest, Cyprus does not consider that this is contrary to EU law or policy.⁷⁸

Company Law

208. The directors of a company are responsible for ensuring that proper books of account are kept as deemed necessary for the preparation of financial statements (section 141(1) CL). Such books of account must give a true and fair view of the state of the company's affairs (financial position) and must explain its transactions (section 141(2) CL). Directors of Cyprus Companies and Overseas Companies must arrange for a complete set of financial statements to be made as prescribed by International Financial Reporting Standards as developed by the International Accounting Standards Board and adopted by the European Union for each company ("Financial Statements"), which may be consolidated.

209. Financial Statements are required to be presented by the board to the shareholders at the latest 18 months after the incorporation of the company and subsequently at least once in every calendar year, and periodical statements are permitted (section 142 Companies Law). A report by the directors must be attached to the Financial Statements ("Directors Report") which must include information on changes in the nature of the business or any takeovers or mergers (section 151).

210. Companies are required to have their financial statements audited and a report of the Auditor ("Auditor Report") is also attached to the financial statements. All companies are required to submit audited financial statements to the Registrar alongside their Annual Returns without exception.⁷⁹

211. As noted above in A.1.1, redomiciliation in to and out of Cyprus is possible under Cypriot law. As regards companies which redomicile out of Cyprus (a "former Cyprus company"), there are no legal obligations for directors and officers to maintain the books and records of the company in Cyprus following redomiciliation. It is possible that accounting records

78. The EU directive and regulations governing auditors were enacted in 2017 and the IESBA Code of Ethics requirements have been incorporated in the national Auditors Law. Separate rules for public interest entities exist under EU Audit Directive 2014/56/EU and the EU Regulation 537/2014.

79. See Paragraph 162, 2013 Report. Statutory obligation under PBNL (section 64A) and sections 141A and 152A(1)(a) Companies Law. Prior to 2016, there was an exception for small sized companies which has since been abolished.

will be moved to the new location where the company relocates for business reasons but any requirement in this respect would depend on the law of the jurisdiction where the company is transferring its seat to. The company must submit all pending annual returns (if any) prior to redomiciliation. As a result, financial statements of a former Cyprus company (up to the redomiciliation date) are available both with the Registrar and the CTD and auditors are obliged to keep their records for audits performed on a company for five years. However, the retention of full accounting information and underlying documents (such as contracts, invoices) for a minimum period of five years is not ensured under Cyprus law.

212. In relation to companies which redomicile in to Cyprus, following the issuance of the certificate of continuation by the Registrar, a company is considered a Cyprus Company and must submit the annual returns and financial statements as the company law regime provides. As noted in A.1.1, the Cyprus' Registrar ensures that the company applying for redomiciliation into Cyprus has been struck off the register in its country of origin before issuing the certificate of continuation (s. 354(G) CL). There is no requirement for accounting information and underlying documents for the periods prior to the redomiciliation of the company in to Cyprus be transferred to Cyprus. It is possible, however, that records may be available as they may be required to facilitate the operations of the company but this is not required in law.

213. It was noted during the onsite visit that redomiciliation is becoming more frequent. Cyprus' Competent Authority dealt with one case regarding a former Cyprus company, and according to peer input, information was not available in relation to one case (see paragraph 238). There were no requests concerning a company redomiciled to Cyprus during the review period. **Cyprus is recommended to ensure that full accounting information is consistently available in practice in relation to companies that redomiciled out of Cyprus for a minimum period of five years, in line with the standard.**

Partnerships, trusts and other

214. Partnerships are required to keep books of account to exhibit or explain their transactions and financial positions. Although trusts do not have a specific obligation to keep account records, trustees do, in application of tax law and AML law.

215. Co-operative societies are also obliged to keep accounting records which are audited under a specified audit regime. Every registered co-operative society is obliged to have its accounts ready for audit within three months after the end of the financial year and every registered co-operative society must ensure that audited accounts, an annual report and an audit report are

made available to their members and the public at their registered office and submitted to the Commissioner of Co-operative Societies.⁸⁰

Companies that ceased to exist and retention period

216. Cypriot tax law contains an explicit requirement in respect of companies and partnerships that books and papers required to be kept, together with underlying documentation, must be retained for six years (section 30 ACTL).

217. The Companies Law also contains an obligation for the directors of Cyprus Companies to keep accounting records for six years (section 141 CL). As noted in Element A.1 above, a company, or the liquidators or any person to whom the custody of the books and papers has been committed is obliged to keep them up to five years from the date of dissolution following winding up (section 320 CL). Books and paper are defined in the Companies Law as including accounts. A gap has been identified, however, in relation to the retention of records for companies that undergo a court-ordered winding up process, as the court may authorise the destruction of records before the period of five years (see A.1.1). **Cyprus is recommended to update its legal framework to ensure that persons granted custody of books and papers of a company in a court-ordered winding up must retain those records for at least five year.**

218. In addition to the requirement that accounting information is kept by companies themselves, service providers and the Registrar also hold information. To the extent that a company engages an AML obliged person (e.g. a regulated auditor), relevant evidence and records of transactions which are necessary for the identification of the transaction (which includes some accounting records) need to be held for a period of five years after the end of the business relationship or after the date of an occasional transaction (article 68 PSMLTFL). Financial statements are also maintained by the Registrar. Electronic records are kept indefinitely and paper records are moved to the State Archives after the period of revival of a struck off company (i.e. 20 years from the date of strike off has expired).⁸¹

219. As section 68 of the PSMLTFL mandates that obliged entities (including auditors) retain client records for five years after the end of the

80. See 2013 Report paragraphs 141-143 for further detail. article 15 of the CSR and Articles 19 and 57A CSL provide that annual accounts and statements must be prepared and published in accordance with IFRS and compulsory audit of the annual accounts must be conducted by a certified auditor.

81. Tax returns have been submitted electronically since 2011 for companies and 2016 for individuals. For tax returns before these tax years, the retention policy is generally 13 years.

business relationship or following completion of an occasional transaction, some accounting records for such companies should be retained. If the companies hold assets, an insolvency practitioner who is licensed would have had the responsibility to dissolve the company and, as a result, would be responsible for retaining information on the assets and providing the information to the Cypriot authorities upon request. The company would need to undergo an audit until it is struck off.

A.2.2. Underlying documentation

220. Under the ACTL, all persons obliged to submit tax returns must retain supporting documentation for six years (section 5 ACTL).

221. Under the Companies Law, proper books of accounts necessary for the preparation of Financial Statements (i.e. presenting an accurate and fair picture of the affairs of the company as well as an explanation as to its transactions) must be retained at the registered office of the company or at such other place as the directors think fit and must be open to inspection by directors (section 141(3) CL). If the books are not kept in Cyprus, there must be accounts and returns disclosing the financial position of the business of the company kept in Cyprus at six month intervals and will enable the Profit and Loss Account or Income and Expenditure Account balance sheet and relevant documents to be prepared.⁸²

Oversight and enforcement of requirements to maintain accounting records

222. Accounts are generally prepared pursuant to international accounting standards and the international financial reporting standards (“IFRS”) (together “International Accounting Standards”). Any person who fails to keep accounting books and records or who is in contravention of the provisions of the CL or ACTL is liable to a range of sanctions.⁸³ It is a criminal offence for company directors to fail to take reasonable steps to secure compliance with the provisions requiring proper books of account to be made and sanctions range from a fine of EUR 1 709 to imprisonment. There are also significant penalties set out in the co-operative societies regime for violation of the rules of the CSR or CSL (EUR 10 000 or EUR 30 000 for repeat offences).

223. Section 9 of the PBNL Amendment law provides for the power of the Registrar to strike off the register any partnership which fails to submit

82. Section 141 CL provides that accounts must be sent to, and kept at a place in, Cyprus and be at all times open to inspection.

83. See paragraphs 140 to 163 of the 2013 Report.

any document required to be submitted by law (e.g. annual return and accounts). Consequently, as of December 2018, as is the case for companies, the Registrar requires partnerships to either comply with their statutory requirement to file an annual return with accounts or face strike off from the Register. Given that the compliance rate for partnerships is 15.6%, this does not appear to have been utilised in practice (see paragraphs 166 to 169 above).

Enforcement of filing obligations with the Registrar and Tax authorities

224. Since the 2015 Report, the Registrar has implemented three large-scale compliance campaigns regarding the requirement to file annual returns, as noted in paragraph 81 above. Notification letters are sent to the company's registered office address, the company's name is published in the Gazette for a 3-month notice before strike off and, if non-compliance continues, the relevant company is struck off and dissolved. The number of Cyprus companies struck off during the review period was 74 790. Since the beginning of the compliance campaigns, 102 630 limited liability companies have been struck off the Companies Register (August 2014 to 31 December 2018). This represents about a third of registered companies.

225. Compliance with annual returns filings has improved significantly over time, although, as noted in Element A.1 above, failures to file annual returns have often resulted from non-compliance by a number of companies with the obligation to file audited accounts with the annual return, which Cyprus considers results from failures to prepare audited accounts. As a result of the compliance campaigns, 85.5% of the registered companies with an obligation to submit accounts with their annual return (192 259 companies as of 22 July 2020) have filed one or more accounts for the period (2015-19), in comparison to 80.7% in the period (2008-14). The average yearly compliance (i.e. the percentage of companies that complied with the obligation for the relevant year) during the review period was 67%.⁸⁴ This is an increase compared to the 2015 Report, as the compliance rate was 53% for the years 2008-14. The percentage of companies that complied with the obligation for the relevant year was 64.64% (2008-14) and 67.79% (2015-19). However, filings are still not occurring on time and every year and the interaction between rates for filing accounting information and the issues Cyprus has encountered regarding failures to file annual returns continues. Cyprus has noted that this figure (192 259) is the number of registered companies with

84. 67.5% for the period 2008-18 (and 67.8% for the period 2015-19). Cyprus has noted that the average percentage of yearly compliance is the most precise indication of the level of compliance per year which, in addition to the percentage of compliance across a relevant period, is a clear indication of the culture of compliance that is being built among companies.

an obligation to submit an annual return with accounts as at July 2020. The number is not the same for each year of the reference period as, during the course of the ten years there were new registrations and companies under strike off. A company registered in 2012 would have an obligation to submit annual returns after 18 months from its registration but still it is taken into consideration for the extraction of the figures. The relevant formula (“at least one annual return for the respective period”) is used to describe the tendency of compliance with the relevant obligation across the reference period and it does not mean that the companies have submitted only one return.⁸⁵

226. The CTD has also started to take a stricter approach to enforcement, imposing administrative fines for late filings, initiating criminal proceedings and cleansing the CTD taxpayer database. As noted above at paragraph 77, there are discrepancies between the numbers of companies registered with the Registrar and the tax authorities (there is a difference of 13 754 companies between the Companies Register and the CTD register) and the treatment of companies considered to be inactive between the two authorities, which is a cause for concern. In part to ameliorate this issue, between 2016 and 2018, 30 000 companies were reviewed to be removed from the CTD database following their selection for striking off from the Companies Register. Cyprus has noted an ongoing attempt to obtain information from certain banks regarding bank accounts held by those companies to try to strike off in the first instance companies which have not retained bank accounts in Cyprus. If these companies also have no other assets, the dissolution process is simpler than the liquidation of any remaining assets. The total number of companies dissolved or liquidated as a result of these actions is set out in paragraph 71 above.

227. The penalties imposed for late or no submission of company tax declaration/return during the peer review period were as follows:

Assessment year	Number of cases	Total penalty (EUR)
2016	20 503	1 970 351
2017	23 165	2 201 848
2018	20 603	2 349 407

85. Cyprus has noted as at 23 September 2020, and on the basis of the number of registered companies at the end of the two review periods (i.e. as at 31 December 2014 and 31 December 2019) with an obligation to submit an AR with accounts (excluding companies in the process of strike off, with an application for strike off, under liquidation and new registration), the percentage of companies that have filed one or more AR across the reference period is (2008-14) 80.7% and (2015-19) 85.5%.

228. During the peer review period, the CTD initiated several compliance campaigns with respect to non-compliant individuals and legal entities based on their filing records and other information. With close monitoring, 60% of the contacted taxpayers complied with their filing obligations.

229. In contrast, only 15.6% of the registered partnerships with an obligation to submit accounts with their annual return with the Registrar have filed one or more annual returns for the period (2014-17), as at 31 December 2018. The Registrar has been working with these partnerships to further complete their files.

230. While compliance with filing obligations is improving, it remains that entities are required to comply with their filing obligations annually, not occasionally. Although the authorities have taken initiatives to ensure, as recommended in the 2015 Report, that all entities and arrangements comply with accounting obligations, there remains some work to be done.

Tax audits

231. The CTD routinely conducts audits in respect of accounting information filed. The number of audits conducted by the CTD for the years 2016 to 2019, including field and desk audits, for corporate (legal entity) taxpayers is as follows:

Year	2016	2017	2018	2019
Number of audits	53 767	50 895	78 047	73 610

232. The breakdown of this figure for 2018 and 2019 respectively is: (a) issue oriented direct taxation 31 609 and 37 583, (b) issue oriented VAT 45 507 and 35 138, (c) large taxpayers office VAT and direct tax 896 and 839 and (d) fraud investigation 35 and 50.

233. As there are 203 841 “active” legal entities for tax purposes, approximately 20% of legal entity taxpayers are audited each year by the CTD (see paragraph 77 for a discussion on the meaning of “active” for the purposes of the CTD records which is not explicitly linked to activity for tax purposes).

234. Audit cases are selected from risk analysis conducted by the CTD. Lately the CTD has focused on the construction industry and conducting audits on companies involved in construction works. For large taxpayers, the CTD has a dedicated large taxpayers office dealing with 250 large taxpayers who are all desk audited by the CTD but occasionally a field audit will also take place. The criteria for risk assessment includes the tax refunds requested, the number of employees, the submission of tax returns rates and abnormalities. Cyprus indicates that while audited accounts are not filed

with the CTD they are often requested for tax audit purposes. It is not clear what the results of the tax audits conducted have been for the periods above, other than the breakdown of the issues (i.e. direct tax was the most common audit in 2019 (37 583 cases) whereas VAT was the most common in 2018 (45 507 cases), then large taxpayers office (896 in 2018 and 839 in 2019) and then fraud investigation (35 in 2018 and 50 in 2019).

235. Bringing a full culture of compliance is still work in progress. As noted in A.1.1, there are currently a large number of companies for which the strike off process has been halted (79 000). This is cause for concern as they may continue to do business and not file required accounting documentation. This includes companies which are being struck off due to failures to file accounting information. Cyprus considers that strike off is a powerful deterrent for companies wishing to remain on the Companies Register and this is clearly manifested by the significant increase in the percentage of companies compliance, since the 2015 Report. However, enforcement does not yet appear to be sufficient to ensure compliance.

Availability of accounting information in EOIR practice

236. During the review period, accounting information was sought in 2 313 out of 2 508 EOI requests received by Cyprus. Cyprus has noted that it exchanges both accounting records which are specific to transactions and accounting information filed with the authorities. Peers have generally obtained such information in straightforward cases but a small number of peers have encountered some difficulties where companies have not complied with legal obligations or are no longer operating in Cyprus or struck off and dissolved. Cyprus has noted that, in respect of the availability issues highlighted above, even in cases where financial statements are still under preparation and not filed, the Competent Authority does exchange accounting information and documentation regarding the transactions under tax examination of the requesting authority.

237. In 2015, a number of peers had raised problems regarding a few cases (among the 1 000 requests received concerning accounting information) with the availability of accounting information for certain non-compliant companies which may never have complied with filing obligations with the tax authorities and Registrar. While a small number of peers expressed similar concerns regarding the availability of accounting information in Cyprus during the current review period, most peers were satisfied with the exchange of accounting information and it is understood that the peers who raised concerns received final replies including accounting information where reasonably available at the time the peer input was provided.

238. In one EOIR case, Cyprus was unable to reply to a request because the place of effective management of the Cypriot company had moved to another jurisdiction and the company took all of its accounting records with it. This related to a case of redomiciliation (see paragraphs 211 to 213 above). It is understood that Cyprus competent authority made efforts to learn of the new location of the accounting records, informed the peer of the new location of the relevant information holder and records and maintained communication channels with the peer. Cyprus also informed the requesting authority of the name and addresses of the new directors in the new relocating jurisdiction in order to assist with their request.

239. In another case, instead of receiving requested financial statements, one peer received an income tax return, although Cyprus has noted that as the practice of the Competent Authority is to share financial statements this was a once-off event. As this issue was not raised by other peers, this would appear to be the case.

240. Despite the issues encountered by peers, Cyprus has continued to improve as regards the availability of accounting information since 2015, as a result of the compliance rates as regards filing tax returns and accounting information, **Cyprus should monitor the practical implementation of the obligations to keep comprehensive accounting information in Cyprus and adequately monitor and enforce the obligations to keep accounting information and file with the Registrar and the tax authorities to ensure the availability of accounting information in Cyprus.**

A.3. Banking information

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

241. The 2015 Report did not raise any concerns with the legal framework, its implementation and exchange of banking information. The overarching legal framework for the availability of banking information is the AML law, together with the CBC Directive. Banks are AML obliged persons and they are regulated by the CBC, who is the competent AML Supervisory Authority for banks.

242. The standard was strengthened in 2016 to require the availability of beneficial ownership information on bank account holders. In Cyprus, the standard is met through the AML framework to which banks are subject.

243. During the review period, Cyprus received 827 EOI requests for banking information and was able to answer them.

244. The determination and rating are as follows:

Legal and Regulatory Framework: In place

Deficiencies identified/ Underlying Factor	Recommendations
The AML law does not include a specific definition of beneficial ownership for a partnership.	Cyprus is recommended to ensure that banks are obliged to obtain and retain beneficial ownership information on customers.

Practical Implementation of the Standard: Compliant

The availability of banking information in Cyprus is effective.

A.3.1. Record-keeping requirements

Availability of banking information

245. The legal requirements as regards availability of banking information in Cyprus are set out in the AML framework, in particular the PSMLTFL. Article 68 of that law requires that banks maintain documents and information for a period of five years after the end of the business relationship with the customer or after the date of an occasional transaction, and they may be retained for a further period of five years in certain circumstances. Such documents and information include (a) copies of documents and information required for compliance with CDD (b) relevant evidence and records of transactions which are necessary for the identification of transactions and (c) relevant correspondence documents with customers and other persons with whom a business relationship is maintained.

Beneficial ownership information on account holders

246. The AML regime in Cyprus requires the identification of beneficial owners in respect of banking information. Article 6 of the PSMLTFL mandates the identification of the beneficial owners of bank customers and requires banks to take reasonable measures to verify that person's identity so that the bank is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer (see section A.1 above).

247. As noted above, nominees may act on behalf of customers and beneficial owners in Cyprus. The CBC Directive provides that in cases where a registered shareholder acts as a nominee of a beneficial owner, a copy of the agreement concluded between the nominee and the beneficial owner (trust deed) must be furnished. Accordingly, banks should have oversight of nominee relationships.

248. Banks are also required to conduct ongoing monitoring of the business relationship and scrutinise transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the information and data in the possession of the bank in relation to the customer, the business and risk profile of the customer, including where necessary, relating to the source of funds and ensuring that the documents, data or information held are kept up to date. The CBC Directive requires annual reviews for politically exposed persons and client accounts business relationships. It is understood that each credit institution forms its own AML/CFT policies and procedures taking into consideration factors such as their customers and risk profile. The CBC has confirmed that high risk customers are reviewed on an annual basis, medium risk every three years and low risk every five years.⁸⁶ This is also addressed above in paragraph 118. For customers classified as high risk, the CBC Directive provides that the business relationship should be updated at least once a year or at a shorter interval if deemed necessary.⁸⁷ Banks must prepare a Risk Management report and demonstrate to the CBC how they are managing their risks effectively including noting timeframes and risk-triggering events. Although the policy of the CBC is not to further dictate the frequency of application of CDD to existing customers as this would go against the spirit of the risk assessment and risk-based decision making, the CBC Directive should further specify what would constitute an acceptable frequency for updates, and include procedures for updating client due diligence information to ensure that there is binding and uniform frequent updating of CDD information (see Annex 1).

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86. The CBC AML/CFT Directive defines the following categories as high risk:
- a) Complex and unusually large transactions or unusual types of transactions,
 - b) Accounts in the name of Trusts and Foundations,
 - c) “Client accounts” in the names of third persons,
 - d) Accounts of Politically Exposed Persons (PEPs),
 - e) Cross-border correspondence relationships with an institution-customer from a third country,
 - f) Transactions with a natural person or legal entity established in a third country of high risk.
87. CBC Directive paragraph 173.

Reliance on third parties

249. Banks may rely on third parties (or “business introducers”) for customer identification procedures and CDD measures in Cyprus, although the ultimate responsibility for complying with AML law remains with the bank (article 67 PSMLTFL). Article 67(3) of the PSMLTFL provides that such third parties must immediately provide to banks (as obliged entities) the data, information and identification documents obtained as a result of the procedures establishing identity and CDD measures. Such third parties must be subject to mandatory and recognised professional registration and subject to supervision pursuant to the AMLD. CBC Directive requires that the compliance officers of banks evaluate the business relationship with the third party, assesses the “quality” of customers brought in by the third party and introduce procedures and controls to mitigate the risks emanating from these business relationships.

250. In the past, Cyprus received criticism for excessive reliance on third parties by banks to provide information on companies with complex ownership structures and legal arrangements.⁸⁸

251. The CBC has strengthened the rules as regards reliance on third parties since the 2015 Report. Banks may only rely on third parties at the outset of establishing a business relationship for the purpose of ascertaining and verifying the identity of their customers. Any data and information for the purpose of updating the customer’s profile should be obtained directly from the ultimate beneficial owner. Banks are also required to carry out face-to-face meetings with customers before the execution of their first transaction in order to verify data and information, compose the customer’s economic and risk profile and collect any other relevant information to prove that the bank has acquired direct knowledge of the customers, even if the third party has obtained the information. For existing customers banks are obliged to have direct contact for the purposes of updating customer information as soon as applicable. Banks are obliged to hold minutes of the said meetings or record video of the teleconference call if the meeting was not held in person. With respect to legal persons, the face to face meetings must be held with the natural person(s) who are the ultimate beneficial owners of the share capital of the legal persons or who exercise the ultimate control of the legal persons or have the responsibility of taking decisions and running the operations of the customer, within a reasonable period of time, not later than three months from the account opening date. The face-to-face meeting can take place by teleconference and during the on-site visit it was mentioned that teleconference is usually the method used for such meetings.

88. MONEYVAL MER, paragraph 692.

Oversight and enforcement

252. As the competent AML Supervisory Authority for banks, the CBC implements a programme of offsite and onsite inspections, issues warning letters requiring the submission of a remediation action plan which is followed-up and imposes pecuniary fines. It is understood that the programme constitutes a risk based supervisory approach and the model devised with technical assistance by the IMF.

253. The CBC can impose administrative sanctions including a pecuniary fine up to EUR 5 million, in cases where a bank fails to comply with AML law, the CBC Directive or EC Regulation no. 847/2015. The CBC may also revoke, amend or suspend banking licences, prohibit certain persons from discharging managerial responsibilities in a bank and impose administrative fines on such persons or to any other person whenever it is established that the failure to comply was due to their fault, intentional omission or negligence (article 59(6)(a) PSMLTFL).

254. If a banking customer knowingly provides false or misleading information regarding identification of themselves or their beneficial owner, they may be found guilty of an offence and subject to imprisonment and/or a penalty of up to EUR 100 000 (article 68 PSMLTFL). During the review period, the CBC did not identify any breach of article 68. The CBC has noted that a breach of article 68 must be reported to the Attorney General as it is an offence subject to imprisonment.

255. In 2016 the CBC carried out 15 AML/CFT specific onsite inspections (which completed a three year cycle of onsite inspections of all 29 banks (i.e. credit institutions) in Cyprus). In 2017 and 2018 the CBC conducted two and six AML/CFT onsite inspections respectively.

256. During their onsite inspections from 2016 to 2018, the CBC detected flaws in relation to record keeping obligations in only 2 of the 23 banks inspected.⁸⁹ Those banks were fined and are no longer providing banking services in Cyprus. A fine was also imposed on one bank for failing to provide information required for offsite inspections to the CBC on time. Overall the CBC and the Cypriot authorities are satisfied with compliance in the banking sector. During the review period, the CBC initiated a number of enforcement measures and continued its offsite and onsite supervisory activities pursuant to the risk-based approach outlined in the 2015 Report. Sanctioned entities included branches of foreign banks.

89. The number 23 indicates on-site examinations during the period 2016-18 only. Full scope on-site examinations in respect of all banks commenced in 2014 and ended in 2016.

257. In 2016, the CBC imposed three pecuniary fines on banks totalling EUR 3 885 000 and one remediation programme (written warning and agreed action plan). In 2017, one bank was fined EUR 800 000 for non-compliance and warning letters were issued to three banks. In 2018 four banks were fined EUR 2 401 000 and a warning letter was issued to one bank. Remediation programmes are agreed in all cases, including those where pecuniary fines are imposed.

258. The regime for banks therefore includes dissuasive sanctions which have been imposed in practice. The CBC has noted that repeated offences are taken into consideration for the purpose of determining the level of the fine to be imposed. Almost 30% of the banking sector have breached Cypriot obligations based on the 3-year full scope cycle (2014-16) and on-site examinations for the period 2017-18. Although the identified breaches and the sanctions imposed did not relate to the lack of ownership and beneficial ownerships information, it is clear that there is scope for improving compliance by banks with Cypriot law and guidance. Accordingly, Cyprus should monitor the compliance by banks with obligations to obtain and retain relevant information, including ownership information, on their customers (see Annex 1).

Availability of banking information in EOI practice

259. Some peers have expressed concerns regarding the availability of banking information in some circumstances. Some of these concerns relate to banks which were wound up during or immediately prior to the review period. Cyprus has confirmed that in that case, the Cypriot branch of the bank had closed and customers of the bank would now be serviced by the headquarters of the bank in a different jurisdiction. The central telephone line to the former branch was redirected to the new jurisdiction. Details regarding the closure of the branch was publicly available on the bank website and via media announcements and accordingly in the view of the Competent Authority the information sought by the peer was no longer available in Cyprus but available in the new jurisdiction. The Competent Authority therefore replied to the relevant peer to direct their request to the new jurisdiction. It is understood that in these cases, Cyprus would have been in a position to provide any historic information on the bank to the requesting jurisdiction (i.e. going back six years) but the requesting jurisdiction sought up-to-date information. The approach of Cyprus is generally in line with the standard but, following peer input, where the historic information held in Cyprus is requested, Cyprus should not decline requests for historic banking information and should provide such information (see Annex 1). This is on the basis of peer input, although Cyprus has noted for this report that the Competent Authority has not had any case where Cyprus declined to provide historic information.

Part B: Access to information

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

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

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

261. The 2015 Report found that the Cypriot competent authority had sufficient access powers for EOI purposes via both domestic access powers to obtain information from taxpayers and specific access powers for EOI purposes. No recommendations were included for element B.1.

262. In practice, Cyprus accesses information primarily from Cyprus taxpayers, and where circumstances require, uses its access powers towards third party information holders, such as banks. This is in continuation to the practice noted in previous reports. Some peers have reported some issues obtaining complete banking information from Cyprus where the information has derived from the records of the taxpayer rather than the bank. However, Cyprus has obtained banking information directly from the relevant bank rather than from the taxpayer where a request for banking information specifically indicates that the information should be obtained from the bank and, following correspondence with one major EOI partner, the relevant peer now sends requests for banking information separately to other EOI requests and clearly states that the information sought is to be obtained from the relevant bank. It does not appear that Cyprus has any issues obtaining banking information in practice other than current information where a bank has relocated, which is addressed above in A2 and A3.

263. The recommendations, determination and rating are as follows:

Legal and Regulatory Framework: In place

No material deficiencies have been identified in the access powers of the competent authority.

Practical Implementation of the Standard: Compliant

No issues in the implementation of access powers have been identified that would affect EOIR in practice.

B.1.1. Ownership, identity and banking information

264. During the review period, the Competent Authority availed of two different access powers to obtain information for EOI purposes:

- a. Where information was obtained from Cypriot taxpayers, which was the case in almost all EOIR cases, section 27 of the Assessment and Collection of Taxes Law (ACTL), which provides **general** access powers for tax purposes, was used. For those EOIR cases, the Competent Authority considered that in all cases the information obtained was relevant for domestic tax purposes (Domestic Power).
- b. Where information was obtained from “third parties”, which, as in previous reviews, was mostly in circumstances where information was obtained directly from a bank,⁹⁰ section 6(9) ACTL was used, which provides access powers specifically for EOI purposes (EOI Power).

265. In addition to these two powers, Cyprus tax legislation allows for numerous other powers, such as for field audits and obtaining specific income tax information. The officers of the Competent Authority also have access to the electronic direct tax register and the VAT register, as well as online access to the electronic registers of the Civil Registry, Department of Land and Survey, Social Insurance Department, Road Transport Department, Electricity Authority of Cyprus and Cyprus Agricultural Payments Organisation. Officers also obtain information from the Stock Exchange, Shipping Deputy Ministry and District Administration. The Competent Authority has relied on all of these sources during the review period for EOI requests.

90. Third parties other than banks have been contacted as the circumstances have required e.g. companies which are the subject of EOI request cases resulting from Common Reporting Standard information, dissolved companies and for non-Cyprus companies.

266. The process for accessing information, including identity and banking information, is set out in detail in the 2015 Report and has not changed. Where the request for information relates to a Cypriot taxpayer, ITAD officers gather the information from the taxpayer in most cases. This is handled either by an ITAD officer directly if the taxpayer falls under the Nicosia district or by another CTD officer from the relevant district with the ITAD officer ultimately responsible for tracking progress. Otherwise, the Competent Authority seeks information for an EOI request from banking institutions, the Registrar, corporate service providers or other third parties as the circumstances require. In practice during the review period Cyprus sought information from third parties in 268 EOIR cases (noting that this number relates to the number of requests and not to the number of persons covered by each request).

267. The two processes for each power are as follows:

- **Domestic Power** – A registered letter is sent by post to the taxpayer requesting the information (including where appropriate a request for verification of the information kept by the Registrar, e.g. information for shareholders and directors) and providing a deadline of 15 days for the taxpayer to respond. An extension to the deadline is given only when a reasoned request is made by the taxpayer. Even if an extension is granted, the information from the taxpayer is usually obtained within 90 days or, at a maximum, 180 days from the request. In the limited number of cases where no responses are provided within 180 days, legal proceedings are initiated (see B.1.4).
- **EOI Power** – Before requesting the information from a third party (including a bank), the written consent of the Attorney General must be obtained (section 6(12) of ACTL). The Attorney-General would check whether all necessary particulars, which were drawn from article 5(5) of the Model TIEA, were included in the request.

268. The Attorney General confirmation was sought in about 11% of EOI requests (i.e. 268 EOI request letters, 229 of which concerned banks, 38 of which concerned former directors of companies and 1 concerned both a bank and a former director). This procedure takes approximately one week and does not generally affect overall timeliness. In one EOI case the peer understood that a court order was required in Cyprus to obtain information on a dissolved company whereas the relevant case was referred to the Attorney General under the EOI Power. For that peer, a full response was received in more than one year but a partial reply was received within one year.

Accessing banking information

269. The Competent Authority classifies as “banking information” all information related to a bank transaction, i.e. including information which might not necessarily be information that would be retrievable from a bank or held by a bank in Cyprus. “Banking information” includes the list of all bank accounts of the taxpayer (in Cyprus or overseas), that may be obtained only from the taxpayer, as well as information concerning banks not located in Cyprus.

270. In many cases banking information is obtained from the taxpayer. This proved difficult in a few cases during the review period. In particular, some peers have reported some issues obtaining complete banking information from Cyprus where the information has derived from the records of the taxpayer rather than the bank (e.g. the taxpayer may only provide banking slips rather than complete transaction records). It is understood that it is simpler to use the Domestic Power rather than the EOI Power and the Competent Authority may obtain the full information requested when requesting it from the taxpayer rather than a bank.

271. As a matter of practice, obtaining bank information from Cyprus banks directly is used as a gathering measure where a) the taxpayer is not a Cyprus taxpayer, b) the requesting authority specifically indicates that the information should be retrieved directly from the bank and not from the taxpayer, or c) the taxpayer is not co-operating. In addition, banks are generally only approached directly where the requesting authority provides the name of the bank in Cyprus or the IBAN number of an account in a Cyprus bank (either in its initial request or as a reply to clarification request asking for this detail). These requests are handled directly by an ITAD officer, who follows the Attorney General route above (the EOI Power) to obtain the information from the bank. This occurred 230 times during the review period and the Competent Authority has confirmed that their co-operation with Cyprus banks has been straightforward and efficient to date.

272. In practice, peers have raised some concerns regarding the provision of banking information sought, in particular the furnishing of no or incomplete banking information. For example, one peer noted that Cyprus only sent confirmation regarding receipt of funds by a Cypriot company when the information requested concerned the outflow of funds from a Cypriot company and the peer considered that this information should have been available to Cyprus. In light of peer information, where foreseeably relevant (e.g. in the beneficial ownership investigation) Cyprus should provide information on the outflow of funds from a Cypriot company that would help peers to define whether there was a transfer of funds through a conduit or not. Cyprus considers that there are no issues with access, although Cyprus also notes that where foreseeably relevant, all bank documentation is exchanged and therefore are no issues with EOI. Some peers received bank advice slips or

bank account information held by the relevant company rather than complete bank statements held by the bank which was the documentation required to proceed with their investigations. It was noted during the on-site visit that some of these issues pertained to bank accounts held in foreign banks and therefore information was sought and provided by the relevant company rather than a bank, and some of the issues between the peer and Cyprus concerned the assessment of foreseeable relevance of the requested information made by the competent authorities rather than any difficulties with the availability of banking information. Cyprus has communicated with the concerned peers regarding the provision of banking information to ask peers to specify whether they would prefer for banking information to be obtained from a taxpayer or directly from a bank, which should clear up some of the issues experienced by peers to date. See also paragraph 313 regarding issues encountered by peers in practice regarding the provision of bank account information.

Accessing beneficial ownership information

273. The Competent Authority generally seeks beneficial ownership information for an EOI request from service providers (when acting as representative of the taxpayers) and banking institutions. In practice, some concerns have been raised by peers regarding beneficial ownership information. The issues have primarily related to the exchange of information on beneficial owners who do not appear to be resident in Cyprus or the requesting jurisdiction. Cyprus has been able to obtain details regarding such persons (such as their name and an address) but difficulties have been encountered in respect of the exchange of that information with the requesting peer. Accordingly, this issue is considered in Element C.1. below.

B.1.2. Accounting records

274. ITAD (i.e. the Competent Authority) has access to accounting records. The Competent Authority generally seeks accounting information for an EOI request from the Registrar (who holds the Financial Statements), from Cyprus taxpayers and from service providers when the person concerned is not a Cyprus taxpayer.

275. Peers have expressed concerns regarding whether the appropriate access route to accounting records was followed during the review period. For example, one peer requested copies of financial statements but instead received copies of income tax returns. Cyprus has noted in respect of this incident that it was a once-off event and likely a misunderstanding (such as a request for an “annual report” which would be a term not commonly used by ITAD to refer to financial statements). Since then, Cyprus reported that the issue with the peer has been resolved.

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

276. The CTD may require and receive information and documentation from taxpayers under that person's control irrespective of whether the information is required to be kept.⁹¹ If a person disputes the obligation to retain the requested information, the CTD may treat this as a refusal to comply and initiate legal proceedings. In practice, this has never been encountered by the Competent Authority. In addition, the Competent Authority has significant information gathering powers via the Attorney General route when the information is not held by a taxpayer, i.e. including where Cyprus has no domestic tax interest in this information. In practice, Cyprus has used its information gathering powers to collect information on non-Cyprus taxpayers.

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

277. The CTD has significant compulsory powers including formal prosecution, the imposition of administrative penalties, the power to inspect premises and search and seizure powers including the issue of search warrants.⁹² As the ACTL does not specify timeframes for the use of such powers, the CTD practice is to allow reasonable notice (approximately 10 working days)⁹³ for information holders to comply with requests. If they do not comply, other compulsory powers are used. Sanctions include penalties up to EUR 17 for each day during which the refusal, failure or neglect continues and up to 12 months imprisonment. The same penalties apply where information is sought for domestic or foreign tax purposes (section 50 ACTL). The EOI Power is a separate power to the other provisions in the tax law infrastructure and there are no specific penalties associated with failures to comply with the power in section 6 ACTL but Cyprus has confirmed that the EOI Power is covered by the general penalties of the ACTL.

278. Prior to the 2015 Report, there were relatively high levels of non-compliance in providing information to the Competent Authority for EOI purposes and Cyprus was recommended to use its compulsory powers more effectively. During the review period for the 2015 Report, it was necessary for the Cypriot authorities to use their compulsory powers in only less than 10 cases in relation to EOI requests, and in all of those cases the information was obtained in a reasonable timeframe.

91. Sections 6, 50 and 50A of ACTL.

92. Sections 5-12, 28, 30 and 32 ACTL, s37 of the Income Tax Law 118(I)/2002 and section 6(2) and 22C of the DAC 2012 (DAC5) (as amended).

93. The ACTL does not include a specific timeframe. ITAD's practice is to normally allow 10 working days for the information holder to reply.

279. Since the previous review, the volume of EOI requests received by Cyprus continued increasing and then stabilised. During the on-site visit for the current review, it was noted that mentioning the possibility of opening an audit in cases of non-compliance with requests for information has often led to responsiveness from information holders. Compulsory powers were used in only less than 10 cases, similar to the previous review period. This included two cases where ITAD initiated the process of conducting a field audit, which led to the responsiveness of the taxpayer in submitting the information. In one case, legal proceedings were brought against a taxpayer who had failed to reply and during the court process, the taxpayer did submit the requested information. The CTD also has a new power to carry out certain inspections without notice (often referred to as “dawn raids”), introduced in August 2020 which has not been used yet.

B.1.5. Secrecy provisions

280. As noted in the 2015 Report, secrecy obligations, other than legal privilege, are overridden by the power to access information for EOI purposes. The ACTL specifically provides that no secrecy obligations preclude the CTD from disclosing EOI information to peers (section 4). In addition, the ACTL provides that in order to comply with the provisions of DTCs it is possible to obtain and provide confidential information, including bank information, for residents and non-residents of Cyprus.

Bank secrecy

281. The director, chief executive, manager, officer, employee or agent of a bank and any person with access to bank records are not permitted to give, divulge, reveal, or use for their own benefit any information whatsoever regarding the account of a banking customer (section 29 Banking Law). However, there is an exception for giving information to public officers duly authorised to obtain that information and for information provided to the CTD for compliance with multilateral or bilateral agreements or for compliance with legislative provisions. Cyprus has confirmed that there have been no cases where bank secrecy was an impediment to obtaining information for EOI purposes.

Professional secrecy

282. Legal privilege in Cyprus is implemented through the Advocate Code of Conduct Regulation (ACCR) which is issued by CBA pursuant to the Advocates Law. The ACCR states that legal privilege is recognised as the fundamental and primary right and obligation of advocates and it must

be protected by the courts and any public authority. There are two limitations to legal privilege:

- a. Privilege only pertains to confidential information and excludes information that cannot reasonably be expected to be kept secret, such as information provided by the client to its attorney in the presence of third parties.
- b. Information is only covered by legal privilege where it has come to the knowledge of the attorney in the course of his/her professional activity.

283. As noted in the 2015 Report, due to this definition there may be documents covered by legal privilege which are not produced (i) for the seeking or providing of legal advice or (ii) for the purposes of use in existing or contemplated legal proceedings.⁹⁴

284. In practice, as noted in the 2015 Report, Cyprus answers a large volume of information without being confronted with issues on legal privilege. Cyprus has confirmed that it is common for an advocate to work in a different role, such as a trustee or nominee shareholder, and that information related to that role should not be covered by legal privilege. Cyprus has noted that the Competent Authority contacted attorneys, in their capacity as service providers, on several occasions after obtaining the consent of the Attorney General (for example where the attorney was a former director). They did not oppose legal privilege to the Competent Authority.

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.

285. There is no requirement in the Domestic Power to notify a taxpayer under investigation or examination of an EOI request but the information is sought from the taxpayer wherever possible. The EOI Power includes a requirement to inform the third party, from which information is sought, which foreign tax authority had requested the information, unless that foreign

94. In addition to the above, search warrants may be issued if a judge [of the District Court] is satisfied that any documents or particulars which should have been produced and have not yet been produced to the Competent Authority can be found in any building, except a building of a person who is bound to observe professional secrecy under the Evidence Law (section 32 ACTL).

tax authority has stated that such notification might interfere or hinder the investigation.

286. The recommendations, determination and rating are as follows:

Legal and Regulatory Framework: The element is in place

The rights and safeguards that apply to persons in Cyprus are compatible with effective exchange of information.

Practical Implementation of the Standard: Compliant

The application of the rights and safeguards in Cyprus is compatible with effective exchange of information.

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

Notification issued prior to exchange and exceptions thereto

287. Under the Domestic Power, when sending a letter to the taxpayer the Competent Authority does not include any reference that a request was made from a foreign tax authority. Since the domestic route is followed the Competent Authority also does not make a statement regarding the Attorney General as no consent is required.

288. Under the EOI Power, when sending a letter to a third party information holder (including banks) the letter contains a reference to the legal basis, the jurisdiction of the foreign requesting tax authority, a statement that the written consent of the Attorney General has been obtained, the requested information, a deadline for submission and reference to the legal measures to be taken in case of failure to comply with the request for information. The information holder is informed of the country that requested information. This is also referred to below at Element C.3.

289. Where the requesting foreign tax authority has stated that this notification to the information holder might interfere or hinder their investigation, such notification is not given (section 6(9)(b) of ACTL). During the review period, no requesting jurisdiction requested that notification would not be given to the relevant third party.

Post-exchange notification

290. There are no provisions in Cypriot law for post-exchange notification.

Appeal rights

291. There are no specific appeal rights under the Domestic Power and the EOI Power does not stipulate appeal rights. However, it appears to be possible for an information holder to challenge the use of the Domestic Power and EOI Power on the basis that the request for information did not meet the standard of foreseeable relevance through judicial review. Rather than focus on the administrative process, the affected party (i.e. the person from whom the information has been requested) brings a case on whether the request for information impacts the person who is the subject of the request and takes a pre-emptive challenge to the request of the Cypriot authorities, similar to an injunction.

292. There are two ongoing cases going through the Cypriot courts as of September 2020 challenging the foreseeable relevance of requests made under EOIR, the first relating to the use of Domestic Power and the second relating to the EOI Power. In the first case, the applicant initiated court proceedings by filing a judicial review to the Administrative Court on 24 January 2017 and the Court was to issue directions on 27 October 2020 but this was postponed to 3 March 2021 for the purposes of setting a new hearing date. The Court continues to adjourn the case due to COVID-19 restrictions. In the second case, the applicant initiated proceedings by filing a judicial review with the Administrative Court on 20 April 2018 and the Court will issue directions on 24 September 2020. For both cases, the applicant (information holder) is claiming that the Cypriot authorities exercised an abuse or excess of power, the request for information was a fishing exercise, the decision to request information was reached without proper investigation or all the relevant documentation, the request breaches the European Convention on Human Rights and the right to privacy and insofar as the request for information mentions third parties, such mention is unlawful and in breach of the legislation regarding the protection of personal data. For the second case, the Competent Authority requested information relating to contractual documentation, agreed by an individual not resident in Cyprus, from a third party in Cyprus through the EOI Power and the request was then challenged by a third party for the reasons outlined above. The view of Cyprus, with respect to both cases, is that the applicant does not have standing as the applicant was only asked to provide certain information to the authorities and accordingly there was no possibility of negative influence for the applicant and all of the correct administrative steps were taken. The reason for the delay with the cases is due to overall workload of the courts in Cyprus and is not related to the specific cases. Peers are aware of the cases and the Competent Authority has sent regular status updates keeping peers informed.

293. No cases have been brought since the review period ended. Cyprus should monitor cases brought by information holders in respect of the use of the Domestic Power and EOI power in particular with respect to foreseeable relevance (see Annex 1).

Part C: Exchanging information

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

295. Cyprus is able to exchange information regarding tax matters via several types of EOI instruments: 62 double tax conventions, the European Union (EU) Directives on exchange of information and the Multilateral Convention (see Annex 2). Cyprus has not agreed any TIEAs.

296. The EOIR network of Cyprus continues increasing, mainly through new jurisdictions participating in the Multilateral Convention, but Cyprus also signed 11 new DTCs since the 2015 Report (with Andorra, Barbados, Ethiopia, Kazakhstan, Latvia, Luxembourg, Mauritius, San Marino, Saudi Arabia, Ukraine and United Kingdom). As a result, the EOI network of Cyprus now covers 142 jurisdictions (from 103 in 2015 and 53 in 2013).

297. With respect to the exchange of information in practice, Cyprus received 2 508 EOI requests during years 2016-18. Peers have expressed concerns regarding a restrictive interpretation of the foreseeable relevance test, which has been considered by peers to be an impediment to effective EOIR. It is recommended that Cyprus exchange all information requested as appropriate.

298. The recommendations, determination and rating are as follows:

Legal and Regulatory Framework: In place

No material deficiencies have been identified in the EOI mechanisms of Cyprus.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying Factor	Recommendations
<p>With respect to the exchange of information in practice, peers have expressed concerns regarding a restrictive interpretation of the foreseeable relevance test, which has been an impediment to effective EOIR. Accordingly, Cyprus has refrained from exchanging information on persons that did not appear to be a resident in the requesting jurisdiction. In some instances, as there was a concern about revealing the full name of the beneficial owner, Cyprus stated the initials of the relevant person and his/her jurisdiction and provided other requested information and documentation. This is a restrictive application of the bilateral and multilateral EOI instruments of Cyprus.</p>	<p>It is recommended that Cyprus exchange all information requested as appropriate under the Standard and exchange information that is foreseeably relevant for carrying out the provisions of a DTC or to the administration or enforcement of the domestic tax laws of the requesting jurisdiction, in respect of all persons, i.e. whether or not they are resident in the requesting jurisdiction.</p>

C.1.1. Foreseeably relevant standard

299. The 2015 Report noted that Cyprus' information exchange agreements at that time, as well as the Multilateral Convention, allowed for exchange of information in accordance with the foreseeably relevant standard, except for the DTCs with Tajikistan and Turkmenistan. This position has not changed, although as noted below the DTCs with Tajikistan and Turkmenistan are no longer operational. The DTCs between Cyprus and Armenia, Denmark, Germany, Kuwait, Slovenia and the United Arab Emirates include a provision requiring the requesting state to demonstrate the foreseeably relevance of a request by providing certain specified information. This provision mirrors the corresponding article of the OECD Model TIEA and this requirement is therefore considered to be consistent with the international standard.

300. The new DTCs and protocols to DTCs entered into by Cyprus since the 2015 Report with Andorra, Barbados, Ethiopia, Kazakhstan, Latvia, Luxembourg, Mauritius, San Marino, Saudi Arabia, Ukraine and United Kingdom all use the language “foreseeably relevant” or similar language and meet the standard. Some of the new protocols specifically include amended articles on exchange of information which allow for the foreseeable relevance standard.

301. When the Competent Authority receives a request, the ITAD officers seek the following information:

- the identity of the person under examination or investigation
- the connection with Cyprus
- a statement of the information sought, including its nature and the form in which the requesting contracting state wishes to receive the information
- the tax purpose for which the information is sought
- a statement that the request is in conformity with the law and administrative practices of the requesting state, that if the requested information was within the jurisdiction of that state then the requesting competent authority would be able to obtain it under its domestic laws or in the normal course of administrative practice and that it is in conformity with the underlying EOI instrument
- a statement that the requesting authority has exhausted all means available in its own territory to obtain the information, except those that would cause excessive difficulties.

302. In cases where the relevance of the requested information is not clearly indicated in the request, ITAD officers seek clarification from the requesting competent authority.

Clarifications and foreseeable relevance in practice

303. Cyprus has requested clarification on whether the requesting jurisdiction has exhausted domestic means and whether the requesting authority also had the power to collect the relevant information i.e. confirmation of reciprocity. In one case, a partner asked for information dating back past six years and Cyprus confirmed with the peer that they would also have been able to obtain the relevant information. It is understood that this issue has also arisen in respect of the information held by Cyprus on deregistered companies. Peers were generally satisfied with reciprocity queries.

304. Cyprus has indicated that for the years 2016-18, the Competent Authority has not declined upfront a request for information because it did not meet the foreseeable relevance standard. Cyprus has further noted that there

were no cases in which the Attorney General raised a query or objection to a request to use the EOI Power during the period. The Competent Authority does request further information or states its findings as regards foreseeable relevance where there are requests which are not clearly foreseeably relevant.

305. Some peers have raised concerns regarding the interpretation of the foreseeable relevance standard by the Cyprus competent authority in practice. Cyprus appeared to take a restrictive view of the standard which impacted the effectiveness of exchange of information with peers.

306. Cyprus queried the information sought by a requesting jurisdiction regarding an intra-group tax investigation and whether and why the requested information would be required for tax proceedings in the requesting jurisdiction. The information, which related to the financing arrangements within a corporate group, was needed by the requesting jurisdiction to determine whether domestic anti-avoidance provisions should apply. Cyprus queried the foreseeable relevance of the request and did not provide all of the information requested. The peer received most of the information requested but was not satisfied with the process and the length of time the exchange took. Further to recent bilateral discussions with the relevant peer, Cyprus advised that it has provided information and documentation to the peer following the date of the peer input and as a result of being informed of the peer's comment via the peer input, Cyprus has contacted the peer and pointed out that it is ready to discuss the case and provide any further assistance the peer might need.

307. Another peer has raised concerns regarding queries relating to the foreseeable relevance of requests for beneficial ownership information and the failure to provide such information. In some cases the Competent Authority of Cyprus asked the requesting jurisdiction to provide the names of individuals who were the subject of the relevant domestic tax audit who might be connected with the ownership of a Cypriot company in order to investigate a matter further. According to the peer, in 375 of 617 requests that included a request for beneficial ownership information, this information was not provided to at the time peer input was provided. However, between that peer and Cyprus there has been some misunderstanding as to the number of requests which have been dealt with and whether the issue relates to foreseeable relevance, the exhaustion of domestic means, or whether the information was obtainable under the laws or normal course of administration of the requesting jurisdiction. Cyprus is of the view that the peer does not always exhaust all domestic means and there have been communications between the peer and Cyprus to try to resolve some of these issues. Cyprus has agreed to collaborate on ongoing cases and furnish more information in future to the peer.

308. The same peer has also raised a concern regarding the involvement of taxpayers and information holders in information requests. On one occasion, Cyprus did not provide information because the relevant Cypriot company

was of the view that the requested information would not form a basis for calculations of tax liabilities of a taxpayer located in the requesting jurisdiction. In such cases, Cyprus should aim to provide administrative assistance and evaluate the request itself (requesting clarification from the requesting jurisdiction where necessary) and not rely on the view of the information holder regarding the foreseeable relevance of the request. Cyprus should not limit administrative assistance based on the sole statements made by the information holder (see Annex 1), although it is understood that as a matter of practice, Cyprus forms its own view as regards foreseeable relevance.

309. In relation to the above, Cyprus has noted that the Competent Authority habitually contacts requesting jurisdictions and occasionally engages in telephone discussions to attempt to help “perfect” requests and assist the jurisdiction as best they can. Although the strict interpretation of the relevant treaty provisions and commentary, together with concerns regarding taxpayer litigation, have resulted in some peer dissatisfaction, the Competent Authority attempts to close out and follow through most requests and peers were generally satisfied with their relationship and communication with Cyprus. It is also understood that Cyprus is in bilateral correspondence with peers to try to resolve some of the issues identified. However, given the peer input on this matter and the interpretation by Cyprus of the Standard as regards foreseeable relevance, **it is recommended that Cyprus exchange all information requested as appropriate under the Standard.**

Group requests

310. The procedure for dealing with a group request is the same as the procedure for a single request. Cyprus did not receive any group requests during the review period. The Competent Authority did deal with bulk requests that concerned use of Cyprus bank cards in the requesting state and the Competent Authority was able to obtain the information from the Cyprus bank and send the information to the requesting jurisdiction.

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

311. Similar to the 2015 Report, all information exchange agreements concluded by Cyprus since then allow for exchange of information in accordance with the international standard and provide for exchange of information in respect of all persons.

312. While many peers have been satisfied with the exchange of information in respect of all persons, some peers have expressed concerns relating to an issue identified during the on-site visit, namely anticipated taxpayer litigation. It is understood that where the Competent Authority sees a clear nexus with the requesting state, they will exchange information with that country.

However, where the Competent Authority collects information on the identity of persons and realises they are not resident in the requesting jurisdiction, it will send initials of relevant persons to the requesting authority (this has happened for three peers), informing the requesting authority that such persons do not appear to be resident in the requesting jurisdiction. Cyprus' competent authority considered that the provision of initials would be an attempt by Cyprus to invite communication and open a dialogue with the requesting jurisdiction, so that Cyprus can be certain it is providing accurate information on all relevant persons in line with the Standard. For the few cases that there was a concern about revealing the full name of the individual beneficial owner, Cyprus stated the initials of that person and his/her jurisdiction and did provide other requested information and documentation. Cyprus only realised this use of initials was causing difficulties following the peer input received during this review.

313. For one peer, requests for information in four cases concerning the individuals linked to bank accounts resulted in a seven month long wait for Cyprus to send only the initials of the relevant individuals and the peer did not receive the full names of the persons opening and using the bank accounts. Another peer made several EOI requests for information regarding the identification of holders of credit cards and only received the requested information in those cases where the individual had an address in the requesting jurisdiction (although this case has since been resolved bilaterally, the information has been exchanged and the case has been closed as of September 2020).

314. This practice does not conform to the standard, as information should be exchanged whether or not a person is resident in one of the jurisdictions for tax purposes or otherwise, as long as the information is foreseeably relevant for the implementation of the tax law of the requesting jurisdiction. Cyprus was concerned that sharing this information might impact the rights of the relevant persons who were referenced in the information discovered. In this particular case, the requesting jurisdiction suspected the holders of being resident there for tax purposes and avoiding taxation. The peer explained the rationale for the request and the foreseeable relevance of the request for its domestic tax investigation was set out. The peer noted to Cyprus that they were familiar with the specific behaviour behind the credit card. That peer has noted that their relationship with Cyprus has improved significantly over the past number of years.

315. Following the request, Cyprus did not provide information to the peer where the concerned individuals had not provided an address in the requesting country. Cyprus has noted that this issue relates to 4 out of 15 bulk requests for credit cards and Cyprus has been working with the relevant peer directly to resolve this issue bilaterally. Further to correspondence with the peer in September 2020, Cyprus now understands that the credit cards

have been used in the jurisdiction of the relevant peer for more than 183 days and accordingly the peer has reason to believe the persons concerned are tax resident there for the relevant period. As a result, Cyprus has now agreed to furnish the relevant information.

316. For one peer, the issue has related to family relationships, i.e. requests for beneficial ownership information in respect of a foreign family office with a presence in Cyprus and offshore bank accounts in a third jurisdiction held by a number of family members. In such circumstances information on all persons involved in the family office may be relevant for the requesting jurisdiction and the Standard would require Cyprus to send such information. However, Cyprus has not always sent complete beneficial ownership information in these circumstances. While this is partly due to the assessment by Cyprus that the relevant peer should have this information to hand (i.e. the peer is not exhausting all domestic means), Cyprus is also concerned about potential litigation challenges if personal information on relevant persons who do not appear to be resident in Cyprus or the requesting jurisdiction is furnished. In order to be helpful, Cyprus has sent the initials of the beneficial owner to the peer in some instances. As noted above, it is understood that this was an attempt by Cyprus to invite the peer to follow up with Cyprus and provide additional information so that Cyprus could then share further details. While this issue primarily appears to arise in respect of the beneficial ownership of some legal entities and arrangements, and other documentation and information relating to the same matter has been exchanged, the concern is that either the information is not foreseeably relevant and the initials should not be sent, or the information is foreseeably relevant and full information should be sent. The Cyprus authorities considers that the Competent Authority is going to great lengths to ensure that the confidentiality of information holders is respected and this has arisen on a case-by-case basis (i.e. initials are only furnished in certain limited circumstances). However, in such cases the Competent Authority should share the full details of such persons as the information is foreseeably relevant as per the EOIR standard (see Annex 1).

317. Failure to send complete beneficial ownership information on certain persons subject to an EOI request has caused significant problems for some peers and, although this appears to have resulted from unfortunate communication issues with peers, to ensure that this does not arise in future and to help Cyprus continue to maintain an efficient EOI practice, Cyprus should revise this practice of not sending information or sending initials of persons on the basis that such persons do not appear to be resident in the requesting jurisdiction. **Cyprus is recommended to exchange information that is foreseeably relevant for carrying out the provisions of a DTC or to the administration or enforcement of the domestic tax laws of the requesting jurisdiction, in respect of all persons, i.e. whether or not they are resident in the requesting jurisdiction.**

C.1.3. Obligation to exchange all types of information

318. All information exchange agreements concluded by Cyprus, including the DTCs signed since the 2015 Report, allow for exchange of information in accordance with the standard and provide for exchange of all types of information.

319. As noted in this Report, peers have highlighted issues relating to the exchange of beneficial ownership information, accounting information and banking information in practice.

C.1.4. Absence of domestic tax interest

320. During the review period, Cyprus exchanged information in which it did not have a domestic tax interest. For instance, several of the requests received by Cyprus during the review period related to requests for banking information in respect of accounts held by foreign resident individuals. Cyprus estimates that more than half of the EOI Power cases during the review period, for which ITAD sought approval from the Attorney General in order to contact a bank, related to such cases and the information was exchanged. Cyprus confirms it also exchanges information regarding Cyprus companies when there is a double tax interest situation (e.g. a case of a permanent establishment investigation in the requesting jurisdiction).

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

321. All of Cyprus' EOI agreements provide for EOI in both civil and criminal matters and there are no dual criminality provisions in any of Cyprus's EOI agreements. In practice Cyprus did not distinguish between whether a matter was a criminal or civil tax matter and peers were satisfied with this approach.

C.1.7. Provide information in specific form requested

322. There are no restrictions in Cyprus's EOI agreements or domestic laws that would prevent it from providing information in a specific form. During the review period, Cyprus provided information in the specific form requested by a partner. Peers were generally satisfied with the form of information exchanged during the review period but some noted issues in receiving incomplete banking information because the source of the information was not the expected one (see B.1).

323. Some peers were concerned that financial statements were not furnished due to the relevant taxpayer breaching deadlines for the submission of tax filings or not complying with Cypriot tax law requirements. A particular

issue deriving from the breach of tax obligation to file financial statements is that the Competent Authority then relied on the information available on the Registrar website, but this included the wording “NOT FOR OFFICIAL USE” and as a result could not be used as evidence in the requesting country. Following discussions with the relevant peer, Cyprus has assured the peer that this will not be an issue in future and financial statements are no longer sent with such watermark.

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

324. As of the time of the 2015 Report, certain agreements were not yet in force which have subsequently entered into force (see Annex 2). Cyprus has in place the legal and regulatory framework to give effect to its EOI agreements. Effective implementation of EOI agreements in domestic law has been confirmed in practice as there was no case in practice where Cyprus was unable to obtain and provide the requested information due to unclear or limited effect of an EOI agreement in Cyprus’ law.

325. The following table summarises the outcomes of the analysis under Element C.1 in respect of Cyprus’ EOI relationships:

EOI Mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	142
In force	131
In line with the standard	131
Not in line with the standard	0
Signed but not in force	11
In line with the standard	11
Not in line with the standard	0
Among which – mechanisms not complemented by the Multilateral Convention	7
In force	7
In line with the standard	7
Not in line with the standard	0
Signed but not in force	
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.

326. The EOI network of Cyprus covers 142 jurisdictions. This network continues expanding as it covered 53 jurisdictions in 2013 and 103 in 2015. The expansion is due to the signature of new bilateral agreements (see C.1) and the increasing number of signatories to the Multilateral Convention. Some further DTC negotiations are underway. Amending Protocols were concluded with Mauritius, Switzerland, Ukraine and the United Kingdom.

327. No Global Forum member in the preparation of this report reported that Cyprus refused to negotiate or sign an EOI instrument with it. The recommendation to continue developing the EOI network is therefore addressed.

328. As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, Cyprus should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

329. The determination and rating are as follows:

Legal and Regulatory Framework: In place

Cyprus' network of information exchange mechanisms covers all relevant partners.

Practical Implementation of the Standard: Compliant

Cyprus' network of information exchange mechanisms covers all relevant partners.

C.3. Confidentiality

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

330. All of the arrangements for EOI concluded by Cyprus contain a provision ensuring the confidentiality of information exchanged and limiting the disclosure and use of information received, which must be obeyed by Cyprus as a party to these agreements.

331. As noted in 2015 Report, all persons involved in the handling of EOI requests are bound by domestic rules to keep information coming to their

knowledge in respect of the EOI requests confidential, and they can be penalised in cases of a breach of confidentiality. Measures taken by Cyprus to ensure confidentiality in practice have also been considered sufficient in previous reports. Neither the legal nor the practical framework with respect to ensuring the confidentiality of information in an EOI context has changed since the 2015 Report. In addition, Cyprus' exchange of information partners have not raised any issues in this regard. The determination and rating is as follows:

Legal and Regulatory Framework: In place

No material deficiencies have been identified in the EOI mechanisms and legislation of Cyprus concerning confidentiality.

Practical Implementation of the Standard: Compliant

Deficiencies identified/ Underlying Factor	Recommendations
The disclosure to third party information holders of the foreign tax authority which has made the relevant EOI request, where this is not necessary for gathering the requested information, is not in accordance with the Standard.	Cyprus should not disclose to third parties information that is not needed to obtain the information requested.

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

332. The 2016 Terms of Reference clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement for the authority supplying the information authorises 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 Cyprus has not reported having received requests wherein the requesting partner sought Cyprus's consent to utilise the information for non-tax purposes nor the opposite situation.

333. Breach of the confidentiality provisions is a disciplinary offence in the CTD (and civil service in general) and may result in disciplinary punishments varying from a reprimand to dismissal.⁹⁵ All officers working for the CTD must make a confidentiality declaration before the District Court, which continues to have effect after cessation of employment.

95. Article 79 ACTL and section 79 Public Services Law.

334. In the event of a breach of confidentiality incident, the CTD has an incident management procedure in place. No issues regarding the confidentiality of information have been identified by Cyprus or raised by peers and information holders are not permitted access to EOI files.

335. With respect to information disclosed to information holders, there is one point of concern regarding the use of the EOI Power, namely the information holder is informed of the country that requested information as such information is included in the letter seeking its co-operation (this will not be the case where the foreign tax authority has stated that such notification might interfere or hinder its investigation). This does not appear to be necessary information to locate the requested information and Cyprus is recommended to review this practice to ensure that information holders are not therefore privy to confidential information and do not disclose to third parties information that is not needed to obtain the information requested. With respect to EOI requests made under the ACTL, the name of a foreign competent authority seeking information pursuant to the EOI Power is not disclosed.

C.3.2. Confidentiality of other information

336. Cyprus authorities confirm that confidentiality rules apply to all types of information exchanged, including information provided by a requesting jurisdiction in a request, information transmitted in response to a request and any background documents to such request. Cyprus has noted that the provisions of double tax agreements and the Multilateral Convention, including those of confidentiality, supersede the provisions of domestic legislation in Cyprus that give the authority to the Minister of Finance to authorise the disclosure of tax information for the purposes of public interest.

Confidentiality in practice

337. Communication within the CTD is performed using a secured network or encrypted e-mails. Communication between the Competent Authority and other EU member States takes place via the CCN Network. In respect of EOI partners outside the EU, Cyprus uses numerous methods including encrypted email, fax, registered mail, courier and regular post but prefers encrypted emails and registered mail. In relation to the use of email, electronic security is addressed in the CTD user access management procedure, audit trail procedure and physical access procedure. The audit trail procedure is in place to detect breaches of confidentiality by monitoring who accesses what and detecting unauthorised access.

338. Information exchanged on request pursuant to any EOI agreement is handled by ITAD. This is a separate office with access limited to authorised

personnel only. The archives are locked and only accessible to ITAD staff. The Head of ITAD has a separate office and other offices are shared between two persons. All offices can be locked separately. ITAD is located at the Ministry of Finance building. Entry and exit to the building is monitored with 24 hour police presence, visitors are recorded and provided with badges.

339. Where a request relates to a taxpayer with an address in Nicosia, ITAD deals with the matter directly. Otherwise, the ITAD sends a cover letter signed by a representative of the ITAD team to the relevant district tax officer in that local tax office of the CTD, containing the queries of the requesting jurisdiction and the years concerned. That local tax officer deals with the relevant matter alongside an ITAD officer. All documents received under an EOI request are stamped with a warning in Greek and English before circulation to the relevant officers within the CTD, indicating “This information is furnished under the provision of an Income Tax Treaty and its use and disclosure must be governed by the provision of such Tax Treaty”.⁹⁶

340. With respect to confidentiality in the hiring and training processes, qualifying requirements, screening and background investigations of employees and financial standing assessments of contractors is completed. EOI data is accessed only by tax officials who are selected and trained before they join the ITAD team. There is a procedure to follow upon the departure of an employee or consultant and all access rights are revoked pursuant to the user access management procedure of the CTD.

341. When the Competent Authority deals with an EOI request regarding a company and uses the Domestic Power, the officer generally contacts the company and copies the auditor of the company in the correspondence. Often the director will respond, and if the company no longer exists the officer will use the EOI Power to obtain the information. ITAD has a contact list of email addresses for the audit firms in Cyprus and every taxpayer who submits tax returns provides information on their auditor to the CTD.

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.

342. The Standard allows requested parties to not supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise. Cypriot law, via domestic tax rules, DTCs and the Multilateral Convention, permits the Competent Authority to decline

96. The same is included in the footer of each page in all letters addressed to partner competent authorities.

to exchange information where such information is: covered by attorney client privilege; a trade, business industrial, commercial or professional secret; or information the disclosure of which would be contrary to public policy (*ordre public*).

343. The 2015 Report and the 2013 Report did not raise any issues leading to recommendations with respect to the legal and regulatory framework regarding the rights and safeguards of taxpayers and third parties, and no issues were encountered in practice during those review periods. This situation has remained during this two year review period.

344. Cyprus reports that, during the review period, there have been no instances where professional privileges or any other exceptions have been claimed in order to not provide information to the tax authorities in cases related to EOI and no peers have raised any issues with respect to the exceptions to provide information. The determination and rating are as follows:

Legal and Regulatory Framework: In place

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

Practical Implementation of the Standard: Compliant

No material deficiencies have been identified in respect of the rights and safeguards of taxpayers and third parties.

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.

345. At the time of the 2013 Report the culture of non-compliance as regards filing information timely with the Registrar and tax authorities led to failures in the availability of information and ultimately failures in the exchange of information. Another primary reason identified for the high rate of pending requests was lack of sufficient staff in the EOI team. As of the 2015 Report, response times to incoming EOI requests were shortening and Cyprus had eliminated a backlog of requests from the previous review period and at the end of the new period only 1% of cases were outstanding. However, dealing with the backlog had meant that some EOI requests were not responded to in a timely manner: Cyprus was in a position to provide a final response within 90 days in 33% of cases and within 180 days in 64% of cases. It was therefore recommended that Cyprus ensure that all EOI requests

were responded to in a timely manner. Since then, Cyprus has continued to improve its timelines and peers have generally been satisfied with their EOIR interactions with Cyprus.

346. During the review period, the ITAD has replied to EOI requests within 90 days in 41% of the total 2 508 requests received and a response was provided within 180 days in approximately 71% of cases. The ITAD “addressed” 2 290 cases (91% of requests received) within a year.

347. The number of requests received in 2016, 2017 and 2018 is stable with an average of 836 requests per year. However, this represents a 58% increase in comparison with the annual average of requests received in the review period for the 2015 Report, and coincides with the entry into force of the Multilateral Convention.⁹⁷ For the most part the ITAD addressed those cases effectively despite the increase in the incoming requests.

348. The Competent Authority endeavours to always send status updates unless they will be in a position to provide a full or substantial reply in a short space of time. Some peers indicated that they did not always receive status updates and they do not appear to have been provided in all cases. Indeed, if the response is likely to be sent to the requesting jurisdiction within 180 days, which is the majority (72%) of the cases, Cyprus aims to send both a status update and the final response. Some peers received updates all the time and some never received updates, although Cyprus has noted this was not deliberate.

349. In contrast to previous reports, there appears to be adequate procedures in place and the Competent Authority had appropriate resources during the review period. However, there are some delays still in providing final responses within a reasonable period of time in practice. One peer closed an investigation due to delays receiving information from Cyprus (although Cyprus has noted that the Competent Authority sent the relevant information three days following confirmation of withdrawal of the request as it was in progress) and other peers have noted delays and failures to furnish information or rationales for such failures. Accordingly, the recommendation in the 2015 Report has been partly retained.

350. The recommendations and rating are as follows:

Legal and Regulatory Framework

This element involves issues of practice. Accordingly, no determination has been made.

97. 1 061 requests for information were received during the two year period between 1 July 2012 and 30 June 2014.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying Factor	Recommendations
Response times to incoming EOI requests have improved since the 2015 Report, and this is confirmed by peers. Nevertheless, internal deadlines were not always met during the three year review period of this report. Not all EOI requests have therefore been responded to in a timely manner.	Cyprus should ensure that all EOI requests are responded to in a timely manner.
Status updates were not always provided to peers.	Cyprus is recommended to provide status updates to its EOI partners within 90 days where it is not able to provide a full response within that time period.

C.5.1. Timeliness of responses to requests for information

351. Over the period under review (1 January 2016 to 31 December 2018), Cyprus received 2 508 requests for information and its main partners were France, Greece, Russia, Ukraine and Sweden. The information sought in these requests related to⁹⁸ (i) ownership information (1 549 cases), (ii) accounting information (2 313 cases), (iii) banking information (827 cases), and (iv) other types of information (195 cases, e.g. property, emoluments, residence). Although 1 549 cases relate to ownership information, Cyprus does not have figures on how many cases concerned requests for beneficial ownership information specifically.

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

98. Please note that some requests entailed more than one information category.

Statistics on response time and other factors

	2016		2017		2018		Total	
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received ^a	862	34	834	33	812	32	2 508	100
Final response: ^b ≤ 90 days	293	34	292	35	431	53	1 016	41
≤ 180 days (cumulative)	620	72	536	64	637	78	1 793	71
≤ 1 year (cumulative)	756	88	755	91	785	97	2 296	92
> 1 year	105	12	75	9	26	3	206	8
Declined for valid reasons	0	0	0	0	0	0	0	0
Outstanding cases after 90 days	569		538		381		[1 488]	
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 day)	384		354		192		930	
Requests withdrawn by the requesting jurisdiction	1	0	10	1	1	0	12	<1
Failure to obtain and provide any information requested ^b	0	0	0	0	0	0	0	0
Requests still pending at date of review	1	0	0	0	1	0	2	<1

Notes: a. For each subject involved (which is each person) for which information is requested a separate request is counted.

b. The table does not distinguish whether the answer provided is either partial or full reply to the EOI request concerned. The lines on Final responses therefore include cases where Cyprus provided all or part of the information requested and the line on failures covers only full failure.

353. In the 2013 and 2015 Reports, Cyprus was recommended to improve its timeliness. While Cyprus has made progress in its timeliness and EOIR mechanics since 2015, with the majority of responses (71%) having been sent within 180 days, as the Cyprus authorities count each person concerned by a letter of request as one separate case, the statistics result in different response times than in a jurisdiction that would count as one case each letter received, even when it relates to several persons. It remains that timeliness as compared to the previous report continued improving. In addition, it is unclear whether all these requests have been fully answered as it appears from peer input that some were only partially answered and closed.

354. Peers have expressed some concern in relation to delays receiving requested information and there were failures to send full or partial replies. Two requests are still pending. One peer had to close an investigation as the request process took too long. Several peers never received a final reply to a request, although this may be due to the practice of Cyprus not to notify peers when a case is considered final, a practice the Competent Authority has remedied since mid-2020.

355. One valid reason for longer response time mentioned in the 2015 Report remains during the current review period: in some cases income tax return information is requested before the domestic deadline of submitting this to the Cypriot authorities. This is caused by the relatively long time (12-15 months after the end of the tax year) Cypriot taxpayers have to submit their annual income tax returns compared to many other jurisdictions. This is necessary because most taxpayers must have their accounts audited, which takes some time but also results in more reliable income tax returns and underlying accounts. This situation has not changed, and the specific point regarding long response times with income tax returns was mentioned by peers. The Cyprus authorities noted that other valid reasons for long response times includes the complexity of the cases. Cyprus considers as complex requests that involved several holders of information with substantial documentation to be provided to peers and requests for information that contained more than 30 separate queries or when a request letter involves several companies and different types of information sought regarding such companies and during the review period Cyprus received several of these types of complex cases.

356. As noted in the table above, two responses are pending and no or only partial information was provided to the requesting authorities in certain cases. In relation to pending requests, there were recently six pending cases still on the files of the Competent Authority. Four of those requests concerned one peer which withdrew the file and there are now two pending requests. In relation to other withdrawn requests, they related to cases where the peer had informed Cyprus they had closed the cases after the receipt of a partial reply.

357. As a result of issues encountered, the recommendation remains that **Cyprus should ensure that all EOI requests are responded to in a timely manner.**

358. Requests for clarification were sought in a small number of cases according to the Cyprus authorities (around 15 cases, and a bulk of the cases discussed under Element C.1.1.):

- where a written statement regarding exhaustiveness and reciprocity was not included in the EOI request, which are required confirmations for the EOI Power, in cases regarding information requested from a Cyprus bank or from an ex-director of a dissolved company
- where the requesting jurisdiction sought information for periods over six years
- where the relevance of the requested information was not clear.

359. Usually the clarification was received within one month from peers.

Status updates and communication with partners

360. According to the EOIR procedures manual, an interim reply with readily available information is sent within two months of receipt of an EOI request. In the cases the final reply is delayed, then status updates are to be sent every three months for as long as the case is outstanding. The update informs the requesting jurisdiction of the actions taken since the last update and the date when a final reply can be anticipated, whenever possible.

361. In practice, status updates have not been sent in every cases. 930 status updates were sent during the review period. Some peers have always received status updates during the review period whereas other peers received updates on demand only. Several peers received status updates “most of the time” and one peer received updates “some of the time”. **Cyprus is recommended to provide status updates to its EOI partners within 90 days where it is not able to provide a full response within that time period.**

*C.5.2. Organisational processes and resources**Organisation of the competent authority*

362. The electronic records of all incoming requests are kept in the ITAD Central Database. Various reports are prepared regularly for monitoring purposes by filtering certain data in order to identify:

- a. outstanding cases
- b. cases close to 90 days/6 months deadlines
- c. cases allocated to each officer and cases finalised by each EOI officer
- d. cases sent to a particular District Office
- e. interim replies/status updates sent
- f. final replies sent and timing.

363. All ITAD district officers retain their own databases individually in order to monitor the requests allocated to them. Within 15 days from the end of each Quarter, a table is prepared by ITAD and sent to the Ministry of Finance and the CTD Commissioner for information.

Resources and training

364. The personnel of the ITAD counts the head of ITAD, a secretary, seven officers dealing with the requests centrally. In addition, designated officers at each of the five District Income Tax Offices responsible to collect the requested information and forward it to the ITAD for review and preparation of the replies.

365. The CTD prepares annual training plans for initial training and further development on existing matters based on the need emerged from roles responsibilities, applicable laws and the need to mitigate potential risks. Training for ITAD employees includes focusing on provisions in the law or EOI exchange mechanisms, OECD publications such as the OECD Manual on Implementation of Exchange of Information Provisions for Tax Purposes and Keeping It Safe, the Code of Ethics and Conduct of the CTD and the field of e-security/cyber security.

366. The EU provides Cyprus an annual budget for participating in EU Committees and Working Groups dealing with EOI and also for participating in training programmes such as “Fiscalis”.

367. The operational cost of ITAD is financed by the budget of the Ministry of Finance through the state budget. Each of the officers has her/his own personal computer, printer and telephone device. They have online access to the various Registers. They also have access to internet and each officer has her/his own email address. ITAD officers also have access to the CCN Mail II EU Network (EOI by the use of e-forms) and to the GF secure Database for competent authorities. Shredding machines, photocopy machines, fax machines and scanners are also available for them to use.

Incoming requests

368. Incoming EOI requests are processed as described in the EOIR procedures manual. The process, as regards the work of ITAD officers, has not changed since the 2015 Report.

369. All EOI requests received are given a unique reference number and are kept in files for each requesting country which are stored in an electronic filing system. As all requests are recorded in the ITAD Central Database, each case can be easily traced (e.g. by searching in the database for the name of the taxpayer or the date of the request or the reference number of the requesting state) and the reference number can be rapidly found.

370. Upon receipt of a request, a review of the request is performed by the Head of ITAD, who subsequently assigns it to an ITAD officer who will process the request by stating his or her name on the EOI request. The requests are then handed over to the Secretary of the Division to be recorded in ITAD’s Central Database. At a later stage, the Head of ITAD supervises and provides support to the ITAD officers in dealing with problems that might arise concerning the handling/replying to specific requests for information and reviews statistics and reports circulated to the CTD Commissioner regarding issues of importance or extraordinary issues.

371. A database is kept up-to-date and used by each officer for their requests to follow up the status of each case. For requests received under the EU Administrative Co-operation Directive there is also the step of sending via CCN Mail a receipt acknowledgement within 7 days of receipt of the EOIR.

372. When information is already in the CTD records, the officers search the tax records (electronically or in the physical tax file) to obtain the available information. A reply is then sent to the requesting authority as soon as possible and no later than two months from the date of receipt of the request. If this represents only part of the information requested, an interim reply with readily available information is sent.

373. Cyprus uses standard template letters for communication, which include references to legislation (such as section 50 ACTL regarding legal measures and section 50A regarding penalties) and the remaining text comprises details of the specific case.

374. As a monitoring measure, every month each ITAD staff member is furnished a Report of outstanding cases which includes information whether an interim reply or a status update needs to be sent.

Outgoing requests

375. This process has not changed since the 2015 Report. Cyprus sent 15 EOIR requests over 2016-18 (total 6 in 2016, 4 in 2017 and 5 in 2018) and received one request for clarification. Peers have not raised any concerns on Cyprus requests.

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

376. There are no factors or issues identified under this element that could unreasonably, disproportionately or unduly restrict effective EOI in Cyprus.

Annex 1: List of in-text recommendations

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

- **Element A.1.** Cyprus is recommended to update its legal framework to ensure that persons granted custody of books and papers of a company in a court-ordered winding up must retain those records for at least five years (see paragraph 72).
- **Element A.1.** Cyprus should monitor the roll out of the third compliance campaign and ensure that companies which ought to be struck off the Companies Register pursuant to the enforcement regime are struck off (see paragraph 82).
- **Element A.1.** Cyprus should review and monitor the simplified due diligence regime and ensure consistency across the supervisors (see paragraph 116).
- **Element A.1.** Cyprus should ensure that mandatory rules exist for all AML-obliged persons on what would constitute acceptable frequency for updates to ensure the availability of adequate, accurate and up-to-date beneficial ownership information (see paragraph 119).
- **Element A.1.** Cyprus is recommended to monitor, supervise and enforce the implementation of beneficial ownership registers in companies so as to ensure information in the central register of beneficial ownership will be adequate, accurate and up to date (see paragraph 152).
- **Element A.1.** Cyprus should monitor non-professional service providers acting as trustees to ensure that there is no gap as regards the availability of identity ownership (see paragraph 183).

- **Element A.1.4.** Cyprus should monitor the provision of trust services by non-professional trustees to ensure that beneficial ownership information is available in respect of all express trusts which are governed by the law of Cyprus, administered in Cyprus or in respect of which a trustee is resident in Cyprus (see paragraph 191).
- **Element A.3.** The CBC Directive should further specify the frequency of supervision, and what would constitute an acceptable frequency for updates, and include procedures for updating client due diligence information to ensure that there is binding and uniform frequent updating of CDD information (see paragraph 248).
- **Element A.3.** Cyprus should monitor the compliance by banks with obligations to obtain and retain relevant information, including ownership information, on their customers (see paragraph 258).
- **Element A.3.** Cyprus should not decline requests for historic banking information and should provide such information (see paragraph 259).
- **Element B.2.** Cyprus should monitor cases brought by information holders in respect of the use of the Domestic Power and EOI power in particular with respect to foreseeable relevance (see paragraph 293)^.
- **Element C.1.** Cyprus should not limit administrative assistance or quote statements made by the information holder to the requesting jurisdiction (see paragraph 308).
- **Element C.1.** The Competent Authority should share the full details of such persons as the information is foreseeably relevant as per the EOIR standard (see paragraph 316).
- **Element C.2.** Cyprus should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 328).

Annex 2: List of Cyprus’s EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI PARTNER	Type of agreement	Signature	Entry into force
1	Andorra	DTC	18 May 2018	11 January 2019
2	Armenia	DTC	17 January 2011	19 September 2011
3	Austria	DTC	21 May 2012	1 April 2013
4	Bahrain	DTC	9 March 2015	26 April 2016
5	Barbados	DTC	3 May 2017	11 September 2017
6	Belarus	DTC	29 May 1998	12 February 1999
7	Belgium	DTC	14 May 1996	8 December 1999
8	Bosnia and Herzegovina	DTC	29 June 1985	8 September 1986
9	Bulgaria	DTC	30 October 2000	3 January 2001
10	Canada	DTC	2 May 1984	3 September 1985
11	China (People’s Republic of)	DTC	25 October 1990	5 October 1991
12	Czech Republic	DTC	28 April 2009	26 November 2009
13	Denmark	DTC	11 October 2010	7 September 2011
14	Egypt	DTC	[19 December 1993]	31 July 2020
15	Ethiopia	DTC	30 December 2015	18 October 2017
16	Estonia	DTC	15 October 2012	8 October 2013
17	Finland	DTC	15 November 2012	27 April 2013
18	France	DTC	18 December 1981	1 April 1983
19	Georgia	DTC	13 May 2015	4 January 2016
20	Germany	DTC	18 February 2011	16 December 2011
21	Greece	DTC	30 March 1968	16 January 1969
22	Guernsey	DTC	15 July 2014	4 March 2015

	EOI PARTNER	Type of agreement	Signature	Entry into force
23	Hungary	DTC	30 November 1981	24 September 1982
24	Iceland	DTC	13 November 2014	22 December 2014
25	India	DTC	13 June 1994	14 December 2016
26	Iran	DTC	4 August 2015	5 March 2017
27	Ireland	DTC	24 September 1968	7 December 1970
28	Italy	DTC	24 April 1974	9 June 1983
		Protocol	4 June 2009	23 November 2010
		DTC	11 July 2016	17 February 2017
29	Kazakhstan	DTC	15 May 2019	17 January 2020
30	Kuwait	DTC	5 October 2010	30 August 2013
31	Latvia	DTC	24 May 2016	27 October 2016
32	Lebanon	DTC	18 February 2003	14 April 2005
33	Lithuania	DTC	21 June 2013	17 April 2014
34	Luxembourg	DTC	8 May 2017	23 April 2018
35	Malta	DTC	22 October 1993	11 August 1994
36	Mauritius	DTC	21 January 2000	12 June 2000
		Protocol on DTC	23 October 2017	2 May 2018
37	Moldova	DTC	28 January 2008	3 September 2008
38	Montenegro	DTC	29 June 1985	8 September 1986
39	Norway	DTC	24 February 2014	8 July 2014
40	Poland	DTC	22 March 2012	9 November 2012
41	Portugal	DTC	19 November 2012	16 August 2013
42	Qatar	DTC	11 November 2008	20 March 2009
43	Romania	DTC	16 November 1981	8 November 1982
44	Russia	DTC	5 December 1998	17 August 1999
		Protocol on DTC	7 October 2010	2 April 2012
45	San Marino	DTC	27 April 2007	18 July 2007
		Protocol on DTC	19 May 2017	27 June 2018
		DTC	3 January 2018	1 March 2019
47	Serbia	DTC	29 June 1985	8 September 1986
48	Seychelles	DTC	28 June 2006	27 October 2006
49	Singapore	DTC	24 November 2000	8 February 2001
50	Slovak Republic	DTC	15 April 1980	30 December 1980

	EOI PARTNER	Type of agreement	Signature	Entry into force
51	Slovenia	DTC	12 October 2010	14 September 2011
52	South Africa	DTC	26 November 1997	8 December 1998
		Protocol on DTC	1 April 2015	18 September 2015
53	Spain	DTC	14 February 2013	28 May 2014
54	Sweden	DTC	25 October 1988	13 November 1989
55	Switzerland	DTC	25 July 2014	15 October 2015
		Protocol on DTC	20 July 2020	Not yet in force
56	Syria	DTC	15 March 1992	22 February 1995
57	Thailand	DTC	27 October 1998	4 April 2000
58	Ukraine	Protocol on DTC	11 December 2015	28 November 2019
59	United Arab Emirates	DTC	27 February 2011	1 January 2014
60	United Kingdom	DTC	22 March 2018	18 July 2018
		Protocol on DTC	19 December 2018	18 July 2018
61	United States	DTC	19 March 1984	31 December 1985

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).⁹⁹ 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.

99. 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 Cyprus on 10 July 2014 and entered into force on 1 April 2015 in Cyprus. Cyprus can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, 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, 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, Mongolia, 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, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Benin, Bosnia and Herzegovina (entry into force on 1 January 2021), Burkina Faso, Gabon, Kenya (entry into force on 1 November 2020), Liberia, Mauritania, Oman (entry into force on 1 November 2020), Paraguay, Philippines, Thailand, Togo and United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).¹⁰⁰

100. The following jurisdictions signed the Multilateral Convention after the “cut-off” date for this review, but before the discussion of the report by the Peer Review Group: Botswana, Eswatini, Jordan and Namibia.

EU Directive on Mutual Administrative Assistance in Tax Matters

Cyprus can exchange information relevant for direct taxes upon request with EU member states under the EU Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation (as amended). The Directive came into force on 1 January 2013. All EU members were required to transpose it into their domestic legislation by 1 January 2013, i.e. Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain and Sweden.

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 28 September 2020, Cyprus's EOIR practice in respect of EOI requests made and received during the three year period from 1 January 2016 to 31 December 2018, Cyprus's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Cyprus's authorities during the on-site visit that took place in November 2019 in Nicosia, Cyprus.

List of laws, regulations and other materials received

Advocate Code of Conduct Regulation

Advocates Law Cap.2

AML Law 2019 amendments (N 81(I)/2019)

Assessment and Collection of Taxes Law (Amending) of 2017

Assessment and Collection of Taxes Law (Amendment) (No. 78) of 2014

Assessment and Collection of Taxes Law 1978 to 2016

Companies Law (Amending) (No. 4) Law of 2015

Companies Law Cap.113 (as amended)

Companies Law N149(I)/2018

Co-operative Societies Laws of 1985 to (No. 4) of 2013

Co-operative Societies Rules of 1987 up to 2012

Council Regulation (EC) No. 2157/2001 on the Statute for a European Company

Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU

Directive of CySEC for the prevention and suppression of money laundering and terrorist financing

Directive to the members of Institute of Certified Public Accountants on anti-money laundering and combating terrorist financing

ICPAC Guidance Paper on the Risk Based Approach, updated August 2020

Law Regulating Companies Providing Administrative Services and Related Matters of 2012

Open-Ended Undertakings for Collective Investment (UCI) Law of 2012 Consolidated with Law 88(I)/2015 and Law 52(I)/2016

Partnerships and Business Names amendment law N147(I)/2018

Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-18

Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-19

Prevention of Money Laundering and Terrorist Financing Directive to Credit Institutions (of the CBC) February 2019

Directive to the members of CBA on Anti Money Laundering and Counter Terrorist Financing Activities, issued December 2019

Trustee Law Cap 193

Authorities interviewed during on-site visit

Ministry of Finance
Tax Department
Department of Registrar of Companies and Official Receiver
Central Bank of Cyprus
Institute of Certified Public Accountants of Cyprus
Cyprus Bar Association
Cyprus Securities and Exchange Commission

Unit for Combating Money Laundering (MOKAS)

Authority of Co-operative Societies

Representatives from the banking sector, funds industry, service provider sector and accountancy and legal profession

Summary of reviews

In November 2013 the Global Forum evaluated Cyprus in a combined review against the 2010 ToR for both the legal implementation of the Standard and its operation in practice during the period from 1 July 2009 to 30 June 2012. The report of that evaluation (the 2013 Report) rated Cyprus Non-Compliant overall with the Standard. Following the 2013 Report, Cyprus underwent a supplementary review in respect of the review period between 1 July 2012 and 30 June 2014, related to the laws, regulations, and EOI arrangements in force or effect as at 14 August 2015, and was upgraded to a rating of Largely Compliant overall in the subsequent report (the 2015 Report).

Prior to the 2013 Report, Cyprus had gone into recession (following the global financial crisis) in 2011, which was deepened by a banking crisis in 2013, and received a Troika bailout of EUR 10 billion in March 2013. The 2013 Report was published in November 2013. The primary reason for the Non-Compliant rating in the 2013 Report was the lack of monitoring and enforcement of its legal framework, which was reasonably robust, and the insufficient practical implementation of laws governing the availability of information in Cyprus. A culture of non-compliance and the failures to file annual returns with the companies registrar and submit tax returns to the tax authorities meant that information was frequently unavailable for EOI purposes. Peers did not receive information and when they did, it was often only after long delays. Accounting information was not fully provided for EOIR, or was not received at all, and this was generally in cases where persons had not complied with their obligations to submit annual returns and/or tax return(s). Many of the issues were compounded by the lack of effective enforcement of the law. Since then, Cyprus has made considerable strides in law reform, effective enforcement and exchange of information, leading to the rating set out herein.

Review	Assessment team	Period under review	Legal Framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Mr Duncan Nicol, Director of the Cayman Islands Tax Information Authority; Mr Philippe Cahanin, Deputy Director in the Large Business Audit Branch of the French Revenue Administration and Mr Mikkel Thunnissen from the Global Forum Secretariat	not applicable	December 2011	March 2012
Round 1 Phase 2	Mr Duncan Nicol, Director of the Cayman Islands Tax Information Authority; Mr Sidi-Mohammed Zeddoun of the Large Business Audit Branch of the French Revenue Administration and Mr Mikkel Thunnissen from the Global Forum Secretariat	1 July 2009 to 30 June 2012	9 August 2013	November 2013
Round 1 Supplementary Phase 2	Mr Duncan Nicol, Director of the Cayman Islands Tax Information Authority, Mr Thierry Glajeau, Large Business Audit Branch of the French Revenue Administration and Mr Mikkel Thunnissen from the Global Forum Secretariat	1 July 2012 to 30 June 2014	14 August 2015	October 2015
Round 2	Ms Brigit Flannery (United States of America), Mr Stefan Schenker (Switzerland), Ms Clodagh Power and Ms Renata Teixeira (Global Forum Secretariat)	1 January 2016 to 31 December 2018	28 September 2020	December 2020

Annex 4: Cyprus’s response to the review report¹⁰¹

Cyprus concurs with the overall rating allocated in the Second Round Peer Review Report.

Cyprus is fully committed to continue implementing the international standards of transparency and exchange of information for tax purposes.

As generally acknowledged in this Report, Cyprus has a comprehensive Legal and Regulatory Framework which is effectively enforced, as evidenced through the practical implementation of the standard. We are also fully committed to sustain this performance through close monitoring and we also stand ready to address the Recommendations of this Report with an aim to further improve the EOI framework in practice.

With respect to the analysis on A1, Legal and beneficial ownership and identity information, we are apprehensive of items deviating from the MONEYVAL Report. We stand ready to discuss issues with the Global Forum Secretariat on the implementation aspects in due course for which, the input of other organizations such as the European Commission and MONEYVAL (Committee of Experts of the Council of Europe on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) might be sought, so as to make sure that our legal framework and practice is in line with other international standards and legislation that we have to follow.

Cyprus would like to express its sincere thanks for the hard and thorough work of the Assessment Team, for their support, as well as the excellent collaboration between us. We would also like to express our appreciation and thanks to the work of the Secretariat, Madame Chair of the PRG, the PRG members, as well as the members of the Global Forum, whose contribution greatly facilitated the whole process.

We also express our thanks to all government departments and stakeholders in Cyprus that ably assisted in this review process.

Once again, we state our commitment to the work of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes.

101. 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 CYPRUS 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 Cyprus.



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