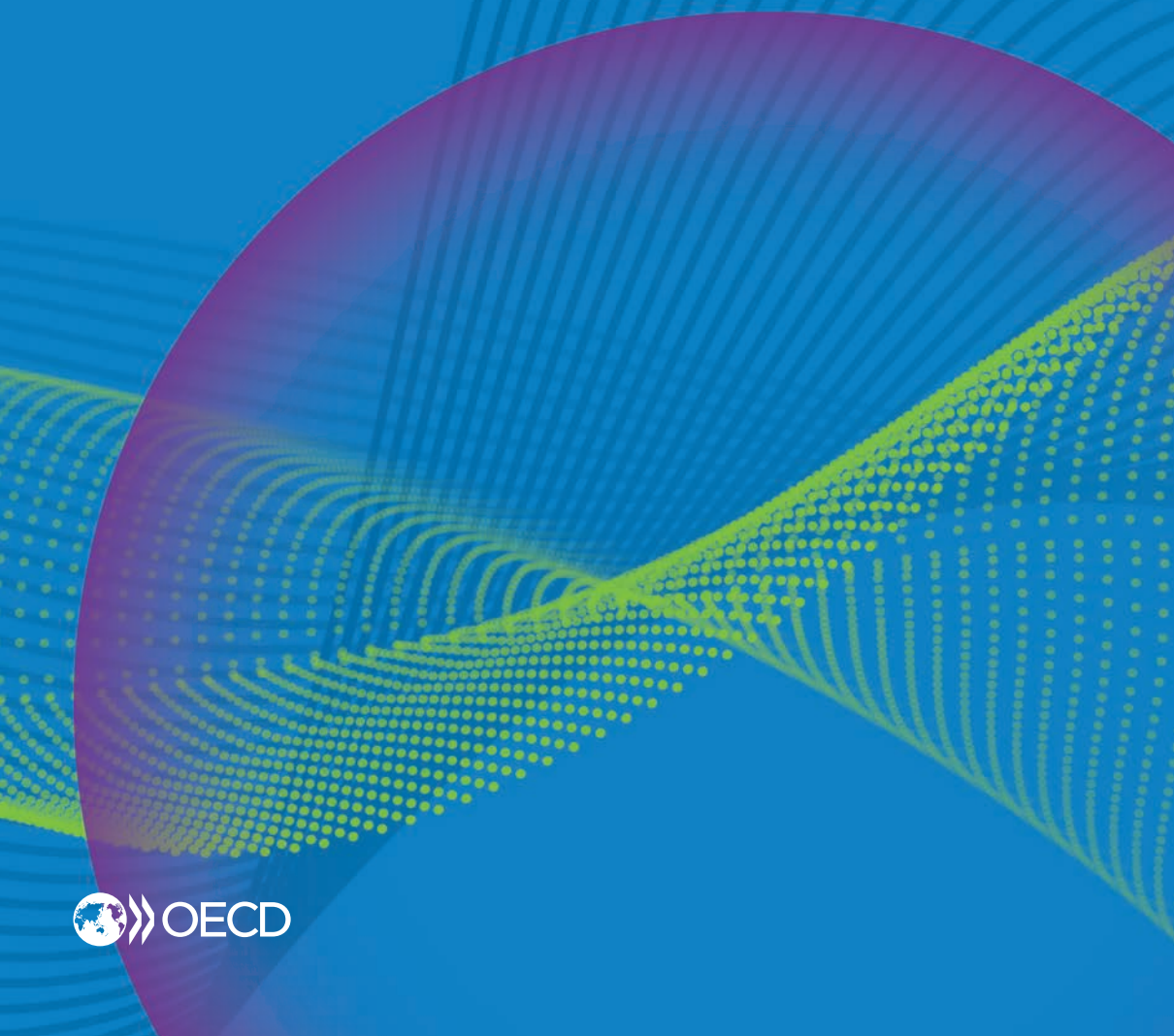
GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

ICELAND

2022 (Second Round)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Iceland 2022 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes on 10 October 2022 and adopted by the Global Forum members on 7 November 2022. The report was prepared for publication by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

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

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

Please cite this publication as:
OECD (2022), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Iceland 2022 (Second Round): Peer Review Report on the Exchange of Information on Request*, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Publishing, Paris, https://doi.org/10.1787/f27a2398-en.

ISBN 978-92-64-78639-4 (print)
ISBN 978-92-64-64807-4 (pdf)

Global Forum on Transparency and Exchange of Information for Tax Purposes
ISSN 2219-4681 (print)
ISSN 2219-469X (online)

Photo credits: OECD with cover illustration by Renaud Madignier.

Corrigenda to publications may be found on line at: www.oecd.org/about/publishing/corrigenda.htm.

Table of contents

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
AFS	Annual Financial Statement
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BO	Beneficial Owner
CDD	Customer Due Diligence
DIR	Directorate of Internal Revenue
DoC	Directorate of Customs
DTI	Directorate of Tax Investigations
DTC	Double Taxation Convention
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EEA	European Economic Area
EFTA	European Free Trade Association
EU	European Union
FSA	Financial Supervision Authority
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IRC	Iceland Revenue and Customs

ISK	Icelandic Króna
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
STR	Suspicious Transaction Report
TIEA	Tax Information Exchange Agreement
VAT	Value Added Tax

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request (the standard) in Iceland on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 29 July 2022 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of EOI requests received and sent during the review period from 1 January 2018 to 31 December 2020. This report concludes that Iceland is rated overall **Largely Compliant** with the standard.

2. In 2013, the Global Forum evaluated Iceland in a combined review against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice. The report of that evaluation (the 2013 Report) concluded that Iceland was rated Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2013)	Second Round Report (2022)
A.1 Availability of ownership and identity information	Compliant	Largely Compliant
A.2 Availability of accounting information	Compliant	Largely Compliant
A.3 Availability of banking information	Compliant	Largely Compliant
B.1 Access to information	Compliant	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	Compliant	Compliant
C.4 Rights and safeguards	Compliant	Compliant
C.5 Quality and timeliness of responses	Compliant	Partially Compliant
OVERALL RATING	**COMPLIANT**	**LARGELY COMPLIANT**

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

Progress made since previous review

3. The 2013 Report concluded that Iceland's legal and regulatory framework for EOIR was fully in place and implemented in a way that complied with the standard. Iceland has nonetheless continued to strengthen its implementation for the EOIR standard. In particular, Iceland continued its efforts to appropriately exercise its supervisory and enforcement powers to ensure the availability of banking information, which was a point the 2013 Report had encouraged Iceland to do.

4. Iceland has also continued expanding its network of exchange of information (EOI) relationships by concluding and updating a number of bilateral EOI agreements, as set out in Part C of the present report.

5. Furthermore, in relation to the new requirement of the transparency standard to ensure the availability of beneficial ownership information, Iceland has introduced substantive legislative changes to its anti-money laundering and counter-financing of terrorism (AML/CFT) framework. The new AML/CFT Law came into force on 1 January 2019 and is supplemented by regulations which became effective on 12 August 2019 to provide AML-obliged persons with more specific directions for customer due diligence to obtain, verify and retain information on the beneficial owners of their customers. The Competent Authority has access to the information obtained by the AML-obliged persons. Iceland also substantively changed its legal and regulatory framework with the 2019 Act on Registration of Beneficial Owners. This Act establishes an obligation upon Icelandic legal persons and legal arrangements, including Icelandic resident trustees of foreign trusts, to obtain, verify and retain information on their beneficial owners, to report this information to the Iceland Revenue and Customs (IRC) and to update the IRC of any changes, within two weeks of such changes. Pursuant to this Act, the IRC established a central public beneficial ownership register, which started operations in March 2020. The register is available and accessible, to varying extent, by supervisory authorities, AML-obliged persons and the general public. The register is now the primary source of beneficial ownership information for the IRC and is complemented by the AML/CFT framework. Taken together, the Act on Registration of Beneficial Owners and the AML/CFT Law provide that beneficial ownership information is available from a public registry, from the legal entities and legal arrangements themselves as well as from financial institutions and other AML-obliged persons.

Key recommendations on transparency

6. The key recommendations on transparency in the present report relate to two aspects of the standard that had not been assessed in the 2013 Report: beneficial ownership, and the availability of accounting information related to entities after they have ceased to exist.

7. First, the legal framework of Iceland requires the availability of information on the legal and beneficial owners of legal entities and arrangements in a way that globally meets the standard, except for two specific points related to the transparency in the use of nominee shareholders (see Element A.1) and to the requirement for the identity of beneficial owners of bank accounts to be up to date (see Element A.3). Importantly, there are deficiencies in the monitoring and supervision framework with respect to ensuring that relevant legal entities and legal arrangements obtain, verify, retain and update information on their beneficial owners in an internal register kept at their registered office in Iceland. There are also deficiencies with respect to the monitoring and supervision measures aimed at ensuring that the information submitted by relevant legal entities and legal arrangements to the central register of beneficial owners held at the IRC is adequate, accurate and up to date. Therefore, for Elements A.1 and A.3, Iceland has been recommended to put in place a comprehensive and effective supervision programme to ensure the availability of adequate, accurate and up-to-date beneficial ownership information for all relevant persons and bank accounts.

8. Second, deficiencies have been detected in the legal framework with respect to entities that have ceased to exist. Accounting information may not always be available for five years after the entity ceased to exist, which is not in line with the standard and should be rectified (Element A.2).

Exchange of information in practice

9. In the years 2018-20, Iceland received 40 requests for information from its partners and provided almost all information requested. However, the effectiveness of exchange from Iceland has deteriorated compared to the first review period (2009 to 2011). Iceland has a dedicated centralised EOI unit and procedures in place for handling requests, but because this unit is very small, any change in staff may lead to disorganisation and delays. This situation happened during the review period, and therefore the situation deteriorated in terms of timeliness of exchanges and Iceland received recommendations to address the issues noted in the report.

Key recommendations on exchange of information

10. Iceland experienced delays in answering requests and did not properly communicate the situation to its EOI partners. Therefore, for Element C.5, Iceland is recommended to monitor the processes and guidance in place to ensure that all requests are answered in a timely manner and that status updates are provided as required (see Element C.5).

Overall rating

11. Iceland has been assigned a rating for each of the ten essential elements as well as an overall rating. The ratings for the essential elements are based on the analysis in the text of the report, taking into account any recommendations made in respect of Iceland's legal and regulatory framework and the effectiveness of its exchange of information in practice. On this basis, Iceland has been assigned the following ratings: Compliant for Elements B.1, B.2, C.1, C.2, C.3 and C.4, Largely Compliant for Elements A.1, A.2 and A.3, and Partially Compliant for Element C.5. In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Iceland is Largely Compliant.

12. This report was approved at the Peer Review Group of the Global Forum on 10 October 2022 and was adopted by the Global Forum on 7 November 2022. A follow up report on the steps undertaken by Iceland to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2023 and thereafter in accordance with the procedure set out under the Methodology for peer reviews and non-member reviews.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place but needs improvement	Although nominees are under obligation to maintain records of each person for which they act as nominees, including the number of shares and the name of the public limited company in which the shares are held, there is no requirement for the nominees to disclose their status as nominee shareholders to the public limited company.	Iceland is recommended to establish an obligation for all nominees, where they act on behalf of another person, to disclose their status as nominee shareholders to the public limited company.
	Relevant legal entities and arrangements must notify the Register of Enterprises of changes to their beneficial owners within two weeks of such changes. However, unless the beneficial owners of a legal entity or arrangement voluntarily inform the legal entity or arrangement of changes in their status as a beneficial owner, there are no mechanisms for such legal entity or arrangement to become aware of changes in its beneficial owners, which may lead to a situation where the beneficial ownership information maintained by the legal entity or arrangement or filed with the Register of Enterprises is not always up to date.	Iceland is recommended to provide a mechanism for updating beneficial ownership information in the beneficial ownership register held by legal entities and arrangements and the beneficial ownership register held by the Register of Enterprises to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant entities and arrangements, in accordance with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
Largely Compliant	Iceland is yet to design and implement an appropriate supervisory programme and procedures for verifying whether the persons indicated as beneficial owners indeed meet the definition provided in the law, ensuring the adequacy and currency of beneficial ownership information held at the centralised beneficial ownership register; and for ensuring that all relevant entities and arrangements obtain and maintain information on their beneficial owners in an internal register.	Iceland is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure that adequate, accurate and up-to-date beneficial ownership information for all legal entities and legal arrangements is available at all times, in line with the standard.
	Before the introduction of the new requirements on the maintenance and the disclosure of beneficial ownership information under the Act on Registration of Beneficial Owners on 27 June 2019, Iceland relied only on its anti-money laundering framework to ensure the availability of beneficial ownership information. However, there was no supervision mechanism in place to ensure that non-financial professionals identified and maintained the beneficial ownership information for their customers under the AML framework until 31 December 2018. Since 1 January 2019, the Icelandic authorities have undertaken supervision and enforcement measures to ensure the availability of beneficial ownership information with non-financial professions and it appears that they do not conduct CDD to determine and/or verify the beneficial owners of their customers.	Iceland is recommended to strengthen the supervision programmes over non-financial professionals to ensure the availability of adequate, accurate and up-to-date beneficial ownership information in line with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
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	There is no requirement for accounting records and underlying documentation to be retained in the case entities or arrangements cease to exist, are liquidated or are stricken off in Icelandic law except where there are bankruptcy proceedings.	Iceland is recommended to ensure that accounting records and underlying documentation are retained for at least five years for entities and arrangements that cease to exist or entities that are liquidated or struck off.
Largely Compliant		
Banking information and beneficial ownership information should be available for all account-holders *(ToR A.3)*		
The legal and regulatory framework is in place but needs improvement	There is no specified frequency for banks to update customer due diligence which may lead to situations where the available beneficial ownership information on customers is not up to date.	Iceland is recommended to ensure that, in all cases, adequate, accurate and up-to-date beneficial ownership for all bank accounts is available in line with the standard.
Largely Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information *(ToR B.2)*		
The legal and regulatory framework is in place		
Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
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		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties *(ToR C.4)*		
The legal and regulatory framework is in place		
Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	

Determinations and ratings	Factors underlying recommendations	Recommendations
Partially Compliant	Iceland has a dedicated centralised exchange of information unit and procedures in place for handling requests. However, Iceland experienced delays in answering requests in a number of cases.	Iceland is recommended to monitor the processes and guidance in place to ensure that all requests are answered in a timely manner.
	Iceland did not provide status updates in a number of cases that took more than 90 days.	Iceland is recommended to monitor the procedures and processes in place and ensure that status updates are provided to its treaty partners where necessary, in line with the standard.

Overview of Iceland

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

Legal system

14. Iceland is a parliamentary, representative and democratic republic of a multi-party system. Executive power is vested in the President and the Government. The President is the Head of State. Executive power is mainly exercised by the Government, which is headed by the Prime Minister and his/her Cabinet. The Prime Minister usually serves a four-year term, with general parliamentary support and by formal appointment by the President of Iceland. Legislative power is exercised by both the Government and the Parliament (*Alþingi*). The Parliament is composed of 63 members representing eight constituencies. Parliamentary members are elected through proportional representation for four-year terms, unless Parliament is dissolved sooner. The Parliamentary assembly sits as a unicameral legislature.

15. The Judicial System in Iceland consists of eight District Courts, presided over by a Court of Appeal and the Supreme Court of Iceland. All court actions commence at one of the eight District Courts located around Iceland. The Court of Appeal was introduced on 1 January 2018. This replaced the former two-tier system with a three-tier system, with the Court of Appeal sitting between the District Courts and the Supreme Court of Iceland. A decision of the District Court can be appealed to the Court of Appeal, provided specific conditions for appeal are satisfied. An appeal against the decision of the Court of Appeal can only be made to the Supreme Court if specific more stringent conditions are met. In most cases, the judgment of the Court of Appeal will be the final resolution in the case. The only specialised courts are the Labour Court, which deals with employment related disputes, and *Landsdómur*, a special high court with jurisdiction to handle cases where Icelandic Cabinet members are suspected of criminal behaviour. All other courts have the power to consider all other cases, including cases relating to tax matters. With respect to tax matters, a taxpayer may initiate a case at the Internal Revenue Board instead of the District Court. The decision of the

Internal Revenue Board can be appealed to the District Court, and subject to meeting the specific conditions, a further appeal can be lodged with the Court of Appeal and afterwards with the Supreme Court.

16. The Icelandic legal system is formed of a combination of civil law, common law, conventions and customary law. The Constitution is the supreme law; it determines the leadership arrangement of Iceland and preserves the human rights of its citizens. The Constitution also states that no tax can be levied, abolished or lowered unless authorised by law. The hierarchy of legal norms in the Icelandic legal system ranks as follows: (i) the Constitution; (ii) statutory legislation (i.e. primary legislation); (iii) regulatory statutes (i.e. secondary legislation); (iv) precedents; (v) customary law; and (vi) legal practice/tradition of culture (refers to considerations of fairness, justice and feasibility as to needs of the society and resembles to some extent the Anglo-American legal term equity). According to Icelandic principles of legal interpretation as established through case law, there is an undisputable duty on courts and other professional interpreters of statutory law to take into consideration the legislative explanatory notes to the extent that they do not contradict the wording in the legislation. Iceland adheres to the principle of dualism in matters of international law: ratified international treaties are binding on Iceland according to international law but do not assume the force of domestic law in Iceland. Should a question between domestic law and international treaty arise in court, the court would interpret the law in light of the treaty. In the context of tax, Article 119 of the Income Tax Act provides the legal basis for the modification of Icelandic domestic tax provisions through international tax agreements. Icelandic courts have taken into account the provisions of international tax treaties in the context of determining tax disputes in Iceland.

Tax system

17. In the income years 2018 and 2019, Iceland imposed taxes at both the state and municipal levels. Since 2020, Iceland has imposed taxes like it was for the period 2009-16. For state income tax, in 2020, individuals are progressively taxed at rates between 35.04% and 46.24%. If annual income is below ISK 1 870 828 (EUR 12 908) no income or municipal income tax is to be paid. The corporate income tax rate is 20% for companies and 36% for partnerships registered as taxable entities. The net wealth tax introduced in 2012 has not been applied since 2013. The standard rate of value added tax (VAT) is 24% with a reduced rate of 11%.

18. For income tax purposes, Icelandic residents (whether individuals or legal persons) are subject to unlimited tax liability on all their worldwide income. Individuals are considered resident for Icelandic tax purposes if

they stay in Iceland for an aggregate of 183 days or longer in any 12-month period. Former residents remain subject to unlimited tax liability for three years after leaving Iceland, unless they demonstrate that they have become subject to taxation in another country. Companies are considered resident in Iceland for income tax purposes if they are incorporated in Iceland or have their place of effective management in Iceland. Companies are subject to income tax on their worldwide income. Dividends received by individuals and other non-corporate shareholders are taxed at a lower rate than earned income.

19. Non-resident individuals and companies are subject to income tax on their income sourced in Iceland. Non-resident individuals are generally taxed at a rate of 20% plus the average municipal tax (in 2020 it was 14.44%). Non-resident companies are taxed at the same rate as resident companies. Withholding tax with respect to payments by Icelandic residents to non-residents applies at the following rates: dividends (22% for non-resident individuals; 20% for non-resident companies), interest (12%) and royalties (22%).

20. The following bodies within the Icelandic Ministry of Finance and Economic Affairs are involved in taxation matters: the Revenue and Taxation Department, the Iceland Revenue and Customs (IRC) and the State Internal Revenue Board. The IRC was formed during the review period and involved the merger of the Directorate of Internal Revenue (DIR) and the Directorate of Customs (DoC) from 1 January 2020.

21. The Revenue and Taxation Department at the Ministry of Finance and Economic Affairs is in charge of implementation of the main policy lines established at the level of the Ministry of Finance and Economic Affairs, as well as the co-ordination of legal aspects, collection of taxes and international issues. The IRC is in charge of operational aspects concerning direct and indirect taxation: tax assessments, tax audits/controls, advisory services for the public and the operation of the Register of Enterprises, Register of Annual Accounts and IT tax systems. The IRC also collects all the taxes in Iceland: customs duties, excises, VAT, income taxes, road and vehicle taxes, or social taxes and has its duties related to customs operations. On 31 December 2020, there were 455 employees at the IRC, organised in 14 offices around Iceland. The functions of the Directorate of Tax Investigations (DTI) which merged into the IRC effective 1 May 2021 included conducting investigations on cases where there is a suspicion of tax fraud and, where necessary, preparing criminal cases for further investigation by the Office of the District Prosecutor. The State Internal Revenue Board rules in cases of disagreement between taxpayers and the IRC, as well as on fines imposed by the IRC.

22. The IRC processes tax returns filed by individuals and companies in March and May, respectively, each year. In practice, the IRC pre-fills tax returns with information received in February of that year through obligatory annual reporting by third parties (such as employers, pension funds, banks and other financial institutions and Icelandic companies which pay out dividends). Such information includes wages, commissions and pension payments, interest and capital payments, deposits, loans and debts, information on immoveable assets, and dividend.

23. The IRC maintains a comprehensive database of information on taxpayers, which contains information collected through the annual reporting obligations mentioned above, annual tax returns as well as through the population register maintained by the National Register (described further below). In addition, the Register of Enterprises, which maintains registration information on all legal entities engaged in business as well as the Register of Annual Accounts, is located within the IRC.

24. An identity number (*kennitala*) system is also operated for individuals by the National Register. This number is integral to the conduct of everyday activities in Iceland: it is required for opening bank accounts, conducting transactions, receipt of any payments (including wages) and identifying individuals for social security and tax filing purposes. Non-resident individuals may also obtain an Icelandic identity number, for example, if they wish to open an Icelandic bank account. In all cases, a third party will apply on an individual's behalf for an Icelandic identity number (in this example, the bank). The National Register maintains up-to-date registration information to which the Icelandic tax authorities have access. In the case of Icelandic resident individuals, such information includes an individual's name, date of birth, current and previous marital status, current and previous addresses. In the case of non-resident individuals, directly available information includes name, date of birth, nationality and gender, and the identity of the third-party applicant. The wide usage of the Icelandic identity number in everyday activities and transactions aids the tracing of transactions carried out by individuals.

Financial services sector

25. Iceland's financial sector contributes approximately 5% to its GDP and as at 31 December 2020 the net asset held by banks was approximately ISK 700 billion (EUR 4.8 billion) with four commercial banks, four savings banks, three credit undertakings and nine investment firms under the supervision of the Financial Supervisory Authority (FSA).[1] The Icelandic

1. The FSA operated as an independent authority until 1 January 2020 when it was merged to the Central Bank of Iceland.

banking sector has total assets of ISK 4 212 billion (EUR 28.88 billion) which is equivalent to 140% of Iceland's GDP in 2020. The Icelandic banks' asset base is predominately domestic: total domestic assets are ISK 3 789 billion (EUR 25.88 billion) representing 90% of total assets. The banks are predominantly funded by domestic deposits which amount to ISK 2 176 billion (EUR 14.92 billion).[2] In addition, there were two payment institutions, one deposit and investors guarantee fund, one electronic money institution and four insurance companies making a total of 28 financial institutions. There are no foreign banks operating in Iceland.

26. The FSA also oversees the compliance of financial institutions with the Icelandic anti-money laundering and counter terrorist financing law (AML/CFT), which transposes the EU Fourth Money Laundering Directive into Iceland's domestic law. In addition, the FSA supervises insurance companies and intermediaries, pension funds, service providers of virtual assets, currency exchanges and credit providers.

27. Only limited liability companies licensed by the FSA are permitted to operate stock exchanges in Iceland. There is currently one such exchange operating in Iceland: The Icelandic Stock Exchange, which is operated by NASDAQ OMX Group. There are currently 20 listed companies. All securities listed and traded on the Icelandic Stock Exchange must be held through the Icelandic Security Depository (an electronic clearing system).

Anti-money laundering framework

28. The Measures against Money Laundering and Terrorist Financing Act No. 140/2018 (AML/CFT Law) entered into force on 1 January 2019 and repealed Act No. 64/2006 on the same matter. The AML/CFT Law transposes into the Icelandic legal system European Union Directive 2015/849/EU on the prevention of the use of the financial system for the purposes of ML/TF (Art. 57, AML/CFT Law).

29. The AML/CFT Law imposes obligations on a wide range of entities and professionals, requiring them to conduct customer due diligence (CDD) and identify and verify the identity of customers and their beneficial owners (BOs).

30. Based on the AML/CFT Law, Regulation No. 745/2019 on CDD Concerning Measures against Money Laundering and Terrorist Financing, enacted on 12 August 2019, provides more specific directions for CDD measures.

2. European Banking Federation, "Iceland's Banking Sector: Facts and Figures" as at December 2021: https://www.ebf.eu/iceland/.

31. AML-obliged persons are supervised by two main regulators: FSA is responsible for the supervision of financial institutions and IRC is responsible for the supervision of non-financial professionals. The AML/CFT Law empowers them to apply certain coercive measures and sanctions, i.e. corrective actions, daily fines, administrative fines, suspension of the boards of directors and managing directors and revocation of operating licences and also allows supervisors to enter into binding settlements with AML-obliged persons to conclude cases.

32. The AML/CFT Law was a direct result of actions encouraged by the Financial Action Task Force (FATF) following Iceland's Mutual Evaluation in 2017. Iceland's Mutual Evaluation Report was published in April 2018 with Partially Compliant ratings for Recommendations 10 (customer due diligence by financial institutions), 22 (customer due diligence by other AML-obliged persons), 24 (transparency and beneficial ownership of legal persons) and 25 (transparency and beneficial ownership of legal arrangements) and low effectiveness ratings for Immediate Outcomes 3 (supervision) and 5 (legal persons and arrangements).[3] It contained over 50 actions that Icelandic authorities were encouraged to address. This resulted in Iceland being put on the list of jurisdictions under increased monitoring and the adoption of an action plan to solve the issues still considered outstanding, which included ensuring the access to accurate basic and BO information for legal persons by competent authorities in a timely manner. Icelandic authorities undertook initiatives to improve technical compliance and effectiveness, including carrying out a second national risk assessment, comprehensive outreach to deepen the understanding of relevant risks across sectors, enhancing risk-based supervision for both financial institutions and non-financial professionals and significantly strengthening the capacities of investigation and law enforcement authorities. In the Follow Up Report adopted by the FATF Plenary at its June 2019 meeting, the technical compliance of Iceland with respect to Recommendations 10 and 22 were re-rated as Compliant while Recommendations 24 and 25 remained Partially Compliant as the FATF considered some issues to be outstanding.[4] The 2020 Follow Up Report re-rated technical compliance with Recommendation 24 as Largely Compliant following the passage of the 2019 Act on Registration of Beneficial Owners and a second national risk assessment concerning all types of legal persons with public authorities, and the Financial Intelligence Unit considered as having timely access to BO information with proportionate and dissuasive sanctions for failure to provide BO information. However, it noted that "not all types of legal persons

3. Iceland´s Mutual Evaluation Report: https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Iceland.pdf.

4. The 2019 Follow Up Report, where the re-ratings are covered: 2019: https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/FUR-Iceland-2019.pdf.

are required to list categories of shares or voting rights. Non-commercial foundations are still not required to register in a company registry". Technical compliance with Recommendation 25 was rated Compliant.[5] Iceland was subsequently removed from the list of jurisdictions under increased monitoring in October 2020.[6]

Recent developments

33. Since the 2013 Report, Iceland has made significant changes in both the legal and regulatory framework and the organisation of the authorities relevant to transparency and the exchange of information on request (EOIR).

34. As noted earlier in the overview, the tax administration has been restructured. In addition, Act No. 124/2015 amended the Income Tax Act No. 90/2003, to clarify and expand the authority of the IRC as to obtaining information, on a specific format determined by IRC, for the purpose of fulfilling international obligations on exchange of information for tax purposes (EOI). The change was mainly made due to automatic exchange of financial account information (AEOI) under the Common Reporting Standard (CRS) and the US Foreign Account Tax Compliant Act (FATCA) but is not limited to such information. The change in law was approved in December 2015 and became effective as of 1 January 2016.

35. In terms of transparency, several important changes occurred. The AML framework has evolved significantly, as mentioned above with the replacement of the old AML/CFT Law by a new one and the merger of the FSA into the Central Bank of Iceland. The 2018 AML/CFT Law now also provides for all AML-obliged persons to maintain BO information on their customers.

36. In addition, Iceland enacted a new law, the Act on the Registration of Beneficial Owners Act No. 82/2019, which came into effect on 27 June 2019. The Act on Registration of BOs has a wide scope, applying to all legal persons that engage in business operations in Iceland or that are registered in the Register of Enterprises held by the IRC, including branches

5. The 2020 Follow Up Report, where the re-ratings are covered: https://www.fatf-gafi.org/media/fatf/documents/reports/fur/Follow-Up-Report-Iceland-2020.pdf.

6. A press release from the FATF Plenary meeting in October 2020: https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-october-2020.html. The on-site assessment was agreed at the FATF Plenary meeting in June 2020. See the press release from that meeting: https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2020.html.

of foreign public limited companies and private limited companies. The law also applies to trust funds or comparable entities that conduct business in Iceland. The law establishes a central BO register at the Register of Enterprises. The centralised BO register became operational in March 2020. The information filed in the centralised BO register is accessible by the public through the website of the IRC.

37. Finally, the AML/CFT Law was amended in 2020 by Amendment Act No. 96/2020, which introduced a new Article 37.gr.a to establish a Registry of Bank Accounts. This requires commercial banks, savings banks, credit undertakings, and payment service providers with an Icelandic licence to provide information or access to information on bank accounts to the Registry of Bank Accounts set to be established at the IRC. It will include ownership and identity information on the legal and BOs of account holders. The Registry of Bank Accounts is not yet operational pending the issuance of Regulations.

Part A: Availability of information

38. 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.

39. The 2013 Report concluded that Iceland's legal and regulatory framework was "in place" and generally ensured the availability of legal ownership and identity information for relevant entities and arrangements. In practice, it was found that ownership and identity information relating to Public Limited Companies, Private Limited Companies, branches of foreign companies and European Companies (SEs) is filed with the Register of Enterprises and kept and maintained by the entities themselves. Iceland was rated as "Compliant" with Element A.1 of the standard.

40. The current review concludes that although nominees are under obligation to maintain records of each person for whom they act as nominees, including the number of shares and the name of the company in which the shares are held, there is no requirement for the nominee to disclose its nominee status to the company.

41. The standard was strengthened in 2016 to introduce the obligation of availability of beneficial ownership (BO) information on all relevant entities and arrangements. In Iceland, the main mechanisms for the availability of BO information are two-fold: First, the AML framework requires AML-obliged persons to perform customer due diligence (CDD) and identify the BOs of their customers. Second, since 27 June 2019, all legal entities and arrangements are required to identify the BOs of the legal entities and report the identity and rights of the BOs to the Register of Enterprises at Iceland Revenue and Customs (IRC).

42. Some deficiencies are identified in the implementation of the BO requirements in practice. Iceland has not established supervision and enforcement mechanisms to ensure that relevant entities and arrangements obtain, retain and update information on their BOs in an internal register of BOs as well as update the Register of Enterprises of any changes to their BOs within two weeks of such changes. Similarly, the Register of Enterprises has not established procedures to verify the accuracy of the BO information provided to the centralised BO register.

43. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
Although nominees are under obligation to maintain records of each person for which they act as nominees, including the number of shares and the name of the public limited company in which the shares are held, there is no requirement for the nominees to disclose their status as nominee shareholders to the public limited company.	Iceland is recommended to establish an obligation for all nominees, where they act on behalf of another person, to disclose their status as nominee shareholders to the public limited company.
Relevant legal entities and arrangements must notify the Register of Enterprises of changes to their beneficial owners within two weeks of such changes. However, unless the beneficial owners of a legal entity or arrangement voluntarily inform the legal entity or arrangement of changes in their status as a beneficial owner, there are no mechanisms for such legal entity or arrangement to become aware of changes in its beneficial owners, which may lead to a situation where the beneficial ownership information maintained by the legal entity or arrangement or filed with the Register of Enterprises is not always up to date.	Iceland is recommended to provide a mechanism for updating beneficial ownership information in the beneficial ownership register held by legal entities and arrangements and beneficial ownership register held by the Register of Enterprises to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant entities and arrangements, in accordance with the standard.

Practical Implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
Iceland is yet to design and implement an appropriate supervisory programme and procedures for verifying whether the persons indicated as beneficial owners indeed meet the definition provided in the law, ensuring the adequacy and currency of beneficial ownership information held at the centralised beneficial ownership register and for ensuring that all relevant entities and arrangements obtain and maintain information on their beneficial owners in an internal register.	Iceland is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure that adequate, accurate and up-to-date beneficial ownership information for all legal entities and legal arrangements is available at all times in line with the standard.
Before the introduction of the new requirements on the maintenance and the disclosure of beneficial ownership information under the Act on Registration of Beneficial Owners on 27 June 2019, Iceland relied only on its anti-money laundering framework to ensure the availability of beneficial ownership information. However, there was no supervision mechanism in place to ensure that non-financial professionals identified and maintained the beneficial ownership information for their customers under the AML framework until 31 December 2018. Since 1 January 2019, the Icelandic authorities have undertaken supervision and enforcement measures to ensure the availability of beneficial ownership information with non-financial professions and it appears that they do not conduct CDD to determine and/or verify the beneficial owners of their customers.	Iceland is recommended to strengthen the supervision programmes over non-financial professionals to ensure the availability of adequate, accurate and up-to-date beneficial ownership information in line with the standard.

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

44. Icelandic Law provides for the creation of the following types of companies, as described in the 2013 Report:

- **Public limited companies** (*hlutafélag, hf.*) are governed by the Act on Public Limited Companies No. 2/1995. They may be founded by two or more legal or natural persons and must have a board of at

least three directors. The majority of founders, all of the managers and at least half of the directors of the company must be resident in Iceland, the European Economic Area (EEA), the European Free Trade Association (EFTA) or the Faroe Islands, unless the Minister of Finance and Economic Affairs grants an exemption. A public limited company must have a minimum share capital of ISK 4 million (EUR 17 600). Shareholders have limited liability for the debts of a public limited company. Shares of such companies may be admitted to trading on securities markets and nominee shareholding is permitted. As at 31 December 2021, there were 577 public limited companies registered in Iceland.

- **Private limited companies** (*einkahlutafélag, ehf*) are governed by the Act on Private Limited Companies No. 138/1994. The incorporation requirements are similar to those provided for a public limited company except that the share capital minimum is ISK 500 000 (EUR 3 450). Shareholders have limited liability for the debts of the company. Nominee shareholding is implicitly prohibited by the Act on Private Limited Companies.[7] As at 31 December 2021, there were 41 027 private limited companies registered in Iceland.
- **European companies** (*Evrópufélag, SE/Ef.*) are regulated by Council Regulation (EC) No. 2157/2001 of 9 October 2001 on the Statute for a European Company (SE) (the SE Regulation). According to Article 1 of the SE Regulation, a European company is a legal entity with capital divided into shares. The liability of each shareholder is limited to the amount the shareholder has subscribed. Pursuant to the Act on European Companies, the provisions of the Act on Public Limited Companies apply to European companies. There are currently no European companies registered in Iceland.
- **Partnership limited by shares** are included in the category of limited partnerships (see paragraph 132) but are subject to the provisions of the Act on Public Limited Companies except where the Act states otherwise. Members of such entities other than the general partners have limited liability based on their contribution towards the formation of the entity's share capital (and are referred to as shareholders). The general partners (referred to as guarantors) may also be shareholders (Art. 159, Act on Public Limited Companies). As at 31 December 2021, there were 66 partnerships limited by shares registered in Iceland.

7. A person who has acquired a share cannot exercise his/her rights in the capacity of a shareholder unless his/her name has been recorded in the register of shares (Art. 19). Furthermore, there are no legal provisions for the legal recognition of such nominee arrangements in the case of private limited companies.

- **Public corporations** are fully owned by the government or a Municipal Authority. The Act on Public Limited Companies governs their formation and operation. As at 31 December 2021, there were 18 Public Corporations registered in Iceland.

45. Icelandic law requires legal entities formed under the laws of another jurisdiction and wishing to carry on business in Iceland to first register with the Register of Enterprises (Art. 137 and 141, Act on Public Limited Companies; and Art. 111 and 115, Act on Private Limited Companies, Art. 2, Act on Business Enterprise Registration). As at 31 December 2021, there were 74 foreign companies registered in Iceland.

Legal Ownership and Identity Information Requirements

46. The legal ownership and identity information relating to legal entities is kept and maintained by the IRC pursuant to the requirement for all companies to register with the Register of Enterprises, at which time they disclose their founders, and pursuant to the annual tax returns filing and periodic reporting obligations, at which time companies disclose their current shareholding. Legal ownership information is also kept by the companies themselves in their register of shares. When a legal entity has a customer relationship with entities subject to AML xequirements, the AML-obliged persons are required to conduct CDD and obtain and retain some ownership and identity information.

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

Companies covered by legislation regulating legal ownership information[8]

Type	Company Law	Tax Law	AML Law
Public Limited Company	All	All	Some
Private Limited Company	All	All	Some
Partnerships Limited by Shares	All	All	Some
Foreign companies (tax resident)	All	All	Some

8. 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 the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. “Some” means that an entity will be covered by these requirements if certain conditions are met.

Companies Law requirements

48. Pursuant to company law requirements, legal ownership information is available in the Register of Enterprises held by the IRC[9] and with the entities themselves.

49. All legal entities that conduct business or are engaged in property management are required to register with the Register of Enterprises (Art. 2, Act on Business Enterprise Registration). A company that is not registered with the Register of Enterprises cannot acquire any rights, assume duties or be party to a litigation (Art. 15, Act on Public Limited Companies; Art. 10, Act on Private Limited Companies). The Register of Enterprises includes a Register of Companies, categorised into separate lists, for public limited companies, private limited companies, partnerships, and for other types of entities (Art. 3, Act on Business Enterprise Registration).

50. The Register of Enterprises is responsible for the practical procedures to register legal entities. A notice of registration and the memorandum of association must be provided for registration (Art. 3, Act on Public Limited Companies; Art. 3, Act on Private Limited Companies) and they must specify the names, identification numbers and address of the founders (Art. 4, Act on Public Limited Companies; Art. 4, Act on Private Limited Companies). Upon registration, the Register of Enterprises issues each entity with a unique identification number, which is necessary for the conduct of any transactions and business activities in Iceland (Art. 6, Act on Business Enterprise Registration). The Register of Companies is required to include the name; identification number; form of company; founding day; industry number according to the industry classification of Statistics Iceland; and the name, legal residence and identity number of directors (Art. 4, Act on Business Enterprise Registration).

51. All companies registered with the Register of Enterprises are required to notify the IRC of any changes concerning the information above and on dissolution (Art. 7, Act on Business Enterprise Registration). This obligation does not include a requirement to provide identification information on the subsequent legal owners (current shareholders), but this information is kept by the entities themselves.

52. On registration, the board of directors is required to prepare a register of shares which must be maintained in either hard copy (in the form of a secure loose-leaf or card-index system) or in an electronic format at the company's registered office (Art. 30, Act on Public Limited Companies;

9. The Register was held by the Directorate of Internal Revenue (DIR) which merged with the Directorate of Customs (DoC) on 1 January 2020 to form Iceland Revenue and Customs (IRC).

Art. 19, Act on Private Limited Companies). The registered office must be in Iceland (see Art. 9(2), Act on Public Limited Companies; Art. 7(2), Act on Private Limited Companies). The register of shares is accessible to all shareholders and public authorities, including the tax administration. The board of directors is responsible for ensuring that the register of shares includes correct information at any given time. The register of shares must indicate, in respect of each share or share certificate, the name, address of each owner and Icelandic identity number or, where relevant, the identity number of the foreign identification document.

53. There are specific features of the register of shares that are only applicable to Public Limited Companies. Although a share certificate can only be issued to a named person (Art. 30, Act on Public Limited Companies), Public Limited Companies can have nominee shareholders. Where there is nominee shareholding, the register of shares must include identification information of the person authorised to act as a nominee (i.e. name, identification number and address of the nominee) in accordance with the requirements of Act on Securities Transactions No. 108/2007 as discussed in paragraph 125. Whereas the information on the person for which the nominee is acting for would be available with the nominee, the register of shares held by the entity will not disclose whether the persons registered as shareholders are nominees or hold the shares in their own right. In the absence of a requirement for the nominees to declare their status as nominees when their details are being entered into the register of shares, the Public Limited Company and the Register of Enterprise would not be able to know that they are acting as nominee shareholders. **Iceland is recommended to establish an obligation for all nominee, where they act on behalf of another person, to disclose their status as nominee shareholders to the public limited company**.

54. If there is a change in ownership of a share, the board of directors must ensure that this is reflected in the register of shares with identity information as well as the date of registration of the new shareholder (Art. 30, Act on Public Limited Companies; Art. 19, Act on Private Limited Companies). There is no time limit within which a new shareholder must provide ownership and identity information to the company for inclusion in the register of shares. However, failure to do so attracts some consequences: a person who has acquired a share cannot exert his/her rights as a shareholder unless his/her name has been recorded in the register of shares or he/she has given notice and produced evidence of his/her ownership of the share (Art. 31, Act on Public Limited Companies; Art. 19, on Private Limited Companies).

55. A foreign company can establish a branch in Iceland (Art. 137, Act on Public Limited Companies; Art. 111, Act on Private Limited Companies)

by following the procedures and meeting the requirements laid out for the registration of Icelandic companies with the Register of Enterprises (Art. 141, Act on Public Limited Companies; Art. 115, Act on Private Limited Companies). It then obtains an Icelandic identification number that is necessary for conducting business activities in Iceland (Art. 6, Act on Business Enterprise Registration). The manager of the foreign company registered in Iceland (branch manager) is responsible for meeting all the requirements of Icelandic laws, including maintaining ownership and identity information (Art. 140, Act on Public Limited Companies; Art. 114, Act on Private Limited Companies).

56. Whereas there is a requirement to maintain an internal register of shares, which provides ownership and identity information, the Icelandic legislation is not explicit that companies should retain this information for at least five years. However, ownership and identity information on founders held by the Register of Enterprises and ownership and identity information included in a tax return on founders and subsequent legal owners is retained indefinitely (see below). In addition, the liquidator has a duty to keep documents of significance (including the register of shares) for the purposes of the bankruptcy proceedings, unless these have been filed with the court or with the National Archives (Art. 80, Act on Bankruptcy Proceedings No. 21/1991). The Act on Bankruptcy Proceedings does not provide for the period which the liquidator must retain the documents, but this does not constitute a gap as records, which include the internal share register which contains ownership and identity information, are ultimately sent to the National Archives where they are retained indefinitely.

Tax law requirements

57. The IRC can directly access legal ownership and identity information in the Register of Enterprises, which it maintains, or indirectly through periodic reporting obligations imposed by the Income Tax Act: the periodic reporting of their ownership based on article 92 and the income tax return based on article 90. First, Article 92 requires all companies and partnerships limited by shares to provide, on an annual basis, identification information on their shareholders. The IRC issues administrative regulations under Article 92, annually, specifying the type of information which must be submitted. These administrative regulations require all Icelandic companies to provide information regarding their shareholders, including their names and Icelandic or foreign identification number, their country of residence, dividends paid and taxes withheld during the year of income. This obligation applies whether or not company has paid dividends in the year. The same rules apply to branches of foreign companies registered in Iceland. Financial institutions that carry out transactions in shares are also required

to report, annually, details of these transactions and details of the parties involved (i.e. individual shareholders and company shareholders) to the IRC. Second, Article 2 of the Income Tax Act provides that all legal entities resident in Iceland are subject to taxation in Iceland. This obligation covers registered public limited companies and private limited companies as well as partnerships limited by shares. Article 90 of the Income Tax Act imposes an obligation on all persons to file a tax return, based on a prescribed form, and includes information relevant for the assessment of taxes. Icelandic authorities indicate that, in practice, ownership and identity information is included in the annual accounts filed with the tax return of companies as it outlines the dividends paid by the company.

58. In addition, shareholders that are deemed resident in Iceland for tax purposes must submit a tax return detailing dividends received in respect of shares (Arts. 7 and 11, Income Tax Act) and profits realised from the sale of shares during the tax year regardless of how long the person has been in possession of the shares (Art. 18 and 73(5) of the Income Tax Act.)[10] A taxpayer is under obligation to declare ownership of shares notwithstanding that no dividends were declared or distributed by the company, or no profits were realised from the sale of shares by the shareholder. The tax return must include the name of the company or partnership limited by shares from which they earned the dividends or profits declared. This enables the IRC to cross-check the information (and in case a company has not filed its tax return, to indirectly determine the shareholders of companies, provided that the shareholders have filed a return).

59. Article 94 of the Income Tax Act also requires financial institutions, auditors, lawyers and other entities who provide tax consultancy services or other services to keep special records on the control or direct or indirect ownership of the companies (including partnerships limited by shares), funds or institutions whom they provide services to but are registered out of the country or hold offshore assets. This information must be handed in to the IRC when required.

60. Information submitted to the IRC is retained indefinitely, including ownership and identity information on legal entities subject to the reporting requirements of an annual tax return (Article 90), periodic reporting (Article 92), and obligation on service providers (see paragraph 59). This information represents a snapshot of the ownership structure of the companies at the end of the relevant income year for which the return is filed with the IRC, and do not contain information on persons that became and

10. Non-resident shareholders are not required to submit tax returns, but a withholding tax applies to dividends paid to them (Art. 5, Act on Withholding of Financial Income).

ceased to be shareholders in-between two returns. This is mitigated by the obligation of Icelandic resident to report these transactions to the IRC (see paragraph 58). The only information not directly available with the IRC would therefore relate to transactions between non-resident persons (i.e. the non-resident person acquired and sold its shares from/to other non-resident persons). This information is nonetheless maintained in the register of shareholder kept by the company contains complete information and is transferred to the National Archives after the liquidation of the company (or with the liquidator).

Company law implementation in practice

61. Supervision and enforcement with the requirements to register companies in Iceland is the responsibility of the Register of Enterprises. Following the reorganisation of the tax administration, the Register of Enterprises started operations in its current form in January 2020. It is currently manned by 16 officers.

62. The 2013 Report had concluded that appropriate supervision was in place but noted that the applicable company laws did not set the limits to the applicable administrative and criminal fines,[11] which made their implementation impossible in practice (save for striking off companies).[12] Iceland was encouraged to take the necessary steps to enable the exercise of the enforcement provisions in practice. As a result, Iceland has amended the Act on Business Enterprise Registration on 27 June 2019 to introduce Articles 9.gr.a, 10 and 10.gr.a-d allowing the IRC to demand corrective action and impose the specified amounts of the daily fines and administrative fines.

63. Since June 2019, the IRC may require any legal entity that does not comply with the registration requirements, including providing ownership and identity information (Art. 4), to take corrective action within a reasonable

11. The representatives of an Icelandic company that are responsible for the failure to comply with registration and notification requirements may be required to take corrective action or be subjected to daily or weekly fines (Art. 152, Act on Public Limited Companies; Art. 126, Act on Private Limited Companies). If the fine imposed cannot be collected from the representative, it may be collected from the company itself (Art. 157, Act on Public Limited Companies; Art. 131, Act on Private Limited Companies). A person who neglects to give notice to the Register of Enterprises in respect of any matter as required by law is also subject to fines or imprisonment for up to one year (Art. 156, Act on Public Limited Companies; Art. 130, Act on Private Limited Companies).

12. The Register of Enterprises may also strike out (deregister) companies that fail to comply with their reporting obligations (Art. 108, Act on Public Limited Companies; Art. 83, Act on Private Limited Companies).

time (Art. 9.gr.a). Daily fines ranging from ISK 10 000 to ISK 500 000 (EUR 69 to 3 452) and which may be determined as a percentage of certain figures in the operation of the concerned party, may be imposed if information required by the IRC is not provided or the corrective action is not taken within a reasonable time (Art. 10). The IRC may also impose administrative fines on any person who provides incorrect or misleading information, or any person who fails to notify the IRC of any changes concerning its registration details (Art. 10.a). An administrative fine ranging from ISK 100 000 to ISK 5 million (EUR 490 to EUR 34 500) may be imposed on an individual and from ISK 500 000 to ISK 80 million (EUR 3 450 to EUR 552 000) on a company. The fine may also be higher or up to 10% of total turnover according to the last approved annual accounts of the legal entity or 10% of the last approved consolidated accounts if a legal entity is part of a group and a breach is committed for the benefit of another legal entity within the group or another legal entity has benefitted from the failure. The administrative fines may be imposed regardless of whether the offences are committed intentionally or negligently.

64. Private Limited Companies can register electronically. Other forms of companies must register on paper (manually) for now but there are plans to transition to an electronic registration system. A company seeking registration must include in the prescribed notice the company's instruments of incorporation signed by the board; charter of the company signed by the founders of the company; and signed minutes of the meeting which established the company (Art. 148, Act on Public Limited Companies; Art. 122, Act on Private Limited Companies). The table below shows the number of new companies registered during the review period.

Type of entity	2018	2019	2020
Public Limited Companies	6	5	6
Private Limited Companies	2 301	2 197	2 485
Partnership Limited by Shares	2	6	6

65. In practice, since the Act on Business Enterprise Registration came into force on 1 July 2003, the Register of Enterprises must assess whether the information provided is correct and satisfactory (Art. 4). Where necessary, the Register of Enterprises may call upon any person to provide further information or will take steps to obtain this information independently to ensure that the legal ownership and identity information in respect of companies is accurate. There is a legal obligation for all persons called upon to provide such information to submit it without delay, notwithstanding that it touches on the registration of another person (Art. 4).

66. Icelandic authorities indicate that, in practice, the Register of Enterprises has not undertaken any supervisory and enforcement measures to ensure that Icelandic companies obtain and keep ownership and identity information in the internal register of shares maintained at their registered offices in Iceland, retain it and update it as required by law. Iceland should take the necessary steps to supervise companies' obligation to maintain an internal register of shares and to apply effective sanctions in cases of non-compliance (see Annex 1).

67. However, IRC received up-to-date legal ownership information on an annual basis based on tax reporting obligations which are monitored (see above).

Tax law implementation in practice

68. Article 109 of the Income Tax Act provides that any person who, either on purpose or out of negligence, violates Article 90 of the Income Tax Act (annual filing of tax return by companies) or Article 92 of the Income Tax Act (periodic reporting of distribution of dividends and transactions in shares) may be fined from ISK 100 000 to ISK 6 million (EUR 690 to EUR 41 400) or subjected to up to two years of imprisonment. This penalty extends to breaches of the ownership and identity reporting obligations set out in the regulations made pursuant to Article 92 of the Income Tax Act. Unless the case is referred for criminal investigation by the DTI of the IRC, the State Internal Revenue Board determines the amount of the fine (Art. 110, Income Tax Act). A legal entity can be liable for the fine irrespective of whether the offence relates to a punishable action of a representative or employee of the legal entity (Art. 109, Income Tax Act).

69. The IRC receives reporting information by January of each year, which it uses to pre-fill tax returns. All companies have to file this periodic return, as they are the only form of legal entities that have shareholders and can pay dividends, including in years in which they did not declare or pay dividends. In practice, if an entity fails to file this periodic return with shareholder information, the IRC will follow up with its representatives and require it to file such a return. According to Icelandic authorities, this measure has ensured the availability of legal ownership and identity information with the IRC over the years as indicated in the table below.

	No. of companies required to turn in information under Art. 92 (periodic reporting of distribution of dividends)	No. of companies that turned in information under Art. 92 (periodic reporting of distribution of dividends)	Filing rate	No of companies with periodic reporting information missing	No. of companies that did not provide the periodic information but turned in a tax return	No. of companies that did not provide the periodic information and did not turn in a tax return
Income year 2018	40 657	33 063	81.3%	7 594	3 613	3 981
Income year 2019	41 622	35 238	84.7%	6 384	2 647	3 737
Income year 2020	42 891	35 367	82.5%	7 524	3 458	4 066

70. Almost half of the companies that did not file a periodic return under Article 92 of the Income Tax Act filed an annual tax return under Article 90 of the Income Tax Act and the tax return included ownership and identity information. For companies that neither turned in a periodic return nor an annual tax return, the IRC issued estimated assessments as indicated in the table below.

Estimated assessment of income by IRC	ISK 0	ISK 0-1 million	ISK 1-1.5 million	ISK 1.5-5 million	ISK 5-10 million	ISK 10-50 million	ISK 50-100 million	ISK 100-500 million	Total number of companies
Total for 2018 income year	2 365	922	549	84	59	0	2	0	3 981
Total for 2019 income year	2 274	985	345	77	50	4	2	0	3 737
Total for 2020 income year	2 462	847	555	101	86	10	5	0	4 066

71. In addition to the periodic returns filed under Article 92, the annual tax returns filed by companies under Article 90 of the Income Tax Act, in practice, include legal ownership and identity information. The table below shows the tax filing rate for legal entities and arrangements during the peer review period. However, the IRC does not specifically audit tax returns to ensure that legal ownership and identity information is included or verify the accuracy of the information declared.

	No. of legal entities that have to turn in a tax return	Tax returns at the date of final assessment	No. of tax returns on 1.12	No. of tax returns on 1.1	No. of tax returns on 1.3	No. of tax returns on 1.5	No. of tax returns on 1.7	No. of tax returns after 1.7 in the year after	Total tax returns on 8 Dec 2021	
Assessment 2019	45 492	38 197	81.77%	39 460	39 677	39 848	40 057	546	40 603	89.25%
Assessment 2020	46 652	40 019	85.78%	40 971	41 109	41 256	41 445	198	41 643	89.26%
Assessment 2021	48 088	41 393	86.08%	42 615	-	-	-	-	42 669	88.73%

72. The Register of Enterprises is held by the IRC, enabling the tax administration to access the ownership and identity information filed as part of the periodic reporting under Article 92 and annual tax returns by companies and shareholders as required by Article 90. Therefore, the tax administration has access to different sources of ownership and identity information in respect of companies and can crosscheck the different sources. For this reason the IRC can, in practice, access and verify information on the legal ownership of companies using internal systems. The Icelandic authorities indicate that this, to some extent, accounts for the relatively scarce use of enforcement powers by the tax administration.

Inactive companies

73. In Iceland, an entity is considered inactive when it has not recorded any business activity for the last year and the IRC has not received any information under the periodic reporting obligations (Art. 92, Income Tax Act). There were about 2 400 inactive companies as at 31 December 2020, representing 5.6% of companies that should have filed a tax return.

74. The 2013 Report noted that the Register of Enterprises was deregistering companies that had neither complied with their obligations under Articles 90 or 92 of the Income Tax Act nor paid fines issued for having not filed the return(s) (para. 118 of the 2013 Report). An entity that is de-registered by the Register of Enterprises cannot acquire rights (and therefore would not be able to legally hold assets) or assume debts. Although the 2013 Report noted that around 1 000 companies were deregistered during the years 2009-10, Icelandic authorities clarify that the entities that were deregistered entities as noted in the 2013 Report were not companies but non-profit organisations which had never notified the company register of any changes within the organisation and appeared to be non-active. Icelandic authorities indicate that no deregistration of companies has taken place during the current review period due to the lack of a regulation to guide the de-registration of companies. Icelandic authorities indicate that regulations are currently being drafted to guide the IRC in the deregistration of non-compliant companies. Iceland has not taken measures to avoid that inactive companies remain with legal personality on the Register of Enterprises, which raises concerns with respect to the availability of ownership and identity information. Iceland should continue its efforts in the exercise of appropriate monitoring and enforcement powers to ensure that obligations to retain ownership and identity information are sufficiently enforced (see Annex 1).

Anti-money laundering requirements

75. A new AML/CFT Law (Act on Measures against Money Laundering and Terrorist Financing Act No. 140/2018) entered into force on 1 January

2019 and repealed Act No. 64/2006 on the same matter (see Overview of Iceland).

76. For the purposes of this review, the AML framework, as applicable to ownership and identity information for companies in 2018, is as described in the 2013 Report (paras. 63-65). It imposed obligations on a wide range of entities and professionals, which include: (a) financial and insurance institutions; (b) accounting firms, accountants, tax advisors and persons who provide bookkeeping services; (c) law firms and attorneys; and (d) trust and company services providers (including providers of company formation, company secretarial and nominee shareholding services). Article 6 of the AML/CFT Law required AML-obliged persons to monitor their customers on an ongoing basis and update CDD information as necessary. Article 5 required a customer who is a company to submit to the AML-obliged persons a certificate, from either the Register of Enterprises or a foreign equivalent (which contained the name, domicile and official identification number of the company), as well as identity information on its shareholders. As noted in the 2013 Report (para. 64), although this did not necessarily require AML-obliged persons to identify all owners, the FSA representatives had indicated that the name and identification numbers of all shareholders, except those with very minimal shareholding, would generally be requested, as part of the CDD check on corporate clients. AML-obliged persons were required to retain all CDD documents for at least five years from the end of the business relationship.

77. Since 1 January 2019, the new AML/CFT Law is in force. All legal entities are subject to CDD requirements when establishing a permanent business relationship or conducting an occasional transaction with an AML-obliged person (Art. 8). It is mandatory for the AML-obliged person to conduct CDD and obtain identity and some ownership information on the prospective customer prior to the establishment of a business relationship or prior to a business transaction (Art. 10). A legal entity engaging an AML-obliged person is required to prove its identity by submitting a registration certificate (from the Register of Enterprises or a comparable public register). The certificate should indicate the name, address and official registration number or comparable information and approved identification documents for holders of power of procuration and others who hold special authorisation to represent a customer vis-à-vis a financial undertaking, including managing directors and members of the board of directors. AML-obliged persons must also monitor their business relationships on an ongoing basis and update CDD information as necessary (Art. 10). AML-obliged persons are required to retain data and information for at least five years from the end of the business relationship or the date of the occasional transaction (Art. 28).

78. As part of its CDD, an AML-obliged person is required to obtain sufficient information about the customer (and its BOs, see below) and take

appropriate measures to verify the information submitted by customers. While Article 10 makes it compulsory for AML-obliged persons to understand the ownership, operations and administrative structure of their customers that are legal persons, and to call for additional information where the identity of the final recipient of funds (or BOs) is not clear from the materials submitted, it does not specifically call for the identification of all shareholders.

Anti-money laundering implementation in practice

79. The implementation and enforcement of the AML/CFT Law with regards to ensuring the availability of ownership and identity information for legal entities is as described in the section on the implementation of the AML framework for ensuring the availability of BO information.

Availability of legal ownership information in EOIR practice

80. The peer inputs and Iceland indicate that no request for ownership and identity information with respect to legal entities was made to Iceland during the current review period.

Availability of beneficial ownership information

81. The standard was strengthened in 2016 to require that BO information be available on all relevant entities and legal arrangements, including companies. Availability of BO information during the period under review should be analysed in two periods, i.e. before and after 1 January 2019. In 2018, the primary mechanism for ensuring availability of BO information for companies was the AML/CFT Law that transposed the EU Third Money Laundering Directive into Icelandic law. On 1 January 2019, the AML/CFT Law was replaced by a new AML/CFT Law which transposes the EU Fourth Money Laundering Directive into Icelandic law. Iceland also enacted the Act on the Registration of Beneficial Owners No. 82/2019 (Act on Registration of BOs) which came into force on 27 June 2019. Since then, it is the primary source for BO information. It requires companies to obtain information on their BOs, keep this information in an internal register and submit it, and any changes, to the Register of Enterprises. The Act on Registration of BOs is complemented by the CDD obligations set out in the AML/CFT Law. A single definition of beneficial owner applies for both the BO Register and CDD under the AML/CFT Law. The tax law does not provide for the availability of BO information in Iceland but since the Registrar of Enterprises is maintained by the IRC, BO information is directly available to the competent authority. The following table summarises the legal requirements to maintain BO information in respect of companies. Each of these legal regimes is analysed below.

Companies covered by legislation regulating beneficial ownership information

Type	Company Law	Tax Law	AML Law
Public Limited company	All	None	Some
Private Limited Company	All	None	Some
Partnerships Limited by Shares	All	None	Some
Foreign Companies (tax resident)[13]	All	None	All

Definition of beneficial owners

82. The term "beneficial owner" is defined in Article 3(13) of the AML/CFT Law to mean:

> One or more natural persons who ultimately own or control the customer, legal entity or natural person on whose behalf a transaction or activity is being conducted or carried out. Beneficial owner is considered to be:
>
> a. In the case of a legal person:
>
> 1. the natural person or persons who in fact own or control the legal person through direct or indirect ownership of a share of more than 25% in the legal person, control more than 25% of the voting rights or are regarded as having control of the legal person in another manner; however, this provision does not apply to legal persons that are listed on a regulated market as defined in the Stock Exchange Act.
>
> 2. if it is not possible to find the beneficial owner as defined in indent 1. e.g. because ownership is so diversified that no natural persons own or control the customer in the sense of this Act or if there is doubt as to ownership, then the natural person or persons who direct the activities of the legal persons shall be regarded as the beneficial owner.

83. The definition of a BO is aligned with the standard. Iceland has provided guidance on BO. The guidance outlines who should be identified as a BO based on the different forms of ownership and control through means

13. Where a foreign company has a sufficient nexus, then the availability of BO information is required to the extent the company has a relationship with an AML-obligated service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).

other than direct and indirect ownership of capital, shares or voting rights. Senior managers must be identified as BOs where it is not clear who are the BOs through direct or indirect ownership of capital, shares or voting rights or control through other means. The Guidance also stipulates that the basis for being identified as BO must be provided, including where one is identified as BO by reason of being a senior manager of the entity. The AML-obliged persons identify any natural persons exerting control through ownership interest or through other means. Iceland applies a simultaneous rather than a cascading approach, so that persons controlling the company through means other than ownership should always be identified together with persons having an ownership control over the company. This approach conforms to the standard and may lead to identifying more persons. The natural person(s) who directs the activities of the entity is the default option when no natural persons meet the BO definition or where there is suspicion that the natural persons identified through such means are not the BOs.

Anti-Money Laundering Law customer due diligence requirements

84. Until 31 December 2018, the repealed AML/CFT Law was the primary source for ensuring the availability of information on the BOs of companies. As noted in the 2013 Report (paras. 63-65), Articles 2 and 3 of the AML/CFT Law imposed obligations on a wide range of entities and professionals including financial institutions, auditors, attorneys, and trust and company service providers. Article 4 outlined the CDD requirements for AML-obliged persons prior to the establishment of a permanent business relationship or carrying out certain business transactions. Article 5 required AML-obliged persons to obtain information about any "beneficial owner" of their customers. Article 3(4)(a) defined a BO as including the natural person(s) who ultimately owns or controls a legal person through direct or indirect ownership of shareholding or voting rights of more than 25%, or who are otherwise deemed to exercise control. In addition, Article 6 required AML-obliged persons to monitor their customers on an ongoing basis and update CDD information as necessary.

85. From 1 January 2019, the framework for ensuring the availability of BO information for companies under the AML framework is the new AML/CFT Law. Regulation No. 745/2019 on CDD Concerning Measures against Money Laundering and Terrorist Financing enacted on 12 August 2019 sets out further details of the due diligence requirements, including identification of BOs.

86. Article 2 of the AML/CFT Law provides that it applies to both financial and non-financial professionals and provides a definition of AML-obliged persons. Article 10 requires all AML-obliged persons to carry out CDD and obtain information on the BOs of a prospective customer prior to

the establishment of a business relationship or prior to carrying out a business transaction. However, there is no legal obligation for a company to have a relationship with an AML-obliged person. Therefore, the coverage of CDD obligations does not ensure that BO information on all entities would be available with the AML-obliged persons in all circumstances. Although Iceland indicates that, in practice, all entities open a bank account, which is necessary for the purposes of conducting transactions, it does not retain statistics on the number of companies that have done so. The central BO register is therefore the more complete source of information in terms of coverage of the entities.

87. Article 10 of the AML/CFT Law requires an AML-obliged person to take appropriate measures to identify each customer's BOs using approved identification documents prior to the establishment of a business relationship or prior to a business transaction and record the name, date of birth and identification number.[14] An AML-obliged person must verify the identification information and documents using information available from public records such as the National Registry (which contains particulars of individuals issued with an Icelandic registration number). It must also make an independent assessment of whether the information about the BO is accurate and adequate and must understand the ownership, operations and administrative structure of its customers.

88. In addition to applying CDD to all new customers, AML-obliged persons are required to apply CDD measures to their current customers, including when changes take place in the business relationship, and take reasonable measures to verify relevant information and update their customer information regularly and obtain further information where necessary (Art. 10, AML/CFT Law). Article 13 of the Regulation on CDD provides that simplified CDD entails obtaining information and verifying documents typically required as part of CDD prior to the establishment of a business relationship but ensuring that the extent or frequency of such actions are adjusted to correspond to the results of the risk assessment conducted by the AML-obliged persons.[15] Simplified CDD does not exempt the AML-obliged persons from identifying the BOs of their customers or reporting

14. As a (limited) exception, Article 12 of the AML/CFT Law allows an AML-obliged person to conduct simplified CDD if its risk assessment and Iceland's National Risk Assessment has identified a low level of risk of ML and TF. Article 11 stipulates that although CDD may be postponed when it has been established that there is little risk of ML or TF, the customers must demonstrate their identities as soon as possible. Although the business relationship may be established, the AML-obliged person should not allow the customer to perform any transaction until CDD has taken place.

15. Pursuant to Article 5 of the AML/CFT Law and in accordance Regulation No. 545/2019 on Risk Assessment for Money-Laundering and Terrorist Financing.

suspicious transactions to the Financial Intelligence Unit (FIU): rather it may allow the AML-obliged person to adjust the frequency of updating such information. However, there is no guidance provided to AML-obliged persons on how frequently they should update the BO information pursuant to ongoing monitoring of customers. Iceland should clarify how often CDD information for all customers should be updated by AML-obliged persons for the purposes of identifying the beneficial owners of their customers in line with the standard (see Annex 1).

89. Article 13 of the AML/CFT Law makes it mandatory for an AML-obliged person to conduct enhanced CDD when dealing with natural persons, legal entities, trusts or similar arrangements located in jurisdictions deemed by Iceland to be high-risk or uncooperative, when entering into a correspondent relationship with an institution that is not located within an EU member State, or when dealing with a politically exposed person. The AML-obliged person must also undertake an enhanced CDD if its internal risk assessment (conducted pursuant to article 5) or Iceland's National Risk Assessment (conducted pursuant to article 4) otherwise indicates a high level of risk. Articles 6 and 10 of Regulation No. 745/2019 on CDD in connection with Actions to Combat Money Laundering and Terrorist Financing provide further guidance on conducting enhanced due diligence.

90. An AML-obliged person may rely on CDD performed by a third party or an entity within the same group if the third party has performed CDD and preserved materials in accordance with the requirements of the AML/CFT Law; and is subject to monitoring that is comparable to that prescribed in the AML/CFT Law (Art. 18). The responsibility for verifying that the third party meets these conditions rests with the AML-obliged person, and it must enter into written agreement confirming that the third party meets these conditions. Ultimate responsibility for the CDD conducted by a third party lies with the AML-obliged person relying on such CDD. Where the third party is in another state, the AML/CFT Law further requires the AML-obliged person to first take into account the risk of ML and TF in that state. Article 19 of the AML/CFT Law also allows an AML-obliged person to rely on CDD conducted by another entity within the same group under specific circumstances. In general, the FSA must have entered into an agreement with the competent authority of an EU Member State where the branches and subsidiaries of a group are located that allows reliance of CDD conducted by members of the group. If such an agreement is in place, the AML-obliged person may rely on CDD from another entity within the same group if all the companies within the group apply CDD measures, keep records and have policies, procedures and methods in place against ML and TF that meet the requirements of the Icelandic AML/CFT Law or comparable rules. In addition, the supervision of the CDD obligations must take place at the group level and must be either in the hands of the FSA or

of the competent authority of another EU Member State where the group is present. Representatives of the financial institutions indicated that reliance on CDD conducted by a third party is very limited as the financial institutions prefer to undertake their own CDD.

91. AML-obliged persons are required to retain data and information for at least five years from the end of the business relationship or the date of the occasional transaction (Art. 28). The retention requirement covers copies of documents and information relating to CDD, procedures employed by the AML-obliged person when conducting CDD as well as supporting documents and business reports necessary for demonstrating CDD. It also applies to the internal risk assessment of the AML-obliged person on the identification of the BOs.

Anti-Money laundering Law implementation in practice

92. Icelandic financial institutions indicate that new customers have to fill in a form and provide approved identification documents. For legal entities, the financial institutions request a certificate of incorporation, annual accounts, information from credit reference bureaus, statement from compliance officers and accountants and particulars of BOs. The financial institutions seem to understand that they need to undertake additional steps to identify the BOs where another legal entity or legal arrangement is interposed in the ownership structure. Icelandic financial institutions indicate that, in practice, they do not rely on CDD undertaken by third parties, including other foreign financial institutions, due to the onerous legal requirement that they must enter into a written agreement with the third party as described in paragraph 90.

93. Before 1 January 2019, the FSA was in charge of enforcing compliance with the AML/CFT Law for financial institutions (as described in para. 116 of the 2013 Report). Since 1 January 2019, there are two AML supervisors in Iceland. The FSA is responsible for supervising financial institutions, subject to the Act on Official Supervision of Financial Activities and the sectoral law governing the operations of AML-obliged persons while the IRC (DIR) is responsible for supervising non-financial professionals as well as issuing more detailed rules regarding the execution of its supervision (Art. 38(2), AML/CFT Law).[16]

94. The FSA and IRC (DIR) have wide-ranging powers. All natural persons, legal entities, public bodies, trusts or similar arrangements are

16. The role of the Financial Intelligence Unit is limited to receiving suspicious transaction reports (STRs) from the AML-obliged persons, analysing them; and disseminating its analysis to competent authorities (Art. 20 and 21, AML/CFT Law).

under obligation to provide them with all the information and data they require to ensure effective supervision, regardless of whether the information requested concerns the party directed to supply the information. The FSA and IRC (DIR) may carry out on-site investigations of AML-obliged persons and request information in whatever manner and as often as they consider necessary while explicitly forbidding the information holder from informing the person who is the subject of the request (Art. 38, AML/CFT Law). Article 44 of the AML/CFT Laws empowers the FSA and IRC (DIR) to require an AML-obliged person that is not complying with the AML/CFT Law or regulations or rules issued thereunder to take corrective action within a reasonable time limit.

95. Any AML-obliged person that fails to provide information requested by the FSA and IRC (DIR) under Article 38 or that fails to take corrective action by a specified date as required under Article 44 may be subjected to a daily fine until full compliance is achieved. The daily fines may range from ISK 10 000 to ISK 1 million (EUR 69 to EUR 6 900). When determining the amount of daily fines, consideration may be given to the nature of the negligence or the breach and the financial strength of the entity in question (Art. 45, AML/CFT Law). Uncollected fines must be paid even if an AML-obliged person has taken corrective action or supplied the information required, unless it is waived by the board of the FSA or IRC (DIR).

96. The FSA and IRC (DIR) may also impose administrative fines on any person violating the provisions of the AML/CFT Law and regulations and rules issued thereunder (Art. 46, AML/CFT Law). The offences which may attract an administrative fine include: (a) undertaking anonymous transactions and participating in transactions intended to conceal BOs; (b) failure to conduct CDD under the specified circumstances where CDD is mandatory; (c) non-compliance with the CDD obligations; (d) non-compliance with the conditions under which an AML-obliged person may rely on a CDD conducted by a third party; and (e) non-compliance with record retention requirements. The amount of administrative fine that may be imposed depends on the type of AML-obliged person and ranges from ISK 5 million to ISK 800 million (EUR 35 000 to EUR 5.5 million) for financial institutions and from ISK 500 000 to ISK 625 million (EUR 3 450 to EUR 4 million) for the representative of a financial institution (Art. 46(3), AML/CFT Law). The administrative fine may amount to as much as 10% of the AML-obliged person's gross turnover according to its last approved financial statement or 10% of the last approved consolidated financial statement if the AML-obliged person is part of a group (Art. 46(4), AML/CFT Law). If the AML-obliged person is a non-financial professional, the administrative fine may range from ISK 500 000 to ISK 500 million (EUR 3 450 to EUR 3.45 million). Where the breach is occasioned by an employee, the individual may be subjected to an administrative fine ranging from

ISK 100 000 to ISK 125 million (EUR 690 to EUR 862 500) (Art. 46(5), AML/CFT Law). A natural person offender who has derived a financial advantage through violation may be subject to a fine that is as much as twice the financial advantage obtained (Art. 46(6), AML/CFT Law). The decision to impose an administrative fine is taken by the board of the FSA or the IRC (DIR), as appropriate and any fine that remains outstanding one month after imposition will attract a penal interest calculated according to the Act on Interest and Indexation (Art. 46(7), AML/CFT Law). Administrative fines may be imposed regardless of whether the violation is intentional or a result of negligence (Art. 46(8), AML/CFT Law). Where an infringement is committed in the course of the operation of a legal entity's business operations or for its benefit, the legal entity may be fined regardless of the culpability of its representative (Art. 46(8), AML/CFT Law).

97. The FSA and IRC (DIR) may also conclude cases by settlement, subject to the consent of the violator (Art. 47, AML/CFT law). Once approved and confirmed by signature, a settlement is binding. In addition, the FSA and IRC (DIR) may also suspend the board of directors, in part or in whole, and/or the managing director of a bank for serious, repeated or systematic violations of the AML/CFT Law (Art. 50, AML/CFT Law). Once suspended, an individual cannot sit on the board of directors or act as a managing director of an AML-obliged person for five years following his/her suspension.

98. Prior to 1 January 2020, the FSA operated as a self-standing institution. As from 1 January 2020, the FSA is a department within the Central Bank of Iceland responsible for monitoring financial institutions to ensure compliance with the AML/CFT Law and other governmental directives. It has adopted a risk-based approach to supervision that entails assessing the risk of ML and TF in the financial market and prioritising supervisory measures in accordance with the results of that assessment. The risk-based approach is premised on a "Policy on Risk-Based Supervision".[17] A risk assessment is carried out on all AML-obliged persons on a regular basis in order to determine the likelihood that their operations will be used for ML and TF. The results of the analysis of each AML-obliged person generates a risk assessment score that determines the person's risk classification among four risk categories: high-risk, medium-high risk, medium-risk, and low-risk. The risk classification determines which supervisory measures are included in the next year's timetable for the AML-obliged person.

17. Icelandic authorities indicate that FSA Iceland's methodology is based on the European Supervisory Authorities' Joint Guidelines on Risk-Based Supervision: https://eba.europa.eu/sites/default/documents/files/documents/10180/1663861/7159758d-8337-499e-8b12-e34911f9b4b6/Joint%20Guidelines%20on%20Risk-Based%20Supervision%20(ESAS%202016%2072).pdf and the FATF Guidelines: https://www.fatf-gafi.org/media/fatf/documents/Risk-Based-Approach-Supervisors.pdf.

99. The Central Bank of Iceland has also developed procedures to guide supervision and monitoring AML-obliged persons, which is based on a risk assessment of the AML-obliged persons.[18] In order to carry out a risk assessment, the FSA sends a special questionnaire and bases its assessments on the responses to the questionnaire, as well as other information in its possession. The factors subjected to scrutiny are: the nature, size, and complexity of the activities; the number and type of customers; distribution channels; products and services; and the geographical distribution of customers. The risk assessment is conducted annually for those entities falling into the "high" and "medium-high" risk categories, and every other year for those falling into the "medium" risk category. For those falling into the "low" risk category, no risk assessment is carried out on individual entities unless extraordinary circumstances warrant such an assessment, i.e. if it is considered likely that the entity in question is riskier than others in the same risk category. Icelandic authorities indicate that risk-based supervision is not a one-time measure but a regular, ongoing analysis of risks relating to ML and TF, both in the financial market as a whole and in individual AML-obliged persons' operations. Based on supervisory measures, the FSA decides how it will follow up, and it revises its methodology to take into account new information, including updated EU risk assessments and new regulatory requirements.

100. In essence, the frequency and scope of supervisory measures are determined by the obliged entity's risk category. Supervision of entities designated as high-risk is carried out more frequently and is more thorough (for instance, in the form of on-site inspections), while supervision of entities with lower risk designations takes place through checks or other measures conducted on an as-needed basis. The FSA supervisory actions could entail, among other things, gathering information through questionnaires on specific issues, interviews with the AML-obliged persons ML and TF reporting officers, on-site inspections and presentations on topical issues. These can be summarised as below:

- Checks, which can take the form of on-site inspections or proactive checks. They may be theme-based checks in which the same factors are examined at numerous entities of specific to the AML-obliged person's operations.
- Interview with ML reporting officer, which takes into account the AML-obliged person's risk classification. The interview focuses on the factors the ML reporting officer paid particular attention to during the period covered and changes made in the AML-obliged person's operations, including those relating to the risks it faces.

18. A Risk Assessment Protocol 0051; AML/CFT Risk Assessment Procedure 0065; Risk-based AML/CFT Supervision – Procedure 0066; and Risk-based Supervision Protocol 0071.

- A questionnaire sent to AML-obliged persons on an annual basis to gather information on matters such as the adopted business model and customer base. AML-obliged persons' responses are used in preparing both the Central Bank's risk assessment of the financial market and risk assessments of AML-obliged persons.
- Other supervisory activities, including presentations given by the FSA which highlight AML-obliged persons' obligations.

101. The number of AML-obliged persons under the supervision of the FSA is 90 and their risk classification is as follows:

FSA Risk rating	Number of AML-obliged persons	Type of AML-obliged person
High	4	Commercial banks
	1	Agent of foreign payment institution
	1	Currency exchange office
	1	Credit undertaking providing payment services
Medium high	2	Payment institutions
	1	E-money institution (the only one in Iceland)
Medium low	7	Investment firms
	5	Credit providers
	17	Undertakings for Collective Investment in Transferable Securities Management Company and Alternative Investment Fund Managers
	4	Savings banks
	1	Branch of a foreign investment firm
	1	Agent of foreign payment institution (not in operation)
	3	Virtual assets service providers
Low	21	Pension Funds
	3	Investment firms
	16	Life insurance undertakings and intermediaries and branches of foreign undertakings
	2	Credit institutions (owned by the State)
Total	**90**	

102. The FSA makes presentations during the on-site visits to raise the awareness of financial institutions. This is supplemented by training provided by the FIU. The AML Steering Committee led by the Ministry of Justice has developed non-binding guidance, which mainly provides an overview of the AML/CFT Law, including the obligations to obtain, retain and update information on the BOs of their customers. Financial institutions are

also referred to EU guidelines published by the European Banking Authority. The Central Bank of Iceland has provided guidance to financial institutions on risk factors of different sectors. However, representatives of Icelandic financial institutions indicated that the FSA did not conduct training to raise awareness on the new AML/CFT requirements pertaining to ensuring the availability of information on the BOs of their customers.

103. During the period under review, the FSA has conducted 77 off-site inspections and 19 on-site inspections focusing on the availability of CDD information. The results are published on the Central Bank of Iceland's website. The on-site inspections involves an in-depth examination of the measures taken by AML-obliged persons with regard to CDD prior to opening an account or establishing a business relationship, on-going monitoring of customers to ensure CDD information is up to date, the duty to inspect and report STR's, the role of the member of management responsible for compliance with AML/CFT Law, employee training and internal rules on ML and TF as well as the implementation of the risk-based approach which became a requirement from June 2019 (see Element A.3). The on-site inspections typically take the form of interviews and sample testing. During the period under review, the FSA paid special attention to the implementation of the BO requirements with 11 of the 19 on-site inspections focusing on the CDD measures undertaken to ensure the availability of ownership and identity information, including BO information. In particular, the FSA enquires on and checks the steps taken to identify the BOs as well as the steps taken to verify the identity of the BOs. In 2018, the FSA undertook two on-site inspections on a payment institution and a credit undertaking and made demands for corrective action. In 2019, the FSA undertook five on-site inspections covering two commercial banks, two investment firms and one savings bank. In 2020, the FSA conducted four on-site inspections that covered two commercial banks, a credit institution (that has since become a payment institution) and a payment institution. The main observations by the FSA were that financial institutions did not undertake sufficient CDD to identify the BOs of foreign customers, inadequate documentation to support the identification of customers and their BOs, inadequate independent assessment of whether the BO information held was reliable and accurate, and insufficient ongoing monitoring of customers. In all the cases, the FSA made demands for corrective action while one case led to a fine of ISK 12.5 million (EUR 86 250) imposed on a savings bank. The FSA followed up on the implementation of corrective actions, which included repeating CDD for specified customers, and terminating business relationships with customers who did not provide adequate information on their legal owners and their BOs. The supervision undertaken by the FSA is sufficient but points to a lack of understanding of the requirements to identify the BOs of customers and retention of documentation that supports the identification of the BOs of customers.

104. Financial institutions have designed internal systems to connect with the centralised BO register maintained at the Register of Enterprises. This enables the financial institutions to countercheck the results of their CDD with the information declared in the centralised BO register and flag out inconsistencies, which they must report to the Register of Enterprises as indicated in paragraph 115. According to representatives of the financial institutions, where the financial institutions note a discrepancy between the BOs they arrive at after conducting CDD and the centralised BO register, the customer would first be required to update its BO details in the centralised BO register at the Register of Enterprises before it can enter into a business relationship or engage in a transaction with the financial institution. The financial institution will not enter into a business relationship with new customers or allow current customers to conduct a transaction if it does not comply with the directions to update its BO details in the centralised BO register. In addition, the financial institution will notify the Register of Enterprises that the customer has failed to update its BO information as requested.

105. In respect of non-financial professionals, Icelandic authorities indicate that no supervision was carried out in respect of non-financial professions between 1 January 2018 and 31 December 2018, as there was no specific authority mandated to supervise them (see paragraph 93). When the AML/CFT Law entered into force on 1 January 2019, a new supervisory authority for non-financial professionals was consolidated within the IRC. Since then, the AML Supervisory Unit within the IRC has carried out inspections. They are typically initiated as off-site inspections and, based on the information and replies received, they can lead to an on-site inspection. The IRC (DIR) has developed a risk assessment framework that primarily relies on Iceland's National Risk Assessment to guide its supervision work. Based on this framework, the IRC (DIR) targets the riskiest sector for review and samples the entities within the sector. The IRC (DIR) can use information already in its possession e.g. annual turnover, number of staff and SWIFT payments as a basis for targeting an AML-obliged person within the targeted sector for review. In practice, once a person is identified, the IRC (DIR) will request it to provide its CDD procedures and customer base within a specified time. This information is analysed by the IRC (DIR) and may lead to an on-site inspection. The IRC (DIR) has mostly focused on the legal service providers (law firms and attorneys) who were deemed the riskiest sector in Iceland's National Risk Assessment. Since the new AML/CFT Law came into effect in January 2019, the IRC has conducted between 30 to 40 reviews of lawyers out of between 600 to 700 law firms and lawyers (out of which only 150 have a significant turnover).

106. During the period under review, the AML Supervisory Unit at the IRC had initiated 122 cases as off-site inspections, of which 78 cases

were closed without further action as no breaches were detected. Thirty-one cases progressed into an on-site inspection with daily fines imposed in two cases for failure to submit information within a given timeframe and an administrative fine was imposed in one case in the amount of ISK 3 000 000 (EUR 20 700) for failure to carry out an adequate risk-assessment and implement sufficient procedures, carry out CDD and examine whether customers were subject to targeted financial sanctions. Forty-one cases are still open or under further investigation.

107. The IRC has developed guidance material in the form of frequently asked questions, made available on its website, which elaborate on the requirements of the AML/CFT Law as well as the applicable sanctions. Joint trainings for non-finance professionals have been held in conjunction with the FIU.

108. Since 1 January 2019, the legal framework for AML/CFT and its implementation in practice ensure the availability of information on the BOs of companies. Although the FSA has enhanced its supervision of financial institutions during the period under review, the financial institutions did not receive adequate sensitisation pertaining to the new requirements for ensuring the availability of information on BO information. Iceland should take appropriate steps to raise awareness on the implementation of the legal and regulatory framework for BO information (see Annex 1).

109. Since 1 January 2019, the IRC has undertaken supervision and enforcement measures to ensure the availability of BO information with non-financial professions. However, the non-financial professions mostly rely on the information contained in the centralised BO register in the Register of Enterprises when conducting CDD to identify the BOs of their customers. Because of this, the BOs identified by the non-financial professionals would mirror any shortcomings, if any, in the information submitted to the Register of Enterprises. This deficiency is enhanced by the absence of a supervision and enforcement mechanism by the Register of Enterprises to ensure the accuracy and currency of centralised BO register during the period under review (see paragraph 123). Moreover, the centralised BO register was populated and became operational on 1 March 2020 and was therefore not available during the entire peer review period. In addition, such non-financial professions would not be in a position to identify and report any discrepancies in the BO information held by the Register of Enterprises with the BO information they collect pursuant to CDD obligations. **Iceland is recommended to strengthen the supervision programmes over non-financial professionals to ensure the availability of adequate, accurate and up-to-date beneficial ownership information in line with the standard.**

Centralised Beneficial Ownership Register

110. The Act on Registration on BOs came into effect on 27 June 2019. It requires companies to maintain an internal register of BOs at their registered address in Iceland and submit information on their BOs to the Register of Enterprises (Art. 4, Act on Registration of BOs). The new law has a wide scope and covers all legal persons that engage in business operations in Iceland or that are registered with the Register of Enterprises, including branches of foreign companies (Art. 2, Act on Registration of BOs).

111. Each company must lodge with the Register of Enterprises a copy of the information on its BOs using a prescribed form. It must include the name; legal domicile; Icelandic identification number (or date of birth in the absence of an identification number); nationality; participating interest, type of ownership date of transfer and ownership; and documents confirming the information provided and showing that the person in question is the BO. The notification of BOs must be submitted when new entities are being registered in the Register of Enterprises.

112. The centralised BO register is public (Art. 7, Act on Registration of BOs). It can be accessed by the FIU, regulatory bodies and other official authorities that are entrusted with regulation or performance of roles of protecting legal rights pursuant to the AML/CFT Law; and by tax authorities for the purpose of tax surveillance, EOI and tax investigations. These supervisory bodies have prompt and unrestricted access to all the information and documents concerning BOs without the possibility of the entity concerned being alerted that information on their BOs has been accessed. AML-obliged persons can also access information in the centralised BO register, which they can compare with the results of their CDD and information submitted by their customers. Their access is restricted to necessary information and documents and they cannot access underlying documentation that are submitted by companies that support the companies conclusion that the named person(s) is(are) the BO.[19]

113. The Act on Registration of BOs adopts the definition of BO in the AML/CFT Law, which is aligned with the standard (see paragraph 82).

114. The Register of Enterprises is required to assess whether any information provided is accurate and adequate. Where necessary, it may require further information from entities registering their BOs or obtain such additional information independently (Art. 4, Act on Registration of BOs). For this purpose, all natural persons and legal persons must promptly provide

19. Under Article 9, the IRC may also restrict access of information on ownership by children and other natural persons lacking in legal competence pursuant to a written request.

the Register of Enterprises with all information and documents needed to ensure the correct registration of BOs. Any person who fails to provide information required by the IRC or who provides false and misleading information may receive an administrative fine (Art. 15, Act on Registration of BOs). However, there is no obligation on BOs of a company to provide information to the company in which they hold a beneficial interest to enable the company to verify their status as BOs and register this information in the internal register of BOs and provide it to the Register of Enterprises.

115. A company must notify the Register of Enterprises of any changes to its BOs within two weeks (Art. 6, Act on Registration of BOs). However, unless the BOs of a company voluntarily inform the company of changes in their status as BOs, there are no mechanisms for the company to become aware of such changes. Further, the annual return filed with the Register of Enterprise does not include BO information. This may lead to a situation where the BO information maintained by the companies and in the BO register is not always up to date. **Iceland is recommended to provide a mechanism for updating beneficial ownership information in the beneficial ownership register held by legal entities and arrangements and the beneficial ownership register held by the Register of Enterprises to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant entities and arrangements, in accordance with the standard**.

116. AML-obliged persons and regulatory bodies are also required to notify the Register of Enterprises, if in the course of their work, they become aware of any disparity between information they possess, for example as a result of their CDD, and the information contained in the centralised BO register. Such notification must be sent to the Register of Enterprises within two weeks of noting the disparity. The Register of Enterprises is under obligation to investigate such notifications and take appropriate actions, which may include noting in the register that the BO information of the entity is under investigation and/or making changes in the registration if it proves to be inaccurate.

117. Companies must preserve the information and documents on their BOs for five years after the BO has ended. However, the Register of Enterprises may provide for the preservation of documents beyond the five years after the BO has ended for up to five additional years. The Act on Registration of BOs is otherwise silent on how the information will be preserved where the company is voluntarily wound up or ceases to exist. Nonetheless, Icelandic authorities indicate that any information and underlying documentation submitted to the Register of Enterprises is retained indefinitely.

Centralised Beneficial Ownership Register implementation in practice

118. Since the Act on Registration of BOs came into effect on 27 June 2019, the Icelandic authorities have undertaken awareness raising activities on the requirements of the new law. This included TV campaigns and notices on social media platforms. A notice explaining the new BO requirements was also published in a newsletter and webpage of the Register of Enterprises. It includes guidance on how to register and update details of BOs with the Register of Enterprises.

119. Following these campaigns, the Register of Enterprises issued a notice requiring all registered companies to submit details and documentation on their BOs by 1 March 2020 failing which they would be deregistered. All companies registered in the Register of Companies maintained by the Register of Enterprises were required to register the details of their BOs using a specified form and include the details in paragraph 111. Companies were also required to submit documentation supporting the identification of BOs. First time registration is through submission of a form to the Register of Enterprises but subsequent updates are done online. The table below shows the number of companies that had registered details of their beneficial owners at the end of review period:

Type of entity	No. of entities required to register their beneficial owners[20]	No. of entities that registered their beneficial owners	Compliance rate
Public Limited Companies	554	538	97.11%
Private Limited Companies	40 996	40 001	97.57%
Partnership Limited by Shares	64	60	93.75%

120. Since 27 June 2019 (when the Act on Registration of BOs came into effect), the Register of Enterprises has not approved the registration of any entity that has not provided identity information on its BOs. The Register of Enterprises counterchecks the identification details provided against the information held in the national registration system (the National Register).

121. Supervision and enforcement of the Act on Registration of BOs is the responsibility of the IRC which has extensive powers and may call upon an entity which does not comply with the law or regulations issued thereunder to take corrective action within a reasonable time (Art. 13, Act on Registration of BOs). In practice, Icelandic companies are given 14 days

20. As at 31 December 2020, there were 577 public limited companies, 41 027 private limited companies and 66 partnerships limited by shares registered in Iceland. The numbers in the present column required to register the BO information varies from this as companies that are fully owned by the government or municipalities were exempted from the obligation to register BOs.

to comply with a request for corrective action. If an AML-obliged person fails to provide information requested by the IRC or does not respond to requests for corrective action within a reasonable time, it may be subject to daily fines (Art. 14, Act on Registration of BOs) from ISK 10 000 to ISK 500 000 (EUR 69 to EUR 3 450). In determining the amount of daily penalties, the nature of the negligence or violation, and the financial strength of the entity in question may be taken into account. A company that does not respond to a request by the IRC to take corrective action within three months may be deregistered and wound-up (Art. 17, Act on Registration of BOs). As explained in paragraph 74 regarding availability of legal ownership and identity information, no action has been taken to deregister companies during the current review period. Icelandic authorities indicate this is due to the fact that regulations to guide the process of deregistration have not been issued or enacted.

122. The IRC may also impose administrative fines for a variety of offences (Art. 15, Act on registration of BOs). These include failure to supply information or supplying false or misleading information to the IRC, failure to update BO information submitted to the Register of Enterprises within two weeks of changes in the BOs of the entity or failure to preserve information and documents for five years after the BO has ended. The administrative fine is imposed regardless of whether a violation is committed wilfully or negligently. A natural person may be fined from ISK 100 000 to ISK 5 million (EUR 690 to EUR 34 500) while a legal person may be fined from ISK 500 000 to ISK 80 million (EUR 3 450 to EUR 550 000). In the case of a legal person, the fine may be higher, up to 10% of the total turnover according to its most recent approved annual financial report or 10% of the most recent approved consolidated financial report if it is part of a group of companies. A legal person may be culpable for an offence committed by a representative or employee in the course of its business operations, and for its benefit, irrespective of whether the representative or employee has been found guilty. A natural person who commits an offence and benefits from the offence may be subject to a fine that is double the amount of the financial benefit he/she has obtained.

123. The present review concludes that Iceland has adequate sanctions to ensure the availability of BO information with the central BO register as outlined in paragraphs 121-122. However, the Act on Registration of BOs is recent, having come into effect on 27 June 2019. Moreover, the Register of Enterprises became operational on 31 March 2020. Prior to this, Iceland relied solely on the AML/CFT Law. The observations on the implementation in practice of the AML/CFT framework in paragraph 108 therefore apply to availability of BO information on companies during this period, and BO information may not have been available for companies over the entire review period.

124. The Icelandic authorities indicate that the verification checks on the accuracy of the BOs declared to the Register of Enterprises were limited to confirming the identification documents provided by companies against the information in databases held by the public authorities that issued the identification document (i.e. this is limited to Icelandic persons). There is no systemic means of verifying whether the persons indicated as BOs are indeed the BOs following the definition provided in the law. During the on-site visit, the Icelandic authorities confirmed that supervisory and enforcement measures are yet to be fully outlined as the requirement for registering BOs is new. Icelandic authorities also indicate that no supervisory and enforcement measures have been undertaken by the Register of Enterprises to ensure that companies obtain and retain information and documentation on their BOs in an internal register kept at the companies' registered office. Icelandic authorities further indicate that the Register of Enterprises had no means to verify whether companies required to update details on their BOs did so within the prescribed time. Iceland has taken steps to implement the new Act on Registration of BOs by ensuring that all pre-existing companies provided the Register of Enterprises with information regarding their BOs. All companies seeking registration for the first time have had to provide information on their BOs as a precondition for registration. **Iceland is recommended to put in place a comprehensive and effective supervision and enforcement programme to ensure that adequate, accurate and up-to-date beneficial ownership information for all legal entities and legal arrangements is available in line with the standard.**

Nominees

125. In Iceland, nominee shareholding is only possible in relation to public limited companies. The name, identity number and address of all shareholders, including nominee shareholders must be entered in the register of shares (Art. 30, Act on Public Limited Companies). However, as noted in paragraph 53, there is no requirement for the shareholder to disclose its nominee status to the company. The 2013 Report identified a combination of requirements that would ensure that ownership and identity information on nominee shareholders is available. The requirements described in the 2013 Report remain unchanged and stipulate that:

- Only licensed entities are permitted to act as nominee holders of shares that are negotiable on the capital market (Act on Securities Transactions No. 108/2017).
- Financial undertakings (such as banks, securities undertaking, securities brokerage, etc.) which are licensed and authorised to hold financial instruments for their Icelandic or foreign clients may apply

to the FSA for a licence to hold instruments in a nominee account (Art. 3, Regulation on Nominee Registration and the Custody of Financial Instruments in Nominee Accounts issued by the FSA under Art. 26(8) of the Act on Securities Transactions).

- Licensed nominees must keep records of their clients (Art. 12, Act on Securities Transactions) and must have information available on clients who have requested nominee registration for at least five years from the end of the business relationship (Art. 7, Regulation on Nominee Registration and the Custody of Financial Instruments in Nominee Accounts).
- Licenced nominees must maintain a record of the share of each individual client, which must include the names and number of clients associated with the financial instrument registered in the nominee account, as well as the number of financial instruments covered by each nominee (Art. 8, Regulation on Nominee Registration and the Custody of Financial Instruments in Nominee Accounts).

126. Since 1 January 2019, the obligations in paragraph 125 are further supplemented by the CDD requirements under the new AML/CFT Law which applies to a natural or legal person who provides, for remuneration, services that include acting as, or arranging for another person to act as, a nominee shareholder for another person other than a company listed on a regulated market. The nominees must obtain and retain satisfactory ownership and identification information on their client for whom they hold the shares. In addition, when the client is a legal entity, the nominee is required as part of its CDD obligations to identify the BOs and ensure that their identity has been proved using approved identification documents (Art. 10, AML/CFT Law).

127. The FSA monitors the compliance of licensed entities with the Act on Securities Transactions and the Regulation on Nominee Registration and the Custody of Financial Instruments in Nominee Accounts (Art. 8, Act on Official Supervision of Financial Activities No. 87/1998). Article 9 empowers the FSA to inspect the operations of regulated entities as often as deemed necessary. These entities must grant the FSA access to all their accounts, minutes, documents and other material in their possession regarding their activities as the FSA considers necessary. The FSA may perform on-site checks or request information in the manner and as often as it considers necessary. Pursuant to Article 10, the FSA may demand that the licensed entities take corrective action to address identified deficiencies with a reasonable time. Article 11 allows the FSA to impose financial penalties (see paragraphs 95 to 97).

128. In practice, the FSA has a strong supervision and enforcement framework as described in paragraphs 94 to 97 above. Accordingly, the Icelandic financial and AML/CFT Law ensures that ownership and identity information in the context of nominee shareholding is available. Nominees have an obligation to keep records on who they are working for, but not to disclose it to the concerned entities in which thy act as nominees.

Availability of beneficial ownership information in EOIR practice

129. During the period under review, Iceland has not received any request in respect of BOs of companies.

A.1.2. Bearer shares

130. The issuance of bearer shares is prohibited in Iceland. The Act on Public Limited Companies (Article 30) and the Act on Private Limited Companies (Article 19) only provide for the issuance of shares in registered form.

A.1.3. Partnerships

131. The 2013 Report concluded that the legal and regulatory framework in Iceland required the identification of partners of a partnership in accordance with the standard and that the legal framework had been adequately implemented in practice.

Types of Partnerships

132. Icelandic law allows the formation of two types of partnerships: general partnerships (*sameignarfélag*) and limited partnerships (*samlagsfélag*) as described below:

- **General partnerships** (*sameignarfélag*) are regulated by the Act on Partnerships No. 50/2007. Partners have unlimited liability (Art. 2) and are, *prima facie*, held jointly and severally liable for the obligations of the partnership. However, it is possible to provide for an alternative arrangement in the partnership agreement (Art. 8, Act on Partnerships). As at 31 December 2020, there were 2 032 general partnerships in Iceland registered with the Register of Enterprises.
- **Limited partnerships** (*samlagsfélag*) consist of one or more general partners and one or more limited partners contributing capital. General partners are liable for all the debts and obligations of the partnerships while limited partners are only liable for the debts and obligations of the partnership to the extent of the amount of capital

contributed. Some provisions governing the operations of limited partnerships are found in the Act on Trade Registers, Firms and Authority No. 42/1903. A specific feature of the Icelandic law is that where there is more than one partner with unlimited liability, the partnership will have unlimited liability (Art. 33, Act on Trade Registries, Firms and Authority). As at the end of 2020, there were 3 031 limited partnerships in Iceland registered with the Register of Enterprises.

133. All partnerships registered in Iceland (general partnerships and limited partnerships) have a separate legal personality and can acquire debts, sue and be sued in their own names (Art. 5, Act on Partnerships). Partners can be both natural persons and legal persons (Art. 6, Act on Partnerships).

Identity information

134. General and limited partnerships are required to have a written partnership agreement for registration purposes. At minimum, the partnership agreement must set out: (i) the name of the partnership; (ii) the municipality in which it is domiciled; (iii) the name, identity numbers and addresses of the partners; (iv) the object of the partnership; (v) whether the partnership will be an independent taxpayer; (vi) whether the partners will contribute capital to the partnership and the value of such contribution; and (vii) the date of signature (Art. 7, Act on Partnerships). This partnership agreement must be signed by all founding parties and by partners joining the partnership later. A partnership agreement can only be amended with the approval of all partners, who must append their signature.

135. The 2013 Report noted that partnerships were required to register with the District Commissioner (see paras. 77-79 and 86). It was noted that there were 24 District Commissioners in Iceland, and this made the location of registration information time-consuming in practice. In addition, the majority of registration records for partnerships were maintained only in paper format after the electronic system previously used by Icelandic authorities collapsed. Icelandic authorities therefore planned to relocate and centralise the registration of partnerships at the Register of Enterprises (para. 87 of the 2013 Report).

136. Since 2014, the registration of partnerships has moved from the 24 District Commissioners to the Register of Enterprises. General partnerships and limited partnerships have to register with the Register of Enterprises to obtain an identity number (Art. 2 and 6, Act on Business Enterprise Registration) that is necessary for the conduct of any transaction in Iceland. A partnership seeking registration with the Register of Enterprises has to provide its name, address, form of operation, founding

day and industry number according to the industry classification of Statistics Iceland (Art. 4). Icelandic authorities indicate that partnerships must submit their partnership agreement to the Register of Enterprises at the time of registration. Changes in registration information and the partnership agreement must be notified to the Register of Enterprises (Art. 7). Identity information submitted to the Register of Enterprises, including changes, is retained indefinitely, ensuring availability of this information in cases where the partnership has ceased to exist.

137. A foreign partnership seeking to engage in business in Iceland must also register with the Register of Enterprises to obtain an Icelandic identification number. It must provide the same information required of Icelandic partnerships and a copy of its certificate of registration from its home jurisdiction. Foreign partnerships must also update the Register of Enterprises with changes in the information provided for registration, which includes ownership and identity information on its partners. There were no foreign partnerships registered by the Register of Enterprises to operate in Iceland during the period under review.

138. For tax purposes, Icelandic partnerships are treated as either fiscally transparent or as an independent tax entity (see the 2013 Report, paras. 81-82). A partnership will be treated as an independent tax entity in Iceland if its registration with the Register of Enterprises states that it is an independent tax entity and it files an agreement during registration stipulating the proportions of ownership, equity and how the partnership will be dissolved (Art. 2(3), Income Tax Act). A partnership registered as an independent tax entity is subject to the requirements to file a tax return discussed in paragraph 57 in sub-Element A.1.1, which, in practice, includes ownership and identity information annexed to the annual accounts. Where a partnership is not registered as an independent tax entity, its income is divided between, and attributed to, its partners equally, unless the partners have expressly agreed to different proportions of attribution. The attributed partnership income is taxed in the hands of each partner. Partners are required to include their share of the partnership income in their own tax return in which case there is an obligation to report the name of the partnership from which the income is derived. Identity information on the partners would be available to the IRC through the tax return filed by the partners annually under Article 90 of the Income Tax Act.

Beneficial ownership

139. The standard requires that information in respect of each BO of a partnership be available. Where any partner is a company or other entity or arrangement, information on the BOs of that partner should be made available. As for companies (see sub-Element A.1.1), BO information for

partnerships is made available through a combination of the AML/CFT Law and the centralised BO register, complemented by the obligation on the partnership to maintain an internal register of BOs.

140. Partnerships are registered with the Register of Enterprises and therefore fall within the scope of the Act on Registration of BOs (Art. 2, Act on Registration of BOs). At registration, a partnership must identify its BOs, retain this information in an internal register at its registered office and update it if the BOs change. The partnership must also submit details of its BOs to the Register of Enterprises, including their names, legal domicile, identification number or date of birth in the absence of an identification number, nationality, participating interest, type of ownership, date of transfers of ownership and the documents confirming the information provided and showing that the person in question is a BO (Art. 4, Act on Registration of BOs). The BO information held by the Registrar of Enterprises must be updated within two weeks of changes in the BOs of the partnership (Art. 6, Act on Registration of BOs). Partnerships are obligated to preserve information and documents pertaining to their BOs, including any changes notified to the Register of Enterprises in accordance with Article 6 for five years after the beneficial ownership has ended (Art. 11, Act on Registration of BOs). BO information submitted to the Register of Enterprises is retained indefinitely, ensuring availability of this information where the partnership has ceased to exist.

141. Partnerships that engage an AML-obliged person also fall within the scope of the BO reporting requirements for AML-obliged persons as indicated under sub-Element A.1.1. However, there is no legal obligation for partnerships to engage an AML-obliged person.

142. As with all legal persons other than companies, the principle that should be applied to partnerships is that the determination of BO should take into account the specificities of their different forms and structures.[21] With the exception of partnerships limited by shares, which are treated as companies, Icelandic partnerships operate differently to companies. The same definition of BO contained in the AML/CFT Law is applicable to both partnerships and companies and partnerships must follow the same procedure for the identification of BOs as companies as described in sub-Element A.1.1.

143. With regard to general partnerships, and assuming no alternative is set out in the partnership agreement, all partners are jointly and severally liable for the total obligations of the partnership (Art. 8, Act on Partnerships). Unless it is specifically stated in the partnership agreement, a new partner is also liable for the obligations of the general partnership that

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

arose before they joined the partnership. All general partners have control over the partnership regardless of the level of their contribution. Iceland applies a simultaneous rather than a cascading approach to the identification of BOs and therefore all general partners would be identified as BOs as persons who control the partnership through other means together with persons having an ownership control over the partnership. As partners can be natural or legal entities, a partnership is required to look through partners that are legal entities and identify the natural persons behind the legal entity in line with the approach adopted for companies. As with companies, partnerships have to provide details on BOs which include the name; legal domicile; identification number or date of birth in the absence of an identification number; nationality; participating interest, type of ownership, date of transfer of ownership; and document confirming the information provided and confirming that the person identified is a BO.

Implementation in practice

144. Since the Act on Registration of BOs came into effect in June 2019, the Register of Enterprises has taken steps to establish the central BO register which became operational in March 2020. Since then, the Register of Enterprises has not registered any new partnership that has not provided information on its BOs. In addition, all pre-existing partnerships were required to submit details of their BOs and nearly all have complied as indicated in the table below. As noted in sub-Element A.1.1 for companies, the Register of Enterprises is yet to deregister partnerships that did not provide information on their BOs pending the issuance of regulations.

Type of entity	No. of entities required to register their beneficial owners	No. of entities that registered their beneficial owners	Compliance rate
General partnership (partnership with shared liability)	2 030[22]	1 948	95.96%
Limited partnership	3 031	2 967	97.89%

145. As noted in the context of companies (see para. 124), the Register of Enterprises has not put in place supervisory and enforcement measures to ensure that partnerships obtain, retain and update information on their BOs. The Register of Enterprises has also not established mechanisms for verifying the details on natural persons submitted as BOs of partnerships and for ensuring that partnerships notify changes in their BOs within the prescribed

22. As at 31 December 2021 there were 2 032 general partnerships. Icelandic authorities indicate that partnerships that are fully owned by the government or municipalities were exempted from BO registration.

period. **As such, the recommendation under sub-Element A.1.1 to provide a mechanism for updating beneficial ownership information in the beneficial ownership register held by legal entities and arrangements and beneficial ownership register held by the Register of Enterprises to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant entities and arrangements, in accordance with the standard and the recommendation under sub-Element A.1.1 to put in place a comprehensive and effective supervision and enforcement programme to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard also applies to partnerships**.

Availability of partnership information in EOIR practice

146. During the period under review, Iceland received no EOI request related to a partnership.

A.1.4. Trusts

147. The concept of a trust does not exist under Icelandic law except in the context of the AML/CFT Law. Furthermore, Iceland has not signed the Convention on the Law Applicable to Trusts and on their Recognition (1 July 1985, The Hague). Although Icelandic law does not provide for the creation of trusts, there are no obstacles barring an Icelandic resident from acting as a trustee of a foreign trust, or the investment or acquisition of assets in Iceland by a foreign trust.

Requirement to maintain identity information in relation to trusts

148. Identity information related to foreign trusts having a trustee resident in Iceland is available through two sources. First, based on the application of general tax provisions and obligations, the Icelandic authorities would be able to identify the settlors and beneficiaries of a foreign trust for which an Icelandic resident is a trustee (whether acting in a professional or non-professional capacity). Icelandic residents are subject to tax on their worldwide income (Art. 1, Income Tax Act), therefore an Icelandic resident who is a trustee of a foreign trust has to declare income derived from his/her functions as a trustee, annually, as required by Article 90 of the Income Tax Act. A resident trustee of a foreign trust may also be taxed as the apparent owner of the assets of any foreign trust for which he/she is a trustee, unless he/she can prove otherwise through an appeal lodged under Article 99 of the Income Tax Act. In this case, the IRC would require such a trustee to provide information that identifies the settlors, beneficiaries and other parties to the trust through Article 94 of the Income Tax Act. However, these

tax law obligations may only provide partial availability of identity information since Icelandic resident trustees who do not draw an income from the foreign trust may not file a return with the IRC and the IRC would not be aware that they are acting as trustees for a foreign trust. The IRC would not be aware of Icelandic residents who are managing passive assets for a foreign trust if they do not draw an income from the trust (i.e. non-professional trustees). However, as mentioned in paragraph 150, any natural person engaging in trust activities must disclose the identity information in respect of the trust.

149. Second, any person who provides trustee-related services for a remuneration is an AML-obliged person. If a professional trustee is resident in Iceland, then identity information on the trust must be available through the CDD obligations under the AML/CFT Law. Article 3 defines a trust and company service provider (TCSP) as a natural or legal person who by way of business provides services of, amongst other things, "acting as, or arranging for another person to act as, a trustee of a trust or similar arrangement". Law firms, attorneys and other specialists who assist with the creation, operation or management of undertakings, trusts or similar arrangements are also subject to CDD and reporting obligations under Article 2(m)(6) of the AML/CFT Law. Customers, e.g. trustees and settlors of a trust, are required to provide proof of their identity to AML-obliged persons prior to the establishment of a permanent business relationship or prior to the establishment of a business relationship or transaction. The identification documentation to be provided for CDD is as described in sub-Element A.1.1 above.

Beneficial ownership requirements for trusts

150. The Act on Registration of BOs applies to trusts and comparable entities that conduct business in Iceland (Art. 2). Article 5 requires natural persons and legal persons engaging in trust activities or other functions for trust funds or similar entities to register with the Register of Enterprises and provide information on: (a) trustees; (b) founders; (c) protectors (if applicable); (d) right holders or group of right holders (beneficiaries); and (e) any other natural persons exercising control over the trust by direct or indirect means or by other comparable arrangement, as well as documentation confirming the information provided. If a trust is registered in another EU Member State, the Register of Enterprises may be satisfied with that registration and only require a confirmation that the trust has indeed been registered. Icelandic authorities consider such registration sufficient for the purposes of ensuring the availability of BO information because the EU 5th AML Directive requires a person who is a trustee to register the BO information for the trust at the central registry in the EU Member State in which the trustee is established or resides and to keep such BO information

up to date. Iceland can access or request the information on BOs of trusts registered in other EU Member States as and when necessary.

151. An Icelandic resident who is a professional trustee is an AML-obliged person and must conduct CDD and identify the BOs of the trust in line with the requirements of the AML/CFT Law as described in sub-Element A.1.1. At the same time, an Icelandic resident, who does not act in a professional capacity may be a trustee of a foreign trust. In this case, the AML/CFT provisions will only apply when such an Icelandic resident engages an AML-obliged person. There is no legal requirement for a resident of Iceland who is a trustee of a foreign trust to engage an AML-obliged person, for example by opening a bank account. Nevertheless, where an AML-obliged person has not been engaged, BO information may still be available under the Act on Registration of BOs and the general tax provisions and obligations.

152. The term "beneficial owner" is defined in Article 3(13) of the AML/CFT Law to mean:

> One or more natural persons who ultimately own or control the customer, legal entity or natural person on whose behalf a transaction or activity is being conducted or carried out. Beneficial owner is considered to be:
>
> … b. In the case of trusts and similar arrangements, all of the following:
>
> 1. trustee,
>
> 2. settlor,
>
> 3. protector, if any,
>
> 4. the beneficiary or beneficiaries; if the beneficiary has not yet been determined, then any natural person or group of natural persons who are likely to receive the proceeds of the establishment of the trust or similar arrangement shall be regarded as beneficiaries,
>
> 5. other natural persons who exercise control, directly or indirectly, over a trust or similar arrangement.

153. The definition of BO of trusts meets the standard. AML-obliged persons must identify the persons named in the definition as BOs of the trust. In accordance with Article 3(13)(b)(5) of the AML/CFT Law and Article 5 of the Act on Registration of BOs, the persons to be identified as BOs of a trust must always be natural persons. Icelandic authorities indicate that where a legal entity is party to a trust, the AML-obliged person must look through the interposed legal entity to identify its BOs following the method described in sub-Element A.1.1.

Implementation in practice

154. Oversight and enforcement for identity information and BO information on trusts are similar to those described for companies under sub-Element A.1.1 (see paragraphs 118 to 124). As such, the recommendations under sub-Element A.1.1 also apply to trusts, i.e. the recommendation to provide a mechanism for updating beneficial ownership information in the beneficial ownership register held by legal entities and arrangements and beneficial ownership register held by the Register of Enterprises and the recommendation to put in place a comprehensive and effective supervision and enforcement programme, to ensure that adequate, accurate and up-to-date beneficial ownership information is available in line with the standard.

155. Icelandic professional bodies (the Icelandic Bar Association) indicated that they were not aware of the existence or operation of foreign trusts with a trustee or administrator resident in Iceland. Similarly, the FIU indicated that it did not receive a suspicious transaction report concerning an Icelandic resident acting as a trustee or administrator of a foreign trust during the period under review. The Central Bank of Iceland indicated that two out of the four commercial banks in Iceland have a total of 77 foreign trusts with a trustee who is resident in Iceland as customers. All the commercial banks were subject to onsite inspections by the FSA during the review period (see paragraph 103) which did not raise any issue with regard to availability of BO in respect of trusts.

156. The combination of the obligations under the Act on Registration of BOs, the AML/CFT Law and the general tax obligations permit that information regarding trustees, founders, protectors, beneficiaries and any other natural person exercising ultimate effective control over foreign trusts is available to the Icelandic tax authorities. Accordingly, Iceland has taken reasonable measures to ensure that identity and BO information is available to its competent authority in respect of foreign trusts with a trustee or trust administrator resident in Iceland.

Availability of trust information in EOIR practice

157. Iceland did not receive any request for information relating to a trust during the period under review.

A.1.5. Foundations

158. In Iceland, foundations are legal entities established for a defined purpose, with a governing body and irrevocable capital, which meet some funding requirements. Icelandic law permits the formation of two types of foundations: non-commercial foundations and foundations engaging in

business operations. Both types of foundations are liable to tax unless they are exempt because their net income is only spent for the public good and such work is their sole goal according to their statutes (Art. 2(5) and 4(4), Income Tax Act).

Non-commercial foundations

159. The operations of a non-commercial foundation are governed by the Act on Funds and Institutions Operating According to Approved Charter No. 19/1988 and Regulation No. 140/2008 on Funds and Institutions that Operate According to an Approved Charter.

160. Article 1 of the Act requires that the charter for a non-commercial foundation be approved by the District Commissioner of North West Iceland, who maintains a register of all foundations known as the "Funds Register" (Art. 2, Regulation No. 140/2008). There were 486 non-commercial foundations in existence at the end of 2020 registered at the Register of Enterprises. However, the National Audit Office and the District Commissioner of North West Iceland indicate that there were 696 non-commercial foundations, meaning that not all non-commercial foundations are registered with the Register of Enterprises. Icelandic authorities did not provide a reason for this discrepancy. The funds are irrevocably provided to the foundation by gift, will or other private legal instrument for the benefit of one or more purposes (Art. 2 of the Act; Art. 8, Regulation No. 140/2008).

161. The founding charter submitted for approval must indicate: (a) name of the foundation; (b) municipality where it is located; (c) objectives; (d) how funds will be disposed off for the benefit of its objectives; (e) founders' names and identification numbers; (f) amount and source of initial capital; (g) names and number of board members and the duration of their term of office; (h) other governing bodies, such as a managing director and representative council, if any, as well as their tasks; (i) auditors; and (j) if the foundation is not managed by a board, the names of other custodians (Art. 2, Act; Art. 4 of Regulation No. 140/2008). The charter should include the names and identification numbers of the board members and must be signed by the founder or the board. It should also include a confirmation from an auditor, lawyer or bank that the initial capital has been paid to the account of the foundation. If the initial capital has not been paid to the account of the foundation, the charter must also include an auditor's report outlining the value and how the value in cash will be obtained (Art. 6 and 7, Regulation No. 140/2008). A legal entity cannot be a member of the board (Art. 9, Regulation No. 140/2008).

162. All non-commercial foundations in the Funds Register must submit an annual report to the National Audit Office indicating the utilisation of

finances for the previous year. The National Audit Office is under obligation to maintain and publish a register of the gross income and expenses and assets and liabilities of all registered foundations together with its comments on the accounts submitted (Art. 3, Act on Funds and Institutions Operating According to Approved Charter and Regulation).

163. Non-commercial foundations are not relevant for the review. In Iceland, non-commercial foundations can only be established upon approval of their charter by the government. The income of non-commercial foundations is devoted to pursuing public good and they do not have identifiable beneficiaries (see paragraph 158). The funds donated to such foundations are irrevocable (see paragraph 160) with no possibility to make distributions to the members of founders. Upon dissolution, the remaining assets are channelled to other causes related to the foundation's original objectives.

Foundations engaging in business operations

164. Foundations engaging in business operations are governed by Act No. 33/1999 respecting Foundations Engaging in Business Operations. A foundation is engaging in business operations where it: (a) derives earnings from the sale of goods and services or engages in similar activities to those of other associations or individuals engaging in business operations; or (b) wields the majority of votes or other control in a company, except where these activities only form a limited part of the overall activities of the foundation (Art. 3). As at the end of 2020, there were 137 foundations engaged in business operations in Iceland registered with the Register of Enterprises. A foundation engaged in business operations that is registered can acquire rights and be subject to duties as well as be a party to court proceedings. Upon registration, all obligations are transferred from the founders to the foundation (Art. 8).

165. The law does not contain an explicit requirement that such foundations may only be established for public good purposes. However, the capital provided to a foundation engaging in business operations is irrevocable and, therefore, founders cannot recover, or receive distributions of, their fund. The capital may be provided by means of a last will and testament, gift or other act for the accomplishment of a specified objective (Art. 2). In addition, the establishment funds cannot be reduced unless authorised by the Minister of Commerce (Art. 13). The 2013 Report (para. 98) concluded that these restrictive provisions do not induce the use of foundations for asset management, for instance, and in practice foundations operate institutions such as private schools, universities and museums.

Identity information

166. The 2013 Report concluded that the legal and regulatory framework, in particular the Act on Foundations Engaging in Business Operations, the Act on Business Enterprise Registration, the Income Tax Act and the AML/CFT Law, and their practical implementation ensured the availability of information on the founders, the board members, the directors and any other beneficiaries of a foundation (see paras. 99-105 of the 2013 Report). It also noted that although foundations engaged in business operations are not required to maintain information in respect of members of the foundation council, beneficiaries or other persons with authority to represent the foundation, the information with the Register of Enterprises (as detailed in Art. 9), is normally maintained by the foundation itself.

167. Identification information on the founders and directors of foundations engaging in business operations is available with the District Commissioner and the Register of Enterprises. In addition, any reduction of the funds of the foundation must be authorised by the Minister of Commerce, and foundations that make payments to their beneficiaries are required to provide information to the IRC periodically regarding such payments pursuant to regulations issued under Article 92 of the Income Tax Act. To the extent that such payments are made by a foundation, identity information on the beneficiaries will be made available through such periodic reporting. However, persons receiving, from a foundation, benefits other than payments are not identified through periodic reporting to the IRC.

Beneficial ownership

168. Since the last review, Iceland has enacted the Act on Registration of BOs, which came into effect on 27 June 2019. Foundations engaged in business operations are required to register with the Register of Enterprises (Art. 2, Act on Business Enterprise Registration). As such, they are subject to the reporting obligations established under the Act on Business Enterprise Registration and the Act on Registration of BOs (Art. 2, Act on Registration of BOs) described in A.1.1. The Act on Registration of BOs requires foundations to obtain information on their BOs (Art. 4(1)) and to keep this information for five years after the BO has ended (Art. 11) including any changes notified to the Register of Enterprises in accordance with Article 6. Information on BOs of foundations engaged in business operations submitted to the Register of Enterprise is retained indefinitely.

169. Iceland also enacted a new AML/CFT Law, effective from 1 January 2019, which requires service providers that assist in the formation of any type of legal person, including a foundation, or that administer or manage a foundation to conduct CDD on their customers (as discussed in A.1.1

above). This includes a requirement to obtain identification information regarding persons specifically authorised to represent the customer, i.e. the members of the board of the foundations (Art. 10, AML/CFT Law). The definition and determination of the BOs of foundations follows the same approach as for companies as discussed under sub-Element A.1.1. The definition of BO applies to "the natural person or persons who in fact own or control the legal person through direct or indirect ownership of a share of more than 25% in the legal person, control more than 25% of the voting rights or are regarded as having control of the legal person in another manner". While there are no ownership rights in a foundation, this definition would capture any individual controlling the foundation in another manner.

170. Service providers must obtain sufficient information about the customer and the BOs and take appropriate measures to verify approved identification documents provided. The service provider must understand the operations and administrative structure of customers and make an independent assessment of whether the BO information is accurate and adequate. Service providers must obtain clarifications where it is not clear from the submitted documents who will be the final recipient of funds or who is the beneficial owner of the customer. The same deficiency identified under sub-Element A.1.1 on the updating of the BO information also applies for foundations. **Iceland is recommended to provide a mechanism for updating beneficial ownership information in the beneficial ownership register held by foundations and beneficial ownership register held by the Register of Enterprises to ensure that adequate, accurate and up-to-date beneficial ownership information is available, in accordance with the standard.**

Implementation in practice

171. Foundations engaged in business operations are subject to oversight and enforcement measures similar to those described in sub-Element A.1.1 in respect of the Act on Business Enterprise Registration and the Act on Registration of BOs (see paragraphs 118 to 124).

172. The 2013 Report (para. 106) noted that, in practice, foundations engaging in business operations consist of private schools, universities and museums that are tax exempt because their work and net income are dedicated towards the public good. In addition, no EOI partner had requested information relating to a foundation in Iceland. As such, it concluded that the gap in the Icelandic legal framework with respect to ensuring the availability of identity information on beneficiaries not receiving payments from a foundation engaged in business operations was not material and encouraged Iceland to monitor the situation to ensure that this does not hinder effective EOI in practice.

173. Iceland has not made any changes in the regulation regarding foundations engaged in business operations. Iceland and its peers indicate that Iceland has not received a request for information involving a foundation engaged in business operations during the period under review. Iceland therefore concludes that, in practice, it has not encountered a gap in answering EOI requests and if a gap would be encountered, e.g. in a request for EOI, the IRC has a good co-operation with the Ministry of Culture and Commerce, which oversees all sectors of ordinary business and economic activity and would initiate legislative changes. Iceland should continue to monitor foundations engaged in business operations to ensure that persons to whom they provide benefits other than in the form of payments that are reported to the IRC under Article 92 of the Income Tax Act are identified (see Annex 1).

174. Information on the BOs of foundations engaging in business operations and non-commercial foundations is available with the Register of Enterprises. Since the Act on Registration of BOs came into effect, the Register of Enterprises has not registered any foundation that has not provided details of its BOs. All pre-existing foundations were required to submit details of their beneficial owners and nearly all have complied as indicated in the table below.

Type of entity	No. of entities required to register their beneficial owners	No. of entities that registered their beneficial owners	Compliance rate
Foundation engaging in business operations	137	132	96.35%
Foundation and Funds (Non-commercial foundations)	486	422	86.83%

175. In practice, the Register of Enterprises has not undertaken any supervision and enforcement measures to ensure foundations obtain information on their BOs, retain this information at their registered office in Iceland, and update it whenever there are changes to their BOs. Similarly, there is no systemic means of verifying whether the persons submitted as BOs of foundations are indeed the BOs and for ensuring that the Register of Enterprises is updated of any changes to the BOs of foundations. As such, **the recommendation under sub-Element A.1.1 to develop supervisory programmes and apply effective sanctions in cases of non-compliance to ensure the availability of adequate, accurate and up-to-date BO information in line with the standard also applies to foundations**.

Availability of foundation information in EOIR practice

176. Icelandic authorities have not received a request for information relating to foundations during the period under review.

Other relevant entities and arrangements – Co-operative societies

177. As noted in the 2013 Report (para. 107), the operations of co-operative societies (*samvinnufélag, svf.*) are governed by the Act on Co-operatives No. 22/1991. Co-operative societies are formed to improve the interests of their members through member participation in the activities of the co-operative. In practice, such entities are formed by producers of farm products, fish, etc., for the purpose of marketing their products and purchasing their supplies. Co-operative societies may operate for profit. There is no limit to the number of members, amount of initial capital is not fixed, and the members are not liable for the personal responsibility, organisational decisions or the activities of the co-operative. Each member's liability is limited to his/her membership fee and share in the society's fund.

178. Article 2 of the Act on Business Enterprise Registration requires co-operative societies to register with the Register of Enterprises and provide similar registration information as companies (described in Registration of Companies above) and a Register of Co-operatives is maintained by the IRC (Art. 10, Act on Co-operative Societies). Within a month of registration the board of the co-operative society must notify the IRC of, among other things, the names, positions, addresses and identification numbers of its managers (Art. 11, Act on Co-operative Societies). There is no requirement to provide identity information on members at registration or with the subsequent notification. Co-operative societies are nonetheless required to provide information identifying their members to the IRC annually under the periodic reporting obligations (Art. 92, Income Tax Act). Furthermore, the directors of a co-operative society are required to maintain a register of members at the registered office of the co-operative (Arts. 7 and 45, Act on Co-operatives).

179. Co-operatives fall within the scope of the Act on Registration of BOs (Art. 2, Act on Registration of BOs). As such, they are subject to the reporting obligations established under the Act on Business Enterprise Registration and Act on Registration of BOs described in sub-Element A.1.1. Co-operative societies appear to take the form of companies (see Art. 5, Act on Co-operative Societies). Therefore, the definition and determination of the BOs of co-operative societies follows the same approach as for companies as discussed under sub-Element A.1.1. In practice, the Register of Enterprises has not undertaken any supervision and enforcement measures to ensure co-operatives obtain information on their BOs, retain this information at their registered office in Iceland, and update it whenever there are changes to their BOs. Similarly, there is no systemic means of verifying whether the persons submitted as BOs of co-operatives are indeed the BOs and for ensuring that the Register of Enterprises is updated of any changes to the BOs of co-operatives. As such, the recommendation under

sub-Element A.1.1 to **provide a mechanism for updating beneficial ownership information in the beneficial ownership register held by legal entities and arrangements and beneficial ownership register held by the Register of Enterprises to ensure that adequate, accurate and up-to-date beneficial ownership information is available** for all relevant entities and arrangements, in accordance with the standard and the recommendation under sub-Element A.1.1 to **develop supervisory programmes and apply effective sanctions in cases of non-compliance to ensure the availability of adequate, accurate and up-to-date BO information in line with the standard** also applies to co-operatives.

180. The AML/CFT Law which came into effect on 1 January 2019 also requires service providers that assist in the formation of a co-operative or that administer or manage a co-operative to conduct CDD on their customers (as discussed in A.1.1 above). This includes a requirement to obtain identification information regarding persons specifically authorised to represent the customer i.e. the members of the board of the co-operative (Art. 10, AML/CFT Law). Service providers must obtain sufficient information about the customer and the beneficial owners and take appropriate measures to verify approved identification documents provided. The service provider must understand the operations and administrative structure of customers and make an independent assessment of whether the BO information is accurate and adequate.

181. The purpose of the housing co-operative is the same as other co-operatives and the main objective is to build, buy, own and supervise apartments that members have the right to live in for a fee decided by each housing co-operative. Housing co-operatives are governed by Act on Housing Co-operatives No. 66/2003 but the developments above on co-operative societies extend to housing co-operatives.

182. Icelandic authorities have not received a request for information relating to co-operatives during the period under review.

A.2. Accounting records

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

183. The 2013 Report concluded that all relevant entities and arrangements were required to maintain adequate accounting records, including underlying documentation, for at least five years (see paras. 142-146). The requirements to maintain accounting records were found in the accounting and bookkeeping legislation, and tax law. Element A.2 was determined to be “in place” and rated “Compliant”.

184. The accounting and record-keeping requirements remain unchanged. However, the current review identifies a gap in the legal framework with respect to availability of accounting records for entities or legal arrangements that cease to exist, for at least five years after they have ceased to exist.

185. Oversight over accounting and record-keeping obligations by relevant entities and arrangements is undertaken by the Register of Annual Accounts at the IRC and by the IRC as part of its tax compliance processes. The Association of Accountants and the Association of Auditors also regulate accountants in the fulfilment of their professional obligations.

186. During the review period, Iceland did not receive any request for accounting information.

187. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
There is no requirement for accounting records and underlying documentation to be retained in the case entities or arrangements cease to exist, are liquidated or are stricken off in Icelandic law except where there are bankruptcy proceedings.	Iceland is recommended to ensure that accounting records and underlying documentation are retained for at least five years for entities and arrangements that cease to exist or entities that are liquidated or struck off.

Practical Implementation of the Standard: Largely Compliant

No issues have been identified in the implementation of the existing legal framework on the availability of accounting information. However, once the recommendation on the legal framework is addressed, Iceland should ensure that they are applied and enforced in practice.

A.2.1. General requirements

188. The standard is met by a combination of accounting and book-keeping requirements and the tax law. The various legal regimes and their implementation in practice are analysed below.

Company Law

189. All companies and partnerships incorporated under Icelandic law, all other entities engaged in business operations, fundraising or custody of funds in Iceland (whether formed under Icelandic or foreign law) and all

individuals engaged in business operations, are subject to the accounting and bookkeeping requirements of the Accounting Act (Art. 1, Accounting Act).

190. The Accounting Act requires that accounting records correctly explain all transactions. Accounts must be kept using double-entry accounting (Art. 2). However, companies, funds and organisations, which are not engaged in business operations are exempt from the obligation to use double-entry accounting, provided their income consists only of contributions collected from members for the purpose of meeting joint expenses, including the hiring of labour corresponding to up to one person in general. The accounts should be kept in a "clear and accessible manner" (Art. 4) and must be arranged such that "transactions and the use of funds may be traced in an accessible manner" (Art. 6). In addition, the Accounting Act requires that accounting systems must be organised so that it is easy to trace "the path from source documents to accounting entries" and vice versa, as well as "between accounting figures and annual accounts" (Art. 7) which must be prepared in accordance with the law, regulations, and statutory and accounting rules (Art. 4). Each accounting entry should be based on reliable and adequate data, i.e. source documents, which can be traced to the transaction in question (Art. 8). The Accounting Act also requires that, if it is in accordance with good bookkeeping practices, transactions should be entered into the accounts as soon as they take place while other events must be entered into the accounts as soon as possible (Art. 9). Entries into the accounts should follow a numerical order and generally reflect a correct chronological order of business transactions and other accounting entries, and provide a "fair view" of what they are meant to describe (Art. 9).

191. Article 10 of the Accounting Act requires all entities and arrangements subject to the Accounting Act to keep financial statements (using double-entry accounting) which enables the determination of the financial position of the entity or arrangement with reasonable accuracy. The financial statements consist of:

- a journal where all entries are made in consecutive order
- a list of entries where all journal entries are classified into relevant accounts that provide information on operations and financial position which are necessary for the owners, creditors and public bodies to assess the revenue and expenditure as well as assets and liabilities of the entity or arrangement (as per Art. 6)
- a general ledger that reflects the position of each individual account at the end of each accounting period in accordance with an entry list or journal (as per Art. 12). Figures in the general ledger should consist of all entries up to that point in the accounting period.

192. Article 21 of the Accounting Act requires all entries made in books and accounts to be clear and in permanent writing. As discussed below, neglecting the obligations to keep clear, secure and accessible accounting records is punishable through fines as determined by the State Internal Revenue Board (Arts. 36, 38 and 40). In addition, destruction or concealment of, or obstruction of access to, accounting records (including underlying documentation) is punishable by up to six years imprisonment or, where there are mitigating circumstances, a fine (Arts. 36 and 37).

193. All entities and arrangements subject to the Accounting Act (see para. 189) must prepare annual accounts for each accounting year, which must, as a minimum, contain an income statement and a balance sheet (Art. 22). The annual accounts must be prepared using double entry bookkeeping (Art. 6) and must be fully completed and signed (by parties responsible for keeping the accounts for the entity or arrangement) within six months after the end of the accounting year.

194. The responsibility for the preparation, submission and disclosure of annual financial statements (AFS) vests in the board of directors and managing directors. If a company does not have a board of directors, the responsibility lies with all the members jointly (Art. 3, Act on Annual accounts). At minimum, the AFS must include a profit and loss account, a balance sheet and explanatory notes. Small, medium-sized and large companies must also include a report of directors while those medium sized and large companies must include a statement of cash flows (Art. 3, Act on Annual Accounts). The annual accounts must give a "true and fair view" of the performance, financial position and changes in cash of the entity (Art. 5, Act on Annual Accounts).

195. Companies that are subject to the accounting and bookkeeping obligations under the Act on Annual Accounts must submit to the Register of Annual Accounts their AFS, signed by their directors, together with the auditor's report (where applicable)[23] and information pertaining to the approval of the accounts (Art. 109, Act on Annual Accounts) as further described in paragraphs 217 et seq. The Register of Annual Accounts is maintained by the IRC.

196. The auditor's report must be in writing and include, among other things, the identity of the audited entity and specify the AFS or consolidated financial statement covered by the audit and the date and period they

23. According to Article 98 of the Act No. 3/2006 on Annual Accounts, legal entities that are below in two of the following three thresholds are not obliged to choose an auditor and therefore be audited as such: balance sheet result figure is ISK 200 000 000 (EUR 1 428 500), net turnover is ISK 400 000 000 (EUR 2 857 000), and 50 workers on annual average. External audit is mandatory, without regard to these thresholds, notably for companies that do not impose restrictions on transactions with shares.

cover, the financial reporting framework that was applied in the preparation of the AFS or consolidated financial statement, a description of the scope of the audit and the criteria applied in the course of the audit (Art. 16, Act No 94/2019 on Auditors and Auditing). It must also clearly state the opinion of the auditor as to whether the AFS or consolidated financial statements gives a fair view in accordance with the statutory accounting principles and fulfil other statutory requirements. The auditor must also confirm that the AFS or consolidated financial statement and the report of the board of directors contain all the information required by the Act on Annual Accounts.

197. Branches of foreign companies registered in Iceland must submit a certified transcript of their AFS to the Register of Annual Accounts together with the accounts of the branch (Art. 112, Act on Annual Accounts). However, the branch of a foreign company registered in Iceland that is subject to the laws of another EEA Member State may send the consolidated AFS of its parent company to the Register of Annual Accounts.[24] The Register of Annual Accounts may also accept the consolidated AFS of the parent company prepared in accordance with the laws to which the parent company is subject to, if satisfied that they comply with the provisions of the Act on Annual Accounts (Art. 113(2), Act on Annual Accounts).

198. Icelandic law permits entities, under specified circumstances, to keep their accounts and draw up their AFS in a foreign currency (Art. 7, Act on Annual Accounts). Authorisation to keep accounts and draw up AFS in a foreign currency must be obtained from the Register of Annual Accounts. Such authorisation may only be granted when the functional currency of the entity or arrangements is the foreign currency (Art. 8, Act on Annual Accounts) and is subject to additional conditions such as restating amounts in the balance sheet for the preceding year based on the final exchange rate of that year and keeping this method for at least five years (Art. 9 and 10, Act on Annual Accounts).

24. Such a branch may send the consolidated AFS of its parent company if: (a) the parent company is subject to the law of an EEA Member States; (b) all members of the company have agreed to this procedure; (c) the parent company guarantees the commitments entered into by the company; (d) the accounts of the company and its subsidiaries have been included in the consolidated financial statement of the parent company in accordance with the Icelandic rules governing consolidated financial statements; (e) the accounting policies used in the drawing up of the consolidated financial statements have been disclosed; and (f) the consolidated financial statement plus the report of the board of directors and auditors report has been sent to the Register of Annual Accounts with a confirmation that the parent company is subject to the law of an EEA Member States and that all members of the company have agreed to this procedure (Art. 113(1), Act on Annual accounts).

Tax Law

199. Article 90 of the Income Tax Act requires all entities liable to pay tax, as well as those exempt from tax, to submit an income tax return declaring income for the previous year and assets as at the end of the year, as well as information on other matters relevant to the assessment of taxes.

200. The Income Tax Act does not set out any further accounting requirements. Instead, it refers to, and incorporates, the statutory obligations set out in the accounting and bookkeeping laws described above. Specifically, Article 90 of the Income Tax Act requires legal entities and individuals running a business or independent operations to provide their annual account, prepared in accordance with the Accounting Act or Act on Annual Accounts (as applicable), with their tax return to the IRC. For companies, the annual accounts must be signed by the directors and must be accompanied by a specific report indicating the tax base. The IRC may allow such legal entities or individuals to hand in their reports electronically. The tax return must be signed by a person authorised to make binding decisions for the company.

Partnerships and trusts

Partnerships

201. Article 1(3) of the Accounting Act provides that partnerships are subject to the requirements of the Accounting Act in the same way as companies. Partnerships must therefore keep accounting records and underlying documentation as companies do.

202. All general partnerships and partnerships with limited liability are also subject to the Act on Annual Accounts (Art. 1(1) and 1(3) respectively) and are therefore subject to similar requirements as companies with regards to keeping accounting records and underlying documentation. Some partnerships must also prepare and submit an AFS to the Register of Annual Accounts. Partnerships whose members have unlimited liability and limited partnerships are exempted from preparing AFS if all their income and expenses, assets and liabilities are included in the AFS of their members (Art. 1, Act on Annual Accounts). However, limited partnerships are only exempt if their membership is composed solely of companies listed in Article 1(1) of the Act on Annual Accounts[25] and if the guarantors of the limited partnerships are companies listed in Article 1(1) and 1(2) of the Act on

25. Article 1(1) covers limited companies, private limited companies, limited partnerships, co-operative companies and co-operative associations, savings banks and registered branches of foreign companies and foundations engaging in business operations pursuant to Act No. 33/1999.

Annual Accounts.[26] In addition, the exemption is only applicable if at least one member is domiciled in Iceland, prepares the AFS of the company and ensures its auditing and submission to the Register of Annual Accounts together with its own AFS. The partnership is also not required to submit the AFS where no member of the partnership is domiciled in Iceland but one of its members is subject to the laws of an EEA Member State; prepares the AFS of the company and ensures its auditing in accordance with the provisions of those laws; and submits the AFS to the Register of Annual Accounts within the period provided for Icelandic companies to submit an AFS (Art. 114(2), Act on Annual Accounts). Such a partnership may also be exempted from submitting its AFS to the Register of Annual Account if its forms part of a member's consolidated financial statements drawn up and audited as required by law (Art. 115, Act on Annual Accounts). However, a partnership exempted from submitting an AFS to the Register of Annual Accounts as outlined above must submit information on the names and domiciles of the companies that draw up their accounts or include in their accounts the consolidated financial statements of such partnerships (Art. 110, Act on Annual Accounts).

Trusts

203. As indicated in sub-element A.1.4, the concept of trusts does not exist under Icelandic law except in the context of the AML/CFT Law. The 2013 Report (para. 131) noted that the provisions of the accounting law, taken together with the provisions of the tax law and AML/CFT Law, ensured that accounting records are kept by trustees of foreign trusts who are resident in Iceland.

204. The accounting and bookkeeping obligations under the Accounting Act require individuals who engage in business operations, and any societies, funds or institutions which engage in business activity, or the fundraising or management of funds, to keep full accounting records and underlying documentation concerning their activities (see paras. 189 to 192). Although the Accounting Act does not explicitly use the words "trust" or "trustee", Icelandic authorities indicate that trusts are viewed as funds, and trustees as persons who manage the funds. Therefore, trustees who are resident in Iceland and the trusts they manage are subject to the obligations of the Accounting Act and must prepare accounts in a manner that allows the transactions and the use of funds to be traced in an accessible manner, and to set out information on their operations and financial positions as

26. Article 1(2) covers companies with its securities listed in a regulated securities market in a state within the EEA, a party to the Convention establishing the EFTA or the Faeroe Islands.

necessary for owners, creditors and public authorities to assess revenue and expenditure, assets and liabilities as required by Article 6. Icelandic authorities also indicated that accounts must be maintained for the trust assets, distinct from the accounts kept by the trustee for his/her own business operations. The law remains unchanged.

205. The 2013 Report (para. 133) also noted that, based on the general application of the provisions of the Income Tax Act, trustees who are resident in Iceland will be taxed on a worldwide basis as the apparent owners of any assets of the foreign trust, wherever such assets are held, unless they can prove that the income derived by the trust is not their income, in which case they would be taxed only on their income derived from their trustee functions. As Article 90 of the Income Tax Act provides that "the tax return of legal entities and individuals running a business or independent operations shall be accompanied by a signed annual account in accordance with the provisions of the Accounting Act or, where applicable, the Annual Accounts Act, along with a specific report regarding tax bases", Icelandic resident trustees must submit a tax return. Moreover, Article 94(3) enables the IRC to compel the production of accounts and books and any other documentation relevant to the business including letters and contracts for inspection for entities that are obliged to file tax returns. Since Icelandic resident trustees must file tax returns, they can be compelled to produce accounts and books and other documentation as part of a tax investigation. For this reason, Icelandic resident trustees would have to keep full accounts and books, in accordance with the Accounting Act, to comply with such a request.

Foundations engaged in business operations

206. Foundations engaged in business operations must prepare an annual account for each fiscal year following the rules stipulated in the Act on Annual Accounts (Art. 28, Act on Foundations Engaged in Business Operations). Where the foundation is linked to another business concern, it must make a special mention of this in the annual accounts or explanatory notes to the annual accounts (Art. 29). The annual accounts must be audited by an auditor selected by the foundation's council or board of directors, failing which an auditor is be selected by the Minister of Commerce (Art. 30). Approved annual accounts must be filed with the Register of Annual Accounts within eight months from the end of the fiscal year. They must be accompanied by the report of the Board and auditors' endorsement and information as to when the accounts were approved (Art. 31m).

AML/CFT Law

207. Since the 2013 Report, Iceland has enacted a new AML/CFT Law, effective from 1 January 2019. It sets out requirements for AML-obliged entities to keep, among other things, necessary supporting documents and business reports that are necessary to demonstrate customer transactions (Art. 28, AML/CFT Law). This obligation reinforces the accounting and tax obligations discussed above.

Retention period and companies that ceased to exist and retention period

208. As noted in paragraph 189, Icelandic law subjects all companies and partnerships incorporated under Icelandic law, all other entities engaged in business operations, fundraising or custody of funds in Iceland (whether formed under Icelandic or foreign law) and all individuals engaged in business operations to the accounting and bookkeeping requirements of the Accounting Act. All accounting books must be available in Iceland, in Icelandic text and currency (Art. 10, Accounting Act). Article 20 of the Accounting Act requires that all accounting books, accounting records and documents, including documents kept in electronic form, be kept in Iceland for seven years from the closure of the accounting year to which they relate. It also requires that annual accounts be preserved for 25 years.

209. The IRC considers a company as inactive if it has not recorded any business activity for one year and has not filed a periodic return as required under Article 92 of the Income Tax Act, which implies that it did not have any income for that year. Companies considered inactive must observe the obligation to keep accounting records and underlying documentation.

210. Entities which are permitted to keep their accounts and draw up their AFS in foreign currency as indicated in paragraph 198 may keep accounting documents outside of Iceland for up to six months (Art. 20, Accounting Act). However, the documents must be submitted to the authorities in Iceland within reasonable time when so demanded (Art. 20, Accounting Act). Icelandic authorities indicate that 14 days is considered a reasonable period for producing accounting records and that, in practice, there have been no cases where accounting records have not been produced when called for solely because it was kept out of Iceland during the six months period. Accounting documents which are kept in electronic form, whether in Iceland or outside Iceland, must be available at all times to government authorities when required (Art. 20, Accounting Act).

211. There are no provisions under Icelandic law that would ensure the availability of accounting records of legal entities and arrangements once they cease to exist. However, when an entity is subject to bankruptcy

proceeding, Article 87 of the Act on Bankruptcy Proceedings requires a liquidator who has been appointed to immediately take measures necessary to obtain possession of the bankrupt's business records. Article 78 compels the liquidator to keep accounts for the bankruptcy estate and file reports to the authorities regarding the estate's finances and operations as needed. According to Article 72, when a ruling has been issued that the debtor's assets have been taken into bankruptcy, the liquidator accepts all the debtor's financial rights and obligations. Icelandic authorities indicate that, in practice, the liquidator needs the annual accounts and financial statements, book-keeping records, information about debtors, customers, employees and board of directors, information regarding the shareholders and BOs to facilitate the carrying out of the liquidators' duties. Article 80 of the Act on Bankruptcy Proceedings obligates the liquidator to preserve documents that are relevant to the bankruptcy proceedings. At the end of the liquidation proceeding, the liquidator must deliver to the National Archives of Iceland documents that have not been submitted to a court or handed over to the District Commissioner at the end of the public liquidation but that may be relevant to liquidation (Art. 14(5), Act on Public Archives No. 77/2014). Documents submitted to the National Archives of Iceland are kept for seven years and may be destroyed thereafter. No entity was subject to bankruptcy proceedings during the period under review.

212. **Iceland is recommended to ensure that accounting records are retained for at least five years for entities and arrangements that cease to exist or entities that are liquidated or struck off.**

A.2.2. Underlying documentation

213. A combination of accounting and bookkeeping legislation and tax law requires relevant entities and arrangements to maintain underlying documentation in accordance with the standard, as concluded in the 2013 Report (para. 138). The laws remain unchanged.

214. Article 8 of the Accounting Act requires that each accounting entry be based on reliable and adequate data, i.e. source documents, which can be traced to the transaction in question. The supporting documents may be "external source documents" and/or "internal source documents" provided they contain sufficient information for proper entry into the accounting system. "External source documents" refers to documents from persons with whom business is transacted, such as an invoice, a statement of account, a payment notice, a giro slip, a receipt of payment, a contract, a fax, a telegram or other equally valid source documents. Such documents must include, as applicable, the identity of the issuer and recipient and such other information as may be necessary to verify the transaction in question. "Internal source documents" refers to documents created by the party that is required to keep

accounts. In addition, the source documents used in the accounts must be numbered in a regular manner, cited in account entries and kept in a consecutive numerical order (Art. 19).

215. All entities and arrangements that are subject to the Accounting Act must preserve the underlying documentation referred to above as well as those in paragraph 191 for seven years from the closure of the accounting year to which they relate. However, as noted in paragraph 211, there are no provisions under Icelandic law that would ensure the availability of accounting records of legal entities and arrangements once they cease to exist. Therefore, the recommendation in paragraph 212 extends to underlying records and **Iceland is recommended to ensure that underlying documentation are retained for at least five years for entities and arrangements that cease to exist or entities that are liquidated or struck off**.

Oversight and enforcement of requirements to maintain accounting records

216. The oversight and enforcement of the requirements of legal entities and legal arrangements in Iceland to keep accounting records is mainly ensured by the Registry of Annual Accounts at the IRC and by the IRC when performing tax audits.

Implementation and supervision of filing requirements

217. All entities that are subject to the accounting and bookkeeping requirements (except some partnerships) must turn in an AFS to the Registry of Annual Accounts (Arts. 109 to115, Act on Annual Accounts). As per Article 117 of the Act on Annual Accounts, the Registry of Annual Accounts may conduct checks on the AFS, consolidated financial statements and reports of boards of directors to verify if they comply with the requirements of the Act on Annual Accounts. Where necessary, it may call for additional information relevant for determining the accuracy of the AFS submitted. It may also access other information retained on the legal entities and legal arrangements in other parts of the IRC.

218. The Registry of Annual Accounts maintains a list of entities that are required to submit annual accounts. Checks are conducted after the deadline for submission to determine which entities have not submitted annual accounts in time and whether the submitted ones contain all information required by law. Entities who have not submitted annual accounts or those who have submitted deficient ones will then receive a notice to file or rectify the defects identified.

219. The Registry of Annual Accounts can decide to impose a fine on entities that do not turn in an AFS or make a late submission (Art. 120 of the Act on Annual Accounts) or if they do not take corrective action within 30 days of receiving a notice under article 109 of the Act on Annual Accounts. The Registry of Annual Accounts can impose an administrative fine amounting to ISK 600 000 (EUR 4 140) and at the same time require corrective action. Depending on when the corrective action is taken, the fine can be reduced by 90% (action taken within 30 days of a notification of the imposition of an administrative fine), 60% (action taken within two months) or 40% (action taken within three months).

220. The table below shows the number of entities that were required to file an annual account during the peer review period as well as the number of entities that were fined and those that had the original fine reduced after filing the annual accounts at a later date.

Description	2018 (2017 year of income)	2019 (2018 year of income)	2020 (2019 year of income)
No. of entities that should turn in an AFS	39 285	40 220	41 237
No. of entities that turned in AFS	34 987 (89%)	35 917 (89.3%)	36 795 (89.2%)
No. of entities that got a fine	4 795 (12.2%)	4 342 (10.8%)	3 524 (8.5%)
No. of entities that got a 90% reduction	2 146	1 747	1 299
No. of entities that got a 60% reduction	256	164	119
No. of entities that got a 40% reduction	107	102	68

221. Following checks by the Registry of Annual Accounts as provided for in Article 117 of the Act on Annual Accounts, 1 252 entities that turned in an annual account in 2018 (for the 2017 year of income) had their annual accounts deemed insufficient. These entities were received an email with a request to take corrective action. Most of them corrected their situation. Ultimately, 132 received a formal demand to take corrective action out of which 57 did not comply and were sanctioned. Similarly for 2019 (in respect of the 2018 year of income), 1 563 entities turned in annual account that was deemed insufficient. Following emails to take corrective action, 49 entities were issued with a formal demand, which led to 15 entities being sanctioned for failing to rectify the annual accounts within a month. Lastly, for 2020 (in respect of the 2019 year of income), 1 573 entities turned in an annual account that was deemed insufficient. Following email to take corrective action, 86 entities were issued with a formal demand for corrective action, which led to 27 entities being sanctioned.

222. In total, there were 78 branches of foreign companies registered in Iceland during the period under review. Out of these, 69 filed an annual account, one turned in an annual account that was found to be deficient

while the remaining eight did not turn in an annual account. These foreign companies are included in the table in paragraph 220.

223. In addition to the fine that may be imposed on an entity as described in paragraphs 219 and 220, the Registry of Annual Accounts may also institute liquidation proceedings. No liquidation proceeding was instituted during the period under review and there is no indication that Icelandic authorities took any other action on entities that repeatedly fail to file annual accounts over several years.

224. Similarly, the Registry of Annual Accounts at the IRC supervises companies that apply the International Accounting Standards (companies listed on the stock exchange) pursuant to article 94 of the Act on Annual Accounts. The Registry of Annual Accounts may require the board of directors, managing director and auditor of a company to submit all information that may be necessary for ensuring effective supervision of companies. A company that has not prepared or maintained annual accounts may not comply with such directions. In this case the company may be subjected to daily fines which may range from ISK 10 000 to ISK 100 000 (EUR 69 to EUR 690). The Registry of Annual Accounts may also issue a ruling when it concludes that the financial accounts of a regulated company is not in compliance with the Act on Annual Accounts and require corrective action. If a company fails to take corrective action, the Registry of Annual Accounts may amend the company's annual accounts and publish the changes to the annual accounts. The Registry of Annual Accounts may also submit a request to the stock exchange involved to suspend trading in the securities of a company regulated by the stock exchange until the company has posted adequate financial accounts and/or additional information to the satisfaction of the Registry (Art. 94(b), Act on Annual Accounts). During the period under review, Icelandic authorities did not find it necessary to publish any changes to the annual accounts of a company listed on the stock exchange or to call upon the stock exchange to suspend trading in respect of any company.

Tax audits of accounting records

225. Annual accounts must be filed together with the tax returns of legal entities and individuals running a business or independent operations. Any person who neglects to comply with this requirement may be subject to a fine or is liable to a fine or imprisonment for up to two years. In addition, any attempt to circumvent this requirement may be punished under the criminal law provisions in the Penal Code (Art. 109(6), Income Tax Act). The table in paragraph 71 shows almost 90% of entities required to file a tax return indeed filed a return in 2018, 2019 and 2020 for the 2017, 2018 and 2019 years of income respectively.

226. In addition to supervising the obligations under the Income Tax Act, the IRC is also responsible for the supervision of the implementation of the Accounting Act (Art. 41). The IRC conducts audit using a risk-based framework. Every year, the IRC starts an analysis of approximately 1 700 taxpayers which includes, among other things, examining the income declared, deductions against declared income, assets owned by the taxpayer, debts owed by the taxpayer and its declared tax liability. Although this analysis does not specifically focus on the availability of accounting records at this stage, the IRC focus on it if the outcome of the preliminary analysis indicates a need. Accounting records and underlying documentation are requested by the IRC when there is a suspicion that a legal entity or arrangement is not maintaining such records as required by law. The Tax Control Division of the IRC specifically requested books and accounts (in whole or in part) in 21 cases in both 2018 and 2019 and in 28 cases in 2020. In 2018 and 2019 the IRC observed breaches in the accounting records maintained in two cases which led to differences in revenue that should have been declared of ISK 500 000 (EUR 3 450). In 2020, the IRC observed breaches in nine cases which led to a difference in revenues of ISK 3 million (EUR 20 700). The taxes declared were re-assessed based on the observations of the IRC. In addition, the IRC conducted three on-site visits covering three legal entities. In two of these cases, the IRC examined accounts and underlying documents (i.e. receipts and invoices of transactions) submitted at the request of the IRC and re-assessed the companies a total of ISK 107 974 (EUR 745). The third case is pending resolution.

227. A violation of the Accounting Act is an offence and may lead to the case being referred by the IRC to the Office of the District Prosecutor for criminal investigations and prosecution before a court of law (Art. 41, Accounting Act). A case may also be referred to the District Prosecutor by the suspect if they do not wish it to be handled by the State Internal Revenue Board. No cases were referred to the Office of the District Prosecutor during the period under review.

228. Failure to keep accounting records that meets the requirements of the Accounting Act, failure to keep accounting records or source documents that makes it possible to reconstruct transactions or draw up annual accounts, or destroying, concealing or blocking access to accounting records and source documents may constitute a major offence under article 37 or an offence under article 38 of the Accounting Act. An individual or agent of a legal entity responsible for the failure may be imprisoned for a maximum of six years pursuant to Article 262(2) of the General Penal Code or a fine if there are “significant extenuating circumstances” (Art. 36, Accounting Act). Furthermore, an entity may also be subject to fines for such violation regardless of the criminal culpability of its agent or representative (i.e. regardless of whether the violation can be traced to the criminal conduct of an agent or

employee of the legal person). In addition to a fine, an entity may be deprived of its operation licence where the violation was committed for its benefit or if it has otherwise benefitted from the violation (Art. 40, Accounting Act).

Availability of accounting information in EOIR practice

229. During the period under review, Icelandic authorities did not receive a request for accounting records and peers did not raise any issues with respect to availability of accounting records.

A.3. Banking information

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

230. The 2013 Report concluded that a combination of legal provisions in the AML/CFT Law requiring the identification of clients and in the accounting laws on keeping transaction records ensured the availability of banking information related to customers and their accounts, as well as related financial and transactional information. These were supplemented by obligations imposed by the tax laws that require banks to annually provide a range of transactional information to the tax administration. However, it noted that although the Financial Supervision Authority (FSA) had possessed investigatory and enforcement powers under the Icelandic legal framework for a number of years, it had only recently started to exercise those powers to ensure that banking information is available in line with the standard (see para. 156 of the 2013 Report). Iceland was recommended to continue its efforts to appropriately exercise its investigatory and enforcement powers. Element A.3 was nonetheless found to be "in place" and rated as "Compliant".

231. During the current peer review period, the FSA has exercised its investigative and enforcement powers and the 2013 recommendation is considered addressed.

232. While the legal and regulatory framework remains in place, the standard was strengthened in 2016 and now requires that BO information (in addition to legal ownership) in respect of account holders be available. The issues identified under section A.1 in relation to BO requirements on the implementation in practice of the central BO register and the AML/CFT Law with regard to supervision of non-financial professions may affect the availability of BO information in respect of bank account holders but the FSA implement a strong supervision on banks that ensure the information is adequate and accurate. The current review also finds that there is no specified frequency for updating BO information on existing customers, which

may lead to situations where available beneficial ownership information is not up to date.

233. Iceland received one request for banking information during the peer review period and the requested information was available and exchanged.

234. The conclusions are as follows:

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

Deficiencies identified/Underlying factor	Recommendations
There is no specified frequency for banks to update customer due diligence which may lead to situations where the available beneficial ownership information on customers is not up to date.	Iceland is recommended to ensure that, in all cases, adequate, accurate and up-to-date beneficial ownership for all bank accounts is available in line with the standard.

Practical Implementation of the Standard: Largely Compliant

No issues have been identified in the implementation of the existing legal framework on the availability of banking information. However, once the recommendation on the legal framework is addressed, Iceland should ensure that they are applied and enforced in practice.

A.3.1. Record-keeping requirements

Banking information to be kept by banks

235. The Accounting Act requires all Icelandic incorporated banks to maintain all records pertaining to the accounts as well as the related financial and transactional information (as described under Element A.2, see also the 2013 Report, para. 151). Articles 8 and 20 of the Accounting Act require that accounting information, including underlying documentation, be kept in Iceland in a secure and safe manner for seven years after the closure of the accounting year to which they relate. The requirements of the Accounting Act remain unchanged.

236. In addition, banks are subject to the AML/CFT Law. The legal framework described in the 2013 Report (paras. 148-150) remained in place until 31 December 2018. Since then, Iceland has enacted a new AML/CFT Law, effective since 1 January 2019. All banks are AML-obliged persons. Under the CDD requirements (discussed in sub-Element A.1.1 above)

customers must prove their identity to the bank prior to the establishment of a business relationship, or prior to a business transaction (Art. 10, AML/CFT Law). Through this, banks hold identification information on their account holders, which include:

- in the case of customers who are natural persons, identification documents issued by a government authority
- in the case of customers who are legal entities, trusts or similar arrangements, a certificate from the Register of Enterprises, or a comparable public register, with their name, address and official registration number, or comparable information. In this respect, holders of power of procuration and others who hold special authorisation to represent a customer vis-à-vis a financial undertaking, including managing directors and members of the board of directors, must prove their identities by providing identification documents issued by a government authority
- in the case of persons who act on behalf of a trust or similar arrangement, i.e. trustees, they must inform the bank that they are acting as trustees and provide information on their BOs
- in the case of persons acting on behalf of third parties, they must demonstrate that their power of procuration or special authorisation has been duly obtained and prove their identities by identification documents issued by a government authority.

237. Banks are subject to the data retention obligations of Article 28 of the AML/CFT Law which requires AML-obliged persons to retain data and information for at least five years from the end of the business relationship or the date of the occasional transaction. The documents that have to be retained include copies of documents and information relating to CDD, the procedures employed in CDD and supporting documents and business reports that are necessary to demonstrate customer transactions and that would be admissible in judicial proceedings. Article 11 of Regulation No. 545/2019 on Risk Assessment for Money Laundering and Terrorist Financing also obligates AML-obliged person to keep information used for their risk assessment for a minimum of five years from the publication of the risk assessment.

238. Article 101 of Act No. 161/2002 on Financial Undertakings stipulates that the estate of a financial undertaking may not be subjected to bankruptcy proceedings in accordance with general rules. A request for winding up the financial undertaking must be submitted to the District Court judge where a civil suit for the winding will be heard. The request must be handled by the court in the same manners as a petition for bankruptcy proceedings. Once it passes its verdict for winding up the financial undertaking, the District Court will appoint

a winding-up committee (which assumes the rights and obligations held by the financial undertakings board of directors and shareholders meeting or meeting of guarantee shareholders). The operations of a financial undertaking managed by a winding-up committee is supervised by the FSA the committee must comply with a request for documents from the FSA (Article 101a, Act on Financial Undertakings). Article 101 of the Act on Financial Undertakings adds that unless it provides otherwise, the rules concerning administrators in bankruptcy proceedings apply to the winding-up committee, its tasks and the members of the committee. The winding-up committee, like the liquidator in bankruptcy, must send all records relating to the financial undertaking to the National Archives (see paras 56 and 60). Icelandic authorities indicate that these would include all information pertaining to accounts held with the financial undertaking and related financial and transactional information for these accounts as well as details of their legal owners and BOs.

Availability of banking information with the authorities

239. The AML/CFT Law was amended in 2020 to introduce a new Article 37.gr.a. to create a Registry of Bank Accounts. It requires commercial banks, savings banks, credit undertakings, and payment service providers with an Icelandic licence to provide information or access to information including:

- the name and identification number of each deposit account and payment account
- the name and identification number of each account holder's agent which has authorisation to perform transactions from the account, if applicable
- the name and identification number of the beneficial owner of the account holder, if applicable
- the account number of each account as well as the international bank account number (IBAN-number)
- the date that the account was opened and closed and
- the name and identification number of the lessee of a deposit safe and the rental period.

240. The Registry of Bank Accounts is not yet operational pending the issuance of regulations by the Minister of Finance and Economic Affairs. When in place, banks will be required to notify the Registry of Bank Accounts of any changes in information previously supplied or provide access to the information (Art. 37.gr.a, AML/CFT Law). Information in the Registry of Bank Accounts will be retained for at least five years from the end of the business relationship or occasional transaction (Art. 28 and 37.gr.a, AML/CFT Law).

241. The AML/CFT Law grants employees of the supervisors, i.e. FIU, FSA and the IRC, access to information to be maintained in the Registry of Bank Accounts for the purpose of fulfilling their duties under the AML/CFT Law. The IRC will also access the information in the Registry of Bank Accounts for tax purposes (Art. 40, AML/CFT Law), which includes accessing such information for exchange with Iceland's EOI partners. Once in operation, the Registry of Bank Accounts will supplement the periodic reporting obligations under Article 92 of the Income Tax Act and the tax administrations access powers under Article 94 of the Income Tax Act.

242. Article 92 requires all entities, including banks, savings banks and other financial institutions to make an annual report to the IRC (DIR) which includes, for the year of reporting: (a) deposits held in bank accounts; (b) any kind of securities and investment funds held by any person; (c) interest paid or due on the deposits held in bank accounts or on the securities and investment funds; and (d) any kind of loans to customers and interest payments earned. The periodic reporting obligations pursuant to Article 92 of the Income Tax Act enables the tax administration to keep within its database and access a range of banking information (see the 2013 Report, paras. 152-153). Banks would need to maintain records of accounts and financial transactional information to enable them to meet this reporting obligation.

Beneficial ownership information on account holders

243. The standard was strengthened in 2016 to require that BO information be available in respect of all account holders. The AML/CFT Law provides the legal framework for ensuring the availability of BOs of bank accounts. The definition of BO and the modalities for their determination, as discussed in paragraphs 82-83 under A.1, is in line with the standard.

244. As explained in Element A.1 above, prior to establishing a business relationship or prior to a business transaction, a bank must:

- at all times obtain sufficient information about the customer and its beneficial owner(s)
- understand the ownership, operations and administrative structure of those customers that are legal persons, trusts or other similar arrangements
- take appropriate measures to verify the information about the customer and the beneficial owner(s) e.g. by means of information available from public records such as the National Registry and the Register of Enterprises
- make an independent assessment of whether the information about the beneficial owner(s) is accurate and adequate

- where in doubt as to the identity of the final recipient of funds or of the beneficial owner(s), request additional information and
- if it is not possible to identify the beneficial owner(s), e.g. because ownership is so diversified that no natural person owns or controls the customer according to the definition of beneficial owner in the AML/CFT Law, take reasonable measures to obtain satisfactory information about the natural person(s) who, in fact, directs the customers activities.

245. Banks may, when performing the identification and due diligence on BOs of bank accounts, access the information in the centralised BO register maintained at the Registry of Enterprises (Art. 7, Act on Registration of BOs) including for trusts[27] (Art. 8, Act on Registration of BOs). This enhances the availability of accurate BO information, as it gives the banks an additional source to compare with the BO information provided by their customers and that which they obtain through their CDD. In addition, banks must inform the Register of Enterprises, within two weeks, if in the course of their work, they become aware of any disparity between information on BOs in the Register of Enterprises and information that comes into their possession pursuant to the CDD measures they undertake (Art. 6, Act on Registration of BOs). In practice, since March 2020, the Register of Enterprises has received, on average, one report per month from AML-obliged persons highlighting discrepancies between the information they obtained through their CDD and the information in the centralised BO Register. Upon receipt of the discrepancy notice, the Register of Enterprises checks whether the persons registered as BOs of the legal entity or arrangement should have been registered as such. Where necessary, the Register of Enterprises may require further information from the legal entity or arrangement or obtain them independently and direct it to take corrective action (see paragraph 121).

246. Banks have an obligation to monitor their customers and business relationships and update the CDD records (see paragraphs 76 and 77). Banks may also rely on CDD conducted by third parties as described under A.1 for the identification of BOs of account holders. However, the AML/CFT Law and Regulations do not provide guidance on how frequently banks should conduct on-going monitoring of their customers and business relationships and update the BO information held on account holders to ensure the availability of adequate, accurate and up-to-date information on the BOs of bank accounts. The frequency of the update is guided by the risk assessments conducted by individual banks under Article 5 of the AML/CFT Law which requires AML-obliged persons to carry out a risk

27. To compare and understand the client structure, the AML-obliged person in practice calls for the trust deed.

assessment of their operations, which must include a written analysis and assessment of the risk of money laundering and terrorism financing taking into account the risk factors relating to the AML-obliged persons customers, trading countries or regions, products, services, transactions, technology and delivery channels (Article 5 of Regulation No. 745/2019 on CDD in connection with Actions to Combat Money Laundering and Terrorist Financing and Articles 2 and 5, Regulation No. 545/2019 on Risk Assessment for Money Laundering and Terrorist Financing). This risk assessment must be proportionate to the size, nature and scope of the operations as well as the complexity of the operations of the AML-obliged person. It must also take into account Iceland's National Risk Assessment conducted under Article 4 of the AML/CFT Law. AML-obliged persons use this risk assessment when carrying out risk-based supervision of business relationships and transactions (Article 3 of Regulation No. 745/2019 on CDD in connection with Actions to Combat Money Laundering and Terrorist Financing and Article 8 of regulation No. 545/2019 on Risk Assessment for Money Laundering and Terrorist Financing). The risk assessment must be regularly monitored and updated by the AML-obliged persons every two years or more frequently if warranted (Article 9 of Regulation No. 545/2019 on Risk Assessment for Money Laundering and Terrorist Financing).

247. Icelandic authorities indicate that AML-obliged persons are required to specify in their internal processes how frequently CDD information will be updated and the frequency may, therefore, vary from bank to bank as it is dependent on the banks' risk assessment carried out pursuant to Article 5 of the AML/CFT Law. Icelandic authorities indicate that following the supervision activities of the FSA (see paragraph 103), in most cases CDD information on high-risk customers is updated yearly, on medium-risk customers every two to three years and on low-risk customer every four to five years. **Iceland is recommended to ensure that, in all cases, adequate, accurate and up-to-date beneficial ownership for all bank accounts is available in line with the standard.**

248. In line with Article 28 of the AML/CFT Law (see paragraph 237), banks must retain information on the BOs of bank accounts for at least five years from the end of the business relationship or the date of the occasional transaction.

Oversight and enforcement

249. In accordance with the European Banking Authority Guidelines on Supervisory Review and Evaluation Process, supervised entities are categorised based on their impact and systemic importance. The frequency of risk assessment and minimum engagement for each supervised entity is based on the impact category (see paragraphs 98 to 100 in Element A.1).

A combination of the impact categorisation and the results from the risk assessment is used to determine the supervisory programme and allocation of resources. As a general rule, the supervision is more proactive for systemically important institutions and more reactive for those less significant institutions. The main emphasis in the supervision of financial institutions is that they have a strong capital and liquidity position to ensure their financial strength to meet unexpected shocks and sustainable and viable business models. The FSA has adopted a risk-based approach to supervision for all AML-obliged entities, including financial institutions, as discussed under sub-Element A.1.1.

250. In addition to the offences outlined under sub-Element A.1.1, failure to abide by FSA guidelines by AML-obliged persons that is a financial undertaking is considered as a breach of normal and sound business practices for which the responsible entity can be fined (Art. 110(7), Act on Financial Undertakings). The FSA may also require the responsible entity to take corrective action within a reasonable time limit (Art. 10(2), Act on the Official Supervision of Financial Activities), in which case the entity is usually given two weeks to comply. The FSA may also revoke, in whole or in part, the operating licences or registrations of financial institutions if they intentionally, seriously, repeatedly or systematically violate the provisions of the AML/CFT Law (Art. 51, AML/CFT Law).

251. As indicated in paragraph 101 there were four commercial banks and four savings banks in Iceland during the period under review. All the four commercial banks are categorised as high-risk by the FSA and they indicate that they have been inspected by the FSA and their CDD measures with regards to ownership and identity information, including BO information examined. The four savings banks are categorised as medium to low risk by the FSA. The FSA indicates and the financial institutions concur that the FSA has placed them under increased monitoring and interviews with their ML and TF compliance officers are held at regular intervals and at least annually.

252. As indicated in paragraph 103 under sub-Element A.1.1, the FSA conducted 77 inspections of which 19 were on-site inspections. Out of the 19 on-site inspections, 11 were focused on financial institutions with all the four commercial banks and one savings bank inspected. In summary, the FSA identified deficiencies with regards to the CDD measures undertaken by banks to identify the BOs of bank accounts especially in relation to foreign customers, inadequate documentation to support the identification of customers and their BOs, inadequate independent assessment of whether the BO information held was reliable and accurate and insufficient ongoing monitoring of customers. The FSA made demands for corrective action and followed up on their implementation. As indicated in more detail

in paragraph 103 the supervision undertaken by the FSA is sufficient but points to a lack of understanding of the requirements to identify the BOs of customers and retention of documentation that supports the identification of the BOs of customers. More specifically, as observed in paragraph 108 under Element A.1, the financial institutions did not receive adequate sensitisation pertaining to the new requirements for ensuring the availability of information on BO information. Iceland should strengthen its engagements with the financial sector to raise awareness on the implementation of the legal and regulatory framework for BO information (see Annex 1).

253. The oversight and enforcement measures for banks, as described in Element A.1 above ensure the availability of banking information in practice.

Availability of banking information in EOI practice

254. Icelandic authorities received one request for banking information during the peer review period. The information was obtained from the bank. No peer has expressed issues with regard to availability of banking information from Iceland.

Part B: Access to information

255. 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).

256. The 2013 Report concluded that the Icelandic Competent Authority has broad access powers to obtain all types of relevant information, including ownership, identity, accounting and banking information from any person, in order to comply with obligations under Iceland's EOI instruments. The access powers can be used regardless of the absence of a domestic tax interest. In case of failure on the part of the information holder to provide the requested information, the Icelandic Competent Authority has adequate powers to compel the production of information. Finally, secrecy provisions contained in Iceland's law were found to be compatible with effective EOI. No special procedures are required and the same powers and procedures used to access information in domestic cases is used to access information subject to exchange with EOI partners, including BO information.

257. Iceland's access powers are "in place" and Iceland was rated as "Compliant" with Element B.1 of the standard. The legal framework and practice in respect of access powers of the Competent Authority continues as before.

258. The Icelandic Competent Authority indicates that, during the period under review, Iceland has rarely had to exercise its access powers and has

not encountered any difficulties in gathering the information. No peer has raised an issue in this regard.

259. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Iceland in relation to access powers of the competent authority.

Practical Implementation of the Standard: Compliant

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

B.1.1. Ownership, identity and banking information

Accessing information generally

260. The Competent Authority for EOI in Iceland is the Minister of Finance and Economic Affairs who has delegated his/her authority primarily to the IRC. Within the IRC, the Division of Tax Control and Tax Investigation is in charge of handling all incoming and outgoing EOI requests.[28]

261. Article 94 of the Income Tax Act is the primary provision used by the Icelandic Competent Authority to access information. The provision remains unchanged and provides that:

> It is the obligation of all parties, both those that must file tax returns as well as of others, to submit to the tax authorities, for free and on the form requested, with all necessary information and documents called for and can be submitted. It does not matter in this context whether the information directly applies to the party that the information is requested of, or to the business of other parties with that party that he can provide information and pertain to the taxation of such parties or to an inspection or investigation thereof.

262. Article 94 of the Income Tax Act grants the IRC power to ask any person to provide any type of information which the IRC considers

28. The functions of the DTI, which merged into the IRC effective 1 May 2021, included conducting investigations on cases where there is a suspicion of tax fraud and, where necessary, preparing criminal cases for further investigation by the Office of the District Prosecutor. On 1 February 2022, the functions of the Tax Control Division and Tax Investigations Division were merged.

necessary, whether in connection with the tax obligations of the requested person or of a third party. The request can be directed at a person whether they are subject to filing a tax return or not.

263. Article 94 of the Income Tax Act does not prescribe a specific time limit within which a person must honour a request from the Competent Authority. In practice, the IRC requires that information must be provided within 14 days. The Icelandic authorities indicate that, during the period under review, information was provided to the Competent Authority within this time limit.

264. Article 94 of the Income Tax Act is used for accessing information needed for both domestic cases and information subject to exchange with Iceland's EOI partners.

265. In practice, during the period under review, the IRC has used Article 94 to access information four times in 2018 and once in 2019. The Icelandic authorities explained that the access powers in Article 94 of the Income Tax Act are not frequently used to access information subject to exchange as in most instances the information sought by EOI partners is already held by the tax administration (the IRC). The IRC has a direct access to many types of information through the following means:

- The mandatory declaration of information under Article 92 of the Income Tax Act allows the IRC to maintain certain information, for example, the information on bank accounts and accounts holders as discussed in A.3 above.
- The annual tax returns filed under Article 90 of the Income Tax Act requires the submission of ownership and identity information as well as annual accounts together with the tax returns.
- Annual accounts are submitted to the Register of Annual Accounts held by the IRC. In addition to holding accounting information, ownership and identity information is, in practice, submitted together with the annual accounts.
- The Register of Companies is held at the Register of Enterprises (within the IRC) (see paragraph 49).
- The centralised BO register at the Register of Enterprises (within the IRC) (see paragraph 110).

266. The IRC also has powers to search premises and seize documents. Article 94(3) of the Income Tax Act empowers the IRC to access the offices and warehouses of persons obliged to file tax returns and to question anyone who may have relevant information for the purposes of conducting tax investigation. It also enables the IRC to seek a court warrant

for search and seizure of documents in homes and places not otherwise used as offices and warehouses by the person obliged to file a tax return. The Icelandic tax authorities indicate that these powers might theoretically be used for obtaining information for EOI purposes, since an investigation may be opened where a person refuses to comply with an Article 94 information request (Arts. 94 and 110, Income Tax Act). In practice, the IRC has not experienced a need to exercise search and seizure powers for EOI purposes during the period under review.

267. Article 94(6) of the Income Tax Act also provides that if a person disputes the obligation to provide information, the IRC can apply to court for an order of disclosure. A person who fails to comply with a court order to hand over the information may be subjected to police investigation. The IRC can also open a tax investigation against such a person, if it is suspected that the refusal to provide information is intended to conceal some fraudulent acts. As noted in the 2013 Report (para. 184), applications to court were only used in relation to information requests for domestic tax purposes and all applications in the last period under review were granted in favour of the IRC. No application was made to court during the current period under review.

Accessing beneficial ownership information

268. Information on BOs is registered in the Register of Enterprises, held by the IRC (Art. 1, Act on Registration of BOs). Therefore, the IRC has direct access to BO information on relevant entities and arrangements and does not need to request it from a third party.

269. In addition, the IRC has sufficient powers to obtain the BO information maintained pursuant to the AML/CFT Law. The IRC is designated as a supervisor under Article 38 of the AML/CFT Law. As a supervisor, it may call upon any natural person, legal entity, public body, trust or similar arrangement to immediately provide all information and data which it considers necessary, regardless of whether the information pertains to the requested party or a third party. Article 40 of the AML/CFT Law provides that, notwithstanding the non-disclosure provisions, the AML supervisors (including the IRC in its capacity as a supervisor) as well as the police and the IRC (in its capacity as a tax authority) are obliged, on their own initiative or upon request, to share information and data which falls within the scope of the AML/CFT Law with each other where the matter concerned involves information or data that may fall under the competence of that institution. As such, the IRC has access to all the information and data relating to CDD, procedures employed in CDD as well as necessary supporting documents and business reports that are necessary to demonstrate customer transactions preserved under Article 28 of the AML/CFT Law and can use such information for its AML supervisory

functions as well as for tax purposes. As indicated in paragraph 264 and discussed below, periodic reporting obligation under Article 92 of the Income Tax Act enables the IRC to collect information on the BOs of bank accounts while the IRC's access powers under Article 94 of the Income Tax Act can also be used to obtained BO information.

Accessing banking information

270. The IRC receives information on bank accounts pursuant to Article 92 of the Income Tax Act, which obliges all entities, including banks, savings banks and other financial institutions to make an annual report to the IRC providing the specified information (see paragraph 57). Icelandic authorities indicate that due to the periodic reporting obligation under Article 92 of the Income Tax Act, ownership and identity information and information on the BOs of accounts is in most cases already within the database of the tax administration. As such, the broad access powers under Article 94 mentioned above are rarely invoked to access banking information. As indicated in A.3 above (see paras. 239 and 240), the AML/CFT Law was amended in 2020 to provide for the creation of a Registry of Bank Accounts, to be administered by the IRC. It is not yet operational, but when in place, the Registry of Bank Accounts may ensure real time access to ownership and identity information as well as the BOs of bank accounts given that banks have a maximum of two weeks to update the Registry with any changes. Regulations to implement the new provision have not been formulated and this amendment has no impact on the current review.

271. In practice, banks are given 14 days to respond but often respond within a week. As indicated in paragraph 254, Icelandic authorities indicate that they received one request for information on bank accounts during the period under review. Icelandic authorities indicate that the information was obtained from the bank using Article 94 of the Income Tax Act and no issues were encountered in accessing and providing the information requested. No EOI partner has indicated that it had not received banking information requested because this type of information was not available or not accessible in Iceland.

B.1.2. Accounting records

272. Annual accounts are submitted to the Register of Annual Accounts hosted by the IRC. Annual accounts are also annexed to the annual tax return. The IRC has direct access to these databases without the need to follow special procedures to obtain accounting information, therefore, accounting information is in many instances available directly within the IRC. Where the accounting information is not in the IRC's database, the powers

of the IRC referred to in section B.1.1 (Art. 94, Income Tax Act) can be used to obtain accounting records (see also the 2013 Report, paras. 170-173).

273. No request for accounting information was received by Iceland during the period under review.

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

274. 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 standard requires a jurisdiction to be able to use its information gathering powers, notwithstanding that it may not need the information for its tax purposes.

275. Article 94 of the Income Tax Act refers to the submission of information to the tax authorities, which "pertain to the taxation of such parties or to an inspection or investigation thereof". The wording of Article 94 itself does not specify any limitation of its use to domestic or EOI purposes. The term "taxation" is not defined in the Income Tax Act; however, the Act provides for the involvement by the Icelandic authorities in EOI arrangements (Art. 119). Accordingly, all the powers at the disposal of the Icelandic tax authorities are available for both domestic and EOI purposes and they have so used the powers in practice

276. The Icelandic authorities indicate that, during the period under review, they received ten requests for information for which Iceland did not have a domestic tax interest. Iceland was able to access and provide information requested in seven out of the 10 cases (see paragraphs 306 and 313 under sub-Elements C.1.2 and C.1.4 below).

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

277. The 2013 Report concluded that the Icelandic authorities possessed adequate sanctions to enforce the production of information. This remains unchanged.

278. Any person that fails to comply with a request to provide information under Article 94 of the Income Tax Act may be subject to a fine or imprisonment of up to two years (Art. 109(6), Income Tax Act), irrespective of whether the offence was committed on purpose or negligently. Where a person representing an entity commits the offence, and the failure has been to the advantage of the entity, then the representative may have his/her professional licence revoked in addition to being fined or being subjected

to imprisonment. The entity may also be fined for the actions of the representative (Art. 109(7), Income Tax Act). Unless the case is referred for criminal investigation, the IRC (Art. 110(1), Income Tax Act) determines all fines. Fines may range from ISK 100 000 to ISK 100 million (EUR 690 to EUR 69 000) and take into account the scale of the offence (Art. 110(2), Income Tax Act). The decisions of the IRC can be appealed to the State Internal Revenue Board.

279. No sanction for non-disclosure had to be imposed in an EOI case during the period under review because recipients of an information request under Article 94 of the Income Tax Act always provided the requested information to the IRC.

B.1.5. Secrecy provisions

280. The Icelandic Competent Authority's access powers overrides any secrecy obligations on any person under any legislation in Iceland. This is based on Article 94(6) of the Income Tax Act, which expressly provides that "the provisions of other Acts concerning confidentiality and secrecy take second place to the Provisions of this Article".

Bank secrecy

281. In Iceland, banking secrecy is enshrined in Article 58 of Act on Financial Undertakings No. 161/2002 which provides that:

> The board of directors of a financial undertaking, managing directors, auditors, personnel and any persons undertaking tasks on behalf of the undertaking shall be bound by an obligation of confidentiality concerning any information of which they may become aware in the course of their duties concerning business dealings or private concerns of its customers, unless obliged by law to provide information.

282. Banking secrecy is not a valid reason for not providing information pursuant to the overriding effect of Article 94(6) of the Income Tax Act and, therefore, does not hinder effective EOI in Iceland. As noted in the 2013 Report (para. 189) the courts have ruled in favour of the IRC where banks attempted to challenge the scope of the Competent Authority's access powers. Moreover, article 37.gr.a. of the AML/CFT Law that creates the Registry of Bank Accounts also expressly provides that banking secrecy will not limit its operation and it may be connected to an interconnected registry within the EEA. For this reason, the IRC will also be able to access the Registry of Bank Accounts for tax purposes including for exchange with Iceland's EOI partners.

283. Icelandic authorities indicate that as the banking sector is comprised of four commercial banks and four savings banks, the Competent Authority does not need the name of the bank, address or branch of the account holder. In practice, the name of the account holder along with the date of birth and Icelandic identification number is sufficient for the purposes of tracing the bank information requested. There are judicial decisions that confirm that it is not necessary for the Competent Authority, when requesting information under Article 94 of the Income Tax Act, to specify the taxpayers involved, for example, through provision of a name and identity number (see 2013 Report, para. 188). During the on-site visit, the representatives of the financial institutions indicated that the IRC's access powers under article 94 of the Income Tax Act are well supported by judicial decisions and the banks abide by requests pursuant to article 94.

284. Icelandic authorities and Iceland's EOI partners indicate that, during the period under review, bank secrecy has not caused any problem in practice.

Professional secrecy

285. Legal professional secrecy is enshrined in Article 22 of the Act on Professional Lawyers No. 77/1988, which provides that: "A lawyer has the duty of maintaining silence with respect to any matter confided to him in the course of his functions." A fine may be imposed for the violation of legal professional secrecy (Art. 29, Act on Professional Lawyers).

286. Legal professional secrecy in Iceland is compatible with effective EOI. In particular, the overriding powers of the Competent Authority under Article 94(6) of the Income Tax Act was affirmed by a decision of the Supreme Court in a domestic case in May 2012.[29] During the on-site meeting, the Icelandic Bar Association confirmed that the decision of the Supreme Court reaffirming the powers of the Competent Authority to access information from lawyers under Article 94(4) remains in effect.

287. Icelandic authorities also indicate that they continue to abide by the court decision that requires the IRC to be objective and follow procedural steps in the law when exercising its information gathering powers. For this reason, Icelandic authorities indicate that they would make use of Article 94(6) to lift attorney-client privilege in a reasonable manner and, in particular, would only request information pertaining to tax matters from lawyers or other professionals subject to professional confidentiality. In any case, the Icelandic Bar Association indicated that legal professional secrecy would not arise when a lawyer acts in any other capacity other than as a lawyer.

29. *The Directorate of Tax Investigation v. A* (Case no. 347/2012); see 2013 Report para. 191.

288. The Icelandic competent authority and its EOI partners indicate that legal privilege has not caused any problem in practice.

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.

289. The 2013 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. This position continues to remain the same given no further changes to the legal framework since the 2013 Report.

290. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

Notification

291. The Supreme Court of Iceland has made a determination that the IRC's powers to obtain information must be exercised objectively and procedural steps provided in the law must be followed (see the 2013 Report, para. 196). Nevertheless, there is no requirement in Iceland's domestic legislation to notify a person who is the subject of an EOI request, either before the information is exchanged or after the exchange.

292. Icelandic authorities may require the taxpayer him/herself to provide information under Article 94 of the Income Tax Act. However, this article does not specify the details that the IRC must provide to a taxpayer, or a third party, in a request for information. In practice, the IRC does not inform the person to whom the request is directed of the exchange purpose for which the information is sought. As noted in paragraph 335 (under sub-Element 3.1)

and paragraph 342 (under sub-Element 3.2), the Icelandic competent authority rarely used its access powers due to the wide range of information already held by the IRC. Moreover, during the onsite visit, representatives of the banking sector indicated that, in practice, the account holder is never informed that the IRC has requested, and the bank has provided, information relating to the account. For these reasons, the risk to tip-off the concerned person is very low.

Appeal rights

293. The holder of information that receives a request for information based on Article 94 of the Income Tax Act may appeal against the request according to the Act on Civil Procedure, in the same way and under the same conditions as any other administrative act of the tax administration. However, no right of appeal exists in this regard for the taxpayer with which the request for information is concerned, except where the taxpayer is also the holder of the requested information. In such case, the taxpayer can exercise the right of appeal only in his/her/its capacity as the holder of the information. As noted in the 2013 Report (paras. 197-199), there are judicial decisions in favour of the IRC that the holder of information cannot refuse to comply with the request for information solely on the ground that they would incur costs to comply.

294. The Icelandic tax authorities indicate that, in practice, if an appeal were to be lodged by the holder of information, the Competent Authority would, in all circumstances, inform the EOI partner and indicate that there is potential disclosure of information regarding the EOI request during the court proceedings as well as potential delay in providing the information requested. Icelandic authorities indicate that, in practice, they would only disclose the minimum information required by the court. It would then be a matter for the EOI partner to decide whether to proceed with the request. This situation remains unchanged.

Part C: Exchange of information

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

296. Iceland has a large network of EOI relationships based on various types of EOI instruments. At the time of the 2013 Report, Iceland's network of EOI instruments covered 94 jurisdictions through 34 DTCs, 41 TIEAs, the 1989 Nordic Mutual Assistance Convention on Mutual Administrative Assistance in Tax Matters (the Nordic Convention) and the Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention). This element was found to be "in place" and rated "Compliant".

297. Since the 2013 Report, Iceland has signed six new DTCs with Albania, Austria, Cyprus,[30] Georgia, Japan and Liechtenstein. Iceland also

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

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

renegotiated two DTCs (with Switzerland and the United Kingdom), signed the Protocol to the Nordic Convention and entered into new TIEAs with Botswana, Hong Kong (China), Niue and the United Arab Emirates. Iceland's EOI network now covers 146 jurisdictions based on 40 DTCs, 44 TIEAs, the Nordic Convention and the Multilateral Convention. Of these, EOI instruments with six partners[31] are not yet in force. All of Iceland's EOI relationships are in line with the standard (see Annex 2).

298. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

Other forms of exchange of information

299. In addition to exchanging information on request, Iceland also exchanges information spontaneously and automatically with treaty partners. Iceland started exchanging financial account information under the Common Reporting Standards (CRS) in 2017 with other CRS participating jurisdictions. Iceland also has AEOI with the United States under the Iceland/United States FATCA Inter Governmental Agreement since 2015. Iceland also exchanges information on tax rulings and Country-by-Country Reports with partners in line with Actions 5 and 13 of the Action Plan on Base Erosion and Profit Shifting (BEPS).

C.1.1. Standard of foreseeable relevance

300. Exchange of information mechanisms should allow for EOIR where it is foreseeably relevant to the administration and enforcement of the domestic taxes of the requesting jurisdiction. The 2013 Report concluded that all the EOI agreements concluded by Iceland complied with the standard, including in cases where the text of the treaty used "relevant" or "necessary" as an alternative term to foreseeable relevance.[32]

31. Costa Rica, Guatemala, Jamaica, Saint Kitts and Nevis, Saint Vincent and the Grenadines and the United Arab Emirates.

32. See paras. 209, 216-220 of the 2013 Report. The DTC with Switzerland did not meet the standard due to the restriction of the EOI provision to information that is "necessary for carrying out the provisions of the Convention" only. Iceland was

301. All the new bilateral instruments entered into by Iceland since the 2013 Report (see paragraph 297) meet the standard of foreseeable relevance.

Clarifications and foreseeable relevance in practice

302. In practice when Iceland receives a request, the Competent Authority checks the request for completeness and determines whether the information requested is foreseeably relevant. Icelandic authorities indicate that Iceland provides for EOI in tax matters to the widest possible extent. However, an explanation of the foreseeable relevance of information to the requesting jurisdiction and its intended use must be provided. The Icelandic competent authority also requires that the request include an explanation of the facts and circumstances that led to the request, the applicable law and why there is reason to believe that the taxpayer may have been non-compliant with that law. There must be a reasonable possibility at the time when the request is made that the requested information will be relevant to the requesting jurisdiction. If the name and address of the taxpayer in question is not provided, the Icelandic Competent Authority will require that the information provided is sufficient to identify the taxpayer. The Icelandic Competent Authority has a good understanding of the standard of foreseeable relevance. In practice, an assessment of whether an incoming request meets the standard of foreseeable relevance is based on an overall consideration of the facts and circumstances outlined in the request. Iceland does not require the requesting jurisdiction to provide particular information to demonstrate foreseeable relevance.

303. Where it is not possible to determine the foreseeable relevance of the information requested, either because the request is unclear or incomplete, Iceland would seek a clarification from the requesting jurisdiction. According to inputs received from peers, Iceland did not seek a clarification during the period under review (see para. 365). Icelandic authorities indicate that, during the period under review, Iceland has not declined a request for reasons that it did not meet the standard of foreseeable relevance. No peer has raised an issue in this regard.

Group requests

304. Iceland has indicated that it did not receive a group request during the period under review. Iceland has not documented procedures specific

recommended to renegotiate its DTC with Switzerland that would allow for EOI to the standard (see para. 209 of the 2013 Report). Since the 2013 Report, a new DTC with Switzerland which allows for EOI to the standard came into force on 6 November 2015. In any event, the two partners can also exchange information based on the Multilateral Convention.

to the handling and the determination of the foreseeable relevance of group requests but would, where necessary, make reference to the OECD Model Manual of Exchange of Information for Tax Purposes and the Commentary to Article 26 of the OECD Model Tax Convention. In practice, Iceland's Competent Authority would prefer to be contacted beforehand by the jurisdiction intending to make a group request to discuss the intended request and the information already available in the requesting jurisdiction. If not contacted beforehand, the Icelandic Competent Authority would review the information provided in the request and, where necessary, consult the requesting jurisdiction to clarify any aspect that is not clear. The Icelandic Competent Authority indicated that it would require the EOI partner to provide a detailed description of the group and the specific facts and circumstances that have led to the request, an explanation of the applicable law and why there is reason to believe that the taxpayers in the group for whom information is requested have been non-compliant with that law supported by a clear factual basis. Where necessary, the Icelandic Competent Authority would make reference to the OECD Model Manual of Exchange of Information for Tax Purposes and the Commentary to Article 26 of the OECD Model Tax Convention. The Competent Authority is familiar with the Commentary to Article 26 of the OECD Model Tax Convention

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

305. All of Iceland's EOI instruments provide for the exchange of information in respect of all persons.[33] All the recent DTCs signed by Iceland apply to persons who are residents of one or both Contracting States but the EOI provision is not restricted to the personal scope of the application of the treaty, thus all aligned to the standard. All the recent TIEAs signed by Iceland are also aligned to the standard as they do not restrict exchange of information to only persons who are residents of one or both of the Contracting States. In addition, the Multilateral Convention covers all the signatories of the new DTCs and TIEAs.

306. Iceland has indicated that it received ten requests concerning persons who are not taxpayers and not resident in Iceland. Iceland was able to provide the information requested in seven cases where this information was available in Iceland, and therefore, in practice, no issue has arisen in

33. The 2013 Report (para. 222) noted that the DTC with Germany did not specify that EOI is not restricted to the personal scope of application of the treaty but did not either indicate that it is so restricted. Since then, the amended Multilateral Convention has come into force in Germany and provides for EOI in respect of all persons.

relation to the residency status in respect of whom information is requested. No peer has raised an issue in this with respect to requests sent to Iceland.

C.1.3. Obligation to exchange all types of information

307. The 2013 Report (para. 226) noted that six of Iceland's DTCs included provisions akin to Article 26(5) of the OECD Model Tax Convention. The majority of Iceland's DTCs which did not include a similar provision were signed prior to the 2005 revision of the OECD Model Tax Convention in which Article 26(5) was introduced. The absence of this paragraph does not automatically create restrictions on exchange of bank information in Iceland because the commentary on Article 26(5) indicates that whilst paragraph 5 represents a change in the structure of Article 26, it should not be interpreted as suggesting that the previous version of the Article did not authorise the exchange of banking information. Furthermore, Iceland had access to bank information for tax purposes in its domestic law and, pursuant to its treaties, was able to exchange banking information when requested. Therefore, no recommendation was issued in this respect.

308. Since the 2013 Report, it is Iceland's policy to include Article 26(5) of the Model Tax Convention in all of its new EOI agreements. All the six DTCs signed by Iceland since the 2013 Report include a provision with an Article 26(5) wording. In addition, all of the new TIEAs concluded by Iceland forbid the requested jurisdiction from declining to supply the information requested solely because it is held by a financial institution, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person, in conformity with Article 5(4) of the Model TIEA. The DTC with Viet Nam, which is the only one not covered by the Multilateral Convention, does not contain a provision similar to Article 26(5) of the OECD Model Tax Convention.

309. Iceland indicates that they received only one request to exchange banking information during the period under review. This request was based on a DTC with no provision equivalent to Article 26(5) of the OECD Model Tax Convention, but this did not prevent Iceland from obtaining and exchanging this information. In addition, banking information is exchanged regardless of the ability of the requesting country to provide Iceland with bank information.

C.1.4. Absence of domestic tax interest

310. The concept of "domestic tax interest" describes a situation where a jurisdiction can only provide information to an EOI partner if it has an interest in the requested information for its own tax purposes. An inability to provide information based on a domestic tax interest requirement is not consistent with the standard.

311. The 2013 Report noted that although some of Iceland's EOI instruments did not contain an equivalent of Article 26(4) of the Model Tax Convention or Article 5(2) of the Model TIEA requiring Iceland to exchange information even though it does not need the requested information for its own tax purposes, Iceland interprets all its treaties[34] and domestic laws in such a way that no domestic tax interest limitation applies.

312. All the new DTCs and TIEAs signed since the 2013 Report contain the wording of Article 26(4) or similar provision against a domestic tax interest limitation. Of the 25 EOI DTCs referred to in the 2013 Report, Iceland has renegotiated two (with Switzerland and the United Kingdom) which are in force and do not contain a domestic tax interest limitation. With the exception of Viet Nam, the Multilateral Convention is in force for the remaining DTCs (22 countries).[35] In addition, Iceland indicates that it continues to interpret these treaties and its domestic laws in such a way that no domestic tax interest limitation applies.

313. As noted in paragraph 306, Iceland received ten requests concerning persons who are not taxpayers in Iceland during the period under review and provided the requested information in seven cases where the information was available in Iceland, thus demonstrating that no domestic tax interest test is applied by Iceland.

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

314. Iceland's network of EOI agreements provides for EOI in both civil and criminal tax matters. None of Iceland's EOI agreements contains restrictions limiting EOI in criminal matters or based on dual criminality provisions.

315. During the period under review, Iceland did not receive any request in relation to criminal tax matters. Iceland indicates that its Competent

34. As at the time of the 2013 Report (para. 229), all of Iceland's TIEAs and only six of its DTCs explicitly permitted information to be exchanged, notwithstanding that it may not be required for a domestic tax purpose. Twenty-five DTCs, mostly signed prior to the 2005 revision of the OECD Model Tax Convention did not have this provision but the Multilateral Convention was in force for 14 of these countries while the other 11 could still exchange information notwithstanding the absence of this provision, provided there was no impediment in both countries' domestic laws. Moreover, seven of these allowed for EOI without a domestic tax interest restriction under the treaty partners' domestic laws.

35. Belgium, China, Czech Republic, Estonia, France, Germany, Greece, Greenland, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Russia, Slovak Republic, South Korea, Spain and Ukraine.

Authority has requested information for both civil and criminal tax matters. No issue linked to dual criminality arose in practice.

C.1.7. Provide information in specific form requested

316. All of Iceland's TIEAs (including the new ones) and Iceland's DTC with Canada (1997) and the United States (2009) contained wording based on Article 5(3) of the Model TIEA, which specifically requires requested jurisdictions to provide information in the form of deposition of witnesses and authenticated copies of original records, to the extent possible under domestic law, where so requested. Article 18 of the Multilateral Convention, which covers all jurisdictions with which Iceland has an EOI relationship with but one, also allows for the exchange of information in a specified form.

317. There are no restrictions in Iceland's domestic law or its DTCs that would prevent it from providing information in a specific form to the extent permitted under Icelandic law and administrative practice. No EOI partner has indicated that Iceland has not been able to respond to requests to provide information in a specific form.

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

318. Iceland has in place the legal and regulatory framework mechanisms to give effect to its EOI mechanisms. Article 119 of the Income Tax Act enables the Government to enter into agreements with the governments of other countries for the relief of double taxation. It also permits the Government to negotiate with other countries on the mutual EOI concerning the collection of public dues. Based on this authorisation, the Icelandic authorities do not need to seek approval from the Parliament on new tax treaties or amendments. Once a treaty has been signed by Iceland and its EOI partner, it is presented to the government and afterwards signed by the President. Once the agreement has been signed by the President, the Ministry of Foreign Affairs notifies the partner jurisdiction that Iceland has finished the domestic process for ratification.

319. The 2013 Report (para. 239) noted that Iceland had concluded 75 bilateral EOI agreements but 12 were not in force. Out of these, eight were not in force because ratification or notification by Iceland's EOI partner was pending. The remaining four agreements required ratification by either Iceland alone or Iceland and the treaty partner in order to be brought into force.

320. Since the 2013 Report, four TIEAs (with Dominica, Grenada, Liberia and Uruguay) came into force on 1 January 2013, the TIEA with Panama

came into force on 1 January 2014, the TIEA with Brunei Darussalam came into force on 20 March 2015 and the TIEA with Vanuatu came into force on 1 January 2017. The TIEAs with Guatemala and Jamaica have been ratified by both Iceland and its EOI partners but are not in force because Iceland is yet to complete exchange of notes (with Guatemala) or receive a notification of the completion of internal procedures (from Jamaica). Iceland has ratified its TIEAs with Costa Rica (8 February 2012), Saint Kitts and Nevis (21 September 2012) and Saint Vincent and the Grenadines (21 September 2012) but no notification regarding the completion of internal procedures for ratification has been received from the EOI partners. The new TIEA with the United Arab Emirates has been ratified by Iceland on 22 February 2018 but is not in force pending completion of procedures by the former. All the EOI instruments that are not in force are covered by the Multilateral Convention.[36] All other agreements signed since the 2013 Report are in force.

321. An analysis of the treaty network of Iceland is presented below.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	**146**
In force	136
In line with the standard	136
Not in line with the standard	0
Signed but not in force	10 (Benin, Burkina Faso, Gabon, Honduras, Mauritania, Madagascar, Papua New Guinea, Philippines, Rwanda, Togo)
In line with the standard	10
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	**1**
In force	1 (Viet Nam)
In line with the standard	1
Not in line with the standard	0
Signed but not in force	0

36. EOI Protocols to DTCs with Belgium and Poland and TIEAs with Costa Rica, Guatemala, Jamaica, Saint Kitts and Nevis, Saint Vincent and the Grenadines and the United Arab Emirates.

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

The jurisdiction's network of information exchange should cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

322. The 2013 Report found that Iceland had in place a network of EOI instruments that covered all relevant partners, including its biggest trading partners. Iceland was encouraged to continue to develop its exchange of information network with all relevant partners. This network was found to be "in place" and Iceland rated "Compliant" to this element of the standard.

323. Since the 2013 Report, Iceland has further broadened and updated its network of EOI network from 94 jurisdictions to 146 jurisdictions through 40 DTCs, 44 TIEAs, the Nordic Convention and the Multilateral Convention. Iceland has signed six new DTCs (with Albania, Austria, Cyprus, Georgia, Japan and Liechtenstein), renegotiated two DTCs (with Switzerland and the United Kingdom), and signed four new TIEAs (with Botswana, Hong Kong (China), Niue and the United Arab Emirates). Iceland's EOI network was further expanded by the participation of new jurisdictions in the Multilateral Convention.

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

325. The conclusions are as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Iceland covers all relevant partners.

Practical Implementation of the Standard: Compliant

The network of information exchange mechanisms of Iceland covers all relevant partners.

C.3. Confidentiality

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

326. The 2013 Report concluded that Iceland's EOI instruments have adequate provisions to ensure the confidentiality of the information received. The confidentiality provisions of Iceland's EOI instruments are further backed by general confidentiality provisions in Iceland's domestic law under the Income Tax Act and the Penal Code.

327. All of the new EOI instruments entered into by Iceland since the 2013 Report are in line with the Standard.

328. While Iceland's legal framework ensures the confidentiality of information exchanged under its EOI instruments, in practice Iceland has not documented the processes for handling incoming and outgoing EOI requests to ensure confidentiality is maintained.

329. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of Iceland 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

330. The 2013 Report concluded that the confidentiality provisions in Iceland's EOI instruments and domestic law met the standard.[37] All of the new DTCs entered into by Iceland since the 2013 Report are in line with the standard.

331. The confidentiality provisions in Iceland's EOI instruments are further backed by general confidentiality provisions in domestic legislation. As described in the 2013 Report (paras. 253 and 255) Article 117 of the Income

37. Except for the DTCs with Germany and Switzerland which restricted the disclosure of information to some of the authorities listed in the Model provision only. Since then, Iceland has renegotiated its DTC with Switzerland, in line with the standard, and it came into force on 6 November 2015. In addition, the Multilateral Convention came into force for Germany (1 December 2015) and Switzerland (1 January 2017).

Tax Act sets the duty for confidentiality for all tax officials. This is complemented by Article 136 of the Penal Code which imposes a general duty of confidentiality on all civil servants, with breaches subject to imprisonment for up to three years (see para. 256 of the 2013 Report). In addition, the confidentiality provisions in Administrative Law No. 37/1993 applies to any person working for the State or Municipalities and these include the tax administration's staff. Article 42.gr imposes a duty of confidentiality regarding information that is kept confidential on the basis of law or other rules. This means that an employee of the IRC is not permitted to share or use information, whether for himself/herself or for the benefit of others, about facts that the employee has become aware of in the course of his/her work or that is required to be kept secret. The employee is also required to take appropriate measures to ensure that information that is subject to confidentiality does not come to the attention of unauthorised persons during its handling and storage. This duty extends beyond the contract of employment and applies even when the employee has left employment, whether voluntarily or through other means. Breach of this duty is also punishable by Article 136 of the Penal Code. The IRC can share information with Statistics Iceland and the Central Bank of Iceland as well as with law enforcement authorities (pursuant to Article 117 of the Income Tax Act). Icelandic authorities have indicated that information exchanged under EOI agreements are only disclosed to other law enforcement agencies in accordance with the provisions of the EOI agreement governing the exchange.

332. The Terms of Reference, as amended in 2016, clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the underlying EOI agreement provides for the authority supplying the information to authorise the use of information for purposes other than tax purposes and the tax information may be used for other purposes under the laws of both contracting parties.

333. Save for the TIEAs with the British Virgin Islands, Guernsey, the Isle of Man and Jersey which expressly prohibit disclosure of information to a third jurisdiction, all of the TIEAs signed by Iceland contained the model provision in Article 8(3) of the Model TIEA i.e. "The information may not be disclosed to any other person or entity or authority or any other jurisdiction without the express written consent of the competent authority of the requested Party" (see para. 252 of the 2013 Report).

334. Iceland indicates that there were no requests wherein the requesting partner sought Iceland's consent to utilise the information exchanged under EOI instruments for non-tax purposes. Similarly, Iceland did not request its EOI partners to use information received under its EOI agreements for non-tax purposes.

335. A person who is subject to request for information may access the information sent to a foreign competent authority. However, such a person cannot access the information provided by the Icelandic Competent Authority in a case which has not been closed by the state that requested the information. In practice, Iceland would always contact the foreign Competent Authority to establish if the case has been closed and obtain authorisation to disclose the information supplied. It was observed that a person would only know that information was requested by another state if the Icelandic Competent Authority had to obtain information directly from such a person or the information holder told the person concerned. In practice, the competent authority rarely used its access powers due to wide range of information already held by the IRC.

336. Iceland's legal and regulatory framework ensures that the information provided pursuant to an EOI instrument would only be used for the purpose permitted under that EOI instrument and that its confidentiality would be preserved.

C.3.2. Confidentiality of other information

337. The confidentiality provisions in Iceland'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 jurisdictions and Iceland and communications within the tax authorities of either jurisdiction.

Confidentiality in practice

Human resources and training

338. All candidates for an IRC position must provide a clean criminal record. New personnel who join the IRC must be vetted. During the recruitment process, the IRC interrogates the applicants previous work history and obtains their past employment record through references provided by the applicant. This is checked against information held by public authorities. Only applicants with a clean record may be offered a job.

339. Prior to taking up their duties, the IRC introduces new personnel to the rules governing the confidentiality of data which they may access in the course of their employment life cycle and the rules that govern the use of IT systems, including on the improper use and access to the IRC databases and software systems. New employees are given explicit oral instructions on how to manage the information they access in the course of their work.

Employees are made aware that taxpayer information is strictly confidential, and that the confidentiality rules for tax authorities go beyond what is legally required of other civil servants. Employees handling information exchanged under EOI instruments, e.g. auditors who may request information from treaty partners and those in the EOI unit, are specifically informed about the sensitive nature of the exchanged data and measures that should be taken to preserve its confidentiality. The consequences of breaching these rules are also outlined to new employees. An employee handbook detailing the rules governing employee behaviour is provided to all employees at the end of the orientation. New employees must also review and sign an oath of confidentiality before they start working. The oath applies to information accessed during the course of employment even after the employee ceases working for the IRC.

340. Trainings are conducted annually by the IRC to remind all employees of their obligation to safeguard taxpayers information accessed in the course of their duties and to provide an understanding of new rules that may have been put in place. With respect to the EOI unit, new staff are trained on the requirements of the standard with an emphasis on confidentiality of tax-exchanged information. The new staff are acquainted with the confidentiality requirements of the OECD Model Tax Convention, the Model TIEA and *Keeping It Safe: the OECD Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes*. The Icelandic Competent Authority participates in a Nordic working group on international tax evasion where confidentiality rules are a recurring topic and other international training on EOI where confidentiality is usually a part of the agenda.

Communication of the information

341. During the onsite visit to the EOI unit (Competent Authority's office), Iceland indicated that, in practice, it predominantly communicates with its EOI partners through electronic means. Where communication takes place by hard mail, all incoming post is marked to the Competent Authority and can only be opened by the Competent Authority. All personnel handling mail addressed to the tax administration are specifically instructed to take note of posts with marks on the envelopes indicating that it is confidential information exchanged subject to an EOI agreement and ensure it is forwarded to the Competent Authority's office unopened. All posts received by the Competent Authority are treaty stamped, scanned into the electronic system and the physical document is shredded in accordance with the IRCs information disposal policy. The Competent Authority has access to all the IRC databases and other external databases and does not need to communicate the request to any other IRC official. All electronic mails and the attachments have a notice that the information contained therein is subject

to an EOI instrument, which governs its use. All confidential information sent by email is attached as an encrypted document and the password is sent separately upon confirmation of receipt of the first email. All files related to an incoming or outgoing request are stored in a folder in the electronic system which can only be accessed by the Competent Authority or the officer handling the case. The auditor who requested information is granted rights to access specific information received from the requested jurisdiction but this does not include all communications between the competent authorities. Access to this folder is monitored. The information stored therein cannot be copied to USB or personal email.

342. Where the information requested is not held within the IRC databases, the Competent Authority uses the access powers in Article 94 of the Income Tax Act to compel the information holder to produce the information. A request under Article 94 of the Income Tax Act does not need to disclose that the information is required for exchange with Iceland's EOI partners: the information holder is not informed whether the information requested is needed for domestic purposes or for exchange with treaty partners. Only necessary information is contained in the request for information to third parties or the information holder.

343. IRC has in place systems and procedures for limiting access when employees change roles or leave the institution. Their access rights are reviewed in light of the new roles and restricted to the new roles while former access rights are deactivated. If an employee is leaving the IRC, all IT access rights and physical access to the office buildings are deactivated in a timely manner. The departing employee is also informed that information obtained during the performance of his/her functions at the IRC remain confidential and must not be disclosed to any other party.

344. Iceland has mechanisms in place to protect the confidentiality of information exchanged for tax purposes and EOI staff received instructions on the handling of incoming and outgoing requests as discussed in more details in sub-Element C.5.2. However, most of the procedures are undocumented, notably, there is no written guidance to EOI personnel on how incoming and outgoing requests should be channelled in a secure manner. Iceland should document its exchange of information procedures and processes to the attention of current and future staff, to ensure the confidentiality of information exchanged in line with the standard (see Annex 1).

Physical security measures

345. Access to all offices of the IRC is controlled and guarded by a security guard during opening hours. Guests must be announced and have a "responsible employee" to accompany them. A key card is needed to enter

different parts of the building. Staff key cards are programmed to restrict unnecessary access, e.g. to storage rooms.

346. The IT and EOI units are some of the offices categorised as high risk (at the highest level) and access is very restricted, even for other IRC staff. The EOI unit is based in the Competent Authority's office. It is a room separated from others and can only be accessed by the Competent Authority. Other personnel allocated administrative duties may only access the EOI unit in her presence and only when it is necessary to perform specific duties.

347. Incoming EOI requests (whether received by e-mail or postal mail) are logged into the electronic system, including scanned copies of any documents received in a physical form. Subsequent information relating to each request and replies from the Icelandic Competent Authority are also filed into the system under the file of each EOI request. Only the persons designated as the Competent Authority at IRC has general access to these restricted materials. Access can also be granted to those providing administrative support for the purpose of carrying out their duties. Upon receiving information from EOI partners, a folder is created within the electronic system where the information is kept. The information received from treaty partners is treaty marked prior to being uploaded and thus the case worker is aware that the information is exchanged under a tax treaty and that its use is governed by the tax treaty. Access to this folder is granted and restricted only to the tax official who originated the request. If any other personnel wishes to access this information, they must receive authorisation from the Competent Authority.

Electronic security

348. IRC has procedures in place that are designed according to the procedures recommended by certain standards (IST ISO/IEC 17799:2000 and IST ISO/IEC 27001:2013) which ensure that the development and maintenance of the systems reflect IRC policies. To ensure that security remains an integral part of all aspects of IRCs information systems, including operating systems, hardware and software, these procedures are regularly reviewed and updated. The procedures are defined with appropriate tests, for how and when to conduct changes to systems or environments. The relevant documents are updated in accordance with the given changes so that they may reflect the current state of the systems.

349. IRC systems, databases and websites are tested regularly, at least once every two years to identify any problems and risks to the security of data contained therein. Appropriate action is taken to address the problems and risks identified. During the period under review, employees could

access IT systems from home, mostly due to the teleworking arrangements put in place to help curb the spread of Covid-19. Specific guidelines were developed for employees to ensure that the security of the IT systems and taxpayers data is not compromised. This included the obligation for employees to telework only from home and advise on the matters they will work on from home, as some files can only be dealt with from the office.

350. Access to IT systems is controlled. All new employees are issued with a unique username for accessing IT systems. Employees also must sign a statement confirming that they know and understand the rules on use and access of computer and data systems. IRC has a logging system for tracking individual access to the computerised system. However, the log records are only referred to if there is a suspicion of breach of confidentiality and/or other wrongdoing.

351. Taxpayer information from Iceland to EOI partners is sent in files which are encrypted with passwords and written on CDs. WinZip was used for encryption but recently the IRC has begun using 7Zip. The CDs are sent in postal mail to Competent Authority of the relevant country. When the Competent Authority has confirmed reception of the CDs, the password is sent to them via e-mail. Information received pursuant to an outgoing request is handled in similar way. In most cases, WinZip is being used but a few countries use 7Zip, WinRar and/or PGP. All physical media is disposed of in a secure manner, after reading the data from the media.

Policy for monitoring breaches

352. The IRC has procedures in place to monitor confidentiality breaches, to require reporting of breaches of confidentiality and to prepare reports on any breach of confidentiality. All employees and contractors are sensitised on the policies and procedures for monitoring and reporting breach of confidentiality. There is a logging system tracking individual access to the computerised system; however, the log records are only referred to if there is a suspicion of breach of confidentiality and/or other wrongdoing. Where there is a suspicion of breach of confidentiality and-or other wrongdoing, an in-depth investigation will be launched and it can lead to the following consequences:

- According to Articles 21, 44 and 45 of the Act on Public Servants No. 70/1996, public employers (including the IRC) can reprimand and dismiss employees for unauthorised disclosure of confidential information. An IRC official who breaches his/her confidentiality obligations, including unauthorised disclosure of confidential information exchanged with a treaty partner, will therefore be reprimanded and may be dismissed.

- According to Article 136 of the Penal Code, a civil servant who reveals anything which is to be treated as a secret and of which he/she has learned in the course of his/her work or which pertains to his/her office or function shall be subject to imprisonment for up to one year. In case he/she has done this for the purpose of obtaining unlawful gain for him/her or others or if he/she uses such knowledge with that end in view, imprisonment for up to three years may be applied.

353. Icelandic authorities indicate that no breach of confidentiality was detected during the period under review.

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.

354. All of Iceland's DTCs ensure that the parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy (*odre public*), in a manner consistent with Article 26(3) of the Model Tax Convention. All of Iceland's TIEAs and the Multilateral Convention also contain similar provisions (based on the Model TIEA), as well as an express reference to the professional secrecy duties of lawyers (legal privilege), based on Article 7(2) and (3) of the Model TIEA.

355. Icelandic authorities indicate that no issues have been encountered with regards to legal professional privilege vis-à-vis the Competent Authorities powers under Article 94 of the Income Tax to compel production of information. No peer has raised an issue concerning professional secrecy.

356. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

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

357. The 2013 Report noted that Iceland provided information, on average, within 27 days of receiving a request. The response rate ranged from within a couple of days to a maximum of 212 days. Most requests were answered within 90 days of receiving the request with only one request answered within 180 days and two requests within one year. The DIR was responsible for handling incoming and outgoing EOI requests in civil cases and the DTI was tasked with handling EOI requests concerning criminal tax investigations.

358. Since the 2013 Report, there has been a reorganisation of the tax authority leading to all incoming and outgoing EOI requests, in both civil and criminal tax matters, being handled by the Tax Control and Tax Investigations Division of the IRC. This was preceded by delays in answering EOI requests. On average, it took more than 90 days to answer requests and status updates were not regularly provided to EOI partners for cases that took more than 90 days to respond to. Iceland should monitor the procedures and processes in place, ensure that all requests are answered in a timely manner and provide status updates to its treaty partners where necessary.

359. 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: Partially Compliant

Deficiencies identified/Underlying factor	Recommendations
Iceland has a dedicated centralised exchange of information unit and procedures in place for handling requests. However, Iceland experienced delays in answering requests in a number of cases.	Iceland is recommended to monitor the processes and guidance in place and ensure that all requests are answered in a timely manner.
Iceland did not provide status updates in a number of cases that took more than 90 days.	Iceland is recommended to monitor the procedures and processes in place to ensure that status updates are provided to its treaty partners, where necessary, in line with the standard.

C.5.1. Timeliness of responses to requests for information

360. During the period under review (1 January 2018 to 31 December 2020), Iceland received 40 requests for information. One request related to banking information while the remaining 39 requests covered other types of information such as transactions between Icelandic taxpayers and foreign taxpayers, information on taxpayers' contact and residence information, and information on income and assets. Five requests concerned companies and the remaining 35 concerned natural persons. The main EOI partners were Luxembourg, the United Kingdom, Norway, Denmark and Poland.

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

Statistics on response time and other relevant factors

		2018		2019		2020		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	15	100	15	100	10	100	40	100
Full response: ≤90 days		1	6.7	5	33.3	7	70	13	32.5
≤180 days (cumulative)		1	6.7	8	53.3	7	70	16	40
≤1 year (cumulative)	[A]	1	6.7	14	93.3	7	70	22	55
>1 year	[B]	14	93.3	1	0.7	3	30	18	45
Declined for valid reasons		0	0	0	0	0	0	0	0
Outstanding cases after 90 days		14		10		3		27	
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		0	0	1	10	0	0	1	3.7
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	0	0	0	0	0	0	0	0

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

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.

362. The overall timeliness of EOI responses has deteriorated compared to the last review. The 2013 Report noted that requested information was provided, on average, within 27 days upon receipt of the request with the maximum time taken to answer a request being 212 days. Most of the requests were answered within 90 days of receipt of the request with only one request answered within 180 days and two requests within one year.

363. According to the Icelandic authorities, the requests that have not been fulfilled within 90 days during the period 2018-20 do not relate to a particular type of information requested or require particular types of investigative measures in order to obtain the information. In practice, most of the information requested was available within the IRC or with other public authorities. While the Icelandic authorities attributed the failure to answer some requests within 90 days to the reorganisation of the tax administration, which ultimately brought together erstwhile independent directorates together to form the IRC in 2020 and 2021, the most affected years were 2018 followed by 2019, which were before the reorganisation. Therefore, Iceland's inability to provide status updates and respond to requests within 90 days does not seem to be linked to the reorganisation of the tax administration. It may rather be due to insufficient tracking of EOI requests and monitoring of internal processes and processing deadlines when the staff in charge of EOIR changes, as the responsibility of handling requests is vested on a couple of persons only, thus the absence or change of personnel destabilises the whole process. The response times within 90 days improved in 2020 and 2021, once the situation settled. Iceland received 33 requests in 2021 out of which 27 requests were answered within 90 days and the remaining 6 requests within 180 days. As these requests were received after the review period, inputs could not confirm this information, and the improved timeliness is not taken into account in the present review. This information nonetheless supports the hypothesis that the drop in timeliness in 2018-19 related to the change of personnel and lack of organisation of the transition.

364. Iceland did not decline any request during the period under review. Iceland received ten requests pertaining to persons who were not resident in Iceland and provided information in seven of these requests. Iceland informed the EOI partners that it was unable to provide the information requested in the remaining three cases as the persons who were subject of the requests were not known to the Icelandic authorities. No peer has raised an issue pertaining to Iceland's answers in this respect.

365. Iceland did not request any clarification regarding the requests it received from peers.

366. Iceland experienced delays in answering requests in a number of cases during the current review period. It is imperative, for EOIR to remain effective, that the same problems do not become recurrent. **Iceland is**

recommended to monitor the processes and guidance in place and ensure that all requests are answered in a timely manner.

Status updates and communication with partners

367. The Icelandic Competent Authority maintains good communication with its EOI partners, more so with the Nordic countries, and regularly participates in the Nordic Competent Authority Convention where issues pertaining to the co-operation of the Nordic countries in tax matters are discussed. The Icelandic Competent Authority regularly contacts other EOI partners either by mail, e-mail or phone and also participates in the meetings of Working Party 10 on Exchange of Information and Tax Compliance at the OECD, as needed.

368. However, during the period under review, Iceland rarely provided status updates to its treaty partners when it was not in a position to respond within 90 days. No reason was provided for the failure to provide status updates. This was confirmed by one peer, which indicated that Iceland did not provide status updates for one request that took longer than one year to settle. **Iceland is recommended to monitor the procedures and processes in place to ensure that status updates are provided to its EOI partners where necessary, in line with the standard**.

C.5.2. Organisational processes and resources

Organisation of the competent authority

369. In Iceland, the Competent Authority for EOI is the Minister of Finance and Economic Affairs or his/her authorised representatives. This task has been delegated to IRC. The IRC is responsible for all matters of practical EOI, including criminal tax matters and tax investigations, MAP procedures and tax collection. The responsibility for general policy matters and negotiations of treaties remains with the Ministry of Finance and Economic Affairs. The Icelandic Competent Authority is clearly identified to partners on the Global Forum's secure competent authority's database. The persons authorised to sign on behalf of the Competent Authority are the Director General of the Revenue and Taxation Department at the Ministry of Finance and Economic Affairs, the Head of Division of the Revenue and Taxation Department, the Commissioner of IRC, a specialist within the Analysis Division of the IRC's Division of Tax Control and Tax Investigations and a specialist within the IRC's Division of Collection and Registers. They have a close working relationship and hold regular meetings. The delegated Competent Authorities have power to write to third parties, including financial institutions, to obtain any information that is not already within the database of the IRC.

370. Almost all inbound requests for information are handled by one person, a specialist within the Analysis Division of the Division of Tax Control and Tax Investigations (Competent Authority). Four members of staff within the IRC involved in other forms of EOI such as automatic and spontaneous exchange of information may provide administrative assistance where required but in all cases the specialist supervises the delegated tasks and retains control of the processing of the requests. According to the Icelandic authorities, this number of personnel is sufficient to service the current volume of EOI requests to Iceland and the delays occasioned during the period under review was not attributed to the staffing levels. The Icelandic authorities indicate that more personnel will be assigned to the EOI Unit if the volume of exchanges increases in the future.

Resources and training

371. The Competent Authority is well qualified to handle EOI work. She has been involved in the preparation and handling of responses to EOI requests in criminal tax matters for the DTI since November 2011. In addition, she has attended several trainings and taken e-learning modules on EOI organised by the Global Forum Secretariat and the Global Relations Programme of the OECD. She has also participated in several Competent Authority meetings run by the Global Forum Secretariat and by the Competent Authorities of the Nordic countries. During the onsite visit, the assessment team observed that she had a good level of understanding of legal aspects of EOIR and the implementation of the standard in practice.

372. The Competent Authority reports directly to the head of the Division of Tax Control and Tax Investigations who evaluates the performance of the EOI personnel on an annual basis. A statistical report is also prepared for the Commissioner of the IRC on an annual basis. The annual evaluation and statistical report take stock of the handling of EOI requests.

Incoming requests

373. Every inbound request received by the Competent Authority is lodged in an electronic case handling system, which notes the date of receipt and automatically assigns the request a unique case reference number. From the system, the Competent Authority can work on the request, send emails of acknowledgement, send status updates and log progress as well as put reminders. The Competent Authority treaty marks the documents received and then scans and upload them into the case file on the system. An acknowledgement of the request is always sent to the jurisdiction, at most within a week, irrespective of whether the request is received electronically or by post. Only one peer indicated that they did not receive an

acknowledgment for one request. The details of all requests are also lodged in a tracker.

374. The Icelandic Competent Authority checks to confirm that the request is intended for Iceland and confirms the identity of the requesting Competent Authority (e.g. against the EOI Competent Authority database maintained by the Global Forum). Incoming requests will be validated following the process outlined in paragraph 302.

375. As noted in paragraph 344, although Iceland has provided instructions to its EOI staff on the handling of EOI requests which is available on the IRC's webpage, some details are undocumented. Icelandic authorities indicate that the Competent Authority makes use of the OECD Model Manual on Exchange of Information for Tax Purposes and the Commentaries to the OECD Model Tax Convention and the Model TIEA for technical aspects such as determination of foreseeable relevance of a request.

376. The Icelandic Competent Authority has direct access to all the databases maintained by the IRC, including the Register of Annual Accounts, the Company Register, the centralised BO register and the database containing information reported to IRC pursuant to Article 92 of the Income Tax Act. The Competent Authority also has access to the National Registry and the Vehicle Register among other databases that contain information that may be useful in answering EOI requests. In practice, the Competent Authority will first consult these databases to establish if the information requested is already contained therein. Much of the information requested by EOI partners is often available in the databases held by the IRC but it may take some time to provide information if it covers a long period or involves a complex case. Other practical difficulties include cases where the person subject of the request is not known to the IRC. Where the information requested is not contained in the IRC or other databases, a notice will be issued under Article 94 of the Income Tax Act to compel the information holder to provide it.

377. The Competent Authority examines all the information gathered in order to ensure it responds to the request. She then drafts a reply based on the information gathered and confirms that it is complete before signing it off, treaty marking it and dispatching it to the requesting jurisdiction.

378. The system enables the Competent Authority to track all incoming and outgoing requests and take action where there is a lag in providing responses. Staff access to the system is controlled and restricted based on individual personnel's responsibilities and only the Competent Authority has access to cases that stem from requests for information. The tracking capabilities of the system enables the Competent Authority to be notified

of delays in a response and take appropriate action. It is supplemented by an excel tool maintained by the Competent Authority. However, as noted in sub-Element C.5.1 above, Iceland did not always provide status updates and experienced delays in responding to EOI partners.

379. As indicated in paragraph 304, group requests are processed in the same way as individual requests and follow the same information gathering procedures as individual requests.

Outgoing requests

380. Iceland sent 75 requests to its EOI partners during the period under review. As noted in paragraphs 344 and 375, although Iceland has provided instructions to its EOI staff on the handling of outgoing requests, which is available on the IRC's webpage, some details are undocumented.

381. A case worker that wishes to send a request for information has to contact the Competent Authority to discuss the request. The Competent Authority will conduct a background check to establish the purpose for which the information is required and whether it is necessary to request the information from the EOI partner. This includes making a determination of whether all domestic sources and powers to gather the information have been exhausted and that the request meets the standard of foreseeable relevance.

382. The Competent Authority will then confirm if the requested jurisdiction wishes to be contacted in a specific form or if any template has been provided for making requests. The Competent Authority then drafts the request and sends it to the case worker. The Competent Authority will sign the request and log in the details in the system. The request is sent via encrypted email attachments. In some cases, the Competent Authority will contact the requested jurisdiction beforehand to discuss the request prior to dispatching it.

383. Upon receiving a request for clarification, the Competent Authority would contact the case worker who initiated the request to provide additional information. The Competent Authority then prepares a response and sends it using the same process and channels as the original request.

384. During the period under review, three peers requested for clarification from Iceland on a few occasions. Iceland was requested to clarify the specific periods under enquiry, whether the taxpayer could be contacted directly, the information requested and the foreseeable relevance of part of the information requested to ensure that the correct information was provided. Peers indicated that the requests for clarifications were promptly answered and did not cause any delays in answering the Icelandic requests.

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

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

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**: Iceland should take the necessary steps to supervise companies' obligation to maintain an internal register of shares and to apply effective sanctions in cases of non-compliance (see paragraph 66).
- **Element A.1**: Iceland should continue its efforts in the exercise of appropriate monitoring and enforcement powers to ensure that obligations to retain ownership and identity information are sufficiently enforced (see paragraph 74).
- **Element A.1**: Iceland should clarify how often CDD information for all customers should be updated by AML-obliged persons for the purposes of identifying the beneficial owners of their customers in line with the standard (see paragraph 88).
- **Element A.1**: Iceland should take appropriate steps to raise awareness on the implementation of the legal and regulatory framework for BO information (see paragraph 108).
- **Element A.1.5**: Iceland should continue to monitor foundations engaged in business operations to ensure that persons to whom they provide benefits other than in the form of payments that are reported to the Iceland Revenue and Customs under Article 92 of the Income Tax Act are identified (see paragraph 173).
- **Element A.3**: Iceland should strengthen its engagements with the financial sector to raise awareness on the implementation of the legal and regulatory framework for BO information (see paragraph 252).

- **Element C.2**: Iceland should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 324)
- **Element C.3**: Iceland should document its exchange of information procedures and processes to the attention of current and future staff, to ensure the confidentiality of information exchanged in line with the standard (see paragraph 344).

Annex 2: List of Iceland's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Albania	DTC	26-09-2014	01-01-2017
2	Andorra	TIEA	24-02-2010	14-02-2012
3	Anguilla	TIEA	14-12-2009	22-04-2012
4	Antigua and Barbuda	TIEA	19-05-2010	17-11-2012
5	Aruba	TIEA	10-09-2009	01-01-2012
6	Austria	DTC	23-06-2016	01-01-2018
7	Bahamas	TIEA	10-03-2010	15-10-2012
8	Bahrain	TIEA	14-10-2011	15-08-2012
9	Barbados	DTC	03-11-2011	24-02-2012
10	Belgium	DTC	23-05-2000	01-01-2004
		EOI Protocol	15-09-2009	Not yet in force
11	Belize	TIEA	15-09-2010	03-11-2012
12	Bermuda	TIEA	16-04-2009	02-04-2012
13	Botswana	TIEA	20-02-2013	17-09-2015
14	British Virgin Islands	TIEA	18-05-2009	20-07-2011
15	Brunei Darussalam	TIEA	27-06-2012	20-03-2015
16	Canada	DTC	19-06-1997	30-01-1998
17	Cayman Islands	TIEA	17-06-2009	30-05-2010
18	China (People's Republic of)	DTC	03-06-1996	05-02-1997
19	Cook Islands	TIEA	16-12-2009	25-06-2012
20	Costa Rica	TIEA	29-06-2011	Ratified by Iceland
21	Croatia	DTC	06-07-2010	15-12-2011

	EOI partner	Type of agreement	Signature	Entry into force
22	Curaçao	TIEA	10-09-2009	01-01-2012
23	Cyprus	DTC	13-11-2014	01-01-2015
24	Czech Republic	DTC	18-01-2000	28-12-2000
25	Denmark	Nordic Convention	07-12-1989	09-05-1991
		Nordic Protocol	29-08-2018	01-01-2020
26	Dominica	TIEA	19-05-2010	01-01-2013
27	Estonia	DTC	16-06-1994	10-11-1995
28	Faroe Islands	Nordic Convention	07-12-1989	09-05-1991
		Nordic Protocol	29-08-2018	01-01-2020
29	Finland	Nordic Convention	07-12-1989	09-05-1991
		Nordic Protocol	29-08-2018	01-01-2020
30	France	DTC	29-08-1990	01-06-1992
31	Georgia	DTC	13-05-2015	01-01-2016
32	Germany	DTC	18-03-1971	02-11-1973
33	Gibraltar	TIEA	16-12-2009	18-04-2012
34	Greece	DTC	07-07-2006	07-08-2008
35	Greenland	DTC	04-07-2002	01-01-2003
		Nordic Convention	07-12-1989	09-05-1991
		Nordic Protocol	29-08-2018	01-01-2020
36	Grenada	TIEA	19-05-2010	01-01-2013
37	Guatemala	TIEA	15-05-2012	Ratified in Iceland
38	Guernsey	TIEA	28-10-2008	26-11-2009
39	Hong Kong (China)	TIEA	22-08-2014	04-12-2015
40	Hungary	DTC	23-11-2005	07-02-2006
41	India	DTC	23-11-2007	21-12-2007
42	Ireland	DTC	17-12-2003	17-12-2004
43	Isle of Man	TIEA	30-10-2007	28-12-2008
44	Italy	DTC	10-09-2002	14-10-2008
45	Jamaica	TIEA	04-12-2012	Ratified in Iceland
46	Japan	DTC	15-01-2018	01-01-2019
47	Jersey	TIEA	28-10-2008	03-12-2009
48	Korea	DTC	15-05-2008	23-10-2008
49	Latvia	DTC	19-10-1994	27-12-1995

	EOI partner	Type of agreement	Signature	Entry into force
50	Liberia	TIEA	10-11-2010	01-01-2013
51	Liechtenstein	DTC	26-06-2016	01-01-2017
		TIEA	17-10-2010	31-03-2012
52	Lithuania	DTC	13-06-1998	01-01-2000
53	Luxembourg	DTC	04-10-1999	19-09-2001
		EOI Protocol	28-08-2009	01-01-2011
54	Macau (China)	TIEA	29-04-2011	20-01-2012
55	Malta	DTC	23-09-2004	19-04-2006
56	Marshall Islands	TIEA	29-09-2010	01-01-2015
57	Mauritius	TIEA	01-12-2011	01-01-2014
58	Mexico	DTC	11-03-2008	10-12-2008
59	Monaco	TIEA	23-06-2010	23-02-2011
60	Montserrat	TIEA	22-11-2010	26-11-2012
61	Netherlands	DTC	25-09-1997	27-12-1998
62	Niue	TIEA	19-09-2013	21-06-2014
63	Norway	Nordic Convention	07-12-1989	09-05-1991
		Nordic Protocol	29-08-2018	01-01-2020
64	Panama	TIEA	12-11-2012	30-11-2013 01-01-2014
65	Poland	DTC	19-06-1998	01-01-2000
		EOI Protocol	16-05-2012	Not yet in force
66	Portugal	DTC	02-08-1999	04-11-2002
67	Romania	DTC	19-09-2007	21-09-2008
68	Russia	DTC	26-11-1999	01-01-2004
69	Saint Kitts and Nevis	TIEA	24-03-2010	Ratified by Iceland
70	Saint Lucia	TIEA	19-05-2010	02-11-2012
71	Saint Vincent and the Grenadines	TIEA	24-03-2012	Ratified by Iceland
72	Samoa	TIEA	16-12-2009	23-05-2012
73	San Marino	TIEA	12-12-2010	03-11-2011
74	Seychelles	TIEA	30-03-2011	01-01-2014
75	Sint Maarten	TIEA	10-09-2009	01-01-2012
76	Slovak Republic	DTC	15-04-2002	19-06-2003
77	Slovenia	DTC	04-05-2011	11-09-2012

	EOI partner	Type of agreement	Signature	Entry into force
78	Spain	DTC	22-01-2002	01-01-2003
79	Sweden	Nordic Convention	07-12-1989	09-05-1991
		Nordic Protocol	29-08-2018	01-01-2020
80	Switzerland	DTC	03-06-1988	20-06-1989
		DTC	10-07-2014	06-11-2015
81	Turks and Caicos Islands	TIEA	16-12-2009	22-04-2012
82	Ukraine	DTC	08-11-2006	09-10-2008
83	United Arab Emirates	TIEA	12-04-2016	Ratified by Iceland
84	United Kingdom	DTC	30-09-1991	01-01-1992
		DTC	17-12-2013	01-01-2015
85	United States	DTC	30-10-2007	15-12-2008
86	Uruguay	TIEA	14-12-2011	01-01-2013
87	Vanuatu	TIEA	03-10-2010	01-01-2017
88	Viet Nam	DTC	05-04-2002	27-12-2002

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

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the 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.

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

The Multilateral Convention was signed by Iceland on 22 July 1996 and the 2010 Protocol to the Convention on 28 October 2011. The Multilateral Convention (as updated by the Protocol) entered into force in Iceland on 1 February 2012 in Iceland. Iceland 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), Bosnia and Herzegovina, Botswana, 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, Eswatini, 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), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, 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, Burkina Faso, Gabon, Honduras, Madagascar, Mauritania (entry into force on 1 August 2022), Papua New Guinea, Philippines, Rwanda, Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Nordic Convention

Iceland is a signatory to the Nordic Mutual Assistance Convention on Mutual Administrative Assistance in Tax Matters of 7 December 1989, which is currently in force with respect to Denmark, Faroe Islands, Finland, Greenland, Iceland, Norway and Sweden. A Protocol to the Nordic Convention was signed on 29 August 2018 and came into force on 1 January 2020.

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 amended in December 2020, and the 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 29 July 2022, Iceland's EOIR practice in respect of EOI requests made and received during the three year period from 1 January 2018 to 31 December 2020, Iceland's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Iceland's authorities during the on-site visit that took place 6 to 10 December 2021 in Reykjavik.

List of laws, regulations and other materials received

Commercial laws/civil laws

- Act on Registration of Beneficial Ownership, Act No. 82/2019
- Act on Private Limited Companies, Act No. 138/1994
- Act on Public Limited Companies, Act No. 2/1995
- Act on Partnerships, Act No. 50/2007
- Act on Foundations Engaging in Business Operations, Act No. 33/1999
- Act on Securities Transactions, Act No. 108/2007
- Act on Business Enterprise Registration, Act No. 17/2003
- Act on Funds and Institutions Operating According to Approved Charters, Act No. 19/1988
- Act on European Co-operative Societies, Act No. 92/2006
- Act on European Companies, Act No. 26/2004

- Act on Trade Registries, Firms and Authority, Act No. 42/1903
- Act on Co-operatives, Act No. 22/1991
- Regulation on Funds and Institutions Operating under Approved Charters, Regulation No. 140/2008

Taxation laws

- Income Tax Act, Act No. 90/2003
- The Value Added Tax Act, Act No. 50/1988
- Act on Withholding of Financial Income, Act No. 94/1996
- Act on the Withholding Public Levies at Source, Act No. 45/1987

Anti-money laundering, banking and financial laws

- Act on Measures to Combat Money Laundering and the Financing of Terrorist Activities, Act No. 140/2018
- Act on Financial Undertakings, Act No. 161/2002
- Act on Official Supervision of Financial Activities, Act No. 87/1998
- Act on Securities Transaction, Act No. 108/2007
- Act on the Authority for Treasury Disbursements due to Unusual Financial Market Circumstances, Act. No. 125/2008
- Regulation on Nominee Registration and the Custody of Financial Instruments in Nominee Accounts, Regulation No. 706/2008
- Regulation on the imposition of fines and periodic penalty payments in the course of the official regulation of financial operations, Regulation No. 397/2010
- Regulation No. 545/2019 on Risk Assessment for Money Laundering and Terrorist Financing
- Regulation No. 745/2019 on Customer Due Diligence in connection with Actions to Combat Money Laundering and Terrorist Financing

Other legal texts

- The Constitution of Iceland of 1944, as amended
- Act on Bankruptcy Proceedings, Act No. 21/1991
- Act on Public Archives, Act No. 77/2014

- Accounting Act, Act No. 145/1994
- Act on Annual Accounts, Act No. 3/2006
- Administrative Procedure Act, Act No. 37/1993
- Act on Professional Lawyers, Act No. 77/1998
- Regulation on Lawyers' Trusteeship Accounts et al., Regulation No. 1192/2005

Authorities interviewed during on-site visit

The assessment team met with representatives of the following entities:

- The Ministry of Finance and Economic Affairs
- Iceland Revenue and Customs
- Ministry of Justice
- Central Bank of Iceland/Financial Supervision Authority
- Financial Intelligence Unit
- National Audit Office
- Association of Auditors
- Association of Accountants
- Representatives of Financial Institutions
- District Commissioner of the North West of Iceland
- The Icelandic Bar Association

Current and previous reviews

This Report provides the outcome of the second peer review of Iceland's implementation of the EOIR standard conducted by the Global Forum. Iceland previously underwent a combined review (Phase 1 and Phase 2) of its legal and regulatory framework and the implementation of the framework in practice in 2013.

The 2013 Review was conducted according to the Terms of Reference approved by the Global Forum in February 2010 and the Methodology used in the first round of reviews.

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

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Combined Phase 1 + Phase 2	Ms Maria Soledad Salman of Chile; Mr Jon Swerdlow of the United Kingdom; Ms Doris King and Ms Gwenaëlle Le Coustumer of the Global Forum Secretariat	1 January 2009-31 December 2011	1 January 2013	November 2013
Round 2 Combined Phase 1 + Phase 2	Ms Tatevik Nerkraryran of Armenia; Ms Niamh Moylan of Jersey; and Mr Clement Migai and Mr Ervice Tchouata from the Global Forum Secretariat	1 January 2018-31 December 2020	29 July 2022	7 November 2022

Annex 4: Iceland's response to the review report[39]

Iceland would like to thank the assessment team, the Global Forum Secretariat and the Peer Review Group for their support received during the preparation and approval of its 2022 Exchange of Information on Request Peer Review Report. The co-operation during this work has been exceptional and Iceland is most grateful for the hard work of the assessment team.

Iceland agrees with the overall rating allocated in the report. It is understood that even though Iceland has come far in implementing the EOIR standard, some experience in newly set legislation is needed in order to be fully compliant with the standard.

Iceland recognizes that some recommendations have been given. It can be confirmed that Iceland will take these recommendations seriously and will endeavour to address them in order to comply with the EOIR standard to the fullest.

39. 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 ICELAND 2022 (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 publication contains the 2022 Second Round Peer Review on the Exchange of Information on Request for Iceland.

PRINT ISBN 978-92-64-78639-4
PDF ISBN 978-92-64-64807-4

9 789264 786394