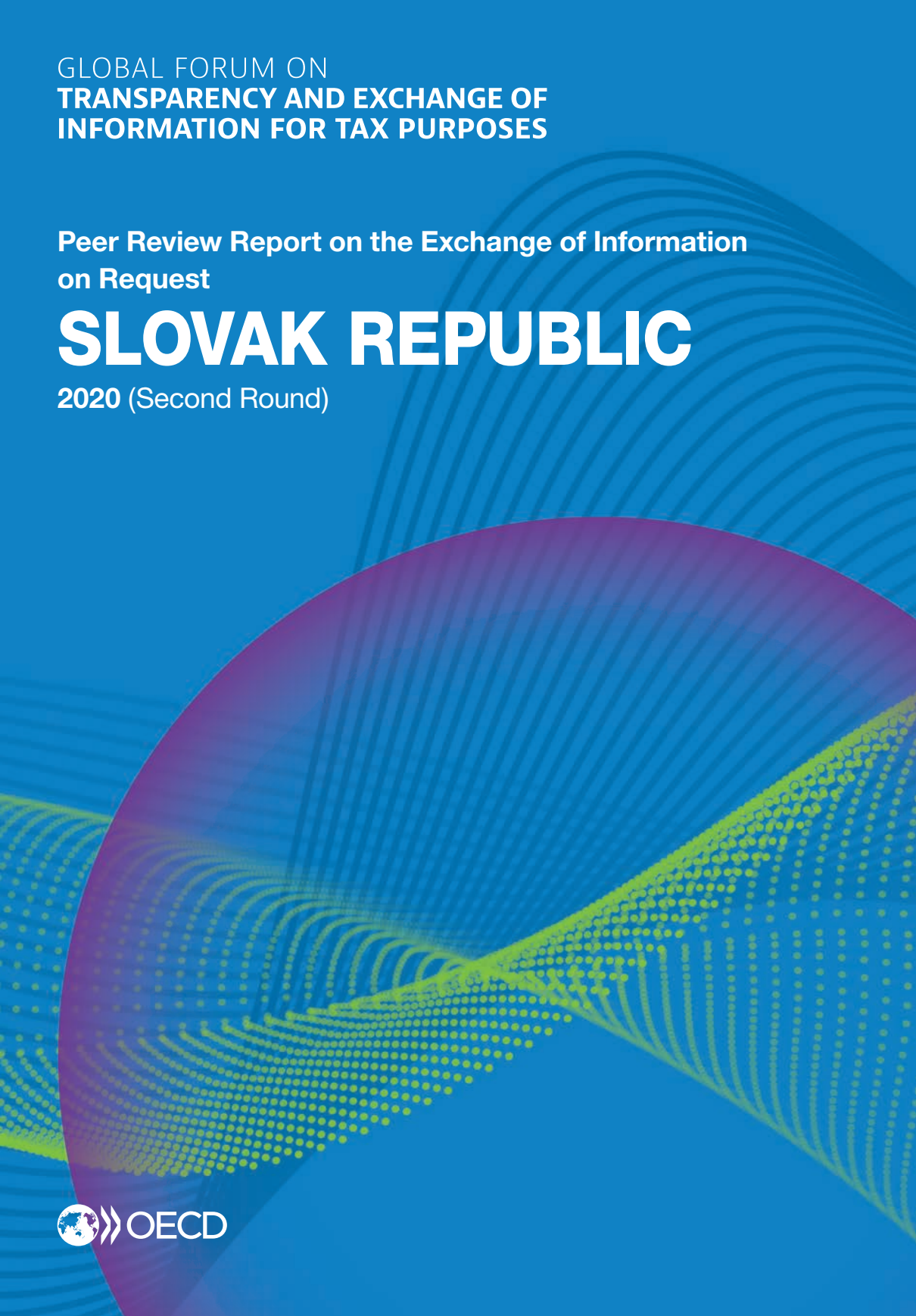
GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

SLOVAK REPUBLIC

2020 (Second Round)



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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

BETTER POLICIES FOR BETTER LIVES

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Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BO	Beneficial Ownership
CC	Commercial Code N°. 513/1991
CDD	Customer Due Diligence
CIT	Corporate Income Tax
CLO	Central Liaison Office (exchange of information unit)
CRA	Commercial Register Act N°. 530/2003
DTC	Double Tax Convention
EEIG	European Economic Interest Groupings
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
FA	Act on Foundations N°. 34/2002
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
GP	General Partnership
ITA	Income Tax Act N°. 595/2003

LLC	Limited Liability Company
LP	Limited Partnership
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
NBS	National Bank of Slovakia
RPPS	Register of Partners of the Public Sector
SDD	Simplified Due Diligence
SE	European Society
SEC	European Co-operative
TIEA	Tax Information Exchange Agreement

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request ("the standard") in the Slovak Republic on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 14 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 the Slovak Republic continues to be rated overall **Largely Compliant** with the international standard. In 2014, the Global Forum evaluated the Slovak Republic in a combined review against the 2010 Terms of Reference for both the legal implementation of the standard as well as its operation in practice (the 2014 Report, see Annex 3). That report concluded that the Slovak Republic was Largely Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

	Element	First Round Report (2014)	Second Round Report (2020)
A.1	Availability of ownership and identity information	Largely Compliant	Partially Compliant
A.2	Availability of accounting information	Compliant	Largely Compliant
A.3	Availability of banking information	Compliant	Partially Compliant
B.1	Access to information	Largely Compliant	Largely Compliant
B.2	Rights and Safeguards	Compliant	Compliant
C.1	EOIR Mechanisms	Compliant	Compliant
C.2	Network of EOIR Mechanisms	Compliant	Compliant
C.3	Confidentiality	Partially Compliant	Compliant
C.4	Rights and safeguards	Largely Compliant	Compliant
C.5	Quality and timeliness of responses	Largely Compliant	Compliant
	OVERALL RATING	**LARGELY COMPLIANT**	**LARGELY COMPLIANT**

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

Progress made since previous review

2. Since the 2014 Report, the Slovak Republic has made progress in relation to the powers of the competent authority to access relevant information and exchange it with foreign partners. The scope of professional privilege was reduced, although the rating for B.1 remains Largely Compliant because of the need to monitor access powers for legal professional privilege.

3. More importantly, the Slovak Republic reached a balance between the right of taxpayers to inspect their files and the confidentiality requirements of the standard (element C.3), as taxpayers are no longer permitted to inspect their files when the requesting jurisdiction has not given its consent to such disclosure. The Slovak Republic has continued to demonstrate effectiveness in the exchange of information and has improved communication with its partners (element C.5). The progress in these elements has allowed an upgrade of the individual ratings for these elements to Compliant. The Slovak Republic has also continued expanding its network of exchange of information relationships (element C.2).

4. The Slovak Republic is now fully compliant with the elements of the standard related to exchange with partners. Further progress remains to be done on the access and availability of all relevant information.

Key recommendations

5. The standard was strengthened in 2016 to require the availability of information on the beneficial owners of legal entities and arrangements. In the Slovak Republic, the main mechanisms for the availability of this information are the anti-money laundering (AML) framework and the centralised beneficial ownership register (centralised BO register), which requires all legal entities to identify and report their beneficial owners. These requirements are not sufficient to ensure the availability of full beneficial ownership information for all relevant entities and arrangements as well as all bank account holders (elements A.1 and A.3). Key recommendations refer to the alignment to the standard of the definition of beneficial owners in the AML legislation, particularly in relation to partnerships and trusts. Recommendations have also been made in relation to transparency on beneficial ownership behind nominees, silent partnerships and in case of simplified due diligence. The Slovak Republic is also recommended to strengthen supervision, guidance and enforcement measures to support the availability of accurate and current beneficial ownership information for all legal entities and arrangements (companies, partnerships, foreign trusts), kept with the entities themselves and with the Commercial Register.

6. In addition, the Slovak Republic has not yet addressed the recommendations from the 2014 Report in relation to the availability of legal ownership information in respect of relevant foreign companies and trusts, and therefore they are replicated in the current review.

7. With respect to accounting records, a gap remains for foreign trusts which have Slovak-resident administrators as trustees. A recommendation has also been made for the availability of accounting records in respect to dissolved companies. The Slovak Republic is also recommended to strengthen supervision to ensure availability of reliable accounting records for all legal entities and arrangements (element A.2). Finally, the Slovak Republic is also recommended to monitor access to information held by professionals who can claim professional privilege.

Exchange of information practice

8. During the three-year review period from 1 April 2016 to 31 March 2019, the Slovak Republic received 507 requests for information and sent 481 requests to its partners. The competent authority satisfactorily answered all but two requests. Communication with partners improved and the Slovak competent authority is considered by peers as accessible and effective.

Overall rating

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

10. This report was approved at the Peer Review Group of the Global Forum on 18 November 2020 and was adopted by the Global Forum on 11 December 2020. A follow up report on the steps undertaken by the Slovak Republic to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2021 and thereafter in accordance with the procedure set out under the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place but needs improvement	Not all companies incorporated outside of the Slovak Republic but having their place of effective management (and therefore resident for tax purposes) therein are subject to clear requirements to maintain and file identity information concerning their owners in the Commercial Register. The availability of such information will generally depend on the law of the jurisdiction in which the company is incorporated and so may not be available in all cases.	Ownership and identity information should be available for all relevant foreign companies in the Slovak Republic.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	There are no requirements under the Companies Act in relation to companies having nominee shareholdings in their ownership structure, to disclose the nominee status of the shareholders and identity information of persons whom the nominees represent (the nominators) is not available with the company or with the Commercial Register. In addition, although the requirements under the AML Act would require that beneficial owners be identified despite the existence of nominee arrangements, in the absence of binding guidance it is not clear that this would be effectively implemented, in particular for situations where corporate shareholders act as nominees and where no guidance is available. Similarly, Slovak laws allow for the establishment of silent partnership agreements. Although beneficial owners of silent partnerships would have to be in the Commercial Register, in the absence of binding orientation for beneficial ownership identification and considering that there is no obligation to disclose this agreement, identity and beneficial ownership information for silent partnerships may not always be available.	The Slovak Republic is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person, and to ensure that identity and beneficial ownership information is available in relation to all silent partnerships.
	The determination of beneficial owners for partnerships follows the definition of companies, including taking a 25% threshold in ownership or control as a starting point. This definition is not necessarily in accordance with the form and structure of partnerships. Further, there is no guidance for the identification of beneficial owners in respect of partnerships, nor for situations where one or more partners is a legal entity or legal arrangement (domestic or foreign).	The Slovak Republic is recommended to ensure that beneficial ownership information in line with the standard is available in respect of partnerships.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	Persons in the Slovak Republic who act as professional trustees for foreign trusts are not obliged to identify the settlors and beneficiaries of such trusts. In addition, the AML Act does not provide for an applicable definition for the identification of the beneficial owner of all parties related to a foreign trust and there are not centralised sources of information on trusts so their number is not known by authorities. Although the recent FIU guidance notes that in the determination of beneficial owners of trusts the definition for foundations should be applied, the guidance is not binding and the definition for foundations does not allow for the identification as beneficial owners of individuals entitled to less than 25% of the resources provided by the trust, nor for any other natural person exercising ultimate effective control over the trust. Further, there is no look-through guidance on corporate parties of a trust.	The Slovak Republic is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all trusts having nexus with the Slovak Republic.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Partially Compliant	There is no factual evidence that non-financial AML-obliged persons and legal entities have been supervised by the FIU to ensure the availability and accuracy of beneficial ownership information. In addition, the AML Act does not oblige legal entities to verify the information collected on their beneficial owners. Further, there are no awareness-raising measures for them, and the non-binding beneficial ownership guidance has some deficiencies which may lead entities to not correctly identify their beneficial owners in some situations. In addition, the Commercial Register is not yet fully populated with beneficial ownership information, and Slovak authorities have not established supervision programmes to effectively implement it and to verify the accuracy of the information filed by entities. This would be especially important for ensuring availability of beneficial ownership information on inactive companies, the exact number of which is uncertain. The IT platform that will support the centralised BO register is not yet implemented.	The Slovak Republic is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure the availability of accurate and up-to-date beneficial ownership information for all legal entities and legal arrangements, in line with the standard.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements *(ToR A.2)*		
The legal and regulatory framework is in place but needs improvement	Slovak trustees of foreign trusts are not required to keep accounting records that fully reflect the financial position and assets/liabilities of the foreign trust.	The Slovak Republic should ensure that any foreign trusts which have Slovak-resident administrators for trustees maintain accounting records as required under the standard for a minimum of five years.
	The Accounting Act does not specify clear procedures for archiving and maintaining the possession or control of accounting records of dissolved companies within the Slovak Republic.	The Slovak Republic is recommended to ensure that accounting records and underlying documentation of dissolved entities are within the possession or control of a person in the Slovak Republic for a minimum period of five years.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Largely Compliant	There is scope for improvement in supervision for availability of reliable accounting records for all relevant legal entities and arrangements. About 23% of legal entities were not filing their accounting records in the Register of Financial Statements in the review period. In addition, accounting and tax supervision should be strengthened, especially considering the average tax filing rate (72%), and the percentage of accounting and corporate income tax inspections and audits (0.3% and 2%, respectively). It is also noted that 95% of legal entities were entitled to exemption from statutory audits.	The Slovak Republic is recommended to strengthen overall supervision to ensure the availability of reliable accounting records for all relevant legal entities and legal arrangements.
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place but needs improvement	There are no requirements under the Companies Act in relation to companies having nominee shareholdings in their ownership structure, to disclose the nominee status of the shareholders and identity information of persons whom the nominees represent (the nominators), therefore, it is not available with the company or with the Commercial Register. In addition, although the requirements under the AML Act would require that beneficial owners be identified despite the existence of nominee arrangements, in the absence of a binding guidance it is not clear that this would be effectively implemented, in particular for situations where corporate shareholders act as nominees and where no guidance is available. Similarly, Slovak laws allow for the establishment of silent partnership agreements. Although beneficial owners of silent partnerships would have to be in the Commercial Register, in the absence of binding orientation for beneficial ownership identification and considering that there is no obligation to disclose this agreement, identity and beneficial ownership information for silent partnerships may not always be available.	The Slovak Republic is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person, and to ensure that identity and beneficial ownership information is available in relation to all silent partnerships.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
	The determination of beneficial owners for partnerships follows the definition of companies, including taking a 25% threshold in ownership or control as a starting point. This definition is not necessarily in accordance with the form and structure of partnerships. Further, there is no guidance for the identification of beneficial owners in respect of partnerships, nor for situations where one or more partners is a legal entity or legal arrangement (domestic or foreign).	The Slovak Republic is recommended to ensure that beneficial ownership information in line with the standard is available in respect of partnerships.
	Persons in the Slovak Republic who act as professional trustees for foreign trusts are not obliged to identify the settlors and beneficiaries of such trusts. In addition, the AML Act does not provide for an applicable definition for the identification of the beneficial owner of all parties related to a foreign trust and there are not centralised sources of information on trusts so their number is not known by authorities. Although the recent FIU guidance notes that in the determination of beneficial owners of trusts the definition for foundations should be applied, the guidance is not binding and the definition for foundations does not allow for the identification as beneficial owners of individuals entitled to less than 25% of the resources provided by the trust, nor for any other natural person exercising ultimate effective control over the trust. Further, there is no look-through guidance on corporate parties of a trust.	The Slovak Republic is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all trusts having nexus with the Slovak Republic.
	Under simplified CDD, beneficial owners of all account holders may not be correctly identified or verified in some instances, contrary to what is required under the standard.	The Slovak Republic is recommended to ensure that beneficial owners of all account holders are required to be identified and verified in all circumstances.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Partially Compliant	From 2016 to 2019, the FIU only performed one inspection on banks, and although the National Bank of Slovakia has initiated supervision on beneficial ownership after the amendment of the AML Act, there is scope for widening and strengthening supervision. In addition, the National Bank of Slovakia guidelines have deficiencies in relation to the identity details to record for beneficial owners.	The Slovak Republic is recommended to strengthen its supervision and guidance to ensure that accurate and up-to-date beneficial ownership information for all account holders is maintained by all the banks in the Slovak Republic, in accordance to the standard.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place	Although the 2018 amendment to the AML Act requires obliged persons not to claim the obligation of secrecy when requested beneficial ownership information by supervisory authorities, the Financial Administration is not clearly stated as a supervisory authority by this amendment, the professional privilege continues to be broadly defined under Slovak domestic laws and there are no express exceptions in the case of requests made under an EOI agreement.	The Slovak Republic is recommended to implement further measures to bring the scope of professional privilege in line with the standard.
Largely Compliant	Although professionals are not a privileged source of information for the competent authority, taking into account very large number of AML-obliged non-financial professionals providing a broad range of advisory services for which secrecy may be claimed, the restrictive views of the Slovak professional bodies and the lack of measures from the authorities to raise awareness among the professionals on the changes in the AML Act, it is difficult to determine whether the competent authority would in all cases be able to access information held by these professionals.	The Slovak Republic is recommended to monitor the 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.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		
Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received *(ToR C.3)*		
The legal and regulatory framework is in place		
Compliant		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place	Although the 2018 amendment to the AML Act requires AML-obliged persons not to claim the obligation of secrecy when requested beneficial ownership information by supervisory authorities, the Financial Administration is not clearly stated as a supervisory authority by this amendment and professional privilege under Slovak domestic laws continues to be broadly defined.	It is recommended that the Slovak Republic further restricts the scope of the protection under the term "professional secret" in its domestic laws so as to be in line with the standard for the purpose of agreements for exchange of information.
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination has been made.	
Compliant		

Overview of the Slovak Republic

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

Legal system

12. The Slovak Republic is a parliamentary democracy with a multi-party system. Formally, the head of state of the Slovak Republic is the President, elected by direct popular vote for a five-year term. Most executive power lies with the Prime Minister, who is the head of government and is appointed by the President based on the general election results. The Slovak Republic´s highest legislative body is the 150-seat unicameral National Council of the Slovak Republic (*Národná rada Slovenskej republiky*).

13. The Slovak Republic is subdivided into 8 regions (*kraje*) but the tax system is a unitary one.

14. The legal system in the Slovak Republic is based on civil law. The basic rules applying to the rights and obligations of individuals and legal persons, ownership and certain types of contracts are laid down in the Civil Code (*Občiansky zákonník*). The Commercial Code (*Obchodný zákonník*) stipulates the general rules governing business relationships as well as the rules related to companies and other business entities. The 1992 Constitution is the supreme law of the Republic. Constitutional laws and other laws are adopted by the National Council, which supervises their implementation. International treaties are negotiated and ratified by the President (Art. 102(1)a Constitution). International treaties that directly confer rights or impose duties on natural or legal persons require the approval of the National Council before ratification (Art. 7(4) Constitution). The execution of a ratified treaty does not require any special law; such treaties prevail over all domestic laws except the Constitution (Art. 7(5) Constitution). This is the case for Double Taxation Conventions (DTCs), Tax Information Exchange Agreements (TIEAs), the Multilateral Convention and the EU Council Directive on Administrative Co-operation.

15. Under the Income Tax Act (Act 595/2003) (ITA), the Slovak government can also conclude agreements regulating taxation and related legal relations in respect of dependent territories entitled to conclude international relations (Art. 1(2)). Such "agreements" take precedence over the ITA itself, but not over the other laws in the Slovak Republic. There is only one EOI agreement (with Chinese Taipei) which falls into this category, although it cannot be used for EOIR purposes.

16. Courts in the Slovak Republic hear and decide disputes and other legal matters in the civil process and criminal cases under the rules on criminal proceedings. Courts decide on the legality of decisions and procedure of public authorities and on protection against unlawful interference or measures of public authority. The system of courts consists of district courts (as first instance courts in the majority of cases), regional courts (as second instance appellate courts) and the Supreme Court of the Slovak Republic (as extraordinary appellate court). Courts of first and second instance have a commercial law section, a criminal law section and an administrative law section. Tax cases are heard by the administrative law section of the local court that is territorially competent.

Tax system

17. In the Slovak Republic, income taxes are imposed according to the provisions of the ITA. This law contains the rules for corporate income tax (CIT) as well as for personal income tax.

18. Under the ITA, individuals that are tax resident in the Slovak Republic are liable to tax on their worldwide income. Non-resident individuals are liable to tax only for income derived from Slovak sources. Tax residence is constituted if a person has a permanent address or legal residence in the Slovak Republic. An individual is also considered resident in the Slovak Republic if he/she is present there for at least 183 days in a calendar year. Since January 2018, the criteria for the definition of tax residence has been extended to include individuals who have an accommodation in the territory of the Slovak Republic that serves for more than just occasional accommodation due to short term visits. The tax year in the Slovak Republic is the calendar year.

19. The following income categories are subject to tax: employment income, business and other income, income from capital, and other income. Aggregate income is taxed at the 19% and 25% progressive tax rates. Income from capital is subject to a flat tax rate at 19%. The income of non-residents is generally taxed according to the rules applicable to residents, unless a law or a tax treaty provides otherwise. Some payments to non-resident individuals are subject to a 19% final withholding tax and an increased tax rate of 35% is

applied if the recipient is a resident of a non-co-operative state (i.e. a state not on the "white list" published by the Ministry of Finance of the Slovak Republic).

20. Taxation on worldwide income applies to corporations having their seat or place of effective management in the territory of the Slovak Republic, and taxation is limited to income derived from Slovak sources on corporations who have neither their seat nor place of effective management in the territory of the Slovak Republic. CIT is levied on legal entities, most notably joint stock companies, limited liability companies and co-operatives. General and limited partnerships are also legal entities for CIT purposes. However, general partnerships are taxed only on income that is subject to withholding tax and their other profits are taxed when allocated to the general partners. Limited partnerships are subject to CIT only on the income attributable to the limited element of the partnership, and the other part of the income is taxed when allocated to the general partners. Income from participation as a silent partner is taxed as well, and is treated in the same way as dividend income. Other resident entities that are not registered in the commercial register, such as associations and foundations, are subject to CIT, in general, to the extent that they carry on business. With effect from 1 January 2017, CIT is levied at a rate of 21%. With effect from 1 January 2018, the minimum corporate tax, which was introduced in 2014, is abolished.

21. Controlled Foreign Company (CFC) legislation has been adopted in the Slovak Republic with the implementation of the Anti-Tax Avoidance Directive. CFC rules apply with effect from 1 January 2019, and contain provisions for assigning the income of a low-taxed controlled company to its controlling company situated in the Slovak Republic. Exit taxation rules have been implemented in the ITA following the provision of the Anti-Tax Avoidance Directive and apply with effect from 1 January 2018.

Financial services sector

22. The Slovak Republic has a sound financial sector focused on the domestic and regional market. The financial sector of the Slovak Republic is dominated by the banking system, which holds 68.9% of total assets held by financial institutions, followed by investment pension funds (9.5%), asset management companies (7.8%) and insurance companies (7.4%). The 27 banks (12 local banks and 15 branches of EU banks) hold an asset base of EUR 84.6 billion at the end of 2019, of which EUR 74 billion are held by local banks. Other financial service providers include leasing institutions, securities companies, payment institutions and e-money institutions. Banks are licensed by the European Central Bank and supervised in the AML/CFT area by the National Bank of Slovakia (NBS). The NBS also supervises insurance companies, foreign exchange business providers and financial intermediaries.

23. As of 31 December 2018, total assets of financial markets amounted to EUR 122.9 billion and represented 130.5% of the Slovak Republic's Gross Domestic Product. Financial assets include cash, loans, securities, shares and other equity.

24. With reference to professional service providers, by December 2018 there were 340 notaries, 122 341 accountants, 1 022 auditors, and 5 840 lawyers authorised to practice law in the Slovak Republic. These service providers are regulated under the Slovak Republic's AML/CFT laws. Special laws regulate the provision of notary, audit, law or tax advisory services.

Anti-Money Laundering Framework

25. The AML/CFT legislation in the Slovak Republic is based on the EU Directive 2005/60/EC of 26 October 2005, as transposed in Act297/2008 (AML Act). Under the AML Act, customer due diligence (CDD) measures must be undertaken by obliged entities, including banks and other financial institutions and non-financial institutions, such as auditors, accountants, tax advisers, notaries, lawyers and other professional service providers.

26. The central authority in the Slovak Republic in the area of the prevention and detection of money laundering and terrorist financing (AML/CFT) is the Financial Intelligence Unit (FIU). The other authorities involved include the NBS, the General Prosecutor's Office of the Slovak Republic, the Ministry of Justice and the Ministry of Finance.

27. The Slovak Republic is currently undergoing the fifth round of MONEYVAL's[1] mutual evaluations, and the onsite visit in the Slovak Republic took place in September 2019. The mutual evaluation report was scheduled to be adopted by June 2020 but because of the Covid-19 pandemic, the adoption was postponed and is expected for October 2020.

28. The latest review dates from 2011. The 2011 MONEYVAL evaluation considered that the Slovak Republic had continued to develop and strengthen its AML/CFT regime since the adoption of the third round report in 2005. However, it reiterated some of the findings of 2005, particularly in relation to transparency on beneficial ownership of legal persons. In particular, Recommendation 5 on CDD was determined Largely Compliant. Recommendation 12 concerning non-financial AML-obliged persons was rated Partially Compliant, as AML/CFT obligations were not at all being used by

1. The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism – MONEYVAL is the FATF-style regional body of the Council of Europe that assesses compliance of jurisdictions with the AML/CFT international standard.

most of the non-financial AML-obliged persons, and lawyers, notaries, legal professionals and accountants had no knowledge of CDD requirements in practice; the outreach of this sector by FIU was insufficient. Recommendation 33 on transparency of legal persons was determined Partially Compliant and concluded that laws in the Slovak Republic did not require adequate transparency concerning beneficial ownership and control of legal persons, and that no measures were in place to ensure that beneficial ownership information is adequate, accurate and current. Issues in relation to the transparency of bearer shares were also found. The 2011 MONEYVAL report did not analyse trusts because activities of trust and company service providers were not allowed in the Slovak Republic and the AML/CFT Act did not determine respective requirements. The Slovak Republic was placed in regular follow-up.

Recent developments

29. Since the 2014 Report, there have been amendments in the company law: the establishment of a new form of joint stock company with registered capital of at least EUR 1 (simple joint stock company), the implementation of more comprehensive regulations in relation to trade secrets based on EU secondary law, rights of shareholders in public joint stock companies, supervision of joint stock companies with variable registered capital based on EU secondary law and established a new definition of capital company in financial difficulties.

30. The Slovak Republic also amended Article 23(1) of the Tax Code, which regulates the inspection of files by the taxpayer. Taxpayers are no longer permitted to inspect their files before tax proceedings are launched and when the requesting jurisdiction has not given its consent to such disclosure (see section C.3).

31. The Slovak Republic is working on the creation of a Central Register of Bank Accounts to allow competent authorities concerned in the Slovak Republic (i.e. FIU, tax and customs authorities, information intelligence services, competent authorities in criminal matters) to access and identify in a timely manner any natural or legal person who owns or controls payment accounts and bank accounts.

32. Amendments to the AML Act 297/2008 concerning beneficial ownership requirements entered into force on 15 March 2018. These amendments provide for mechanisms for the identification of beneficial owners by AML-obliged entities and for the maintenance of beneficial ownership information by all domestic legal persons themselves. These amendments reflect EU Directive 2015/849 (4th EU Anti-Money Laundering Directive).

33. The Slovak Republic amended and enacted other regulations to implement the EU Anti-Money Laundering Directives. In particular, domestic legal persons are now required to submit beneficial ownership information in the public registers, i.e. Commercial Register and Foundations Register. Also, the Register of Legal Entities, Entrepreneurs and Public Authorities was established, which will receive and centralise beneficial ownership information from the public registers.

34. In addition, the Register of Non-Governmental and Non-Profit Organisations was created with Act 346/2018 and will serve as source register of non-profit organisations in the Slovak Republic (foundations, non-profit organisations, investment funds). This Register will enter into operation in January 2021.

35. The Slovak Republic has informed that the draft amendment transposing the EU Directive 2018/843 (5th EU Anti-Money Laundering Directive) and which stipulates that data from the centralised BO register will be publicly accessible has been submitted to the National Council of the Slovak Republic with the aim to be in force by 1 November 2020. This amendment also establishes a more detailed classification of the category of AML-obliged persons carrying out the functions of organisational and economic advisors regulated under the AML Act (art. 5(1)I), and the amendment will clarify that the category includes e.g. lawyers, notaries and trust and company service providers.

36. Finally, Slovak authorities have informed that the draft amendment of the Income Tax Act, which will require legal entities having their place of effective management in the territory of the Slovak Republic to register for tax purposes – unless they are registered under any other registration obligations already stipulated by the Act – has been approved by the Government in August 2020 and will enter into force as of 1 January 2020 upon parliamentary approval.

Part A: Availability of information

37. 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.

38. The 2014 Report concluded that the Slovak Republic's commercial and tax legislation included provisions that supported the availability of relevant legal ownership information. In practice, it was found that ownership information of companies, partnerships and foundations could be obtained directly from the person concerned, from the Commercial Register, from the Foundations Register, or from the tax database.

39. However, the 2014 Report also concluded that improvements were needed in two areas:

- The availability of legal ownership information for all foreign companies having a sufficient nexus with the Slovak Republic generally depend on the law of the jurisdiction of incorporation and may not be guaranteed in all cases.
- Persons in the Slovak Republic who act as professional trustees for foreign trusts are not obliged to identify the settlors and beneficiaries of such trusts.

40. Based on these findings, the Slovak Republic was rated as Largely Compliant with the standard on element A.1.

41. The current review concludes that these two recommendations have not been addressed, and are therefore maintained. For the rest, the legal framework has not changed.

42. The standard of transparency and exchange of information was strengthened in 2016 to introduce the obligation of availability of beneficial ownership information (not reviewed in the 2014 Report). In the Slovak Republic, the main mechanisms for the availability of beneficial ownership information are two-fold. First, the AML framework requires AML-obliged entities to perform customer due diligence and identify the beneficial ownership of their clients. Second, since 2018, all legal entities are required to identify their beneficial owners (as defined in the AML law) and report information about them in their relevant registers (Commercial Register and Foundations Register), which will serve as source registers for the future centralised Register of Legal Entities, Entrepreneurs and Public Authorities (centralised BO register). The two main sources of beneficial ownership information are complemented by another register of ultimate beneficial owners directed to legal entities and natural persons that engage in business with the public sector, which covers around 10% of legal entities.

43. Some deficiencies are identified under both the legal framework and the implementation of the requirements in practice. The beneficial ownership definition of the AML Act does not include a definition applicable to trusts, and the determination of beneficial owners for partnerships follows the definition of companies, which is not necessarily in accordance with the form and structure of partnerships. Transparency concerns in relation to beneficial ownership information for nominee arrangements and silent partnership arrangements have also been identified.

44. In terms of implementation, supervision and enforcement of the beneficial ownership AML-requirements, the Financial Intelligence Unit (FIU) has not yet put in place a comprehensive and articulated supervision programme for the enforcement of the obligation to file and hold beneficial ownership information. In addition, although the FIU issued a guidance in February 2020 for beneficial ownership identification by obliged persons, it is not binding and has some deficiencies.

45. In addition, the Slovak Republic has not established concrete procedures for the oversight, effective implementation and verification of the accuracy of the beneficial ownership data provided by legal entities to the Commercial Register, (which is not yet fully populated with beneficial ownership information), which will eventually be used to populate the centralised BO register. Moreover, the timelines for the effective launch and implementation of the IT platform that will support the centralised BO register are uncertain.

46. During the current review period, the Slovak Republic received 82 requests for ownership information. All of these requests were related to legal ownership and 50 of them included requests on beneficial ownership information. The Slovak Republic responded all inquiries satisfactorily and the peers have not raised any issues in this regard.

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

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

Deficiencies identified/ Underlying Factor	Recommendations
Not all companies incorporated outside of the Slovak Republic but having their place of effective management (and therefore resident for tax purposes) therein are subject to clear requirements to maintain and file identity information concerning their owners in the Commercial Register. The availability of such information will generally depend on the law of the jurisdiction in which the company is incorporated and so may not be available in all cases.	Ownership and identity information should be available for all relevant foreign companies in the Slovak Republic.
There are no requirements under the Companies Act in relation to companies having nominee shareholdings in their ownership structure, to disclose the nominee status of the shareholders and identity information of persons whom the nominees represent (the nominators) is not available with the company or with the Commercial Register. In addition, although the requirements under the AML Act would require that beneficial owners be identified despite the existence of nominee arrangements, in the absence of a binding guidance it is not clear that this would be effectively implemented, in particular for situations where corporate shareholders act as nominees and where no guidance is available. Similarly, Slovak laws allow for the establishment of silent partnership agreements. Although beneficial owners of silent partnerships would have to be in the Commercial Register, in the absence of binding orientation for beneficial ownership identification and considering that there is no obligation to disclose this agreement, identity and beneficial ownership information for silent partnerships may not always be available.	The Slovak Republic is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person, and to ensure that identity and beneficial ownership information is available in relation to all silent partnerships.

Deficiencies identified/ Underlying Factor	Recommendations
The determination of beneficial owners for partnerships follows the definition of companies, including taking a 25% threshold in ownership or control as a starting point. This definition is not necessarily in accordance with the form and structure of partnerships. Further, there is no guidance for the identification of beneficial owners in respect of partnerships, nor for situations where one or more partners is a legal entity or legal arrangement (domestic or foreign).	The Slovak Republic is recommended to ensure that beneficial ownership information in line with the standard is available in respect of partnerships.
Persons in the Slovak Republic who act as professional trustees for foreign trusts are not obliged to identify the settlors and beneficiaries of such trusts. In addition, the AML Act does not provide for an applicable definition for the identification of the beneficial owner of all parties related to a foreign trust and there are not centralised sources of information on trusts so their number is not known by authorities. Although the recent FIU guidance notes that in the determination of beneficial owners of trusts the definition for foundations should be applied, the guidance is not binding and the definition for foundations does not allow for the identification as beneficial owners of individuals entitled to less than 25% of the resources provided by the trust, nor for any other natural person exercising ultimate effective control over the trust. Further, there is no look-through guidance on corporate parties of a trust.	The Slovak Republic is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all trusts having nexus with the Slovak Republic.

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/ Underlying Factor	Recommendations
There is no factual evidence that non-financial AML-obliged persons and legal entities have been supervised by the FIU to ensure the availability and accuracy of beneficial ownership information. In addition, the AML Act does not oblige legal entities to verify the information collected on their beneficial owners. Further, there are no awareness-raising measures for them, and the non-binding beneficial ownership guidance has some deficiencies which may lead entities to not correctly identify their beneficial owners in some situations. In addition, the Commercial Register is not yet fully populated with beneficial ownership information, and Slovak authorities have not established supervision programmes to effectively implement it and to verify the accuracy of the information filed by entities. This would be especially important for ensuring availability of beneficial ownership information on inactive companies, the exact number of which is uncertain. The IT platform that will support the centralised BO register is not yet implemented.	The Slovak Republic is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure the availability of accurate and up-to-date beneficial ownership information for all legal entities and legal arrangements, in line with the standard.

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

48. The Slovak Republic's laws provide for the creation of the following types of companies:

- **Private limited liability companies (LLC)**, regulated under sections 105-153 of the Commercial Code (CC). A private LLC's liabilities is limited by the contributions of its members, whose numbers may not exceed 50 (s. 105). As of 1 June 2020, there were 289 291 LLCs registered in the Slovak Republic.

- **Joint stock companies**, regulated under sections 154-220g of the CC, have their capital divided into shares and may be public or private. As of 1 June 2020, there were 7 967 joint stock companies registered in the Slovak Republic.
- **Simple joint stock companies**, regulated under sections 220h-220zl of the CC. This type of company was introduced in 2017, and allows for a minimal capital investment of EUR 1. As of 1 June 2020, there were 203 companies of this kind.
- **Co-operatives**, regulated under sections 221-260 of the CC. A co-operative is formed by at least five members to conduct business for the economic or social benefit of its members.[2] As of 1 June 2020, there were 2 386 co-operatives registered in the Slovak Republic.
- **European society (SE)**, SEs are regulated under Act 562/2004. The laws that apply to public limited-liability companies apply to SEs (EU Regulation 2157/2001). As of 1 June 2020, there were 220 SEs operating in the Slovak Republic.
- **European co-operative (SEC)**, SECs are regulated under Act 91/2007. The laws that apply to co-operatives also apply to SECs (EU Regulation 1435/2003). As of 1 June 2020, there were 8 SECs in the Slovak Republic.

49. The number of each type of domestic entity slowly increases over years. Foreign companies may be incorporated in the Slovak Republic as a branch or an enterprise.[3] As of 31 December 2018 there were 2 682 foreign companies in the Slovak Republic (more recent numbers are not available).

Legal ownership and identity information requirements

50. The availability of legal ownership information for companies is primarily given through company law and is available with the Commercial Register, the Central Securities Depository and the entities themselves. Although under the provisions under the AML Act AML-obliged persons are required to take measures to understand the ownership and control structure of the customer that is a legal entity or a trust, this is not sufficient to ensure the availability of information in all cases as entities have no obligation to

2. In a co-operative, share and profit are determined by the member's participation in the co-operative's capital, unless the articles of association determine otherwise (s. 223 and 236, CC).
3. An "enterprise" is defined under Section 5 of the Commercial Code, as the tangible, intangible and personal assets, which are used in business. As noted in the 2014 Report, this term is covered by the term "branch".

maintain a relationship with an AML-obliged person in the Slovak Republic.[4] The following table summarises these legal requirements.

Legislation regulating legal ownership of companies

Type	Company Law	Tax Law	AML Law
Private limited liability company	All	Some	Some
Joint stock companies	All	Some	Some
Co-operatives	All	Some	Some
Foreign companies (branches)	None	Some	Some

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

Company law requirements

51. Pursuant to company law requirements, legal ownership information is available in the Commercial Register and/or with the entities themselves, although this information is not systematically available for all relevant foreign companies. Slovak authorities have informed that in October 2020, information on branches of foreign natural persons will be available in the Register of Legal Entities, Entrepreneurs and Public Authorities. This latter Register will be addressed in later sections.

52. Companies in the Slovak Republic are incorporated when entered into the Commercial Register of the competent district court (ss. 62(1) and 225, CC).[5] Pursuant to the Commercial Register Act (CRA, 530/2003), data to be filed upon registration include the names, surnames and residence address of the individual members/shareholder,[6] and business name or name and registered office of the corporate members/shareholder. This applies to both limited liability companies (s. 2(2)c, CRA) and simple/joint-stock companies with one shareholder (s. 2(2)d and e, CRA). If a simple/joint

4. Section 7(1)b AML Act; paragraphs 110-111 of 2014 Report. Even if legal ownership information on clients may be collected when ascertaining the beneficial and control structure of a client, Slovak entities have no obligation to maintain a relationship with an AML-obliged person in the Slovak Republic.
5. The Commercial Register is maintained by the respective district court depending on the registered seat of the legal entity.
6. "Shareholder" is in singular, as this requirement only applies to simple/joint stock companies with only one shareholder, as explained later in the same paragraph.

stock company – public or private – has more than one shareholder, the list of shareholders is not entered in the Commercial Register but has to be submitted to the Central Securities Depository (s. 156(6), CC), regulated under the Act 566/2001 on Securities and Investment Services (the Securities Act). The Central Securities Depository is a joint-stock company owned by the Bratislava Stock Exchange and is licensed and supervised by the NBS. The ownership information in the list of shareholders includes the business name or name, registered office and identification number of the legal entity, and the name, permanent address and birth registration number of the natural person that is the shareholder (s. 156(6), CC).

53. Co-operatives submit information on the amount of their assets and members' contributions, and the notarial deed of the constitution of the co-operative which lists all members (ss. 2(2)e, 3(1)b, CRA).

54. Prior to registering a company, the registration court is required to verify some aspects of the submitted information. For LLCs the Registrar verifies, among others (the list is not exhaustive), whether the articles of association or deed of foundation contain all terms required by the law such as legal ownership details, the amount of registered capital and partners not exceeding 50 in number (s. 7(3), CRA). Although there are no similar express provisions for verification on joint-stock companies and simple joint stock companies, Slovak authorities have explained that pursuant to Section 61 of the Notarial Code, notaries have the obligation to carry out verifications for this type of companies. In the case of a co-operative, the Registrar verifies that the by-laws, the amount of fixed assets and the number of members of the co-operative are in accordance to the law (s. 7(4), CRA).

55. The data submitted by the entity for registration in the Commercial Register is also cross-checked by the courts with up to 26 other electronic registers available, e.g. the Trade License Office. If the courts find any discrepancies between the facts and the information filed with the Commercial Register (e.g. discrepancies in identification numbers, wrong addresses), they are obliged to report and initiate harmonisation court proceedings to achieve conformity of the entry and register the company in the Commercial Register (see also para 77 of 2014 Report). However, during the onsite visit (January 2020) Slovak authorities indicated that during the period under review, there were no specific supervisory actions performed by the courts to verify the accuracy of the ownership data registered and there is no information available in relation to court proceedings initiated by courts when discrepancies have been found in this aspect. In this regard, the Slovak Republic should ensure that the supervision by the courts supports the availability of accurate legal ownership information with the Commercial Register (see Annex 1).

56. Changes of ownership in an LLC must be entered into the list of shareholders to be valid and must also be reported to the Commercial

Register. Only upon entry in the Register the liability of the current shareholder for the company's obligations passes to the transferee of the business share (s 118(2), CC). Changes of ownership in a joint stock company with more than one shareholder have legal effect by registration with the shareholder register kept by the Central Security Depository (s. 156(7), CC), unless the share is a dematerialised one (see section A.1.2 below). Changes in membership in co-operatives also must be registered with the co-operative but do not need to be reported to the Commercial Register (s 228, CC).

57. Branches of foreign companies must register in the Commercial Register to conduct business in the Slovak Republic under the same conditions as domestic companies, unless the law provides otherwise (s. 21(4) and (1), CC). Although pursuant to the Commercial Register Act (s. 2(2)b) foreign companies must submit their articles of association upon registration, there is no specific requirement to register identity information and as such legal ownership information on foreign companies is not systematically available in the Commercial Register. In this regard, the 2014 Report found that foreign companies need only submit information pursuant to Directive 89/666/EEC.[7] This Directive states that documents to be disclosed by the branch are dependent on the law of the jurisdiction in which the entity is registered and, where disclosure requirements in respect of the branch differ from those in respect of the company, the branch's disclosure requirements take precedence (see paragraph 80 of 2014 Report). Based on this, the Slovak Republic was recommended to ensure that ownership and identity information be available for all foreign companies having a sufficient nexus with the Slovak Republic. Since then, there have been no changes on the requirements to collect legal ownership and identity information for foreign incorporated companies conducting business in the Slovak Republic. Therefore, the recommendation given in the 2014 Report is maintained.

58. The registration data and documents submitted by the company are kept in the Commercial Register as long as the company is active. After deletion of the company, the files are (non-mandatorily) kept for two years in a ready-to-use registry in the Registry Court. After this period, the files are archived in the Central Court Registry for 75 years and are accessible on written demand. In addition, online data remain accessible in the Commercial Register webpage.

59. The obligation to submit legal ownership information to the Commercial Register, including changes thereof for LLCs or joint stock companies, is complemented by enforcement provisions. A natural person authorised to act on behalf of a company who fails to register the company, to submit documents to the Register Court, or to file changes in the registered data

7. Directive 89/666/EEC was subsequently amended by Directive 2017/1132, which does not expressly require branches to disclose the identity of their owners.

within the deadline stipulated by the law, will be subject to a fine of up to EUR 3 310. The same fine is applicable to persons who file false data or submit documents whose content does not correspond to reality (s. 11, CRA). The registration courts applied sanctions under s. 11 of the Commercial Register Act in 8 cases in 2015, 5 cases in 2016, 19 cases in 2017, 26 cases in 2018, and 9 penalties during the first 9 months of 2019. Slovak officials have indicated that the average amount of sanctions for not filing changes in the Commercial Register is EUR 40. The courts consider this amount to be fair and transparent since most fines are given for a first breach of duty.

60. Compliance with registration obligations is further ensured because business entities receive their legal personality upon registration (ss. 62(1) and 225(1), CC). Accordingly, entities cannot conduct business-related activities, such as opening a bank account, unless they are incorporated.

Inactive companies

61. During the onsite visit, Ministry of Justice officials noted that "inactive" is not a legally recognised category for company law purposes and so no related statistics exist. The Slovak authorities noted a possible indication of inactivity with companies which still have their capital registered in Slovak korunas – the currency of the Slovak Republic until 2008 – instead of Euros. Companies had until 2009 to update the currency of their data filed in the Commercial Register and 12% of the total population of entities registered in the Commercial Register have not done so.

62. For companies that are still registered but seem to have no business activity, the Commercial Register still holds the registration data and documents including legal ownership information filed, given that this information is submitted by companies (LLCs, joint stock companies with one shareholder) upon incorporation, and legal rights of members/shareholders are acquired upon their entry into the Commercial Register. Therefore, the presence of seemingly inactive companies in the Commercial Register does not create a risk for the availability of legal ownership information in the Slovak Republic. Ministry of Justice officials indicated that in 2019, legislative provisions were enacted to define the conditions that will trigger the inactive status of a company. These criteria include: having capital registered in Slovak korunas, forms of legal persons that no longer exist (like Town Councils), branches that did not confirm the validity of their data in due time, and companies which did not submit two consecutive financial statements. A project for an IT system that will support the triggering of the inactive status of companies is currently being developed. Upon identification of companies that fulfil these criteria, the Ministry of Justice will publish in the Commercial Gazette for six months, a list of companies proposed for deletion, and if no challenge is raised during that period the company will be deleted from the Register and will lose legal

personality for legal business purposes. The information on the struck-off company, including legal and beneficial ownership information, will be kept in the Central Court Registry for 70 years. The new provisions for deletion of inactive companies from the Register will enter into force on 1 October 2020, and Slovak officials have informed that the Ministry of Justice is currently preparing a list of companies that fulfil the inactivity criteria, and the list is expected to be published in November 2020. Slovak authorities have confirmed that the presence of companies with no apparent business activity has not been an obstacle for EOIR.

Tax law requirements

63. Tax law requirements do not require that domestic companies submit information on their owners to the tax administration. Instead, the Financial Administration (the tax authority in the Slovak Republic) receives this information directly from the Commercial Register. In the case of foreign companies, some of them may be required to keep and submit legal ownership information to the Financial Administration for transfer pricing purposes.

64. Once a company has been registered in the Commercial Register, the competent court communicates this daily to the Financial Administration (which transfer it to the relevant tax offices), the Statistical Office, the Central Security Depository and the Trade License Office (s. 10(6), CRA).

65. Within one month from registration in the Commercial Register, all legal entities are obliged to register with the Financial Administration (s. 49a, ITA). The information that must be submitted to the tax office does not include any information on the owners. The information on ownership is contained in the notes to the financial statements, which must be submitted together with the company's tax return (see paragraphs 85-92 of the 2014 Report).

66. In relation to foreign companies, the 2014 Report found that they are required to keep documentation of their ownership structure and identity information on their members/shareholders only for transfer pricing purposes. Any change in majority membership of LLCs (domestic or foreign) must be approved by the Financial Administration, and ownership must be attached to financial statements filed with annual tax returns. However, the 2014 Report concluded that these provisions would apply to a number of, but not all relevant foreign companies of the Slovak Republic (the percentage of foreign companies within the scope of these provisions is not available). The situation remains the same.

67. The level of compliance with tax registration obligations reached 98.6% for the period under review. Failure to comply with this obligation within the required time limit is subject to a penalty that ranges from EUR 60

to EUR 20 000 (s. 155(1)c, Tax Code). In practice these sanctions were applied in 3 724 cases in 2016, 4 276 cases in 2017 and 3 826 cases in 2018, and the total amount of penalties across the three-year period reached EUR 727 716. The Financial Administration systematically checks the content of applications for new registration and it can verify the completeness and accuracy of the documentation submitted for registration during audit visits.

68. The compliance with tax return filing obligations for domestic companies was 82% on average for years 2016, 2017 and 2018, and 63% for foreign companies. Therefore, there is a significant discrepancy between the number of registered taxpayers and the number of filed tax returns (18% for domestic companies and 37% for foreign companies). Slovak authorities indicated that this discrepancy is caused by non-compliance, the existence of inactive companies, companies being in the process of bankruptcy, and because the legal form indicated in the tax return may not correspond to the registered legal form.

Availability with companies

69. The Commercial Code requires all types of companies to keep information about their owners.

70. Private LLCs must keep a register of their members (s. 118(1)). Any change in membership must be recorded in the register and must also be notified to the Commercial Register. Upon entry of the change in the Commercial Register, the liability of the current shareholder for the company's obligations passes to the transferee of the business share (s. 118(2)).

71. Joint stock companies can issue registered or dematerialised bearer shares and the list of shareholders is kept by the Central Securities Depository. Rights attached to the registered share can only be exercised if properly recorded in the list of shareholders and any transfer of a registered share will only be effective upon registration in the list (s. 156 CC; see paragraph 106 of 2014 Report). Stocks issued in bearer/dematerialised form must also be recorded in the Central Securities Depository, as regulated under Section 99 of the Securities Act (see section A.1.2). Simple joint stock companies can only issue book-entry shares which must be registered and kept in a register of shareholders, also held with the Depository (s. 220i, j CC).

72. Co-operatives must maintain a register of all their members, and any changes affecting the register must be recorded (s. 228, CC) and reflected in a transfer agreement to have valid effect. There is no requirement to record this transfer with the Commercial Register.

73. In relation to foreign companies, the law in the Slovak Republic does not expressly require them to maintain ownership and identity information (see paragraph 105 of 2014 Report).

74. Although there are no specific supervisory or enforcement measures in place to monitor the compliance with record-keeping obligations of companies, and there are no specific designated authorities in charge of enforcing this obligation, shareholders and members can only exercise their rights if these are properly recorded in their list of members/shareholders. In addition, the Financial Administration can verify during its onsite audits, among others, the completeness and accuracy of the ownership information held by companies.

Availability of legal ownership information in practice in relation to EOI

75. The Slovak Republic received 82 requests for legal ownership information during the review period, and it has been provided in all cases.

Availability of beneficial ownership information of companies

76. The standard was strengthened in 2016 with a new requirement that beneficial ownership information on companies should be available. In the Slovak Republic, the main mechanisms for the availability of beneficial ownership information are the AML framework, which transposes the EU 4th AML Directive, and the centralised BO register,[8] which requires all legal entities to identify and report their beneficial owners according to the AML Act. Those mechanisms are complemented by the Register of Public Sector Partners introduced by Act 315/2016 of 25 October 2016. In the Slovak Republic, there are no requirements in the annual tax return that capture the beneficial ownership of companies, therefore, the tax authorities do not collect any beneficial ownership information.

Legislation regulating beneficial ownership information of companies

Type	Company Law	Tax Law	AML Law
Private limited liability company	All	None	All
Joint stock companies	All	None	All
Co-operatives	All	None	All
Foreign companies (branches)	None	None	Some

Beneficial ownership information of companies under AML-framework

77. The AML framework in the Slovak Republic has requested AML-obliged persons to perform customer due diligence throughout the review period. However, there is no obligation for companies in the Slovak Republic to have a continuous business relationship with any AML obliged person,

8. Register of Legal Entities, Entrepreneurs and Public Authorities, introduced by Act 272/2015 of 22 September 2015.

so the scope of the obligation would not be complete if relying only on this source of information. From 15 March 2018, all legal entities (except listed companies and governmental entities) are required to maintain information on their own beneficial owners. In the Slovak Republic, the primary source of beneficial ownership information will now be the legal entities and the centralised BO register (see below).

78. The scope of the AML Act is broad. Obliged persons include banks and other financial institutions (see section A.3 below) and, since 2001, non-financial AML-obliged persons such as attorneys, tax advisors, notaries, accountants and auditors, etc.[9] (art. 5 AML Act). All AML-obliged persons are required to conduct customer due diligence measures in respect of their customers, transactions and business relationships (s. 10). CDD measures are applied, among others, when establishing a business relationship or when there is suspicion that the customer is performing an unusual business operation (art. 10(2)a). AML-obliged persons are required to update the information obtained within the CDD process (including information on the beneficial owners) depending on the money laundering and terrorist financing risk of the client (art. 10(6)), and the AML Act does not establish clear rules in respect of the updating of the beneficial ownership information. Legal entities must, since March 2018, keep and continuously update the identification data on their beneficial owners (s. 10a). The FIU non-binding guidance issued in February 2020 indicates that legal entities must update the information "from time to time" without providing any maximum time between two updates. The Slovak Republic should clarify the rules for AML-obliged persons and legal entities concerning the updating of beneficial ownership information to ensure a proper application of the standard (see Annex 1).

79. AML-obliged persons and legal entities must apply the same definition of beneficial ownership, set in article 6a of the AML Act:

> (1) Beneficial owner means each natural person who ultimately owns or controls the legal entity …, and each natural person in favour of whom a transaction or activity is being conducted by these entities; the beneficial owner shall include in particular,
>
> a) "in the case of a legal entity …, the natural person who:
>
> 1. ultimately owns or controls a legal entity through direct or indirect ownership or control over at least 25% of the shares or voting rights in that legal entity, including through bearer shareholdings;

9. Non-financial AML obliged persons were included in the scope of AML Act by Act 367/2000 with effect since 1 January 2001, and the obligation for them to conduct complete CDD was imposed by Act 297/2008 since 1 September 2008.

> 2. has the right to appoint, otherwise determine or withdraw the statutory body, managing body, supervisory body or audit body in the legal entity or any member of these;
>
> 3. controls the legal entity in other way than mentioned in points 1 and 2;
>
> 4. is the beneficiary of 25% or more of the economic benefits of the business of the legal entity or other activities of the legal entity." …
>
> (2) If no natural person meets the criteria listed in paragraph (1) a), member(s) of top management shall be considered the beneficial owner(s) of the entity; member of top management means a statutory body,[10] a member of the statutory body, the authorised representative and a senior manager reporting directly to the statutory body.
>
> (3) The natural person, who does not meet the criteria pursuant to paragraph (1) …, along with other person acting with them in conformity or in joint procedure,[11] meets at least some of these criteria, is also the beneficial owner.

80. This definition of beneficial owner is broadly aligned with the international standard, and senior managing officials are the default option when beneficial owners cannot be identified.

81. The AML Act requires the following identity details to be recorded for beneficial owners: the name, surname, date of birth, permanent address or other residence, nationality, and type and number of identity document (art. 7(1)a together with art. 10 and 10a). AML-obliged entities must take reasonable measures to verify the identification of the beneficial ownership during CDD (art. 8 together with art. 10), and the customer must provide the AML-obliged person with information and identity documents necessary for the identification and verification of the identification (art. 10). The same obligation of verification does not apply to legal entities pursuant to article 10a when they identify their beneficial owners.

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10. The statutory bodies of the company are the persons who act on behalf of the company. Provisions of the Commercial Code determine whom the statutory bodies of the company are. Section 133 of the Commercial Code indicates that the company's statutory body consists of one or more executive officers and section 191 establishes that the board of directors is the statutory body of the company which manages the company's activity and acts in its name.
11. Conformity proceedings are defined in section 66b of the Commercial Code. Joint procedures or conformity proceedings are proceedings carried out between the partners (owners) of a legal entity, between persons of a statutory body, or between persons who have concluded an agreement on the uniform exercise of voting rights in matters related to the management of the company.

82. At the time of the onsite visit (January 2020), there were no guidance issued by the FIU to orientate non-financial AML-obliged persons and legal entities in the beneficial owner identification process. The representatives of the lawyers, tax advisors and accountants interviewed during the visit seemed to be not entirely aware of the changes in beneficial ownership requirements in the AML Act and expressed that no guidance or training at all had been received from the FIU in this regard. At that time, only non-binding methodological guidelines for banks issued by NBS were available (see section A.3 of this report).

83. In February 2020, the FIU issued a guidance to orientate all obliged persons under the AML Act (AML-obliged persons (financial and non-financial) and legal entities) in the identification of beneficial owners. This guidance is not binding and serves for interpretative purposes for a better understanding on beneficial ownership issues.[12] It usefully clarifies that a beneficial owner must be a natural person and that control can be exercised *de facto* (e.g. family connections) and not correspond to the legal situation of the company. The guidance also provides examples of indirect ownership. The FIU guidance has some deficiencies. For instance, for companies undergoing bankruptcy that still have shareholders and managers, and where no shareholders have a participation larger than 25%, the guidance establishes that top managers should be identified as beneficial owners. This could lead obliged persons to miss beneficial owners exercising control by other means, having the right to appoint persons, getting benefits, or acting in joint procedure. For companies listed in a stock exchange and subject to disclosure requirements, the guidance establishes that beneficial owners should be by default, all members of the statutory body. Although the standard accepts exemptions in beneficial ownership reporting for listed companies, beneficial owners have to be correctly identified and cannot be replaced by statutory bodies automatically. These provisions may lead entities failing to correctly identify their beneficial owners in some situations.

84. The AML Act requires obliged persons to retain the CDD information (including beneficial ownership information) for five years after the termination of the relationship with the customer (art. 19(2)a). The AML Act also establishes that all legal entities must maintain beneficial ownership information – unless the entity is a Public Sector Partner[13] – for the period during which the natural person is a beneficial owner and for five years after the status has ended (art. 10a).

12. This guidance has been posted on the FIU website: https://www.minv.sk/swift_data/source/policia/fsj/kpo/KUV.pdf.

13. The Register of Public Sector Partners is a public register created under Act 315/2016, for all legal entities and natural persons that engage in business with the public sector. This register requires the filing of beneficial ownership information and will be discussed in detail in paragraphs below.

Enforcement measures and oversight under AML legislation

85. The FIU is the main supervisory authority over AML matters and the NBS has specific competence over banks and financial institutions (art. 29 AML Act).

86. Failure to fulfil CDD obligations, which includes the obligation to identify the beneficial owner of clients, is liable to penalties of up to EUR 5 000 000 (art. 33 AML Act). In determining the amount of the penalty, the FIU takes into consideration the seriousness of the failure, the length of duration of the unlawful conduct and its consequences, the level of co-operation provided by the obliged person during the control, the size and nature of the business activity of the obliged person, and whether the failure is repeated.

87. During 2016-19, the FIU conducted 32 audits of obliged entities: 17 were carried out on financial institutions and 15 on non-financial AML-obliged persons. By 2018, there were 30 380 obliged entities in the financial sector and 462 819 non-financial AML-obliged persons. The 2014 Report noted that the number of onsite inspections carried out during 2010-12 was 99. According to Slovak authorities, the decreasing trend in the number of onsite inspections was caused by the limited human resources of the FIU combined with an increase in the number of unusual operations reports processed. The following tables present a summary of the AML/CFT audits performed by the FIU.

Audits performed and sanctions imposed by the FIU 2016-19 – Financial Sector

Entity	Number of entities (as of 2018)	Total number of visits	Visits specifically for AML/CFT field	Infringements in the field of AML/CFT	Total amount of fines (EUR)
Banks	27	1	1	-	-
Securities	41	2	2	2	47 000
Insurance companies	35	0	0	-	-
Payment institutions/agents	9	3	3	3	2 600
Management companies	11	0	0	-	-
Lending (non-bank) creditors	31	5	5	3	13 000
Currency exchanges	1 167	2	2	2	30 200
Auctioneers	1 238	2	2	2	1 000
Factoring trading	27 821	2	2	1	5 000
Total	**30 380**	**17**	**17**	**13**	**98 800**

Audits performed and sanctions imposed by the FIU 2016-19 – Non-financial Sector

Entity	Number of entities (as of 2018)	Total number of visits	Visits specifically for AML/CFT field	Infringements in the field of AML/CFT	Total amount of fines (EUR)
Casinos	182	1	1	-	-
Real estate agencies	14 902	0	0	-	-
Merchants with precious metals and stones	4 749	2	2	2	40 000
Attorneys	5 840	0	0	-	-
Notaries	340	1	1	1	15 000
Accountants and auditors	123 363	1	1	0	-
Forwarding agencies	27	0	0	-	-
Pawnshops	5 417	1	1	0	-
Non-profit organisations, consortiums	3 306	1	1	1	20 000
Asset management providers or company services providers	Not available	2	2	2	1 000
Organisational and economic advisers activities	304 693	6	6	4	12 300
Total	**462 819**	**15**	**15**	**10**	**88 300**

88. The FIU controls, *inter alia*, the compliance with obligations related to the identification of the beneficial owner. The FIU found failures with compliance with this specific obligation in five cases in non-financial AML-obliged persons: two cases in 2017 with fines of EUR 2 000 and EUR 40 000, one in 2018 with a fine of EUR 7 000, and two in 2019, with fines of EUR 20 000 and EUR 500. These cases related to securities traders, an organisational and economic adviser, a merchant of precious stones and an auctioneer that failed to verify the beneficial owner or failed to carry out the verification at the level of the natural person. Organisational and economic advisers are obliged persons under the AML Act (art. 5(1)l), and are legal entities or natural persons that can perform certain types of company services that could be risky for terrorist financing, such as accounting advice and advice for the establishment and sale of ready-made companies and the provision of virtual offices (mailbox companies). Please see the recent developments section (paragraph 35) in relation to organisational and economic advisers.

89. With respect to controls to other relevant non-financial AML-obliged persons, lawyers were not audited during 2016-19, and notaries and accountants/auditors were audited one time each. One notary was fined with EUR 15 000 for failure to co-operate with FIU to carry out its controls.

90. The audit statistics reveal a very insufficient outreach of FIU for the supervision of general compliance of AML obligations, both in financial and non-financial entities. The FIU does not carry out desk-based supervisions. The FIU has yet to commence supervision and enforcement on the availability and accurateness of beneficial ownership information collected by non-financial AML-obliged persons under the new requirements of the AML Act. During the onsite visit, the representatives of the lawyers and tax advisors expressed that they are not systematically updating the CDD files of their clients in response to the new beneficial ownership requirements. Moreover, interviews with the lawyers revealed that they generally only do CDD for half of their clients, because of time restrictions to prepare most of the cases. In these situations, the lawyers indicated that introduced business is enough for them.

91. A legal person that fails to keep accurate beneficial ownership information is liable to a penalty up to EUR 200 000 (art. 33(3)). The FIU will be the authority in charge of enforcing the obligation for all legal entities to maintain accurate and up-to-date beneficial ownership information, but the limited human resources of the FIU to carry out audits may significantly hinder its ability to effectively supervise and enforce this new requirement. Slovak authorities have indicated that the FIU has not carried out any such supervision actions since March 2018. To date, the only applied measure is that the Commercial Register would reject the application of registration of a new company that would not provide its beneficial ownership information (but the Register does not check the accuracy of the information).

92. The availability of beneficial ownership information in the Slovak Republic is contingent upon effective implementation of the new provisions of the AML Act, and there is no factual evidence that non-financial AML-obliged persons and legal entities have been supervised by the FIU to ensure the availability and accuracy of beneficial ownership information. In addition, the AML Act does not oblige legal entities to verify the information collected on their beneficial owners, and the non-binding guidance has deficiencies which may lead entities to not correctly identify their beneficial owners in some situations. **Therefore, the Slovak Republic is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure the availability of accurate and up-to-date beneficial ownership information for all legal entities and legal arrangements.**

Commercial Register, Centralised BO Register and Register of Partners of the Public Sector

93. Given that it is not mandatory for all companies in the Slovak Republic to engage an AML-obligated party, the primary source of beneficial ownership information will be the companies themselves. This information will also be maintained by the Commercial Register who will be the source register of the Register of Legal Entities, Entrepreneurs and Public Authorities (centralised BO register), established by Act 272/2015.

94. Legal entities (excluding public sector entities) and special-purpose trusts (i.e. foundations[14]) are obliged to submit and register information on their beneficial owners (as defined in the AML Act, art. 6a). Companies, including private joint stock companies regardless of the number of shareholders,[15] are required to submit information on their beneficial owners to the Commercial Register. This register will serve as source register for the centralised BO register. The effective implementation of this centralised register will support the completeness in the availability of beneficial ownership information in the Slovak Republic.

95. The obligation for legal entities to file beneficial ownership information with the Commercial Register became effective on 1 November 2018 for new entities created since this date. For entities registered before 31 October 2018, the deadline to file beneficial ownership information was initially 31 December 2019 but was shifted to 30 June 2020 (s. 15f, CRA).

96. For companies, the new requirements are laid out in Act 530/2003 on the Commercial Register (s. 2(3)). Legal entities are required to file with the Commercial Register the following information on their beneficial owner(s): name, surname, personal identification number (or date of birth if the personal identification number has not been assigned), permanent residence or other residence, nationality, identification number and indication of its type, and data establishing the status of the beneficial owner. This last point would suggest that companies should verify and understand the status of each beneficial owner.

97. Nothing indicates actions companies might take in case of difficulties in such identification and verification. There is no guidance issued to legal entities to explain them how to get beneficial ownership information. No example of applicable methodologies are provided. While for most small

14. Foundations are required to submit this information to the Foundations Register (part A.1.5 of this Report).
15. Companies who have emitted securities for trading in a regulated market do not have to register their beneficial owners in the Commercial Register.

companies, the beneficial owners are well-known to the management, it is not necessarily the case for medium and large companies.

98. Although there are no requirements on the periodicity to update the beneficial ownership information with the companies and consequently in the Commercial Register, and there is no obligation to file annually changes on beneficial ownership either, nevertheless, the Commercial Register Act provides that any change in filed information must be recorded in the Register within 30 days from the date on which the legal change came into effect (s. 5(5)).

99. The electronic forms for entering data upon registration with the Commercial Register have been amended to include new fields for entering beneficial ownership data, and are available in the website of the Ministry of Justice.[16]

100. The beneficial ownership data filed in the Commercial Register will then be transferred to the centralised BO register, maintained by the Statistical Office of the Slovak Republic. The centralised BO register will be supported by an inter-connected IT platform that will receive and consolidate the beneficial ownership information from the Commercial Register and the Foundations Register. The Statistical Office subsequently will be able to provide upon request this data to public authorities (e.g. Financial Administration, including the competent authority for the CLO Unit, FIU, NBS, Ministry of Finance, courts) and to AML obliged-entities during their CDD process.[17] As of 1 November 2020, beneficial ownership information will become public following the implementation of the 5th AML Directive into the legal system of the Slovak Republic.

101. In the Slovak Republic, there is another register of ultimate beneficial owners directed to legal entities and natural persons that engage in business with the public sector, with the purpose of promoting government transparency. The Register of Partners of the Public Sector (RPPS) was created by Act 315/2016 and became operative on 1 February 2017. This register is administered by the Ministry of Justice and the registering authority is the Žilina District Court. The register is available on the Ministry's website.[18]

16. For first time registration with the Commercial Register, forms are available (in Slovak) at: https://www.justice.gov.sk/Stranky/Obchodny-register-SR/Formulare-na-zapis-do-obchodneho-registra-pre-podania-v-elektronickej-podobe.aspx.

    For registering changes in the Commercial Register forms are available in: https://www.justice.gov.sk/Stranky/Obchodny-register-SR/Formulare-na-zapis-zmeny-do-obchodneho-registra-pre-podania-v-elektronickej-podobe.aspx.

17. However, the AML Act indicates in Article 10(1)b) that obliges entities must not rely exclusively on the data obtained from the Register of Legal Entities, Entrepreneurs and Public Authorities, for the identification of the beneficial owner.

18. https://rpvs.gov.sk/rpvs/.

102. Entities that engage in business with the government, either with a single contract exceeding EUR 100 000, or with contracts that overall exceed EUR 250 000 in a calendar year, are obliged to register with the RPPS. The permanence in this register should at least equal the duration of the contract. The definition of beneficial owner applicable to partners of the public sector is the same as the one under the AML Act (s. XVII, RPPS Act). The information on the RPPS is not submitted by the legal entities themselves, but by authorised persons able to monitor and verify the ownership and management structure of the entity. Authorised persons include lawyers, notaries public, banks and branches of foreign banks, auditors or tax advisors who have their place of business in the Slovak Republic. Authorised persons are required to submit, *inter alia*, the following information to the RPPS: name/business name, registered office, legal form, organisation identification number if assigned, list of beneficial owners and list of public officials holding offices in the Slovak Republic who make part of an ownership structure or governing structure of a public sector partner (s. 4, RPPS Act). This information must be verified and updated annually (s. 11).

103. As of February 2020; 22 694 legal entities were registered with the RPPS, which represents around 10% of all legal entities registered with the Commercial Register.

104. The Slovak authorities have indicated that entities registered in the RPPS are exempted from the obligation to file their beneficial ownership information in the Commercial Register and that the RPPS will not transfer beneficial ownership data to the centralised BO register. On the other hand, if the legal entity stops being a public sector partner and is removed from the RPPS, it would have to immediately file its beneficial owner(s) with the Commercial Register. However, during the onsite visit it was conveyed by the authorities that the movement of companies from one register to the other is not monitored, and the number of entities that have not filed beneficial ownership information in the Commercial Register because they are registered with the RPPS is not known. If this exemption is not effectively monitored, it could pose a risk, albeit of small scale, to the complete availability of beneficial ownership information. The Slovak Republic should monitor the exemption to file beneficial ownership information in the Commercial Register for companies registered with the RPPS (see Annex 1).

Enforcement measures and oversight

105. Failure to file beneficial ownership information in the Commercial Register follows the general penalty of EUR 3 310 for failure to submit documents to the Register Court or to file changes in the registered data within the deadline stipulated by the law (s. 11, CRA). For the Register of Partners of the Public Sector, situations where beneficial ownership information filed

is incomplete or untrue will be penalised by removing the partner from the register, which has the legal effect of terminating the contract with the public-sector entity. This offence, plus failures that involve changes in beneficial ownership information not submitted within the time limit, are also subject to a penalty that ranges between EUR 10 000 to EUR 1 000 000 (ss. 12, 13, RPPS Act).

106. The Slovak Republic does not have in place yet a programme for the supervision and enforcement of the obligation to file beneficial ownership information in the Commercial Register. The Commercial Register is not yet fully populated with beneficial ownership information and fines for non-compliance have not been applied as of June 2020. During the onsite visit, Slovak officials indicated that compliance with beneficial ownership registration in the Commercial Register was around 30% by the end of January 2020. Slovak authorities recently updated that as of May 2020, compliance with beneficial ownership registration was around 71%, of which 41% is information already entered into the Commercial Register by the Court (47% in August). The remaining 30% are entities that have provided their beneficial ownership information to the Courts but the information is in the process of being entered into the Commercial Register.

107. Ministry of Justice officials also indicated that no policy or procedures have been laid out for the verification of the accuracy of the beneficial ownership data provided to the Commercial Register, and no supporting documentation to verify or cross-check accuracy is requested. In relation to the Register of Partners of the Public Sector, Ministry of Justice officials have informed that, in comparison to the Commercial Register, the RPPS has a stronger verification system of beneficial ownership, supporting documentation is requested and verifications are carried out (ss. 11(5), 12(1), RPPS Act). The absence of control of the quality of information in the Commercial Register/centralised BO register raises concerns, considering that the main source of beneficial ownership information in the Slovak Republic will be the information therein.

108. The IT platform that will support the centralised BO register is not operative yet, because the procurement process to award the contract for the development of the system has not been completed. Slovak authorities have informed that this procurement process is currently on hold and that they have no more detailed information on the status of this process. The timelines for the effective implementation of the centralised BO register are challenging, considering that the deadline for filing beneficial ownership information was June 2020, and that the date for the launch of the IT platform is uncertain.

109. In conclusion, the Commercial Register is not yet fully populated with beneficial ownership information, and Slovak authorities have not

established supervision programmes to effectively implement it and to verify the accuracy of the information filed by entities. In addition, the IT platform that will support the centralised BO register is not yet implemented. **The Slovak Republic is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure the availability of accurate and up-to-date beneficial ownership information for all legal entities, in line with the standard**.

Nominees

110. There are no requirements under the Companies Act in relation to companies having nominee shareholdings in their ownership structure, and identity information of persons whom the nominees represent (the nominators) is not available with the company or with the Commercial Register. This lack of information, with the company, on a nominee status of a legal owner leads to (a) risk of identifying the natural person who acts as a nominee and having 25% or more of shareholdings as the beneficial owner or (b) identifying the beneficial owner of the corporate nominee itself as the beneficial owner of shares, instead of the natural person who is the (beneficial owner of) nominator, who ought to be identified as the real beneficial owner.

111. Nominee shareholders are considered obliged persons under the AML Act (articles 5(1)k) and 9(b)), and are required to perform CDD measures at the moment of establishing a business relationship with a client and to gather identity and beneficial ownership information of persons who they represent. They are subject to the same obligations and penalties in case of failure to comply with the duties established under the AML Act. The Act also lists as a risk factor for enhanced customer due diligence, companies having nominee shareholders or shares in bearer form. The AML Act also considers the situation of a person who is represented on the basis of a power of attorney, in which case the AML-obliged person is required to identify the natural person who is authorised to act on behalf of the legal entity or natural person.

112. There is no impediment for non-professional persons to act as nominees, and they are not covered and regulated by the AML law in the Slovak Republic and thus have no obligation to record the identity of their clients and beneficial owners.

113. Although, legal entities that have nominee shareholding in their ownership structure would have to disclose the beneficial owners of those shares in the Commercial Register when they meet the definition of beneficial ownership, given that company laws in the Slovak Republic do not regulate or require the disclosure of nominee arrangements (between nominator and nominee) by the company to Commercial Register or FIU, not all nominators would be identified and it is not certain that the centralised BO register

would have complete availability of accurate beneficial ownership information in respect of nominees. The same doubts apply to the Register of Public Sector Partners. The FIU beneficial ownership guidance mentions that, for companies having nominee shareholdings, the natural person who only holds the position of the so-called nominee shareholder and who is only formally (e.g. in the Commercial Register) entered as the holder of e.g. 30% interest in the registered capital of a company is not a beneficial owner; rather, the beneficial owner is the natural person who is the ultimate (real) partner to the benefit, based on e.g. innominate contract on indirect representation. However, given that the guidance is not binding, it is not possible to ascertain whether this would be effectively implemented in all circumstances. In addition, there is no clear guidance in respect of identifying the beneficial owner when a corporate shareholder acts as a nominee shareholder. Moreover, there is no supervisory experience established so far in relation to beneficial ownership information on nominees being effectively and accurately filed in the Commercial Register.

114. **The Slovak Republic is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person.** In addition, the Slovak Republic should implement supervisory programmes to ensure that beneficial ownership information in respect of nominees not regulated under the AML Act is recorded as per the standard (see Annex 1).

Silent partnerships

115. The Commercial Code allows for the establishment of businesses based on contractual relationships, or silent partnership agreements (ss. 673-681). A silent partnership is established by a written contract between a silent partner and an entrepreneur, under which "the silent partner undertakes to provide the entrepreneur with a certain investment contribution and participate in their entrepreneurial activity through such investment contribution, and the entrepreneur undertakes to pay a part of the profit arising from the silent partner's share in the result of the entrepreneurial activity" (s. 673, CC). The investment contribution to the entrepreneur can take the form of a financial sum, an item, right or other property (s. 673), and the entrepreneur can be any businessperson, either a natural person or a legal entity (e.g. limited liability company, joint stock company, partnership). The silent partner becomes entitled to a share of the profits of the business upon the approval of the annual financial statements of the entrepreneur legal entity (s. 676).

116. There are no restrictions for legal or natural persons to become silent partners. Silent partnerships in the Slovak Republic are based on contractual written agreements (s. 673) which are not required to be registered under any

authority or third party and have the legal status of "creditors" with respect to their contribution (s. 681). Silent partnerships in the Slovak Republic are agreements similar to that of nominees. As with nominees, the silent partnership is not a separate entity or arrangement by itself but can manifest in a relevant entity and arrangement and can be used to hide a beneficial owner in that relevant entity or arrangement since there is no legal requirement to disclose this agreement to authorities. Whilst identity and beneficial ownership information for a creditor would only normally be relevant if the creditor exercised control other than direct control, in the case of a relationship similar to that of a nominee, A.1.1 of the Terms of Reference requires this information to be available "…in all cases".

117. Legal entities engaged with silent partners would in practice have to file in the Commercial Register the ultimate beneficial owners who might stand behind these arrangements, pursuant to the criteria for the identification of the beneficial owners established under art. 6a(1) of the AML Act. However, there is not binding guidance for the identification of beneficial owners, who might be silent partners or behind silent partnerships. Further, given that the Slovak Republic has not put in place a programme for the supervision of the obligation to file beneficial ownership information in the Commercial Register and for the verification of the information filed, whether accurate beneficial ownership information on silent partners will be effectively available in the Commercial Register cannot be ascertained. Slovak officials have indicated that the Financial Administration can obtain such information during on-site inspections, although it is not clear how this would ensure the availability of beneficial ownership information in all circumstances and for all existing silent partnerships. In this point, it is important to note that during 2016-19, the Financial Administration conducted 7 154 tax audits, equivalent to around 2% of all entities registered with the Financial Administration. In addition, although Slovak officials have indicated that the Financial Administration could obtain information on silent partnerships from tax returns, income from silent partnerships is not identified as such in tax returns but as dividend income (see paragraph 20). Further, Slovak officials informed that there are no statistics available on the number of silent partnerships identified as a result of tax audits or tax returns. Therefore, given its particular characteristics and opaqueness (and no requirement to register or disclose the silent contract), this type of arrangements may undermine the transparency and the effectiveness of the identification of the beneficial owners of the entities or arrangements they relate to.

118. The representatives of the banking sector at the onsite visit mentioned silent partnership agreements as an example where beneficial ownership information is difficult to ascertain in practice. The representatives explained that this is due to the silent arrangement not being part of the formal ownership structure, and because the articles of association of legal entities with

the distribution of profits are not always available (see also section A.3). **The Slovak Republic is recommended to ensure that identity and beneficial ownership information is available in relation to all silent partnerships**.

Inactive companies

119. The filing of beneficial ownership information by companies with no apparent business activity in the Commercial Register is yet to be verified, as the deadline for submission of this data has passed recently (June 2020). Considering that "inactive" is not a legal category in the Commercial Register, and that Slovak authorities currently have no clear means to ascertain the exact number of companies in this situation (the estimated percentage of companies with no apparent business activity is 12%, see paragraph 61), it is not clear whether this would create a gap to the availability of beneficial ownership information. Slovak authorities have informed that none of the beneficial ownership requests received during the review period related to inactive companies. The beneficial ownership information for companies with no business activity may currently only be available if they were engaged with an AML-obliged service provider while they were active or in operation, in which case the CDD information may be retained for five years. Considering that the exact number of inactive companies is uncertain, effective supervision and enforcement programmes are key for the availability of accurate beneficial ownership information on such companies, and the supervision recommendation of paragraph 109 also applies here.

Availability of beneficial ownership information in practice in relation to EOI

120. The Slovak Republic received 50 requests for beneficial ownership information during the review period. Beneficial ownership information has been provided in all cases.

A.1.2. Bearer shares

121. The Slovak Republic abolished bearer shares in 1999.[19] Laws in the Slovak Republic allow for the issuance of dematerialised shares called bearer shares but they must be issued in book-entry form (Act on Securities 566/2001, s. 10(3) and CC, s. 156(2)).

19. Shareholders were given until 31 December 1999 to either make their bearer shares take the form of book-entry shares and hand them over to the Central Depository, or convert them to registered form. Failure to comply was penalised with compulsory liquidation. The 2014 Report concluded that this arrangement effectively dematerialised or converted all bearer shares in the Slovak Republic

122. All dematerialised shares issued by a joint-stock company must be recorded in the Central Securities Depository (s. 99 Securities Act) and are traded using the services of one of its members (a dozen of financial institutions). The Depository holds three types of accounts:

- *Owner's accounts* (s. 105 Securities Act). Contain information on the security (e.g. class of securities and number of securities on a given account) and on the account owner. The Central Depository keeps owner's accounts for natural persons, legal entities and state bodies.
- *Holder's accounts* (s. 105a Securities Act). This type of account can only be opened for entities performing custodianship activities such as the NBS, another central depository, a foreign legal person with a similar scope of business, or for a (foreign) investment firm or for a (foreign) bank authorised to perform custodianship services. Holder's accounts contain information on securities held by the entity holding the account, such as the class and number of units of securities, and do not include ownership information but this is kept with the holder entity. If the securities in a holder's account are foreign, the entity for whom the holder's account was opened must provide the Central Depository with information on the securities' owner to the extent necessary to meet the information obligation of a central depository according to the national law under which the foreign securities were issued.
- *Member's client accounts* (s. 106 Securities Act). This type of account can only be opened for members of the Central Depository (which include financial institutions, such as banks, entities performing custodianship services, the NBS, etc.) and contain information on class of securities and number of units of securities registered by the member financial institution on its client accounts. The Central Depository can open this account for the same entities as in the Holder´s accounts.

123. By the end of 2019, there were 444 companies that issued dematerialised shares across the three types of accounts in the Slovak Republic, which represent around 6% of all joint stock companies in the Slovak Republic. Around 209 million pieces of dematerialised shares were registered with the Central Depository for the total value of EUR 4 206 million across the three types of accounts, as follows:

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and ensured that legal ownership information of dematerialised share owners is available (see paragraph 121 of 2014 Report).

Number and amount of dematerialised shares registered with the Central Securities Depository

Type of account	Number of issuers	Number of shares	Value (EUR)
Owner's accounts	338	62 408 306	2 379 914 996
Holder's accounts	69	48 013 086	162 000 794
Member' client accounts	313	98 567 994	1 663 894 147
Total	444	**208 989 386**	**4 205 809 937**

124. During the onsite visit, Central Depository officials indicated that it can only identify the beneficial owner(s) of owner's accounts held by natural persons. This also applies to owners of securities in Member´s client accounts when the client requests that individual owners' accounts (for natural persons) be maintained under this type of account. For owner's accounts held by legal entities, and for holder's accounts there is only information available on the holders (which are legal persons), but not on the entire chain of ownership to follow to identify the beneficial owners. Central Depository officials also mentioned that they do not have the power to request and obtain the beneficial ownership information in these situations, despite the fact they the Central Depository is an AML-obliged entity (art. 5(1)(b)(1)).

125. Information on beneficial owners of Slovak companies, including holders of dematerialised shares, should be registered in the centralised BO register. There is no guidance under the AML Act with regard to transparency and identification of beneficial owners in companies with dematerialised shares. Slovak authorities have informed that, due to the chain of ownership of securities held in the Central Depository going through a number of countries, the regulations of the Slovak Republic are limited to the identification of beneficial owners for Slovak entities. In addition, information on holders of dematerialised shares and their beneficial owners is available with the relevant member of the Central Depository, which are all regulated entities under AML Law, i.e. they should perform CDD on these clients. There is a limitation to this additional source of information in that some of the members are not in the Slovak Republic but in other EU countries.

126. Therefore, there is a risk in the identification of the beneficial owners of dematerialised shares, particularly in circumstances where the participant in the Central Depository is a person outside the Slovak Republic (e.g. securities held by foreign custodians). The Slovak Republic should ensure that beneficial ownership information in respect of legal entities with dematerialised shares is available in all circumstances (see Annex 1).

A.1.3. Partnerships

127. The Slovak Republic's laws allow for the creation of three types of partnerships:

- **Unlimited companies or general partnerships (GPs)**, regulated under sections 76-92 of the CC. A GP arises when two or more persons carry on a business in common and share joint and several unlimited liability for the obligations of the partnership.
- **Limited partnerships (LPs)**, regulated under sections 93-104 of the CC. In an LP, one or more partners bear limited liability up to their outstanding contributions (limited partners) and one or more partners bear unlimited liability (general partners).
- **European economic interest groupings (EEIGs)**, EEIGs are a form of association between companies and other legal bodies, firms or individuals from different EU countries who operate together across national frontiers. Pursuant to EU Regulation 2137/85, an EEIG must be registered in the EU state in which it has its official address. In the Slovak Republic, they must be registered in the Commercial Register (s. 27(2), CC).

128. Partnership are much less used than companies, with 1 116 GPs and 1 142 LPs registered as of 30 June 2020, and 13 EEIGs as of 31 December 2018, against about 300 000 companies.

Identity information

129. The 2014 Report concluded that the rules regarding the availability of identity information in respect of general partnerships and limited partnerships in the Slovak Republic were in compliance with the standard. This also applied to EEIGs. There has been no change in the legal framework since then.

130. Registration of GPs and LPs is organised in the same way as for companies, and both GPs and LPs are incorporated when entered into the Commercial Register (s. 62(1), CC). Foreign partnerships must also register a branch with the Commercial Register (s. 2(3), 2(4), CRA). There are no restrictions for foreign legal entities to become partners of GPs and LPs.

131. Data to be filed by Slovak-incorporated GPs and LPs include the names, surnames and residence address of all the individual partners, as well as the business name or name and seat of any legal person acting as a partner. LPs must also specify who is a general partner and who is a limited partner (s. 2(a)(b), CRA). Branches of foreign partnerships need to file, among others, the address and the identity of the head of the partnership (s. 2(3)(4),

CRA). Upon registration, all partnerships (including branches of foreign partnerships) are also required to furnish their articles of incorporation. These documents must include, among others, the identity of the partners, natural and legal persons (ss. 78 and 94, CC). As for companies, any change in the information submitted must be filed with the Commercial Register within 30 days from the date on which the legal change came into effect (s. 5(5), CRA). There are no express obligations for partnerships to maintain ownership information with themselves.

132. 21% of GPs, and 64% of LPs have at least one corporate partner. The number of partnerships with at least one foreign partner is not available.

133. In GPs, profits are taxed when allocated to the general partners. LPs are subject to CIT only on the income attributable to the limited element of the partnership, and the other part of the income is taxed when allocated to the general partners (s. 14, ITA). The level of compliance with tax registration obligations of partnerships was 98.7% for the period under review. The identity of all partners of general or limited partnerships is entered into the tax database upon registration of the partnership and is kept updated. As for companies, there is an important percentage of partnerships that do not comply with tax return obligations (on average, 71% of partnerships filed tax returns during the 2016-18 period). This discrepancy, as explained by tax authorities, may be in part due to the presence of entities with no business activity in the Commercial Register.

Beneficial ownership

134. As for companies, beneficial ownership information for partnerships is collected through a combination of AML law and company law requirements (Commercial Register/centralised BO register, complemented by the Register of Partners of the Public Sector).

135. In the Slovak Republic, in view of the Civil Law tradition, partnerships are treated as legal persons in the same way as companies, and are established for the purpose of conducting business activities (s. 56, CC). Partnerships fall within the scope of legal persons under the definition of this term contained in the Glossary of FATF Recommendations,[20] as they can

20. FATF (2012-19), International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, FATF, Paris, France. The definition of the term legal persons is as follows: "Legal persons refers to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, bodies corporate, foundations, anstalt, partnerships, or associations and other relevantly similar entities.

establish a relationship with a financial institution, as well as own property. Financial and non-financial institutions providing services to partnerships are subject to the relevant provisions of the AML Act and they are obliged to conduct CDD when partnerships are their clients. There is no legal or practical requirement to ensure that an AML-obliged service provider is always engaged by a partnership.

136. Given that partnerships are treated as companies, the same definition of beneficial owner for companies under the AML Act applies to partnerships. However, as with all legal persons other than companies, the principle that should then be applied to partnerships is that the determination of beneficial ownership should take into account the specificities of their different forms and structures.[21]

137. In respect of the structure of GPs, all partners are jointly and severally liable for all the obligations of the GP, i.e. the control or liability of the general partners does not depend on their contribution to the partnership (s. 86, CC). This is a fundamental difference with companies, for example LLCs, where partners are liable up to the amount of their investment contribution (s. 106, CC). A new partner is also liable for the obligations of the GP incurred previous to his/her accession (s. 87). Certain important decisions, such as a change in the agreement of association, require the consent of all members of the GP, unless the agreement of association stipulates otherwise (s. 79, CC). Further, profit is distributed equally among general partners, unless the agreement of association stipulates otherwise (s. 82, CC).

138. In relation to LPs, some differences apply in the level of control when compared to general partnerships. For example, the limited partners are only liable for the partnership's obligations up to the amount of their contributions (s. 93, CC), and only the general partners are entitled to manage the business of the LP (s. 97). In other matters, the general partners and the limited partners decide jointly by a majority of votes, unless the agreement of association states otherwise. In LPs, profits are distributed among limited and general partners in the proportion established in the agreement of association, and, unless the agreement stipulates otherwise, the profit due to the general partners should be distributed in equal proportions, whereas the profit due to the limited partners should be proportional to their investment contributions (s. 100). As is the case for GPs, the concept of control through ownership is not strongly present in the legal framework for LPs, since it does not link control/profits to the capital contributions made by the partners.

139. As set out in the beneficial owner definition of the AML Act, obliged persons are required to identify the natural person who: (i) owns or controls the entity directly or indirectly through at least 25% of the shares or voting

21. See paragraphs 16 and 17 of the Interpretive Note to FATF Recommendation 24.

rights; (ii) has the right to appoint/remove the statutory/management/supervisory body; (iii) controls the entity by other means; (iv) receives at least 25% of the benefits; (v) is a member of top management. However, by applying the same approach as for companies for the identification of beneficial owners of partnerships, the AML Act is not sufficiently taking into account the differences in the form and organisational structures between these two types of legal entities. Instead, it would be more appropriate to, for example, always consider all general partners as beneficial owners when they are natural persons, and the beneficial owners behind the corporate general partners should also be identified. Depending on the particular circumstances of the partnership, there could be also other persons exercising effective control who should also be considered and identified as beneficial owners. In respect of orientation to obliged persons, there is no guidance for the identification of beneficial owners in respect of partnerships, nor for look-through approach for situations where one or more partners is a legal entity or legal arrangement (domestic or foreign), so there is no assurance that beneficial owners will be correctly identified in those circumstances. Given the facts described, **the Slovak Republic is recommended to ensure that beneficial ownership information in line with the standard is available in respect of partnerships**.

140. In relation to the control and supervision of obligations, **the same recommendations as described in A.1.1 for beneficial ownership supervision and enforcement, including in respect of inactive companies (paragraphs 92 and 109 and 119) apply to GPs and LPs in the Slovak Republic**.

Availability of partnership information in EOI practice

141. During the period under review, the Slovak Republic received 25 requests related to partnerships, and all of them were responded to by the Slovak Republic.

A.1.4. Trusts

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

Identity and beneficial ownership information of trusts

143. The concept of trust does not exist under legislation in the Slovak Republic and the Slovak Republic is not a party to the *Hague Convention on the Law Applicable to Trusts and on their Recognition*. However, under Slovak law, there are no legal restrictions for a resident of the Slovak Republic to act as trustee, protector or administrator of a trust formed under foreign law.

144. The 2014 Report concluded that the term "special-purpose trust regardless of its legal personality" (Art. 9e, AML Act) would in practice include foreign trusts administered or having a trustee in the Slovak Republic, and the AML rules would be applied accordingly. Thus, lawyers and notaries acting as trustees of foreign trusts would be obliged to apply CDD measures and maintain identity information regarding their customers. However, the information collected under the AML framework in the context of foreign trusts would not necessarily include the identity of all parties of the trust, i.e. the settlors, protectors and the beneficiaries. The 2014 Report recommended to address this issue.

145. The Slovak Republic has not addressed the recommendation from the 2014 Report.

146. Slovak authorities indicated during the onsite visit that the section of the EU 4th AML Directive that explicitly concerns trusts has not been transposed in the AML Act.[22]

147. The recent FIU beneficial ownership guidance notes that the legal order of the Slovak Republic does not recognise trusts and in the determination of their beneficial owners the definition for foundations of the AML Act (art. 6a(1)c) should be applied. However, this guidance is not binding and the applicable definition of beneficial owner for foundations is not in accordance with the definition of beneficial owner for trusts according to the international standard. Under Article 6a(1)c of the AML Act, the beneficial owner of a foundation is the natural person who:

> (1) is the founder or establisher of the trust; if a legal entity is the founder or establisher, the natural person according to

22. Article 6a of the AML Act does provide a definition of beneficial owner for a "trust". However, Slovak authorities clarified that because of translation the term "trust" is in Article 6a. However, that term does not refer to trusts as per the common law definition, but to "associations of property", which in turn are within the scope of the term "special-purpose trusts" and include "foundations, non-profit organisations providing services of general economic interest, non-investment funds or other special-purpose trust regardless of its legal personality" (art. 9e, AML Act).

letter (a) [which refers to the definition of beneficial owner for legal entities/companies],

(2) has the right to appoint, otherwise determine or withdraw the statutory body, managing body, supervisory body or audit body in the trust or any member of these or is a member of the body having the right to appoint, otherwise determine or withdraw these bodies or a member of these,

(3) is the statutory body, managing body, supervisory body, audit body or a member of these bodies,

(4) is the beneficiary of 25 % or more of the resources provided by the trust if future beneficiaries of these resources have been specified; if future beneficiaries of the resources of the trust have not been specified, the beneficial owner shall mean the circle of persons having significant benefit from the foundation or operation of the trust.

148. The FIU guidance notes that for trusts – following the beneficial ownership definition for foundations – the settlor is the "founder", the trustee is the "managing body", and the protector is the "supervisory body". This definition does not allow for the identification as beneficial owners of individuals entitled to less than 25% of the resources provided by the trust, nor for any other natural person exercising ultimate effective control over the trust. In addition, there is no look-through guidance for situations when a trust has corporate parties.

149. Since beneficial ownership information of foreign trusts does not go to the Commercial Register, that information would only be available with AML-obliged persons. However, there are no centralised sources of information on trusts and the number of foreign trusts in the Slovak Republic is not known by authorities. Tax advisors, lawyers and banks interviewed during the onsite visit expressed that it is very unusual to come across any foreign trust requiring their services. Although Slovak trustees operating a foreign trust do not appear to be common in the Slovak Republic, the definition of beneficial owners in the AML law needs to be suitably established in the context of trusts. Therefore, **the Slovak Republic is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all trusts having nexus to the Slovak Republic**.

150. As described in section A.1.1, there is insufficient oversight of the FIU for the verification of compliance of AML obligations in the non-financial sector, and no audits were performed on licensed attorneys during 2016-18. As clients of non-financial entities can include legal arrangements such as foreign trusts, **the supervision recommendation under A.1.1 also applies here**.

Availability of trust information in EOI practice

151. The Slovak authorities have never received a request for information pertaining to trusts.

A.1.5. Foundations

152. Foundations are special-purpose legal entities ("associations of property") in the Slovak Republic and can only be established to support a publicly beneficial/charitable purpose (s. 2(1), FA). As of 31 December 2018, there were 623 foundations registered with the Foundations Register under the supervision of the Ministry of the Interior (s. 2(2), FA).

153. The 2014 Report concluded that the legal and regulatory framework, in particular the Foundations Act (FA 34/2002) and its practical implementation ensured the availability of information on the founders, the board members, the directors and any other beneficiaries of a foundation (see paragraph 153 of 2014 Report). There have been no changes to the legal framework since then, except that a Register of Non-Governmental and Non-Profit Organisations[23] will replace the Register of Foundations since January 2021.

154. The main focus of the supervision of foundations is to verify whether the foundation is managed in line with its non-profit purpose (s. 37), through the submission of an annual report (s. 35). Failure to submit the annual report is subject to a penalty of EUR 1 000 (s. 36(1)). The 2014 Report found that although most foundations submitted their annual report on time (around 96%), sanctions were not imposed in the specific cases where foundations failed to submit annual financial statements or other obligatory parts of the annual report. The Slovak Republic was recommended to consider applying sanctions in cases where information is not provided. During the period under review, 94% of foundations submitted their annual reports on time. In response to the recommendation from the 2014 Report, the Slovak Republic amended the Foundations Act and established that effective from 1 January 2014, the fine applied under section 36(1) should also be imposed on foundations that failed to file their annual reports which include the financial statements into the public part of the Register of Financial Statements.[24] Sanctions in this regard were applied to 92 foundations in 2014, to 57 in 2015, to 50 in 2016 and to 39 in 2017. The total amount of fines applied from 2014 to 2017 was EUR 98 545.

23. The non-profit sector comprises, besides foundations, non-investment funds and non-profit organisations.

24. This Register is an information system established under Act 431/2002 on Accounting and administered by the Ministry of Finance of the Slovak Republic.

155. Foundations are subject to the newly established obligation to submit and register information about their beneficial owner(s) in the Register of Foundations (and from January 2021 in the Register of Non-Governmental and Non-Profit Organisations), which will subsequently transfer this data to the centralised BO register (s. 6 FA; s. 3(4) NPO Act). The definition of beneficial ownership for foundations under Article 6a(1)c of the AML Act is the same as the one reproduced in section A.1.4 at paragraph 147. However, foundations do not constitute relevant entities for the standard if they meet the following criteria, which is the case in Slovak Republic:

- Object of the foundation: the foundation must pursue a non-profit activity/a public interest/the foundation has no commercial purposes.
- Beneficiaries: the foundation has no identifiable beneficiaries.
- Distribution: the foundation does not do distribution to its members/founders (s. 33, Foundations Act).[25] All of its assets and liabilities are transferred to another foundation or to the municipality in with the liquidated foundation had its seat upon dissolution (s. 17(7)).
- Tax exemption: the foundation may be exempt from tax if certain conditions are met.
- Government oversight: foundations are registered in the NPO Register and supervised.

156. The Slovak authorities have never received an EOI request pertaining to a foundation.

A.2. Accounting records

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

157. The 2014 Report concluded that the Slovak Republic's legal and regulatory framework was adequately applied to ensure the availability of accounting information. The standard is met by a combination of Accounting Act and Income Tax Act requirements. However, the Slovak Republic was recommended to ensure that Slovak-resident trustees of foreign trusts are required to keep accounting records that fully reflect the financial position

25. The Foundations Act establishes that the assets of a foundation allocated to fulfil its publicly beneficial purpose cannot be distributed to the founder, board members and trustees or to any other person involved in the management of the foundation (s. 33).

and assets/liabilities of the foreign trust, for a minimum of five years. This gap has not been addressed by the Slovak Republic.

158. The standard was strengthened in 2016 and now clearly indicates that not only should jurisdictions require that this information be kept for at least five years, but this should be the case even where the relevant entity or legal arrangement has ceased to exist. There are no clear legal requirements under the Accounting Act for archiving and maintaining the possession or control of accounting records of dissolved companies within the Slovak Republic.

159. As for the implementation of the standard in practice, overall, there is scope for improvement in supervision to ensure the availability of reliable accounting records in the Slovak Republic. Approximately 23% of legal entities are not filing their financial statements in the Register of Financial Statements and the Slovak Republic does not know with certainty which companies are not complying. This could also limit the availability of accounting information for entities that ceased to exist. In addition, while the average tax return-filing rate for all entities was 72% only, the percentage of accounting and corporate income tax inspections and audits, even though efficient, are low (0.3% and 2%, respectively). This is not compensated by statutory audit since only 5% of the entities are subject to audit by external auditors, therefore the reliability of accounting records is not fully ascertained.

160. During the current review period, the Slovak Republic received 253 requests for accounting information and did not report any issues on the availability of such information. The Slovak Republic is rated as Largely Compliant on the availability of accounting information.

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

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

Deficiencies identified/ Underlying Factor	Recommendations
Slovak trustees of foreign trusts are not required to keep accounting records that fully reflect the financial position and assets/liabilities of the foreign trust.	The Slovak Republic should ensure that any foreign trusts which have Slovak-resident administrators for trustees maintain accounting records as required under the standard for a minimum of five years.
The Accounting Act does not specify clear procedures for archiving and maintaining the possession or control of accounting records of dissolved companies within the Slovak Republic.	The Slovak Republic is recommended to ensure that accounting records and underlying documentation of dissolved entities are within the possession or control of a person in the Slovak Republic for a minimum period of five years.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying Factor	Recommendations
There is scope for improvement in supervision for availability of reliable accounting records for all relevant legal entities and arrangements. About 23% of legal entities were not filing their accounting records in the Register of Financial Statements in the review period. In addition, accounting and tax supervision should be strengthened, especially considering the average tax filing rate (72%), and the percentage of accounting and corporate income tax inspections and audits (0.3% and 2%, respectively). It is also noted that 95% of legal entities were entitled to exemption from statutory audits.	The Slovak Republic is recommended to strengthen overall supervision to ensure the availability of reliable accounting records for all relevant legal entities and legal arrangements.

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

162. The standard is primarily met by the provisions of Act 431/2002 on Accounting (Accounting Act), supplemented by the requirements under the ITA. These requirements apply to all companies incorporated in the Slovak Republic, including private LLCs, (simple) joint stock companies, co-operatives, general and limited partnerships, foundations, non-investment funds, non-profit organisations and foreign businesses that operate in the Slovak Republic through a branch. All legal persons having their registered office in the Slovak Republic and non-resident persons doing business or conducting other activities in the Slovak Republic are considered as "accounting entities" under the Accounting Act (s. 1).

163. The regimes under the Accounting Act and Tax Income Act and their implementation in practice are summarised below.

Accounting Act

164. All accounting entities must maintain accounting records so that they present a true and fair view of their financial situation (s. 7(1)).[26] Such accounting records must also be kept correctly, verifiably, comprehensibly and in a way that ensures the permanence of the accounting records (s. 8).

26. Section 2 of the Accounting Act specifically requires accounting entities to keep accounting records evidencing: (1) the state and movements of assets and liabilities;

All transactions must be substantiated with accounting documents (ss. 6 and 10), and the retention requirement for accounting records following the year to which they relate, has been prolonged from 5 years to 10 years since 1 January 2018 (s. 35(3)). This new provision applies to archiving periods which started to run before 1 January 2018 and had not expired by 31 December 2017.

165. The main source of accounting records such as financial statements, annual reports and audit reports in the Slovak Republic are the entities themselves, who are required to submit that information to the Register of Financial Statements (s. 23 Accounting Act). The Register serves as a centralised depository of these types of accounting information from legal entities and is maintained by the Ministry of Finance. Accounting entities must deposit their individual financial statements to the Register of Financial Statements[27] within six months of the end of the accounting period. The Register of Financial Statements transfers automatically all accounting records to the Commercial Register, which keeps records for 75 years after deletion of the company from the Commercial Register.

166. In the Slovak Republic, individual financial statements of commercial companies with a share capital and of co-operatives must be audited (art. 19, Accounting Act) by a statutory auditor or an audit firm (Act 423/2015 on Statutory Audit). Under the Commercial Code (s. 58(2)), it is only mandatory for LLCs and (simple) joint stock companies to create registered capital and thus, this audit requirement excludes partnerships. Financial statements must be audited if two of the following conditions are met in two consecutive financial years: i) the total assets of the accounting entity exceed EUR 2 000 000, ii) the net turnover exceeds EUR 4 000 000 (since 1 January 2020; it was increased from earlier EUR 1 000 000 for total assets and EUR 2 000 000 for net turnover to reduce the administrative burden on entrepreneurs), and iii) the average number of employees exceeds 30 (s. 19(1)). Financial statements must also be signed by the statutory body or a member of the statutory body, which triggers their responsibility in case of inaccuracy.

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(2) the difference between assets and liabilities; (3) income and expenses; (4) cash receipts and expenditures; and (5) profit or loss of the accounting entity.

27. The following documents are deposited in the Register (s. 23): ordinary/extraordinary individual financial statements, ordinary/extraordinary consolidated financial statements, summary financial statements of public administration, reports on selected data from financial statements, auditor's reports, individual/consolidated annual reports, annual financial reports under a separate regulation, notification of the date of approval of the financial statements. Prior to 2013, annual statements had to be deposited in the Collection of Deeds held by the companies' registration courts (see paragraph 171 of 2014 Report).

Income Tax Act

167. Under the ITA, legal and natural persons who derive income from business activities, leasing, real estate or other independent gainful activities have to keep accounting records in accordance to the tax law. Documents to record include income, tax expenses, tangible and intangible assets, inventories and receivables and liabilities (s. 6(11)). Entities that conduct business must file annual tax returns within three months after the end of the tax period (s. 41, ITA), whether or not they have taxable income. For the purposes of filing a tax return, the taxpayer must prepare financial statements at the end of the tax period (calendar year) and file them in the Register of Financial Statements (ITA, s. 49(11)). Accounting records and underlying documents (to the same extent as the requirements under the Accounting Act) need to be kept until the right to assess the tax or to proceed to a subsequent tax assessment is time-barred (s. 6(11, 12), ITA), that is, for a minimum of five years from the last day of the year in which the tax return should have been filed (s. 69(3), Tax Code). There is no express provision under the ITA to keep accounting records within the territory of the Slovak Republic.

Accounting records for trusts

168. The 2014 Report found that the accounting record keeping obligations of the Accounting Act and the ITA do not apply to resident professionals acting as administrators or trustees of foreign trusts. Given that the income derived through a foreign trust is not attributable to the trustee, but to the beneficiaries who may not be in the Slovak Republic, accounting records may not always be available. The Slovak Republic was therefore recommended to ensure that Slovak-resident trustees of foreign trusts are required to keep accounting records that fully reflect the financial position and assets/liabilities of the foreign trust, for a minimum of five years (see 2014 Report paragraphs 181 and 184).

169. Since then, no legal changes have been introduced in relation to accounting record keeping requirements of trusts. Slovak authorities indicated that they are not aware of any person acting as trustee in the Slovak Republic, and in the absence of a special trust law in the Slovak Republic, whether record-keeping obligations apply would depend on the circumstances under which the Slovak trustee of a foreign trust conducts his or her activity. Therefore, the recommendation from the previous Report is maintained.

Companies that ceased to exist

170. The Accounting Act requires that all accounting entities that are legal persons keep their books from the date of their incorporation until the date of their cessation (s. 4(1)) and are obliged, prior to dissolution, to ensure that

all accounting documentation is archived (s. 35(5)). Non-compliance with the procedure for archiving accounting records for all accounting entities including upon dissolution, is subject to a fine of up to EUR 100 000 (ss. 38(1)m and 38(2)c). The Accounting Act also provides for an accounting entity to entrust the keeping of its accounting records to another legal or natural person (s. 5(1)). However, the procedure for the archiving of accounting records upon dissolution is not specified. Further, it is not clear who will be the person that will be responsible for keeping the accounting books of the dissolved entities and where his or her contact details will be maintained. Slovak authorities have advised that the Accounting Act provides flexibility for the accounting entity on how to ensure that this requirement is met and on who will be responsible for archiving its accounting records. Usually, the accounting entity provides the Financial Administration a document, such as an invoice or bank record, showing that it has entrusted a third party for keeping its accounting records and by which it declares who is going to be responsible for storing the accounting records including the contact details of this person. Nonetheless, this is not expressly provided for in the Accounting Act and there is no official document available that supports this interpretation. Based on these facts, **the Slovak Republic is recommended to ensure that accounting records and underlying documentation of dissolved entities are within the possession or control of a person in the Slovak Republic for a minimum period of five years**.

Oversight and enforcement of requirements to maintain accounting records

171. Compliance with accounting obligations under the Accounting Act is supervised by the Financial Administration. The Tax Code applies *mutatis mutandis* to the conduct of inspections, enforcement and appeal procedures under the Accounting Act (s. 38). The Financial Administration can impose fines in case of non-compliance. It also conducts separate tax audits under the Income Tax Act.

172. Under the Accounting Act, non-compliance with record-keeping provisions attracts penalties of up to EUR 3 000 000. In addition, an accounting entity that does not maintain underlying documents pertaining to its accounting records and which does not maintain its accounts such that its financial statements present a "true and fair" view of its financial position may be subject to a fine of up to 2% of its total assets. Failure to deposit financial statements in the Register of Financial Statements may be liable to fines of up to 2% of total the assets but not exceeding EUR 1 000 000 (s. 38).

173. According to Slovak authorities, approximately 23% of all commercial companies did not file their annual financial statements with the Register of Financial Statements during the review period. Slovak authorities indicated that compliance levels are actually higher, but they are undermined

by the number of interim financial statements that have to be drawn up by companies during liquidation or bankruptcy and are sent only to the Financial Administration. In these situations (about 4.4% of all companies), the annual financial statements are filed with the Register at the end of liquidation or bankruptcy. Part of the non-filers could also be companies carrying out business but not identified to be so by the Financial Administration.

174. Slovak authorities have indicated that non-compliance with the filing of financial statements in the Register may trigger an inspection in order to verify compliance with all obligations of the Accounting Act. During the period under review, the Financial Administration undertook accounting inspections and applied sanctions as follows:

Inspections and sanctions imposed by the Financial Administration under the Accounting Act

Period	Total inspections	Onsite inspections	Fines imposed from inspections (EUR)	Fines imposed from onsite inspections (EUR)	Total amount of fines imposed (EUR)
2016	61	6	468 522	3 000	471 522
2017	212	34	404 869	5 200	410 069
2018	367	6	463 945	2 150	466 095
2019	331	14	479 940	1 700	481 640
Total	**971**	**60**	**1 817 276**	**12 050**	**1 829 326**

175. Although 23% of entities did not file their financial statements with the Register, during 2016-19, only 0.3% (971 entities) of all entities registered with the Financial Administration were subject to accounting inspections and 0.02% (60 entities) to onsite accounting inspections. Slovak authorities have indicated that the selection of taxpayers for audits or inspections in the field of accountancy takes into account the results of tax audits and other investigative activities carried out by the tax auditor, and accounting inspections can also trigger tax audits. However, there are no statistics that indicate which proportion of accounting inspections and of non-filers have been subject to a tax audit separate from the inspections solely related to the Accounting Act.

176. On average, 80.6% of the Financial Administration accounting inspections resulted in fines of EUR 1.8 million. There is a significant reduction in the amount of fines applied with respect to what was reported in the 2014 Report (EUR 6.3 million, see paragraph 173 of 2014 Report). Slovak authorities have advised that this is explained for one-off findings and high fines imposed during years 2010 and 2011 to six taxpayers for an amount of more than EUR 4 million.

177. Slovak authorities have informed that the functionality of a system of automatic non-filing notification alerts of accounting records is currently being tested in the Register of Financial Statements, and the Financial Administration will impose fines on non-filing or late-filing based on the automatic notification. The recent testing of this system of alert for non-filers is an encouraging project.

178. During the review period, 98.6% of companies registered with the Commercial Register registered with the Financial Administration. Slovak authorities have informed that an information system automatically generates notifications on non-filing of tax returns, and fines are applied for late filing without the need of an inspection. During 2016-18, the average tax return-filing rate for all entities was 72%, and individually for companies was 82%, for partnerships was 71%, and for foreign companies was 63%. The number of tax audits under the Income Tax Act conducted during 2016-19 was 7 154, equivalent to around 2% of entities registered with the Financial Administration:

Tax audits conducted by the Financial Administration under the Income Tax Act

Period	2016	2017	2018	2019	Total	Total audits as % of total number of entities as of 2018
Total tax audits	**1 070**	**1 687**	**1 436**	**2 961**	**7 154**	**2.2%**
Companies	1 049	1 671	1 425	2 944	**7 089**	**2.6%**
Foreign companies	13	11	4	6	**34**	**1.3%**
Partnerships	3	1	3	7	**14**	**0.7%**
All other entities	5	4	4	4	**17**	**0.0%**

179. On average, 82.4% of the tax audits resulted in fines, and this reflects a good selection of entities for audit. Slovak authorities have explained that CIT audits are always based on risk profiles, taking into account variables such as size of the company, sector, and productivity. Difficult cases, in particular issues of related-parties transactions and international taxation, are handled by special teams within the tax administration. The largest taxpayers, where complex and specific tax audits are expected, are under the administration of a special Office for Selected Economic Entities. The additional revenue collected as a result of audits is not available. The number of audits, particularly for partnerships and foreign companies, is low, compared to tax-filling compliance.

180. Slovak authorities advise that the gap between the number of taxpayers registered with the Financial Administration and the number of tax returns is attributable to: (i) the number of companies with no activity which

may not have been deleted from the Commercial Register, although their exact number is not known (inactive companies are estimated by Slovak authorities to be 12% of the whole population); and (ii) the legal form indicated in the tax return that may not correspond to the registered legal form. In relation to companies with apparent inactivity, since they exist in the Commercial Register and for the Financial Administration, they are valid companies and may engage in transactions of relevance to EOIR.

181. While the standard does not require financial statements to be audited, statutory audit obligations assist in ensuring that reliable accounting records exist and enhance the integrity and credibility of the information, especially when other controls are not optimal. Approximately 6 840 entities exceeded the thresholds of s. 19(1) of the Accounting Act, and had their annual financial statements audited per year during the review period. This number represents around 5% of accounting entities subject to statutory audit requirements. This percentage appears very low taking into account the issues with accounting and tax filing compliance. Although Slovak authorities advise that there are no significant differences in deficiencies found between the audited accounting entities and the non-audited ones, the very limited number of accounting and tax inspections does not allow to ascertain with verifiable means the availability of reliable accounting records. Further, partnerships are not subject to the statutory audit requirement, and only 14 partnerships (0.7% of all partnerships) were subject to CIT audits during the review period.

182. In conclusion, there is scope for improvement in supervision for availability of reliable accounting records for all relevant legal entities and arrangements. Overall, about 23% of legal entities were not filing their accounting records in the Register of Financial Statements in the review period. In addition, while the average tax return-filing rate for all entities was 72% only, the percentage of accounting and corporate income tax inspections and audits, even though efficient, are low (0.3% and 2%, respectively). This is not compensated by statutory audit since only 5% of the entities are subject to audit by external auditors, therefore the reliability of accounting records is not fully ascertained. **The Slovak Republic is recommended to strengthen overall supervision to ensure the availability of reliable accounting records for all relevant legal entities and legal arrangements.**

Availability of accounting information in EOIR practice

183. There were no adverse inputs from the Slovak Republic's peers on the availability of, access to and exchange in respect of accounting information. There were 253 requests for accounting information (annual statements, fixed assets registers, etc.) in the current review period, which were responded to by the Slovak Republic to the full satisfaction of the requesting peers.

A.3. Banking information

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

184. The 2014 Report concluded that a combination of legal provisions in the AML law and licensing requirements ensured the availability of banking information related to customers and their accounts, as well as related financial and transaction information. Supervision in respect of availability of banking information carried out by the FIU and the NBS was found to be effective. There has been no change since the last review in respect of the key legal obligations concerning availability of banking information.

185. While the legal and regulatory framework remains in place, the standard was strengthened in 2016 and the issues identified under section A.1 in relation to beneficial ownership requirements, both under the legal framework and the implementation in practice, have an impact on the availability of beneficial ownership information in respect of bank account holders. The AML Act does not provide an applicable definition of beneficial owner for trusts, and the determination of beneficial owners for partnerships follows the definition of companies, which is not necessarily in accordance with the form and structure of partnerships. In addition, transparency concerns for nominees and silent partnerships have been identified. Further, simplified due diligence allows for the ease of requirements in the identification of beneficial ownership that do not meet the standard.

186. The supervision and guidance by regulatory authorities (FIU and NBS) to ensure the availability of accurate beneficial ownership information needs improvement. The recent FIU non-binding guidance for beneficial ownership identification by obliged persons including banks has some deficiencies.

187. The Slovak Republic received 143 requests for banking information during the review period. The information for two of these requests was ultimately not provided to a peer, although enforcement powers were effectively applied in these cases (please see C.5 for more details).

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

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

Deficiencies identified/Underlying Factor	Recommendations
There are no requirements under the Companies Act in relation to companies having nominee shareholdings in their ownership structure, to disclose the nominee status of the shareholders and identity information of persons whom the nominees represent (the nominators), therefore, it is not available with the company or with the Commercial Register. In addition, although the requirements under the AML Act would require that beneficial owners be identified despite the existence of nominee arrangements, in the absence of a binding guidance it is not clear that this would be effectively implemented, in particular for situations where corporate shareholders act as nominees and where no guidance is available. Similarly, Slovak laws allow for the establishment of silent partnership agreements. Although beneficial owners of silent partnerships would have to be in the Commercial Register, in the absence of binding orientation for beneficial ownership identification and considering that there is no obligation to disclose this agreement, identity and beneficial ownership information for silent partnerships may not always be available.	The Slovak Republic is recommended to ensure that accurate identity information on the nominators and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person, and to ensure that identity and beneficial ownership information is available in relation to all silent partnerships.
The determination of beneficial owners for partnerships follows the definition of companies, including taking a 25% threshold in ownership or control as a starting point. This definition is not necessarily in accordance with the form and structure of partnerships. Further, there is no guidance for the identification of beneficial owners in respect of partnerships, nor for situations where one or more partners is a legal entity or legal arrangement (domestic or foreign).	The Slovak Republic is recommended to ensure that beneficial ownership information in line with the standard is available in respect of partnerships.

Deficiencies identified/Underlying Factor	Recommendations
Persons in the Slovak Republic who act as professional trustees for foreign trusts are not obliged to identify the settlors and beneficiaries of such trusts. In addition, the AML Act does not provide for an applicable definition for the identification of the beneficial owner of all parties related to a foreign trust and there are not centralised sources of information on trusts so their number is not known by authorities. Although the recent FIU guidance notes that in the determination of beneficial owners of trusts the definition for foundations should be applied, the guidance is not binding and the definition for foundations does not allow for the identification as beneficial owners of individuals entitled to less than 25% of the resources provided by the trust, nor for any other natural person exercising ultimate effective control over the trust. Further, there is no look-through guidance on corporate parties of a trust.	The Slovak Republic is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of all trusts having nexus with the Slovak Republic.
Under simplified CDD, beneficial owners of all account holders may not be correctly identified or verified in some instances, contrary to what is required under the standard.	The Slovak Republic is recommended to ensure that beneficial owners of all account holders are required to be identified and verified in all circumstances.

Practical Implementation of the Standard: Partially Compliant

Deficiencies identified/Underlying Factor	Recommendations
From 2016 to 2019, the FIU only performed one inspection on banks, and although the NBS has initiated supervision on beneficial ownership after the amendment of the AML Act, there is scope for widening and strengthening supervision. In addition, the NBS guidelines have deficiencies in relation to the identity details to record for beneficial owners.	The Slovak Republic is recommended to strengthen its supervision and guidance to ensure that accurate and up-to-date beneficial ownership information for all account holders is maintained by all the banks in the Slovak Republic, in accordance to the standard.

A.3.1. Record-keeping requirements

189. As of December 2019, there were 27 banks in the Slovak Republic: 12 local banks and 15 foreign branches (EU banks).

Availability of banking information

190. Pursuant to the AML Act, banks are required, in line with the standard, to keep all data and written documents related to all their transactions and related CDD measures, for a period of five years after the termination of the contractual relationship with the customer or after the transaction takes place, and for a period longer than five years if the FIU requests so in matters of evidence applicable to ongoing criminal investigations and court proceedings (ss. 19(2) and 19(3)). In addition, under Act 483/2001 on Banks, banks are required to store data and copies of documents proving the identity of clients, documents certifying the ownership of funds used by clients to conduct transactions, and other documents on transactions for at least five years after a transaction or contract is concluded (s. 42(1)).

Beneficial ownership information on account holders

191. The standard as strengthened in 2016 requires that beneficial ownership information be available in respect of all account holders. Banks in the Slovak Republic are obligated to conduct CDD measures and determine and verify the identity of the beneficial owner(s) of their customers in line with the provisions of the AML Act (ss. 5, 6a, 10, 11 and 12).

192. The definition of beneficial owner is set in article 6a of the AML Act as reproduced in paragraphs 79 and 147 above. The definition of beneficial owners for legal entities/companies is broadly in line with the standard. As noted under A.1.3, the definition for companies is applicable to partnerships and is not necessarily in accordance with their form and structure. In addition, although the AML Act does not provide for a definition of beneficial ownership applicable to trusts per the common law definition, the FIU guidance notes that the definition of beneficial owner for foundations should be applied to trusts. However, the FIU guidance is not binding and the definition for foundations is not in accordance with the definition of beneficial owner of trusts according to the international standard (see A.1.4).

193. At the time of the onsite visit (January 2020), the definition in the AML Act was complemented by non-binding methodological guidelines for banks issued by the NBS in April 2019. The NBS guidelines have some deficiencies. Although the NBS guidelines indicate that the identification of the beneficial owner should follow the provisions of articles 7(1)a) and 10(1)b) of the AML Act, when explaining the details to record when identifying the

beneficial owner of a legal person, there seems to be a discrepancy with the AML Act in that the NBS guidelines indicate: the name and address of the legal person, the official register in which the legal person is registered, and data on the natural person authorised to act on behalf of the legal person (s. 11 of the guidelines). This would not necessarily result in the recording of details about the natural person beneficial owner(s) of the legal entity according to the standard. Considering that both the FIU and the NBS are supervisory authorities for banks, the interplay between the provisions in the NBS guidelines and the AML Act in relation to the identity details to record on beneficial owners is not clear (see further discussion below in paragraph 212 and 213 with recommendation to ensure accurate identification of beneficial ownership in practice).

194. In relation to nominees, the FIU guidance mentions that, for companies having nominee shareholdings, the natural person who is the nominee shareholder and who is only formally entered as the holder of e.g. 30% interest in the registered capital of a company is not a beneficial owner; rather, the beneficial owner is the natural person who is the ultimate (real) partner to the benefit, based on e.g. innominate contract on indirect representation (see A.1.1 above). However, given that the guidance is not binding, it is not possible to ascertain whether this would be effectively implemented in all circumstances. In addition, there is no clear guidance in respect of identifying the beneficial owner when a corporate shareholder acts as a nominee shareholder. With respect to silent partnerships, given its particular characteristics and opaqueness and the absence of binding guidance, this type of arrangements may undermine the transparency and the effectiveness of the identification of the beneficial owners of the entities or arrangements they relate to.

195. Finally, it was also described under A.1.1 that the FIU guidance has some deficiencies in relation to beneficial owners not being identified according to the standard for companies in bankruptcy and for companies trading in a stock exchange and subject to disclosure requirements.

196. During the onsite visit, representatives of the banks expressed that the AML Act is not very detailed and more explanations and guidance for the identification of beneficial owners were necessary. The banks also conveyed that the NBS non-binding guidelines (which were the only guidelines issued by authorities at the time of the onsite visit) were not thorough and could be improved. In particular, banks revealed that the most challenging aspect brought by the amended provisions refer to the strengthened penalties and efforts for the identification of the beneficial owners, especially by ascertaining control by other means for complex ownership structures. Banks pointed to specific challenges in carrying out their due diligence tasks in certain cases and in the absence of clear guidance. One specific example

was the silent partnership agreement, since this is not part of the formal ownership structure and banks cannot always rely on the availability of the articles of association with stipulations on the sharing of profits. However, banks were clear that they use every possible means to minimise the risk. The banks also indicated that given the absence of uniform guidance on the newly established beneficial ownership requirements, banks themselves had started updating their internal guidelines and training materials, which are supervised by the NBS.

197. The AML Act establishes that every obliged person must have an AML/CFT programme, which includes the procedures to follow when carrying out CDD (art. 20). The NBS non-binding guidelines for banks set out that obliged persons should determine the risks posed by the beneficial owner and regularly update the risk profiles of their customers. The Slovak authorities explained that banks' CDD practice for the identification of the beneficial owners is based on a statement (self-certification), which is then cross-verified by banks with information held in the Commercial Register or other available registers. The documents collected for the verification of the identity of the beneficial owner are kept in the account holder's records.

198. During the onsite discussions with banks, the sector indicated that the risk-based frequency for updating of CDD and beneficial ownership information depends on the bank and banks have different approaches and criteria according to their portfolios. One bank interviewed during the onsite visit indicated that its policy was to update high-risk clients annually, regular clients every two years, and others when a new product is opened. The banks also indicated that the updating of beneficial ownership for their old portfolios is not being done systematically in response to the new AML prescriptions, because strict deadlines have not been imposed by authorities. Since there is no explicit guidance in any binding text on the frequency of ongoing CDD, the Slovak Republic should clarify the rules concerning the updating of the CDD and beneficial ownership information to ensure a proper application of the standard (see Annex 1).

Introduced business

199. While the AML Act allows reliance on third party CDD, it is limited to a bank or financial institution that operates in a country with CDD and data retention regulations equivalent to those of the European Union, and supervised at a level consistent with the legislation of the European Union. Obliged persons cannot rely on CDD performed by a financial institution that operates in a country identified as high-risk by the European Commission.

200. The AML Act requires that the bank or financial institutions that has already applied CDD must immediately provide the bank with the identity

of the customer, the beneficial owner(s), and the purpose and nature of the business relationship, including copies of the relevant documentation (s. 13(2)).

201. This reliance on third parties does not relieve the obliged person from applying CDD measures pursuant to the AML Act (s. 13(1) and (3)).

Simplified due diligence

202. Simplified due diligence (SDD) is applied in situations where a customer is considered low risk or the customer is: (i) a financial institution that conducts its activities within the EU or operates in a third country which imposes equivalent AML/CFT requirements; (ii) a legal entity whose securities are traded on a regulated market of an EU country or operates in the territory of a third country with equivalent AML/CFT requirements; or (iii) an entity of the general government or a public authority. In addition, SDD is allowed within the scope of the identification of the beneficial owner in the specific following circumstances: (i) the account is administered by a notary or a lawyer operating in an EU member state or in a third country which imposes equivalent AML/CFT requirements; and (ii) the data on the identification of the beneficial owner is available on demand from the obliged person keeping the account (art. 11, AML Act). Slovak authorities have indicated that this data includes underlying documentation. The AML Act lists other specific circumstances under which SDD is permitted.[28] The obliged person must conduct complete due diligence if there is suspicion that the customer is carrying out an unusual business operation and if there are doubts that SDD is sufficient (art. 11(3)).

203. The provisions above would ease the procedures for the identification and verification of the ultimate beneficial owner for accounts that are managed by service providers within the territory of the EU or any other country with equivalent AML/CFT laws. The AML Act also allows for SDD in beneficial ownership when this data is available "on demand", without clear instructions on identity information being provided immediately to the obliged person and not upon request. There are no binding guidelines with clear parameters to follow for SDD and the non-binding NBS methodological guidelines give further and broad permissions to banks to adjust the amounts, frequency, quantity, quality and timing of their CDD measures, including for

28. The obliged person may also apply SDD measures for: a) life insurance policies where the annual premium is no more than EUR 1 000 or the single premium is no more than EUR 2 500; b) contracts of old-age pension savings with a pension administration company registered in the register of contracts of old-age pension savings; c) participation contract and employer contracts with a complementary pension company; d) the types of transaction representing a low AML/CFT risk based on risk assessment pursuant to Article 10(4).

the identification of the beneficial owners, in a way that is commensurate to the low risk identified.

204. Although at the onsite visit NBS authorities indicated that in practice banks may not be using SDD and banks also expressed that SDD is not used anymore and beneficial ownership information is always collected for all clients, banks also indicated that they have not initiated changes to CDD files of all accounts (including those on which SDD may have been performed in the past) based on the amendments to the AML Act. In the absence of clear binding guidance in relation to SDD, each bank may impose different parameters for SDD, which leads to the absence of a harmonised and co-ordinated approach across banks when performing SDD.

205. In conclusion, the AML Act and the NBS guidelines allow for SDD including in respect of beneficial ownership identification and beneficial owners of all account holders may not be correctly identified or verified in some instances, contrary to what is required under the standard. **The Slovak Republic is recommended to ensure that beneficial owners of all account holders are required to be identified and verified in all circumstances.**

Oversight and enforcement

206. The Act of Banks (s. 50(1)) provides for a fine of EUR 3 300 to EUR 332 000 and other sanctions than can include the revoking of the banking licence and the suspension of banking activities, for breaches pertaining to banking regulations governing the conduct of banking operations. The NBS may decide on which sanctions to impose depending on the seriousness, scope, consequences and nature of the offence. NBS supervision focuses on the systems and processes of financial institutions and their functionality.

207. The AML Act establishes that a bank that fails to comply with CDD procedures or record keeping requirements is subject to a fine of up to EUR 5 000 000 (art. 33(2)). Implementation of the AML Act is the responsibility of the FIU. The FIU conducts AML/CFT controls of obliged persons with the objective of assessing their compliance with AML/CFT legal requirements, which include reporting of unusual business operations, implementation of CDD procedures including beneficial ownership identification, reliance on third parties' CDD and documents retention (s. 26). The FIU can carry out these controls on banks subject to the supervision of the NBS and in co-ordination with the NBS, although controls can also be performed by the NBS itself, with previous notification to the FIU (s. 29).

208. As of December 2018, in the Slovak Republic there were 27 banks: 12 local banks and 15 foreign branches (EU banks).

209. FIU's supervisory activity in relation to verifying banks' compliance with AML and CDD obligations is insufficient: it performed one onsite inspection on banks during years 2016 to 2019. The FIU does not carry out desk-based AML controls.

210. The NBS authorities indicated that they carry out three to four onsite supervision visits to banks every year. During 2016-19, the NBS conducted 12 onsite visits assessing the AML/CFT area, 6 of which were performed on branches of foreign banks. Domestic banks hold 62.2% of the total assets in the financial sector, and foreign banks 9.4%. The distribution of supervision across domestic and foreign banks does not seem to correlate to their participation in the Slovak Republic's financial sector. Before the amendment of the AML Act (March 2018), a penalty of EUR 100 000 was imposed to one bank in 2017, and adequate corrective measures were taken. This bank violated 17 provisions of the Act on Banks and 2 provisions of the AML Act. Specifically, the bank did not perform CDD in relation to the client and did not identify the beneficial owner of some clients out of the sample of clients. After the onsite visit, the Slovak authorities indicated that after the amendment of the AML Act in 2018 (which has beneficial ownership definition in line with the standard), the NBS carried out six onsite supervisions on banks (two banks in 2018 and four banks in 2019), and in four out of these six onsite supervisions the NBS has identified issues in which beneficial owners were not identified or were incorrectly identified, or banks relied on self-certifications, or relied exclusively on information from the RPPS. The Slovak Republic has indicated that these four supervisions are not finished as yet by September 2020 and therefore no sanctions or remedial actions have been applied yet.

211. Before conducting an onsite visit, the NBS gives notice to the bank and asks for a sample of around 20 clients based on certain criteria, e.g. transactions undertaken within a certain period. The NBS also asks for internal documentation of the bank in the AML/CFT field and then verifies processes and IT systems for compliance with AML obligations, e.g. programme of internal AML activities, employee education, client identification, asset ownership identification, detection and reporting of unusual business transactions, basic, simplified and enhanced CDD, data and documentation retention financing. Based on the findings of the onsite supervision, the NBS can propose a list of measures and recommendations to be addressed by the banks with specific deadlines, and banks are required to report back on how they have addressed the recommendations. The NBS also carries out desk-based supervisions. For this type of controls, the NBS sends a questionnaire that deals specifically with AML-related obligations including beneficial ownership. The banks interviewed indicated that in their view, NBS supervision is quite robust, and the samples asked by the NBS are well targeted.

The offsite controls are also deemed by bank officials to be comprehensive, and are performed regularly.

212. Although NBS officials have indicated that supervision during onsite visits checks the identification and verification of beneficial ownership, the inputs received from banks in relation to beneficial ownership portfolios not being updated systematically in response to the new AML requirements because strict deadlines have not been imposed, show that the practical implementation of the beneficial ownership requirements are not being sufficiently supervised after the amendment of the AML Act. As indicated above there were only six onsite visits after the new beneficial ownership definition in line with the standard was brought into the AML Act. Further no sanctions or remedial actions have been applied yet. In addition, the NBS guidelines have certain deficiencies in relation to the identity details to record for beneficial owners as discussed earlier (see paragraph 193).

213. In conclusion, from 2016 to 2019, the FIU only performed one inspection on banks, and although the NBS has initiated supervision on beneficial ownership after the amendment of the AML Act, there is scope for widening and strengthening supervision. In addition, the NBS guidelines have deficiencies in relation to the identity details to record for beneficial owners. **The Slovak Republic is recommended to strengthen its supervision and guidance to ensure that accurate and up-to-date beneficial ownership information for all account holders is maintained by all the banks in the Slovak Republic, in accordance to the standard**.

Availability of banking information in EOI practice

214. The Slovak Republic received 143 EOI requests for banking information during the review period. These requests included information on bank statements and transactions, bank account holders and persons authorised to operate the bank account, contracts related to accounts, issued bank/credit cards, etc. Two answers to banking requests were not provided. As explained in detail in section C.5, the competent authority was able to effectively retrieve the bank information but it was not finally forwarded to the requesting party, because of a misjudgement in the scope of the information that could be exchanged with treaty partners. A recommendation to the Slovak Republic has been made in this regard (Please see C.5).

Part B: Access to information

215. 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).

216. The Financial Administration has broad access powers to obtain relevant information from any person who holds the information. However, the 2014 Report found that the scope of legal professional privilege is very wide and is not limited to giving legal advice or representation in legal matters. Information held by these professionals would therefore not be accessible to the competent authority for exchange of information purposes. A recommendation was made in the 2014 Report to ensure that domestic provisions on professional privileges allow exchange of information in line with the standard.

217. In 2018, the Slovak Republic amended Article 18 of the AML Act – which refers to the obligation of secrecy of AML-obliged persons – pursuant to which the obliged person may not claim secrecy when requested information on beneficial ownership by supervisory authorities. While this new provision will be useful when gathering beneficial ownership information, professional privilege in the Slovak Republic remains broad and could still be claimed for other types of information requested under an EOI agreement. In addition, the Financial Administration is not clearly stated as a supervisory authority by this amendment. Further, the discussions during the onsite visit revealed that the professionals are not aware of this amendment and do not agree with the exceptions to professional privilege. Even though this deficiency has not led to any failure to exchange of information so far, it should be addressed and access to information held by professionals should be monitored.

218. In the current review period, the Slovak Republic received 507 requests for information (ownership, accounting, banking, other), and access powers were successfully exercised by the Competent Authority when responding to these requests. The exchange of information unit (CLO Unit) obtained information from a variety of sources, including banks, the various registers and other information holders.

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

Legal and Regulatory Framework: The element is in place

Deficiencies identified/ Underlying Factor	Recommendations
Although the 2018 amendment to the AML Act requires obliged persons not to claim the obligation of secrecy when requested beneficial ownership information by supervisory authorities, the Financial Administration is not clearly stated as a supervisory authority by this amendment, the professional privilege is continues to be broadly defined under Slovak domestic laws and there are no express exceptions in the case of requests made under an EOI agreement.	The Slovak Republic is recommended to implement further measures to bring the scope of professional privilege in line with the standard.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying Factor	Recommendations
Although professionals are not a privileged source of information for the competent authority, taking into account the very large number of AML-obliged non-financial professionals providing a broad range of advisory services for which secrecy may be claimed, the restrictive views of the Slovak professional bodies and the lack of measures from the authorities to raise awareness among the professionals on the changes in the AML Act, it is difficult to determine whether the competent authority would in all cases be able to access information held by these professionals.	The Slovak Republic is recommended to monitor the 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.

B.1.1. Ownership, identity and banking information

220. The Slovak Republic's competent authority for exchange of information is the Central Liaison Office Unit (CLO Unit) situated in the Anti-Fraud and Risk Analysis Department of the Financial Administration. The CLO Unit is responsible for the exchange of information in the fields of direct and indirect taxes. The 2014 Report analysed the procedures for obtaining information generally and more specific rules for obtaining banking information. Generally, the same rules continue to apply.

Accessing information generally

221. The access powers for the competent authority are provided in the Tax Code. In particular, the Financial Administration can conduct local inquiries (ss. 37-39) and tax audits (ss. 44-47), issue summons (s. 20) and require witness hearings (s. 25). These measures are applicable towards taxpayers and third parties. The Financial Administration can also obtain information from third parties (s. 26) such as courts, other public authorities, local administration authorities and notaries, and from any person who has written documents and other which may be evidence in the process of tax administration (s. 26(7)). Slovak authorities have indicated that summons, witness hearings and the provisions of s. 26(7) are applicable to trustees of foreign trusts. Local tax offices, municipalities and customs offices enjoy the same powers with reference to the taxes and duties that are within their competence as the Financial Administration (s. 4(1) Tax Code).

222. For answering EOI requests during the period under review, the Financial Administration relied mainly on the following measures and sources:

- on-site inspections/local inquiries
- databases and registries: tax database (information filed with the Financial Administration and gathered in the process of tax assessments), Register of Financial Statements, Commercial Register, Register of Partners of the Public Sector, Land Register, etc.
- third parties: postal companies, press publishers, operators of websites, insurance companies, etc.
- summons and witness hearings
- tax audits.

Accessing beneficial ownership information

223. Pursuant to Article 26(17) of the Tax Code, the Financial Administration can obtain beneficial ownership information directly from obliged entities covered by the AML Act. In addition, the Financial Administration can obtain

this information from the Register of Partners of the Public Sector. As mentioned in section A.1.1, the full implementation of the Register of Legal Entities, Entrepreneurs and Public Authorities (centralised BO register) was not yet effective during the period under review and its date of implementation is uncertain. Once implemented, the centralised register will transfer the data upon request to public authorities (e.g. Financial Administration, FIU, NBS) and to AML-obliged entities (s. 7a, Act on centralised BO register). The Slovak Republic should monitor the access powers for beneficial ownership information from the centralised BO register in practice, once it is fully implemented (see Annex 1).

Accessing banking information

224. The powers under Article 26 of the Tax Code and under Article 91(4) of the Act on Banks can be used to obtain banking information. No special procedures to obtain such information are required.

225. Under Article 91(4) of the Act on Banks, protected bank information can be disclosed, without the client's consent, to the Financial Administration and to other authorities such as courts, law enforcement authorities, etc. based on a written request. Article 91(5) further states that the written request should contain "information that enables a bank or a foreign bank branch to identify the matter in question, especially the full name of the person on which data are requested and the range of the data requested". The 2014 Report clarified that this precise identification requirement is satisfied every time an EOI request contains sufficient elements which allow the identification of the person subject of the request, it not being necessary to include their name and/or address (see paragraph 212 of the 2014 Report). Further, at the onsite visit of the current review, CLO Unit officials indicated that requests about persons identified only by a bank account number can normally be processed.

226. The Slovak Republic received 143 inquiries for banking information during the review period. Whilst access powers were effectively applied, two of these requests were ultimately not provided to a peer because of a misjudgement on the scope of information that could be exchanged with treaty partners under the Banking Act. This is considered a one-off problem and is discussed further in section C.5.1.

227. During the onsite visit, Slovak authorities and bank officials expressed that requests for banking information are usually processed expeditiously through an IT system for the automatic processing of requests between banks and the competent authority, established under a special agreement with the Slovak Bank Association.

B.1.2. Accounting records

228. The powers under the Tax Code referred to in section B.1.1 can be used to obtain accounting records. In addition, the Financial Administration can obtain some accounting information from the tax database and from the Register of Financial Statements established by the Act on Accounting, as amended (see section A.1.2). During the review period, the Slovak Republic received 253 requests for accounting information and all of them were successfully accessed and provided to partners.

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

229. 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. The 2014 Report concluded that the Financial Administration can obtain all requested information without regards to any domestic tax interest. The situation remains the same.

230. Slovak authorities indicated that, during the period under review, all requests were responded to, even in cases where there was an absence of domestic tax interest. Peers did not raise any issues in this regard.

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

231. The 2014 Report concluded that the Tax Code provided for adequate sanctions to enforce the production of information. Taxpayers or third parties (including banks) that fail to comply with their obligations under the Tax Code (including not providing information required by the Financial Administration), are liable to a fine of between EUR 60 and EUR 3 000, which can be applied repeatedly until the failure is remedied (ss. 155(1)(d) and (e)).

232. In addition to the fine applied under the Tax Code, banks that fail to comply with the obligations specified in binding regulations governing the conduct of banking operations are subject to a fine imposed by the NBS, which ranges between EUR 3 300 and EUR 332 000 (s. 50(1) Act on Banks).

233. Slovak authorities have indicated that in practice, there is co-operation from taxpayers and information holders and the requested information has always been accessed and provided. No sanctions were applied.

B.1.5. Secrecy provisions

Bank secrecy

234. Bank secrecy is not an impediment to exercise access powers in the Slovak Republic. Article 91(4)(c) of the Banking Act establishes that protected bank information can be disclosed, without the client's consent, to the Financial Administration based on a written request. Further, Article 91(4)(j) expressly provides for an exception to bank secrecy, when bank information is requested by "a competent state authority for the purpose of discharging obligations arising from an international treaty binding upon the Slovak Republic, where the discharge of obligations under this treaty may not be declined on account of banking secrecy".

Professional secrecy

235. The 2014 Report identified a legal gap in respect of secrecy provisions, specifically in relation to giving legal advice or representation in legal matters, in view of the provisions under the Act on Tax Advisors (78/1992, s. 18) and Act on Attorneys (586/2003, s. 23(1)). The 2014 Report concluded that the scope of professional privilege was broadly defined and could impede access to information for the purposes of EOI. The Slovak Republic was therefore recommended to ensure that domestic provisions on professional privilege allow EOI in line with the standard.

236. Since then, although these provisions remain unchanged, the Slovak Republic amended the AML Act and as of 2018 it provides that the obliged person may not claim the obligation of secrecy to the NBS, to another supervisory authority under a special regulation,[29] and to the competent court for the identification of the beneficial owner and for the maintenance of the Register of Public Sector Partners (s. 18(5)). This provision does not expressly include the Financial Administration as a supervisory authority against which the obligation of secrecy may not be claimed. Although authorities explain that the powers under Article 26(17) of the Tax Code prevail and AML persons are obliged per this Article to directly provide beneficial ownership information to the Financial Administration upon request, no supporting evidence of this interpretation was provided.

237. During the onsite visit, professional bodies revealed that they are not aware of the amendment to the AML Act and do not agree with the exceptions to professional privilege. Tax advisors expressed that because of judicial rulings, they are bound to the same level of professional privilege as lawyers. Further, they expressed low willingness to share information with competent

29. The special regulation refers to Act 171/2015 on Gambling Games.

authorities if sought for EOIR purposes. In this regard, it appears that there are insufficient measures from the authorities to convey the changes in the professional secrecy to the industry.

238. In practice, professional bodies are not requested information for EOI purposes and the representatives of the lawyers' and tax advisors' associations indicated that they have never been approached by the Financial Administration for a request of information. The Financial Administration approaches the client directly, and not the lawyer/tax advisor. Professional bodies also expressed that it is very unusual to find lawyers or tax advisors providing services as nominees or trustees of foreign trusts, which would be a case where they could be approached directly. However, as discussed in A.1.1 (see paragraph 88), the number of non-financial AML-obliged organisational and economic advisers providing services for the establishment of diverse arrangements such as ready-made companies or virtual offices is very large (304 693 persons), and this could be persons providing services in a broad range of activities for which professional secrecy may also be claimed.

239. Legal professional privilege has had very limited impact for the exchange of information, and the Slovak Republic did not decline any requests or face any difficulties in responding to requests on grounds of these rights and safeguards (while receiving a large number of requests). Slovak Republic's partners did not raise any issue in relation to the application of the rights and safeguards of taxpayers and third parties in the Slovak Republic as this never prevented EOI.

240. To sum up, although the Slovak Republic has taken measures to reduce the scope of professional privilege, the protection of information held by professionals remains too broad and has the potential to limit effective exchange of information. The new provision under the AML Act would ensure, for example, that an AML-obliged legal professional acting as a nominee shareholder or trustee or under a power of attorney to represent a company in its business affairs is not protected by professional secrecy when requested beneficial ownership information about its client. However, the existing legal framework would still give the possibility to professionals to decline a request for information other than beneficial ownership information to the competent authority because the information is subject to professional secrecy as broadly defined in domestic law.

241. Additionally, although professionals are not a privileged source of information for the competent authority, taking into account the very large number of AML-obliged non-financial professionals providing a broad range of advisory services for which secrecy may be claimed, the restrictive views of the professional bodies and the lack of measures from the authorities to raise awareness among the professionals on the changes in the AML Act, it is

difficult to determine whether the competent authority would in all cases be able to access information held by these professionals.

242. **The Slovak Republic is therefore recommended to implement further measures to bring the scope of professional privilege in line with the standard.** In addition, **the Slovak Republic is recommended to monitor the 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**.

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.

243. The 2014 Report found that there were no issues regarding prior notification requirements or appeal rights and the element was determined to be in place and rated Compliant. There have been no relevant changes in the applicable rules and the situation as assessed for the current review remains the same.

Legal and Regulatory Framework: In place

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

Practical Implementation of the Standard: Compliant

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

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

Notifications

244. As discussed on section B.1.1, under the Tax Code, the tax authorities in the Slovak Republic can approach taxpayers or other persons holding requested information through local inquiries (ss. 37-39). There is no requirement under the Tax Code for the tax authorities to give notice to taxpayers before commencing the inspection or investigation (see also paragraph 234 of 2014 Report), before exchanging the information with the foreign partners nor afterwards.

Appeal rights

245. During the onsite visit, Slovak officials indicated that under the Tax Code, parties to a tax proceeding cannot appeal information gathering measures taken by the Financial Administration to obtain the requested information.

246. In relation to appeals on the decision that may derive from the gathering of information and the subsequent tax assessment, the parties can appeal a decision (see also paragraph 235 of 2014 Report). Slovak authorities informed that during the period under review, there was no case where EOI decisions were appealed against or challenged.

Part C: Exchanging information

247. Sections C.1 to C.5 evaluate the effectiveness of the Slovak Republic's network of EOI mechanisms – whether they provide for exchange of the right scope of information, cover all the Slovak Republic's relevant partners, contain adequate provisions to ensure the confidentiality of information received, respect the rights and safeguards of taxpayers, and whether the Slovak Republic 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.

248. At the time of the 2014 Report, the Slovak's Republic network of EOI mechanisms comprised 65 DTCs and 1 TIEA.[30] The Multilateral Convention was ratified by the Slovak Republic on 21 November 2013 and entered into force on 1 March 2014. Most of these agreements meet the international standard and therefore element C.1 was rated as "Compliant".

249. Today, based on all its bilateral, regional and multilateral EOI mechanisms, the Slovak Republic has EOI relationships with 145 jurisdictions and 139 of those are in line with the international standard (see Annex 2). It remains that 6 DTCs are still not in line with the standard and are not compensated by the Multilateral Convention. The Slovak Republic advises that there is no practical EOI relationship with those partners and that it is inclined to solve the issue of missing safeguards in deficient DTCs by partners signing the Multilateral Convention. The Slovak Republic should nonetheless update its EOI relationships that do not meet the international standard (see Annex 1). Considering the scope of the Slovak Republic's network and the overall progress made since the 2014 Report, the determination

30. Out of the 65 DTCs, 63 were into force, with the exception of Egypt and Kuwait. The TIEA with Guernsey was also not into force at the time of the 2014 Report.

for Element C.1 continues to be "element is in place" and the rating remains Compliant.

250. The determination and rating are as follows:

Legal and Regulatory Framework: In place

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

Practical Implementation of the Standard: Compliant

No issues have been identified that would affect EOIR in practice.

C.1.1. Foreseeably relevant standard

251. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic taxes of the requesting jurisdiction. The 2014 Report found that all agreements concluded by the Slovak Republic complied with the standard, including cases where the text of the treaty used "necessary" as an alternative term to foreseeable relevance (see paragraph 250 of the 2014 Report).

252. Since the 2014 Report, the Slovak Republic signed DTCs fully aligned to the foreseeable relevant standard with Armenia, Barbados, Ethiopia, Iran, Malaysia, Oman and United Arab Emirates. The Multilateral Convention complements those DTCs, with the exception of Ethiopia and Iran. The 2018 DTC with Oman (which is pending ratification) provides for the exchange of information "as is necessary" for carrying out the provisions of the agreement and Slovak authorities have confirmed that this term continues to be interpreted as being fully equivalent to the foreseeably relevant standard (see also C.1.8). Oman is signatory of the Multilateral Convention, and it will enter into force on 1 November 2020.

Clarifications and foreseeable relevance in practice

253. In practice, the Slovak Republic interprets and applies the EOI provisions of its EOI instruments in conformity with the standard. CLO Unit officials are familiar with the criteria for foreseeable relevance and the Slovak Republic would request for clarifications where necessary. In the current review period, the Slovak Republic effectively accessed but declined to furnish two requests for banking information because of a misjudgement in the scope of information that could be exchanged with treaty partners under the Banking Act (see more details in section C.5.1). This is deemed to constitute

a one-off problem and the Slovak Republic did not decline any further request because it would have not met the foreseeable relevant standard. No other issues have arisen in practice.

Group requests

254. Slovak officials have indicated that CLO Unit officials are familiar with the Commentary to Article 26 of the Model Tax Convention. However, the CLO Unit's EOI Manual does not have specific documented procedures to determine foreseeable relevance in relation to group requests. As the Slovak Republic did not receive any group requests during the peer review period, it cannot be ascertained whether CLO Unit officials are adequately trained to handle group requests in line with Article 26. The Slovak Republic should ensure that clear procedures are laid out and group requests are handled in line with the standard (see Annex 1, see also section C.5.2).

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

255. None of the Slovak Republic's EOI agreements restricts the jurisdictional scope of the exchange of information provisions to certain persons, for example to those considered resident in one of the contracting parties. No issues restricting the exchange of information in respect of the residence or nationality of the person concerned by the request or the information holder have been found. The Slovak Republic has indicated that it did not receive any request where the concerned person was neither resident of the sending country nor resident of the Slovak Republic and all requests have been responded including in cases where they concerned non-taxpayers in the Slovak Republic.

C.1.3. Obligation to exchange all types of information

256. All agreements concluded by the Slovak Republic since 2014 expressly include a provision that the requested State may not decline to supply information solely because it is held by a financial institution, a nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person. The 2014 Report found that 12 DTCs[31] might have restrictions under their domestic laws on access to bank information, and recommended the Slovak Republic to renegotiate those DTCs to include a provision similar to Article 26(5) of the OECD Model Tax Convention. Out of the 12 jurisdictions, Kazakhstan, Montenegro and Serbia signed and ratified the Multilateral Convention, and Bosnia and Herzegovina signed it but its

31. Belarus, Bosnia and Herzegovina, Egypt, Kazakhstan, Libya, Montenegro, Serbia, Sri Lanka, Syria, Chinese Taipei, Turkmenistan and Uzbekistan.

ratification is pending. The Slovak Republic has advised that there is no practical EOI relationship with the remaining partners with deficient bilateral treaties and their current position is to address the deficiencies in EOI Articles through the concerned treaty partners joining the Multilateral Convention. Jurisdictions are expected to enter into EOI agreements that conform to the standard, and the standard does not require a jurisdiction to enter into a multilateral instrument, so should a partner propose a bilateral agreement, the Slovak Republic does not exclude the alternative of concluding a TIEA, or even a protocol to the DTC, depending on individual situations. The Slovak Republic should continue to work with its EOI partners to ensure that their EOI relationships are in line with the standard (see Annex 1).

257. The EOI provision of the 2016 DTC with Iran equivalent to Article 26(5) adds that "the provisions of this paragraph shall enter into force when each Contracting State has officially notified the other Contracting State that these provisions shall enter into force". Slovak officials have advised that this wording was added as a request made by Iran due to their domestic situation at that time, and that from the Slovak Republic's side there are no obstacles which would restrict EOI on such information.

258. During the period under review, the Slovak Republic did not decline a request because it was held by a bank, other financial institution, nominees or persons acting in an agency or fiduciary capacity or because the information related to an ownership interest. The Slovak Republic declined to furnish two requests for banking information although it was able to effectively collect the information, because of a misjudgement in the scope of information that could be exchanged under the Banking Act (see section C.5.1). Nevertheless, this is considered to be a one off-problem and the Slovak Republic was able to respond to all other requests covering all types of information as per the standard.

C.1.4. Absence of domestic tax interest

259. There are no domestic tax interest restrictions on the Slovak Republic's powers to access information in EOI cases. However, the 2014 Report found that the wording of 10 DTCs[32] may be a concern in practice because EOI in the Slovak Republic is subject to reciprocity and as such will depend on the domestic limitations (if any) in the laws of its partners. Accordingly, the 2014 Report recommended that the Slovak Republic work with the concerned DTC partners to amend those restrictions. The Slovak Republic has indicated that there is no practical EOI with these 10 partners and they are generally inclined to solve the issue of missing safeguards through the Multilateral

32. Belarus, Bosnia and Herzegovina, Egypt, Kazakhstan, Libya, Montenegro, Serbia, Syria, Turkmenistan and Uzbekistan.

Convention. Since then and as mentioned under C.1.3, Kazakhstan, Montenegro and Serbia signed and ratified the Multilateral Convention, and Bosnia and Herzegovina signed the Multilateral Convention but ratification is pending. Notwithstanding the abovementioned, the Slovak Republic should continue to work with its EOI partners to ensure that their EOI relationships are in line with the standard (see Annex 1).

260. The additional agreements that the Slovak Republic has entered into since the 2014 Report all include Article 26(4) of the OECD Model Tax Convention which provides that a contracting state may not decline to supply information solely because it has no interest in obtaining the information for its own tax purposes. The Slovak Republic has reported that during the current review period, it responded to all requests, including in cases where there was absence of domestic tax interest (e.g. non-taxpayer in the Slovak Republic) and no issues have arisen in practice.

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

261. All of the Slovak Republic's EOI agreements provide for exchange of information in both civil and criminal tax matters and during the period under review, the Slovak Republic did not receive any request related to criminal matters. There are no dual criminality provisions in any of the Slovak Republic's DTCs or other EOI agreements.

C.1.7. Provide information in specific form requested

262. There are no restrictions in the Slovak Republic's domestic laws that would prevent it from providing information in a specific form, to the extent that this is consistent with its own administrative practices. This is reinforced by the Internal Directive No 216/2018, which contains guidelines and procedures for exchange of information in the field of direct taxation, including cases where the request for information includes a witness deposition. The CLO Unit confirmed that they have received and replied to EOI requests for information to be provided in specific forms requested during the period under review, such as in the form of witness hearings.

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

263. The Slovak Republic has in place the legal and regulatory framework to give effect to its EOI mechanisms. EOI agreements are given the force of law once they are approved by the National Parliament, ratified by the President of the Slovak Republic, and there is an exchange of notes on ratification or deposit of the note of ratification with the relevant EOI partner.

The Constitution of the Slovak Republic states that the provisions of EOI agreements override domestic laws.

264. The Slovak Republic's EOI network comprises 145 relationships, consisting of 70 DTCs, 1 TIEA, the EU Directive[33] and the Multilateral Convention (see Annex 2).

265. The 2014 Report noted that two DTCs and one TIEA had not been brought into force. Since then, two entered into force: the DTC with Kuwait on 21 April 2014 and the TIEA with Guernsey on 26 January 2015. Although the DTC with Egypt remains not in force because Egypt has not ratified the agreement yet, Slovak officials have informed that this DTC will never enter into force, as both countries have agreed to start negotiations for a new DTC fully aligned with the standard. This has been confirmed by Egypt. Therefore, the 2014 DTC with Egypt is removed from the list of the Slovak Republic's EOI agreements.

266. The 2014 Report also found that the provisions of the DTC with Chinese Taipei cannot be given full effect because it is not directly regulated by the Constitution of the Slovak Republic (see paragraph 277 of the 2014 Report). Because EOIR is not feasible under this DTC, it is not included in list of the Slovak Republic's EOI agreements.[34]

267. Since the 2014 Report, the Slovak Republic signed seven new DTCs, of which two (with Barbados and Oman) are not yet into force. The DTC with Barbados was signed on 28 October 2015 and was ratified by the President of the Slovak Republic on 10 January 2017, but the Slovak Republic has not yet received the note on ratification from Barbados. Barbados is a party to the Multilateral Convention so there are no restrictions for EOI in practice. The DTC with Oman was signed on 25 March 2018 but the domestic approval process in the Slovak Republic is still in progress and it is expected to be finalised by the end of October 2020. Oman signed the Multilateral Convention on 26 November 2019 and it will enter into force on 1 November 2020.

33. EU Council Directive 2011/16/EU on Administrative Co-operation in the Field of Taxation and the EU Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures.

34. This DTC was not ratified by the National Parliament or the President and takes precedence over the ITA but not over other laws in the Slovak Republic. Hence, EOI under this treaty is limited to non-taxpayer specific information and cannot be used for EOIR purposes. Slovak officials have confirmed that exchange of information is not feasible under this DTC and that no other EOI agreements regulated by the ITA are in place. The Slovak Republic further pointed out that there are no plans to conclude this type of agreement with any other jurisdiction in the future.

268. An analysis of the treaty network of the Slovak Republic is presented below.

EOI Mechanisms

Total EOI relationships, **including** bilateral and multilateral or regional mechanisms	145
In force	132
In line with the standard	126
Not in line with the standard	6
Signed but not in force	13
In line with the standard	13
Not in line with the standard	0
Among which – Bilateral mechanisms (DTCs/TIEAs) **not complemented** by multilateral or regional mechanisms	9
In force	9
In line with the standard	3
Not in line with the standard	6 (Belarus, Libya, Sri Lanka, Syria, Turkmenistan, Uzbekistan)
Signed but not in force	0
In line with the standard	0
Not in line with the standard	0

269. Out of the 71 bilateral EOI mechanisms (DTCs and TIEA) of the Slovak Republic, 62 are complemented by the Multilateral Convention and 9 are with countries which have not signed the Multilateral Convention, i.e. Belarus, Ethiopia, Iran, Libya, Sri Lanka, Syria, Turkmenistan, Uzbekistan and Viet Nam. Of these, six are not in line with the standard: Belarus, Libya, Sri Lanka, Syria, Turkmenistan and Uzbekistan. The missing safeguards (paragraphs 4 and 5 of the Model Convention) of these DTCs have been discussed in sections C.1.3 and C.1.4. The Slovak Republic should continue its efforts to ensure that all its EOI agreements are ratified and entered into force at the earliest and that they are fully and explicitly in line with the standard (see Annex 1).

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

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

270. The 2014 Report found that element C.2 was in place and rated as Compliant. The Slovak Republic has developed over the decades an extensive EOI network of bilateral and multilateral instruments, including with its biggest trading partners.

271. In the 2014 Report, the Slovak Republic was encouraged to continue to develop its EOI network with all relevant jurisdictions. Since then, the Slovak Republic has taken active steps to continue updating its network of EOI agreements with seven new DTCs with Armenia, Barbados, Ethiopia, Iran, Malaysia, Oman and the United Arab Emirates. The Slovak Republic has also initiated negotiations of DTCs or Protocols with several new or existing partners. The EOI network of the Slovak Republic further expanded by the participation of new jurisdictions in the Multilateral Convention, to reach 145 EOI partners.

272. Comments were sought from Global Forum members in the preparation of this report and no jurisdiction indicated that the Slovak Republic refused to negotiate or sign an EOI instrument with it. As the standard requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, the Slovak Republic should continue to conclude EOI agreements with any relevant partner who would so require (see Annex 1).

273. The determination and rating are as follows:

Legal and Regulatory Framework: In place

The network of information exchange mechanisms of the Slovak Republic covers all relevant partners.

Practical Implementation of the Standard: Compliant

The network of information exchange mechanisms of the Slovak Republic covers all relevant partners.

C.3. Confidentiality

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

274. The 2014 Report concluded that there are adequate provisions in the Slovak Republic's exchange of information mechanisms to ensure the confidentiality of the information received. However, according to the Tax Code, the taxpayer had the right to inspect at any time his/her tax file containing the EOI request without appropriate exceptions, and the Slovak Republic was recommended to ensure that EOI documents be kept confidential according to the standard. Since then, the Slovak Republic amended the Tax Code as recommended. The recommendation from the 2014 Report is therefore addressed.

275. All the new EOI mechanisms entered into by the Slovak Republic are in line with the international standard on confidentiality. Further, the Slovak Republic has a strong domestic tax secrecy regime applicable to persons who in the course of their tax administration duties have access to confidential tax information. The present review concludes that confidentiality of information continues to be ensured in the Slovak Republic.

276. The determination and rating are as follows:

Legal and Regulatory Framework: In place

Deficiencies identified/ Underlying Factor	Recommendations
No material deficiencies have been identified in the EOI mechanisms and legislation of the Slovak Republic concerning confidentiality.	

Practical Implementation of the Standard: Compliant

No material deficiencies have been identified and the confidentiality of information exchanged is effective.

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

277. All the Slovak Republic's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. While each of the articles might vary slightly in wording, these provisions contain all of the essential aspects of Article 26(2) of the OECD Model Tax Convention. The provisions of the Slovak Republic's EOI agreements ratified under the Constitution override domestic laws, meaning that the confidentiality provisions present therein have full legal effect in the Slovak Republic.

278. In addition, under Article 11 of the Tax Code, any information about a taxable entity obtained during tax proceedings constitute tax secrecy. Exchanged information is treated similar to other confidential tax information obtained within the framework of a tax proceeding and is protected under the Tax Code. Pursuant to Article 11(4) and Article 154(1)(j) of the Tax Code, and Article 264 of the Criminal Code, violation of tax secrecy may be sanctioned through administrative or criminal sanctions. The sanctions also cover unauthorised disclosure of confidential information received from an EOI partner.

279. The 2014 Report found that according to the Tax Code, the taxpayer or his/her legal representative had the right to inspect at any time his/her tax file containing the EOI request without appropriate exceptions, and recommended that the Slovak Republic ensure that the received request and accompanying documents be kept confidential according to the standard. Effective from 1 January 2018, the Slovak Republic amended Article 23(1) of the Tax Code, which regulates the inspection of files by the taxpayer. Taxpayers are no longer permitted to inspect their files when the EOI partner has requested that no disclosure takes place (the EOI partner does not need to provide reasons for requesting non-disclosure). Slovak officials have indicated that EOI information is always treated as secret and if a request to inspect taxpayer files is made, the Slovak Republic will ask for the permission of the concerned jurisdiction. Slovak officials have also informed that tax auditors are aware of the new Tax Code regulations, which are detailed in the Methodological Guidance No. 110/2018, and EOI documents received from other competent authorities are included in a separate tax file/folder to distinguish it from other taxpayer information. Further, Slovak authorities indicate that during the review period and after taxpayer access rights were repealed (since 1 January 2018), 218 requests (43% of the total requests received) were dealt with and no taxpayer access to the file occurred.

280. The 2016 Terms of Reference clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement 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. Slovak authorities have informed that EOI information is disclosed to other authorities only in accordance with the international legislation under which it was obtained. In the period under review, the Slovak Republic reported that there were no requests where the requesting partner sought the Slovak Republic's consent to utilise the information for non-tax purposes and similarly the Slovak Republic did not request its partners to use information received for non-tax purposes.

C.3.2. Confidentiality of other information

281. The confidentiality provisions in the Slovak Republic's EOI agreements and domestic laws do not distinguish between information received in response to a request and information received in a request; therefore these provisions apply equally to requests for information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction.

Confidentiality in practice

Human resources and training

282. All personnel in the Financial Administration are required to undergo a security screening. The security clearances of personnel in the CLO Unit must be reviewed and updated every ten years.

283. The requirements in the area of data protection and tax confidentiality are stated in the employment contract with employees and contractors. The CLO Unit also has a departure policy under which all employees have to sign a confidentiality agreement upon termination. This agreement includes the confirmation of termination of IT accesses and access rights to confidential information.

284. Employees of the Financial Administration and the CLO Unit have to take an induction programme upon initiation of their contracts, which includes tax secrecy and confidentiality requirements. In addition, the Financial Administration provides to its personnel training on personal data protection based on the European Union General Data Protection Regulation (GDPR) and organises general trainings every five years for employees and contractors who have access to or are responsible for protecting confidential information including data received through EOI.

Physical security measures

285. The building of the Financial Administration is secured with a video surveillance system in the entrance of the building. Entry to the file room in the CLO Unit with EOI requests is secured with an alarm system and only CLO Unit personnel and authorised staff have the code to activate/deactivate the alarm. Although there is no systematic controlled entry to the premises of the CLO Unit itself, which is located in the Anti-Fraud and Risk Analysis Department of the Financial Administration, CLO Unit officials explained that visitors and external contractors (e.g. IT providers, cleaning services) must be escorted at all times while in CLO Unit facilities. For contractual services that require longer permanence in the premises, a special permit

with approval of the Head of the CLO Unit and of the Security Department is required.

286. EOI requests are received via a secure channel, such as the CCN network,[35] encrypted email or via post. All requests are entered into the internal IT system for the processing of EOI requests and then are forwarded to the local tax office via the same IT system. Access to the system and to EOI documentation is restricted to the officers in charge of handling the requests and Clean Screen and Clear Desk Policies are applied.

287. During the onsite visit, it was observed that the physical documentation from exchanges is not labelled as confidential under tax treaty and for use limited to purposes in the treaty. In addition, the EOI Manual does not have an explicit reference to the amended Tax Code provision that prevents taxpayer access to EOI documents. Slovak authorities have indicated that pursuant to the Registry Rules and Plan of the Financial Administration Nº. 6/2016, the category "EA6" classifies EOI files into the group "International Administrative Co-operation according to the International Treaties and the EU legislation" and therefore as treaty protected. EOI documents received from other competent authorities are included in a tax file/folder labelled as "EA6". CLO Unit officials also explained that tax auditors are aware of the new Tax Code regulations, which are detailed in the Methodological Guidance Nº. 110/2018, and the taxpayer file including EOI documents held in the local tax office are treated according to the mentioned Methodological Guidance. Thus, if the taxpayer asked to inspect his/her file, this separate folder would not be included in the documents made available to the taxpayer. The Slovak Republic has also informed that the Financial Administration is in the process of transitioning to digital communication only. Although EOI documents are classified as being under international administrative co-operation, an "EA6" label in outgoing requests would not be identified by foreign competent authorities as a confidentiality label. Therefore, the Slovak Republic should label all individual outgoing EOI information in a way that would clearly state that EOI requests and all related documentation are classified as "confidential" and "treaty protected" (see Annex 1).

288. In practice, Slovak authorities have never encountered an instance of non-compliance or breach of confidentiality of exchanged information, and peers have not raised issues in relation to confidentiality.

35. CCN mail is the common platform based on the common communication network (CCN), developed by the European Union for all transmissions by electronic means between competent authorities in the area of customs and taxation.

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.

289. The 2014 Report concluded that, in addition to the Multilateral Convention, all but one of the DTCs concluded by the Slovak Republic (with Sri Lanka) contain a provision equivalent to the exception provided for in Article 26(3) of the OECD Model Tax Convention, which allows a State to refuse to exchange certain types of information, including information which would disclose any commercial, business, industrial or professional secret or trade process. The term "professional secrecy" is not defined in the EOI agreements and, therefore, this term would derive its meaning from the domestic law of the Slovak Republic. The Slovak Republic was recommended to restrict the scope of the protection under the term "professional secret" in its domestic laws.

290. In relation to the DTC with Sri Lanka, the Slovak Republic has informed that Sri Lanka approached it for renegotiation of the DTC in 2014 and 2018, and the Slovak Republic responded to the proposed drafts, but it is inclined to solve the issue of missing safeguards in this DTC through the Multilateral Convention. As the standard does not require a jurisdiction to enter into a multilateral agreement, the Slovak Republic should continue the efforts to bring this EOI relationship up to line with the standard (see Annex 1).

291. In relation to professional secrecy, as explained in section B.1.5, although the scope of legal professional privilege has not been clarified in Slovak domestic laws, the Slovak Republic amended the AML Act and obliged persons cannot claim the obligation of secrecy to the NBS, another supervisory authority or a competent court for the identification of the beneficial owner (s. 18(5)).The protection of information held by professional bodies still remains too broad and has the potential to limit effective exchange of information.

292. As noted in part B.1.5, professional privilege has had no practical impact for the exchange of information. Nonetheless, although the new provision under the AML Act would be useful for gathering beneficial ownership information from AML-obliged persons, the existing legal framework would still give the possibility to professional bodies to decline a request for information other than beneficial ownership information because the information is subject to professional secrecy as defined in Slovak domestic law, and even more considering the views of the professional bodies regarding their secrecy privileges (see discussion of paragraph 237). Further, the Financial Administration is not clearly stated as a supervisory authority by this AML-Act amendment

293. **It is therefore necessary that the Slovak Republic further restricts the scope of professional secrecy under its domestic laws so it is in line with the international standard.**

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

Legal and Regulatory Framework: In place

Deficiencies identified/ Underlying Factor	Recommendations
Although the 2018 amendment to the AML Act requires AML-obliged persons not to claim the obligation of secrecy when requested beneficial ownership information by supervisory authorities, the Financial Administration is not clearly stated as a supervisory authority by this amendment and professional privilege under Slovak domestic laws continues to be broadly defined.	It is recommended that the Slovak Republic further restricts the scope of the protection under the term "professional secret" in its domestic laws so as to be in line with the standard for the purpose of agreements for exchange of information.

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.

295. The 2014 Report noted understaffing and excessive workload of the EOI unit. This affected communication with partners, with insufficient status updates provided on the handling of ongoing requests. The Slovak Republic was recommended to put in place appropriate resources and measures.

296. Since then, the timeliness of EOI responses has remarkably improved, as well as communication with partners, while the volume of exchange remained stable. With the help of a new IT system for the processing of requests received and sent, status updates were sent in 84.4% of the cases and peers continue to be generally satisfied with their relationship with the Slovak Republic.

297. In all other respects, the Slovak Republic continues to perform to the standard in responding to requests, and organisational processes and procedures are complete and coherent. The conclusions are as follows:

Legal and Regulatory Framework

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

Practical Implementation of the Standard: Compliant

No material deficiencies have been identified in exchange of information in practice.

C.5.1. Timeliness of responses to requests for information

298. Over the current period under review (1 April 2016 to 31 March 2019), the Slovak Republic received 507 requests for information.[36] The information sought in these requests related to[37] (i) ownership information (82 cases, of which 50 included requests for beneficial ownership information), (ii) accounting information (253 cases), (iii) banking information (143 cases), and (iv) other types of information (83 cases). The main EOI partners of the Slovak Republic were the Czech Republic (about one third of all requests), Hungary, Poland, Austria and Germany.

299. The following table gives an overview of the Slovak Republic's times in providing a final response to these requests, together with a summary of other relevant factors impacting the effectiveness of the Slovak Republic practice.

36. The 2014 Report covered the 519 requests received by the Slovak Republic from 1 July 2009 to 30 June 2012.

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

Statistics on response time and other relevant factors

		April 2016-March 2017		April 2017-March 2018		April 2018-March 2019		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	169	100	195	100	143	100	507	100
Full response: ≤ 90 days		70	41	13	7	76	53	159	31
≤ 180 days (cumulative)		150	89	131	67	125	87	406	80
≤ 1 year (cumulative)	[A]	166	98	190	97	140	98	496	98
> 1 year	[B]	3	2	5	3	1	< 1	9	2
Declined for valid reasons		1	< 1	1	< 1	0	-	2	< 1
Outstanding cases after 90 days		99	-	182	-	67	-	348	69
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		81	82	153	84	58	89	292	84
Requests withdrawn by requesting jurisdiction	[C]	0	-	0	-	0	-	0	-
Failure to obtain and provide information requested	[D]	0	-	0	-	2	1	2	< 1
Requests still pending at date of review	[E]	0	-	0	-	0	-	0	-

Notes: a. The Slovak Republic counts each taxpayer in a request as a separate request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, the Slovak Republic count that as 4 requests. If the Slovak Republic received a further request for information that relates to a previous request, with the original request still active, the Slovak Republic will append the additional request to the original and continue to count it as the same request.

b. The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued. For the Slovak Republic, when clarifications are requested, the date of receipt of the clarification is considered to be the official date of receipt.

300. Slovak authorities have explained that requests that are not fully dealt with within 180 days typically relate to business and ownership relationships and, in particular, to requests requiring specific investigative measures, such as witness hearings, review of accounting documents, transfer pricing investigations, or evidence in complex business relationships and structures, and also to requests concerning fraudulent conduct.

301. The overall timeliness of EOI responses has remarkably improved compared to the last review, particularly with respect to responses provided within 180 days of receipt. The 2014 Report found that in average, 49% of responses were sent within 180 days, against 80.1% in the current review period. Response times within 90 days have also improved although in smaller proportion: 28% versus 31.4% under the current review. When analysing response times across years, it is observed that during the last year of

the review period responses were provided within 90 days in more than half of the requests (53.1%). This is a remarkable improvement in comparison to the 2014 Report. However, during the second year response times within the same 90-day period were noticeably lower, reaching 6.7%, which undermined the overall average. Slovak officials have explained that the reason of the longer response times during the second year is that since 1 July 2017, the Financial Administration switched to a new information system for EOIR. This was a fundamental change comparing to the previous system of EOIR processing. This significantly slowed down the processing of requests, as the CLO Unit staff had to familiarise with the new work approach. Moreover, following the system's implementation, various technical problems occurred that influenced response time limits. Since then, the Financial Administration solved these problems and made several improvements to this IT system (e.g. notifications, reporting) that have made the EOIR process much more effective.

302. The Slovak Republic declined for valid reasons two requests in the period under review because the Multilateral Convention did not cover the taxable period of both requests (2012-13). The reasons for declining the requests, which did not involve criminal aspects, were communicated to the peers, within 90 days of receipt of the first request, and within 180 days of receipt in the second case (because of the change of IT system).

303. The Slovak Republic failed to provide responses to two requests for bank information from one peer. The peer initially sent six requests for bank information, but the Slovak Republic responded that it was not able to respond to them, because doing so would have violated banking legislation. The reply to the peer however indicated that the local tax administration had obtained other relevant information in relation to the same requests. Based on this response, the peer sent a new request and received information for four out of the six cases. For the remaining two requests, the peer was notified that they could not be furnished because the taxpayers concerned were not the beneficial owners of the accounts. During the on-site visit, this issue was examined closely and CLO Unit officials explained that access powers were effectively performed and the bank statements were actually collected. However, the local tax auditor in charge of the request considered, incorrectly, that these requests were not in line with the provisions of Article 91 of the Act 483/2001 on Banks, because the bank account holders were not the same natural persons as the natural persons who were subject of the request. CLO Unit officials acknowledged that this was a misjudgement on the scope of information that could be exchanged with treaty partners and indicated that they plan to discuss the matter with the local tax office, to prevent a similar situation from happening again. CLO Unit officials also confirmed that the Slovak Republic would be able to provide the information if requested again by the peer. Even though this particular situation raised by the peer

seems to constitute a one-off problem, the Slovak Republic should ensure that all requests that are foreseeably relevant are responded in line with the standard (see Annex 1).

304. In relation to clarifications, the CLO Unit explained that, during the review period, the official date of receipt of the request was considered to be the date when the requesting jurisdiction provides all the clarifications necessary for processing the request. Although the date of receipt of the original letter is available in the system, it was not possible to make statistics on this basis in the IT system. Although during the review period the IT system did not keep records of the number of clarifications requested to jurisdictions (they were only kept within the individual files), Slovak officials assured that clarifications were a very small percentage of the total number of requests received and that they are usually sent within two weeks after the receipt of the initial request. The Slovak Republic explained that clarifications were usually sought when there was uncertainty about the identity of the taxpayer, but these were exceptional cases and requests that concerned taxpayers identified only by minimum information, such as a bank account number, can normally be processed. CLO Unit officials have updated that at present, the IT system allows for requests for clarification to be recorded. Peers have reported no issues regarding clarifications being excessive or impeding the flow of information and the comparison with the information on timeliness provided by peers confirms that this matter does not distort statistics on timeliness.

Status updates and communication with partners

305. The 2014 Report noted that the Slovak Republic did not provide updates on the status of requests systematically. This occurred mainly because the monitoring of deadlines was not automatic, required manual input and, considering the work overload, the provision of status updates was not given a priority. Since then, the Slovak Republic put in place measures to improve the processing of EOI requests. Among them, it developed an IT system for the processing of EOI requests that since July 2017 automatically notifies CLO Unit officials and tax auditors that 85 days without a response have passed since receiving a request. Based on this notification, CLO Unit officials verify the status of the request in the IT system and with the auditor responsible in the local tax office, and then send status updates to the requesting jurisdiction.

306. During the review period, where an answer was not provided after 90 days, the Slovak Republic sent status updates in 84.4% of the cases. The delivery of status updates increased consistently across the three years and during the last year of review, they were sent in 89.2% of the cases. Slovak authorities explain that status updates have not been provided in all cases,

because in many cases the final responses were sent shortly afterwards the 90-day time limit had passed and because of the excessive workload in the CLO Unit. In the peer inputs provided, the Slovak Republic's EOI partners were mostly satisfied with their EOI relationship and communication with the Slovak Republic. However, some peers reported receiving status updates "some of the time", and there is one case where no status updates were received even though all four requests took longer than 90 days to respond. Although significant progress with respect to the 2014 Report is acknowledged, the Slovak Republic should continue its efforts to put in place appropriate measures and balance staff resources to send updates whenever a partial or full response cannot be provided within 90 days (see Annex 1).

C.5.2. Organisational processes and resources

Organisation of the competent authority

307. In the Slovak Republic, the competent authority for exchange of information under the EU Directive, DTCs, TIEAs and the Multilateral Convention is the CLO Unit, which is located in the Anti-Fraud and Risk Analysis Department of the Financial Administration. The Slovak Republic's competent authority is clearly identified to partners on the Global Forum's secure competent authority's database, as well as on the CIRCABC platform[38] for EU Competent Authorities.

308. Since the 2014 Report, the number of staff in the CLO Unit increased from 13 to 16. The number of CLO Unit officials dealing exclusively with exchange of information in the field of direct taxation has remained the same (two officers), but there is one additional officer working both on direct taxation and VAT. All other CLO Unit employees are dedicated to exchange of information only within the field of VAT. During the onsite visit, CLO Unit officials expressed their plans to hire another official for full-time dedication to requests in direct taxation. The CLO Unit also has a network of 18 contact persons – two at each tax office – who are responsible for ensuring smooth co-operation between the CLO Unit and the tax auditors gathering the requested information.

Resources and training

309. Since 1 July 2017, the CLO Unit started using a new IT system through which all received and sent EOI requests are processed. This system monitors that all deadlines are kept and produces automatic reminders to

38. Communication and Information Resource Centre for Administrations, Businesses and Citizens.

CLO Unit officials and local tax auditors before deadlines are reached. The CLO Unit also has an EOI Manual (Internal Directive No 216/2018) that lays down the detailed procedure for handling EOI requests.

310. Staff in the CLO Unit are well qualified to handle EOI work. They are regularly trained in EOI processing and attend meetings on the Intra-European Organisation of Tax Administration (IOTA). In addition, upon initiation of contract, CLO Unit officials receive induction training on subjects such as the Tax Code, tax evasion, tax fraud, legislation in the field of direct taxation and accountancy.

Incoming requests

311. Procedures for the handling of EOI requests are the same for all types of requested information and there is no difference in criminal cases. EOI requests can be received electronically (CCN network or encrypted email) or via post. Physical requests are received by a post office located in another building of the Financial Administration, and are picked up by a person assigned directly by the chief of the CLO Unit. Both physical and electronic requests are entered into the IT system, which allocates a unique reference number automatically. An acknowledgement of receipt is always sent to the requesting jurisdiction.

312. The requests received are individually assessed by CLO Unit officials on whether they are foreseeably relevant, comply with all the conditions set out in the international EOI instrument, and are signed by a Competent Authority. If there is need for clarifications or the request is not complete, the CLO Unit will ask the requesting jurisdiction for more details. The CLO Unit immediately enters the request into the IT system upon request, but considers the official date of receipt of the request as the date when the requesting jurisdiction provides all the clarifications necessary for processing the request. During the period under review requests for clarification were not recorded in the IT system but at present the CLO Unit keeps records of the number of clarifications requested to jurisdictions both in the IT system and within individual file records.

313. When the request is accepted, CLO Unit officials send it to the local tax office with only the relevant information necessary for the tax auditor to gather the information requested, and the date is recorded in the IT system to monitor that the local tax office provides the response within the time limit set out in the EOI Manual. As per the procedure laid down in the EOI Manual, when the information is readily available, the tax auditor has 30 days to respond to the request. When the information is not at the disposal of the tax authorities, the tax auditor has to respond within 60 days and, in case of difficulties, a partial response must be sent to the CLO Unit providing the information obtained so far and informing when the final response

is expected. The IT system automatically notifies CLO Unit officials and tax auditors when 85 days without a response have passed since receiving a request. Then, a status update must be provided to the requesting jurisdiction. During the review period, the Slovak Republic provided status updates in 84.4% of the cases. The CLO Unit staff verifies the quality and completeness of the response received from the local tax office and, when needed, sends the response back to the local tax office for completion and correction. The date on which the local tax office sends a final response is added to the IT system and the final date entered is when the EOI is completed.

314. For requests that concern bank information, the Financial Administration, in association with the Slovak Banking Association, has implemented since 1 August 2018 a system for the electronic processing of requests, in which 23 banks (out of 27 banks in the Slovak Republic) participate. According to the CLO Unit, the processing of requests through this tool can take as little as one or two days.

Group requests

315. The Slovak Republic's EOI Manual does not have procedures to determine foreseeable relevance and deal with group requests in line with paragraphs 5.1 and 5.2 (relating to group requests) of the commentary to Article 26 of the OECD Model Convention, and during the review period the Slovak Republic did not receive any group requests. Although Slovak officials have indicated that CLO Unit officials are familiar with the Commentary to Article 26 of the Model Tax Convention, the Slovak Republic should ensure that clear procedures are laid out and group requests are handled in line with the standard (see Annex 1).

Outgoing requests

316. The Slovak Republic sent 481 requests to its treaty partners during the review period. The EOI manual contains the procedures to be followed for outgoing requests, including checklists for the information to be included in the request to ensure it meets the foreseeable relevance standard. Outgoing requests are mostly initiated by local tax offices, and CLO Unit contact persons review the requests and assist the tax auditors to ensure their quality. The requests are then sent to the CLO Unit via the IT system, previous approval of the head of the local tax office. CLO Unit officials will assess the foreseeable relevance and validity of the request and, if there are no observations, will send the translated requests via CCN network, encrypted email or postal mail. The latter format is generally used in communications with non-EU members.

317. During the period under review, the Slovak Republic received 17 requests for clarification from treaty partners (i.e. less than 4%) and overall, the Slovak Republic's EOI partners were satisfied with the quality of requests received. One peer indicated that five requests, all related to each other, needed clarification to determine foreseeable relevance but indicated that all clarifications were addressed properly and the requests have been responded to. During the onsite visit, CLO Unit officials explained that this jurisdiction sought for more information on tax audits. Another peer noted that in some instances, the requests were not addressed to the proper Competent Authority, were missing attachments, or were not delivered to the proper generic EOI mailbox. Finally, another peer reported that one request letter was missing the declaration of reciprocity. CLO Unit officials have indicated that they have taken the necessary measures to ensure that these procedural lapses do not occur in the future.

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

318. There are no factors or issues identified that could unreasonably, disproportionately or unduly restrict effective EOI in the case of the Slovak Republic.

Annex 1: List of in-text recommendations

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

- **Element A.1**: the Slovak Republic should ensure that the supervision by the courts supports the availability of accurate legal ownership information with the Commercial Register (see paragraph 55).
- **Element A.1**: The Slovak Republic should clarify the rules for AML-obliged persons and legal entities concerning the updating of beneficial ownership information to ensure a proper application of the standard (see paragraph 78).
- **Element A.1**: The Slovak Republic should monitor the exemption to file beneficial ownership information in the Commercial Register for companies registered with the RPPS (see paragraph 104).
- **Element A.1**: the Slovak Republic should implement supervisory programmes to ensure that beneficial ownership information in respect of nominees not regulated under the AML Act is recorded as per the standard (see paragraph 114).
- **Element A.1**: The Slovak Republic should ensure that beneficial ownership information in respect of legal entities with dematerialised shares is available in all circumstances (see paragraph 126).
- **Element A.3**: The Slovak Republic should clarify the rules concerning the updating of the CDD and beneficial ownership information to ensure a proper application of the standard (see paragraph 198).
- **Element B.1**: The Slovak Republic should monitor the access powers for beneficial ownership information from the centralised BO register in practice, once it is fully implemented (see paragraph 223).

- **Elements C.1.1 and C.5**: The Slovak Republic should ensure that clear procedures are laid out and group requests are handled in line with the standard (see paragraphs 254 and 315).
- **Elements C.1.3 and C.1.4**: The Slovak Republic should continue to work with its EOI partners to ensure that their EOI relationships are in line with the standard (see paragraphs 249, 256 and 259).
- **Elements C.1.8 and C.1.9**: The Slovak Republic should continue its efforts to ensure that all its EOI agreements are ratified and entered into force at the earliest and that they are fully and explicitly in line with the standard (see paragraph 269).
- **Element C.2**: The Slovak Republic should continue to conclude EOI agreements with any relevant partner who would so require (see paragraph 272).
- **Element C.3**: The Slovak Republic should label all individual outgoing EOI information in a way that would clearly state that EOI requests and all related documentation are classified as "confidential" and "treaty protected" (see paragraph 287).
- **Element C.4**: The Slovak Republic should continue the efforts to bring the EOI relationship with Sri Lanka up to line with the standard (see paragraph 287).
- **Element C.5**: The Slovak Republic should ensure that all requests that are foreseeably relevant are responded in line with the standard (see paragraph 303).
- **Element C.5**: The Slovak Republic should continue its efforts to put in place appropriate measures and balance staff resources to send updates whenever a partial or full response cannot be provided within 90 days (see paragraph 306).

Annex 2: List of the Slovak Republic's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI PARTNER	Type of agreement	Signature	Entry into force
1	Armenia	DTC	15 May 2015	1 Feb 2017
2	Australia	DTC	24 Aug 1999	22 Dec 1999
3	Austria	DTC	7 Mar 1978	12 Feb 1979
4	Barbados	DTC	28 Oct 2015	Not yet ratified in Barbados
5	Belarus	DTC	12 Jul 1999	05 Jul 2000
6	Belgium	DTC	15 Jan 1997	13 Jun 2000
7	Bosnia and Herzegovina	DTC	2 Nov 1981	17 Apr 1983
8	Brazil	DTC	26 Aug 1986	14 Nov 1990
9	Bulgaria	DTC	12 Nov 1999	2 May 2001
10	Canada	DTC	22 May 2001	18 Dec 2001
11	China (People's Republic of)	DTC	11 Jun 1987	23 Dec 1987
12	Croatia	DTC	12 Feb 1996	14 Nov 1996
13	Cyprus	DTC	15 Apr 1980	30 Dec 1980
14	Czech Republic	DTC	26 Mar 2002	14 Jul 2003
15	Denmark	DTC	5 May 1982	27 Dec 1982
16	Estonia	DTC	21 Oct 2003	29 Mar 2006
17	Ethiopia	DTC	1 Oct 2016	26 Feb 2018
18	Finland	DTC	5 Feb 1999	6 May 2000
19	France	DTC	1 Jun 1973	25 Jan 1975
20	Georgia	DTC	27 Nov 2011	29 Jul 2012
21	Germany	DTC	19 Dec 1980	17 Nov 1983
22	Greece	DTC	23 Oct 1986	23 May 1989

	EOI PARTNER	Type of agreement	Signature	Entry into force
23	Guernsey	TIEA	22 Oct 2013	12 Nov 2014
24	Hungary	DTC	5 Aug 1994	21 Dec 1995
25	Iceland	DTC	15 Apr 2002	19 Jun 2003
26	India	DTC	27 Jan 1986	13 Mar 1987
27	Indonesia	DTC	12 Oct 2000	30 Jan 2001
28	Iran	DTC	19 Jan 2016	1 May 2018
29	Ireland	DTC	8 Jun 1999	30 Dec 1999
30	Israel	DTC	8 Sep 1999	23 May 2000
31	Italy	DTC	5 May 1981	26 Jun 1984
32	Japan	DTC	11 Oct 1977	25 Nov 1978
33	Kazakhstan	DTC	21 Mar 2007	28 Jul 2008
34	Korea	DTC	27 Aug 2001	8 Jul 2003
35	Kuwait	DTC	13 Nov 2012	15 Apr 2014
36	Latvia	DTC	11 Mar 1999	12 Jun 2000
37	Libya	DTC	20 Feb 2009	21 Jun 2010
38	Lithuania	DTC	15 Mar 2001	16 Dec 2002
39	Luxembourg	DTC	18 Mar 1991	30 Dec 1992
40	Malaysia	DTC	25 Jun 2015	11 Apr 2016
41	Malta	DTC	7 Sep 1999	20 Aug 2000
42	Mexico	DTC	13 May 2006	28 Sep 2007
43	Moldova	DTC	25 Nov 2003	17 Sep 2006
44	Montenegro	DTC	26 Feb 2001	15 Oct 2001
45	Netherlands	DTC	4 Mar 1974	5 Nov 1974
		Protocol	16 Feb 1996	19 Dec 1996
		Protocol	7 Jun 2010	1 Dec 2010
46	Nigeria	DTC	31 Aug1989	2 Dec 1990
47	North Macedonia	DTC	5 Oct 2009	27 Apr 2010
48	Norway	DTC	27 Jun 1979	28 Dec 1979
49	Oman	DTC	25 Mar 2018	Not ratified in the Slovak Republic
50	Poland	DTC	18 Aug 1994	21 Dec 1995
		Protocol	1 Aug 2013	1 Aug 2014
51	Portugal	DTC	5 Jun 2001	02 Nov 2004
52	Romania	DTC	3 Mar 1994	29 Dec 1995

	EOI PARTNER	Type of agreement	Signature	Entry into force
53	Russia	DTC	24 Jun 1994	01 May 1997
54	Serbia	DTC	26 Feb 2001	15 Oct 2001
55	Singapore	DTC	9 May 2005	12 Jun 2006
56	Slovenia	DTC	14 May 2003	11 Jul 2004
57	South Africa	DTC	28 May 1998	30 Jun 1999
58	Spain	DTC	8 May 1980	5 Jun 1981
59	Sri Lanka	DTC	26 Jul 1978	19 Jun 1979
60	Sweden	DTC	16 Feb 1979	08 Oct 1980
61	Switzerland	DTC	14 Feb 1997	23 Dec 1997
		Protocol	8 Feb 2011	08 Aug 2012
62	Syrian Arab Republic	DTC	8 Feb 2009	27 Feb 2010
63	Tunisia	DTC	14 Mar 1990	25 Oct 1991
64	Turkey	DTC	2 Apr 1997	2 Dec 1999
65	Turkmenistan	DTC	8 Aug 1996	26 Jun 1998
66	Ukraine	DTC	23 Jan 1996	22 Nov 1996
67	United Arab Emirates	DTC	21 Dec 2015	1 Apr 2017
68	United Kingdom	DTC	5 Nov 1990	20 Dec 1991
69	United States	DTC	8 Oct 1993	30 Dec 1993
70	Uzbekistan	DTC	6 Mar 2003	17 Oct 2003
71	Viet Nam	DTC	27 Oct 2008	29 Jul 2009

Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).[39] The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

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

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

The Multilateral Convention was signed by the Slovak Republic on 29 May 2013 and entered into force on 1 March 2014 in the Slovak Republic. The Slovak Republic can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Nauru, Netherlands, New Zealand, Nigeria, Niue, North Macedonia, Norway, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), 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, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).[40]

EU Directive on Mutual Administrative Assistance in Tax Matters

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

40. 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, The Slovak Republic's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2016 to 31 March 2019. The Slovak Republic's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by the Slovak Republic's authorities during the on-site visit that took place from 27-29 January 2020 in the Slovak Republic.

List of laws, regulations and other materials received

Act 513/1991 Commercial Code

Act 431/2002 on Accounting

Act 566/2001 on Securities and Investment Services

Act 586/2003 on the Legal Profession and on Amending Act 455/1991 on the Business and Self-Employment Services (Business Licensing Act)

Act 34/2002 on Foundations

Act 530/2003 on Business Registers

Act 595/2003 on Income Tax

Act 563/2009 on Tax Administration (Tax Code)

Internal Guideline 216/2018 to ensure uniform procedure of tax authorities at international exchange of information in the field of direct taxation (EOI Manual)

Act 442/2012 on International assistance and co-operation in administration of taxes (EOI Act)

Act 483/2001 on Banks

Act 297/2008 Coll. on the Prevention of Legalisation of Proceeds of Criminal Activity and Terrorist

Act 315/2016 on the Register of Public Sector Partners

Act 272/2015 on the Register of Legal Entities, Entrepreneurs and Public Authorities

Act 346/2018 on Register of Non-Governmental Non-Profit Organisations

Act 147/1997 on Non-investment Funds

Act 213/1997 on Non-profit Organisations

Act 203/2011 on Collective Investment

Methodological Guidelines issued by the NBS for Banks, Payment Institutions, Insurance Companies, Investment Firms.

Beneficial Ownership Guidance issued by the FIU.

Authorities interviewed during on-site visit

Ministry of Finance

Financial Directorate

- CLO Unit

Anti-Fraud Department

Ministry of Justice

Ministry of the Interior

Financial Intelligence Unit – Slovakia

National Bank of Slovakia

Central Security Depository

Current and previous review(s)

This report is the third review of the Slovak Republic conducted by the Global Forum. The Slovak Republic previously underwent a review of its legal and regulatory framework (Phase 1) originally in 2012. The implementation of that framework in practice (Phase 2) was reviewed in 2014.

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

Summary of reviews

Review	Assessment team	Period under review	Legal Framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Ms Sylvia Moses, Virgin Islands; Mr Salah Gueydi, Qatar; Ms Francesca Vitale and Mr Guozhi Foo from the Global Forum Secretariat	n.a.	December 2011	April 2012
Round 1 Phase 2	Ms La Toya James, Virgin Islands; Mr Salah Gueydi, Qatar; Mr Radovan Zidek from the Global Forum Secretariat	1 July 2009 to 30 June 2012	December 2013	April 2014
Round 2	Ms Lela Mikiashvili, Georgia; Mr Richard Carter, Isle of Man; Ms Agnes Rojas and Mr Bhaskar Eranki from the Global Forum Secretariat	1 April 2016 to 31 March 2019	17 September 2020	December 2020

Annex 4: Slovak Republic's response to the review report[41]

The Slovak Republic confirms its strong support of the work of the Global Forum on tax transparency and its commitments to meet all necessary standards for a responsible and constructive cooperation in the tax area. We believe that the effective exchange of information in the tax area and mutual assistance and cooperation in tax matters significantly contribute to the fight against tax fraud and tax evasion.

Since the last round of EOIR assessment, the Slovak Republic underwent many steps for further improvement of the majority of assessed elements and, in particular, in the field of practical aspects of an exchange of information mechanisms, where we have reached a very good score.

Nevertheless, the Slovak Republic also understands, that the international standards are evolving quickly from the qualitative point of view to ensure a need for a stricter and even more detailed scope of availability and accessibility of relevant information to provide the tax authorities with even more reliable data. In this respect we see further room for an improvement and additional work. The Slovak Republic acknowledges the recommendations set out in the peer review report; the results are taken very seriously and will be addressed in close cooperation between the Ministry of Finance, Financial Administration and other relevant bodies through organising all necessary follow-up activities in order to implement the recommendations contained in the report.

Finally, the Slovak Republic would like to highly appreciate and thank to the assessment team and Global Forum Secretariat for their hard work, professional and cooperative approach during peer review process. We also express our gratitude to the members of the Peer Review Group for their constructive comments, which improved the accuracy and completeness of the report. Furthermore, we also highly appreciate the cooperation of all national institutions and agencies in the Slovak Republic that assisted in the review process.

The Slovak Republic continues to be committed to the process of exchange of information and tax transparency within the Global Forum.

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

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request SLOVAK REPUBLIC 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 the Slovak Republic.

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