

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

Peer Review Report on the Exchange of Information  
on Request

# **DOMINICA**

2020 (Second Round)



# **Global Forum on Transparency and Exchange of Information for Tax Purposes: Dominica 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](http://www.oecd.org/tax/transparency) and <http://dx.doi.org/10.1787/2219469x>.



## Abbreviations and acronyms

<b>2016 TOR</b>	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
<b>AML/CFT</b>	Anti-Money Laundering/Countering the Financing of Terrorism
<b>CARICOM</b>	Caribbean Community
<b>CFATF</b>	Caribbean Financial Action Task Force
<b>CDD</b>	Customer Due Diligence
<b>DTC</b>	Double Tax Convention
<b>ECCB</b>	East Caribbean Central Bank
<b>ECSRC</b>	Eastern Caribbean Securities Regulatory Commission
<b>EOI</b>	Exchange of Information
<b>EOIR</b>	Exchange of Information on Request
<b>FATF</b>	Financial Action Task Force
<b>FSU</b>	Financial Services Unit
<b>Global Forum</b>	Global Forum on Transparency and Exchange of Information for Tax Purposes
<b>IBC</b>	International Business Company
<b>IRD</b>	Inland Revenue Division
<b>ITA</b>	Income Tax Act
<b>MLP</b>	Money Laundering Prevention
<b>Multilateral Convention</b>	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
<b>TIEA</b>	Tax Information Exchange Agreement
<b>TIN</b>	Taxpayer Identification Number
<b>XCD</b>	East Caribbean Dollar



## Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request (the standard) in Dominica on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 17 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 April 2016 to 31 March 2019. This report concludes that Dominica is to be rated overall **Partially Compliant** with the international standard. In 2016, the Global Forum evaluated Dominica against the 2010 Terms of Reference and assigned an overall rating of Partially Compliant. As a result of the Fast-Track review, in 2017, Dominica received a provisional upgraded rating of Largely Compliant (see Annex 3).

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

Element	First Round Report (2016)	Second Round Report (2020)
A.1 Availability of ownership and identity information	Partially Compliant	Partially Compliant
A.2 Availability of accounting information	Non Compliant	Partially Compliant
A.3 Availability of banking information	Compliant	Largely Compliant
B.1 Access to information	Partially Compliant	Partially Compliant
B.2 Rights and Safeguards	Partially Compliant	Largely Compliant
C.1 EOIR Mechanisms	Compliant	Compliant
C.2 Network of EOIR Mechanisms	Compliant	Compliant
C.3 Confidentiality	Partially Compliant	Largely Compliant
C.4 Rights and safeguards	Compliant	Compliant
C.5 Quality and timeliness of responses	Partially Compliant	Largely Compliant
<b>OVERALL RATING</b>	<b>PARTIALLY COMPLIANT</b>	<b>PARTIALLY COMPLIANT</b>

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

## Progress made since previous review

2. Since the 2016 Report, Dominica has amended its laws to address issues identified in that report, but not sufficiently to secure an upgrade of its overall rating, which remains “Partially Compliant” with the standard of transparency and exchange of information on request. The major issues identified in 2016 related to different areas. On the availability of information, Dominica was requested to ensure the availability of legal ownership information on companies formed under the laws of a foreign country that carry on business in Dominica (called external (foreign) companies), implement an oversight system and exercise its enforcement powers with respect to legal ownership information; require all relevant entities and arrangements to maintain accounting records and ensure adequate oversight of compliance with accounting record obligations. Since then, Dominica has addressed the legal gaps identified in the 2016 Report, as legal ownership and accounting information should now be available for all relevant entities. Supervision and enforcement of these obligations remain an issue and still needs to be further reinforced.

3. On access to information, Dominica was requested to monitor the application of the new access powers and ensure that EOI officials were aware of the procedures; introduce wider exceptions from prior notification and monitor the implementation of the notification procedure. Dominica amended its Tax Information Exchange Act to clarify the procedures for gathering information pursuant to an EOI request, including the steps required for obtaining information. The implementation of these procedures must be further tested in practice.

4. On the exchange of information with foreign partners, Dominica was requested to ensure that its organisational processes and procedures were adequate and applied to ensure the confidentiality of all information received from an EOI partner and an effective exchange of information. Dominica has increased the number of EOI unit staff but more work is required. Dominica expanded its network of exchange of information partners, with the signature of the Multilateral Convention on 25 April 2019 (with an entry into force in Dominica on 1 August 2019).

## Key recommendation(s)

5. Dominica has not taken sufficient measures to address the recommendations identified in the 2016 Report related to strengthening supervisory and monitoring activities to ensure the availability of ownership and accounting information, which remain key aspects of the present review.

6. In addition, the standard on transparency was strengthened in 2016 with the requirement of availability of beneficial ownership information. The anti-money laundering framework is the only source of beneficial ownership information of domestic and relevant external (foreign) companies in Dominica, but there is no legal requirement that all companies, partnerships and trusts engage an AML-obliged person. As a result, beneficial ownership information may not be available for all of them. In addition, deficiencies have been identified in the AML beneficial ownership requirements. Dominica is recommended to ensure the availability of beneficial ownership information for all relevant entities and arrangements, and to implement a regular and comprehensive supervision system to ensure compliance with laws.

7. Dominica is also recommended to ensure the application of its access powers and application of relevant court procedures when seeking information; monitor the application of professional privilege in practice; and improve the practical implementation of the organisational processes of the EOI unit. The non-familiarity with these procedures may cause concerns regarding the effective exchange of information in practice. Therefore, Dominica is recommended to strengthen its organisational processes to effectively address the recommendations given in the first round review.

## **Exchange of information practice**

8. Dominica still has limited experience in exchange of information. During the review period, Dominica received two requests and was able to respond those within 90 days. Dominica did not send any EOI requests during the review period.

## **Overall rating**

9. Dominica has achieved a rating of Compliant for three elements (C.1, C.2 and C.4), Largely Compliant for four elements (A.3, B.2, C.3 and C.5) and Partially Compliant for three elements (A.1, A.2 and B.1). Dominica's overall rating is Partially Compliant based on a global consideration of Dominica's compliance with the individual elements.

10. This report was approved at the Peer Review Group of the Global Forum on 17 November 2020 and was adopted by the Global Forum on 11 December 2020. A follow up report on the steps undertaken by Dominica to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2021 and thereafter in accordance with the procedure set out under the 2016 Methodology.





## Summary of determinations, ratings and recommendations

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities ( <i>ToR A.1</i> )		
<p><b>The legal and regulatory framework is in place but needs improvement</b></p>	<p>The AML/CFT framework is the only source of beneficial ownership information of companies, partnerships and trusts in Dominica. However, there is no legal requirement to ensure that all entities engage an AML-obliged person, thus beneficial ownership information may not be available for all entities, as it is unclear to what extent companies have engaged an AML-obliged person. Dominica's legal and regulatory framework also contains some deficiencies with respect to the identification of beneficial owner(s) of partnerships and of companies, as it is unclear how to determine beneficial owners in situations where control is exercised through means other than direct control, or on the need to identify all beneficial owners. This may result in the AML-obliged persons not always collecting information on all relevant beneficial owners. The concern is extended to cases when entities have ceased to exist. In addition, AML/CFT obligations do not require identifying the natural persons behind any participant in a trust that would not be a natural person, which is not in accordance with the standard.</p>	<p>Dominica is recommended to ensure that the legal and regulatory framework requires all beneficial owners of all relevant entities and arrangements be identified in accordance with the standard, so that accurate and up-to-date information on beneficial owners is always available.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	<p>Legal entities and arrangements are not obliged to furnish legal ownership information to Dominican authorities upon restoration following dissolution and strike off. Further, there is no time limit for the revival of companies, including IBCs, in some cases provided in the legislation; so they may be revived at any time after dissolution.</p>	<p>Dominica is recommended to mandate the provision of ownership information upon strike-off and restoration of Dominica’s companies (including IBCs) and establish a clear time limit for all cases regarding the revival of companies which have been wound up.</p>
<p><b>Partially Compliant</b></p>	<p>The Registrar of Companies still does not conduct any monitoring of requirements under the Companies Act to maintain legal ownership and identity information and only conducts very limited monitoring of annual return filing by entities under its purview, despite the fact that the large majority of companies and partnerships are not operational. Further, even among active companies and partnerships compliance with filing obligations is low, but no companies have been struck off the register for any reason other than voluntary dissolution. However, the financial regulator does have a system of oversight covering IBCs. The Inland Revenue Department also reviews shareholder information in the course of tax audits where such information is relevant for the purpose of the audit.</p>	<p>Dominica is recommended to implement a regular and comprehensive monitoring system to ensure compliance by all relevant entities and partnerships with obligations to maintain legal ownership information under Dominican law.</p>
	<p>During the review period, no sanctions have been imposed by any Dominican authority for non-compliance with any obligations pertaining to the maintenance of ownership or identity information. In addition, the large number of inactive companies that maintain legal personality and do not comply with their filing obligations (including 98% of IBCs) raises concerns that legal and beneficial ownership information might not be available in all cases.</p>	<p>Dominica should sufficiently exercise its enforcement powers when needed to ensure the availability of ownership and identity information in all cases. Dominica should also review its system whereby a significant number of inactive companies remain with legal personality on the Commercial Register to ensure that legal and beneficial ownership information is available.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	<p>Beneficial ownership requirements have different levels of oversight depending on the service provider, which might lead to information not being available in all cases. Thus, although lawyers, notaries and accountants are subject to customer due diligence (CDD) obligations, there was no supervision of either profession during the review period. During the review period, the supervision was also not adequate to conclude that Dominica ensures the availability of accurate and up-to-date beneficial ownership information in practice in all cases.</p>	<p>Dominica should ensure that beneficial ownership information is available in practice on all relevant entities and arrangements. In particular, Dominica should put in place a monitoring regime of lawyers, notaries and accountants to ensure that beneficial ownership information in line with the standard is available with these professionals.</p>
	<p>The legal and beneficial ownership and identity requirements for nominees are not properly enforced.</p>	<p>Dominica should ensure that requirements in respect of nominee shareholders are effectively supervised and enforced to ensure that legal and beneficial ownership and identity information is available in all cases where a legal owner acts on behalf of any other person as a nominee or under a similar arrangement.</p>
<p>Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)</p>		
<p><b>The legal and regulatory framework is in place</b></p>		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
<p><b>Partially Compliant</b></p>	<p>During the review period, few onsite visits of registered agents took place. In addition, the FSU imposed no sanctions on registered agents and no IBCs were struck from the register for non-compliance, even considering the potentially large number of inactive IBCs. This demonstrates a possible lack of resources by the FSU. Moreover, no supervision of trusts for new accounting obligations took place. In addition, there is a concern whether accounting information in line with the standard on international legal entities and arrangements that have ceased to exist would be available in practice, considering the low level of supervision in practice.</p>	<p>Dominica is recommended to enhance its monitoring and enforcement practice to ensure the availability of accounting records for international legal entities and arrangements, including for those that have ceased to exist.</p>
	<p>Dominica's Inland Revenue Department (IRD) is the government authority mainly responsible for ensuring the compliance of domestic and external (foreign) companies and partnerships with their accounting obligations by means of its audit programme. However, a significant number of companies registered with the Registrar of Companies (approximately 50%) are not registered with the IRD. Although Dominica indicated that the vast majority of these companies are inactive, there would also be a risk that they would be carrying out business that does not require local registration and would thus be undetected by the tax administration. In addition, there is a concern whether accounting information in line with the standard on companies and entities that have ceased to exist would be available in practice, considering the low level of supervision in practice. Further, the compliance rate of partnerships is extremely low. It is therefore uncertain whether partnerships in Dominica are subject to adequate oversight in terms of maintaining accounting records as required by the international standard.</p>	<p>Dominica is recommended to enhance its monitoring and enforcement practice to ensure the availability of accounting records for domestic and foreign legal entities and arrangements, including for those that have ceased to exist.</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> )		
<b>The legal and regulatory framework is in place but needs improvement</b>	Dominica's legal and regulatory framework contains some deficiencies with respect to the identification of beneficial owner(s) of bank accounts, as it is unclear how to determine beneficial owners in situations where control is exercised through means other than direct control, or on the need to identify all beneficial owners. This may result in banks not always collecting extensive information on all relevant beneficial owners.	Dominica is recommended to ensure that its legal and regulatory framework requires all beneficial owners of account holders to be identified in accordance with the standard, so that accurate and up-to-date information on beneficial owners is always available.
<b>Largely Compliant</b>	There is scope for improvement in the inspection of banks to ensure the availability of accurate and up-to-date beneficial ownership information of customers. In the review period, onsite visits by the Eastern Caribbean Central Bank (ECCB) and the Financial Services Unit covered no domestic banks in Dominica. In addition, there were no follow up inspections in general. Since no monetary sanctions or other penalties have been applied during the review period, its efficiency remains to be tested in practice.	Dominica is recommended to strengthen its supervision of banks to ensure that accurate and up-to-date beneficial ownership information for all customers is maintained by all the banks in Dominica.
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> )		
<b>The legal and regulatory framework is in place</b>		
<b>Partially Compliant</b>	EOI officials in Dominica appear to be unfamiliar with provisions requiring a court order when requested information is required for civil or criminal proceedings in the requesting jurisdiction and court procedures for sealing sensitive documents. In addition, it is not known whether the relevant procedures were applied in practice when responding to the two EOI requests.	Dominica should ensure the process of its access powers is applied in practice in accordance with the EOI Act and ensure they are effective to gather information for EOI purposes in accordance with the standard. Dominica should also update its EOI Manual and ensure that EOI officials are kept aware of all relevant procedures.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	<p>Although there are sufficient general access powers available to the tax authorities which seem to allow access to information held by legal professionals and accountants, the interaction of these powers with professional secrecy has not been tested in practice. This concern is strengthened by the fact that the representatives of the lawyers and accountants did not clearly indicate that they would in practice be in position to provide information to the tax authorities when requested.</p>	<p>Dominica should monitor access to information held by professionals who can claim legal professional or other professional secrecy obligations so that the requested information can be obtained in line with the standard.</p>
<p>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>)</p>		
<p><b>The legal and regulatory framework is in place</b></p>		
<p><b>Largely Compliant</b></p>	<p>The notification provisions have not yet been applied in practice. Although the IRD has developed internal procedures and processes to be followed when a taxpayer must be notified, there are no internal procedures or processes in place regarding the court procedure to compel production of information “without notice”.</p>	<p>Dominica should continue to monitor the notification and court procedures to ensure that it does not unduly prevent or delay effective exchange of information.</p>
<p>Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)</p>		
<p><b>The legal and regulatory framework is in place</b></p>	<p>Although Dominica has signed and ratified the Multilateral Convention in April 2019, and ratified the TIEA with Sweden in 2017, these agreements have not yet been scheduled to the EOI Act in order to have force of law in Dominica for EOI purposes.</p>	<p>Dominica is recommended to schedule the Multilateral Convention and the TIEA with Sweden to the EOI Act expeditiously in order to have force of law in Dominica.</p>
<p><b>Compliant</b></p>		
<p>The jurisdictions’ network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)</p>		
<p><b>The legal and regulatory framework is in place</b></p>		
<p><b>Compliant</b></p>		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received ( <i>ToR C.3</i> )		
<b>The legal and regulatory framework is in place.</b>		
<b>Largely Compliant</b>	All documents submitted by the Comptroller to the High Court to obtain an order to compel production of information, including an EOI request, will become a matter of public record. Procedures exist in Dominican law to seal sensitive documents. However, to date, these procedures have not been applied by a court. Therefore, it is uncertain whether such sealing procedures would be effective in practice to ensure the confidentiality of EOI requests submitted to a court.	Dominica should continue to monitor the application of provisions to seal court documents to ensure that the confidentiality of EOI requests forming part of an application for a court order is protected.
	To prevent the disclosure of EOI requests submitted to a court, the Comptroller must apply for such documents to be sealed. Although legal provisions to seal sensitive documents exist in Dominican law, EOI staff were unaware of this process or legal provisions surrounding such court procedure.	Dominica should also ensure that officials responsible for handling EOI requests are aware of all relevant legal provisions and court procedures for the protection of sensitive information so that it can meet its confidentiality obligations as provided for under the international standard.
	Although Dominica's policies regarding confidentiality appear to be in place, the current EOI unit staff is unable to locate the two EOI requests that were received during the review period.	Dominica should ensure that its organisational processes and procedures are adequate and applied to ensure the confidentiality of all information received from an EOI partner.

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> )		
<b>The legal and regulatory framework is in place</b>		
<b>Compliant</b>		
The jurisdiction should request and provide information under its network of agreements in an effective manner ( <i>ToR C.5</i> )		
<b>This element involves issues of practice that are dealt with in the implementation of EOIR in practice. Accordingly, no determination has been made.</b>		
<b>Largely Compliant</b>	Dominica has committed sufficient resources and put in place some organisational processes to handle EOI requests. During the review period, Dominica received two requests and was able to respond within 90 days. Although some of the processes for responding to EOI requests were tested in practice, there were significant gaps in the organisational processes of the Competent Authority and Dominica's experience is still very limited. In addition, the IRD has not provided training to its current EOI unit staff, who have been unable to locate the requests received during the review period, and the organisational processes put in place do not appear adequate to conduct EOI in an effective and timely manner.	Dominica should further develop the practical implementation of the organisational processes of the EOI unit, including the development of a system to record EOI requests, updating the EOI Manual and training EOI staff, to ensure that they are sufficient for effective EOI in practice.



## Overview of Dominica

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

### Legal system

12. Dominica is a common law jurisdiction. It became an independent nation in 1978. The Dominica Constitution Order 1978 provides for the separation of powers between the Executive, the Legislature and the Judiciary. The hierarchy of laws is, in decreasing order of rank: (i) the Constitution, (ii) Acts of the House of Assembly, and (iii) Subsidiary Laws, Rules, Orders and Statutory Instruments. The Tax Information Exchange Act of Dominica provides that an agreement with another Government will have the force of law in Dominica once that agreement is scheduled to the Act. Accordingly, tax information exchange agreements become part of domestic law and have the same legal status as domestic law.

13. The Head of State is the President who is elected for a five-year term by the House of Assembly. Executive authority is vested in the President and exercised on his behalf by the Prime Minister and the Cabinet. The President appoints as Prime Minister the person who commands the support of the majority of elected members of the House. He also appoints, on the Prime Minister's recommendation, other Cabinet Ministers from among members of the House. The Cabinet is collectively responsible to the Parliament. Legislative power is vested in the House of Assembly and the President. The unicameral House of Assembly consists of 21 representatives elected for a five-year term in single-seat constituencies, and nine appointed senators, together with a Speaker, where the Speaker is not already an elected member or a senator.

14. Dominica has three magistrate's courts, with the final court being the Caribbean Court of Justice. The competence over tax cases lies with the High Court, which is also responsible for appeals related to exchange of information as well as access powers matters.

## Tax system

15. Dominica imposes both corporate and individual income taxes. The administration of income tax is governed by the Income Tax Act and the Collection of Taxes Act. Personal income tax rates are progressive and range from 15% to 35%. All resident corporations, either incorporated or with their place of management and control in Dominica, are taxed on their worldwide income at a single rate of 25%. Any taxpayer liable to personal or corporate income tax must file an annual return of the income of their business to the Comptroller<sup>1</sup> by 31 March of the year following the year to which the return relates (s. 66, ITA). The assessable income of a taxpayer resident in Dominica includes the gains or profits from any business; any employment; rentals or royalties; interest or discounts; premiums, commissions, fees and licence charges; annuities and other periodic receipts including receipts by way of alimony or maintenance; dividends; and any other gains or profits accrued (ss. 8(1)(a) and 33(1), ITA). A person is defined to include individuals, trusts, estates of deceased persons, companies, partnerships and every other legal person (s. 2, ITA). The tax return form is prescribed by the Comptroller (s. 127, ITA). There is no requirement to provide ownership information in annual tax returns. External (foreign) companies, formed under the laws of a foreign country that carry on business in Dominica and which operate in Dominica pay corporate tax on locally sourced income at a rate of 30%.

16. In January 2019, the International Business Companies (Amendment) Act, 2019 and the Offshore Banking (Amendment) Act, 2019 were enacted to repeal the 20-year tax exemption for IBCs and offshore banks. IBCs incorporated or offshore banks licensed on or after 1 January 2019 are supposed to be taxed on their worldwide income at a rate of 30%. However, IBCs incorporated and offshore banks licensed on or before 31 December 2018 are grandfathered and will be exempt from taxes until 31 December 2021. In practice the exemption period was extended and these modifications regarding IBCs are still not in force. IBCs will have to register with the IRD after June 2021. In the international financial sector, international exempt insurance companies and international exempt trusts remain not required to pay taxes.

17. Domestic trusts, foundations, partnerships and estates are taxed at the same rate as companies (i.e. 25%).

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1. The Comptroller is the head of the Internal Revenue Department (IRD) and is in-charge of the overall administration of the Income Tax Act of Dominica. Section 3 of the Income Tax Act (ITA) vests the responsibility of administration of the ITA with the Comptroller.

## Financial services sector

18. The legal framework in Dominica permits the existence of international financial services entities such as banks, business companies, insurance companies and trusts, which have specific laws tailored for them which are different to regular commercial laws. Financial institutions have benefited from private sector deposits that have been increasing in part due to strong inflows from expatriates in North America and Europe. In addition, Dominica offers an economic citizenship programme based on a contribution to the country (by way of a real estate purchase or other investment) as a means of further developing the country. The names of those receiving economic citizenship are published in the Official Gazette. Despite these efforts to create an international financial sector, Dominica is not a significant actor.

19. The financial sector in Dominica is primarily served by commercial banks and insurance companies. As of 1 January 2019, Dominica’s financial sector comprised: 4 commercial banks (3 foreign owned branches and 1 local bank) serving the domestic market, 16 offshore banks,<sup>2</sup> 19 insurance companies, 3 insurance brokers, 6 credit unions, 7 money services businesses, 1 government owned development bank and 1 Building and Loan Association. The number of actors in the financial sector is pretty stable over years, except for the number of offshore banks that is growing (from 3 in 2012, to 7 in 2016 and now 16 in 2020).

20. There are three government bodies responsible for financial regulation in Dominica: the Eastern Caribbean Central Bank (ECCB), the Eastern Caribbean Securities Regulatory Commission (ECSRC) and the Financial Services Unit (FSU). The ECCB and the ECSRC are multi-jurisdictional regulators with responsibility for regulation in the Eastern Caribbean Currency Union (ECCU).<sup>3</sup> The ECCB is responsible for the regulation of domestic banking business while the ECSRC is responsible for the regulation of domestic securities business within the ECCU. The FSU is responsible for the prudential regulation of all other financial institutions in Dominica as well as the AML/CFT supervisor of all financial institutions and persons carrying on a listed business activity in Dominica.

2. Offshore banks are companies licensed by the Minister of Finance under Offshore Banking Act 1996 (amended as of 2019), which are permitted to carry on only offshore banking business, meaning business conducted exclusively in currencies other than East Caribbean dollars. Offshore banks are not the same as foreign banks with branches in Dominica (which are licensed to carry on domestic banking business in East Caribbean Dollars).
3. The ECCU comprises of Anguilla, Antigua and Barbuda, Dominica, Grenada, Montserrat, Saint Lucia, Saint Kitts and Nevis, and Saint Vincent and the Grenadines.

21. The offshore services sector is regulated by the FSU and comprises 16 offshore banks, one internet gaming company and approximately 20 000 IBCs. There are no licensed offshore insurance companies or any international exempt trusts registered in Dominica.

## **Anti-Money Laundering Framework**

22. In Dominica, all financial institutions (including a trust business) and persons carrying on listed business activities (such as management companies, asset management and advice-custodial services, nominee services, registered agents) are subject to AML/CFT obligations and are supervised by the FSU.

23. Dominica's AML/CFT legal framework comprises the Money Laundering Prevention Act No. 8 of 2011, the Proceeds of Crime Act No. 10 of 2014, the Suppression of the Financing of Terrorism Act No. 3 of 2003, and the Money Laundering (Prevention) Regulations, 2013.

24. The Caribbean Financial Action Task Force (CFATF) conducted an evaluation of Dominica's compliance with the AML/CFT standards in 2009. In this report, Dominica received a non-compliant rating on FATF Recommendation 5 regarding customer due diligence (CDD) of financial institutions, a partially compliant rating for Recommendation 9 on introduced business and a compliant rating for Recommendation 10 on record keeping. Recommendations 12, 16 and 24 were rated non-compliant because designated non-financial businesses and professions were not supervised. Recommendation 33 and 34 were rated as partially compliant and non-compliant, respectively, because the laws did not establish adequate transparency concerning beneficial ownership of legal entities, legal arrangements and bearer shares.

25. In the latest follow-up report issued in November 2014, the CFATF acknowledged the progress made by Dominica to address the deficiencies identified in the 2009 Report. Only Recommendation 33 was considered to be outstanding. Dominica had taken action to address the deficiencies identified for Recommendation 9; however, there were still some minor shortcomings. Recommendations 5, 10, 12, 16, 24 and 34 had been fully addressed. The complete Mutual Evaluation Report and follow-up reports have been published and are available at <https://www.cfatf-gafic.org/member-countries/dominica>.

## Recent developments

26.      Dominica committed to implement the Common Reporting Standards (CRS) for the exchange of financial account information with other CRS participating jurisdictions. Dominica enacted the Automatic Exchange of Financial Account Information (Common Reporting Standard) Act No. 16, 2019 in May 2019.



## Part A: Availability of information

27. 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.

28. The 2016 Report concluded that Dominica’s legal and regulatory framework requiring the availability of legal ownership information in respect of relevant legal entities and arrangements was generally in place. There was a recommendation to ensure that ownership information is also available in relation to external (foreign) companies that have a place of management and control in Dominica (entities formed under the laws of a foreign country). In November 2016, Dominica amended the Companies Act to require external companies to maintain share registers. As such, the legal framework for the availability of legal ownership information in respect of all relevant entities and arrangements is now in place.

29. The 2016 Report also recommended that Dominica implement a regular and comprehensive system of oversight to ensure compliance by all relevant entities and partnerships with obligations to maintain ownership information under Dominican law. Dominica has demonstrated the intention of intensifying supervision, but some of these new actions do not seem to be in practice yet. The recommendation therefore remains.

30. A third recommendation in the 2016 Report was that Dominica sufficiently exercises its enforcement powers when needed to ensure the availability of ownership and identity information in all cases, as no sanctions have been imposed, as well as no companies have been struck off from the Registrar apart cases of voluntary dissolution. Supervision continues to be carried out by both the Inland Revenue Department and by the Financial Services Unit depending on the circumstances. However, these measures may

not be sufficient to ensure the availability of information on ownership in all cases. Dominica should continue to make progress towards ensuring that its monitoring and enforcement powers are sufficiently exercised in practice to support the legal requirements.

31. The standard was strengthened in 2016 to require that beneficial ownership information of relevant legal entities and arrangements be available. The AML/CFT framework is the only source of beneficial ownership information of companies in Dominica. However, there is no legal requirement that all companies, partnerships and trusts engage an AML-obliged person, thus beneficial ownership information may not be available in all cases (and the size of the practical gap is unknown). Dominica's legal and regulatory framework also contains some deficiencies with respect to the identification of beneficial owner(s) of companies, as it is unclear how to determine beneficial owners in situations where control is exercised through other means than direct control, or on the need to identify all beneficial owners of legal entities. This may result in the AML-obliged persons not always collecting extensive information on all relevant beneficial owners in accordance with the standard. Dominica should address these problems, so that accurate and up-to-date information on beneficial owners is always available.

32. It was noted during the review period that the large number of non-compliant/inactive companies and partnerships that maintain legal personality but do not comply with their filing obligations raises concerns that beneficial ownership information might not be available in all cases. Dominica should take steps to remedy this problem.

33. Supervision and enforcement of the AML/CFT provisions on beneficial ownership should be improved. Lawyers, notaries and accountants are subject to CDD obligations, but during the review period, there was no supervision of these professions. In addition, the beneficial ownership requirements have different levels of oversight depending on the AML-obliged person, and the legal ownership requirements for nominees are not properly enforced, which might lead to situations where required information may not be available. Considering that they might be a relevant source of AML/CFT in some circumstances, supervision of these professionals is required.

34. During the review period, Dominica received two requests, both related to legal and beneficial ownership information. One of the peers provided input indicating that they had received the requested information (including beneficial ownership information) and the other peer has not raised any issues.



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

**Legal and Regulatory Framework:  
In place, but certain aspects need improvement**

<b>Deficiencies identified/ Underlying Factor</b>	<b>Recommendations</b>
<p>The AML/CFT framework is the only source of beneficial ownership information of companies, partnerships and trusts in Dominica. However, there is no legal requirement to ensure that all entities engage an AML-obliged person, thus beneficial ownership information may not be available for all entities, as it is unclear to what extent companies have engaged an AML/CFT-obliged person.</p> <p>Dominica's legal and regulatory framework also contains some deficiencies with respect to the identification of beneficial owner(s) of partnerships and of companies, as it is unclear how to determine beneficial owners in situations where control is exercised through means other than direct control, or on the need to identify all beneficial owners. This may result in the AML-obliged persons not always collecting information on all relevant beneficial owners. The concern is extended to cases when entities have ceased to exist. In addition, AML/CFT obligations do not require identifying the natural persons behind any participant in a trust that would not be a natural person, which is not in accordance with the standard.</p>	<p>Dominica is recommended to ensure that the legal and regulatory framework requires all beneficial owners of all relevant entities and arrangements be identified in accordance with the standard, so that accurate and up-to-date information on beneficial owners is always available.</p>

Deficiencies identified/ Underlying Factor	Recommendations
<p>Legal entities and arrangements are not obliged to furnish legal ownership information to Dominican authorities upon restoration following dissolution and strike off. Further, there is no time limit for the revival of companies, including IBCs, in some cases provided in the legislation; so they may be revived at any time after dissolution.</p>	<p>Dominica is recommended to mandate the provision of ownership information upon strike-off and restoration of Dominica's companies (including IBCs) and establish a clear time limit for all cases regarding the revival of companies which have been wound up.</p>

### Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/ Underlying Factor	Recommendations
<p>The Registrar of Companies still does not conduct any monitoring of requirements under the Companies Act to maintain legal ownership and identity information and only conducts very limited monitoring of annual return filing by entities under its purview, despite the fact that the large majority of companies and partnerships are not operational. Further, even among active companies and partnerships compliance with filing obligations is low, but no companies have been struck off the register for any reason other than voluntary dissolution. However, the financial regulator does have a system of oversight covering IBCs. The Inland Revenue Department also reviews shareholder information in the course of tax audits where such information is relevant for the purpose of the audit.</p>	<p>Dominica is recommended to implement a regular and comprehensive monitoring system to ensure compliance by all relevant entities and partnerships with obligations to maintain legal ownership information under Dominican law.</p>

Deficiencies identified/ Underlying Factor	Recommendations
<p>During the review period, no sanctions have been imposed by any Dominican authority for non-compliance with any obligations pertaining to the maintenance of ownership or identity information. In addition, the large number of inactive companies that maintain legal personality and do not comply with their filing obligations (including 98% of IBCs) raises concerns that legal and beneficial ownership information might not be available in all cases.</p>	<p>Dominica should sufficiently exercise its enforcement powers when needed to ensure the availability of ownership and identity information in all cases. Dominica should also review its system whereby a significant number of inactive companies remain with legal personality on the Commercial Register to ensure that legal and beneficial ownership information is available.</p>
<p>Beneficial ownership requirements have different levels of oversight depending on the service provider, which might lead to information not being available in all cases. Thus, although lawyers, notaries and accountants are subject to customer due diligence (CDD) obligations, there was no supervision of either profession during the review period. During the review period, the supervision was also not adequate to conclude that Dominica ensures the availability of accurate and up-to-date beneficial ownership information in practice in all cases.</p>	<p>Dominica should ensure that beneficial ownership information is available in practice on all relevant entities and arrangements. In particular, Dominica should put in place a monitoring regime of lawyers, notaries and accountants to ensure that beneficial ownership information in line with the standard is available with these professionals.</p>
<p>The legal and beneficial ownership and identity requirements for nominees are not properly enforced.</p>	<p>Dominica should ensure that requirements in respect of nominee shareholders are effectively supervised and enforced to ensure that legal and beneficial ownership and identity information is available in all cases where a legal owner acts on behalf of any other person as a nominee or under a similar arrangement.</p>

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

36. Dominican law recognises the following types of companies:<sup>4</sup>

- domestic companies:
  - companies limited by shares which may be either private or public (ss. 26 to 57, Companies Act)
  - companies without share capital (non-profit companies) (ss. 326 to 337, Companies Act)
- external (foreign) companies (ss. 338 to 359, Companies Act)
- international business companies (IBCs) are created under Dominica law but cannot carry on business in Dominica with persons domiciled or resident in Dominica (IBCs Act).

37. As of March 2020, according to the Registrar, there were 2 899 active domestic companies (i.e. in operation) (including 386 non-profit companies) and 39 external companies registered in Dominica. There were 20 466 IBCs registered in Dominica, as of 5 March 2020, with 483 of these IBCs being active (i.e. less than 3%). As a comparison, in March 2012, there were 2 700 domestic companies (including 386 non-profit companies) and 16 486 IBCs.<sup>5</sup> The number of companies therefore remains stable.

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

#### **Legislation regulating legal and beneficial ownership of companies**

Type	Company Law	Tax Law	AML/CFT Law
Domestic companies	Legal – all	Legal – some	Legal – all
	Beneficial – none	Beneficial – none	Beneficial – some
External (foreign) companies	Legal – all	Legal – some	Legal – all
	Beneficial – some	Beneficial – none	Beneficial – some
IBCs	Legal – all	Legal – some	Legal – all
	Beneficial – some	Beneficial – none	Beneficial – some

4. See paragraphs 45 to 48 of the 2016 Report for details.

5. Corresponding data on inactive companies in 2012 is not available.

### *Legal ownership information*

39. The 2016 Report concluded that Dominica’s legal and regulatory framework requiring the availability of legal ownership information in respect of companies was generally in place. The same legal framework continues to apply. There was a recommendation to ensure that ownership information is available in relation to external (foreign) companies that have a place of management and control in Dominica. Dominica has taken steps to address this recommendation by amending the Companies Act, in November 2016, to require external companies to maintain share registers (see further discussion below). As such, the availability of legal ownership information in respect of all relevant entities and arrangements in Dominica is now in place.

### *Companies Act*

#### Domestic companies

40. There have been no changes to the legal obligations on domestic companies to register with the Registrar and maintain legal ownership information since the 2016 Report (see paragraphs 51-54, 62).

41. Companies are required to maintain a register of members at their registered office on an on-going basis. There are no provisions in the Companies Act regarding the retention period for the articles of incorporation and the shareholder register maintained by a company, so they must be retained as long as the company exists. Failure to do so is punishable with a fine of XCD 5 000 (USD 1 850). A transfer of registered shares is effectuated by an instrument of transfer signed by the transferor and accompanied by either the transferor’s share certificate or certified by the company or the East Caribbean Stock Exchange. There is no sanction for failing to apply those rules but a share transfer will not be recognised by a company until the transfer, along with details of the new shareholder, has been registered.

42. Companies are also required to maintain a register of substantial shareholders (i.e. a shareholder who holds at least 10% of the voting rights, either by itself or in the name of a nominee). Failure to maintain such a register is punishable with a fine of XCD 5 000 (USD 1 850). The same sanction would apply to persons who fail to notify a company within 14 days if they become or cease to be a substantial shareholder. Every officer of the company permitting this default is liable to the same fine. However, no penalties in this regard have been applied by the Registrar of Companies (Registrar) during the review period, as discussed in paragraph 56.

43. In order to incorporate in Dominica, a company must register with the Registrar of Companies (Registrar). A registered agent is not required for incorporation of domestic companies. A company that fails to register

with the Registrar will not have legal personality. When registering, domestic companies are not required to provide ownership information. Once the Registrar is satisfied that the required documentation has been submitted, the submitted information is shared, via an online portal, with other relevant agencies, including the IRD. The IRD will use this information for its own registration purposes and will issue a TIN. Once a TIN has been issued, the Registrar will issue a certificate of incorporation to the company.

44. After incorporation, companies are required to submit an annual return to the Registrar before 1 April each year. The return must contain information detailing the number of shares issued or redeemed over the last financial period and the name of the persons holding shares in the company, including any persons who have held shares at any time since the provision of the last return. Failure to file an annual return is an offence punishable with a fine of XCD 5 000 (USD 1 850). Further, the Registrar is entitled to strike from the register any company that fails to send any return, notice, document, or pay any fees, as required by the Act. In such circumstances, the Registrar should send an information letter to the company and a follow-up with a written notice to the entity informing it of its default and the consequences of such default. The company would have a month to respond to the follow-up notice. If, after one month, the company has not responded, the Registrar should begin strike-off procedures and publish a notice in the Gazette to the same effect. Generally, the strike-off procedures should take between two to three months. Any information filed with the Registrar is kept for six years from the date it is received (s. 507, Companies Act). This time period is also applicable to companies which have ceased to exist.

45. In Dominica, a company may cease to exist voluntarily, or by Court order in exceptional cases listed in the Companies Act. The Registrar is empowered to strike-off companies that are found to be defaulting on their obligations. The strike-off from the register is not always followed by a liquidation although a struck-off company loses legal personality and cannot carry on business. In case of liquidation, the court may appoint a liquidator (s. 391, Companies Act). A company may be dissolved by the Court when the company does not commence its business within a year from its incorporation or suspends its activities for a whole year (s. 377(b)). The law provides that, where the Registrar would have reasonable cause to believe that a company is not carrying on business or otherwise in operation, it may send a letter, by post, to the company, inquiring whether the company is carrying on business or is in operation (s. 483(1)). If the Registrar does not receive a response within one month, it should send a reminder 14 days after the deadline. If no answer is received, a notice would be published in the Gazette with a view to striking the company off the register. Following that, after a three-month period, the company would be struck off. The Companies Act states that the Registrar may restore struck off companies from the register (s. 511(5)).

Registrar shall keep files up to six years from the date it has received them (s. 507) and the liability of every director, officer or shareholder remains during that period (s. 512). In addition, for AML/CFT purposes, all identity information must be recorded and kept for seven years after the termination of the business transaction recorded (s. 24(2) MLP Regulations).

46. A company may be restored under two possibilities. First, within 20 years of dissolution/strike off by the Registrar under a court procedure, provided that the company satisfies the conditions prescribed by the court and pays a restoration fee (s. 483(6)), however these conditions are not expressed in the legislation. Second, it can be restored by the Registrar upon application, under s. 511 of the Companies Act, without any clear time limit for the revival. The application to be submitted to the Registrar on restoration, does not require shareholder information but does require detailed information on the company, including the reasons for dissolution/strike off, the interest of the applicant in revival and the relationship of the applicant to the company. Companies need to pay a prescribed fee in order to request the restoration (XCD 300 (USD 100)). The same would apply with respect to IBCs (s. 66 and 99-100 IBC Act). It is not clear from the legislation whether the Registrar is required to ensure that all legal ownership information of struck-off companies seeking restoration has to be available in order for them to be re-registered. Dominica has informed that, upon restoration, the company is mandated to pay the prescribed fees, comply with annual return filing obligations going forward, file the certificate of solvency as if the company had not been struck off in the past, and rectify the default with respect to the notice that had led to the strike-off. The Registrar noted that two companies were restored after having been struck-off. However, it is unclear whether for such restored companies there are legal requirements or binding regulations to ensure the availability of all ownership information or past defaults during the intervening period of strike-off to restoration. Hence, it is unclear whether the legal ownership information on such companies would be available for the period that they were struck-off, once they are restored in all cases. In the absence of a time-frame within which a struck-off company may be restored by the Registrar, there is further uncertainty about the availability of ownership information in line with the standard as it is unclear when a struck-off company can be definitively considered to have ceased to exist. In conclusion, companies are mandated to maintain their records (s. 189), but the legislation is not clear on the requirements that this is verified by the Registrar, which could lead to situations where ownership information is not available in line with the standard. **Dominica is recommended to mandate the provision of ownership information upon strike-off and restoration of Dominica's companies (including IBCs) and establish a clear time limit for all cases regarding the revival of companies which have been wound up.**

## External (foreign) companies

47. External companies must register with the Registrar before they can carry on a business in Dominica. They must file with the Registrar a statement, including: (i) the company's name; (ii) the jurisdiction of incorporation; (iii) the business start date in Dominica; (iv) the full address of the registered or head office of the company; (v) the full address in Dominica; and (vi) the full names, addresses and occupations of the directors. This statement must be accompanied by a copy of the corporate instruments of the company. No ownership information has to be provided upon registration unless this information is detailed in the company's articles of incorporation. Upon receipt of the documentation, the Registrar will issue a certificate of registration for the external company. External companies are not required to engage a registered agent in Dominica.

48. An external company must, no later than 1 April each year after the day of its registration, send to the Registrar an annual return containing the information outlined in the paragraph above regarding the preceding fiscal year. Again, ownership information will usually not be part of the return. The Registrar may strike off the register an external company that neglects or refuses to file an annual return (similar procedure as described in paragraph 44).

49. At the time of the 2016 Report, there was no obligation on external companies to maintain legal ownership information, and a recommendation was included for Dominica to ensure that external companies maintain legal ownership information. In November 2016, Dominica amended the Companies Act to require external companies to maintain a share register (s. 359A, Companies Act). The register includes information on: (i) the names and addresses of persons who hold shares in the company; (ii) the number of each class and series of registered shares held by each person; (iii) the date on which each person was added to the share register; and (iv) the date on which any person ceased to be a member. A copy of the share register, commencing from the date of registration of the company, is to be kept at the principal office of the company in Dominica. Liabilities in general would remain responsibility of every director, managing officer and members of the company (s. 483(5)(a)) and information is required to be kept for five years (s. 477(2)). Any external company that fails to comply with this law is liable on summary conviction to a fine of XCD 5 000 (USD 1 850) and the director or officer found guilty is subject to a six-month imprisonment (s. 530(3)).<sup>6</sup>

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6. The Companies Act provides for this penalty for all types of companies including external companies, but there are no precedents of such penalties for external companies and no information whether the enforcement on non-residents might be a challenge.



50. This amendment to the Companies Law addresses the recommendation from the 2016 Report.

### International Business Companies Act

51. The legal framework for the availability of ownership information on IBCs has not changed since the 2016 Report. The Registrar does not keep legal ownership information on IBCs, but this information must be kept by the IBC and its registered agent.

52. An IBC must be registered with the Registrar. To register, an IBC must submit a memorandum of association and its articles of association. These documents do not need to contain ownership information; however, the memorandum must contain the address of the IBC's registered office. Upon receipt, the Registrar files the documents in the Register of IBCs and issues a certificate of incorporation. The Registrar must be informed of any amendments made to an IBC's memorandum or articles of incorporation within 14 days of alteration. Any amendment takes effect from the date on which it is registered.

53. The Registrar may strike an IBC from the register if there is reasonable cause to believe that an IBC no longer satisfies the requirements prescribed by the law, such as non-compliance with annual return and financial statement requirements to be filed with the Registrar (S. 359A of the amended Companies Act). IBCs also need to notify the Registrar if they had a change of registered agent (S. 39(8)(C) IBC Act). In such circumstances, the IBC is entitled to receive two notices within 30 days of each informing it of its default and the consequences of such default. If the IBC does not respond to either notice, the Registrar must publish a notice to the same effect in the Gazette. If no reply is received within 90 days following the publication of the notice, the IBC shall be struck off the register.

54. An IBC is required to keep an updated share register containing full details on owners of registered shares. This register, commencing from the date of registration of the IBC, must be kept at the IBC's registered office in Dominica. A transferee of a registered share is only considered a shareholder once his/her name is entered into the register. A company that does not make all required entries in its share register, and a director who knowingly permits such a contravention, is liable to a penalty of USD 25 for each day the contravention continues.

55. In addition, an IBC must have a registered agent in Dominica at all times. After the registered agent<sup>7</sup> has been authorised by the Registrar, it may

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7. Registered agents must be either a barrister or a chartered accountant practising in Dominica, or a company licensed under the Companies Act with authorised and paid up capital of not less than USD 250 000, an offshore bank licensed

obtain a licence certificate from the Minister of Finance. Registered agents are AML-obliged entities and must carry out KYC and CDD pursuant to Dominica's AML/CFT laws (for further information refer to AML/CFT laws below). As part of a registered agent's AML/CFT obligations, it must maintain legal ownership information on its clients (e.g. the IBCs) for seven years after the end of the business relationship.

### Supervision by the Registrar

56. The Registrar functions as a repository of information, with extremely limited supervision activities, in particular due to its limited resources. The Registrar does not verify the accuracy of the information provided, rather relies on the information provided by the company. The 2016 Report noted that the obligation to maintain share registers by domestic companies is generally not monitored by any government body, with the exception of the limited oversight by the IRD. This continues to be the case during the current review period. No penalties for failure to maintain share registers have been imposed.

57. The Registrar is empowered to strike companies off the register for failing to send any return, notice, document or prescribed fee as required. With the exception of voluntary dissolution, no companies have been struck from the register during the review period.

58. In February 2017, the Registrar published a notice in the media to all companies reminding their obligation to file annual returns and financial statements, and to pay their annual fees. The notice specifically announced that non-compliance would result in being struck off from the register. With the exception of voluntary dissolution, no companies were struck from the register since then.

59. In April 2017, the Registrar also published a notice in the Gazette specifically to IBCs requiring them to notify the Registrar if they had a change of registered agent, failing which the IBC would be struck off. The Registrar detected instances of non-compliance where a registered agent informed the Registrar that he/she was no longer acting on behalf of an IBC, but that IBC had not filed notice of a change of registered agent. Based on this programme, the Registrar issued reminders to 85 companies that they needed to file notice of change of registered agent. It is not known how many IBCs have been struck from the register. It is noted that Dominica was affected by a weather emergency as a consequence of the hurricanes in 2017. This event might have impacted the services and programmes carried out by the Registrar.

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under the Offshore Banking Act 1996, or a management company registered under the Exempt Insurance Act 1997. IBCs cannot act as a registered agent.

60. As discussed above, new obligations were imposed on external (foreign) companies to submit ownership information in their annual returns filed with the Registrar. There has been no monitoring of this new obligation.

### *Tax law requirements*

#### Domestic and external companies

61. The 2016 Report explained that despite the absence of an explicit obligation under the Income Tax Act to register with the IRD, taxpayers are registered by the IRD for VAT purposes and in order for their income tax returns to be processed (see paragraphs 56-60 of the 2016 Report). This practice continued to be applied during the review period. The IRD uses the online portal of companies maintained by the Registrar to identify and register new taxpayers. Once all of the required information has been processed by the Registrar, it is made available to the IRD. The IRD checks the portal daily, and when a new company has been identified, the information contained on the portal is transferred into the IRD's internal tax system, at which point a TIN is generated. Depending on the type of business conducted by the company, the tax registration process may be two-fold, the second stage involving the creation of a Corporate Income Tax Account.

62. Any person liable to income tax must file an annual return of the income of their business with the Comptroller by 31 March of the year following the year to which the return relates. There is no requirement to provide ownership information on this annual return. However, in cases where companies have distributed dividends to a foreign shareholder, the shareholder is subject to a 15% withholding tax and a withholding tax return must be filed with the IRD which contains information related to the shareholder.

63. Taxpayers are required to maintain their records for at least seven years after the end of the period to which the records relate.

64. External companies having a place of management and control in Dominica are considered tax residents and are taxable on their worldwide income. The tax requirements described above similarly apply to external companies that are tax resident in Dominica.

#### International Business Companies (IBCs)

65. Up until 2019, IBCs were not subject to any tax obligations as they are not liable to taxes in Dominica for a period of 20 years from the date of their incorporation. After the period of exemption, IBCs would be required to register for tax purposes and meet other tax obligations unless further exemptions were granted under the Income Tax Act. The 2016 Report

(paragraph 69) noted that the earliest incorporated IBCs would be reaching the end of their exemption period in December 2016. However, in practice, the exemption period was extended to 2017, 2018 and 2019. Amendments to the IBC Act were enacted in January 2019, which provided that an IBC incorporated on or before 31 December 2018 is exempt from any tax obligations until 31 December 2021, and do not need to register until June 2021.

66. To conclude, the legal framework governing the availability of legal ownership information for domestic companies and IBCs under the companies and tax law continues to be in line with the standard. Amendment to the Companies Law requiring an external company to maintain a share registry addresses the 2016 recommendation; accordingly, the availability of legal ownership information for external companies is in line with the standard.

### Supervision by the Inland Revenue Division

67. The IRD has 21 auditors who are responsible for ensuring that taxpayers file tax returns and for conducting audits. The IRD explained that every year the audit programme focuses on groups of taxpayers that require the most attention. The IRD's audit programme uses estimated number of returns filed by each taxpayer group and the total number of returns that can be audited with the available IRD staff. The "field audit" is the main tool in the IRD's audit programme. Information on audits undertaken during the review period is further described in paragraph 192. There have been no changes to the processes described in paragraphs 168-174 of the 2016 Report.

68. Although there is no requirement to provide ownership information in annual corporate income tax returns, the IRD does verify a company's ownership information in the course of tax audits, in particular in cases where companies have distributed dividends to their shareholders. The distribution of dividends to foreign shareholders is subject to a 15% withholding tax. The IRD verifies shareholder information to determine whether the withholding tax has been duly paid by the domestic and external companies (IBCs are not taxpayers) and companies are required to file withholding tax returns when making distributions.

### *Inactive companies*

69. The 2016 Report reported that approximately 50% of companies registered with the Register of Companies are not registered with the IRD. No statistics were provided during the review period.

70. In May 2017, as part of its ongoing supervision programme, the FSU conducted an on-site inspection of almost all registered IBC agents to ensure that they were keeping proper client records. Through this inspection process,

the FSU identified inactive client files, which were forwarded to the Registrar to be struck off the register. At the on-site visit, registered agents indicated as a result of changes to the supervision process, many IBCs are moving abroad. They also indicated that some agents are supporting the striking off measures by submitting the names of companies to be struck off to the Registrar.

71. Dominica has theorised that the discrepancy between the number of companies registered with the Registrar and the number registered with the tax authority is due to the fact that the vast majority of companies on the public registry are inactive (i.e. not operational), as well as exempt companies, such as IBCs, which for the moment are still neither required to register with the IRD nor taxable in practice. In addition, taxpayers are not necessarily required to register with the IRD, but they explained that, in practice, taxpayers who are required to file annual tax returns are registered in order for their tax returns to be processed, even though registration is not required under the tax law. The IRD regularly checks for new registrations with the Registrar's database and registers such entities and issues TINs, as described on paragraph 44. However, since these requirements apply only to persons that are actively carrying on a business, the IRD considers it difficult to review inactive companies once they have stopped doing business. During the review period, 685 new companies registered with the Registrar, all of which were registered with the IRD as well.

72. There, however, remains a risk that such inactive companies or IBCs in general are carrying on businesses that do not require local registration and would thus be undetected by the tax administration. These companies retain their corporate personality by virtue of remaining on the Register of Companies, and changes in legal ownership take legal effect only after registering in the Registrar, so inactive companies cannot change legal ownership unless they update the entries in the register. In practice, the Registrar does not remove a company from the register just for being inactive, but this is one of the grounds for court dissolution, when the company does not commence its business within a year from its incorporation or suspends its activities for a whole year, as discussed in paragraph 45. IBCs that have not met reporting requirements are also subject to strike-off, as discussed in paragraph 53. However, it appears that the strike off of IBCs has not happened in practice during the review period.

73. In addition, because inactive companies retain legal personality, there is a concern that they may conduct business (including beneficial ownership changes) outside the view of the Dominican authorities. For instance, there could be cases in which an entity continues to hold assets or conduct transactions entirely abroad without the need to engage AML-obliged persons in Dominica, and does not maintain or file up-to-date ownership information subject to supervision. The availability of adequate, accurate and up-to-date

beneficial ownership information for these entities is therefore not assured. The large number of companies in this situation raises concerns. **Dominica is recommended to review its system whereby a significant number of inactive companies remain with legal personality on the Commercial Register to ensure that legal and beneficial ownership information is available.**

### *Beneficial ownership information*

74. The standard was strengthened in 2016 and beneficial ownership information on companies should be available.

75. There are no provisions in the Companies Act, the IBC Act or the tax law related to the availability of beneficial ownership information on companies. Dominica collects beneficial ownership information through its AML/CFT laws: the Proceeds of Crime Act 1993, the Money Laundering Prevention (MLP) Act, the MLP Regulations 2013 and the AML and Suppression of Terrorist Financing Code of Practice 2014. In addition, these binding texts are supported by non-binding Guidelines.

### Scope of the AML/CFT obligations

76. The sources of beneficial ownership information on companies are financial institutions and service providers, which are AML-obliged persons. Dominica's AML/CFT framework applies to financial institutions<sup>8</sup> and company service providers, including: trust and other fiduciary services, company formation and management services, nominee services, registered agents and services performed by lawyers and accountants.

77. IBCs must engage a registered agent. However, there is no legal requirement to ensure that all domestic companies engage an AML-obliged person. Most companies would have a bank account in practice, if they were conducting any business in Dominica, but they have no obligation to do so. Thus beneficial ownership information may not be available for all companies as required by the standard.

### Customer Due Diligence

78. The CDD procedures are to be carried out as soon as it is reasonably practicable after contact is first made between the AML-obliged person and the applicant for business (s. 8, MLP Regulations). In determining what is reasonably practical, all of the circumstances shall be taken into account

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8. The definition of "financial institution" includes a bank licensed under the Banking Act or the Offshore Banking Act and a trust business.

including: (i) the nature of the business relationship or transaction concerned; (ii) the geographical location of the parties; (iii) whether it is possible to obtain the CDD documentation before commitments are entered into between the parties or before money is exchanged; and (iv) in the case of transactions, the earliest stage at which there are reasonable grounds for presuming that the total amount payable by the client is XCD 13 513 (USD 5 000).

79. According to the Code of Practice, an AML-obliged person shall carry out the verification of the customer's identity before or during the course of establishing a business relationship or engaging in a transaction, unless it becomes necessary, in order not to disrupt the normal conduct of business, for the verification to be conducted after the establishment of the relationship (s. 25, Guidelines). In order to do so, the following conditions must be met: (i) the verification must be completed within 30 days from the date of the establishment of the relationship; (ii) the AML-obliged person must have already had appropriate risk management processes and procedures adopted; and (iii) following the establishment of the relationship, the money laundering or terrorist financing risks that may be associated with the client are properly and effectively monitored and managed.

80. It is not clear that an AML-obliged person will always identify the future client and its beneficial ownership and control before establishing the relationship, however it is noted that the process must be completed within 30 days and there is no indication that it would lead to an impact on the reliability of the information in practice.

81. Further details are set out in the Guidelines which explain the CDD measures and also require an AML-obliged person to: (i) identify and verify the identity of the applicant or customer, including the case of a person who purports to act on behalf of an applicant or customer; (ii) use reliable evidence as is necessary to verify the identity of the applicant or customer; and (iii) use such measures as are necessary to understand the circumstances and business of the applicant, including obtaining information on the source of funds, size and volume of business, and expected nature and level of the transactions sought (s. 21, Code of Practice).

82. According to the MLP Regulation, an AML-obliged person must establish and verify the identity of a customer when it establishes a business relationship by requiring them to produce an identification record or other reliable and independent source document. Determining the identity in a satisfactory manner means that (i) it is reasonably capable of establishing that the applicant is the person he claims to be; and (ii) the person who obtains the evidence is satisfied, in accordance with the established internal procedures and policies of the business concerned.



83. Further, where the customer is a natural person, the AML-obliged person must “adequately identify and verify his identity including his name and address, social security card, passport or other official identifying document”. Where the customer is a legal entity, the AML-obliged person must “adequately identify the beneficial owner of the entity and take reasonable measures to identify and verify its ownership and control structure, including: (i) the customer’s name, legal form, head office address and identities of directors; (ii) the principal owners and beneficiaries and control structure; (iii) provisions relating to the powers to bind the entity” (s. 2 and 10, MLP Regulations).

84. In addition, the AML-obliged person must obtain the following information: (i) the official registration or other identification number of the legal person; (ii) the date and place of incorporation, registration or formation of the legal person; (iii) where applicable, the address of the registered agent of the legal person to whom correspondence may be sent and the mailing address of the registered agent, if different; (iv) the legal person’s principal place of business and the type of business engaged in; and (v) the identity of each director of the legal person, including each individual who owns at least 10% or more of the legal person (s. 27(2) Code of Conduct).

85. The AML-obliged person must also obtain the following documents from the company: (i) memorandum and articles of association or equivalent governing constitution; (ii) resolution, bank mandate, signed application form or any valid account-opening authority, including full names of all directors and their specimen signatures, signed by no fewer than the number of directors required to make a quorum; (iii) copies of powers of attorney or other authorities given by the directors in relation to the company; and (iv) such other additional document that the company considers essential to the verification process. (s. 27(4), Code of Practice).

86. The Code of Practice also provides that where an applicant for business is a legal person, the AML-obliged person must take additional CDD measures to determine: (i) the nature of the activities of the legal person and the place where the activities are carried out, and (ii) the ownership of the legal person and, where the legal person is a company, details of any group of which the company is a part, including details of the ownership of the group (s. 21(5), Code of Practice).

87. If the client does not provide satisfactory evidence of their identity or the measures taken by the AML-obliged person do not produce evidence of identity, then the opening of the account or the transaction shall not proceed (s. 8, MLP Regulations). The Code of Practice also provides that where an AML-obliged person is unable to carry out the required CDD measures or fails to secure the full co-operation of the applicant or customer in carrying out or completing its verification, then the entity must terminate the business



relationship (s. 25(5)). CDD measures in place in Dominica are in line with the standard to ensure the availability of beneficial ownership information in practice.

### Definition of beneficial ownership

88. A “beneficial owner”, according to section 2 of the MLP Regulations, means “(i) the natural person who ultimately owns or controls a customer; (ii) the person on behalf of whom a transaction is conducted; or (iii) the person who exercises ultimate control over a legal person or legal arrangement”. The Regulations also contain a definition of “underlying beneficial owner”, which includes cases related to a “person on whose instruction the signatory of an account, or any intermediary instructing the signatory, is for the time being accustomed to act” (s. 2).

89. The Code of Practice specifies how points (i) and (ii) above should apply in the case of a legal person (other than a company whose securities are listed on a recognised stock exchange). A beneficial owner is the natural person who ultimately owns or controls a customer or on whose behalf a transaction is conducted and includes (i) a natural person who ultimately owns or controls, “whether directly or indirectly, 10% or more of the shares or voting rights in the legal person”; or (ii) a natural person who otherwise exercises control “over the management of the legal person”.

90. Under point (i), it is clear that an AML-obliged person must identify an individual who has a controlling ownership interest in the company. However, point (ii) is not clear as to whether this is intended to capture the individual exercising control through other means or the senior managing official of the legal person. In addition, it is not clear whether all the relevant persons must be identified or if identifying one person who meets the definition under point (i) or point (ii) would be sufficient. The law also does not specify that in case no natural person meets point (i) or (ii), then the default step would be to identify a senior manager.

91. Absence of guidance on these points could lead to situations where beneficial owners may be inconsistently or incorrectly recorded and beneficial ownership information may not be available. **Dominica is recommended to ensure that the legal and regulatory framework requires all beneficial owners of relevant entities and arrangements to be identified in accordance with the standard, so that accurate and up-to-date information on beneficial owners is always available.**

## Identification and verification

92. An AML-obliged person must verify the customer's identity. The Code of Practice establishes the steps for the verification process, stating that an entity or a professional shall undertake identification and verification measures, including where the individual is the beneficial owner or controller (s. 26). It also establishes the level of detail expected in the "identification record" on clients. The AML/CFT laws do not indicate the same for beneficial owners. Where the customer is a natural person, the AML-obliged person must "adequately identify and verify his identity including his name and address, social security card, passport or other official identifying document" (s. 10, MLP Regulations). The same would probably apply to beneficial owners, but this is not clear.

93. Section 32 of the Code of Practice provides that an AML-obliged person may rely on a copy of a document provided by an applicant or customer if the document is properly certified.<sup>9</sup> According to the AML/CFT laws, a copy of a document is considered as properly certified if the person certifying the document indicates that: (i) he/she has seen and compared the original document verifying the identity and residential address of the applicant for business or customer; (ii) the copy of the document which he certifies is a complete and accurate copy of the original; and (iii) where the document contains a photograph of the applicant for business or customer, the photograph bears a true likeness to the individual to whom the certification relates. This certificate must bear the date of the certification; the signature and seal of the person certifying the document; and provide adequate information to enable the person certifying the document to be contacted in the event of a query or further clarification. The rules further note that an entity or a professional shall not accept a certified copy of a document unless it or he/she is satisfied that the person certifying the document is independent of the individual, trust or legal person for which the certification is being provided. Only public notaries can certify documents listed in the Code, including certificates issued domestically and abroad. and they are subject to professional rules of conduct or statutory compliance measures the breach of which is subject to the application of penalties ranging from XCD 55 000 to 75 000 (USD 23 350 to 27 750). The measures in place and the related penalties are adequate to certify relevant documents.

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9. In respect of certification, s. 32(3)(b) of the Code of Practice states that the person who can certify must be... subject to professional rules of conduct or statutory compliance measures breach of which is subject to the application of penalties. Hence, for proper certification, the person concerned must be a professional like a notary, an accountant or a lawyer.

94. The requirements for verification also establish that when an entity or professional is satisfied on the basis of the information acquired and verified, it “may establish a business relationship with the legal person concerned (applicant for business or customer) after recording its or his satisfaction and the reasons therefore (s. 27(7), Proceeds of Crime Act Code of Practice).

### Updating BO information

95. The MLP Regulations require that “a person carrying on a relevant business shall keep documents, data or information collected under these Regulations up-to-date and relevant by undertaking reviews of existing records” (s. 25(a), MLP Regulations).

96. The AML-obliged person must also take reasonable measures to verify the beneficial owners or controllers of a legal person and update information on any changes to the beneficial ownership or control, even with respect to low-risk cases (s. 28(2)).

97. An AML-obliged person is required to conduct ongoing CDD with respect to every business relationship to ensure that the transactions performed by a client are consistent with its profile (s. 11, MLP Regulations). According to the Code of Practice, AML-obliged entities should review high-risk customers at least once every year, and customers that present a normal or low risk should be reviewed at least once every three years (s. 23), which is considered reasonable.

### Third party introducers

98. An AML-obliged person may rely on a third party to perform CDD measures or to introduce business to it if the entity is satisfied that the third party is able to provide copies of the identification data and other documents relating to CDD without delay and is regulated and supervised and has measures in place to comply with the CDD obligations set out in the MLP Regulations (s. 13, MLP Regulation). The FSU has clarified that although reliance on third party CDD is permitted, the ultimate responsibility for CDD lies with the AML-obliged person who must ensure the adequacy and accuracy of the CDD.

99. The Code of Practice sets out more details regarding third party reliance. The introducer must have a system in place of reviewing and keeping up-to-date information at least: (i) once every three years, where the assessment of the relevant customer due diligence information on the applicant or customer concluded that such applicant or customer presents normal or low risk; and (ii) every year where the customer presents a higher risk. In addition, it must have notified the entity or professional in the event of the

termination of the business relationship with the applicant or customer and (i) provide the entity or professional with the customer due diligence information maintained by the introducer in respect of the applicant or customer; or (ii) advise the entity or professional in writing of the arrangements, that the introducer will put in place to ensure that the entity or professional shall be able to access the customer due diligence information on the applicant or customer whenever requested (s. 33). The MLP Regulations provide that where such an AML-obliged person relies on a third party, the AML-obliged person would remain ultimately responsible for CDD purposes (s. 13(a), MLP Regulation).

### Enhanced and simplified due diligence

100. Dominica’s AML/CFT regime follows a risk-based approach, the depth of CDD measures depend on the risk level of the account (s. 21.6). AML-obliged persons must verify the identity of customers and beneficial owners according to risk-based procedures.

101. The Code of Practice details the factors that an AML-obliged person may take into account when determining the risk level of an applicant (s. 21(6)). The factors include the applicant’s source of income. The AML-obliged person must conduct enhanced CDD measures when a customer presents a higher risk of money laundering (s. 12, MLP Regulations). On the other hand, an AML-obliged person does not need to carry out CDD measures in a number of situations (ss. 17-18, MLP Regulations). First, where there are reasonable grounds for believing that the applicant for business or customer is a financial institution or other AML-obliged person. The other two exceptions relate to life insurance businesses.<sup>10</sup> These exceptions do not apply in cases where the AML-obliged person knows or suspects that the applicant is engaged in money laundering.

102. In terms of high-risk cases, “the entity or professional shall perform enhanced customer due diligence and obtain and verify such additional information as it or he considers relevant with respect to the legal person”, which does not seem to be sufficient to address these situations. In addition, as far as possible, AML-obliged persons should enter into a business relationship with an applicant for business or a customer on a face-to-face basis (s. 31, Proceeds of Crime Code of Practice). A more simplified procedure is defined for low-risk cases (s. 28).

10. With respect to life insurance businesses, the exception applies only in respect of life insurance customers and not to persons carrying on the business (in respect of which a premium is payable in one instalment of an amount not exceeding XCD 1 085 (USD 401) or a periodic premium is payable and does not exceed XCD 545 (USD 201)).

103. In situations that carry low-risk in terms of the business relationship, the AML-obliged person may verify the applicant's identity by relying on any two of these five items: (i) the legal person's certificate of incorporation, together with its memorandum and articles of association or equivalent document; (ii) the legal person's latest audited financial statements, provided they are not older than one year prior to the establishment of the business relationship; (iii) relying on information acquired from an independent data source or a third party organisation that the entity or professional considers is reasonably acceptable; (iv) conducting a search of the relevant registry or office with which the legal person is registered; (v) wire transfer information, where a subscription or redemption payment is effected through a wire transfer from a specific account in a financial institution that is regulated in a recognised jurisdiction and the account is operated in the name of the applicant. It also notes that the AML-obliged person shall in any case take reasonable measures to verify the beneficial owners or controllers of a legal person and update information on any changes to the beneficial ownership or control (s. 28(2), Code of Practice), which seem to cover the required information. The enhanced and simplified due diligence measures are in line with the standard. Where the customer is a natural person, there is no distinction between low-risk and high-risk cases, as indicated in paragraph 92.

### Retention of documents

104. The CDD rules require persons carrying on a relevant business to keep all records for a period of at least seven years after the termination of the business transactions (s. 15(a), MLP Act; s. 49, Proceeds of Crime Act Code of Practice). This includes records to formulate a business relationship (s. 9(iv), MLP Regulations). Pursuant to section 49 of the Proceeds of Crime Act 1993 and section 16 of the Money Laundering (Prevention) Act 2011, AML-obliged entities are required to maintain records that relate to the opening or closing of an account with the AML-obliged person for seven years after the day on which the account is closed.

### Sanctions

105. Under the Money Laundering (Prevention) Act 2011, the Authority may impose on the financial institution or person carrying on a scheduled business, a penalty of XCD 5 000 ((USD 1 850) in case of failure to comply with administrative requirements in general (ss. 11 and 13). In addition, without prejudice to any other liability, the AML-obliged person, its employees, directors, owners or other authorised representatives is liable on conviction to a fine of XCD 250 000 (USD 92 500) or to imprisonment for a term of three years in case of failure to comply with record keeping, written request for information or reporting suspicious transactions, in relation to a money

laundering offence. AML/CFT laws set out sanctions for when an AML-obliged person fails to comply with CDD obligations. In addition, under the MLP Regulations, the Compliance Officer of a relevant business is liable to a penalty of XCD 50 000 (USD 18 500) in case of failure to maintain procedures in accordance with the regulation (s. 26(4)). The Code of Practice establishes that where an entity or a professional fails to comply with a requirement in respect of underlying principals, this constitutes an offence and is liable to penalties (s. 29(5), Proceeds of Crime Code of Practice). Schedule 3 contains several penalties, which vary between XCD 50 000 and XCD 75 000 (USD 18 000 to USD 27 750) and cover situations such as failure to carry out customer due diligence and record keeping measures, failure to adopt relevant measures or additional measures and failure to maintain records in the required form.

106. The Financial Services Unit (FSU) is the body responsible for monitoring the compliance of AML-obliged persons with the CDD requirements. It acts as both the money laundering supervisory authority and the financial sector supervisor. Oversight of IBCs was also delegated to the FSU.

107. The FSU has an oversight programme for financial institutions and service providers. According to the FSU, they should implement internal controls and validations depending on the type of transaction.

108. During the review period, the FSU conducted a few inspections of services providers. This included all 15 registered agents of IBCs in Dominica. The programme commences with a “sensitisation workshop” and oversight. The sensitisation workshop covers legislative developments since the last round of inspections and areas of weakness previously identified or trends in practice. The FSU oversight comprises a desktop review, which takes place prior to the on-site visit and the inspection itself. The FSU will ask the service provider about new IBCs registered and developments to existing files previously examined. During an on-site inspection, the regulator will ask for a sample of approximately a third of the registered agent’s files. The FSU explained that it would verify whether the required documents are being maintained and contain the required information. Files with previously identified deficiencies may also be re-examined to ensure that defects have been remedied. FSU supervision is based on a risk-assessment approach, focusing on the specific risks on certain sectors and institutions, as discussed under element A.2 and A.3 with respect to banks (see paragraphs 199 and 229). After the conclusion of the on-site inspection, the examiners will prepare a report of findings, including recommendations, to be shared with the service provider. Following the report, the FSU will send a letter detailing the deadline for the resolution of defects and the applicable penalties. The FSU would have the power to sanction the institution or the individual directly. The FSU can also perform spot checks following on-site inspections without

advance notice to ensure that service providers have implemented recommendations. There are no specific statistics with respect to the onsite visits undertaken during the review period. The review of Financial Institutions by the FSU is further discussed under element A.3.

109. Among the enforcement actions, the FSU is permitted to take its recommendations to the Minister of Finance (or other relevant licensing body under an applicable law) to revoke or suspend a licensee's licence (s. 22(3), FSU Act).

110. During the review period, the FSU conducted onsite visits, however there is no record of penalties being applied in practice during the review period. Dominica noted that even though no financial penalties were applied, warning letters were issued to certain institutions, indicating measures which should be addressed as the FSU found appropriate, during the course of onsite and offsite examinations. Lawyers and accountants are subject to the AML/CFT laws, but there was no supervision of either profession during the review period.

### *Conclusion and availability of ownership information in practice*

111. The availability of legal ownership information in Dominica is primarily ensured by the requirement to keep an up-to-date shareholder register and to have the legal ownership registered with the Registrar and in some instances information may be included in the tax declaration. The Registrar provides extremely limited supervision of companies. During the review period, it announced that non-compliance would result in being struck from the register, but with the exception of voluntary dissolution, no companies had been struck based on this monitoring exercise. The IRD is also in charge of monitoring companies subject to tax in Dominica. The number of audit cases shows improvement in relation to the numbers from the 2016 Report, as demonstrated in paragraphs 191-192.

112. Furthermore, AML/CFT law ensures availability of beneficial ownership information. The FSU is the authority in charge of monitoring financial institutions and service providers and has an oversight programme. During the review period, the FSU has conducted onsite visits and registered agents indicated that due to this supervision process, many IBCs are moving abroad. However, although lawyers and accountants are subject to CDD obligations, there was no supervision of either profession during the review period. **Dominica should put in place a monitoring regime of lawyers, notaries and accountants to ensure that beneficial ownership information in line with the standard is available with these professionals.**

113. **Dominica is recommended to implement a regular and comprehensive monitoring system to ensure compliance by all relevant**



**companies with obligations to maintain legal ownership information under Dominican law. Also, Dominica should sufficiently exercise its enforcement powers when needed to in order to cover all relevant persons and to ensure the availability of ownership and identity information in all cases.**

114. During the review period, Dominica received two requests related to legal and beneficial ownership information for an IBC and a corporation, including the certificate of incorporation, corporate registry data, shareholder, beneficial ownership and directors listings). One peer provided input indicating that they had received the requested information (including beneficial ownership information), no issues were raised by the other peer that had sent the other request.

### *Nominees*

115. Dominica recognises the concept of nominee ownership. The 2016 Report concluded that all nominees acting by way of business are covered by requirements under the AML/CFT laws, as well as different acts, depending on whether domestic or international business companies are involved, and encouraged Dominica to monitor the activities of persons performing nominee services on a non-business basis to ensure that they did not become an impediment in the effective exchange of information. However, there is a lack of monitoring on this point in the present review period also. Accordingly, Dominica is encouraged to monitor these cases, so as not to become an impediment in the effective exchange of information (see Annex 1).

116. Certain professionals and businesses who may act as nominees are subject to AML/CFT laws whereby they must obtain information identifying their customers. In circumstances where the applicant for business is or appears to be acting on behalf of another, as it is the case of a nominee shareholder, then the AML-obliged person must take reasonable measures to identify those other persons (s. 15, MLP Regulations). According to the Regulations, it is reasonable for an AML-obliged person to obtain a written declaration from the applicant disclosing the identification of the person(s) for whom he is acting. Where the other person is a company, all of the directors of the company must be identified (s. 15(4) and (5)). The MLP Regulations add in relation to the identification procedures that “a person carrying on a relevant business shall establish the true identity of each account holder and in the case of an account held by a business trust, fiduciary agent, nominees or professional intermediaries, such as an attorney, chartered accountant, certified public accountant or auditor the financial institution shall obtain sufficient evidence of the true identity of the beneficial interest in the account and verify the nature of the business, the source of the funds of the account holder and the beneficiaries” (s. 15(6)).



117. In addition, when registering with the Registrar under the Registration of Business Names Act, information must be provided identifying the person on whose behalf the business is being carried on. Further, companies are required to maintain a share register containing information on substantial shareholders under the Company Law requirements. A “substantial shareholder” is any shareholder who holds at least 10% of the voting rights, either by himself or in the name of a nominee. This register must be kept updated on an ongoing basis.

118. Dominican AML/CFT rules also require verification in respect to the underlying principal with respect to a legal person. When establishing a business relationship, the AML-obliged person should “verify the underlying principal and establish the true nature of the relationship between the principal and the legal person’s account signatory.” It also requires that “the entity or professional shall make appropriate inquiries on the principal, if the signatory is accustomed to acting on the principal’s instruction and the standard of due diligence will depend on the exact nature of the relationship”. In addition, they shall ensure that “(a) a change in an underlying principal or the beneficial owner or controller of the underlying principal is properly recorded; and (b) the identity of the new underlying principal or the beneficial owner or controller of the principal is appropriately verified.” The definition of “principal” includes a beneficial owner, settlor, controlling shareholder, director or a beneficiary (not being a controlling shareholder) who is entitled to 10% or more interest in the legal person (s. 29, Proceeds of Crime Act Code of Practice). This would identify an eventual nominee/nominator relationship. It also establishes that documents presented should be properly certified (s. 32).

119. In practice, the Registrar does not perform any active monitoring of these obligations. For domestic companies, the obligation to maintain a share register is not monitored and penalties have not been enforced for non-compliance. With respect to IBCs in general and BO information, the FSU monitors compliance of the AML-obliged persons. These persons must conduct CDD. The Guidance Note expressly notes that AML-obliged persons should enquire about the existence of nominee shareholders (s. 75). Supervision seems to be less extensive in relation to AML-obliged persons other than financial institutions. Dominica acknowledged that information on persons in respect of whom nominees were acting was not available in cases where the nominee was not a financial services institution. **Dominica should ensure that the requirements in respect of nominee shareholders are effectively supervised and enforced to ensure that legal and beneficial ownership and identity information is available in all cases where a legal owner acts on behalf of any other person as a nominee or under a similar arrangement.**

120. During the review period, Dominica did not receive any requests with respect to nominees. No peers raised any concerns.

### ***A.1.2. Bearer shares***

121. IBCs can issue bearer shares under Dominican law<sup>11</sup> but the Dominican authorities indicated that none had been issued to date. The 2016 Report concluded that the legal framework would ensure the identification of owners of the bearer shares by requiring the registration of the name and address of the person who holds the shares with an approved fiduciary (see paragraphs 98-99 of the 2016 Report). The Report included an in-text recommendation to monitor the situation with respect to bearer shares to ensure that if such shares are issued in the future, its current framework is sufficient to provide for the identification of the owners of such shares. There has been no change to the relevant legislation or practical situation. Dominica is encouraged to continue monitor this situation, and may consider aligning its legal framework on the actual practice, by prohibiting bearer shares (Annex 1).

122. The FSU must be notified when any IBC issues a bearer share. Further, upon the issuance or transfer of bearer shares, the registered agent of an IBC must lodge the share certificate following the prescribed procedures with the assistance of an approved fiduciary, who must keep a register of the shares. In order to transfer a bearer share, the registered agent must follow a prescribed procedure together with the fiduciary. In addition, the AML/CFT Guidance Notes require company service providers to identify bearers of companies with which they form a business relationship, to ensure that the beneficial ownership is always known to the financial service providers (s. 47). The procedures include that the bearer share certificates be held in custody and under their control or held by another custodian of good repute, such as a bank that is well known to the provider (s. 71-72).

123. In practice, the FSU confirmed that it has never received a notice of the issuance of a bearer share. As part of its oversight process, the FSU asks registered agents whether they register bearer shares. To date, no such shares have been reported issued.

124. During the period under review, Dominica did not receive any EOI requests related to bearer shares and no peers raised any concerns.

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11. Section 29(2) of the Companies Act expressly forbids the issuance of bearer shares by domestic companies.

### *A.1.3. Partnerships*

125. Domestic general partnerships and foreign partnerships may do business in Dominica. In Dominica, a partnership is defined as an unincorporated body of (i) two or more individuals, (ii) one or more individuals with one or more corporations, or (iii) two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit (s. 2 RBNA). Foreign partnerships are subject to the same requirements as domestic partnerships. As of November 2019, Dominica had 704 domestic partnerships, of which 690 were active and 14 were inactive, and no foreign partnerships.

126. The 2016 Report concluded that information on the partners of a partnership, including a foreign partnership carrying on a business in Dominica, must be available with the Registrar, pursuant to the provisions of the Registration of Business Names Act. In addition, partner information may also be available with the IRD. There have been no changes to the legal framework since that report.

127. The standard was strengthened in 2016 and beneficial ownership information on partnerships is required to be available. Information on beneficial owners of a partnership may not be available under the AML/CFT laws as partnerships are not required to engage an AML-obliged person.

128. The 2016 Report concluded that the compliance rate with filing obligations among partnerships was very low and little enforcement action was taken. In addition, there is a substantial gap between the average number of partnerships annually filing returns with the tax administration on the one hand, and those registered with the Register of Companies. The situation remains similar during the review period.

#### *Partner information requirements*

129. Firms or persons carrying on business under business names are required to register with the Registrar (Registration of Business Names Act 1959). In order to register, the applicant must provide a statement in writing containing identity information of all individuals or corporations who are partners. The Registrar must be notified of any changes to this submitted information within 14 days, including change of partners. Further, every firm or business registered under the Registration of Business Names Act 1959 must submit an annual return to the Registrar including information on its partners.

130. Domestic and foreign partnerships must register with the IRD if they carry out taxable activity and meet the required threshold of gross sales or income (XCD 30 000 (USD 11 100)). Partnerships are also required to register under the Income Tax Act as employers if they employ staff. Every partnership carrying on business in Dominica must at all times be

represented by a resident individual who can be the precedent partner (the first mentioned in the partnership agreement) or the agent of the partnership in Dominica. The partnership must notify the IRD of this partner or agent within one month of commencement of business. Changes to this information must be notified within 15 days.

131. In Dominica, “persons” obliged to pay tax include partnerships. A partnership is not charged tax in its own name but all income accrued to it is charged to the partners. The precedent partner or the agent are required to file a tax return on behalf of the partnership. Dominica maintains that these tax returns must contain information on all partners in addition to their percentage share of profits and losses. Taxpayers are required to maintain records for seven years from the end of the tax period to which the records relate. This also applies to partnerships which have ceased to exist.

132. The availability of partner information for domestic and foreign partnerships continues to be in line with the standard.

### *Beneficial ownership information*

133. Dominica collects beneficial ownership information on partnerships through its AML/CFT laws. As mentioned above in section A.1.1, the AML/CFT laws require financial institutions and other service providers to identify their customers under the CDD obligations. However, as for domestic companies, partnerships have no obligation to engage an AML-obligated person, and the Dominican authorities have no statistics or information on the proportion of Dominican partnerships that have engaged an AML-obligated person, so beneficial ownership may not be available on all relevant partnerships. Partnerships are included in the definition of “persons” in the MLP Regulations. If a service provider renders services to a partner or partnership, information on partner(s) and ultimate beneficial owner(s) should be available. However, the issues discussed on A.1.1, on the absence of clear legislation or guidance on how to determine beneficial owners in situations where control is exercised through means other than direct control or on the need to identify all beneficial owners, could lead to situations where beneficial owners may be inconsistently or incorrectly recorded and BO information may not be available in all cases.

134. In addition, the definition of “beneficial owner” states that in case of a legal arrangement, it would include “the partner or partners who control the partnership” (s. 2, Proceeds of Crime Code of Practice). Further, the following information must be required for verification purposes:

- (a) the partnership agreement;

- (b) the full name and current residential address of each partner and manager relevant to the application for business, including –
- (i) in the case of the opening of an account, the postcode (where applicable) and any address printed on a personal account cheque tendered to open the account; and
  - (ii) as much information as is relevant to the partner as the entity or professional may consider necessary; and
- (c) the date, place of birth, nationality, telephone number, facsimile number (where available), occupation, employer and specimen signature of each partner or other senior officer who has the ability to give directions, sign cheques or otherwise act on behalf of the partnership. (s. 27(5), Proceeds of Crime Code of Practice)

135. This definition of beneficial owner raises concerns as it implies that all partners are natural persons and might not identify beneficial owners behind partners that are not natural persons. In addition, it is not clear whether letter (c) requires the identification of every person meeting the condition or the AML-obliged person could be satisfied with the identification of either the partners or the senior officer.

136. As mentioned in paragraph 86, among the required measures for CDD purposes, it is required to identify the person who purports to act on behalf of an applicant or customer and to verify that person's identity. This applies to partnerships. The AML/CFT Guidance Notes further require that financial service providers obtain (i) evidence of the identity of a majority of the partners, owners or managers, and the authorised signatories, in accordance with the general procedure for the verification of identity of individuals; (ii) a copy of the mandate from the partnership or unincorporated business authorising the establishment of the business relationship, and confirmation of any authorised signatories; and (iii) a copy of the partnership agreement or documents governing the business (s. 74).

137. Pursuant to the provisions above, a significant number of beneficial owners of partnerships will be identified; however, it is unclear whether all beneficial owners will be identified as required under the standard, due to the gaps in the BO legislation applicable to partnerships. **It is thus recommended that Dominica ensure that beneficial ownership information in line with the standard is available in respect of partnerships.**

#### *Supervision of obligations to maintain partner and beneficial ownership information*

138. The Registrar does not perform any active monitoring of obligations (see section A.1.1 above).

139. Partnerships with obligations under the tax laws are supervised by the IRD in the same manner as described in section A.1.1. Dominica authorities have no statistics or information on the compliance rate with filing obligations among partners/partnerships specifically.

140. The FSU monitors AML-obliged entities' compliance with the AML/CFT laws. As described in section A.1.1, the FSU's oversight programme consists of "sensitisation workshops", desktop reviews and on-site inspections. Since November 2016, the FSU has performed 41 on-site examinations, 69 off-site reviews and 1 sensitisation workshop. The concerns set out in paragraphs 112-114 are applicable.

141. The availability of ownership information is not assured in practice in all circumstances. **Dominica should ensure the availability of ownership information, notably by ensuring adequate oversight and enforcement activities.** The oversight of partnerships is carried out by the FSU in the same manner as described in section A.1.1 above.

#### *Availability of partnership information in EOI practice*

142. During the review period, Dominica did not receive any EOI requests related to a partnership and no peers raised any concerns.

#### ***A.1.4. Trusts***

143. Dominica recognises the concept of trusts, although in practice, Dominican tax and regulatory authorities reported having only seen the establishment of trusts to dispose of the estate of a deceased person. Trusts of this nature are generally created under the common law and the Trustee Act 1877 which applies only to trusts resident in Dominica.

144. Trusts can also be created under the International Exempt Trusts Act 1997, which applies to trusts for which the settlors and beneficiaries are non-resident and trust property does not include any land situated in Dominica. At least one of the trustees must be licensed to engage in trust business and be: (i) a company incorporated under the Companies Act, (ii) a bank licensed under the Offshore Banking Act 1996, or (iii) a bank licensed under the Banking Act 1991. IBCs cannot act as trustees. These trusts must register with the FSU in order to be exempt from all income tax, stamp duty or exchange controls.

145. The 2016 Report concluded that Dominican laws require information on the trustee(s), settlor and beneficiaries of a trust be available. However, a gap was identified with respect to "low risk" international exempt trusts,<sup>12</sup>

12. "Low risk" international exempt trusts are trusts having a gross annual income of less than XCD 5 000 (USD 1 850) or assets less than XCD 10 000 (USD 3 700).

and as such an in-text recommendation was included. It was noted that the materiality of the gap was extremely low given that there were no international exempt trusts registered in Dominica, as described in paragraph 117 of the 2016 Report. No steps have been taken to address this concern; however, there continue to be no international exempt trusts registered in Dominica.

146. The standard was strengthened in 2016 and beneficial ownership information on trusts is required to be available.

### *Identification of settlor, trustee and beneficiaries*

147. The fiduciary obligations placed on trustees pursuant to the common law and the Trustee Act 1877 should ensure that a trustee knows the identity of any other trustee, settlor(s) and beneficiaries, as described in paragraphs 123-124 of the 2016 Report.

148. Under the income tax law, all persons (including a domestic or foreign trust, but excluding international exempt trusts) liable to income tax must file an annual return of the income of their business to the IRD. Taxpayers are required to maintain their records for at least seven years after the end of the period to which the records relate. This also applies to trusts which have ceased to exist. There is no specific information on the trustees, settlors and beneficiaries required to be included in the trust's tax return. However, the IRD, through its information gathering powers, may be able to identify the beneficiaries of a trust by obtaining such information from the trustee.

149. Under the International Exempt Trusts Act, an international exempt trust is also required to register with the FSU; however, no information concerning the settlor, beneficiaries or trustees (other than the one registering the trust) of the trust is made available to the FSU.

150. Any AML-obliged person engaged by a trust, including an international exempt trust, is required to conduct CDD measures. Under section 16 of the Money Laundering (Prevention) Regulations, if it appears to the AML-obliged person that a customer is acting on behalf of another person (such as a trustee), the entity must establish the true identity of any person on whose behalf or for whose ultimate benefit the customer may be acting, and maintain CDD information on their clients for seven years after the end of the business relationship. The Regulations do not detail the CDD to be conducted or specify which parties to the trust to identify, rather this information is contained in the Code of Practice which requires the verification of “identity information in relation to any person appointed as trustee, settlor, or protector of the trust” (s. 30(1)(e), Code of Practice). However, as indicated in paragraph 126 of the 2016 Report, there is no requirement to keep identity information of beneficiaries of trusts that are deemed to be low risk.



“Low risk” trusts may be determined through a consideration of “factors”, but the Dominica authorities have not been able to explain what these factors can be. The standard does not allow for any exemption to identify beneficial owners in case of low risk clients, but only to impose lighter verification methods. In addition, it is not mandatory for any trust in Dominica to engage an AML-obliged person.

151. As indicated in paragraph 128 of the 2016 Report, the Trusts and Non-Profit Organisations Regulations 2014 provides for the supervision and registration of trusts and non-profit organisations, but to date no trusts have registered therein. Before a trust can be incorporated by the Registrar, it must get permission from the FSU. Under these Regulations, all trusts, except “low value” international exempt trusts, must register with the FSU. An exempt trust is a trust having a gross annual income of less than XCD 5 000 (USD 1 850) or assets less than XCD 10 000 (USD 3 700).

152. A registration process is set and penalties apply in case of failure to register. A registered trust is also required to keep records as prescribed (see paragraphs 129-130 of the 2016 Report). According to Dominican officials, identity information of all parties to a trust would need to be submitted in order to successfully register.

153. In conclusion, a combination of Dominican laws ensures that identity information of the settlor, trustee(s), beneficiaries and protector (as applicable) for all trusts, including “normal or high risk” international exempt trusts be available. Identity information of the beneficiaries of a “low risk” international exempt trust may not be available; however, the materiality of this gap continues to be considered as very limited as there are no registered trusts in Dominica. Given the possibility that such trusts may exist in the future, Dominica should ensure that identity information of the beneficiaries of “low risk” international exempt trusts be available in line with the standard (see Annex 1).

### *Beneficial ownership information*

154. Under the standard as strengthened in 2016, beneficial ownership information on trusts is required to be available. As seen in section A.1.1, financial institutions are required to perform CDD and keep related information and documentation and the term “financial institution” includes the carrying on of a trust business. The issues identified in section A.1.1, on the absence of clear legislation or guidance on how to determine beneficial owners in situations where control is exercised through means other than direct control or on the need to identify all beneficial owners, could lead to situations where beneficial owners may be inconsistently or incorrectly recorded and BO information may not be available in all cases. In addition, it is not mandatory for a trust in Dominica to engage an AML-obliged person.



155. In Dominica, with respect to CDD requirements on trusts, besides information on any agent or any person appointed as trustee, settlor or protector of the trust, it is also required to be disclosed:

- (i) where the trust forms part of a more complex structure, details of the structure, including any underlying companies;
- and (ii) classes of beneficiaries, charitable objects and related matters. (s. 21(5), Proceeds of Crime Act Code of Practice)

156. The AML/CFT Guidance Notes further require that a trustee verify the identity of a settlor/grantor or any person adding assets to the trust in accordance with the procedures relating to the verification of identity of clients. In particular, the trustee should obtain the following minimum information on: (i) the settlor or any person transferring assets to the trust (name, address, business, trade or occupation, and other information in accordance with the procedures relating to the verification of client identity); (ii) beneficiaries (name, address and other identification information such as passport number, etc.); (iii) protector (name address, business occupation and any relationship to the settlor); (iv) purpose and nature of trust (a statement of the true purpose of the trust being established, even where it is a purpose or charitable trust (e.g. STAR trust)); (v) source of funds (identify and record the source(s) of funds settled on the trust and the expected level of funds so settled); and (vi) bank references (s. 80).

157. In addition, in cases of normal or high-level risk, the following information is required:

Where an entity or a professional makes a determination from its or his risk assessment that a relationship with a trust or the product or service channels in relation to the trust presents a normal or a higher level of risk, the entity or professional shall perform customer due diligence or enhanced customer due diligence, as may be warranted by the circumstances, and obtain and verify the identities of all the beneficiaries with a vested right in the trust at the time of or before distribution of any trust property or income and such other additional information as the entity or professional considers relevant. (s. 30(2), Proceeds of Crime Act Code of Practice)

158. None of these obligations require identifying the natural persons behind any participant in a trust that would not be a natural person, contrary to the standard. **Dominica is recommended to ensure the availability of information identifying any other natural person exercising ultimate effective control over the trust in all circumstances.**

*Supervision of obligations to maintain identity and beneficial ownership information*

159. Trusts with obligations under the tax laws are supervised by the IRD in the same manner as described in section A.1.1. The FSU is the designated supervisor under the International Exempt Trusts Act and the Trusts and Non-Profit Organisations Regulations. To date, trust registers have not been developed, as no application has ever been received. FSU officials indicate that they are currently developing guidelines for registration.

160. The FSU also supervises and monitors compliance with AML-obliged entities' obligations as described in A.1.1. FSU officials explained that they have little practical experience with trusts, as they have not come across any trusts during the course of their supervisory measures.

*Availability of trust information in EOI practice*

161. During the review period, Dominica did not receive any EOI requests related to a trust and no peers raised any concerns.

**A.1.5. Foundations and other entities and arrangements**

162. Dominica's laws do not allow for the creation of foundations.

163. In Dominica there also exist: (i) co-operative societies, and (ii) friendly societies. Co-operative societies are self-help, collectively owned and democratically controlled enterprises that act for their members on a not-for-profit basis (s. 2(1), Co-operative Societies Act 2011). Friendly societies are societies organised for mutual benefit, insurance of farm animals, charitable or social purposes (s. 5, Friendly Societies Act 1928). These entities are not considered relevant for the purposes of this review as indicated in paragraph 49 of the 2016 Report.

**A.2. Accounting records**

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

164. The 2016 Report concluded that the legal framework with respect to accounting records was not in place. It was recommended that Dominica introduce consistent obligations for all relevant entities and arrangements to maintain full accounting records for five years, including underlying documents, as the rules did not explicitly apply to IBCs, foreign trusts and international exempt trusts.

165. Dominica amended its legislation, effective November 2016, to address these recommendations. All relevant entities now have obligations to maintain accounting records, including underlying documentation, for at least five years.

166. The 2016 Report also contained two recommendations with respect to practical implementation and supervision on both international and domestic entities and arrangements. The practical availability of accounting information continues to be supervised mainly by the IRD and the FSU. However, the measures carried out by these supervisors are not adequate to ensure the availability of accounting information in practice. As insufficient measures have been taken to address these recommendations from the 2016 Report, they continue to apply.

167. During the review period, Dominica received one request for accounting information, related to an IBC, and was able to provide the requested information. No peers raised any concerns.

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

#### **Legal and Regulatory Framework: In place**

No material deficiencies have been identified in the legislation of Dominica in relation to the availability of accounting information.

#### **Practical Implementation of the Standard: Partially Compliant**

<b>Deficiencies identified/ Underlying Factor</b>	<b>Recommendations</b>
<p>During the review period, few onsite visits of registered agents took place. In addition, the FSU imposed no sanctions on registered agents and no IBCs were struck from the register for non-compliance, even considering the potentially large number of inactive IBCs,. This demonstrates a possible lack of resources by the FSU. Moreover, no supervision of trusts for new accounting obligations took place. In addition, there is a concern whether accounting information in line with the standard on international legal entities and arrangements that have ceased to exist would be available in practice, considering the low level of supervision.</p>	<p>Dominica is recommended to enhance its monitoring and enforcement practice to ensure the availability of accounting records for international legal entities and arrangements, including for those that have ceased to exist.</p>

Deficiencies identified/ Underlying Factor	Recommendations
<p>Dominica's Inland Revenue Department (IRD) is the government authority mainly responsible for ensuring the compliance of domestic and external (foreign) companies and partnerships with their accounting obligations by means of its audit programme. However, a significant number of companies registered with the Registrar of Companies (approximately 50%) are not registered with the IRD. Although Dominica indicated that the vast majority of these companies are inactive, there would also be a risk that they would be carrying out business that do not require local registration and would thus be undetected by the tax administration. In addition, there is a concern whether accounting information in line with the standard on companies and entities that have ceased to exist would be available in practice, considering the low level of supervision. Further, the compliance rate of partnerships is extremely low. It is therefore uncertain whether partnerships in Dominica are subject to adequate oversight in terms of maintaining accounting records as required by the international standard.</p>	<p>Dominica is recommended to enhance its monitoring and enforcement practice to ensure the availability of accounting records for relevant domestic and foreign legal entities and arrangements, including for those that have ceased to exist.</p>

### *A.2.1. General requirements and A.2.2. Underlying documentation*

169. The 2016 Report concluded that domestic companies are obliged to keep accounting records under the company and tax laws, while external companies, partnerships and domestic trusts must keep accounting records to satisfy obligations under the tax laws. There were no legal provisions in place explicitly requiring IBCs, foreign trusts or international exempt trusts to maintain accounting records in line with the standard. Further, only entities subject to the tax laws were clearly required to keep underlying documentation. As IBCs, foreign trusts and international exempt trusts are not subject to

the tax laws, these legal entities and arrangements are not required to maintain underlying documentation as required by the standard. This has now been addressed by amendments to the Company and Trust laws.

## *Companies*

### Domestic and external companies

170. Under section 187 of the Companies Act, the directors of a domestic company are required to prepare and maintain accounting records, which must be kept at the company's registered office in Dominica. The accounting records must be adequate to ascertain the financial position of the company. A copy of the financial statements of each of its subsidiaries and the accounts of which are consolidated must be kept at the company's registered office in Dominica. When these records are kept outside Dominica, accounting records that are adequate to enable the directors to ascertain the financial position of the company with reasonable accuracy on a quarterly basis must be kept at the company's registered office or at some other place in Dominica designated by the directors. The Act is silent on the issue of keeping underlying documentation in accordance with the standard (but they are covered by tax law). After five years of liquidation, the company may dispose of its books and records.

171. The Companies Act does not provide for any specific retention period for accounting records nor for any sanctions in case of failure to keep records. However, the Act does require that a company and its agents take reasonable precautions to prevent loss or destruction of the records required by the Act to be prepared and maintained in respect of the company. Record keeping for dissolved companies may be kept as the Court thinks it is appropriate for the specific case or, in case of a voluntary wound up company, as decided by the company or the committee of inspection, in case of existing creditors. The retention period may be up to five years, but also can be reduced, which might be an issue to ensure information will be available in practice for all cases. Responsibility lies with the liquidator or any person to whom the custody of the books and papers has been committed (s. 477, Companies Act). These provisions are complemented by tax obligations and sanctions (see below).

172. The 2016 Report noted that there was no express obligation in the Companies Act requiring external companies to keep accounting records. To address this, Dominica amended the Companies Act, effective November 2016, to require that external companies maintain records and books as necessary to reflect the true and full nature of the company's transactions. Such records or books must be kept at the company's principal office in Dominica and are required to be kept for a period of seven years. This is also applicable

to companies which have ceased to exist. An external company that fails to comply is guilty of an offence and is liable upon summary conviction to a fine of XCD 5 000 (USD 1 850). Further, every officer of an external company that was knowingly party to the failure to maintain accounting records is guilty of an offence and is liable upon summary conviction to a fine of XCD 5 000 (USD 1 850) and six-month imprisonment (s. 359B, Companies Act).

173. For tax purposes, every person carrying on any business (including domestic and external companies) must keep records or books of accounts as are necessary to reflect the true and full nature of transactions of the business. This means that the documentation must be able to explain any entry in the books of account. For VAT purposes, businesses must keep underlying documentation such as invoices, credit notes, and debit notes whether issued or received as well as customs documentation relating to imports and exports of goods by the person. These records are to be kept in Dominica unless the Comptroller of IRD approves them being kept at another location. The circumstances for allowing this exception are not clear. According to Dominican authorities, record keeping obligations rely on the company, the liquidators or any person who has custody of the books and papers. Anyone who fails to comply with obligations to maintain the books of account or other records is guilty of an offence and liable to a fine of XCD 1 000 (USD 370) or to imprisonment for one year.

174. Under the tax laws, records must be kept for seven years after the end of the basis period to which the books of account or record relates. The Comptroller may require retention for such further period of time as he/she considers necessary for their proper examination. In addition, the Comptroller may approve the disposal of any books of account or other records within such lesser period than seven years as he/she thinks fit where a body of persons has been terminated or in any other case where he/she is satisfied that it is reasonable to do so. This could result in issues if information is kept for a period of less than five years in practice. During the review period, no request for the disposal of books of account or other records before the expiration of the seven-year period was made and this has never been done in practice. In any case, Dominica should ensure that any power of the Comptroller or the Registrar to reduce the record retention period, is exercised in line with the requirement of retaining accounting records for at least five years even after an entity has ceased to exist (see Annex 1).

175. Businesses liable to tax in Dominica must file an annual tax return with the IRD. Along with the annual return, businesses must provide a copy of the final accounts of the business together with a reconciliation of the income shown in the accounts with the assessable income disclosed in the return in relation to the accounts.

## International business companies (IBCs)

176. The 2016 Report determined that as the scope of keeping of accounts and records was dependent on the discretion of the directors, the keeping of reliable accounting records, pursuant to the IBC Act, in line with the standard was not fully ensured. Also, the IBC Act was silent on the issue of keeping underlying documentation. Currently, IBCs are still exempt in practice from income tax in Dominica until 31 December 2021 and thus not subject to the accounting requirements of tax laws that would have complemented the IBC Act obligations. Dominica addressed these issues by amending the IBC Act, effective November 2016, to require all IBCs to keep and make available to the Registrar accounting records sufficient to record and explain company transactions and to accurately determine their financial position (s. 66, IBC Act). The Act defines “accounting records” to include all books, vouchers, invoices, contracts, financial statements and any other relevant records pertaining to the IBC’s financial affairs, including its assets and liabilities. Such records must be kept for seven years from the date of preparation and failure to keep those will result in a daily fine of USD 100 (XCD 270) on any company and its directors until rectified. Records are to be kept by the IBC’s registered agent, at the registered office of the company in Dominica, including in situations where the IBC is wound up or merged (s. 3, 2016 IBC (Amendment) Act).

177. In Dominica, exempt insurance companies are subject to additional requirements to maintain registers or policies, claims, registers, books and business records, as the Supervisor of Insurance of Dominica requires (s. 16 of the Exempt Insurance Act (EIA)). Such records must be kept for a minimum period of seven years. Also, a licensee shall submit two copies of its financial statements in a form that complies with generally accepted accounting principles, and such other related information as may be prescribed (s. 19(1), EIA). The financial statements must be accompanied by an auditor’s report in the prescribed form (s. 19(2), EIA). Offshore banks are also required to meet specific requirements to submit to the Financial Secretary a statement of assets and liabilities (s. 22(1), Offshore Banking Act (OBA)). They are also subject to submit such further information for the proper understanding of any statement or return furnished by that institution (s. 22(2), OBA). In addition, the financial institution shall forward to the Financial Secretary, copies of its balance sheet and profit and loss account and the full correct names of the directors of the institution (s. 23(1), OBA). The balance sheet and profit and loss account shall be certified by an approved auditor (s. 23(1), OBA).

### *Partnerships*

178. The tax requirements described in paragraph 185 of the 2016 Report still apply to partnerships. Therefore, domestic or foreign partnerships carrying on business in Dominica are required to keep themselves (through its partners), under sanction, records or books of accounts as are necessary to reflect the true and full nature of the transaction of the business for a period of seven years from the date of the transaction.

### *Trusts*

179. The Income Tax Act applies to trusts, which are relevant entities for tax purposes. Therefore, domestic or foreign trusts earning Dominican source income are required to keep, under sanction, records or books of accounts as are necessary to reflect the true and full nature of the transaction of the business regarding the nature of activities concerned. International exempt trusts are exempt from tax and thus not required to file tax returns nor subject to the accounting obligations under tax laws, but they would be in principle registered with the FSU and subject to keep records in general. As further detailed below in paragraph 181, foreign trusts and international exempt trusts are required to keep accounting records.

180. Section 14 of the Trusts and Non-Profit Organisations Regulations obliges trusts to keep financial records for at least seven years that “show and explain [their] transactions...and that are sufficiently detailed to show that [their] funds have been used in a manner consistent with its purposes, objectives and activities”. A trust must also show the “sources of its gross income”. The Regulations are silent on the issue of keeping underlying documentation in accordance with the standard. Failure to keep the information is considered an offence and liable to a fine of up to XCD 20 000 (USD 7 400).

181. Prior to November 2016, the International Exempt Trust Act did not prescribe any account keeping requirements. Section 41A of the Act was added to require covered trustees (including those for foreign trusts and international exempt trusts) to keep and make available to the Registrar accounting records sufficient to record and explain the trust transactions and accurately determine its financial position. The Act defines “accounting records” to include all books, vouchers, invoices, contracts, financial statements and any other relevant records pertaining to the trust’s financial affairs, including its assets and liabilities. Such records must be kept for a minimum period of seven years. Failure to maintain such records as required is punishable upon summary conviction by a fine of XCD 5 000 (USD 1 850) and six-month imprisonment.



## *Conclusion*

182. The various amendments enacted in November 2016 bring Dominica’s legal framework in line with the international standard. All relevant legal entities and arrangements now have obligations to maintain accounting records, including underlying documentation, for at least five years.

## *Supervision of obligations to maintain accounting information*

183. The 2016 Report contained two recommendations regarding supervision. Dominica was recommended to ensure that all international entities and arrangements are subject to adequate oversight of their compliance with the accounting requirements and enforcement powers be exercised in practice. In addition, Dominica was recommended to ensure that there is adequate oversight of the compliance of domestic companies and partnerships with their accounting obligations.

184. The IRD and the FSU are responsible for the oversight of compliance with accounting obligations: the IRD deals with domestic and relevant foreign entities (except IBCs) checked in the course of tax audits, to the extent that they are relevant for Dominican taxes while the FSU deals with entities in the international/offshore business sector. The Registrar is the government authority in charge of administering the Companies Act. As mentioned in element A.1, the Registrar mainly functions as a repository of information, and during the review period, did not conduct any monitoring activities concerning the obligations to maintain accounting records.

## *Inland Revenue Department*

185. The IRD is the main government authority responsible for ensuring the compliance of domestic and external companies, partnerships and trusts with their accounting obligations. The IRD has 21 auditors who are responsible for ensuring that taxpayers file tax returns and for conducting audits.

186. As noted in element A.1, there is no specific legal provision requiring companies to register for tax purposes. In practice, IRD officials explained that since 2012 they use the online database of companies maintained by the Registrar to identify new taxpayers. Annual tax filing requirements apply only to persons that are actively carrying on a business. Dominican authorities explained that companies that have not commenced or have ceased operations are not required to file a return even if they are registered with the IRD.

187. As there is no general tax registration obligation, there is a discrepancy between the number of domestic companies registered with the

Registrar and those registered with the IRD. In addition, IBCs are still not liable to tax in practice, so there is no obligation for them to be registered with the IRD before the end of the grandfathering period. No trusts were registered or active with the IRD during the review period.

188. As taxpayers can cease to file returns once they stop doing business, it appears to be difficult for the IRD to administer tax filing requirements. It is not immediately evident when a company has not filed a return, whether it has failed to comply with its tax obligations or it has stop carrying on business altogether. In terms of filing compliance, the numbers vary according to the type of tax, leaving the average in the review period as provided below.

189. From the 4 373 private companies registered with the IRD, approximately 2 672 are considered to be active (i.e. carrying on business). Among these 2 672 active companies,<sup>13</sup> 68% are filing returns. Therefore, there is a risk that companies registered with the Registrar are carrying on business but are not being monitored by the tax administration. This same concern was raised in the 2016 Report. Companies subject to tax that did not file returns are subject to late filing penalties, as discussed in paragraph 191.

190. The IRD modify its audit programme on a yearly basis, based on the estimated number of returns filed by each taxpayer group and the total number of returns that can be audited with the available IRD staff, which consists of eight employees. The “field audit” is the main tool in the audit programme, starting with a preliminary review, in which the auditor examines the return selected for audit, the attached financial statements for prior years, audit reports from previous audits and any other information on file. The audit might extend to examination of the taxpayer’s ledgers, journals, bank accounts, sales invoices, shipping and receiving records, purchase vouchers, expense accounts, inventories, investments, agreements, contracts, appointment books, share records and minutes, among other documents. Throughout the audit, the auditor may need to obtain information and assistance from the employees of the taxpayer, particularly those on the accounting staff. The IRD performs also audits to support reassessments. The features of a factual audit are: examination of, and selected audit techniques on, the accounting records maintained by the taxpayer; discussions with the taxpayer; observations; third party information. When an audit is completed, the auditor may propose to adjust the tax payable by reassessing the taxpayer’s return. As part of these audits, the IRD verifies that underlying documentation is being maintained as required.

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13. Currently there are 2 899 active companies according to the Registrar and the difference may be due to inactive companies that have not been removed from the Registrar database.

191. During the review period, approximately 1 187 field audits were conducted, which resulted in XCD 29 214 (USD 10 941) in tax penalties imposed. The IRD explained that every year the audit programme is modified to cater for groups of taxpayers that require the most attention. Nonetheless, there is the concern that Dominica is not following up on domestic companies that do not file returns.

192. During the review period, the following audits were conducted:<sup>14</sup>

Audit type	Number of cases	Amount assessed
Field audits	1 187	Not available
Desk-based audits	588	Not available
Total	1 775	Penalties collected: XCD 29 214 (USD 10 941); Penalties to be collected: XCD 69 547 (USD 26 047).

193. The number of audit cases is considerable, seeming to have increased considerably, as well as the numbers of filing compliance are over 50% for all types of taxes, which shows improvement in relation to the numbers from the 2016 Report. Even though the EOI requests that Dominica has received so far only relate to IBCs, it is important that Dominica ensure the availability of accounting information for domestic and relevant foreign entities. Based on the above, **Dominica is recommended to enhance its monitoring and enforcement practice to ensure the availability of accounting records for relevant domestic and foreign legal entities and arrangements, including for those that have ceased to exist.**

### Financial Services Unit

194. The FSU oversees the compliance of all international legal entities and arrangements, trusts and AML-obliged entities with their accounting obligations. The FSU currently has eight employees: one director, two senior examiners and four examiners and one secretary. The FSU's oversight programme consists of "sensitisation workshops", desktop reviews and on-site inspections. The sensitisation workshops cover legislative developments since the last round of inspections, as well as areas of weakness previously identified or trends in practice. The FSU has held two workshops since the 2016 Report, covering the legislative amendments undertaken since that report.

195. Desktop reviews are based on the audited financial statements that offshore banks are required to submit quarterly to the FSU. The FSU further noted that financial returns are assessed when renewing a company's annual

14. Dominica did not provide specific data on verification of shareholder information.

licence, for insurance companies, offshore banks and money services businesses. The FSU will also conduct desktop reviews of registered agents prior to conducting an on-site visit. The FSU will ask the registered agent about new IBCs registered and developments to existing files previously examined.

196. In April 2017, the FSU conducted on-site inspections of registered agents by inspecting a random selection of IBCs, to ensure the agents adhered to the new obligations to keep accounting records for the IBCs they managed. During the inspection, the inspectors will ask for a sample of the agent's files to review. The percentage of files reviewed depends upon the number of IBCs managed by the agent. Once the files have been selected, the inspectors will examine whether the agent is complying with all of its legal requirements, including the obligation to maintain accounting information.

197. The FSU reported that registered agents have a better understanding of their obligations with respect to accounting obligations in relation to the previous review period. Four or five agents were found to have some deficiencies and were given six months to address the issues. A few of these agents requested a six-month extension. The FSU has not yet conducted any follow-up inspections to verify that remedial actions are being taken, but the FSU reported that they are currently in the process or preparing their next round of onsite examinations. These will commence in November 2020, continuing until the second half of 2021. They also note that all institutions are either subject to a follow up or a full scope review during this round of examinations.

198. Through this inspection process, the FSU also identified inactive clients. The names of these inactive IBCs were forwarded to the Registrar to be struck from the Register. However, strike-off procedures were not initiated, as discussed under element A.1 (see paragraph 44). In 2017, registered agents were instructed by the FSU to report to the Registrar any inactive IBCs or IBCs for which the agent could not obtain the requisite accounting records. Some agents did send information to the Registrar but strike-off procedures were not initiated. The potentially large number of inactive IBCs, which remain on the register, raises concerns regarding the availability of accounting records for these entities. As described in paragraphs 173-174, according to Dominican authorities, responsibility for maintaining accounting records is broad, including any person to whom the custody of the books and papers has been committed to and is generally five years, provided that the exceptional cases to reducing the record retention period do not apply.

199. The FSU also conducted on-site inspections of all offshore banks and one money service business in 2017, one money service business in 2018 and two credits unions in 2019. As part of these inspections, the FSU verified compliance with accounting requirements. No sanctions for entities were applied during the review period for non-compliance with accounting

obligations, however notifications were sent to six IBCs and two credit-unions in order to compel these entities to comply with the requirements. Effective enforcement measures should be taken to ensure that all entities comply with record-keeping and filing requirements.

200. New accounting obligations were imposed on trusts in 2016; however, no monitoring was undertaken by the FSU during the review period. It is noted that there are no international exempt trusts registered in Dominica. It is not clear how many foreign trusts there are in Dominica. As explained in section A.1.4, although all trusts that are “incorporated, formed or otherwise established in Dominica; or administered in or from within Dominica” are to be registered with the FSU, the registry has not yet been established (s. 7, Trust and Non-Profit Regulations 2014).

201. The 2016 Report raised concerns regarding FSU’s resources to adequately supervise Dominica’s international entities and arrangements (in particular the approximately 19 000 registered IBCs at that time) with accounting and other obligations, in addition to its other activities. Since that Report, the number of FSU staff has increased by three; however, the number of international entities and arrangements has also increased. As such, the concern raised in 2016 continues to exist.

202. Based on the above, **Dominica is recommended to enhance its monitoring and enforcement practice to ensure the availability of accounting records for international legal entities and arrangements, including for those that have ceased to exist.**

#### *Availability of accounting information in EOIR practice*

203. During the review period, Dominica received one request for accounting information and was able to provide the requested information.<sup>15</sup> No peers raised any concerns.

### **A.3. Banking information**

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

204. The 2016 Report concluded that banks’ record-keeping requirements and their implementation in practice were in line with the standard. There has been no relevant change in the provisions or practice since this report.

15. Dominica is unable to confirm whether the request related to an active or inactive IBC.

Dominica's banking laws required banks to maintain full identity information on their clients and keep full records of their transactions.

205. The standard was strengthened in 2016 to require the availability of beneficial ownership information of account-holders. Banks' obligation to identify the beneficial owners of account holders is part of their AML/CFT requirements. As Dominica's legal and regulatory framework contains some deficiencies with respect to the identification of beneficial owner(s), with the absence of clear legislation or guidance on how to determine beneficial owners in situations where control is exercised through means other than direct control or on the need to identify all beneficial owners, this may result in the AML-obliged persons not always collecting extensive information on all relevant beneficial owners in accordance with the standard, as discussed in Element A.1 of the Report. In addition, the verification procedures that banks are required to carry out are not specified in the law. There are requirements in the AML/CFT Guidance Notes, but these are not binding. With regard to trusts, there is no obligation for banks to identify a protector or any other natural person exercising ultimate effective control over the trust. This may result in banks not always collecting extensive information on all relevant beneficial owners in accordance with the standard. Dominica should address these problems, so that accurate and up-to-date information on beneficial owners is always available.

206. In terms of implementation of the legislation in practice and supervision, Dominica was rated as Compliant with the standard, although the report warned that the Financial Services Unit (FSU) may be understaffed for its dual role as financial sector regulator and AML/CFT supervisor.

207. The FSU supervised during the review period the AML/CFT obligations of domestic and offshore banks, and the Eastern Caribbean Central Bank (ECCB) carried out prudential supervision of banks. The FSU carried out onsite visits of the 16 offshore banks in 2017, but there have not been any onsite visits since then, primarily because Dominica has suffered from severe weather emergencies including hurricanes in 2017, that continue affecting the operation of the FSU today. There were no onsite visits by FSU of the domestic banks during the entire review period (1 April 2016 to 31 March 2019). In light of this, there are concerns whether beneficial ownership information would be available in all circumstances. There are also concerns about the penalties, as they do not seem to be dissuasive or proportional. The supervision to ensure the availability of beneficial ownership information needs improvement.

208. In February 2020, the ECCB became the AML/CFT supervisor of banks in Dominica. It already carries out prudential supervision of banks in Dominica through off-site and on-site inspection programmes covering

a significant number of banks annually. It has not yet started its AML/CFT supervision.

209. During the review period, Dominica received no requests for banking information. No peers indicated that they would refrain from asking banking information to Dominica.

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

**Legal and Regulatory Framework: In place, but certain aspects of the legal implementation of the element need improvement**

Deficiencies identified/ Underlying Factor	Recommendations
Dominica's legal and regulatory framework contains some deficiencies with respect to the identification of beneficial owner(s) of bank accounts, as it is unclear on how to determine beneficial owners in situations where control is exercised through means other than direct control, or on the need to identify all beneficial owners. This may result in banks not always collecting extensive information on all relevant beneficial owners.	Dominica is recommended to ensure that its legal and regulatory framework requires all beneficial owners of account holders to be identified in accordance with the standard, so that accurate and up-to-date information on beneficial owners is always available.

**Practical Implementation of the Standard: Largely Compliant**

Deficiencies identified/ Underlying Factor	Recommendations
There is scope for improvement in the inspection of banks to ensure the availability of accurate and up-to-date beneficial ownership information of customers. In the review period, onsite visits by the Eastern Caribbean Central Bank (ECCB) and the Financial Services Unit covered no domestic banks in Dominica. In addition, there were no follow up inspections in general. Since no monetary sanctions or other penalties have been applied during the review period, its efficiency remains to be tested in practice.	Dominica is recommended to strengthen its supervision of banks to ensure that accurate and up-to-date beneficial ownership information for all customers is maintained by all the banks in Dominica.



### *A.3.1. Record-keeping requirements*

211. The 2016 Report concluded that banks' record-keeping requirements and their implementation in practice were in line with the standard. There have been no changes to the legal framework since then.

212. The AML/CFT legal framework consists of the Proceeds of Crime Act 1993, the MLP Act, the MLP Regulations 2013 and the AML and Suppression of Terrorist Financing Code of Practice 2014. These laws are supported by non-binding Guidelines. The legal framework sets out banks' CDD obligations with respect to every business relationship. In Dominica, both domestic and offshore institutions are subject to AML/CFT framework.

213. The standard, as strengthened in 2016, specifically require that beneficial ownership information be available in respect of all bank account holders. The obligation to identify beneficial owners of the account holder is contained in the AML/CFT laws. First, the MLP Regulations provide that "all financial institutions in Dominica must establish the true identity of each account holder". Second, for an account held by a business, trust, fiduciary agent, nominee company or professional intermediary, such as an attorney, chartered accountant, certified public accountant or auditor, the financial institution must also obtain sufficient evidence of the true identity of the person with beneficial interest in the account and verify the nature of the business, the source of the funds of the account holder and the beneficiaries (s. 15(6)). In addition, if it appears to a bank that a person requesting it to enter into any business relationship or transaction, whether or not in the course of a continuing business relationship, is acting on behalf of another person, the bank must establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as a trustee, nominee, agent or otherwise (s. 16).

214. Third, banks must identify the beneficial owners of their clients. Where the customer is a legal entity, the bank must "adequately identify its beneficial owner and take reasonable measures to identify and verify its ownership and control structure" (s. 10, MLP Regulations). A "beneficial owner", according to section 2 of the MLP Regulations, means "(i) the natural person who ultimately owns or controls a customer; (ii) the person on behalf of whom a transaction is conducted; or (iii) the person who exercises ultimate control over a legal person or legal arrangement". The Code of Practice specifies that in the case of a legal person a beneficial owner is the natural person who ultimately owns or controls a customer or on whose behalf a transaction is conducted and includes (i) a natural person who ultimately owns or controls, "whether directly or indirectly, 10% or more of the shares or voting rights in the legal person"; or (ii) a natural person who otherwise exercises control "over the management of the legal person". As noted under



section A.1.1, the legislation is unclear on whether all persons who meet the definition must be identified, and the definition lacks the default position of identifying a senior manager of the company when no natural person meets the definition of beneficial owner. In view of these deficiencies, **Dominica is recommended to ensure that its legal and regulatory framework requires all beneficial owners of account holders to be identified in accordance with the standard, so that accurate and up-to-date information on beneficial owners is always available.**

215. With regard to trusts, there is no obligation for banks to identify a protector or any other natural person exercising ultimate effective control over the trust, in contravention to the standard. Accordingly, Dominica should ensure that banks are required to identify all beneficial owners of a trust, which holds an account with a bank in Dominica as required under the standard (see Annex 1).

216. The Guidance Notes highlight that particular care should be taken in cases of clients (whether companies, trusts or otherwise) which conduct no commercial operations in the country in which their registered office is located or when control is exercised through nominee or shell companies. Special procedures should also be developed for dealing with corporate clients that issue bearer shares to ensure that the beneficial ownership is always known to the financial service providers (s. 47).

217. In case of cross border correspondent banking and similar relationships, a bank shall: (a) adequately identify and verify respondent institutions with whom it conducts such a business relationship; (b) gather sufficient information about the nature of the business of the person; (c) determine from publicly available information the reputation of the person or entity and the quality of supervision to which the person is subject to including whether it has been subject to a money laundering investigation or regulatory action; (d) assess the person's or entity's anti-money laundering controls and ascertain that they are adequate and effective; (e) obtain approval from senior management before establishing a new correspondent relationship; and (f) document the responsibilities of the financial institution and the person.

218. These MLP Regulations also note that where a financial institution relies on an intermediary or third party to undertake any of its obligations under AML/CFT, or to introduce business to it, it must be satisfied that the third party is able to provide copies of identification data and other documents relating to the obligation of due diligence (s. 13(a) and (b)). The financial institution should satisfy itself that the third party or intermediary is regulated and supervised, and has measures in place to comply with the requirements set. Also, as indicated in paragraph 99, the AML-obliged person, in this case the financial institution, would remain ultimately

responsible for CDD purposes. In addition, the AML/CFT Guidance Notes require entities to identify the true or beneficial owners in an ownership chain.

219. Banks must keep records on all business transactions and CDD records for seven years after the termination of the business transaction or the end of the business relationship. A bank that wilfully fails to comply with the applicable rules commits an offence (s. 16, MLP Act).

### *Supervision of obligations to maintain banking information*

220. The 2016 Report concluded that the oversight carried out by the ECCB and the FSU appeared to be effective, although, it was noted that the FSU may be understaffed for its dual role as financial sector regulator and AML/CFT supervisor. The FSU has raised the number of staff from five to eight employees to ensure that the regulator is adequately resourced to perform the monitoring of the banking information obligations of IBCs, but these resources should be evaluated as there is a growing number of entities under its supervision.

221. No person or institution may carry on banking business or offer financial services in Dominica without a licence. The licence is granted by the ECCB in case of domestic banks and by the FSU in relation to offshore banks. There are currently 4 domestic banks and 16 offshore banks licensed in Dominica.

### Eastern Caribbean Central Bank (ECCB)

222. The ECCB is responsible for conducting prudential supervision of domestic commercial banks and financial institutions licensed in Dominica. The ECCB has discretion to inspect financial institutions as it sees fit within its judgment, provided that each licensed financial institution is examined at least once every three years (s. 70, Banking Act). The ECCB supervision is based on on-site and off-site supervision relying on risk assessments and a risk-based approach, focusing on activities that are more significant.

223. In case of an on-site inspection, the ECCB conducts a full scope exam, relying on credential, quantitative and qualitative information and it includes a pre-meeting. The review generally takes five to ten working days, focusing on a targeted exam, over one particular area. It usually involves four to five inspectors, depending on the institution and the types of activities. Representatives from the ECCB confirmed during the on-site that they try to conduct a full scope exam of every domestic bank once every three years as required by the Banking Act. In the course of its inspections, the ECCB will check whether a financial institution has properly identified its customers, is

maintaining relevant records and performing CDD. With respect to high-risk cases, they would rely on risk-assessment from the bank. All the entities are required to have an audit function part. At the conclusion of an inspection, the ECCB requires banks to sign a Memorandum of Understanding confirming their commitment to rectifying the deficiencies identified by the ECCB. Off-site reviews focus on a sample of loans, financial sheets and portfolio, based on economic sector processed by the bank. These desk-reviews are made generally on a quarterly basis.

224. For aspects of its supervision overlapping with AML/CFT, the ECCB is guided by the AML/CFT Guidance Notes. Compliance with AML/CFT rules itself was carried out by the FSU, but the ECCB is taking over this activity from the FSU as of 2020 and this process is currently ongoing. The ECCB has not conducted any AML/CFT supervision in Dominica yet.

225. The ECCB has disciplinary powers and may impose administrative penalties or remove staff (including directors) from banks. If the ECCB finds a deficiency or breach, the ECCB and the bank will conclude a written agreement providing for a programme of remedial action within a specified timeframe.

226. In case a financial institution does not address eventual deficiencies, they may be liable to fines in case of not complying with the necessary record keeping obligations XCD 5 000 (USD 1 850) or to imprisonment for a term of six months or both (s. 51, MLPA). Under the POCA, a financial institution that does not keep financial transactions records commits an offence and is liable on summary conviction to a fine of XCD 10 000 (USD 3 700) (s. 49(5), POCA). In addition, a fine of up to XCD 50 000 (USD 18 500) is applicable in case of failure to take the required remedial actions. Sanctions increase with the time or if there is a recurrence of no compliance. First pecuniary penalties are applied and then sanctions related to revoking a licence would be applied.

227. During the review period, the ECCB carried out one on-site visit as part of a targeted exam of one of the four commercial banks in Dominica, focusing on one particular area. This means that the requirement to audit them every three years was not met in practice during the review period. In addition, the ECCB has not yet imposed any penalties as it has not seen any major deficiencies during the course of its examinations and banks reportedly have readily agreed to take remedial action. The ECCB noted that banks have a good knowledge of their AML/CFT and record keeping obligations. Any breach of AML/CFT obligations detected by the ECCB during an on-site audit is to be reported to the FSU.

## Financial Services Unit (FSU)

228. The FSU supervises the prudential compliance of offshore banks and the AML/CFT compliance of domestic and offshore banks.

229. The FSU will contact the Director of the bank in advance indicating its intent to perform an on-site inspection and may ask for specific information prior to the on-site visit. From the AML/CFT perspective, the inspection team will check the institution's CDD and KYC policies, as well as conduct random examinations of files to ensure that such policies were followed, depending on the risk level of the account. At the end of an on-site inspection, the FSU will prepare a report detailing its findings and the remedial actions to be taken by the institution, including timeframes for action plans. The FSU can also conduct spot checks without advance notice. The FSU may impose penalties of up to XCD 500 000 (USD 185 000) for non-compliance or revoke or suspend a bank's licence. In 2017, the FSU carried out one round of on-site inspections of all 16 offshore banks. No further on-site inspections of offshore banks were carried out during the review period. There were no on-site inspections of domestic banks carried out by the FSU during the review period. Dominica was affected by the hurricanes in 2017 which impacted the services and programmes carried out by the FSU.

230. The lack of resources mentioned in element A.1 might be a problem for ensuring oversight and enforcement of the availability of banking information as well. In addition, no penalties have been applied during the review period. In the absence of a robust, widespread yet risk-based and periodic supervisory programme by the FSU, it is difficult to ascertain whether the supervision of banks is adequate to reasonably ensure availability of accurate and up-to-date beneficial ownership information, in line with the standard, for all customers by all the banks in Dominica. In addition, lack of resources was an issue raised in the 2016 Report.

231. Since 2020, the ECCB will take over the AML supervision of banks. The compliance is yet to be tested and needs to be monitored. **Dominica is recommended to strengthen its supervision of banks to ensure that accurate and up-to-date beneficial ownership information for all customers is maintained by all the banks in Dominica.** In addition, this deployment may allow FSU to better focus its resources on its other activities.

### *Availability of banking information in EOI practice*

232. During the review period, Dominica did not receive any requests for banking information and no peers raised any concerns.

## Part B: Access to information

233. 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).

234. The 2016 Report concluded that Dominica’s Comptroller has broad access powers to obtain all types of relevant information including ownership, accounting and banking information both for domestic tax purposes and in order to comply with obligations under Dominica’s EOI agreements. Access applies regardless of whether the person concerned or information holder is liable to tax in Dominica.

235. Where the information sought relates to civil or criminal proceedings in the requesting jurisdiction, an application must be made to the court. It is not clear whether an application must be made when a case is still in audit stage. As the court order procedure was new and EOI officials appeared to be unfamiliar with the procedure, Dominica was recommended to monitor its application and ensure that EOI staff were aware of all relevant procedures.

236. Dominica amended its EOI Act in 2016 to clarify the procedures for gathering information pursuant to an EOI request, including the steps required for obtaining information through a court order. An EOI Manual was adopted in 2017 which explains the process to obtain information from an information holder, the requirement to notify a taxpayer, and sets out template notification and request letters. However, the manual is silent with

respect to the court order procedure. Further, Dominica received two EOI requests during the review period; however, current EOI officials are not familiar with these requests and it is not known whether the Comptroller, at that time, applied the applicable court procedure in either case. EOI officials continue to demonstrate lack of familiarity with this procedure. Based on these factors, the recommendation from the 2016 Report continues to apply.

237. The 2016 Report also concluded that the scope of legal professional privilege applicable to EOI requests may go beyond the standard, which led to an in-text recommendation that Dominica ensure that the scope of legal privilege in its EOI arrangements is consistent with the standard. There has been no change to the legal framework since this report. There has also been no change to the IRD or legal professionals' interpretation of attorney-client privilege which may go beyond the standard. An additional concern raised during the current review is that accountants' interpretation of professional privilege goes beyond the standard. In practice, Dominica advised that no person has ever invoked legal privilege or refused the production of information for EOI purposes or in relation to domestic tax matters. Although there are sufficient general access powers available to the IRD which seem to allow access to information held by legal professionals and accountants, the interaction of these powers with professional secrecy has not been tested in practice. This concern is strengthened by the fact that the representatives of the lawyers and accountants did not clearly indicate that they would in practice be in position to provide information to the IRD when requested. Dominica should monitor access to information held by professionals who can claim legal professional privilege so that the requested information can be obtained in line with the standard.

238. 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.
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### Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/ Underlying Factor	Recommendations
EOI officials in Dominica appear to be unfamiliar with provisions requiring a court order when requested information is required for civil or criminal proceedings in the requesting jurisdiction and court procedures for sealing sensitive documents. In addition, it is not known whether the relevant procedures were applied in practice when responding to the two EOI requests.	Dominica should ensure the process of its access powers is applied in practice in accordance with the EOI Act and ensure they are effective to gather information for EOI purposes in accordance with the standard. Dominica should also update its EOI Manual and ensure that EOI officials are kept aware of all relevant procedures.
Although there are sufficient general access powers available to the tax authorities which seem to allow access to information held by legal professionals and accountants, the interaction of these powers with professional secrecy has not been tested in practice. This concern is strengthened by the fact that the representatives of the lawyers and accountants did not clearly indicate that they would in practice be in position to provide information to the tax authorities when requested.	Dominica should monitor access to information held by professionals who can claim legal professional or other professional secrecy obligations so that the requested information can be obtained in line with the standard.

#### ***B.1.1. Ownership, identity and banking information and***

#### ***B.1.2. Accounting records***

239. The EOI Act and the ITA provide the IRD with broad access powers to obtain all types of relevant information, including ownership, accounting and banking information from any person (either directly, or through a court order) in order to comply with obligations under Dominica's EOI agreements. Since 2015, the EOI Act provides the Comptroller, as delegated competent authority for exchange purposes, full powers for gathering information to answer EOI requests. The procedure for collecting information for EOI purposes differs depending on circumstances in the requesting jurisdiction. Where the requested information is required for civil or criminal proceedings (or related investigations) in the requesting jurisdiction, the Comptroller must apply to the court for an order to compel the information holder to produce the information. In other cases, the Comptroller can issue a notice for

production of information. An in-text recommendation was included in the 2016 Report for Dominica to monitor the implementation of this new court order procedure to ensure that it does not unduly restrict the effectiveness of the Comptroller's access powers.

### *Court process*

240. When the requested information is required for civil or criminal proceedings in the requesting jurisdiction, the Comptroller must apply to a Judge of the High Court for an order to compel the information-holder to produce such information and to prevent their disclosure (s. 4A(1)(a), EOI Act). The EOI Act does not explain the process further and no rules have been issued to govern the proceedings relating to such orders. The EOI Act was amended in 2016 to indicate that the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 still apply and govern the making of such applications (s 4(8)). When applying to the court, the Comptroller must file a notice of application along with an affidavit and draft order. The application must be made in writing, using the specific form provided in the Rules. The application must be supported by documentation including the EOI request itself and other materials as required to verify the information contained in the request. Time-sensitive requests can benefit from a certificate of urgency, to be analysed on a priority basis. As, generally, all court documents in Dominica are made public, a request to seal the documents contained in the application for production of information must be applied to ensure that EOI materials are not publicly disclosed. The 2016 Report noted that Dominica could not provide any additional clarification on the procedure followed by courts in sealing documents, the criteria applied in determining whether documents should be sealed or what happens if the court refuses the seal.

241. If the court is satisfied with the application, it may make an order compelling production of the requested information to the Comptroller or giving the Comptroller access to the information (e.g. access to premises).

242. The 2016 Report noted that Dominica did not have significant experience with the procedures to access information for EOI purposes (since Dominica had received only one EOI request at that time) and that such rules (including the application for a court order) were not followed in practice during that review period. Further, EOI officials were not fully familiar with the court procedures. This led to a recommendation being included in the report.

243. Dominica took steps in 2017 to address this recommendation by adopting an EOI Manual which explains the process to obtain information from an information holder, the requirement to notify a taxpayer, and sets out template notification and request letters. The manual mentions the court



proceedings, which should follow the Eastern Caribbean Supreme Court Civil Procedure Rules but does not provide further guidance on how to meet the requirements. The recommendation therefore remains. **Dominica should ensure the process of its access powers is applied in practice in accordance with the EOI Act and ensure they are effective to gather information for EOI purposes in accordance with the standard. Dominica should also update its EOI Manual and ensure that EOI officials are kept aware of all relevant procedures.**

*Access to ownership, accounting and banking information in practice*

244. The Comptroller and EOI unit staff have access to taxpayers’ files. When the information requested is not already in the IRD’s possession, and it does not relate to any proceeding or investigation in the requesting jurisdiction, a letter is sent to the person believed to be in possession of the requested information, either a taxpayer or a third party. Generally, the information holder has 30 days from the date the letter is issued to provide the information. For banks, the period allowed is 15 days. The EOI Manual details the applicable follow-up procedures. In terms of domestic tax matters, the Comptroller noted that banks are very responsive and generally provide the requested information in less than 15 days.

245. Dominica received two EOI requests during the review period. Although the Comptroller exercised its access powers and successfully obtained the requested information, it is not known whether the Comptroller did apply the applicable court procedure (if required) in either case. Further, it became apparent at the on-site visit that IRD officials were not fully familiar with the court procedure. Based on these factors, the recommendation from the 2016 Report continues to apply. Consequently, Dominica is recommended to monitor the application of the procedure and to ensure that EOI staff are aware of all the required steps.

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

246. The concept of “domestic tax interest” describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes.

247. Dominica has no domestic tax interest limitation with respect to its information gathering powers pursuant to the EOI Act.

248. Dominica’s ability to provide information regardless of domestic tax interest was confirmed in practice as both requests related to information regarding IBCs which are not taxpayers in Dominica.

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

249. Jurisdictions should have in place effective enforcement provisions to compel the production of information. Dominica’s Comptroller has adequate powers to compel the production of information in line with the standard, as explained in paragraph 243 of the 2016 Report.

250. Under the EOI Act, the Comptroller is empowered, upon application to the High Court for a search warrant, to execute search and seizure measures in order to obtain information in response to EOI requests (s. 4C(1), EOI Act). Failure to comply with a court order will result in contempt of court, the penalties for which include a fine of XCD 1 500 (USD 555), imprisonment for a term of up to one month, or, in the case of legal persons, seizure of property (Chap. 5:01, s. 3, Contempt of Court Act). The ITA also grants the Comptroller a number of compulsory powers, including search and seizure. Failure to comply may result in administrative or criminal sanctions (see paragraph 245 of the 2016 Report).

251. During the three-year review period, there were no cases where a person failed to provide information requested and the IRD did not need to seek a warrant to conduct a search and seizure. In cases where a person refuses to co-operate, the IRD confirmed that it would use its compulsory powers to ensure that the requested information is obtained and provided.

252. Dominica’s powers to access information continue to be in line with the standard.

#### ***B.1.5. Secrecy provisions***

253. A number of secrecy provisions exist in Dominica’s legislation, specifically in the context of offshore entities; however, these provisions can be lifted for the purpose of EOI (refer to paragraphs 249 and 250 of the 2016 Report). During the review period, this possibility was tested in practice, as information in relation to IBCs was exchanged and the secrecy provisions applicable to them have not prevented EOI.

254. The 2016 Report concluded that the scope of legal privilege applicable to EOI requests may go beyond the international standard as privilege may be extended to communications between an attorney, his/her client and a third party, in contemplation of or regarding legal proceedings, as it includes “any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings” (refer to paragraphs 251-254). At that time, Dominican authorities maintained that this concern was mitigated by the fact that attorneys would, in all circumstances, provide information that is mandated by a court order. However, the report

noted that a court order would not be required in all instances for EOI. A taxpayer, if notified, may invoke legal privilege, within 15 days from the date of receipt of the notice, by making a written submission to the Comptroller. If the taxpayer's assertion of privilege is not accepted by the Comptroller, this would be a ground for appealing a court order to produce the information. Where legal privilege has been invoked, the court would have to first decide on the applicability of privilege. If the court determines that legal privilege applies, it would not issue an order compelling the production of information. Based on this, the report included an in-text recommendation for Dominica to monitor the application of legal privilege to ensure that it is interpreted in a manner consistent with the standard.

255. There has been no change to the legal framework since that review. There has also been no change to the legal professionals' interpretation of attorney-client privilege in that any communications or items that are the subject of communications arising in the context of an attorney-client relationship, including information on corporate ownership or tax-related issues, would be privileged. Should an attorney act in a dual role (for instances, as a registered agent, a nominee or a trustee), information received from the client in his/her capacity as a corporate service provider would not be privileged.

256. Accountants may also have a broader interpretation of professional privilege. A representative advised, at the on-site visit, that accountants would seek their client's permission before responding to any request for information from the IRD.

257. Dominica does not have any case law on the interpretation of the scope of privilege. A Jamaican precedent<sup>16</sup> discusses legal professional privilege and whether the Proceeds of Crime Act could be applied to lawyers and it was held it did. It was decided that there can be no justification for protection where the attorney steps out of the traditional role of legal adviser and simply acts as agent in the client's business and there is no justification for affording protection where the activities of the attorney engaged in the regulated sector are the same as other professionals. In addition, it has clarified that an accountant's role is not similarly engaged in the administration of justice and that the accountant, regardless of the advice given, is never engaged in the administration of justice as an attorney-at-law providing legal advice. In practice, Dominica advised that no legal professional has never invoked legal privilege or refused the production of information for EOI purposes or in relation to a domestic tax matter. It is noted, however, that Dominica's EOI experience is very limited. No peers raised any concerns.

16. Since the East Caribbean Supreme Court's jurisdiction extends to Dominica, this precedent would apply and is available at: <https://agc.gov.jm/wp-content/uploads/2017/05/Jambar-v-AG-GLC-2017-JMFC-FULL-02.pdf>.

258. Although there are sufficient general access powers available to the IRD which seem to allow access to information held by legal professionals and accountants, the interaction of these powers with professional secrecy has not been tested in practice. This concern is strengthened by the fact that the representatives of the lawyers and accountants did not clearly indicate that they would in practice provide information to the IRD when requested. **Dominica should monitor access to information held by professionals who can claim legal professional privilege or other professional secrecy obligations so that the requested information can be obtained in line with the standard.**

## 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.

259. The 2016 Report concluded that notification requirements exist in favour of the person who is the subject of the EOI request where it is not in connection with an (alleged) criminal matter, and if the person's whereabouts or address are made known to the Comptroller. These notification rights were considered to be too broad as there was no exception from prior notification in civil tax matters where the whereabouts of the taxpayer were known (noting that the Comptroller is not required to search for or conduct enquiries into the address or whereabouts of any person who is the subject of a request in order to serve a notice). It was recommended that wider exceptions from prior notification be permitted.

260. In 2016, Dominica amended the EOI Act to permit the Comptroller to choose to not notify a person who is the subject of a request if the request is urgent or the notice is likely to undermine the investigation of the requesting party (s. 4B(3A), EOI Act). This amendment brings Dominica in line with the standard.

261. There is no post-exchange notification requirement in Dominica.

262. The 2016 Report concluded that the development of EOI practice in Dominica was at a nascent stage and that internal procedures and processes for implementing the notification requirements had not yet been developed. To address this issue, in 2017, an EOI Manual was adopted by the EOI unit which sets out rules regarding the process it would follow in notifying taxpayers. The manual also explains the existing exceptions to notification. Further, the manual contains template notification letters.

263. Dominica did not confirm whether during the review period it notified the taxpayer subject to the request.

264. As explained in the 2016 Report, certain court procedures for an application to compel production of information may require the disclosure of information to parties of the proceedings (paragraphs 263-264). It was not clear whether the implicated taxpayer or information holder would be considered parties to the proceeding and thus would be informed about the EOI request even prior to the granting of such an order. According to Dominican officials, in certain circumstances, such as urgent applications or where notification would put the information at risk, a “without notice” application by the Comptroller would be possible; however, there was no practice or case law to support this assertion. It was recommended that Dominica monitor this new notification procedure to ensure that such procedure does not unduly prevent or delay effective EOI.

265. To date, Dominica has not applied this court procedure to gather information for EOI purposes, and the Comptroller has not had to contact the taxpayer directly in order to obtain the information necessary to respond to an EOI request. Additionally, although an EOI Manual has been adopted, it is silent with respect to the actual steps regarding court procedure process. Further, current EOI unit staff seem to be unfamiliar with the notification procedure. Based on these factors, the recommendation from the 2016 Report continues to apply (refer also to section C.5.2 Organisational processes and resources). **Dominica should continue to monitor the notification and court procedures to ensure that it does not unduly prevent or delay effective exchange of information.**

266. The 2016 Report noted that under the Eastern Caribbean Supreme Court (Dominica) Act, a taxpayer has a right of appeal against an order of the High Court. Where a taxpayer appeals an order, it remains valid and can still be served upon the taxpayer (or third party information holder) unless the taxpayer applies for a stay of execution. No relevant changes have been made since that report.

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

#### **Legal and Regulatory Framework: In place**

No material deficiencies have been identified in the rights and safeguards that would be incompatible with effective exchange of information.

**Practical Implementation of the Standard: Largely Compliant**

<b>Deficiencies identified/ Underlying Factor</b>	<b>Recommendations</b>
The notification provisions have not yet been applied in practice. Although the IRD has developed internal procedures and processes to be followed when a taxpayer must be notified, there are no internal procedures or processes in place regarding the court procedure to compel production of information “without notice”.	Dominica should continue to monitor the notification and court procedures to ensure that it does not unduly prevent or delay effective exchange of information.

## Part C: Exchanging information

268. Sections C.1 to C.5 evaluate the effectiveness of Dominica’s EOI in practice by reviewing its network of mechanisms. It covers whether these EOI mechanisms provide for exchange of the right scope of information, cover all Dominica’s relevant partners, contain adequate provisions to ensure the confidentiality of information received, respect the rights and safeguards of taxpayers, and whether Dominica 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.

269. The 2016 Report concluded that Dominica’s network of EOI mechanisms was “in place” and its implementation in practice rated Compliant. At that time, Dominica had 1 DTC, 20 TIEAs and was a signatory to the CARICOM Multilateral Tax Treaty. Although the 2016 Report identified issues with two EOI agreements entered into by Dominica, these were not considered major issues and did not warrant a downgrade of the determination from “in place”.

270. In April 2019, Dominica signed the Multilateral Convention, which entered into force in Dominica on 1 August 2019 (after the end of the review period, which ran from 1 April 2016 to 31 March 2019). With this entry into force, the only bilateral instrument that was not in line with the standard – the 1963 DTC with Switzerland – is now supplemented with the Multilateral Convention and the two countries can exchange information in line with the standard. All references to deficiencies of the DTC in the previous report are thus removed. The 2016 Report also identified deficiencies in the CARICOM Multilateral Tax Treaty, the other Parties of which are also participating in the Multilateral Convention, except Guyana and Trinidad and Tobago.

271. Dominica has not signed any new bilateral EOI instrument since the 2016 Report but one TIEA (with Sweden) entered into force. Three TIEAs

signed are still awaiting ratification by Dominica and Dominica should ensure communication with partners on the status of actions taken to bring agreements into force (see Annex 1).

272. During the review period, exchange of information was possible with the 28 jurisdictions with which an EOI instrument was in force. In practice, Dominica applied its EOI agreements in line with the standard in handling the two requests it received. Dominica provided information to the widest possible extent, as confirmed by peers.

273. The recommendation, determination and rating are as follows:

**Legal and Regulatory Framework: In place**

Deficiencies identified/ Underlying Factor	Recommendations
Although Dominica has signed and ratified the Multilateral Convention in April 2019, and ratified the TIEA with Sweden in 2017, these agreements have not yet been scheduled to the EOI Act in order to have force of law in Dominica for EOI purposes.	Dominica is recommended to schedule the Multilateral Convention and the TIEA with Sweden to the EOI Act expeditiously in order to have force of law in Dominica.

**Practical Implementation of the Standard: Compliant**

No issues have been identified that would affect EOIR in practice.
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***C.1.1. Foreseeably relevant standard***

274. Exchange of information mechanisms should allow for EOIR where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction.

275. All of Dominica’s EOIR relationships, including all TIEAs and the Multilateral Convention, are in line with the standard of foreseeable relevance.

276. Concerning the practical application of the standard of foreseeable relevance, Dominica does not require its EOI partners to complete a standardised template for the formulation of requests and instead receives and accepts requests in any format. If a request was considered unclear or incomplete, Dominica would seek clarification or additional information from the requesting jurisdiction before declining to respond to it, but this has not happened in practice that Dominica considered a request unclear or doubted on the foreseeable relevance of the information requested.



277. The EOI Manual, based on the Global Forum’s EOI Working Manual, explains how to validate a request, it defines foreseeable relevance and it provides a checklist that the EOI staff should follow in practice. However, at the on-site visit, the current EOI Unit staff did not seem to be familiar with the standard of foreseeable relevance (see further section C.5.2 Organisational processes and resources).

### *Group requests*

278. None of Dominica’s EOI agreements or domestic law contain language prohibiting group requests. Dominica interprets its EOI agreements and its domestic law such that it can reply to a group request to the extent that it meets the standard of foreseeable relevance as described in the 2012 update to the Commentary on Article 26 of the OECD Model Tax Convention.

279. During the period under review, Dominica did not receive or make any group requests. The EOI Manual does not explain group requests or how they should be dealt with. According to IRD officials, the same access powers and general procedures will apply as in respect of other types of requests. As such, Dominica should update the EOI Manual with respect to group requests to ensure effective EOI (see Annex 1). For more information refer to section C.5.2 Organisational processes and resources.

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

280. All of Dominica’s EOI agreements allow for EOI with respect to all persons. The requests Dominica received related to IBCs which are not taxpayers in Dominica. The situation of a request related to a person resident in a third jurisdiction remains to be tested in practice. However, Dominica confirms that they would exchange information, as long as it is available.

### ***C.1.3. and C.1.4. Obligation to exchange all types of information and absent domestic tax interest***

281. The OECD Model Tax Convention Article 26(5) and the OECD Model TIEA Article 5(4), which are authoritative sources of the standard, stipulate that bank secrecy cannot form the basis for declining a request to provide information. In addition, a request for information cannot be declined solely because the information is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to an ownership interest. In addition, jurisdictions must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting (OECD Model Tax Convention Article 26(4) and OECD Model TIEA Article 5(2)).

282. Dominica’s EOI relationships, except for the ones solely based on the CARICOM Multilateral Tax Treaty (with Guyana and Trinidad and Tobago) meet this aspect of the standard. Dominica authorities reported having made efforts to promote that the EOI article in this agreement be amended to fully conform to the international standard, but this agreement has not been amended to date. EOI under the CARICOM Multilateral Tax Treaty is still not to the standard with Trinidad and Tobago due to serious domestic deficiencies regarding access powers of the Trinidad and Tobago’s Competent Authority.<sup>17</sup> In addition, Guyana has not yet been reviewed by the Global Forum and information is not available as regards to Guyana’s Competent Authority’s power to access banking information and to obtain ownership, identity and accounting information for purposes of EOI. There has been no exchange of information between Dominica and Guyana to test the application of the agreement. It is therefore not possible to confirm that the CARICOM Multilateral Tax Treaty with regards to Guyana meets the standard.

283. During the review period, Dominica exchanged different types of information, including ownership and accounting information. It was not requested to provide information held by a bank, another financial institution, a nominee or person acting in an agency or a fiduciary capacity and these situations remain to be tested in practice. Dominica exchanged information in which it had no domestic tax interest as both requests related to information regarding IBCs which are not taxpayers in Dominica.

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

284. All of Dominica’s EOI agreements provide for EOI in both civil and criminal matters. None contains restrictions limiting EOI in criminal matters or based on dual criminality principles. In practice, the two requests received related to civil tax matters and no peers reported any concerns.

***C.1.7. Provide information in specific form requested***

285. There are no restrictions in Dominica’s EOI agreements that would prevent it from providing information in a specific form, as long as this is consistent with its own administrative practices. In practice, the two peers having sent EOI requests did not ask to receive information in any specific form and did not raise any concerns in relation to this.

17. As reviewed by the Global Forum in the Phase 1 Peer Review Report of Trinidad and Tobago, 2011.

### *C.1.8. Signed agreements should be in force*

286. At the time of the 2016 Report, Dominica’s EOI network covered 31 partners (through 21 bilateral agreements and the CARICOM Multilateral Tax Treaty (which entered into force on 19 June 1996 in Dominica)). Four<sup>18</sup> of Dominica’s EOI agreements had not yet entered into force.

287. Since then, Dominica signed the Multilateral Convention on 25 April 2019 and it entered into force in Dominica on 1 August 2019. Dominica’s EOI network now covers 138 jurisdictions through 21 bilateral agreements, the CARICOM Multilateral Tax Treaty and the Multilateral Convention.

288. Currently, three TIEAs are not in force<sup>19</sup> and are still awaiting ratification by Dominica.

289. The ratification process in Dominica typically takes less than one year. However, the average time between the signature of a new EOI instrument and its ratification took longer in some situations, as it is the case with Finland and South Africa, where it took three years. Also, three signed TIEAs that were signed in 2010 and 2012, are still awaiting ratification by Dominica. Although these partners are covered by the Multilateral Convention, meaning that there is a basis for exchange of information for tax purposes by and with Dominica, Dominica should take necessary measures to bring its exchange of information agreements into force expeditiously, in consultation with the relevant partners.

290. The following table summarises the outcomes of the analysis under element C.1 in respect of Dominica’s EOI relationships.

Total EOI relationships, <b>including</b> bilateral and multilateral or regional mechanisms	<b>138</b>
In force	<b>126</b>
In line with the standard	124
Not in line with the standard	2 <sup>a</sup>
Signed but not in force	
In line with the standard	12 <sup>b</sup>
Not in line with the standard	

18. The 2016 Report noted TIEAs with Finland and South Africa were not in force, however, they were in force by that time. This has been corrected now in Annex 2.

19. These are the TIEAs with Faroe Islands, Germany and Poland. In addition, the TIEA with Sweden has not been scheduled to the EOI Act).

Among which – Bilateral mechanisms (DTCs/TIEAs) <b>not complemented</b> by multilateral mechanisms	<b>2</b>
In force	<b>2</b>
In line with the standard	0
Not in line with the standard	2 [Guyana, Trinidad and Tobago] <sup>c</sup>
Signed but not in force	<b>0</b>
In line with the standard	0
Not in line with the standard	0

- Notes:* a. One of these refers to the DTC with Switzerland. Both jurisdictions are parties to the Multilateral Convention and are able to exchange information in accordance with the international standard.
- b. These 12 jurisdictions are: Benin, Bosnia and Herzegovina, Burkina Faso, Gabon, Kenya, Liberia, Mauritania, Oman, Paraguay, Philippines, Thailand and Togo. The Multilateral Convention is also not in force with Trinidad and Tobago but they have an EOI relationship in force under the CARICOM treaty, but not in line with the standard.
- c. These two agreements are under the CARICOM Multilateral Tax Treaty.

### ***C.1.9. Be given effect through domestic law***

291. The Tax Information Exchange Act of Dominica provides that an agreement with another Government will have the force of law in Dominica once that agreement is scheduled to the Act. In the 2016 Report, Dominica had scheduled the agreements relating to all of its partners, except for Switzerland. Since then, Dominica has signed and ratified the Multilateral Convention and a TIEA with Sweden, however these agreements have not yet been scheduled to the EOI Act. These agreements will have the force of law in Dominica once they are scheduled to the Act, allowing the Competent Authority to access information in order to respond to EOI requests sent under these agreements. **Therefore, Dominica is recommended to schedule the Multilateral Convention and the TIEA with Sweden to the EOI Act expeditiously in order to have force of law in Dominica.**

292. Effective implementation of EOI agreements in domestic law has been confirmed in practice as there was no case encountered where Dominica was not able to obtain and provide the requested information due to unclear or limited effect of an EOI agreement on Dominica's law.

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

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

293. The 2016 Report did not identify any issue in respect of the scope of Dominica's EOI network or its negotiation policy but Dominica was

recommended to continue to develop its exchange of information network in accordance to the standard with all relevant partners.

294. Since that report, Dominica has expanded its EOI network from 31 jurisdictions to 138. This EOI network comprises 1 DTC, 21 TIEAs, the Multilateral Convention and the CARICOM Multilateral Tax Treaty. Dominica's EOI network encompasses a wide range of counterparties, including all of its major trading partners, all G20 members and all OECD members.

295. Comments were sought from peers in the preparation of this report and no peer advised that Dominica had refused to negotiate or sign an EOI agreement with it. The recommendation is therefore addressed.

296. 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 a relationship Dominica should continue to conclude EOI agreements with any new relevant partner who would so require (refer to Annex 1). The determination and rating are as follows:

#### **Legal and Regulatory Framework: In place**

Dominica's network of information exchange mechanisms covers all relevant partners.

#### **Practical Implementation of the Standard: Compliant**

Dominica's 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.

297. The applicable EOI agreements have confidentiality provisions in line with the standard. In relation to the domestic legal framework, the 2016 Report identified concerns as the exceptions to confidentiality contained in the EOI Act were broader than that envisioned by the standard and may, at times, contradict protections granted by the agreements. Also, it was not clear what information of an EOI request would be divulged in a notification to an information holder or a taxpayer. Since that report, Dominica has taken steps to address these concerns by amending the EOI Act and adopting an EOI Manual. The legal and regulatory framework related to confidentiality is now in place.

298. In terms of practical implementation, the 2016 Report noted two concerns. First, although safeguards were in place to protect, from undue disclosure, sensitive documents that comprise an application to the High Court for the production of information for EOI purposes, EOI unit staff were not familiar with such procedures. Second, the court procedures to seal sensitive documents were not clearly laid out and were untested with respect to EOI requests. These concerns have not been addressed. Accordingly, the two recommendations from the 2016 Report remain outstanding.

299. In addition, the current EOI staff are unable to locate the two EOI requests that were received during the review period. This has been attributed to the change in the EOI unit staff during the review period, as described in element C.5, as well as to the hurricanes in 2017, due to which some of the documents might have been destroyed and IT systems might have been affected.

### **Legal and Regulatory Framework: In place**

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

### **Practical Implementation of the Standard: Largely Compliant**

<b>Deficiencies identified/ Underlying Factor</b>	<b>Recommendations</b>
All documents submitted by the Comptroller to the High Court to obtain an order to compel production of information, including an EOI request, will become a matter of public record. Procedures exist in Dominican law to seal sensitive documents. However, to date, these procedures have not been applied by a court. Therefore, it is uncertain whether such sealing procedures would be effective in practice to ensure the confidentiality of EOI requests submitted to a court.	Dominica should continue to monitor the application of provisions to seal court documents to ensure that the confidentiality of EOI requests forming part of an application for a court order is protected.

Deficiencies identified/ Underlying Factor	Recommendations
To prevent the disclosure of EOI requests submitted to a court, the Comptroller must apply for such documents to be sealed. Although legal provisions to seal sensitive documents exist in Dominican law, EOI staff were unaware of this process or legal provisions surrounding such court procedure.	Dominica should ensure that officials responsible for handling EOI requests are aware of all relevant legal provisions and court procedures for the protection of sensitive information so that it can meet its confidentiality obligations as provided for under the international standard.
Although Dominica's policies regarding confidentiality appear to be in place, the current EOI unit staff is unable to locate the two EOI requests that were received during the review period.	Dominica should ensure that its organisational processes and procedures are adequate and applied to ensure the confidentiality of all information received from an EOI partner.

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

300. All of Dominica's EOI agreements, including the CARICOM Multilateral Tax Treaty, meet the standard for confidentiality including the limitations on disclosure of information received, and use of the information exchanged, which are reflected in Article 26(2) of the OECD Model Tax Convention and Article 8 of the OECD Model TIEA. The Multilateral Convention also provides for confidentiality in line with the standard under Article 22.

301. The 2016 Terms of Reference clarified that although it remains the rule that information exchanged cannot be used for non-tax purposes, an exception applies where the EOI agreement provides for the authority supplying the information to authorise the use of information for purposes other than tax purposes and where tax information may be used for other purposes in accordance with their respective laws. In the period under review, Dominica reported that there were no requests where the requesting partner sought Dominica's consent to utilise the information for non-tax purposes and similarly Dominica did not request its partners to use information received for non-tax purposes. According to Dominican officials all information related to an EOI request is treated as confidential and will use the information only for tax purposes unless otherwise agreed between Dominica and its EOI partner.

302. In relation to the domestic legal framework, the 2016 Report expressed concerns about a provision in Dominican domestic legislation permitting the disclosure of information received in an EOI request to individuals not authorised by the EOI agreement under certain circumstances

(see paragraphs 314-316 of that report). Notably, section 5 of the EOI Act allowed information received to be disclosed if authorised by Cabinet or another enactment. Also, it was not clear whether section 5 of the EOI Act would apply to non-official staff without any EOI responsibilities.

303. Dominica amended its EOI Act in 2016. The amended section 5 of the EOI Act permits the disclosure of confidential information only to “individuals or authorities (including judicial and administrative bodies) involved in the determination, assessment, collection, and administration of, the recovery and collection of claims derived from, the enforcement or prosecution in respect of or the determination of appeals in respect of, the taxes which are the subject of an agreement and information may be disclosed in public court proceedings and judicial decisions”. This provision is in line with the standard as it reflects Article 8 of the OECD Model TIEA and also addresses the concern regarding the application of these provisions to non-official IRD staff. There are administrative and criminal sanctions applicable in the case of breach of this obligation.

304. The 2016 Report also raised concerns as it was not clear what information of an EOI request would be divulged in a notification to an information holder or a taxpayer. Since that report, Dominica has taken steps to address these concerns by adopting an EOI Manual in 2017 which contains notification templates, including a template letter to be used by EOI staff while seeking information. In case of gathering information from third parties, taxpayers or banks, reference is made to the TIEA Act, as legal basis to request such information. The notice would mention the details of the information required only. EOI staff advise that the disclosure of EOI information is limited to the minimum information necessary to provide a stakeholder with the ability to act on a request. If an EOI Officer has doubts as to what information should be contained in the letter to information holder or taxpayer, he or she should consult the EOI Unit Manager. The Dominica authorities confirmed that they would not disclose information not necessary to collect the requested information unless it is necessary for the specific case, for instance the name of the concerned taxpayer, whether the tax matter is of a civil or criminal nature, etc. Information, received under the provisions of a treaty, will be treated as secret in the same manner as information obtained under domestic law and in line with the requirements of the treaty.

### *Confidentiality in practice*

305. All government officials must pass a background check before being hired, as well as sign a confidentiality clause in their employment contract. Additionally, all IRD staff and non-official staff (such as contractors) must take an oath of secrecy. Confidentiality obligations continue even after IRD staff or non-staff leave the IRD (s. 6(6), ITA). Twice a year, IRD staff undergo training that includes information on applicable confidentiality policies.



306. All EOI related tasks are centralised within a single EOI Unit, which has an EOI Manual which sets out the procedures and obligations related to confidentiality.

307. Public access to the IRD's premises is restricted and all visitors must sign in before admittance. IRD employees have been issued ID cards. The IRD's IT systems includes confidentiality protections, such as the requirement to change passwords regularly and all staff work primarily on desktops (rather than laptops). The IRD has a "clean desk" policy.

308. Only the Comptroller and EOI officers have access to EOI requests. Hard copies of requests will be kept in a locked filing cabinet in the Comptroller's office and accessible only by the Comptroller. Only EOI related files that are being worked on may be removed from the cabinet and must be returned to the cabinet immediately after use. Documents received electronically will be stored on a network drive that is password protected. Access is granted only to the EOI officer in charge of a request. In addition, documents received or submitted contain a statement that the information "is furnished under the provisions of a tax treaty and its use and disclosure are governed by the provisions of such tax treaty". This text is also embedded as a header and/or watermark in electronic documents.

309. Although a Dominican taxpayer is allowed to inspect or obtain a copy of their tax return and assessment, a taxpayer subject to an EOI request (or the information holder) is not in a position to request inspection of the EOI request as it is not part of the taxpayer's files.

310. In terms of practical implementation, the 2016 Report noted two concerns. First, although safeguards were in place to protect from undue disclosure sensitive documents that comprise an application to the High Court for the production of information for EOI purposes, EOI unit staff were not familiar with such procedures. Second, the court procedures to seal sensitive documents were not clearly laid out and were untested with respect to EOI requests. These concerns have not been addressed. Although an EOI Manual was adopted by the EOI unit, the manual does not detail the court procedures. Further, while Dominica provided training to EOI staff to make them aware of the court procedures in 2017, due to staff turnover, current EOI staff do not seem to be familiar with these procedures. Accordingly, the two recommendations from the 2016 Report remain outstanding (refer also to section C.5.2 Organisational processes and resources).

311. Dominica received and answered two EOI requests during the review period; however, current EOI staff are unable to locate these requests. Dominica authorities explained that both the Competent Authority and the individual in charge of the EOI unit left the department during the review period. Further, as a result of the hurricanes in 2017, some documents were destroyed and IT systems were impacted.

312. **Dominica should ensure that its organisational processes and procedures are adequate and applied to ensure the confidentiality of all information received from an EOI partner.**

### *C.3.2. Confidentiality of other information*

313. Dominican 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.

## **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.

314. 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. An information request can also be declined where the requested information would disclose confidential communications protected by the attorney-client privilege.

315. The limits provided for in the OECD Model TIEA and the OECD Model Tax Convention on which information can be exchanged are included in all of the TIEAs concluded by Dominica. However, the 2016 Report noted (paragraphs 328 and 329) that the reservation in the CARICOM Multilateral Tax Treaty may be less restrictive than the OECD Model Tax Convention and the TIEA with the United States may not be in line with the standard (given the restrictions in Dominica’s domestic laws with respect to legal privilege, which continue to exist as discussed in section B.1.5).

316. In respect of rights and safeguards of persons, the report determined that the TIEAs with Australia, New Zealand and Poland use language that is different from the OECD Model TIEA which may give greater leeway to the parties with regards to application of rights and safeguards and impact the timeliness of responses to EOI requests. The TIEA with Germany was found not to contain the model clause and the TIEA with Portugal was silent on the rights and safeguards of the persons concerned.

317. None of the agreements mentioned in the paragraphs above have been amended. However, given that Dominica is now a party to the Multilateral Convention, it is in a position to exchange information in accordance with the standard with Antigua and Barbuda, Australia, Barbados, Belize, Germany, Grenada, Jamaica, New Zealand, Portugal, Poland, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines. The same will apply with the

United States (once the (Protocol to the) Multilateral Convention enters into force there). The only relationships that remains of concern are the ones with Guyana and Trinidad and Tobago.

318. It was determined in the 2016 Report that the scope of privilege in Dominica was potentially broader than that considered under the Standard, and an in-text recommendation was included. As discussed in section B.1.5, there has been no change to the legal framework or to the legal professionals' interpretation of privilege. In addition, during the on-site visit, it was noted that besides from legal professional interpretation, accountants may also have a broader interpretation of professional privilege, which raises additional concern. Accordingly, the application of professional privilege in EOI matters could raise issues in obtaining and exchanging information pursuant to the standard in future practice and a recommendation has been included under element B.1.

319. In practice, Dominica did not decline to provide information because it was covered by legal privilege or any other professional secret.

320. The recommendations, 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.

321. The 2016 Report determined that the EOI practice in Dominica was nascent and had not yet been formalised. As such, it was recommended that Dominica further develop the organisational processes of the EOI unit, including internal guidelines or materials and train EOI staff, to ensure effective EOI in practice.

322. In 2017, Dominica took steps to address this recommendation by adopting an EOI Manual and educating EOI staff of some relevant procedures regarding EOI standards and applicable Dominican law. Dominica put sufficient resources in place to ensure effective EOI. However, steps have not

been taken to fully address the 2016 recommendation. First, the EOI Manual has not been updated since 2017 and is lacking information on some EOI procedures. Second, in February 2020, the EOI unit was completely replaced by new staff and it was noted during the on-site visit that the current staff were not familiar with all relevant EOI procedures.

323. Dominica is recommended to further develop the organisational processes of the EOI unit, including developing internal guidelines or materials and training EOI staff, to ensure that the processes are adequate for effective EOI in practice.

324. During the current period of review, Dominica received two requests and responded to both requests in less than 90 days. One peer provided input indicating that they had received the requested information, while no issues were raised by the second peer that sent the request.

### Legal and Regulatory Framework

This element involves issues of practice that are dealt with in the implementation of EOIR in practice. Accordingly, no determination has been made.

### Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying Factor	Recommendations
Dominica has committed sufficient resources and put in place some organisational processes to handle EOI requests. During the review period, Dominica received two requests and was able to respond within 90 days. Although some of the processes for responding to EOI requests were tested in practice, there were significant gaps in the organisational processes of the Competent Authority and Dominica's experience is still very limited. In addition, the IRD has not provided training to its current EOI unit staff, who have been unable to locate the requests received during the review period, and the organisational processes put in place do not appear adequate to conduct EOI in an effective and timely manner.	Dominica should further develop the practical implementation of the organisational processes of the EOI unit, including by training EOI staff in all EOI matters, by updating the EOI Manual where appropriate, and by developing a system to record EOI requests, to ensure that they are sufficient for effective EOI in practice.

### ***C.5.1. Timeliness of responses to requests for information***

325. Over the period under review (1 April 2016 to 31 March 2019), Dominica received two requests for information. One request related to beneficial ownership information of an IBC, while the second request sought ownership (i.e. the certificate of incorporation, corporate registry data, shareholder, beneficial ownership and directors listings of a corporation), accounting (i.e. financial statements information) and other types of information (i.e. tax filings, involvement of two named individuals in the corporation and whether the individuals had relationships with other parties) related to another IBC. Dominica was able to provide the requested information for both requests in less than 90 days. The two peers did not raise any concerns.

326. As Dominica was able to provide the requested information in less than 90 days, it was not required to provide status updates during the review period. In any case, the EOI Manual (described below) sets out procedures to ensure that status updates are sent when required.

### ***C.5.2. Organisational processes and resources***

#### *Organisation of the competent authority*

327. The Competent Authority in Dominica is the Minister of Finance. In practice, this function is delegated to the Comptroller of the IRD.

328. All matters relating to EOI are carried out by the EOI unit within the IRD, which was formalised in 2020. The EOI unit is supervised by the Comptroller. There are currently four staff members, including the Comptroller, working in the EOI unit, which is an increase in the number of staff since the 2016 Report, when one officer was staffed on EOI matters. In 2020, the EOI unit was completely replaced by new staff.

329. The 2016 Report determined that the EOI practice in Dominica was nascent and had not yet been formalised. As such, it was recommended that Dominica further develop the organisational processes of the EOI unit, including keeping track of incoming requests and training EOI staff, to ensure that they are sufficient for effective EOI in practice.

330. In 2017, to partly address this recommendation, EOI unit staff were made aware of some of the relevant procedures regarding EOI standards and applicable Dominican law. However, it was noted during the on-site visit that current EOI unit staff were not familiar with all relevant procedures regarding the EOIR standard, including the foreseeably relevance standard. It was not clear whether the EOI unit staff had attended any specific EOI trainings during the review period. IRD officials advise that Dominica intends to provide training on EOI matters to its staff. **It is recommended that Dominica**

**further develop the practical implementation of the organisational processes of the EOI unit by training EOI unit staff in all EOI matters to ensure effective EOI in practice.**

### *Incoming requests*

331. Another step taken by Dominica in 2017 to address the recommendation from the 2016 Report was the adoption of an EOI Manual. This manual is based on the Global Forum's EOI Working Manual and sets out the procedures for handling incoming requests, provides template forms for EOI, and information on confidentiality. The manual divides the procedure that applies for responding to a request for EOI into four steps: (1) logging the request; (2) validating the request; (3) working the request; and (4) responding to the request. The Manual was prepared after the current EOI staff was unable to locate the two EOI files.

332. Requests are generally received by post addressed to the Minister of Finance or Comptroller of the IRD. The officer receiving the mail stamps the envelope and passes it to the Comptroller on the day it is received. The Comptroller opens the mail, signs a record of receipt and stamps the request with the date and a clearly visible confidentiality notice stamp. The Comptroller then creates a new record of the request on the EOI database setting out the details of the request. An acknowledgement letter should be prepared within seven days following the model template.

333. The request is then validated by the Comptroller (who delegates this task to the EOI Unit Manager), which involves examining the request against the relevant treaty requirements and that the request is clear, specific and relevant. If a request were to be considered invalid or incomplete, the requesting authority should be notified of the deficiency within 60 days of receipt of the request. To the extent possible, the request would still be worked on in order for Dominica to provide information in respect of the part of the request that is valid. None of the requests received during the review period required clarifications from the treaty partner.

334. Once validated, the EOI Unit Manager allocates the case to an EOI Officer. Case Officers open a file for the request and note whether the requesting authority has assigned any particular urgency to the request and whether they have asked that the taxpayer not be contacted directly. The Case Officer is responsible for gathering the information needed to respond to a request but the EOI manual does not explain the two ways to access information (see section B.1).

335. Once the information needed to respond to a request has been gathered, the EOI Officer drafts a response to the request, for review and signature by the EOI Unit Manager. The manual includes a checklist of what to

include in a response and model letters to partners. All documentation being sent to the requesting party or received by Dominica is stamped with an official stamp showing that the use and disclosure of all information furnished is governed by the provisions of the relevant EOI agreement.

336. Incoming requests should be dealt with as quickly as possible. Status updates or interim replies should be provided in cases where Dominica is unable to provide the requested information within 90 days. Once the case has been closed, the file is placed in the “closed case out” folder in the secure filing range.

337. Where it has not been possible, despite best efforts, to obtain the information requested, a response should be prepared to inform the requesting authority, as soon as possible, and explain the reasons the information cannot be provided.

338. The EOI Manual has not been revised since 2017 and, as explained in elements B.1, B.2, C.1 and C.3, it does not describe certain procedures related to the handling of incoming requests, including the court order procedure and sealing of documents, group requests or the application of the Multilateral Convention. As such, **it is recommended that Dominica further develop the practical implementation of the organisational processes of the EOI unit by updating the EOI Manual, where appropriate, to ensure effective EOI.**

339. At the beginning of the review period, Dominica received two requests. New EOI unit staff is not aware of these requests nor the provision of the requested information. They only became aware of these requests from the peer input received in the course of the peer review process. They attribute this to the change in the EOI unit staff during the review period and the hurricanes in 2017 to which some of the documents might have been destroyed and IT systems might have been affected. It is noted that Dominica has not contacted its EOI partners to notify them about their inability to locate these requests. As Dominica has not received any further EOI requests, the system of recording EOI requests, which is described in the EOI Manual that was put in place in 2017, has not been tested in practice. **It is recommended Dominica further develop the practical implementation of the organisational processes of the EOI unit by developing a system to record EOI requests in order to ensure effective EOI.**

### *Outgoing requests*

340. The standard as updated in 2016 include a requirement to ensure the quality of requests made by the assessed jurisdiction. Dominica did not make any EOI requests during the review period; however, its EOI Manual does provide rules for handling outgoing requests and establishes procedures to ensure the quality of EOI requests. All outgoing requests would be made

through the EOI unit and Dominica's procedures are in line with the Global Forum's EOI Working Manual. The EOI Manual is available only to the EOI unit staff.

### *Communication*

341. The contact details of the Competent Authority are found on the Global Forum's secure competent authorities database. Peer input is positive in connection with the ease of contacting the Dominican Competent Authority.

342. Dominica accepts requests in English. If the request is not in English, the requesting jurisdiction will be asked to translate the request.

343. External communication with other jurisdictions is done mostly through post courier such as express mail service which provides tracking information. Dominica will generally send information through password protected email. E-mails will generally be used for sending acknowledgment letters, requests for clarification, or to provide status updates. The EOI Manual notes that exchange by e-mail requires that the information be encrypted or sent via a secure platform.

344. Communication between the EOI unit and other IRD officials is conducted through secure email containing a header/watermark, telephone or in person to facilitate the processing of EOI requests.

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

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



## Annex 1: List of in-text recommendations

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

- **Element A.1:** Dominica is encouraged to monitor nominee cases, so as not to become an impediment in the effective exchange of information (see paragraph 115).
- **Element A.1:** Dominica is encouraged to continue to monitor the situation with respect to bearer shares, as well as to update its legal framework to reflect the actual practice, by prohibiting bearer shares of being issued (see paragraph 121).
- **Element A.1:** Dominica should ensure that identity information of the beneficiaries of “low risk” international exempt trusts be available in line with the standard (see paragraph 153).
- **Element A.2:** Dominica should ensure that any power of the Comptroller or the Registrar to reduce the record retention period, is exercised in line with the requirement of retaining accounting records for at least five years even after an entity has ceased to exist (see paragraph 174).
- **Element A.3:** Dominica should ensure that banks are required to identify all beneficial owners of a trust, which holds an account with a bank in Dominica as required under the standard (see paragraph 215).
- **Element C.1:** Dominica should ensure communication with partners on the status of actions taken to bring agreements into force (see paragraph 271).

- **Element C.1:** Dominica should update the EOI Manual with respect to group requests to ensure effective EOI (see paragraph 279).
- **Element C.2:** Dominica should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 296).

## Annex 2: List of Dominica’s EOI mechanisms

### Bilateral international agreements for the exchange of information

	EOI Partner	Type of agreement	Signature	Entry into force
1	Australia	TIEA	31-03-2010	01-07-2010
2	Belgium	TIEA	26-02-2010	24-11-2015
3	Canada	TIEA	29-06-2010	10-01-2012
4	Denmark	TIEA	19-05-2010	01-02-2012
5	Faroe Islands	TIEA	19-05-2010	Not yet ratified
6	Finland	TIEA	19-05-2010	27-03-2013
7	France	TIEA	07-10-2010	14-12-2011
8	Germany	TIEA Protocol	21-09-2010 21-09-2010	Not yet ratified
9	Greenland	TIEA	19-05-2010	17-05-2012
10	Iceland	TIEA	19-05-2010	24-11-2014
11	Ireland	TIEA	08-07-2013	22-09-2015
12	Netherlands	TIEA	11-05-2010	24-11-2011
13	New Zealand	TIEA	16-03-2010	24-11-2014
14	Norway	TIEA	19-05-2010	22-01-2012
15	Poland	TIEA	10-07-2012	Not yet ratified
16	Portugal	TIEA	29-07-2010	05-10-2010
17	South Africa	TIEA	07-02-2012	17-09-2015
18	Sweden	TIEA	19-05-2010	01-08-2017
19	Switzerland	DTC	20-08-1963	26-08-1963
20	United Kingdom	TIEA	31-03-2010	23-12-2011
21	United States	TIEA	01-10-1987	09-05-1988

## **Convention on Mutual Administrative Assistance in Tax Matters (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).<sup>20</sup> 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.

Dominica signed the Multilateral Convention on 25 April 2019 and it entered into force on 1 August 2019 in Dominica. Dominica 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,

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

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, Korea, 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 in force on 1 April 1995, the amending Protocol signed on 27 April 2010).<sup>21</sup>

## **Caribbean Community (CARICOM)**

The Agreement among the Governments of the Member States of the Caribbean Community for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, Profits or Gains and Capital Gains and for the Encouragement of Regional Trade and Investment allows for EOI between Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Trinidad and Tobago. It entered into force on 19 June 1996 in Dominica.

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21. 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.

### **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 17 September 2020, Dominica's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2016 to 31 March 2019, Dominica's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by Dominica's authorities during the on-site visit that took place 4 to 6 March 2020 in Roseau, Dominica.

#### **Laws, regulations and other material received**

- EOIR Manual
- Banking and AML/CFT laws
- Commercial laws
- Tax laws

#### **Administrations and organisations interviewed during the on-site visit**

- Attorney General Office
- Eastern Caribbean Central Bank
- Financial Services Unit
- Inland Revenue Department
- Ministry of Finance
- Registrar of Companies
- Representatives of service providers

## Current and previous reviews

Dominica previously underwent an EOIR review consisting of three assessments during the first round of reviews: the 2012 Phase 1 Report, the 2015 Phase 1 Supplementary Report and the 2016 Phase 2 Report. These assessments were conducted according to the Terms of Reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology (2010 Methodology) used in the first round of reviews. In addition, Dominica underwent a Fast-Track review in 2017, which included a provisional assessment in respect of Dominica’s legal framework and the practical implementation of the 2010 ToR.

Information on each of Dominica’s reviews are listed in the table below.

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
<b>Phase 1 2012 Report</b>	Ms Evelyn Lio of Singapore; Mr Jean-Marc Seignez of France; and Mr Sanjeev Sharma and Mr David Moussali of the Global Forum Secretariat	Evaluation of the legal and regulatory framework only	May 2012	October 2012
<b>Phase 1 Supplementary 2015 Report</b>	Ms Caroline Lavigne of France; Ms Evelyn Lio of Singapore; and Ms Audrey Chua of the Global Forum Secretariat	Evaluation of the legal and regulatory framework only	August 2015	October 2015
<b>Phase 2 2016 Report</b>	Ms Caroline Fitamant of France; Ms Evelyn Lio of Singapore; and Ms Kathleen Kao and Ms Renata Teixeira of the Global Forum Secretariat	1 July 2012 to 3 June 2015	August 2016	November 2016
<b>Round 2 2020 Report</b>	Ms Heather Hemphill of Canada; Ms Joanna Kowalska of Luxembourg; and Ms Juliana Candido and Ms Kaelen Onusko of the Global Forum Secretariat	1 April 2016 to 31 March 2019	17 September 2020	December 2020

## **Annex 4: Dominica’s response to the review report<sup>22</sup>**

The Commonwealth of Dominica would like to express its gratitude to the assessment team, the Global Forum Secretariat and the Peer Review group for the support received during the preparation and approval of the 2020 Exchange of Information on Request Peer Review Report. We are especially grateful to the Assessment Team for the tireless efforts and assistance meted out to us during the preparation and review of the report. We are indeed encouraged by the level of integrity demonstrated throughout the Peer Review Process in ensuring the effective implementation of the Exchange of Information upon Request Standard.

Mention must be made of the fact that during the review period 1 April 2016 to 31 March 2019, the Commonwealth of Dominica suffered a severe economic setback through the devastation caused by a catastrophic category 5 Hurricane which made landfall on the Island in September 2017. Of the estimated USD 930.9 million damages, most were sustained in the housing sector (38%), followed by transport (20%) and education (8%). The greatest of the USD 380.2 million losses were sustained in the agriculture sector (32%), followed by tourism (19%) and transport (14%) (UN 16/11/2017, 18/10/2017, OCHA 26/09/2017). Overall, damages and losses were estimated at around USD 1.3 billion, equating to 224% of Dominica’s 2016 GDP (PDNA 2017). Given these adverse effects, The Commonwealth of Dominica experienced a very long process of recovery and so there were many challenges faced in attempting to implement recommendations made by the PRG in its 2016 Report.

The Commonwealth of Dominica has however made significant strides and has since amended its laws to address some of the issues identified in the 2016 Report. We do recognize the need to take further measures in order to realize and address all the recommendations outlined in the report. Dominica wishes to reiterate its continued commitment to implementing further improvements as it works towards ensuring full compliance with

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



the Standard. We have made improvements in order to ensure that the organizational processes and procedures are adequate and applied to ensure confidentiality and effectiveness of exchanges with EOI partners through the increase in numbers of our EOI unit. Plans are in place for legislative reform to strengthen the provisions relating to availability and access to accounting records as well as the availability of ownership and identity information. Amendments will also be made to the company legislation to further require retention of accounting records by struck off entities.

The Commonwealth of Dominica wishes to restate its continued commitment to meeting the international standard on Exchange of Information on Request, and will continue to address the recommendations made in the Report.





GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE  
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information  
on Request DOMINICA 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 Dominica.



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