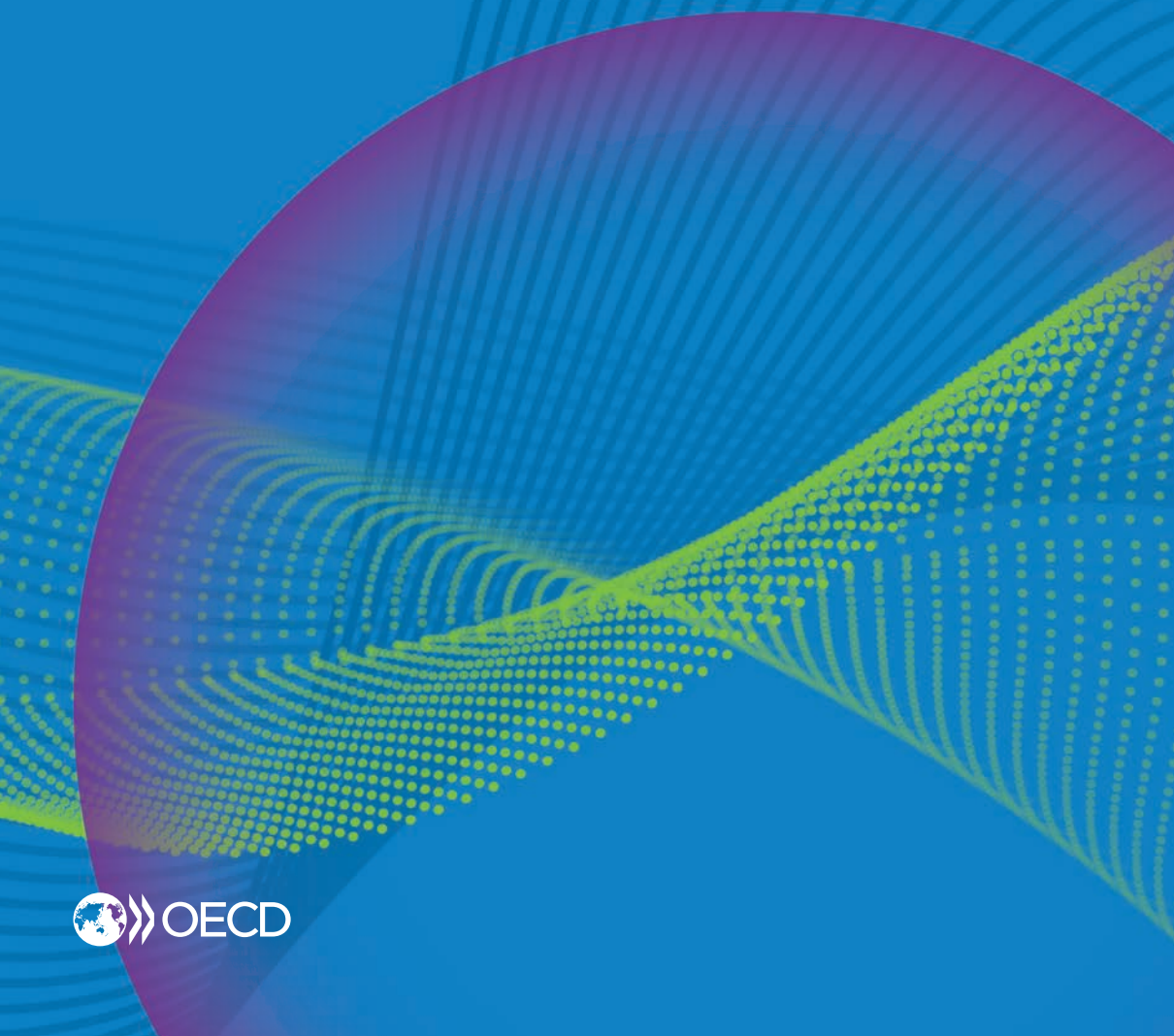
GLOBAL FORUM ON

TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

MEXICO

2023 (Second Round)



OECD

Global Forum on Transparency and Exchange of Information for Tax Purposes: Mexico 2023 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

BETTER POLICIES FOR BETTER LIVES

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 27 February 2023 and adopted by the Global Forum members on 27 March 2023. The report was prepared for publication by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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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
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Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
AP	Non-incorporated Joint Ventures (*Asociaciones en Participación*)
CCo	Commercial Code (*Código de Comercio*)
CFF	Federal Tax Code (*Código Fiscal de la Federación*)
CNBV	National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*)
CNSF	National Insurance and Bonding Commission (*Comisión Nacional de Seguros y Finanzas)*
CONSAR	National Commission of the Retirement Savings System (*Comisión Nacional del Sistema de Ahorro para el Retiro*)
DCGIC	General Provisions for Credit Institutions (*Disposiciones de Carácter General Instituciones de Crédito*)
DTC	Double Taxation Convention
EOI	Exchange of information
EOIR	Exchange of Information on Request
EUR	Euro
FATF	Financial Action Task Force
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes

AML Law	Federal Law for the Prevention and Identification of Operations with Illicit Proceeds (*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*)
LGSM	General Law on Commercial Companies (*Ley General de Sociedades Mercantiles*)
LIC	Law on Credit Institutions (*Ley de Instituciones de Crédito*)
LIE	Foreign Investment Law (*Ley de Inversión Extranjera*)
LISR	Income Tax Law (*Ley del Impuesto Sobre la Renta*)
LSAT	Tax Administration Service Law (*Ley del Servicio de Administración Tributaria*)
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
MXN	Mexican Peso
PSM	Electronic System of Publications of Commercial Companies (*Publicaciones de Sociedades Mercantiles*)
RCFF	Rules of the Federal Tax Code (*Reglamento del Código Fiscal de la Federación*)
RFC	Federal Taxpayer Register (*Registro Federal de Contribuyentes*)
RISAT	Internal Regulations of the Tax Administration Service (*Reglamento Interno del Servicio de Administración Tributaria)*
RNIE	National Register of Foreign Investments (*Registro Nacional del Inversión Extranjera*)
RPC	Public Registry of Commerce (*Registro Público de Comercio*)
RPPC	Public Registry of Property and Commerce (*Registro Público de la Propiedad y el Comercio*)
SA	Public Limited Liability Company (*Sociedad Anónima*)
SAS	Simplified Joint Stock Company (*Sociedad por Acciones Simplificada*)
SAT	Mexican Tax Administration Service (*Servicio de Administración Tributaria*)

SC	Co-operative Association (*Sociedad Co-operativa*)
SCA	Limited Stock Partnership (*Sociedad en Comandita por Acciones*)
SCS	Limited Partnership (*Sociedad en Comandita Simple*)
SdRL	Private Limited Liability Company (*Sociedad de Responsabilidad Limitada*)
SE	Ministry of Economy (*Secretaría de Economía*)
SHCP	Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*)
SIGER	Integrated Register Management System (*Sistema Integral de Gestión Registral)*
SNC	General Partnership (*Sociedad en Nombre Colectivo*)
SoC	Ordinary Partnership (*Sociedad Civil*)
TIEA	Tax Information Exchange Agreement
TIN	Taxpayer Identification Number
VAs	Vulnerable Activities

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in Mexico on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as of 2 December 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 July 2018 to 30 June 2021. This report concludes that Mexico is rated overall **Largely Compliant** with the standard. In 2014, the Global Forum evaluated Mexico 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 2014 Report) concluded that Mexico was rated Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

Element		First Round Report (2014)	Second Round Report (2023)
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	Largely Compliant	Compliant
B.2	Rights and Safeguards	Compliant	Compliant
C.1	EOIR Mechanisms	Compliant	Complaint
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

2. The 2014 Report had concluded that the legal and regulatory framework of Mexico was in place for all the relevant essential elements. Mexico was nonetheless recommended to continue developing its EOI network. The Multilateral Convention has entered into force since the 2014 Report, allowing Mexico to establish EOI relationships in line with the standard.

3. In order to ensure the availability of beneficial ownership information in respect of all relevant legal entities and arrangements, besides relying on the existing provisions of the Anti-Money Laundering legal framework, Mexico has amended its Federal Tax Code to introduce new provisions in this regard with effect from 1 January 2022. The amended law now includes an obligation for legal entities, fiduciaries, settlors or trustees (in the case of trusts), as well as contracting parties of other legal entities to obtain and keep up-to-date information related to their beneficial owners. The amendments are supported by applicable sanctions.

4. In respect of the assessment of the implementation in practice, the 2014 Report had made one recommendation pertaining to access to banking information and the time taken to respond to requests related to such information. Mexico was recommended to monitor the application of the provisions on direct access to banking information that had been recently adopted, and to use all its powers to access banking information as efficiently as possible to exchange information in a timely manner. Mexico has made progress in this regard. The process to access banking information through the financial regulator has been streamlined and made more efficient mainly thanks to a more efficient system to track the requests received from other authorities (including the tax authorities), to track the response time of each of the requests and to have enhanced communication with banks when requesting information. Response time to banking information requests has improved since the 2014 Report and processes have been more efficient.

Key recommendations

5. Since 1 January 2022, new obligations under Mexico's Tax Code apply for all relevant legal entities and arrangements to obtain beneficial ownership information. The definition of beneficial owner introduced is broadly in line with the standard but would benefit from further guidance to clarify its application. Hence, Mexico is recommended to provide further guidance to clarify its application in practice.

6. The beneficial ownership obligations under the Tax Code will be the primary source of beneficial ownership information for exchange of

information purposes going forward. Since these obligations have been introduced recently, Mexico is recommended to ensure effective application of the new provisions in practice by ensuring that they are understood by all stakeholders and that a suitable supervisory mechanism for enforcing compliance by all relevant entities and arrangements is in place. Furthermore, there is lack of clarity on which mechanisms would be available for all relevant legal entities and arrangements to ensure they have access to beneficial ownership information from their partners, shareholders and *fideicomiso*-related parties, as well as to how beneficial ownership information is kept accurate and up to date. Mexico is also recommended to address these deficiencies.

7. Nominee shareholding is allowed in Mexico under a mandate without representation, but there is no requirement under Mexican law for a nominee shareholder to disclose its nominee status to the company, which could affect the availability of beneficial ownership information. A recommendation has been made for Mexico to address this deficiency.

8. There is a significant number of companies in Mexico that are commercially inactive and non-compliant with their tax filing obligations. While the tax authorities do monitor entities for commercial activity by way of monitoring issuance of digital invoices in Mexico, inactive companies continue to retain their legal personality. Such companies could potentially be active overseas or hold assets abroad. Although they are expected to comply with legal obligations in relation to maintaining legal and beneficial ownership and accounting information, there is no specific supervision of their compliance with legal obligations or a programme of removal of inactive companies from the commercial registry to ensure that they do not continue to retain their legal personality despite inactivity. Hence, up-to-date, adequate and accurate legal and beneficial ownership information and accounting information on such inactive companies may not always be available. Mexico has been recommended to take suitable actions to ensure availability of such information for inactive companies.

9. The main obligations for banks to identify beneficial owners of their accounts are defined under the AML framework. In this context of availability, the information must be updated in some cases, but there is no specified frequency in the legal and regulatory framework for updating beneficial ownership information generally. There is also no requirement to verify the beneficial ownership information obtained from clients in all cases. This could affect the availability of up-to-date beneficial ownership information on bank accounts and hence recommendations have been made on these aspects.

10. In addition, the new requirements under tax law also introduce obligations for banks to identify beneficial owners of their accounts. There is

no clear understanding from banks on how to interpret the definition of beneficial owners as provided under the tax law. A recommendation has been made for Mexico to ensure that banks are able to understand and comply with their obligations under tax law.

Exchange of information in practice and key recommendations

11. During the three-year review period from 1 July 2018 to 30 June 2021, Mexico received 175 requests for information and sent 382 requests to its treaty partners. Communication with partners was positive overall and peers considered that the Mexican Competent Authority was easily accessible. Although the majority of the peers expressed satisfaction with the responses provided by Mexico to EOI requests, some peers highlighted delays and the average response time worsened from the previous review (see Element C.5).

12. The 2014 Report noted that Mexico's EOI team was composed of experienced officers, had sound processes and answered EOI requests in a timely manner. During the current review period, Mexico experienced several changes in personnel within its EOI Unit, which affected the working arrangements of the Mexican Competent Authority, resulting in changes to some internal procedures that took time to be implemented. This was also reflected by the difficulties faced by the Mexican Competent Authority to respond to all requests in a timely manner, as well as to provide status updates to its partners within 90 days. Mexico has been recommended to monitor its internal procedures and resources to ensure effective exchange of information, to provide responses to EOI requests in a timely manner and to provide status updates within 90 days when it is not able to provide a full response within that period.

13. During the review period, the main source of beneficial ownership information for exchange of information purposes was the anti-money laundering framework. However, on some occasions, the Mexican Competent Authority ascertained the beneficial ownership information on its own using the legal ownership information it had available. This approach could have potentially missed out beneficial owners based on control or indirect ownership. Mexico is recommended to ensure staff engaged with EOI is aware of the legal provisions pertaining to beneficial ownership information and follow clear procedures to obtain and exchange it.

Overall rating

14. Mexico is rated 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. Overall, Mexico is rated Largely Compliant with the standard, based on a global consideration of its compliance with the individual elements.

15. This report was approved at the Peer Review Group of the Global Forum on 27 February 2023 and was adopted by the Global Forum on 27 March 2023. A follow up report on the steps undertaken by Mexico to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2024 and thereafter in accordance with the procedure set out under the Methodology for Peer Reviews and non-member Reviews, as amended.

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	The recently introduced definition of beneficial owner applicable to all relevant legal entities and arrangements in the Mexican tax law is broadly in line with the standard. These requirements will be the key source of beneficial ownership information in Mexico for EOI purposes. However, certain aspects need to be clarified further, like application of the three-step cascade for identifying beneficial owners of legal entities like companies, and control through means other than ownership. Absence of clarification may lead to relevant legal entities and arrangements identifying beneficial owners inaccurately or inconsistently.	Mexico is recommended to further explain the definition of beneficial owners so that information on beneficial owner(s) of all relevant legal entities and partnerships is available in all cases in line with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Mexico has recently introduced an obligation under its tax law for legal persons, *fideicomisos*-related parties and contracting partners or members in the case of other legal arrangements to keep the information on their beneficial owners up to date. However, there is no mechanism for these entities to become aware of changes in their beneficial owners. For instance, there is no specified frequency for the updating of the beneficial ownership information in the legal and regulatory framework. As such, there could be situations where the available beneficial ownership information is not up to date. Furthermore, there is no mechanism under the Mexican legal framework for all relevant legal entities and arrangements to ensure they have access to information from their shareholders, partners and *fideicomiso*-related parties, including beneficial ownership information. There are no sanctions in place for cases where the beneficial owner(s) do(es) not co-operate with the relevant legal entities and arrangements to indicate their beneficial ownership or changes to it, nor for providing inadequate information. It is therefore not clear how the relevant legal entities and arrangements can ensure compliance with the legal requirements related to beneficial ownership under tax law.	Mexico is recommended to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements in line with the standard.
	Mexico allows for any person to buy shares of a company on behalf of another person under a mandate without representation. However, there are no requirements under the Mexican legal framework for a nominee shareholder to disclose its nominee status and information on their nominator. This can also obfuscate the availability of beneficial ownership information.	Mexico is recommended to ensure that accurate information is available in respect of persons on whose behalf another person acts as a nominee or under a similar arrangement.

Determinations and ratings	Factors underlying recommendations	Recommendations
Largely Compliant	The tax administration monitors commercial activity of companies through a system of electronic invoices. When a company is commercially active but has not complied with its fiscal obligations, it is classified as suspended in the tax database, which triggers practical impediments to conduct business in Mexico. Between 2018 and 2021, around 56% of the entities with tax filing obligations did not file a tax return, which is a number much higher than the number of companies that have been suspended so far in the tax database. There is no programme of systematically removing inactive companies from the Public Registry of Commerce so that such companies lose their legal personality and are not able to carry on commercial activities abroad or hold assets in or outside of Mexico. Up-to-date legal ownership information on inactive companies might not be available, as they might not comply with their requirement to keep a shareholder register or members book, as well as beneficial ownership information, and such entities are not actively monitored to verify their compliance with these legal obligations. However, in practice, Mexico did not receive requests related to inactive companies during the review period and hence, did not face such issues.	Mexico is recommended to take actions to ensure that up-to-date legal and beneficial ownership information on all companies, including inactive companies, is always available in line with the standard.
	Mexico has introduced new obligations under tax law requiring all relevant legal entities and arrangements to maintain their beneficial ownership information for EOI purposes. The related enforcement and oversight framework has not yet been tested in practice. Further, legal entities and arrangements do not currently understand their obligations fully and are unclear about how the definition of beneficial owner under the Tax Code is to be applied in practice, especially considering that there are some differences in the definition as provided under the Anti-Money Laundering Law.	Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice.

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		
Largely Compliant	Between 2018 and 2021, around 56% of the entities with tax filing obligations did not file a tax return, which is a number much higher than the number of companies that have been suspended so far in the tax database. Further, there is no programme of systematically removing inactive companies from the Public Registry of Commerce so that such companies lose their legal personality and are not able to carry on commercial activities abroad or hold assets in or outside of Mexico. Non-compliance with the tax filing requirements implies that accounting records and underlying documentation for these companies have not been filed with the tax administration. There is no certainty that the information is readily available in line with the standard for a potentially high number of companies commercially inactive/non-compliant in Mexico. However, in practice, Mexico did not receive requests related to inactive companies during the review period and hence, did not face such issues.	Mexico is recommended to take actions to ensure that accounting information on all companies, including inactive companies, is always available in line with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
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	Under the Anti-Money Laundering framework, banks are required to update the customer due diligence procedures when there have been relevant changes to the characteristics of the clients or when there is reason to believe the initial identification documents provided are not exact. In other cases, the frequency of update of customer due diligence and beneficial ownership information depends on the level of risk of the client. The Anti-Money Laundering Law only requires a minimum frequency of updating of the due diligence procedures for high-risk clients, which is once a year, but it is not the case for medium or low risk clients. Therefore, beneficial ownership information on certain accounts may not have been updated for a considerable period of time and such beneficial ownership information might not be accurate and up to date in all cases. Furthermore, the beneficial ownership requirements under tax law applicable to banks do not explicitly require that the information is kept up to date and therefore, there could be situations where the available beneficial ownership information is not up to date.	Mexico is recommended to ensure that accurate and up-to-date beneficial ownership information on all bank accounts is available in line with the standard.
	The Mexican Anti-Money Laundering law applicable to banks allows for the application of simplified due diligence procedures while establishing relationships with clients considered to be of low risk. When banks open an account for a low-risk client, they ask the client to provide information on its beneficial owners only on some occasions. Banks are not required to verify the beneficial ownership information provided by the client in all cases, even after the establishment of the business relationship.	Mexico is recommended to ensure that beneficial owners of all bank accounts are required to be identified and verified in all circumstances.

Determinations and ratings	Factors underlying recommendations	Recommendations
Largely Compliant	Mexico has introduced new requirements in its tax law to ensure availability of beneficial ownership information. The Mexican Competent Authority will rely on the definition of beneficial owners under tax law while obtaining beneficial ownership information on accounts held with banks, although this definition needs to be clarified further. Banks already have obligations to maintain beneficial ownership information on accounts under the anti-money laundering framework but the definition of beneficial owners under the two laws are different and banks do not have a clear understanding on how to interpret the definition of beneficial owners as provided under the tax law. Further, as the requirements under tax law are relatively recent, there does not seem to be clarity among banks about their obligations under the tax law. In addition, the tax administration has new supervisory and enforcement powers to ensure compliance by banks with their tax obligations to maintain beneficial ownership information on their customers. Supervision in this regard is yet to commence.	Mexico is recommended to take necessary supervisory measures to ensure that banks understand and comply with their obligations under the tax law for the identification of beneficial owners such that beneficial ownership information on all bank accounts is always available in line with the standard.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) *(ToR B.1)*		
The legal and regulatory framework is in place		
Compliant		

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

Determinations and ratings	Factors underlying recommendations	Recommendations
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.	
Partially Compliant	Mexico experienced difficulties to respond to requests in a timely manner in all cases. Although the work of the Competent Authority was affected by the Covid-19 pandemic towards the end of the review period, not all requests sent previously were responded to in a timely manner either.	Mexico is recommended to ensure that it answers EOI requests in a timely manner in all cases.
	During the review period, Mexico did not systematically provide status updates to its EOI partners within 90 days when the competent authority was not able to provide a substantive response within that timeframe. Mexico has recently changed its tool to track status updates to be provided every 90 days, which has improved communication with EOI partners.	Mexico is recommended to ensure it provides status updates to its EOI partners within 90 days where a full response cannot be provided within that time period and that it continues to implement the new tracking tool in practice to ensure it systematically provides status updates.
	During the review period, the level of personnel rotation was high within the EOI Unit, which resulted in changes to some internal procedures that took time to be implemented. New staff had to familiarise themselves with key concepts related to EOIR, the case files and the working procedures. The EOI Manual to guide the work of the EOIR sub-unit does not provide adequate guidance on key concepts like foreseeable relevance and handling of group requests. Although Mexico has now committed sufficient resources and put in place organisational processes to handle EOI requests, these changes are still being implemented.	Mexico is recommended to ensure that its internal procedures and resources work adequately to effectively exchange information in practice, including ensuring that enough training is provided to its EOI staff and updating its EOI Manual.

Determinations and ratings	Factors underlying recommendations	Recommendations
	During the review period, on some occasions, the Mexican Competent Authority obtained beneficial ownership information from Anti Money Laundering-obliged persons (e.g. banks or public notaries). In some other cases, the Mexican Competent Authority used the legal ownership information it had available to identify the beneficial owners of legal entities and arrangements, instead of obtaining it from Anti Money Laundering obliged persons. It is not clear if, in all cases, the beneficial owners identified were supported by adequate verification and underlying documentation and were identified consistently in line with the standard.	Mexico is recommended to ensure that staff engaged with EOI are well aware of the legal provisions pertaining to beneficial ownership information under different laws and follow a clearly established process for obtaining and exchanging beneficial ownership information available under the laws of Mexico and in accordance with the standard.

Overview of Mexico

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

17. The United Mexican States or Mexico is a country in North America. Mexico is a federation of 31 sovereign states, each with its own constitution and with a certain number of municipalities, and Mexico City, which is the seat of the three branches of the federation. Mexico has a land area of 1.9 million square kilometres and a population of 130 million. With a GDP of approximately USD 1.3 trillion (EUR 1.26 trillion)[1] and a per capita income of approximately EUR 10 000, Mexico is an upper middle income country. The official currency of Mexico is the Mexican Peso (MXN). Services, manufacturing and agriculture are the key contributors to the GDP.

Legal system

18. The Mexican Constitution establishes that the United Mexican States (Mexico) is constituted as a representative, democratic and federal republic. The government system has three levels: federal, state and municipal. All rules applicable to availability or access of information pertaining to EOIR are federal and do not depend on the state or municipal level. Mexico's Federal Government is divided into three branches: executive, legislative and judicial.

19. Mexico has a civil law system. The hierarchy of laws in Mexico is based on article 133 of the Mexican Constitution, which establishes that the Mexican Constitution, the laws of the Federal Congress and the treaties executed by Mexico, approved by the Senate, are Supreme Law. According to the Supreme Court of Justice, international treaties in Mexico's legal system are hierarchically above the federal laws and one level below the Mexican Constitution. Accordingly, in cases where there is a contradiction

1. Source: World Bank Data (https://data.worldbank.org/country/mexico), accessed on 22 November 2022.

between domestic law and international treaties, the treaties would prevail over the domestic law. In addition, according to the criterion of specialty in cases of conflicting norms, the special norm overrides the general one, which implies that international agreements would prevail.

20. The law is the main source of powers, rights and obligations of citizens and the government. However, precedence may be applied by the judicial branch in certain cases, such as when jurisprudence has been issued by the Supreme Court of Justice of the Nation.

21. Local judges are bound by the Mexican Constitution, the laws and treaties, despite any provisions to the contrary in the local constitutions and laws. The hierarchy of courts in Mexico is as follows: (i) the Supreme Court of Justice of the Nation (Mexico's highest Court); (ii) Collegiate Circuit Courts; (iii) District Courts and (iv) Federal Court of Administrative Justice. Regarding appealing procedures related to tax cases, Mexico has two main procedures. The first one relates to administrative appealing procedures, by which a decision is challenged through the administrative appeal (through the Tax Administration Service, SAT) or through the contentious-administrative trial (Federal Court of Administrative Justice). In cases where the administrative appeal does not result in a favourable decision to the appellant, the contentious-administrative trial may be used. The second one is the protection trial *(juicio de amparo*), which is processed before the District Courts.

Tax system

22. The Mexico tax system has its foundations in the Mexican Constitution, articles 31(IV) and 73(VII), which establish that persons subject to taxation are required to comply with their tax obligations, according to the applicable laws. Taxation laws are issued by the federal Congress.

23. The general rules and principles of the Mexican tax system are established in the Federal Tax Code (CFF, *Código Fiscal de la Federación*). It provides for rights and obligations of taxpayers, the powers of tax authorities, special rules of criminal cases in connection with tax matters, the tax collection procedures and the administrative system in appeal matters.

24. The scope of the tax obligations, such as the persons subject to the payment of taxes, the taxable transactions, the sources of income, the taxation basis, the exemptions and the applicable rates, are set forth in the special tax laws regulating each type of tax, notably: the Income Tax Law, the Value Added Tax Law, the Law on the Special Tax on Production and Services, and the Government Fees Law. Additionally, in order to facilitate compliance with the tax laws, tax authorities issue general provisions of administrative nature, known as Tax Miscellaneous Regulations (*Resolución Miscelánea Fiscal*).

25. The body in charge of the tax administration is the SAT (*Servicio de Administración Tributaria*), the main purpose of which is to collect federal taxes. To such end, it is invested with all powers as tax authority, has technical autonomy to render its functions and powers and is in charge of supervising taxpayers, including financial institutions, so that they comply with the tax provisions. The SAT is structured based on its duties and functions on a rule of law basis. The exchange of tax information is under the purview of the General Administration for Large Taxpayers, through a Central Administration (art. 28 RISAT).

26. Mexico levies two types of taxes at a federal level: direct and indirect taxes. The Income Tax (*Impuesto Sobre la Renta*) is a federal direct tax imposed on the income of individuals and entities. Resident individuals and entities are taxed in accordance with the global income principle. Non-residents without a permanent establishment in Mexico but obtaining income from a source of wealth in the Mexican territory have a specific treatment based on withholding taxes. The residence criteria for legal entities consists in having established in Mexico the principal administration of the business or the effective management office. In case of individuals, the criterion is to have their permanent home in Mexico (art. 9 CFF).[2]

27. The main indirect taxes are the Value Added Tax (VAT) and the Special Tax on Production and Services (IEPS, *Impuesto Especial sobre Producción y Servicios*) which are also administered by the SAT. Other than these, states and municipalities also levy and collect local taxes, which are not related to income.

Financial services sector

28. The central institution in the financial system is the Central Bank (Banxico), an autonomous body whose purpose is the issuance and stabilisation of the currency and, in general, the promotion of a sound development of the financial system. The Mexican financial sector comprises several sectors with dedicated supervisory authorities:

2. There are no specific criteria to define when an individual has a permanent home in Mexico. Article 9 of the CFF states that when an individual also has a home in another country, he/she will be considered resident in Mexico for tax purposes when the centre of his/her vital interests is in Mexican territory. The centre of vital interests is considered to be in Mexico when (i) over 50% of the total income of the individual during a calendar year have a source of wealth in Mexico and (ii) the main centre of his/her professional activities is in Mexico. Further, article 5 of the RCFF establishes that individuals have not established their home in Mexico when they temporarily inhabit real estate for tourism purposes and their centre of vital interests is not in Mexico.

- Banks,[3] other credit institutions and brokerage firms are supervised by the National Banking and Securities Commission (CNBV, *Comisión Nacional Bancaria y de Valores*), according to the Law of the CNBV.
- Retirement Savings Funds (*Administradoras de fondos para el retiro*) are supervised by the National Commission of the Retirement Savings System (CONSAR, *Comisión Nacional del Sistema de Ahorro para el Retiro*), according to the Law of Retirement Savings Systems.
- Insurance companies and bonding companies are supervised by the National Insurance and Bonding Commission (CNSF, *Comisión Nacional de Seguros y Finanzas*) according to the Law of Insurance and Bonding Institutions.

29. In 2021, there were 56 banks in Mexico, managing assets equivalent to MXN 11 078 129 million (around EUR 548 billion[4]) which represents around 42% of the GDP. There were 35 brokerage houses, 8 exchange houses, 18 investment funds operating companies, 155 co-operative savings and loan societies, 83 credit unions and 43 multi-purpose financial companies. Furthermore, the insurance sector comprised 103 insurance companies, while the surety sector comprised 10 surety companies.

30. The Mexican financial sector mainly plays a domestic role, although there is participation of foreign investments. Mexico is not an international financial center, as the bulk of financial sector activity is domestic. This means that the financial sector primarily caters for clients who have domestics activities in Mexico.

Anti-Money-Laundering Framework

31. In Mexico, Money Laundering and Financing of Terrorism are classified as federal crimes, pursuant to the provisions of articles 400 Bis and 139 Quáter, of the Federal Criminal Code. The Ministry of Finance and Public Credit (SHCP, *Secretaría de Hacienda y Crédito Público*) has

3. *Instituciones de Banca Múltiple* are legal entities whose main objective is to receive deposits and provide loans (arts. 8 to 29 Bis, LIC). *Instituciones de Banca de Desarrollo* are legal entities whose objective is to facilitate access to credit and to financial services to legal and natural persons, as well as to provide them technical assistance and training in terms of their own organic laws, to promote economic development (arts. 30 to 44 Bis, LIC).
4. The foreign exchange conversion rate from MXN (Mexican pesos) to EUR (euros) used throughout this report is MXN/EUR 20.2, which is the exchange rate as of 18 November 2022. Source: Banco de México (https://www.banxico.org.mx/tipcamb/llenarTiposCambioAction.do?idioma=sp).

the power to issue general provisions on the prevention and detection of operations possibly linked to crimes of operations with resources of illicit origin and financing of terrorism. The Federal Law for the Prevention and Identification of Operations with Illicit Proceeds (*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*, hereinafter the AML Law) was published in 2012 and its regulations and general rules were published in 2013. The purpose of the AML Law is to protect the financial system and the national economy, establishing measures and procedures to prevent and detect acts or transactions involving resources of illicit origin.

32. The AML Law establishes separate obligations for financial entities (as defined in art. 14 AML Law) and for persons carrying out Vulnerable Activities (VAs, *Actividades Vulnerables*) (art. 3(I) AML Law). VAs are carried out by financial entities and by persons referred to in article 17 of the AML Law, which are the equivalent to Designated Non-Financial Businesses and Professions (DNFBPs) in the FATF terminology. This report analyses the framework for financial entities and persons carrying out VAs separately (see Part A).

33. There are 16 Vulnerable Activities described in article 17 of the AML Law, including public notaries and public brokers, independent professional services (lawyers, accountants) and loans, money lending and credit companies. All of them must register into a portal, that is shared between the SAT and the Financial Intelligence Unit (*Unidad de Inteligencia Financiera*), which is an administrative unit of the SHCP. As of 2021, 104 863 persons carrying out VAs were registered in the portal.

34. The SHCP is the competent authority in charge of applying the AML Law and its regulations. Financial entities are governed by the provisions of the AML Law as well as by the laws that particularly regulate them according to their activities and operations (arts. 13 and 15 AML Law). The SHCP can issue guidelines for the procedures and criteria for credit institutions with respect to the identification of their clients (art. 115 of the Credit Institutions Law, LIC), which it has done through the General Provisions for Credit Institutions (DCGIC, *Disposiciones de Carácter General Instituciones de Crédito*).

35. In terms of the supervisory powers, they are segmented into two, according to the nature of the supervised entity or person. The SHCP, through the SAT, supervises persons carrying out VAs as well as imposes sanctions on them according to the AML Law. In the case of the financial system, the supervisory powers correspond to the CNBV, the CNSF and the CONSAR. In terms of the AML/CFT regime applicable to entities supervised by the CNBV, each type of entity is subject to a different financial law and each law derives a set of general provisions on AML/CFT that contain the main obligations to which each type of entity will be subject.

36. Mexico underwent an assessment on its compliance with the AML/CFT standard by FATF and GAFILAT.[5] The Fourth Round Mutual Evaluation Report (MER) of Mexico, adopted in November 2017 found Mexico Partially Compliant on Recommendation 10 (Financial Institutions Customer due diligence), Recommendation 22 (DNFBPs Customer due diligence) and Recommendation 24 (Transparency and beneficial ownership of legal persons). The main deficiencies identified referred to a deficient definition of beneficial owner, the lack of requirements to identify all beneficial owners of legal persons and arrangements in all cases, incomplete record-keeping obligations and the ability to rely on unregulated or unsupervised third parties to perform Customer Due Diligence. Recommendation 25 (Transparency and beneficial ownership of legal arrangements) was rated Largely Compliant.

37. Furthermore, Mexico's 2017 MER rated Immediate Outcome 3 (IO 3) concerning the supervision of Financial Institutions and DNFBPs and Immediate Outcome 5 (IO 5) concerning implementation of rules ensuring availability of beneficial ownership information for legal persons and arrangements at a moderate level of effectiveness. In the case of IO 3, the report found that the resources applied to carry out AML/CFT supervisory activities may not be sufficient and that the average size of the fines applied was low. Regarding IO 5, the supervisors appeared not to be entirely familiar with the risks posed by legal persons and arrangements, the full scope of compliance due diligence measures were rarely done in practice and beneficial owners were identified only to a limited extent due to a deficient legal framework and a low level of compliance.

38. In December 2020, Mexico submitted its third Follow-up report to the FATF,[6] which was published in June 2021. As a result of improvements made by Mexico, Recommendation 10 was re-rated as Largely Compliant. Relevantly, Mexico has reinforced monitoring, BO and reporting requirements. A fourth Follow-up report was published in May 2022,[7] showing progress in Recommendations that are not relevant for this EOI review.

Recent developments

39. Since the 2014 Report, Mexico has amended its CFF to address issues previously identified. Most importantly, amendments to the CFF came into force on 1 January 2022, introducing articles 32-B Ter, 32-B Quáter,

5. The assessment report is available at https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf.
6. The third Follow-up report of Mexico to the FATF is available at https://www.fatf-gafi.org/media/fatf/content/images/FUR-Mexico-2021.pdf.
7. The fourth Follow-up report of Mexico to the FATF is available https://www.fatf-gafi.org/media/fatf/documents/reports/fur/Follow-Up-Report-Mexico-2022.pdf.

32-B Quinquies, 32-D, 42, 48-A, 49, 84-M and 84-N. The amendments introduce an obligation for legal entities, fiduciaries, settlors or trustees (in the case of trusts), as well as contracting parties of other legal entities to obtain and keep the information related to their beneficial owners. The amendments also introduce a system of infractions and sanctions to prevent and mitigate non-compliance, a requirement for individuals and legal entities that intend to contract with any institution of the government to obtain a positive opinion of compliance and the carrying out of audits in order to review compliance with the BO obligations. On 26 September 2022, the SAT updated the Frequently Asked Questions it had published regarding the application of the requirements related to beneficial ownership information under the CFF.

Part A: Availability of information

40. 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.

41. The 2014 Report concluded that Mexico's legal and regulatory framework was in place and ensured the availability of legal ownership information through effective obligations on companies and partnerships under commercial and tax law. For *fideicomisos* (Mexican equivalent to trusts), the 2014 Report found that AML and tax legislation ensured the availability of identity information of the *fiduciaria* (trustee), *fideicomitente* (settlor) and *fideicomisarios* (beneficiaries) and that Mexico had taken reasonable measures to ensure the availability of information regarding foreign trusts administered in Mexico.

42. The availability of identity and legal ownership information continues to be ensured through a combination of commercial and tax laws. However, there is a large number of inactive companies in Mexico for which up-to-date ownership information might not be available. Although Mexico has identified some of them and have classified them as "suspended" in the tax database, the rest of entities have not been identified. Mexico has been recommended to address this deficiency.

43. The standard was strengthened in 2016 with a new requirement that beneficial ownership on entities and arrangements be available. In Mexico, the main source of beneficial ownership information of legal entities and arrangements during the review period was the AML-obliged persons through requirements under the AML law.

44. From early 2022, the tax law requires all relevant legal entities and arrangements to maintain the identity of their beneficial owners. These new requirements will constitute the primary source of beneficial ownership information for EOI purposes going forward. The new definition of beneficial owner under tax law requires a broad range of beneficial owners to be identified. However, representatives from the private sector revealed challenges in the implementation of tax law requirements, thus the definition needs to be explained further for its proper application. In addition, although there is an obligation to keep beneficial ownership information up to date, there is no specified frequency in the legal and regulatory framework for updating the beneficial ownership information and there are no specified mechanisms under the Mexican law for all relevant legal entities and arrangements to ensure they have access to beneficial ownership information from their shareholders, partners and *fideicomiso*-related parties. Furthermore, as these requirements have been introduced recently, Mexico is yet to ensure an effective implementation in practice and to establish concrete procedures for the implementation, monitoring and supervision of the new beneficial ownership requirements under tax law.

45. In practice, during the review period, Mexico received 45 requests for ownership information, of which 19 were related to beneficial ownership and 26 to legal ownership. Mexico responded to all these requests. In a few cases, the Mexican Competent Authority has not relied on the beneficial ownership information held by AML-obliged persons but has sought to identify them on its own, based on the legal ownership information in its possession.

46. 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
The recently introduced definition of beneficial owner applicable to all relevant legal entities and arrangements in the Mexican tax law is broadly in line with the standard. These requirements will be the key source of beneficial ownership information in Mexico for EOI purposes. However, certain aspects need to be clarified further, like application of the three-step cascade for identifying beneficial owners of legal entities like companies, and control through means other than ownership. Absence of clarification may lead to relevant legal entities and arrangements identifying beneficial owners inaccurately or inconsistently.	Mexico is recommended to further explain the definition of beneficial owners so that information on beneficial owner(s) of all relevant legal entities and partnerships is available in all cases in line with the standard.

Deficiencies identified/Underlying factor	Recommendations
Mexico has recently introduced an obligation under its tax law for legal persons, *fideicomisos*-related parties and contracting partners or members in the case of other legal arrangements to keep the information on their beneficial owners up to date. However, there is no mechanism for these entities to become aware of changes in their beneficial owners. For instance, there is no specified frequency for the updating of the beneficial ownership information in the legal and regulatory framework. As such, there could be situations where the available beneficial ownership information is not up to date. Furthermore, there is no mechanism under the Mexican legal framework for all relevant legal entities and arrangements to ensure they have access to information from their shareholders, partners and *fideicomiso*-related parties, including beneficial ownership information. There are no sanctions in place for cases where the beneficial owner(s) do(es) not co-operate with the relevant legal entities and arrangements to indicate their beneficial ownership or changes to it, nor for providing inadequate information. It is therefore not clear how the relevant legal entities and arrangements can ensure compliance with the legal requirements related to beneficial ownership under tax law.	Mexico is recommended to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements in line with the standard.
Mexico allows for any person to buy shares of a company on behalf of another person under a mandate without representation. However, there are no requirements under the Mexican legal framework for a nominee shareholder to disclose its nominee status and information on their nominator. This can also obfuscate the availability of beneficial ownership information.	Mexico is recommended to ensure that accurate information is available in respect of persons on whose behalf another person acts as a nominee or under a similar arrangement.

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
The tax administration monitors commercial activity of companies through a system of electronic invoices. When a company is commercially active but has not complied with its fiscal obligations, it is classified as suspended in the tax database, which triggers practical impediments to conduct business in Mexico. Between 2018 and 2021, around 56% of the entities with tax filing obligations did not file a tax return, which is a number much higher than the number of companies that have been suspended so far in the tax database. There is no programme of systematically removing inactive companies from the Public Registry of Commerce so that such companies lose their legal personality and are not able to carry on commercial activities abroad or hold assets in or outside of Mexico. Up-to-date legal ownership information on inactive companies might not be available, as they might not comply with their requirement to keep a shareholder register or members book, as well as beneficial ownership information, and such entities are not actively monitored to verify their compliance with these legal obligations. However, in practice, Mexico did not receive requests related to inactive companies during the review period and hence, did not face such issues.	Mexico is recommended to take actions to ensure that up-to-date legal and beneficial ownership information on all companies, including inactive companies, is always available in line with the standard.
Mexico has introduced new obligations under tax law requiring all relevant legal entities and arrangements to maintain their beneficial ownership information for EOI purposes. The related enforcement and oversight framework has not yet been tested in practice. Further, legal entities and arrangements do not currently understand their obligations fully and are unclear about how the definition of beneficial owner under the Tax Code is to be applied in practice, especially considering that there are some differences in the definition as provided under the Anti-Money Laundering Law.	Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice.

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

47. The principal law determining the types of legal companies allowed in Mexico is the General Law on Commercial Companies (LGSM, *Ley General de Sociedades Mercantiles*). The 2014 Report described the four types of companies as follows:

- **Public Limited Liability Company** (SA, *Sociedad Anónima*): the SA is the most used type of entity in Mexico and is created by shareholders, whose liability is limited to the value of their shares. To constitute an SA, there should be two shareholders as a minimum. An SA must be formed by an instrument executed before an authenticating officer.[8] As of 30 June 2021, there were 1 366 730 SAs registered in the Public Registry of Commerce (RPC).
- **Private Limited Liability Company** (SdRL, *Sociedad de Responsabilidad Limitada*): SdRLs are incorporated by members/partners and are divided into quotas, whose liability is limited to the value of the quotas. The quotas are not represented by negotiable instruments, as they are only transferable in the events and subject to the requirements set forth in the law. As of 30 June 2021, there were 175 913 SdRLs registered in the RPC.
- **Limited Stock Partnership** (SCA, *Sociedad en Comandita por Acciones*): SCAs are divided into shares and are formed by general partners who are jointly and severally liable, without limitation, for the society's obligations and by limited partners who are liable up to the value of their shares. As of 30 June 2021, there were 120 SCAs.
- **Co-operative Associations** (SC, *Sociedades Co-operativas*): SCs have characteristics of both companies and partnerships and are formed by individuals with common interests in order to satisfy individual and collective needs, through the conduct of economic activities. The members' liability for the debts of the entity may be limited to the share of the capital (or quota) they have subscribed or a proportion of the debts up to an amount specified in the charter. As of 30 June 2021, there were 35 379 SCs.

48. In addition, in 2016, the LGSM introduced a new type of company, the **Simplified Joint Stock Company** (SAS, *Sociedad por Acciones Simplificada*), which is constituted by one or more natural persons, whose

8. The term in Spanish is *fedatario público*, which in the case of Mexico includes public notaries and public brokers (*notarios y corredores públicos*), both of them AML-obliged persons. The role of public notaries is broader than that of public brokers, as public brokers are only involved in commercial matters.

liability is limited to the value of their shares. Total annual revenue of an SAS should not exceed the amount of MXN 5 million (around EUR 248 000). In case the revenue exceeds this limit, the SAS should be converted into any other type of entity as defined by the LGSM (Art. 260). As of 30 June 2021, there were 64 716 SASs.

49. Prior to incorporation of a company or co-operative, a request for authorisation for a corporate name should be submitted to the Ministry of Economy (SE, *Secretaría de Economía*). Companies (except for SASs) and co-operatives must be constituted before an authenticating officer, who issues a public deed and registers the entity (art. 5 LGSM). The public deed must contain, among others, the name, address and nationality of the founders of the company (art. 6 LGSM). The public notary has to keep this information for a term of five years, after which the documents are submitted to the General Notarial Archive (*Archivo General de Notarías*) for safekeeping and custody.[9] Public brokers must keep the documents for a period of ten years (art. 50 of the Regulation of the Federal Law of Public Brokerage, *Reglamento de la Ley Federal de Correduría Pública*).

50. SASs must be constituted in accordance with the procedures of Chapter XIV of LGSM (art. 5). SASs are constituted electronically under a system managed by the SE and a contract with the constitution of the SAS will be generated and remitted electronically to the RPC. The contract is to be electronically signed by all shareholders (if there is more than one). The use of a public notary is optional and when it is used, the public notary must also keep the information for a period of five years. The articles of incorporation of the SAS should contain, among others, the name, address of residence and Federal Taxpayer Register (RFC, *Registro Federal de Contribuyentes*) number (Mexican equivalent to TIN) of each shareholder as well as the domicile of the SAS.

Availability of Legal Ownership and Identity Information

51. Company, tax and, in some cases, AML rules, ensure that full ownership information on all companies is available for EOI purposes. The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies:

9. Article 96 of the Law on Notaries for Mexico City, *Ley del Notariado para la Ciudad de México.* The 2014 Report referred to the Law on Notaries to the Federal District (LNDF), that has been abrogated and replaced by the Law on Notaries for Mexico City. The obligations under this law remain largely the same. Similar laws are applicable in other states in Mexico.

Companies covered by legislation regulating legal ownership information[10]

Type	Company law	Tax law	AML law
SA	All	All	Some
SdRL	All	All	Some
SC	All	All	Some
SCA	All	All	Some
SAS	All	All	Some
Foreign companies (tax resident)	All	All	Some

Company law requirements

52. Company law requires the availability of full legal ownership information on all Mexican companies.

53. First, according to article 19 of the Commercial Code (CCo, *Código Comercial*), all commercial companies are required to register in the RPC regarding their constitution, transformation, merger, split, dissolution and liquidation. This means that the company's articles of incorporation must be registered with the RPC. The articles of incorporation include the names of all founding partners or shareholders of a company. All SAs, SdRLs, SCAs, SCs and SASs are recognised as commercial companies (*sociedades mercantiles*) (art. 1 LGSM) and are therefore covered by this requirement. Legal rights over shares or quotas are granted upon registration in the shareholder register or members book of the entity (see paragraph 56). Registration to the RPC can be made physically or electronically. For SASs, the registration is made directly in the electronic system by which they are constituted.

54. The RPC is a database for the register of acts of commerce at a federal level and properties at a local level. The operation of the RPC is under the charge of the SE and of the authorities responsible for the public registry of property in each of the states and in Mexico City. The RPC contains an electronic folio for each company.

55. Additionally, since 2015, companies (except SCs) issue publications in the Electronic System of Publications of Commercial Companies (PSM, *Sistema Electrónico de Publicaciones de Sociedades Mercantiles*), which is managed by the SE (art. 50 Bis CCo) and which was created as a means to modernise the procedures to publicise acts. Changes in a company's

10. 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.

shareholder register or in the members' book must be published in the PSM. However, the PSM is not supervised and hence, it is possible that not all changes in legal ownership are always reflected accurately in the PSM.

56. Nevertheless, up-to-date legal ownership information is required to be kept by the commercial companies themselves in a shareholder register or members book, which includes the name and domicile of each shareholder or member, as well as the corresponding share of each of them (art. 73, 128, 208 and 273 LGSM). Shareholder registers and members books are part of the accounting records of the company and are therefore required to be kept in the fiscal domicile of the taxpayer, which is located in Mexico (arts. 28(I)(A) and 28(III) CFF) (see paragraph 214). SCs are not concerned by these requirements, although as mentioned in paragraph 53, legal ownership information will be available for them under the RPC and under registration requirements under the tax law (see paragraph 75).

Foreign companies

57. Article 250 of the LGSM recognises the legal status of foreign companies incorporated according to the laws of a foreign jurisdiction. Article 251 of the LGSM and article 15 of the CCo establish that foreign companies must be registered in the RPC to be able to undertake commercial activities in Mexico (see 2014 Report, paragraph 70).

58. Furthermore, foreign companies carrying out acts of commerce in Mexico must be registered in the National Registry of Foreign Investments (RNIE, *Registro Nacional de Inversión Extranjera*) (art. 32(II) LIE, *Ley de Inversión Extranjera*). Upon registration in the RNIE, companies must present information of the owners' name, nationality, domicile, and percentage of their participation. They must also appoint a legal representative in Mexico. Any modification of the information needs to be notified to the RNIE (art. 33 LIE). The registration must be renewed annually (art. 35 LIE).

59. The RNIE is a tool to measure Foreign Direct Investment inflows into Mexico. Foreign investment is defined as (i) the participation of foreign investors, in any proportion, in the share capital of Mexican companies; (ii) the investment made by Mexican companies with a majority of foreign capital; and (iii) the participation of foreign investors in activities and acts contemplated by the LIE. Hence, similar to foreign companies, Mexican legal entities with foreign investment must register in the RNIE.

60. According to article 32 of the LIE, all Mexican entities in which there is participation of foreign investments, participation of Mexicans holding

another nationality and domiciled outside of Mexico or participation of neutral investment[11] must register in the RNIE.

61. Currently, there are 67 657 companies registered with the RNIE.

Companies that cease to exist

62. Companies and SCs in Mexico cease to exist upon dissolution and liquidation. In all cases, a liquidator must be appointed (art. 235 LGSM, art. 69 of the General Law of Co-operative Associations, *Ley General de Sociedades Co-operativas*). The liquidator has to present a liquidation balance for the approval of the partners or shareholders and that subsequently needs to be registered with the RPC and published in the PSM. The liquidator also needs to obtain from the RPC the cancellation of the company contract once liquidation has been concluded and is required to keep for ten years the documents related to the company, starting from the date of conclusion of the dissolution (art. 242 and 245 LGSM).

63. The ownership information that is registered in the RPC remains available as historical information for consultation and is kept indefinitely.

64. For the PSM, the certifications generated by the system of all the publications are always available for consultation by any interested party and are kept indefinitely. Although this is not provided for specifically in any legal provision, the Mexican authorities have confirmed that in practice the information is kept indefinitely and available for consultation.

65. In addition, companies undergoing liquidation must keep the SAT informed about their liquidation so that the SAT can appropriately change their status in the RFC when all requirements are met. The digital stamps and e-signature, which are used by companies to carry out commercial activities and which are issued by the SAT are also cancelled upon submission of form 82/CFF.

Implementation of company law requirements in practice

66. The operation of the RPC is supervised by the SE (art. 18 CCo). The RPC has 271 local offices, spread in each state and in Mexico City. The SE issues guidance for the appropriate operation of the RPC (art. 20 CCo). When the SE finds mistakes in the registration, the information is shared with the relevant local RPC office for it to be corrected or an explanation given according to the case.

11. Neutral investment is defined as investment made in Mexican companies or in *fideicomisos* authorised under the LIE that will not be computed to determine the percentage of foreign investment in the share capital of Mexican companies.

67. The SE, however, does not monitor that commercial companies register in the RPC and there are no penalties applicable for failure to register. When companies have not registered in the RPC, the representatives or agents of such unregistered commercial companies are jointly, severally and unlimitedly liable for any damage caused by this non-compliance (art. 2 LGSM) and they become irregular companies. Being an irregular company would also impose restrictions for the operation of the company in Mexico in practice.

68. First, Article 2 of the LGSM establishes that any persons not registered with the RPC as companies that act as companies in front of third parties are denominated irregular companies (*sociedad irregulares*). Irregular companies keep their legal personality as they are constituted in front of a public notary.[12] They will be ruled by the respective contract or by the provisions of the LGSM as applicable depending on the type of company. Persons carrying out acts in representation of an irregular company will be jointly and severally liable for such acts in front of third parties, when there is damage for such third parties (e.g. criminal sanctions).[13]

69. Second, irregular companies face limits for the operation as a company in practice. For example, if an irregular company wishes to acquire property, information on the identity of the company would need to be provided, such as an RFC code. Similarly, if it wishes to open a bank account, information on the constitution and on the registration of the company will be demanded. As they do not have any such information available, it would be difficult for them to carry out such acts in Mexico and in most other countries. They would need to register in front of the SAT or the RPC, which would result in them stop being irregular companies. The Mexican authorities do not have any information on the number of irregular companies existing in Mexico and they clarified that they have never detected such a case in practice. Irregular companies are commercial companies and therefore they still need to comply with the requirements of keeping legal ownership information themselves in a shareholder register or members book, which includes the name and domicile of each shareholder or member (paragraph 56). If they undertake activities as a company, they also need to comply with their tax obligations of filing tax declarations and registration with the tax authorities (see next section).

12. SASs must be registered in the RPC for the company to be recognised before third parties (art. 2 LGSM). As their registration in the RPC is made electronically by the SE, such companies are unlikely to be irregular companies.

13. The applicable sanctions for such damage will be established by the judicial or criminal authority correspondingly, according to what the third-party demands. Any liabilities generated by an irregular company are on the legal representative and not on the capital of the company.

70. According to the Mexican authorities, irregular companies are not a type of entity that are broadly used in Mexico currently due to the difficulties to undertake acts as a company in practice and they are likely to be small businesses. Mexico has never received a request related to irregular companies. Mexico should monitor the risk that irregular companies may pose to the availability of information in relation to them in practice (see Annex 1).

71. Since the year 2000, the RPC is operated through the Integrated Register Management System (SIGER, *Sistema Integral de Gestión Registral*), which is a computer program in which information related to legal acts is registered. The SIGER is a national database, updated online and in real time, which is available through electronic means to the public and to government agencies and entities. Information prior to 2000 was inserted manually into the SIGER.

72. Registration in the RPC is done after having constituted a company in front of a notary. It must be made within 15 days of having constituted the company (art. 7 LGSM). Notaries have access to the online webpage of the RPC and can register constituted companies in the SIGER electronically, by sending a pre-coded form, testimony or certificate of the act to be registered electronically signed and certificate of the payment of rights. Alternatively, registration in the RPC can also be made by the company by submitting the same documents. The SIGER does not accept physical documentation, and hence, all the registration documentation remains with the notaries.

73. Any changes in the shareholding structure of a company are registered in the SIGER when they affect the initial capital of the company. Other changes, including changes to the shareholding structure of a company (except for SCs), are registered through the PSM. Since publications through the PSM are the ones that notify changes to legal ownership information of companies to the public authorities, it is important that compliance be high, and the Mexican authorities are working to improve the rates of publication of notices in the PSM. Although as noted in paragraph 56, share registers would reflect the up-to-date legal ownership information, except for SCs for which up-to-date legal ownership information would be kept with the RFC (see paragraphs 75 and 78), Mexico should monitor the registration of notices in the PSM related to changes in companies' shareholding to ensure the availability of updated legal ownership information in all cases (see Annex 1).

74. The LIE provides for sanctions for failure to comply with the registration obligations with the RNIE (art. 38(IV)). The penalties range from 30

to 100 wages which are equivalent to MXN 2 688 to MXN 8 962 (around EUR 133 and EUR 444).[14]

Tax law requirements

75. According to Article 27 of the Federal Tax Code (CFF), all companies and Co-operative Associations are required to register with the Federal Taxpayers Register (RFC, *Registro Federal de Contribuyentes*) and provide it with information related to the entity, its domicile and tax situation. This must be done upon constitution in front of a public notary, or one month after the signature of the document of incorporation of the entity, when it is not constituted in front of a public notary (i.e. for SASs). Entities are also required to register and keep up to date one email address and a contact number of the entity. At the time of registration in the RFC before the SAT, entities must present the original copy of the articles of incorporation, thus having record of the material information with respect to the ownership of the company (art. 23 of the Rules of the CFF – RCFF, *Reglamento del CFF*). Upon registration in the RFC, the entity is assigned with an RFC code (*clave*), which is the Mexican equivalent to Tax Identification Number (TIN), and which is incorporated into the Fiscal Identification Card (*Cédula de Identificación Fiscal*) or a certification of tax registration.

76. A public notary is required to verify that an entity required to register into the RFC has submitted its registration request within one month of having constituted the entity. In case the entity has not done so, the public notary should inform the SAT. Additionally, the public notary should incorporate the RFC codes of each partner and shareholder into the public deed of constitution of an entity and verify that it is in accordance with the respective Fiscal Identification Cards (Art. 27(A)(V), 27(B)(VIII) and 27(B)(IX) CFF). Public notaries that fail to comply with these requirements could have their licence revoked (art. 241(II) of the Law of Notaries for Mexico City).

77. The CFF also imposes an obligation on entities to note, in the shareholders register or members book, the RFC code of each partner or shareholder. Further, in each owners meeting, the RFC code of each partner or shareholder attending the meeting must be registered in the minutes of the meeting (art. 27(B)(V)). This information needs to be kept by the entity for its whole existence (art. 30(3) CFF).

14. Mexico uses the Measurement and Update Unit (*Unidad de Medida y Actualización*, UMA) as the economic reference in MXN to determine the amount of payment of the obligations and assumptions provided for in the federal laws. The penalties applicable during the review period under the LIE were therefore between 30 and 100 times the UMA. The value of the UMA for 2021 was MXN 89.62 per day.

78. Additionally, entities are required to file a notice to the RFC to inform the name and RFC codes of their partners, shareholders, associates and other persons every time there is a modification or incorporation, as well as the percentages of participation of each of them in the capital stock of the legal entity and who exercises effective control (art. 27(B)(VI) CFF). Such notice must be presented within 30 working days of following the day in which the modification or incorporation takes place (rule 2.4.15 of the Tax Miscellaneous Regulations 2023).

79. In the case of the RFC, the Catalogue of Documentary Disposition (CADIDO, *Catálogo de Disposición Documental*) of the SAT establishes that the information should be maintained for a period of five years.

80. Foreign companies centrally managed and controlled in Mexico are considered residents in Mexico for tax purposes (art. 9(II) CFF)[15] and are subject to the same tax requirements as Mexican-incorporated tax-resident companies (art. 1 LISR). They are therefore required to register in the RFC and maintain the articles of incorporation and minutes of meetings evidencing the increase or decrease of the capital during the existence of the company (art. 30(3) CFF). They are also required to note, in the shareholders register or members book, the RFC code of each partner or shareholder and to file a notice to the RFC to inform any change in the shareholding or membership (art. 27(B) CFF).

Implementation of tax law requirements in practice

81. With regards to the tax obligations, the CFF defines infringements related to non-compliance with the registration requirements in the RFC (art. 79 CFF):

- failure to apply for registration when obliged to do so or not doing so under the required timeframe
- failure to file an application for registration in the name of a third party when legally obliged to do so or not doing so under the required timeframe
- failure to file notices with the registry or late filing.

82. The penalties applicable to the first two infringements above are between MXN 3 870 and MXN 11 600 (around EUR 191 and EUR 574) and the penalties applicable to the third are between MXN 4 800 and MXN 9 590

15. A legal entity is considered to have its place of administration or its headquarters in Mexico if the person or persons taking control, management, operation and administration decisions of the entity or of the business it operates are in a place located in Mexico (art. 6 RCFF).

(around EUR 237 and EUR 474) (art. 80 CFF). Additionally, the entity committing one or more of the infractions listed in article 79 will have its digital stamp certificate suspended temporarily (art. 17-H Bis(IX)). Digital stamps must be issued for any act or activity performed or for any income received or for any withholding of contributions made. Temporary suspension of these certificates would impede the ability of companies to carry out commercial activities in Mexico. The certificates can eventually be suspended for longer if the irregularity has not been addressed (art. 17-H(X)).

83. The Mexican authorities have not reported statistics regarding the application of these sanctions. The statistics are not centrally compiled as they are applied by tax auditors on a need basis. Mexican authorities indicate that given that it is not possible to carry out commercial activities in Mexico without registration, there is a strong compulsion for businesses to always register with the SAT in the RFC. The situation where a notary needs to notify the SAT that an entity has not complied with its obligation to register in the RFC (see paragraph 76) has also not arisen. The Mexican authorities explained that this is because it is very unlikely that entities do not register into the RFC as it would limit their operations.

84. Paragraph 162 of the 2014 Report included an "in-text" recommendation for Mexico to monitor a potential gap that existed in relation to the sanctions applicable for failure to keep legal ownership information on limited stock partnerships and co-operatives incorporated in Mexico but not considered resident for tax purposes (because their principal place of business and effective management is not in Mexico). Although not mentioned in the 2014 Report, this issue would apply similarly to all types of companies incorporated in Mexico that are not resident for tax purposes. Mexican authorities have explained that this situation is not common in respect of any type of entity. In any case, all companies must comply with the registration requirements under the commercial law which would ensure the availability of legal ownership information on them. Non-compliance with these requirements would result in the company becoming an irregular company and the representatives or agents of such company being jointly, severally and unlimitedly liable for any damage caused by this non-compliance. In addition, any person who is not entered in the register of members is not recognised as a member or shareholder of the entity, and thus is not a legal owner of the company. Hence, this "in-text" recommendation is removed (although please refer to paragraph 70).

Inactive companies

85. Under Mexican legislation, there is no definition of inactive companies as such that is applied by the RPC. However, the SAT does monitor commercial activity and can potentially identify companies that are not

commercially active, based on its electronic invoice system. The Digital Tax Receipt Online (*Comprobante Fiscal Digital por Internet*) is a consolidated billing system established in 2004. Under article 29 of the CFF, the Digital Tax Receipt Online must be issued for any act or activity performed, for any income received or for any withholding of contributions made. To issue a Digital Tax Receipt Online, a company must have an e-signature, be registered in the RFC and have digital stamps based on which the Digital Tax Receipt Online will be issued.

86. Every time a transaction is being made under which a Digital Tax Receipt Online must be issued, the Receipt is transmitted automatically to the SAT via an XML file, containing all the relevant information of the issuer: RFC number, number of the digital stamp, date and place of issuance, type and measure unit of the good or service involved in the transaction and the total amount of the transaction. The SAT has powers to suspend or decrease the taxpayers ability to operate when it is confirmed in their systems or with information provided by other authorities or third parties that they have not carried out any activity in the three previous years. It also has powers to cancel or suspend the RFC registration of a taxpayer if it has not carried out any commercial activity during the previous five fiscal years (art. 27(C)(XII) and 27(C)(XIII) CFF). Additionally, the SAT can suspend the Digital Tax Receipt Online of the taxpayer if it has not complied with its annual tax declaration obligations (art. 17-H Bis CFF). Such cancellation or suspension effectively prevents the taxpayer from doing any commercial transaction in Mexico.

87. The Mexican authorities explained that when a company issues invoices via the Digital Tax Receipt Online system but that it has been non-compliant with its fiscal obligations (i.e. filing annual tax returns and paying correct taxes), this company is identifiable to the SAT and corresponding actions are taken to enforce compliance with the tax obligations. The SAT reviews this as part of its tax audits. Sanctions include suspending the Digital Tax Receipt Online of the company, which would make it impossible for the company to undertake commercial activities in Mexico. The company would be classified as suspended under the SAT databases and this status would be communicated to the RPC which would also classify them as "suspended" for its own purposes. As of June 2021, 41 183 companies were suspended by the SAT.

88. However, the tax filing data for the period 2018 to 2021 reveals that a significant number of companies have not complied with their annual tax filing obligations, suggesting that they could be potentially inactive and/or non-compliant. According to information provided by the Mexican authorities, on average, 56% of entities in the RFC database have not complied with tax return filing obligations between 2018 and 2021, representing around 1 200 000 entities (see a more detailed analysis of this aspect in

paragraph 224). From the SAT's perspective, most of these entities have not been issuing invoices and are commercially inactive in Mexico and the SAT's supervisory focus is on commercially active entities, i.e. those that have issued invoices but are non-compliant. However, these entities retain their legal personality and could potentially be commercially active or be holding assets outside of Mexico.

89. The number of legal entities as per the RPC database is lower by around 400 000 compared to the number as reflected in the RFC database. This indicates a mismatch between the two databases. A possible explanation is that certain companies that have ceased to exist and have been removed from the RPC have not been similarly removed from the RFC database. Be as it may, there still remain a significant number of companies (far more than the 41 183 "suspended" companies) that are inactive and non-compliant with tax return filing obligations. There is a concern on whether up-to-date legal ownership information on these companies would be available. As noted earlier, while the legal ownership information upon incorporation should be available with RPC and the SAT, changes to this would be reflected only if such changes have been published to the PSM. However, as explained in paragraph 73, neither registrations in the RPC nor in the PSM are monitored and therefore information available in the RPC might not be up to date. Up-to-date legal ownership information would be available with the companies themselves. Inactive companies would also be required to keep a shareholder register or members book as explained in paragraph 56, although this requirement might not be complied with in practice and such entities are not actively monitored or their compliance verified. As long as such companies maintain their legal personality (i.e. they are not removed from the RPC), it is uncertain whether up-to-date legal ownership information on them would always be available in Mexico. Although Mexico has not yet received requests related to inactive companies, **Mexico is recommended to take actions to ensure that up-to-date legal ownership information on all companies, including inactive companies is always available in line with the standard**.

Availability of legal ownership information in EOIR practice

90. The Mexican Competent Authority noted that the main source of information related to legal ownership is the RPC through the SIGER system, to which it has direct access. The PSM is also consulted every time there is a request on legal ownership information. When information is not available under the SIGER system or the PSM, the Competent Authority looks in the databases of the SAT (i.e. the RFC), to which it also has direct access.

91. Mexico received 26 requests related to legal ownership during the review period. Peers were generally satisfied with the information received.

Availability of beneficial ownership information

92. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In Mexico, during the review period, this aspect of the standard was addressed through requirements under the AML law, which was the primary source of beneficial ownership information until 2021, although not all legal entities and arrangements were covered (see paragraph 114). In late 2021, Mexico amended its tax law to introduce an obligation for legal persons and arrangements to identify their beneficial owners, covering a broad range of entities and introducing a definition of beneficial owner broadly in line with the standard. This amendment came into force on 1 January 2022. The Mexican authorities have emphasised that, henceforth, they will rely only on the tax law obligations as a source for obtaining beneficial ownership information from legal persons. Thus, going forward, tax law obligations will be the primary source of beneficial ownership information for EOI purposes in Mexico.

Companies covered by legislation regulating beneficial ownership information

Type	Company law	Tax law	AML law
SA	None	All	All
SdRL	None	All	All
SAS	None	All	Some
SC	None	All	All
SCA	None	All	All
Foreign companies (tax resident)[16]	None	All	All

Tax law definition of beneficial ownership

93. The new provisions in relation to beneficial ownership information under the tax law are contained in articles 32-B Ter, 32-B Quáter and 32-B Quinquies of the CFF. The new definition of beneficial owner takes inspiration from that on the AML Law and the new requirements were introduced with the objective of broadening the coverage of legal entities and arrangements that are required to identify their beneficial owners.

16. Where a foreign company has a sufficient nexus, then the availability of beneficial ownership 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).

94. Article 32-B Quáter introduces the definition of the term "controlling beneficiary" (*beneficiario controlador*):

> controlling beneficiary will be understood as the natural person or group of natural persons that:
>
> I. Directly or through another person or other persons or any legal act, obtain/s the benefit derived from their participation in a legal person, a fideicomiso or any other legal figure, as well as any other legal act, or is/are who in last resort exercise/s the rights of use, enjoyment, benefit, advantage or disposition of a good or service or in whose name a transaction is carried out, even when he/she/they does/do so contingently.
>
> II. Directly, indirectly or contingently, exercise control of the legal person, fideicomiso or any other legal figure.
>
> It is understood that a natural person or group of natural persons exercise control when, through the ownership of securities, by contract or by any other legal act, he/she/they can:
>
> a) Impose, directly or indirectly, decisions at the general meetings of shareholders, partners or equivalent bodies, or appoint or remove the majority of the directors, administrators or their equivalents.
>
> b) Maintain ownership of the rights that allow, directly or indirectly, to exercise the vote with respect to more than 15% of the share capital or good.
>
> c) Manage, directly or indirectly, the administration, strategy or main policies of the legal entity, fideicomiso or any other legal entity.
>
> […]
>
> For the interpretation of the provisions of this article, the Recommendations issued by the Financial Action Task Force and by the Global Forum on Transparency and Exchange of Information for Tax Purposes organised by the Organisation for Economic Co-operation and Development will be applicable, in accordance with the international standards to which Mexico is a party, when their application is not contrary to the very nature of Mexican tax provisions.

95. The definition intends to identify beneficial owners that control a legal person. The SAT has issued regulations for the determination of controlling beneficiaries. Item 2.8.1.20 of the Tax Miscellaneous Regulations

of 27 December 2021 establishes that the different parts of the definition should be applied successively, meaning that item I should be applied first, and if no controlling beneficiary is identified under this part or if there are doubts about the controlling beneficiary identified, then the identification should be done applying item II. The Regulations also establish that in case there are no controlling beneficiaries identified under item I or II, the individual exercising the position of senior manager must be identified as controlling beneficiary. In case the legal person is managed by a board of directors, each of the members of the board must be identified as controlling beneficiaries.

96. The last paragraph of article 32-B Quáter states that the term controlling beneficiary is to be interpreted in accordance with the FATF Recommendations and the recommendations of the Global Forum, when their application is not contrary to the very nature of Mexican tax provisions. Thus, the definition has been linked to the interpretation of beneficial owner in accordance with the standard.

97. The definition is broadly in line with the standard. However, given the way it is structured, there might be difficulties in its application. Firstly, item I of the article seeks to identify all types of natural persons for a variety of types of entities and arrangements in a range of situations. It seeks to cover beneficial owners deriving any sort of benefits or having any types of rights in respect of the legal person or arrangement. For instance, it may be interpreted to mean that a shareholder holding even 1% of the shares of a company would need to be identified as controlling beneficiary, as he/she derives benefit from his/her participation in the company, for example receiving dividends. While this is not incorrect, it may lead to identification of beneficial owners with insignificant interests in a legal entity. Furthermore, item II applies when no beneficial owner(s) have been identified under item I or when there are reasonable doubts of the beneficial owner(s) identified under item I. It is not clear when item II would be applicable, as the first point would normally result in the identification of at least one beneficial owner. In the context of companies, it is the cascade provided by Item II that would be more appropriate for systematic and consistent identification of beneficial owners.

98. Secondly, the aspect of "control by other means" is not clearly articulated in the definition. Item II refers to the exercise of control, either directly or indirectly. It states that it should be understood that natural persons exercise control "[…] through the ownership of securities, by contract or by any other legal act". This limits the scope for the identification of natural persons exercising control through other means such as family ties. However, and as explained by the Mexican authorities, persons exercising control through means other than ownership of securities, by contract or by a legal act are

required to be identified under item I. For example, natural persons exercising control through personal connections, by participating in the finance of the legal person or because of close and intimate family relationships, are supposed to be identified. However, this interpretation of the definition is currently not available by way of any binding guidance to assist the obliged persons while identifying beneficial owners and this could lead to inconsistent or inaccurate identification of beneficial owners.

99. Lastly, the reference to FATF Recommendations and interpretation is welcome. However, given the structure of the definition under the CFF is different from the one in FATF standard, the absence of further clear guidance on how it is to be read with the FATF Recommendations may leave a taxpayer confused when it is in the process of identifying its controlling beneficiaries.

100. The ambiguity and difficulty in interpretation of the definition was raised as a concern by the representatives of the private sector during onsite interactions. They were not confident that they understood the definition and its application clearly and would welcome further clear guidance from the authorities on how it should be applied for systematic and consistent identification of beneficial owners of different types of legal entities and arrangements in line with the standard. **Mexico is recommended to further explain the definition of beneficial owners so that information on beneficial owner(s) of all relevant legal entities is available in all cases in line with the standard**.

Tax law requirements on companies and service providers

101. All legal persons must obtain and keep complete, reliable and up-to-date information of their controlling beneficiaries. This information should be kept as part of the accounting records, must be provided to the SAT upon request and can be exchanged with foreign fiscal authorities under an international treaty (art. 32-B Ter CFF). Foreign companies centrally managed and controlled in Mexico are subject to the same requirements under Mexican tax law as Mexican-incorporated tax-resident companies (art. 1 LISR) and are therefore required to identify controlling beneficiaries under article 32-B Ter.

102. In addition, the new obligations under the CFF for the identification of beneficial owners cover authenticating officers and any other person intervening in the creation or signing of contracts or legal acts to constitute a legal person (e.g. lawyers), as well as financial entities. These persons (i.e. authenticating officers, lawyers, financial entities) are also AML-obliged persons and the obligations applicable under this legislation related to the identification of beneficial owners continue to apply.

103. Regulations of 27 December 2021 establish that legal persons should develop documented internal procedures for the identification and verification of their controlling beneficiaries with sufficient supporting documentation (for example, passports, identification cards, birth certificates, population registry, driver licences, professional licences). They should establish mechanisms to obtain information from their controlling beneficiaries, as well as any changes therein.

104. The information regarding controlling beneficiaries that must be kept includes, among others:

- name and surname, which should coincide with those that appear in the official documentation presented as proof of identity
- date of birth and gender
- country of origin or nationality
- country of fiscal residency
- RFC code if applicable or TIN in case of foreign residents
- contact points and address(es)
- relationship with the legal person or legal arrangement of which he/she is controlling beneficiary and degree of participation
- description of the form of participation (i.e. direct or indirect control), as well as the number of shares or quotas held
- date of modification of the participation or control in the legal person.

105. When the SAT requests information on controlling beneficiaries from legal persons, it will notify them of the information requested. The information will have to be provided within 15 working days from when the notification takes effect. Such deadline can be extended for 10 working days only if a justified extension request has been requested within the original deadline. As beneficial ownership information is required to be kept as part of accounting records, it is therefore required to be kept for a period of five years (art. 30 CFF).

106. When a company is identifying its beneficial owners, it should establish mechanisms to ensure it has access to information from its shareholders, including beneficial ownership information. However, it is unclear what would such mechanisms be and what recourse companies have if their shareholders refuse to co-operate to provide such information. Mexico authorities did not provide any further information in this regard and there have been no guidance issued on what mechanisms companies should have in place to ensure they have access to beneficial ownership information. Furthermore,

there are no specific sanctions in place for cases where the beneficial owner of a company does not co-operate with the company to indicate its beneficial ownership or changes to it, nor for providing inadequate information. The absence of these supportive mechanisms may pose impediments to the availability of beneficial ownership information with the entities in line with the standard.

107. Additionally, legal persons must update information on controlling beneficiaries within 15 days of the modification taking place. Although beneficial ownership information is required to be kept up to date, there is no specified frequency under the legal and regulatory framework that requires legal persons to check for any changes in their beneficial ownership information at least once in case they have not become aware of any such changes. In the case of a taxpayer (e.g. a company), it will not always be aware immediately when there have been changes in its beneficial owners and therefore the information required to be kept and provided to the SAT upon request might not be updated. **Mexico is recommended to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements in line with the standard**.

Enforcement of the beneficial ownership requirements under tax law

108. Article 42(II) of the CFF grants powers to the SAT to carry out on-site visits to taxpayers, jointly responsible or third parties related to them to review the accounting records held by them. As beneficial ownership information is required to be kept as part of the accounting records, the SAT is therefore able to verify such information as part of its supervisory activities. The Mexican authorities confirmed that in accordance with articles 42(I) and 42(II) of the CFF, the SAT may exercise their verification powers regarding the obligations on controlling beneficiaries over any third party and they will usually exercise such power over the taxpayer itself.

109. In addition, the CFF has been amended to introduce explicit powers for the SAT to carry out on-site visits to financial institutions, *fideicomisos*-related parties, members or partners in case of any other legal arrangements, as well as third parties related to them, in order to verify compliance with the obligations introduced under articles 32-B Ter, 32-B Quáter and 32-B Quinquies related to the identification of controlling beneficiaries (art. 42(XII) CFF).

110. The recent amendments to the CFF also introduced a series of infringements related to the obligations to obtain and maintain information on controlling beneficiaries. Article 84-M establishes that:

> The following are infractions related to the obligations established in articles 32-B Ter, 32-B Quater and 32-B Quinquies of this Code:
>
> I. Not obtaining, not keeping or not presenting the information referred to in article 32-B Ter of this Code or not presenting it through the means or formats indicated by the Tax Administration Service within the terms established in the tax provisions.
>
> II. Failure to keep updated the information related to the controlling beneficiaries referred to in article 32-B Ter of this Code.
>
> III. Submit the information referred to in article 32-B Ter of this Code in an incomplete, inaccurate manner, with errors or in a manner different from that indicated in the applicable provisions.

111. Article 84-N of the CFF sets out the corresponding applicable sanctions:

- MXN 1.5 million to MXN 2 million (around EUR 74 260 to EUR 99 000) for infractions committed under art. 84-M(I) for each controlling beneficiary of the legal person
- MXN 800 000 to MXN 1 million (around EUR 39 600 to EUR 49 500) for infractions committed under art. 84-M(II) for each controlling beneficiary of the legal person
- MXN 500 000 to MXN 800 000 (around EUR 24 800 to EUR 39 600) for infractions committed under art. 84-M(III) for each controlling beneficiary of the legal person.

112. The sanctions are applied per controlling beneficiary of the legal person, so if several beneficial owners are missing or mis-presented, the fine can be applied several times. Mexican authorities have advised that the corresponding penalty will be calculated considering the beneficial ownership information held by third parties such as banks, authenticating officers or any other person involved in the formation or execution of the legal entity or arrangement. However, these third parties are AML-obliged persons, as well as obliged persons under the tax law. They would therefore be required to identify beneficial owners in accordance with both legal frameworks, which would not necessarily result in the identification of the same individual(s), as the definition of beneficial owner under the AML Law differs from that on the tax law.

113. As the obligations under tax law have been introduced only recently, the enforcement and oversight framework has not yet been tested in practice. As the information on controlling beneficiaries should only be submitted to the SAT upon request, the monitoring activities that will be carried out in

the future will be crucial to ensure that the obligations are being complied with in practice. The Mexican authorities did not describe any plan on how the supervisory and monitoring activities will be carried out in the future. **Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice**.

Scope of the Anti-Money Laundering Law requirements

114. The AML Law establishes the Mexican legal framework for AML/CFT. Under Mexican legislation, there is no requirement for all legal entities and arrangements to engage an AML-obliged person on an ongoing basis. Although most companies and co-operatives must be constituted before an authenticating officer (art. 5 LGSM), as the engagement of an AML-obliged person is only required for the constitution of the company and not on a continuous basis, the requirement does not guarantee that beneficial ownership information is up to date.[17] Mexican authorities indicate that most companies would nonetheless have a bank account to carry on business in Mexico. The AML framework was the source of beneficial ownership information during the review period and, although henceforth the tax law will be the main source of beneficial ownership information for EOI purposes, the AML framework will still remain applicable.

115. The AML Law establishes separate obligations for financial entities (as defined in art. 14 AML Law) and for persons carrying out Vulnerable Activities (VAs, *Actividades Vulnerables*) (art. 3(I) AML Law), which are reviewed separately below.

AML obligations for credit institutions

116. For financial entities, the DCGIC contains rules for the identification of beneficial owners.[18]

117. Numeral 4(II) of the DCGIC establishes that, when the client is a Mexican legal person, credit institutions must obtain, among others, the

17. For SASs the engagement of authenticating officers is optional (art. 263(VI) LGSM) and therefore, the AML legal framework does not provide for the availability of beneficial ownership information for all SASs.

18. Some other General Provisions contain specific rules of the identification of beneficial owners, but they are not presented in this report as they are less relevant; see article 108 Bis of the Retirement Savings Systems Law, applicable to pension funds (*Administradoras de Fondos para el Retiro*), and article 91 of the Investment Company Law, applicable to investment funds and mutual fund share distributors.

following information: the business name, activity, RFC number, domicile and act of constitution. Numeral 4(II)(c) establishes that information should be obtained to understand the shareholding structure or share capital of the client. In addition, credit institutions must identify the "Real Owners" ("*Propietarios Reales*") of their client that exercise "control" over it.

118. Numeral 2(XXXII) of the DCGIC (added in 2019) defines "Real Owner" as

> A natural person who, through another person or any act or mechanism, obtains the benefits derived from an account, contract or operation and is, ultimately, the true owner of the resources, having over these rights of use, enjoyment, exploitation, dispersion or disposal.
>
> The term Real Owner also includes that natural person or group of natural persons who exercise Control over a legal person, as well as, where appropriate, the persons who can instruct or determine, for their own economic benefit, the acts that may be carried out through fideicomisos, mandates or commissions.

119. Numeral 2(VII) of the DCGIC (modified in 2019) defines "Control" as

> The capacity of a person or group of persons, through the ownership of securities, by entering into a contract or by any other legal act, to (i) impose, directly or indirectly, decisions in the general meeting of shareholders or partners or in the equivalent governing body of a legal person; (ii) appoint or remove the majority of the directors, administrators or equivalent of a legal person; (iii) maintain the ownership of rights that allow, directly or indirectly, to exercise the vote with respect to more than 50% of the capital stock of a legal person, or (iv) lead, directly or indirectly, the administration, strategy or main policies of a legal person.
>
> In addition, it will be understood that a natural person who directly or indirectly acquires 25% or more of the shareholding or capital stock of a legal person exercises control.

120. The approach for the identification of Real Owners requires, in the first step, the identification of natural persons who derive benefit from an account, contract or operation. Simultaneously, natural persons exercising control, directly or indirectly, over a legal person are required to be identified. Finally, the last sentence of Numeral 2(VII) also requires the identification of any natural person with an ownership interest of 25% or more of the legal person. This is in line with the first and second steps of the cascade approach defined by the FATF Interpretative Note to Recommendation 10.

121. Under the first paragraph of Numeral 2(VII), control is exercised "[…] through the ownership of securities, by entering into a contract or by any other legal act". The fact that control can only be exercised through the ownership of securities, by entering into a contract or by any other legal act limits the scope for the identification of natural persons exercising control through other means envisaged by the standard. However, the first part of the definition (i.e. Numeral 2(XXXII)) would cover natural persons that exercise control through means other than ownership of securities, a contract or a legal act and would require them to be identified as Real Owners, including identifying those exercising control through personal connections, by participating in the finance of the legal person or because of close and intimate family relationships, historical or contractual associations. Control exercised through means other than ownership is therefore covered by the definition.

122. The definition refers to two different thresholds, one related to the identification of controlling ownership interest (25%) and one related to the voting rights (50%). The Mexican authorities explained that the 25% threshold should always be used for the identification of controlling ownership interest, irrespective of the voting rights of the shareholder. For example, if a shareholder has more than 25% of the shares of a company (e.g. 49%) but less than 50% of the voting rights, this shareholder must be identified as a beneficial owner. Alternatively, if a legal person has, for example, ten shareholders, none of them having individually more than 25% of the shares of the company, but some of them agree to grant their voting rights to one particular shareholder summing up more than 50% of the voting rights in the general shareholders meeting, this person should be identified as Real Owner.

123. The SHCP has issued guidance[19] to help credit institutions identifying the Real Owners of their clients. Regarding control through other means, the guidance explains that control is not necessarily exercised through the ownership of securities but that natural persons participating in the financing of the enterprise, having family or personal relationships with persons in high-rank positions within the legal person or that has ownership rights over it, should also be identified as Real Owners.

124. A final layer to the identification of Real Owners is provided, as when none of the aforementioned Real Owners have been identified, the credit institution is required to identify the administrator of the client, which can be understood as the natural person holding the position of senior management official or appointed for such purposes. Numeral 4(II)(c) of the DCGIC establishes that:

19. Guidelines for the identification of the Real Owner (*Lineamientos para la identificación del Propietario Real)*.

> Where there is no natural person who owns or controls, directly or indirectly, a percentage equal to or greater than 25% of the capital or voting rights of the legal person in question, or who by other means exercises Control, directly or indirect, of the legal person, it will be considered that said Control is exercised by the administrator or administrators of the same, understanding that the administration is exercised by the natural person designated for such purpose by it. When the designated administrator is a legal person or a fideicomiso, it will be understood that Control is exercised by the natural person appointed as administrator by said legal person or *fideicomiso*.

125. As per the final layer for the identification of Real Owners, the SHCP guidance mentions that persons that are administrators could be persons in positions of administrator, general director, manager, president, vice-president, treasurer, among others. This complies with the standard.

126. For the identification of Real Owners, the credit institution must collect a declaration in writing from the legal representative of the client indicating who the Real Owners are. If the credit institution has any indications that make the veracity of the information provided questionable, it must take reasonable measures to determine and identify the Real Owners of the client (Numeral 4 DCGIC). All these procedures must be incorporated into an internal compliance manual. The SHCP's guidelines include guidance for the verification of the information on Real Owners reported by the clients. The guidance also provides details on the actions credit institutions can undertake to verify the information obtained on Real Owners, including obtaining further information from the client about the composition of its shareholding, copies of the movements in the shareholders register, information to identify the person acting as senior management, among others. The guidance provided is useful and helps to clarify unclear aspects of the definition and although it is non-binding, the Mexican authorities have observed through different supervisory and monitoring activities that it is followed by credit institutions who comply with it in practice. Other aspects of the implementation of beneficial ownership requirements for credit institutions under the AML Law are analysed under Element A.3 (please refer to paragraphs 241 to 252).

127. Financial entities are required to keep all information related to the identification of their clients during the entire term of the account or contract and, once these are concluded, for ten years as of the conclusion of the contractual relationship (Numeral 59 DCGIC).

Other AML-Obliged persons carrying out Vulnerable Activities

128. Regarding persons carrying out Vulnerable Activities (VAs), which include notaries and lawyers (see paragraph 33), article 14 of the AML Regulations[20] establishes that the term beneficial owner (*dueño beneficiario*) should be understood as referring to the term "Controlling Beneficiary" (*Beneficiario Controlador*), which is defined under article 3(III)[21] of the AML Law as:

> [t]he person or group of persons who:
>
> a) By means of another person or any act, obtains the benefit derived from these and is the one who, ultimately, exercises the rights of use, enjoyment, exploitation or disposal of a good or service, or
>
> b) Exercises control of a legal person that, in its capacity as client or user, carries out acts or operations with whom it carries out Vulnerable Activities, as well as the persons on whose behalf it performs any of them.
>
> It is understood that a person or group of persons controls a legal person when, through the ownership of securities, by contract or any other act, they can:
>
> i) Impose, directly or indirectly, decisions in the general meetings of shareholders, partners or equivalent bodies, or appoint or remove the majority of the directors, administrators or their equivalents;
>
> ii) Maintain ownership of the rights that allow, directly or indirectly, to exercise the vote with respect to more than fifty percent of the capital stock; or
>
> iii) Managing, directly or indirectly, its administration, strategy or main policies.

129. This definition is not in line with the standard. First, it refers to "persons" although it does not clarify whether it refers to a natural person or a group of natural persons and therefore can also cover legal persons. The Mexican authorities indicated that, in practice, persons carrying out VAs generally identify natural persons as Controlling Beneficiaries. Secondly,

20. According to article 19 of the AML Law, the AML Regulations establish measures for compliance with the obligations introduced in article 18 of the AML Law which, among others, sets out the obligation to identify beneficial owners.

21. This definition is replicated under article 4(IV) of the General Rules of the AML Law (*Reglas de Carácter General a que se refiere la Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*).

the definition refers to controlling ownership interest exercised through maintaining ownership of voting rights and establishes a threshold for the identification of controlling beneficiaries having ownership of 50% or more of the voting rights. This threshold is very high and runs a substantial risk of leaving out important natural persons who have significant influence or control over a legal person and would ordinarily be considered beneficial owners in many other jurisdictions.

130. The definition uses the conjunction "or" between paragraphs a) and b) and between the second to last sentence of the definition (i.e. between items (ii) and (iii) of paragraph (b)). This means that it follows a simultaneous approach for the identification of Controlling Beneficiaries, requiring all the individuals that would be identified under a cascading approach to also be identified.

131. Article 12 of the General Rules of the AML Law establishes the information that persons carrying out VAs should collect in respect of each client, including: business name, date of incorporation, type of activity, domicile, RFC code if the client has one, certification of registration on the respective public registry and beneficial ownership information. The file should be constituted before or during the establishment of a business relationship and can be kept in physical form. It should be kept at the disposal of the SAT and the Financial Intelligence Unit (*Unidad de Inteligencia Financiera*). When the client is a foreign entity, it must also provide copy of its tax identification card issued by the SAT or a tax identification number issued by the competent authority of its country of nationality.

132. Persons carrying out VAs should demonstrate by a certificate signed by the client that they have asked their clients whether they have knowledge of the existence of their beneficial owners (Annex 4(b)(v) General Rules). There is no requirement for persons carrying out VAs to verify the accuracy of the information provided, if any. If the client does not have such knowledge, the person carrying out VAs must abstain to carry out any operation with the client (art. 21 AML Law). There is also no specified frequency for updating this information.

133. During the on-site visit, representatives from the Public Brokers Association and from the Bar Association indicated that the above-mentioned requirements are not always complied with in practice. Under their interpretation, their obligation is to ask the client if it is aware of the existence of its beneficial owner through an affidavit. If the client declares it does not have such knowledge, the interpretation of the Public Brokers Association and of the Bar Association is that they do not have any further obligation and they can pursue the relationship with the client. This factor, in conjunction with the deficient definition of beneficial owner, would not

ensure the availability of beneficial ownership information through persons carrying out VAs in line with the standard.

134. Although the definition of beneficial owner applicable to persons carrying out VAs is not in line with the standard and there seems to be issues with the implementation in practice, going forward, beneficial ownership information obtained from them under the AML Law will no longer be used to EOI purposes, as the primary source of beneficial ownership information will be the CFF and persons carrying out VAs such as notaries and lawyers are also obliged subjects under the tax law.

135. During the review period, the Mexican Competent Authority mostly relied on banks for obtaining beneficial ownership information and not on persons carrying out VAs. Reliance was also placed on determining beneficial ownership by the Competent Authority office based on available legal ownership information (see paragraph 424).

136. The Controlling Beneficiary information is required to be kept for five years starting from the date on which the Vulnerable Activity is carried out (art. 18(IV) AML Law).

Enforcement of the beneficial ownership requirements under AML law

137. In practice, the Mexican authorities consider that credit institutions have a good understanding of their obligations to identify Real Owners and that the guidance is being applied.

138. Failure to comply with the obligations contained in article 18 of the AML Law is subject to penalties defined under the law (art. 53 AML Law). The applicable penalty corresponds to the equivalent of 200 to 2 000 days of minimum salary applicable in the Federal District, i.e. MXN 19 244 to MXN 192 440 (around EUR 950 and EUR 9 500).

139. Supervision of the financial entities carrying out Vulnerable Activities is carried out by the CNBV, the CNSF, the CONSAR and the SAT (art. 16 AML Law) depending on the type of entity. The primary legislations governing each type of institutions within the financial sector grant the respective regulators with powers to supervise the corresponding institutions, using both on-site and off-site supervisions. Article 117 of the LIC establishes that the CNBV supervises all credit institutions.

140. The type and number of the supervisory activities carried out by the CNBV as well as the results of such activities are analysed under section A.3 (see paragraphs 253 to 258).

141. Other persons (non-credit institutions) carrying out VAs are supervised by the SAT (art. 4(III) and (IV) AML Law Regulations) through the

Central Administration for Anti-Money Laundering Supervision. The SAT is also responsible for applying the corresponding sanctions in case of non-compliance (art. 4(VII)). The supervisory activities are carried out based on risk assessment and most of them have been undertaken on car sellers. Regarding the identification of Controlling Beneficiaries, the supervisory activities focus mainly on whether the definition has been correctly applied.

142. During the review period, the SAT performed 587 on-site verifications to persons carrying out VAs and 139 off-site activities. There were 1 151 sanctions issued, amounting to MXN 1 248 million (around EUR 62 million), of which 2.2% corresponded to sanctions related to the obligations on beneficial owner.

Implementation in practice of the new tax law requirements and interaction with the existing AML framework

143. As explained above, the definitions of beneficial owner under tax and AML law differ and therefore the identification of beneficial owners is not going to be consistent, resulting in different beneficial owners identified under the two frameworks. During the on-site visit, the Mexican authorities indicated that AML-obliged persons (e.g. a public notary) must comply with the obligation to obtain information on controlling beneficiaries under article 32-B Ter of the CFF. In addition, it must comply with its obligation under AML law as a person carrying out VAs. This also applies to banks and credit institutions regarding their accounts.

144. So far, the SAT has issued regulations for the application of the new definition under tax law (Regulations of 27 December 2021) and a document with responses to Frequently Asked Questions, which has been recently updated, although the questions do not touch upon many of the aspects that have been queried by the obliged persons (see discussion in the following paragraphs). Although they make clear that AML-obliged persons must also comply with beneficial ownership information under tax law, no guidance has been issued regarding the interaction of the new requirements under tax law with the already existing obligation under AML law and legal persons and arrangements have not received any training in this regard.

145. Discussions during the on-site visit with representatives from the Bar Association, the Association of Banks and the Public Brokers Association revealed confusion regarding the application in practice of both legal frameworks. Both the Bar Association and the Public Brokers Association pointed out difficulties and excessive burden when identifying beneficial owners under the two legal frameworks. For example, representatives from the Bar Association indicated that, under the AML law, lawyers should ask their clients for the information on their beneficial owners. On the other hand,

under tax law, they should identify the controlling beneficiaries themselves and there is no obligation to ask the client to identify its own beneficial owners. Representatives from the Public Brokers Association shared similar concerns. They also pointed to the fact that the obligation under the CFF requires controlling beneficiaries' information to be kept as part of the accounting records, which public brokers prefer not to do as they keep their own accounting records separately. Regarding the interpretation of the last part of the definition of controlling beneficiary (see paragraph 99), representatives from the Public Brokers Association pointed out difficulties to interpret it and considered that its application would be made in line with the FATF Recommendations. Finally, they also mentioned that they have made efforts to seek clarifications from the SAT on these matters through PRODECON (Taxpayer Defense Attorney, *Procuraduría de la Defensa del Contribuyente*), but that no response had been received.

146. Representatives from the Association of Banks made clear that they see the obligations under AML law and the new obligations under tax law as two separate obligations and that so far, the banks have established procedures to routinely identify beneficial owners (Real Owners) under the AML Law. The new obligations under tax law would entail new procedures for the banks.

147. The Mexican Competent Authority has emphasised that, going forward, only the information obtained through tax law requirements is going to be used to respond to EOI requests. It is still unclear, however, how Mexico will ensure that legal entities and arrangements understand the new beneficial ownership requirements under tax law and that they clearly distinguish both obligations in practice to be able to respond to requests from the Competent Authority. As most of the obliged persons under tax law are also AML-obliged persons that have been complying with the AML obligations for some years now, it must be ensured that the new requirements under tax law are well understood and complied with in practice. **Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice**.

Inactive companies

148. As described under paragraphs 85 to 89, there is a potentially high number of inactive companies that have not complied with their fiscal obligations, which include filing tax returns. In terms of their beneficial ownership obligations under the tax law, these entities continue being taxpayers in Mexico as they exist in the SAT databases and retain their legal personality. As such, they should comply with the obligations to identify their beneficial

owners (controlling beneficiaries) as described in paragraphs 101 to 107. The obligations under the CFF establish that companies must obtain and keep information on their beneficial owners as part of their accounting records and provide it to the SAT upon request. However, as inactive companies are not complying with their tax obligations, it is likely that they are not complying with their beneficial ownership obligations either (please see discussion under Element A.2, paragraphs 229 to 232). Although Mexico has not yet received requests related to inactive companies, **Mexico is recommended to take actions to ensure that up-to-date beneficial ownership information on all companies, including inactive companies, is always available in line with the standard**.

Nominees

149. All the rights and obligations of a shareholder in a company are assigned to the person who is registered as the shareholder (arts. 111 and 129 LGSM). This person is regarded as the owner for all corporate and economic purposes, including tax obligations in respect of the assets.

150. For publicly traded shares, the intermediary (broker) will be registered as the shareholder. Only AML-obliged entities can act as such intermediaries. Due to customer due diligence requirements under the Mexican AML law, the intermediary has to keep information on the identity of the actual shareholder and therefore the information on the nominee is required to be available. As the shares are held by a broker, the company knows that the broker acts for its clients and can request identity information in the framework of its obligation to gather beneficial ownership information. The broker is expected to assist the company in identifying nominee shareholders.

151. There is no provision in Mexican law that prohibits a person from holding shares in a company in his/her name but on behalf of another person based on a contractual arrangement. Mexican legislation recognises the concept of mandate without representation (*mandato sin representación*). Under such an arrangement, a person (nominee – *mandatario*) can act in its own name on behalf of another person (nominator – *mandante*) (arts. 2546 and 2560 CCF). Under a *mandato sin representación*, the nominator can buy shares in a company in the name of a nominee and there is no legal requirement for this arrangement to be revealed to the company. The nominator will have no legal claims against any person other than the nominee (art. 2561 CFF).

152. A mandate is a bilateral agreement, which must be in writing, signed by the mandatary and principal, if the underlying transaction exceeds 50 times the minimum salary (equivalent to MXN 89 620, around EUR 4 400)[14] (art. 2556 CCF). It has to be given in a public deed or power of attorney

if the value of the underlying transaction is unlimited or if it exceeds this amount or if the underlying transaction itself requires a public deed (art. 2555 CCF).

153. Under the Commercial Code and tax legislation, a mandatary who is acting in a business capacity has to keep the agreement as an underlying document related to its accounting records and this information is accessible to the tax administration (arts. 16, 75(XII), 273 and 298 CCo). This information would reveal the identity of the person on whose behalf a transaction is being carried out (i.e. the nominator), for example in the case shares are being bought by a nominee. Regarding the new beneficial ownership information requirements under the CFF, the Mexican authorities explained that mandataries will be covered by these new obligations, as they would be considered as third parties or members of a legal figure exercising a contract or legal act (art. 32-B Ter CFF). However, the obligations mentioned in article 32-B Ter refer to the identification of beneficial owners of a company itself, and not to the identification of the person on whose behalf a transaction is being carried out. It remains that the concerned company has no way to know that one of its shareholders is a nominee rather than the real shareholder.

154. The Mexican authorities consider that the mandate without representation is not a figure commonly used to buy shares on behalf of another person. The Mexican authorities further explained that there are corporate acts that can have tax consequences for the nominee, for example holding shares in a company on behalf of a nominator. In such cases, it is in the interest of the nominee to disclose its status as such, to avoid having obligations that should be applicable to the nominator. However, this is not a requirement under the law and as the beneficial ownership obligations under the CFF have been introduced recently, their application in practice has not been tested yet. In the absence of a legal requirement that the nominee disclose its nominee status to the company whose share it holds, it may not always be possible to identify the person on whose behalf the nominee (or such person under a similar arrangement) is acting. This poses a risk to the availability of ownership information in line with the standard.

155. Hence, **Mexico is recommended to ensure that accurate information is available in respect of persons on whose behalf another person acts a nominee or under a similar arrangement**.

Availability of beneficial ownership information in EOIR practice

156. During the review period, Mexico received 19 requests related to beneficial ownership information and it responded to all of them. Peers have not raised concerns about the availability of beneficial ownership information.

A.1.2. Bearer shares

157. Mexican law does not allow for the issuance of bearer shares. Mexican legislation specifically states that shares of an SA and an SCA must be nominal shares (art. 111 and 208 LGSM). For SdRLs, shares cannot be represented by negotiable nominative or bearer instruments (art. 58 LGSM). For SCs, certificates representing the shares of members must be nominative (art. 50 LGSC).

158. SASs, which are a type of corporation recently created under the LGSM, are governed by the same rules as SAs in many aspects, including the requirement that its shares cannot be represented by bearer instruments (art. 273 LGSM).

A.1.3. Partnerships

Types of partnerships

159. The 2014 Report found that the legal and regulatory framework in Mexico ensures that identity information regarding partnerships is required to be available. The relevant legal provisions were considered to have been properly implemented. The types of partnerships existent under Mexico's law are:

- **Ordinary partnerships** (SoC, *Sociedad Civil*): An SoC is incorporated pursuant to an agreement whereby the partners agree to mutually combine resources and efforts to attain a common goal, mainly economic, but without commercial speculation purposes. In general, this type of entity is incorporated by a group of professionals (e.g. attorneys, accountants). Managing partners are jointly and personally liable for the obligations and debts of the partnership. Other members are liable up to the amount of their contribution, unless otherwise agreed. As of 30 June 2021, there were 978 SoCs.
- **General partnerships** (SNC, *Sociedad en Nombre Colectivo*): An SNC exists under a corporate name and in which all the partners are jointly and severally liable for the entity's obligations. The partners may agree amongst themselves that the liability of one or more of them will be limited to a certain portion or fee. As of 30 June 2021, there were 2 175 SNCs.
- **Limited partnerships** (SCS, *Sociedad en Comandita Simple*): An SCS exists under a business name with one or more general partners who are jointly and severally liable for the entity's obligations and one or more limited partners who are only liable up to the

value of their agreed contribution. As of 30 June 2021, there were 665 SCSs.

- **Non-incorporated Joint Ventures** (AP, *Asociación en Participación*): APs are contractual agreements whereby a person grants others, who contribute assets or services, participation in the profits and losses of a commercial enterprise or operations. The agreement must be in writing but is not subject to registration. Under commercial law, activities are carried out in the name of the active partner who is personally liable for the debts of the joint venture, whereas the contributing partners are liable only to the extent of their contributions. APs have neither legal status nor a corporate or business name. However, an AP is treated as an entity for tax purposes and taxed separately from its partners. As of 30 June 2021, there were 2 943 APs.

160. None of the above entities are transparent for tax purposes and they are generally taxed in the same way as companies. All the above-mentioned partnerships are considered legal persons (*personas morales*)[22] for tax purposes under article 7 of the Income Tax Law (LISR, *Ley del Impuesto sobre la Renta*) and are covered by most of the provisions described under the said law. SCSs and SNCs acquire legal personality upon registration in the RPC (art. 2 LGSM) but they are analysed under partnerships in this report as they share many characteristics of partnerships as described in common law. This also ensures consistency with previous reports.

Identity information

161. SNCs (general partnerships) and SCSs (limited partnerships) are considered by the LGSM as commercial companies (art. 1). They are therefore covered by the registration requirements in the RPC described under paragraphs 52 to 55, and should report any ownership changes in the PSM.

162. SoCs (ordinary partnerships) are required to register their societies' contract in the Civil Societies Registry (RSC, *Registro de Sociedades Civiles)* (art. 2694 CCF). The contract must contain the names of the partners (art. 2693(I) CCF). Ordinary partnerships are based on the personality of the parties. Therefore, a change of members is considered a modification of the partnership agreement which also has to be registered in the RSC.

22. Legal persons (*personas morales*) are defined under article 7 of the Income Tax Law (LISR) as all commercial companies, decentralised bodies that carry out predominantly business activities, credit institutions, civil associations, civil companies and non-incorporated joint ventures carrying out business activities.

163. Since APs are not legal entities but contractual agreements, they are not subject to registration for commercial purposes (i.e. registration in the RPC). However, up-to-date identity information on the partners to an AP is available due to tax law obligations noted below.

164. SNCs, SCSs, SoCs and APs are required under tax law to register in the RFC as taxpayers (art. 27 CFF) and to file a notice of the names of the partners and their respective RFC codes every time there is a modification in respect of them (art. 27(VI) CFF).

165. All SNCs, SCSs, SoCs and APs are also required to keep with themselves information of their partners in the book of partners, as well as a register of partners that have attended general partners' meetings (art. 27(B)(V) CFF). Further, they are required to maintain, for the whole of their existence, the partnership agreements, the minutes of meetings evidencing the increase or decrease of capital and certificates issued regarding distribution of profits or dividends (art. 30(3) CFF).

166. SNCs and SCSs are governed under the same rules as companies in terms of dissolution and liquidation mentioned in paragraph 62 (arts. 235, 242 and 245 LGSM). Upon dissolution and liquidation, a liquidator must be appointed, who has to present a liquidation balance for the approval of the partners, that subsequently needs to be registered with the RPC and published in the PSM. The liquidator also needs to obtain from the RPC the cancellation of the contract once liquidation has been concluded and is required to keep the documents related to the partnership for ten years starting from the date of conclusion of the dissolution. APs are liquidated in the same manner as SNCs (art. 259 LGSM). Regarding SoCs, liquidation must be undertaken by all partners unless they previously convened to appoint a liquidator, in which case they have the same obligations for record retention as liquidators (art. 2727 CCF).

Foreign partnerships

167. Foreign partnerships, considered legal persons under the CFF, are considered tax residents in Mexico when they are being centrally managed and controlled in Mexico (art. 7 LISR and art. 9(II) CFF), i.e. if the person(s) taking control, management, operation and administration decisions of the entity or of the business it operates are in a place located in Mexico (art. 6 RCFF). In such case, they need to comply with the same requirements for tax purposes as Mexican-incorporated partnerships described in the preceding paragraphs: registration with the RFC and filling of notices with the names of the partners and their respective RFC codes (art. 27 CFF), keeping information of their partners in the book of partners and a register of partners that have attended general partners' meetings (art. 27(B)(V)

CFF), as well as minutes of meetings evidencing the increase or decrease of capital (art. 30(3) CFF).

168. Foreign partnerships with a branch in Mexico or that habitually carry out commercial activity in Mexico have to comply with the same registration requirements as foreign companies in the RNIE (art. 32(II) LIE). The information required to be registered includes the business name of the partnership, name of its legal representative and name of the foreign partners (art. 33 LIE).

169. The form 43/CFF establishes requirements for foreign partnerships registration to the RFC, such as translated copies of the articles of incorporation into Spanish and TIN number in the jurisdiction of constitution.

Beneficial ownership

170. Not all partnerships have an obligation to engage an AML-obliged person on a continuous basis. SCSs and SNCs have the obligation, under company law (LGSM), to constitute before an authenticating officer (art. 2 LGSM). However, there is no such obligation for the other two types of partnerships (i.e. SoCs and APs). Therefore, the AML framework does not provide for the availability of beneficial ownership information for all partnerships.

171. As mentioned above, all partnerships are considered legal persons under the LISR and are therefore covered by the recently introduced requirements to identify beneficial owners (controlling beneficiaries) according to articles 32-B Ter and 32-B Quáter of the CFF. Under item I of the definition, a broad range of controlling beneficiaries are required to be identified, as all natural persons deriving any benefit from the partnership or exercising the right of use, enjoyment, benefit, advantage or disposition from it are required to be identified. Partnerships are considered legal persons and are therefore required to apply the definition of controlling beneficiary as it is applied to companies (see paragraphs 95 to 99). As noted under the discussion on section A.1.1, the definition needs to be clarified further in the context of partnerships as well to ensure that all beneficial owners are correctly identified. **Mexico is recommended to further explain the definition of beneficial owners so that information on beneficial owner(s) of all relevant partnerships is available in all cases in line with the standard**.

172. Similar to the case of companies (paragraph 106), when a partnership is identifying its beneficial owners, it should establish mechanisms to ensure it has access to information from its partners, including beneficial ownership information. It is not clear what such mechanisms are in practice. Furthermore, as for the case of companies (paragraph 107), contracting partners or members of legal arrangements are required to keep up to date

the information on controlling beneficiaries. Any modification thereof must be updated within 15 days of the modification taking place. In the case of a partner of a partnership, it will not always be aware immediately when there have been changes in its beneficial owners and therefore the information required to be kept and provided to the SAT upon request might not be updated, as there is no requirement to periodically ensure that the information collected is still up to date. **Mexico is recommended 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**.

173. The implementation in practice of the new tax law requirements and interaction with the existent AML framework has been analysed under paragraphs 143 to 147. As explained, it is unclear how Mexico will ensure that the obliged persons understand the new beneficial ownership requirements under tax law and that they clearly distinguish both obligations in practice to be able to respond to requests from the Competent Authority. This concerns mainly persons carrying out VAs (e.g. notaries, lawyers), which are subject to requirements under both laws and that have not been provided with any guidance for the application of both requirements in practice. As most of the obliged persons under tax law are also AML-obliged persons that have been complying with the AML obligations for some years now, it must be ensured that the new requirements under tax law are also well understood and complied with in practice. **Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice**.

Oversight and enforcement

174. As in the case companies, identity information and registration requirements of partnerships with the RPC and RSC are not supervised by a particular authority and there are no penalties applicable for non-compliance with these obligations. However, in the case of SNCs and SCSs, general partners are responsible for the management of the partnership and are severally and jointly liable for damage caused by any non-compliance with the requirements above (art. 2(5) LGSM). Failure to comply with this obligation will result in SNCs and SCSs becoming irregular companies, which has implications for the operation in practice (see paragraphs 67 to 70).

175. Compliance with the identification of beneficial ownership requirements under tax law is supervised by the SAT (art. 42 CFF), which has the power to carry out on-site visits to the members or partners of a partnership to verify compliance with the requirements under article 32-B Ter of the CFF.

The same penalties described under paragraph 111 are applicable in case non-compliance is identified.

176. Further, the same concerns about the applicability in practice of the penalties arise, in particular in the case where controlling beneficiaries have not been identified. Furthermore, as explained under paragraph 113, as the tax law requirements have been introduced relatively recently, the enforcement and oversight framework has not yet been tested in practice. **Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice**.

177. The same sanctions mentioned under section A.1.1 for AML purposes are applicable for failure to obtain legal and beneficial ownership information with respect to partnerships. These are defined under articles 52 and 53 of the AML Law (see paragraphs 138 to 141).

Availability of partnership information in EOI practice

178. During the review period, Mexico received and answered eight requests related to partnerships two of which were related to beneficial ownership information and six to legal ownership information.

A.1.4. Trusts

179. Mexico does not recognise the concept of common law trusts, as explained in the 2014 Report (paragraphs 114-116). However, Mexico recognises an institution similar to common law trusts called *fideicomiso.*[23] *Fideicomisos* are regulated by the General Law on Credit Instruments and Transactions (LGTOC, *Ley General de Títulos y Operaciones de Crédito*).

180. *Fideicomisos* are a legal concept created through an agreement and are not entitled to carry out business on their own behalf. In general, a *fideicomiso* (trust) is a transaction whereby the *fideicomitente* (settlor) conveys to a *fiduciaria* (trustee) the ownership and title of one or more assets or rights to be used for lawful and specific purposes, and the *fiduciaria* is entrusted with carrying out such purposes (art. 381 LGTOC). *Fideicomisarios* (beneficiaries) may be appointed to receive the benefits of the *fideicomiso* and they can be appointed prior to or after the establishment of the *fideicomiso* (art. 382 LGTOC).

23. As in the 2014 Report, this report will use the Spanish terms for trusts and involved persons when referring to Mexican *fideicomisos* and English terms when referring to foreign trusts, in order to distinguish them.

181. Article 395 of the LGTOC states that only certain entities can act as *fiduciarias*: (i) credit institutions; (ii) insurance companies; (iii) bond institutions; (iv) brokers; (v) multiple-purpose financial companies; (vi) general deposit warehouses; (vii) credit unions and (viii) investment funds that comply with certain requisites under the Investments Funds Law. All of them are AML-obliged persons.

182. The Mexican law provides for different types of *fideicomisos* to be created:

- Guaranty *fideicomiso:*[24] in these *fideicomisos*, a *fideicomitente* conveys ownership and title of movable property, real estate property or rights to the *fideicomiso* to provide a guaranty with respect to the obligations, which may be enforced by third parties. The number of guaranty *fideicomisos* is not known.
- Governmental *fideicomiso:*[25] these are settled by the government with the purpose of supporting the executive's functions. The *fideicomitente* is the SHCP. There were 159 governmental *fideicomisos* on 30 June 2021.
- Assistance *fideicomiso:*[26] these are *fideicomisos* authorised to receive tax-deductible donations. There were 115 assistance *fideicomisos* identified by 30 June 2021.
- Financial sector *fideicomiso:*[27] *fideicomisos* that issue stock certificates placed among the general investor public and *fideicomisos* in which they participate as *fideicomisarios*, shareholders or partners. The SAT has identified 348 financial sector *fideicomisos* as of 30 June 2021.

Information filed with the tax authorities

183. In Mexico, *fideicomisos* must be constituted in front of a public notary. Banks are also often involved in the constitution of *fideicomisos*, as they can act as *fiduciarias*.

184. Mexican tax law requires a *fiduciaria* to register the *fideicomiso* with the RFC, whether they are involved in business activities or not (art. 27 CFF, art. 22 RCFF and rules 2.4.11 and 2.4.12 of the Tax Miscellaneous

24. *Fideicomiso de garantía*, arts. 395 to 407 LGTOC.
25. *Fideicomiso gubernamental*, arts. 3, 38(XXVIII) and 47 of the Organic Law of the Federal Public Administration (*Ley Orgánica de la Administración Pública Federal*).
26. *Fideicomiso de asistencia*, art. 82(IV), LISR.
27. *Fideicomiso en el sector financiero*, art. 28(B)(I) of the Internal Regulations of the SAT.

Regulations 2022). Registration has to be made in accordance with form 43/CFF.[28] The contract generating the *fideicomiso* needs to be registered with the RFC.

185. If a *fideicomiso* generates any kind of income during a given year, the *fiduciaria* is required to file a tax information return with the SAT including the following information: name, domicile, country of residence for tax purposes and RFC codes of the *fideicomitentes* and *fideicomisarios* (art. 32-B(VIII) CFF). There is no obligation to file such tax information return for some types of *fideicomisos*, such as governmental *fideicomisos*, assistance *fideicomisos*, *fideicomisos* that issue stock certificates placed among the general investor public and some other particular types of *fideicomisos* (see paragraph 117 of the 2014 Report for more details).

186. The *fiduciaria* has to comply with obligations under Mexican tax law, including, for business *fideicomisos*, calculating the fiscal result in a given year and making tax payments deriving from such result (art. 13 LISR). The *fideicomiso* is not a taxable entity and the *fideicomisarios* can accumulate to their income the income generated through activities undertaken by the *fideicomiso* and can credit any payments made by the *fiduciaria*. Non-residents being *fideicomisarios* of a *fideicomiso* engaged in business activities, will be deemed to have a permanent establishment in Mexico and therefore, they must comply with all tax obligations applicable to residents (art. 13 LISR). All documentation related to the tax obligations of a *fideicomiso* are required to be kept by the *fiduciaria* in its fiscal domicile, which is located in Mexico.

Beneficial ownership information

187. The recent amendments to the CFF, by the introduction of article 32-B Quáter, introduced the following definition of controlling beneficiary for *fideicomisos*:

> controlling beneficiary will be understood as the natural person or group of natural persons that:
>
> …
>
> In the case of a *fideicomiso*, it will be considered controlling beneficiaries the *fideicomitente* or *fideicomitentes*, the *fiduciario*, the *fideicomisario* or *fideicomisarios*, as well as any other person involved and that exercises, ultimately, effective control over the contract, even contingently. The Tax Administration Service may issue general rules for the application of this article.

28. Form of *Solicitud de inscripción en el RFC de personas morales en la ADSC*, available in Annex 1-A of the Tax Miscellaneous Regulations 2019.

188. This definition is in accordance with the standard for the identification of beneficial owners of trusts. The SAT has not yet issued any specific rules pertaining to the identification of controlling beneficiaries of *fideicomisos*.

189. Beneficial ownership information of *fideicomisos* will be kept by the *fiduciaria*, *fideicomitentes* or *fideicomisarios* (art. 32-B Ter CFF). This information must be made available to the SAT upon request. As beneficial ownership information is required to be kept as part of accounting records, it is therefore required to be kept for a period of five years (art. 30 CFF).

190. When *fideicomiso*-related parties are identifying the beneficial owners of a *fideicomiso*, they should establish mechanisms to ensure that they have access to information from the *fiduciaria*, *fideicomitente* or *fideicomisario*, including beneficial ownership information, although it is not defined what these mechanisms are in practice. The *fideicomisos*-related parties are required to keep up to date the information of controlling beneficiaries of the *fideicomiso*. Any modification thereof should be updated within 15 working days of the modification (art. 32-B Quinquies CFF). Although beneficial ownership information is required to be kept up to date, there is no specified frequency in the legal and regulatory framework by which the information must be updated (especially in case the person in charge is not aware that a change has occurred). **Mexico is recommended to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements in line with the standard**.

191. The implementation in practice of the new tax law requirements and interaction with the existent AML framework has been analysed under paragraphs 143 to 147. As explained, it is unclear how Mexico will ensure that the obliged persons understand the new beneficial ownership requirements under tax law and that they clearly distinguish both obligations in practice to be able to respond to request from the Competent Authority. This includes *fideicomisos*-related parties and third parties that should identify beneficial owners on them (e.g. notaries). As most of the obliged persons under tax law are also AML-obliged persons that have been complying with the AML obligations for some years now, it must be ensured that the new requirements under tax law are also well understood and complied with in practice. **Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice**.

Information filed with public registries

192. Where the asset of a *fideicomiso* is real estate, it should be registered in the Public Registry of Property and Commerce[29] (RPPC, *Registro Público de la Propiedad y el Comercio*) where the assets are located (art. 388 LGTOC). No information on the identity of the *fideicomisario(s)* or *fideicomitente(s)* needs to be registered, only information on the *fiduciaria* and the purpose of the *fideicomiso*.

193. Registration in the RNIE is mandatory for *fideicomisos* where there is participation of foreign investments or of Mexican nationals who possess another nationality and reside abroad (art. 32(III) LIE). The obligation lies with the *fiduciaria*. The information to be registered includes the name, business name, domicile and nationality of the foreign investment or the foreign investors that are *fideicomitentes* or *fideicomisarios* (art. 33(II) LIE). Further, article 41 of the LIE Regulations require *fiduciarias* to keep up to date the information registered with the RNIE, including the information of the foreign investment invested in Mexico through the *fideicomiso* and general information about the *fideicomiso*. However, this information is only required to be updated in case of changes in: (i) the *fideicomiso*, (ii) the subject matter of the *fideicomiso* or (iii) the *fideicomisarios,* when it implies a change in the consideration for an amount greater than MXN 20 million (around EUR 844 000).

194. When a *fideicomiso* ceases to exist, the *fiduciaria* is required to keep all the documents related to the tax obligations engaged by the *fideicomiso* for a period of five years.

AML requirements on fideicomisos

195. The DCGIC has an explicit requirement for credit institutions to identify the company name of the *fiduciaria*, the *fideicomitentes* and *fideicomisarios* when the client of the credit institutions is a *fideicomiso* (Numeral 4(IX)):

> In the case of *Fideicomisos*:
>
> […] Identification data, in terms of this Provision, as appropriate, of the *fideicomitentes*, *fideicomisario*, *fiduciarios* and, where appropriate, of the members of the technical committee or equivalent governing body, legal representative(s) and attorney(ies).

29. The RPPC consists of two separate registers: the Public Registry of Commerce (RPC) and the Public Registry of Property (RPP). The RPC is administrated by the SE in co-ordination with the authorities in charge of the RPP in each state, so that the commercial registration service continues to be operated by the RPP, but according to the guidelines and supervision of the SE. The RPC is a federal registry and the RPP is a state registry.

196. Discussions during on-site visit with representatives of the Association of Banks confirmed the application of this requirement in practice. On the other hand, persons carrying out VAs are required to identify beneficial owners of their clients according to the definition of controlling beneficiary described in paragraph 128. This definition does not explicitly require the identification of the *fiduciaria*, the *fideicomitentes* and *fideicomisarios* of a *fideicomiso*. The definition requires to identify the persons that derive benefits from a *fideicomiso* or that exercise control over it. This would not ensure the identification of beneficial owners of *fideicomisos* in accordance with the standard. While the AML-obligations were the source of beneficial ownership information on *fideicomisos* during the review period, going forward the tax law would be the primary source of beneficial ownership information of *fideicomisos*.

Foreign trusts

197. Mexico does not recognise the concept of a common law trust and has not signed The Hague Convention on the Law Applicable to Trusts and on their Recognition. However, Mexican law does not prohibit a resident from acting as a trustee or trust administrator for a trust formed under foreign law. There are no requirements regarding form or registration pertaining to Mexican trustees acting on behalf of foreign trusts nor are there requirements to involve notaries in such activities.

198. There is no direct requirement in Mexican tax law that a trustee of a foreign trust has to provide information regarding trust assets or income from such assets in the tax return. Tax obligations would arise under Mexican tax law which requires all Mexican residents (individuals and legal entities) to pay income tax on all their income, regardless of the location of the source of wealth of such income (art. 1(I) LISR). As the trustee will be a taxpayer in Mexico, it will have to comply with obligations under tax law, including the identification of the beneficial owner(s) of the trust. There is no distinction between income derived from the own assets of the trustee and those derived from the foreign trust, unless the trustee proves that the assets are held, and the income received, on behalf of the foreign trust. In order to prove the latter, the trustee would have to provide contracts (trust deed), bank accounts and accounting records and therefore the identity of the settlor(s) and beneficiary(ies) would have to be provided. In practice, the Mexican authorities stated that such a situation would be rare in practice and representatives from the private sector mentioned having never encountered a trustee of a foreign trust. Mexico has never received a request where a Mexican resident acts as a trustee of a foreign trust. Even though the situation where a trust formed under foreign law seems to be rare in practice,

Mexico should monitor the situation of non-professional trustees of foreign trusts to ensure the availability of identity information (see Annex 1).

Fideicomisos of real estate located within the Restricted Zone

199. Mexico defines the Restricted Zone[30] as a strip of 100 kilometres along the borders and 50 kilometres along the coastline. In this area, foreigners or foreign companies cannot acquire direct ownership of land and water. They can only have the use and exploitation of such land and water through a *fideicomiso.* An authorisation must be obtained from the Secretary of Foreign Affairs through the General Legal Affairs Office (DGAJ, *Dirección General de Asuntos Jurídicos*) before the constitution of the *fideicomiso* and such authorisation will be granted to a Mexican bank, which will act as the trustee (*fiduciaria*). The property is then transferred to the bank.

200. When requesting authorisation from the DGAJ, the bank must provide information on the name and nationality of the settlor (with a document proving nationality), name of the bank that will act as trustee, name and nationality of other trustees (if any), as well as the duration of the *fideicomiso*, which can last a maximum of 50 years, although it can be extended (art. 13 LIE and art. 12 LIE Regulations). If this information is not provided, the transaction and ownership are considered void. Further, the bank acting as *fiduciaria* needs to formalise the *fideicomiso* before a public notary. As the asset of the *fideicomiso* is real estate, it needs to be registered in the RPPC (see paragraph 192 above).

Oversight and enforcement

201. As described in paragraph 81, the CFF provides for sanctions applicable for failure to comply with the registration requirement in the RFC. These sanctions are also applicable for failure to register *fideicomisos* in the RFC (art. 79 and 80 CFF). In addition, the same sanctions applicable for failure to register in the RNIE described in paragraph 74 are applicable for failure to register *fideicomisos* as required by law (art. 38(IV) LIE).

202. Article 42(XII and XIII) CFF establishes that the SAT is entitled to carry out on-site audits to *fiduciarias*, *fideicomitentes* or *fideicomisarios* to verify compliance with article 32-B Ter. The SAT also has powers to verify such compliance by requesting *fiduciarias*, *fideicomitentes* or *fideicomisarios* to present any requested document in the SAT's offices or through the tax

30. *Zona Restringida*, art. 27 of the Political Constitution of the United Mexican States.

mailbox.[31] On-site audits are carried out in accordance with the procedures set out in article 48-A of the CFF.

203. The same penalties applicable to companies described under paragraph 111 are applicable in case non-compliance is identified. Given that the amendments to the CFF have only entered into force very recently, they have not yet been applied in practice. **Mexico is recommended to effectively supervise and enforce the obligations recently introduced in its tax law related to the identification of beneficial owners to ensure that the obligations are well understood, correctly applied and complied with in practice**.

Availability of trust information in EOIR practice

204. During the review period, Mexico received four requests related to *fideicomisos*, all of which were related to beneficial ownership. The Mexican Competent Authority indicated that it was able to respond to such requests, and no issues were raised by peers in this regard.

A.1.5. Foundations and other relevant entities and arrangements

205. Mexican legislation does not recognise foundations equivalent to those that can be found in some European civil law countries. There are no other legal entities or arrangements relevant for EOI. The 2014 Report described Civil Associations (*Asociaciones Civiles*) and Private Assistance Institutions (*Instituciones de Asistencia Privada*) and their functioning. These entities are not relevant for EOIR and Mexico has not received any requests related to them.

A.2. Accounting records

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

206. The 2014 Report found the legal and regulatory framework of Mexico to be in place. Obligations to keep reliable accounting records in respect of all relevant legal entities and arrangements continue to be in place.

207. The oversight of relevant entities and arrangements is satisfied mainly through tax compliance measures and the activities undertaken in the

31. *Buzón tributario* is a direct communication channel between the taxpayer and the SAT that works through a personalised and confidential inbox within the SAT's webpage.

review period seem to have been adequate. However, there is a significant number of companies in Mexico that are commercially inactive. While the tax authorities do monitor entities for commercial activity by way of monitoring issuance of digital invoices in Mexico, inactive companies continue to retain their legal personality and can potentially be commercially active or hold assets overseas. There is no specific supervision or programme of removal of inactive companies from the commercial registry. Accounting information on such inactive companies may not always be available and Mexico has been recommended to address this deficiency.

208. During the peer review period, Mexico received 63 requests for accounting information and did not report any issues in obtaining such information in practice. A few peers highlighted delays on requests for accounting information. The Mexican authorities noted that such delays were mainly due to the complexity of the requests and particular circumstances, which would not be related to accounting information not being available. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
Between 2018 and 2021, around 56% of the entities with tax filing obligations did not file a tax return, which is a number much higher than the number of companies that have been suspended so far in the tax database. Further, there is no programme of systematically removing inactive companies from the Public Registry of Commerce so that such companies lose their legal personality and are not able to carry on commercial activities abroad or hold assets in or outside of Mexico. Non-compliance with the tax filing requirements implies that accounting records and underlying documentation for these companies have not been filed with the SAT. There is no certainty that the information is readily available in line with the standard for a potentially high number of companies commercially inactive/non-compliant in Mexico. However, in practice, Mexico did not receive requests related to inactive companies during the review period and hence, did not face such issues.	Mexico is recommended to take actions to ensure that accounting information on all companies, including inactive companies, is always available in line with the standard.

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

209. The standard is met by a combination of company and tax law requirements. The various legal regimes and their implementation in practice are analysed below.

Company Law

210. The primary source of accounting obligations in Mexico was the Commercial Code (CCo) and the 2014 Report detailed its most relevant provisions. These obligations have not changed since then and therefore a summary of them will be outlined in this report. The obligations apply to all Mexican companies, the majority of the partnerships except for APs (which are covered by tax law, see paragraphs 214 to 217), businesses run by a *fideicomiso* and entities and branches of foreign commercial enterprises (art. 3 CCo). They are required to keep an accounting system which allows for the identification of individual transactions, their characteristics and their connection with the underlying documentation, for the preparation of financial statements and for the connection of the financial statements' results with account accumulations and individual transactions (art. 16 and 33 CCo).

211. In addition, companies constituted under the laws of a foreign jurisdiction that habitually carry out acts of commerce in Mexico must publish annually, in the electronic system established by the SE, a balance sheet approved by a certified public accountant (art. 251 LGSM).

212. All commercial entities must keep accounting records and all related underlying documentation for a minimum of 10 years from the year to which they pertain (art. 38 and 46 CCo).[32]

213. Upon dissolution and liquidation of a commercial company, a liquidator must be appointed. The liquidator is required to keep the documents related to the company for ten years starting from the date of conclusion of the dissolution (art. 245 LGSM). Accounting records and underlying documentation are therefore required to be kept even after the dissolution and liquidation of commercial companies. SNCs, SCSs and APs are also covered by this requirement (arts. 242, 245 and 259 LGSM). Regarding SoCs, liquidation must be undertaken by all partners, unless they appointed a liquidator (art. 2727 CCF), and they are subject to the same obligations as the liquidator. In case a liquidator is appointed, it will be jointly liable for the obligation of the SoC in liquidation (art. 26(III) CFF). Requirements to keep accounting records for SoCs are introduced in tax law. Foreign partnerships

32. According to the CCo, all entities constituted under the LGSM are considered commercial entities (art. 3(II) CCo). This therefore covers all SAs, SdRLs, SCs, SCAs, SASs, SNCs and SCSs.

are considered tax residents in Mexico and are therefore required to comply with the same requirements as Mexican-incorporated partnerships.

Tax Law

214. Article 76 of the LISR requires legal persons (which, under the LISR would include partnerships) to keep accounting records in accordance with the CFF and its regulations. All legal entities are required to keep accounting records, which should include accounting books, systems and records, working papers, account statements, as well as the supporting documentation of the respective entries and all the documentation and information related to compliance with the tax provisions (art. 28 CFF). Accounting records and supporting documentation must be maintained at the Mexican tax domicile of the taxpayer. Article 33 of the RCFF further establishes that the accounting system must:

- identify the individual transactions and the characteristics thereof, as well as connect such individual transactions with supporting documents
- keep track from the individual transactions to the accumulations resulting from the final figures of the accounts and vice versa
- provide sufficient information for the preparation of the financial statements
- connect and keep track of the figures included in such statements, any accumulations and the individual transactions
- include internal control and verification systems necessary to prevent the omission of transaction registration, to ensure the correction of accounting records and ensure the correction of resulting figures.

215. Under tax law, accounting records and underlying documentation are required to be kept for a period of five years from the end of the period on which they were presented or should have been presented (art. 30 CFF). When there is no income generated in a particular year, there is an obligation to present a nil declaration.

216. As explained in paragraphs 80 and 167, foreign companies and partnerships, considered legal persons under the CFF, are considered tax residents in Mexico when they are being centrally managed and controlled in Mexico (art. 7 LISR and art. 9(II) CFF). In such case, they need to comply with the same requirements for tax purposes as Mexican-incorporated entities, including keeping accounting records in accordance with the CFF (art. 30 CFF).

217. As explained under paragraphs 68 to 69, irregular companies are those that are constituted in front of a notary but fail to register in the RPC. Irregular companies keep their legal personality and as such, they are able to carry out activities as legal persons under Mexican law, although it might be difficult to undertake such activities in practice in Mexico, as further information will be requested such as the RFC code or the act of constitution in front of the RPC. As commercial companies, irregular companies still need to comply with the requirements of keeping accounting records under the commercial law, as well as under the Tax Code. Although Mexico has never received a request related to irregular companies, Mexico should monitor the risk that irregular companies may pose to the availability of information in relation to them in practice (see Annex 1).

Trusts

218. The 2014 Report describes the obligations under Mexican law for *fideicomisos* to keep accounting records and underlying documentation. *Fiduciarias* must keep separate accounting information for each *fideicomiso* and register in their own accounting records any assets entrusted to them, as well as any increase or decrease of assets (art. 386 LGTOC and art. 79 LIC). Regulations from Banxico and the CNBV require *fiduciarias* to maintain evidence of the transactions executed, as well as the original books, records and documentation regarding their *fideicomisos*' operations related to accounting.

219. For *fideicomisos* that generate income, the *fiduciaria* must present to the SAT information relative to the profits or losses generated by the *fideicomiso* for those *fideicomisos* that engage in commercial activities (art. 32-B(VIII) CFF). Further, *fideicomisos* that generate income are required to keep accounting records under tax law at the tax domicile of the *fiduciaria* in the same manner and subject to the same sanctions as described previously for commercial enterprises (arts. 27, 28 and 30 CFF). The definition of accounting records is very wide as it includes accounts and records required by tax provisions, other records kept by taxpayers and records required by other laws (art. 28 CFF).

220. As noted in paragraph 198, the Mexican authorities explained that when a foreign trust has a Mexican trustee, tax obligations would arise under Mexican tax law as the trustee will be a taxpayer in Mexico. Accordingly, obligations to keep accounting records under Mexican tax law (art. 28 CFF) should also be complied with.

Oversight and enforcement of requirements to maintain accounting records

221. Compliance with accounting provisions, for commercial purposes, is supervised by various authorities (including tax authorities), depending on the power or competence of the agency reviewing the company, partnership or *fideicomiso* in question (i.e. whether it is an issue related to foreign investment, economic competition, telecommunications, consumer protection, investor or saver protection, among others).

222. Tax authorities review compliance with tax obligations in general, including the obligation to keep accounting and underlying documentation. The SAT performs on-site and desk-based audits (reviews at the SAT's offices or electronic reviews) to verify compliance (arts. 42, 45, 48, 50 and 53-B CFF).

223. The CFF provides for penalties ranging from MXN 260 to MXN 16 870 (around EUR 13 and EUR 835) depending on the types of non-compliance for failure to keep accounting records and underlying documentation. The higher amounts of such penalties are applied for not keeping accounting records and the lower amounts are applied for not keeping a special book or record required, keeping accounting records in a format different from that required, making incomplete or inaccurate entries and failure to keep accounting records at the disposal of the authorities for the period of time required (articles 83 and 84). Additionally, a sanction of three months to three years in prison will be imposed on persons who totally or partially conceal, alter or destroy the accounting records and systems, as well as the documentation corresponding to the respective entries, that the tax laws require them to maintain (art. 111(III) CFF).

224. The SAT keeps a database with comprehensive taxpayer information and actively monitors the commercial activity of legal persons through its electronic invoices system (Digital Tax Receipt Online, see paragraphs 85 and 86). Between 2018 and 2021, the SAT received on average 950 000 tax declarations from legal persons each year, which represents around 44% of the legal persons that are registered as taxpayers with the SAT. Mexican authorities have explained that only about half the registered taxpayers are commercially active. The number of taxpayers that issued invoices through the electronic invoice system each year was, on average, 1 100 000 legal persons. When comparing these two numbers, the compliance rate of return filing was 87%. The table below provides further details on these numbers per year:

Fiscal year	Number of taxpayers that filed an annual tax return	Number of taxpayers legal persons	% of compliance (against the total number of taxpayers legal persons)	Number of taxpayers legal persons issuing invoices	% of compliance (against the total number of taxpayers legal persons issuing invoices)
2018	996 034	2 052 832	48.5%	1 070 804	93.0%
2019	942 970	2 143 999	43.9%	1 094 955	86.1%
2020	941 315	2 208 934	42.6%	1 087 975	86.5%
2021	915 313	2 296 405	39.9%	1 117 031	81.9%
Average	948 908	2 175 543	43.7%	1 092 691	86.9%

225. Non-compliance with the tax filing requirements of commercially active entities is monitored through dedicated programmes by the SAT. Such programmes consist of preventive and remedial actions, including: (i) sending of reminders prior to the filing deadline via emails, (ii) inviting taxpayers that have failed to file tax returns within the deadline to comply with their obligations via email, tax mailbox, text messages or phone messages and/or (iii) the imposition of penalties.

226. The review of accounting records and underlying documentation is usually done in the course of a tax audit. Between 2018 and 2021, the SAT carried out, on average, 100 000 in-depth reviews on legal persons per year, which covered around 96 000 taxpayers on average. This represents nearly 4.5% of the legal persons registered as taxpayers with the SAT. The table below presents details of the reviews carried out by the SAT:

Number of legal persons supervised by the SAT (as a % of those that had obligations to file a tax declaration)	2018	2019	2020	2021
In-depth supervision	1.24%	0.9%	9.2%	6%

227. A total of 108 sanctions for failure to keep accounting records in accordance with the requirements were imposed between June 2018 and June 2021, for a total amount of MXN 4 349 590 (around EUR 215 326).

228. Overall, the activities undertaken by Mexico to verify compliance with the accounting records obligations have been adequate although they are focused on entities that are commercially active in Mexico. The electronic invoice system provides the SAT with an effective tool to monitor commercial activities in Mexico and this has been done systematically since this system was first implemented in 2004. The compliance rate among commercial active entities with the tax filing obligations is around 87% and the supervisory activities have focused on those non-complying with their obligations.

Inactive companies

229. As explained under paragraphs 85 to 87, Mexico monitors the inactivity of companies through its system of electronic invoices. When non-compliance with accounting record obligations is identified, the SAT takes corresponding action to enforce compliance and ensure the filing of accounting records. The SAT reviews this as part of its tax audits and any non-compliance identified results in sanctions being applied, including the suspension of the Digital Tax Receipt Online of the company and the company being classified as suspended under the SAT database.

230. Although suspended for tax purposes, these companies keep their legal personality and are therefore required to comply with the requirements related to accounting records under commercial law. The status of suspended under the SAT databases is also reflected under the RPC, as it is communicated to it.

231. The Mexican authorities stated that there were 41 183 suspended companies as of June 2021, which represents around 1.8% of entities registered with the SAT. Their status as suspended companies has been communicated to the RPC (see paragraph 87). The number of tax declarations filed during the review period is around 44%, which means that around 56% of entities (around 1 200 000) did not comply with their obligations of filing a tax return. As of now, the SAT has classified these non-filing entities as active, although this status has not been verified and the non-compliance of the entities suggests they might not be active in Mexico. The Mexican authorities explain that any commercial activity in Mexico would be easily identifiable through its system of electronic invoices. However, it cannot be ruled out that these entities can undertake commercial activities or hold assets outside of Mexico as they maintain their legal personality. The RPC does not have a separate system of periodically removing inactive entities from the register.

232. The rate of compliance with tax filing obligations suggests the number of inactive companies is higher than what is currently identified as "suspended", but they have not been identified yet as such. The Mexican authorities explain that, if a request for information is received on an entity that has not complied with its filing obligations, the Competent Authority would, in the first place, verify if the entity has issued invoices through its electronic system, and secondly, it would request the entity to present its accounting records. Although the entity might present its accounting records upon request, the information might not be readily available, as it might pertain to previous years and transactions and records might have not been kept. Underlying documentation might not be available either. There exists therefore a risk of accounting records not being readily available for a potential high number of companies that are commercially inactive in

Mexico, but that might undertake operations abroad. Although Mexico has not yet received requests related to inactive companies, **Mexico is recommended to take actions to ensure that accounting information on all companies, including inactive companies, is always available in line with the standard**.

Availability of accounting information in EOIR practice

233. During the review period, Mexico received 63 requests pertaining to accounting information, the majority of them related to legal entities and some of them to individuals. Mexico's EOI partners who reported having asked for accounting information have in general not reported any specific difficulties, although a few of them reported some delay in receiving a response. The Mexican Competent Authority indicated that in the cases where there has been delay, the information requested was voluminous and related to several fiscal years, and it took longer than expected to collect the information. Four requests are still being processed by the Mexican Competent Authority. In two of them the delays have been due to the requesting jurisdiction not providing responses to clarifications asked for some time. One of the cases was a request that was addressed to the Ministry of Foreign Affairs by the requesting jurisdiction, which delayed the response by the Mexican Competent Authority (see paragraph 405).

A.3. Banking information

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

234. The 2014 Report concluded that a combination of legal provisions in the AML, commercial and tax laws ensured the availability of banking information related to customers and their accounts, as well as related financial and transaction information. Supervision in respect of availability of banking information carried out by the CNBV was found to be effective. The legal and regulatory framework was considered as in place and Mexico was rated Compliant with Element A.3 of the standard.

235. The standard was strengthened in 2016 and now requires that beneficial ownership information in respect of account holders be available. In Mexico, during the review period, beneficial ownership information on bank accounts has been available under the AML law. As explained under section A.1, the definition of beneficial owner relevant for banks under the AML law is in line with the standard. Furthermore, the Mexican authorities have indicated that, henceforth, beneficial ownership information for EOI purposes will only be available under the new requirements in tax law, which also

apply to financial institutions regarding financial accounts. The definitions of beneficial owner under AML and tax law differ and banks do not have a clear understanding on how to interpret the definition of beneficial owners under tax law. As the requirements under tax law are relatively recent, there does not seem to be clarity among banks about their obligations under tax law.

236. Some other deficiencies have been identified in the availability of beneficial ownership on bank accounts. In terms of currency of the information, banks are required to update the customer due diligence procedures when they know there have been relevant changes to the characteristics of the clients or when they have reason to believe the initial identification documents provided are not exact. If these triggers do not occur, none of the legal and regulatory frameworks specify a minimum frequency for updating the information collected through due diligence procedures for all accounts, therefore it is not ensured that beneficial ownership information is up to date in all cases. Further, under the AML law, banks are not required to verify the beneficial ownership information provided by clients in all cases. Mexico is therefore recommended to rectify these deficiencies.

237. 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
Under the Anti-Money Laundering framework, banks are required to update the customer due diligence procedures when there have been relevant changes to the characteristics of the clients or when there is reason to believe the initial identification documents provided are not exact. In other cases, the frequency of update of customer due diligence and beneficial ownership information depends on the level of risk of the client. The Anti-Money Laundering Law only requires a minimum frequency of updating of the due diligence procedures for high-risk clients, which is once a year, but it is not the case for medium or low risk clients. Therefore, beneficial ownership information on certain accounts may not have been updated for a considerable period of time and such beneficial ownership information might not be accurate and up to date in all cases. Furthermore, the beneficial ownership requirements under tax law applicable to banks do not explicitly require that the information is kept up to date and therefore, there could be situations where the available beneficial ownership information is not up to date.	Mexico is recommended to ensure that accurate and up-to-date beneficial ownership information on all bank accounts is available in line with the standard.

Deficiencies identified/Underlying factor	Recommendations
The Mexican Anti-Money Laundering law applicable to banks allows for the application of simplified due diligence procedures while establishing relationships with clients considered to be of low risk. When banks open an account for a low-risk client, they ask the client to provide information on its beneficial owners only on some occasions. Banks are not required to verify the beneficial ownership information provided by the client in all cases, even after the establishment of the business relationship.	Mexico is recommended to ensure that beneficial owners of all bank accounts are required to be identified and verified in all circumstances.

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
Mexico has introduced new requirements in its tax law to ensure availability of beneficial ownership information. The Mexican Competent Authority will rely on the definition of beneficial owners under tax law while obtaining beneficial ownership information on accounts held with banks, although this definition needs to be clarified further. Banks already have obligations to maintain beneficial ownership information on accounts under the anti-money laundering framework but the definition of beneficial owners under the two laws are different and banks do not have a clear understanding on how to interpret the definition of beneficial owners as provided under the tax law. Further, as the requirements under tax law are relatively recent, there does not seem to be clarity among banks about their obligations under the tax law. In addition, the tax administration has new supervisory and enforcement powers to ensure compliance by banks with their tax obligations to maintain beneficial ownership information on their customers. Supervision in this regard is yet to commence.	Mexico is recommended to take necessary supervisory measures to ensure that banks understand and comply with their obligations under the tax law for the identification of beneficial owners such that beneficial ownership information on all bank accounts is always available in line with the standard.

A.3.1. Record-keeping requirements

Availability of banking information

238. Banks are governed by the DCGIC under the AML Law, under which they are required to keep information relevant to every transaction they have performed, including information on the identity of the clients with whom they have performed transactions and a historical record of the transactions carried out (Numeral 59 DCGIC). Banks must keep all the documents that are part of the identification files of the clients available for timely consultation by the SHCP or the CNBV, at the request of the CNBV

itself (Numeral 54 DCGIC). Non-compliance with this requirement will be subject to a sanction of between 5 000 to 50 000 days of salary, equivalent to around EUR 20 385 and EUR 203 855 (art. 115 LIC).

239. The information required to be obtained includes:

- name
- nationality
- Mexican RFC code or foreign TIN
- address and contact information
- full name of the legal representative, manager or director that, by signature, can open a bank account for the legal person.

240. Article 99 of the LIC requires banks to register every operation that affects their equity and liability in their accounting records on a daily basis. Accounting records of banks are required to be kept under the terms established by the CNBV (art. 99). All entities in the Mexican financial sector are required to keep accounting information (including transaction records) for a minimum of ten years (arts. 38 and 46 CCo). When banks cease to exist upon dissolution or liquidation, they must appoint a liquidator, as they are normally constituted as SAs (see paragraph 62). The liquidator for banks is the Institute for the Protection of Bank Savings (*Instituto para la Protección al Ahorro Bancario*) (art. 167 of the LIC), which will be required to comply with the obligations of liquidators as established under the LGSM and keep all documentation related to the bank for a period of ten years starting from the date of conclusion of the dissolution/liquidation.

Beneficial ownership information on bank accounts

241. The standard was strengthened in 2016 to specifically require that beneficial ownership information should be available in respect of all bank account holders.

242. In the case of Mexico, this aspect of the standard is covered under the AML framework. The AML law establishes the Mexican legal framework for AML whilst the DCGIC provides the detailed requirements for the identification of Real Owners by credit institutions, which comprise banks. Numeral 4 of the DCGIC establishes the obligation for banks to know the shareholder and corporate structure of their clients and to identify the identity of the beneficial owner(s) of all accounts. The information required to be obtained includes the name, country of birth, nationality, domicile (place of residence), RFC code if available (Numeral 4(I) and (III) DCGIC). As explained under paragraphs 120 to 125, the definition of beneficial owner (Real Owner) as defined under Numeral 2(XXXII) of the DCGIC is in line

with the standard. These requirements also cover clients that are foreign entities.

243. Credit institutions are required to set out, in a compliance manual, procedures to identify the Real Owners of clients (Numeral 32, DCGIC). Numeral 4 establishes that if the bank has doubts about the information declared by a client about its Real Owners, the bank needs to take reasonable measures to determine and identify the Real Owners of the client. The SHCP has issued guidance for the application of the definition of Real Owner, which includes guidelines for the verification of the information on Real Owners reported by the clients. Such guidelines include asking the client for additional information through questionnaires, requesting from the legal representative of the client the most recent acts of the general shareholders or partners meetings, requesting from the legal representative a certification regarding the shareholding or social capital of the client, or collecting information from public or independent sources. Although the guidelines are non-binding, the CNBV has observed, through supervisory activities, that it is usually applied in practice.

244. Mexico's AML framework requires credit institutions to determine the level of AML risk of their clients. To do so, they should develop a model for risk assessment, which should take into account information inherent to the client and to the transactions it undertakes, including its nationality and location, commercial business or activity, number and nature of the transactions and whether they involve the utilisation of money in cash. The risk assessment must be carried out at least every six months, to determine if the risk profile of the clients must be updated. Credit institutions should distinguish, at a minimum, clients with high and low level of risk, and as many intermediate categories as they consider necessary (Annex 3, DCGIC). Clients are considered of high risk at least when they do not reside in Mexico, when they perform private banking operations and when they are Politically Exposed Persons (Numeral 28, DCGIC).

245. If the client is considered to have a high level of risk, the credit institution is required to collect information on the structure of the legal person, on persons that exercise control over a legal arrangement and on *fideicomitentes* and *fideicomisarios*, in the case of *fideicomisos*. During the on-site visit, representatives from the Association of Banks confirmed that if the client is considered to be of high risk, the bank will ask for the legal structure of the company or legal arrangement and will verify the information provided on beneficial owners (Real Owners).

246. There are differences in the due diligence procedures depending on the risk profile of the client. Simplified due diligence is allowed when the risk is low (Numeral 4 DCGIC). Clients could be considered low risk when identified as such by the risk assessment carried out by the credit institutions or if

they are listed in Annex 1 of the DCGIC. Annex 1 lists financial institutions, brokers, investment funds, savings and loan co-operatives, public entities, among others. Simplified procedures do not require the identification and verification of beneficial owners. Representatives of the Association of Banks during the on-site visit confirmed that, in practice, they do not ask for the beneficial owners of low-risk clients. Occasionally, they ask for the beneficial owners, but they do not verify the information provided. **Mexico is recommended to ensure that beneficial owners of all bank accounts are required to be identified and verified in all circumstances**.

247. AML obliged persons are allowed to rely on third parties to perform due diligence measures where the operation is to grant loans or credits or when the account is a low-risk depository account. The relying AML persons remain responsible for any deficiency or failure with the AML obligations (Numeral 7 DCGIC). Representatives from the Association of Banks indicated that, when businesses are introduced by a third party, the banks will in any case perform the due diligence procedures themselves.[33]

248. Until 2021, the only obligations for financial institutions to identify beneficial owners were under the AML law. The new requirements to identify beneficial owners under the tax law also concern banks. Article 32-B Ter of the CFF explicitly requires them to obtain beneficial ownership information on all their accounts. As explained under paragraphs 143 to 147, the effective implementation and interaction of both frameworks in practice might pose challenges. Given that the definitions of beneficial owner(s) are not the same under the DCGIC and the CFF, financial institutions will need to identify different beneficial owners for the purpose of each law. Mexican authorities have emphasised that when requested by the Mexican Competent Authority for beneficial ownership information, banks must submit beneficial ownership information on their account holders based only on the Tax Code. However, interactions with representatives of the banking sector suggested that they were not clear about the application of the definition of beneficial owners for various types of entities and arrangements under the Tax Code.

249. A further layer of complexity is added by the Regulations of 27 December 2021 which explicitly establish that, to comply with the

33. The only exception relates to savings accounts for payrolls, for which banks may rely on the employer who opens the account on behalf of its employees to prepare and maintain the identification information of individual employees. Banks are required to ensure that the due diligence information of individual employees can be made available to them, and mechanisms should be established to allow the bank to verify that the information collected by the employer is in accordance with the requirements and to keep the employee's file when he/she is no longer working for the employer (Numeral 13 DCGIC).

requirements on beneficial owners introduced in the CFF, financial institutions must do so according to the rules in Annexes 25 and 25-Bis of the Tax Miscellaneous Regulations for 2020, which introduced the relevant obligations for automatic exchanges under FATCA and CRS respectively. This has been reiterated in the recently updated FAQs issued by the SAT. The obligations under FATCA and CRS for the identification of beneficial owners will not necessarily cover all bank account holders, as these obligations would depend on the activity of the entity that is the account holder.

250. There has been no guidance issued to explain the interaction of the tax law and AML law frameworks in practice. Representatives from the Association of Banks indicated that, so far, banks are prepared to comply with the requirements under the AML framework. However, the new requirements under tax law could be interpreted more widely for identifying beneficial owners and they were not clear about how the definition under the tax law needs to be applied in practice. Since the Mexican Competent Authority will rely on the tax law definition of beneficial owners while obtaining such information on bank account holders and the definition needs to be clarified further (as discussed under Element A.1), **Mexico is recommended to take necessary supervisory measures to ensure that banks understand and comply with their obligations under the tax law for the identification of beneficial owners such that beneficial ownership information on all bank accounts is always available in line with the standard** (see also paragraph 259).

251. Under AML law, banks are required to update the customer due diligence when there have been relevant changes related to the customer or when there is reason to believe the initial identification documents are not exact (Numeral 21 DCGIC). Further, the frequency of update of customer due diligence depends on the level of risk of the client. When the client is considered as a high-risk client, the information contained in its identification file must be updated at least once a year (Numeral 21 DCGIC). This must be established as part of the compliance manual of the bank. Officials from the CNBV indicated that there is no periodicity established to update the customer due diligence of clients considered medium and low risk, but that in practice, customer due diligence is updated every three to five years for medium risk clients, and every five years for low-risk clients. Representatives from the Associations of Banks confirmed that this is the case in practice. However, CNBV has not enforced this timeframe through supervisory sanctions if this has not been respected. As there are no requirements in the AML law on the frequency of updating the due diligence procedures for all types of clients, beneficial ownership information on certain accounts may not have been updated for a considerable period of time and such beneficial ownership information might not be accurate and up to date in all cases.

252. Furthermore, article 32-B Quinquies of the CFF introduces an obligation for legal persons, *fideicomiso*-related parties and partners of legal arrangements to keep up to date the information on controlling beneficiaries. It does not explicitly mention that the financial institution must keep this information up to date. In the case of a bank, it has to identify the controlling beneficiary(ies) of its bank accounts to provide it to the SAT upon request, but it won't be ensured that it will keep this information updated in the future. **Mexico is recommended to ensure that accurate and up-to-date beneficial ownership information on all bank accounts is available in line with the standard**.

Oversight and enforcement

253. The supervision of compliance with the AML requirements for banks to keep and maintain updated all bank accounts records is carried out by the CNBV (art. 117 LIC). The CNBV has a total of 5 000 entities under its supervision for AML/CFT purposes. It has a work force of 1 500 staff, of which approximately 60% (i.e. 900) are dedicated to supervisory activities. The CNBV adopts a risk-based approach to identify entities that need greater supervision. Banks are usually the riskiest entities, followed by brokers. Within each type of entity, riskier entities are identified, and supervisory resources allocated accordingly. Annual supervisory plans are drawn out and implemented. Biggest banks are supervised every two years. When inspections are carried out, the supervisory team usually comprises four inspectors. Recently, the focus of the CNBV's supervisory activities has been on compliance with requirements to identify beneficial owners of customers and customer due diligence in respect of Politically Exposed Persons.

254. The following table summarises the supervisory activities carried out by the CNBV in respect of banks during the review period.

Type of activities carried out by the CNBV		Number of activities undertaken during review period	Results from the activities
Inspections	Ordinary inspection visits	20	12 observations and 7 recommendations were issued related to Real Owners 53 observations were issued related to record keeping
	Special inspection visits	3	
	Enhanced surveillance supervision scheme	13	
Vigilance	Enhanced surveillance supervision scheme	15	5 observations and 2 recommendations were issued related to Real Owners 27 observations and 6 recommendations were issued related to record keeping
	Inspection visits of specific criteria	17	
	Auditing reports	1 810	

255. The results of the supervisory activities undertaken reveal that, overall, Real Owners are identified, although it often happens that documentation related to their identification is missing. In some cases the compliance manuals related to KYC were also missing. After each visit or supervisory activity undertaken, recommendations or observations are issued, along with a document of corrective actions. Entities are provided with a deadline to indicate the actions that will be taken. Corrective actions include changes in the systems as well as changes in the policies and procedures.

256. Observations are more serious than recommendations. During the review period, 17 observations related to the requirements of Real Owners were issued.

257. The CNBV has issued guidelines to help financial institutions to comply with their obligations, including the Guide for strengthening the preventive regime of money laundering and financing of terrorism, derived from the recurrent findings detected during the supervision processes. The purpose of the guide is to inform financial institutions of the findings identified by the CNBV in the exercise of its powers of inspection and surveillance, as well as to promote compliance, implementation and effectiveness of the AML obligations. The guide addresses the main breaches of obligations related to the identification of beneficial owners and assist financial institutions to comply with their beneficial ownership obligations under AML/CFT.

258. Overall, the supervisory activities undertaken by the CNBV during the review period have been adequate.

259. Supervision in respect of banks' compliance with the new beneficial ownership requirements under the CFF is to be carried out by the SAT (see paragraph 109). Penalties described in paragraph 111 are applicable for non-compliance identified. As the beneficial ownership requirements under tax law are new, supervision has not yet been carried out and sanctions have not been applied. In this context, **Mexico is recommended to take necessary supervisory measures to ensure that banks understand and comply with their obligations under the tax law for the identification of beneficial owners such that beneficial ownership information on all bank accounts is always available in line with the standard** (see also paragraph 250).

Availability of banking information in EOIR practice

260. Mexico received 95 requests for banking information for the review period. As reported by Mexico's peers, banking information was received satisfactorily in most of the cases. In two cases, Mexico has not been able to provide a response to the peers yet. The Mexican authorities have advised that both requests are currently being finalised and a response will be sent soon to the requesting peers.

Part B: Access to information

261. 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).

262. The Mexican Competent Authority has broad access powers to obtain relevant information from any person who holds it.

263. The 2014 Report found an issue with the process the Mexican Competent Authority used to access banking information. Although the powers were in place to access information held by banks, such information was accessed through the National Banking and Securities Commission (CNBV) and in some cases the process was lengthy. Mexico was recommended to use all its access powers to access banking information as efficiently as possible so that it could be exchanged in a timely manner.

264. Since the 2014 Report, Mexico has streamlined and made its processes to access banking information in a timely manner efficient. This is mainly due to IT tools that have been put in place, in particular by the CNBV, to be able to better track the requests received from other authorities, including the competent authority for information exchange purposes, to track the response time of each of the requests and to have enhanced communication with banks when requesting the information. Accordingly, response time to banking information requests have improved since the 2014 Report and Mexico is now compliant with this element of the standard.

265. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Mexico 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 and B.1.2. Accounting records

266. Mexico's competent authority for exchange of information is the Central Administration for International Exchange of Information (EOI Unit), which is part of the General Administration for Large Taxpayers of the SAT. The unit comprises an EOIR sub-unit. The 2014 Report described the procedures for obtaining information generally and those specific to obtaining banking information. While the access powers remain the same, in practice processes have been improved specifically for accessing banking information through the use of an online portal for inter-agency co-operation between the SAT and the CNBV.

Accessing information generally

267. The access powers of the competent authority are derived from the Tax Administration Service Law (LSAT, *Ley del Servicio de Administración Tributaria*) and the Internal Regulations of the Tax Administration Service (RISAT, *Reglamento Interno del Servicio de Administración Tributaria*). Article 7(IX) of the LSAT sets out the general powers of the tax authority to access information from taxpayers or third parties related to them in order to respond to requests for information from other countries. Mexico considers the word "countries" also covers jurisdictions. Articles 28(A)(II) and 28(A)(III) of the RISAT provide the General Administration for Large Taxpayers of the SAT with the powers to order and carry out acts to obtain and verify the information needed to respond to requests from competent authorities of other countries under international agreements or treaties. Broader access powers are provided to the SAT under article 42 of the CFF and all of them are cited when information is being requested for EOI purposes.

268. Access powers under article 42 may be exercised with respect to any person who has or should have tax information and empower the SAT to:

- access accounting records of taxpayers, parties jointly and severally liable with them or third parties related to them, at their establishments or at the offices of the tax authorities, or request them to provide information or access to documents relevant to analyse the accounting records (art. 42(II) CFF)
- conduct on-site audits of taxpayers, parties jointly and severally liable with them or third parties related to them, and review their accounting records including underlying documents, assets and merchandise (art. 42(III) CFF)
- review documents prepared by public accountants on taxpayers' financial statements and on their transfers of shares (art. 42(IV) CFF)
- conduct on-site audits of taxpayers to verify they have complied with the obligations related to the Digital Tax Receipt Online and to the filing of notices to the RFC (art. 42(V)(a) CFF)
- gather from officials and public employees at a federal, state and municipal level, as well as from authenticating officers the documents and data that they have obtained in performing their duties (art. 42(VII) CFF).

269. Books of shareholders or partners can also be accessed through access powers under article 42. The SAT's access powers cover both information held within the private sector (including banks and other financial institutions) and government bodies, including public registries.

270. Article 38(IV) of the CFF establishes that administrative acts (i.e. including information gathering notices sent to obtain information to respond to EOI requests) must be founded, motivated and express the resolution, object or purpose of the act in question. To comply with this requirement, in practice, the information gathering notices sent by the Competent Authority to the information holders incorporates reference to each of the above-mentioned information gathering powers, in order to make the request as complete as possible (i.e. founded and motivated). It also mentions that the information is being requested to respond to an EOI request for information. In some cases, when the information is requested under a bilateral treaty, the name of the requesting jurisdiction may be incorporated into the information gathering notice, although this has not been done recently in practice. A further analysis of this last aspect is made under Element C3 (see paragraphs 363 to 367). A period of 15 days is granted to the information holder to provide the information or documentation requested. This period can be

extended once by 10 more days by the SAT if requested by the information holder, when the information requested is difficult to be provided or to be obtained (art. 53 CFF).

271. The SAT makes use of several information sources to obtain legal and beneficial ownership, accounting and banking information. Legal ownership information comes mainly from the SIGER, which is the electronic platform under which the RPC is operated by the SE, who grants access to the specific EOI administrators from SAT involved in collecting information to respond to EOI requests. The SIGER allows for access to legal ownership information available in the RPC and can be populated by public notaries. Legal ownership information is also available under the RFC, to which the Competent Authority also has access.

272. Mexico notes that, in practice, it encountered no difficulties in the application of its access power during the review period and that it was able to access information to reply to EOI requests. This was supported by peer input.

Accessing beneficial ownership information

273. During the review period, beneficial ownership information was available through requirements under AML law. This implies that beneficial ownership information was available through credit institutions (i.e. banks) and persons carrying out VAs. The process to access beneficial ownership information through credit institutions is described in the next section (as it is the same process to access more general banking information through the SIARA system). Regarding persons carrying out VAs, beneficial ownership information available with them can be accessed via information gathering notices sent by the Competent Authority.

274. In practice, during the review period, Mexico received 19 requests related to beneficial ownership information. The Mexican Competent Authority reported that all requests have been responded to and this is confirmed by the peer input received. To provide the beneficial ownership information, during the review period, the Mexican Competent Authority typically relied on either the information available from banks, or determined the beneficial owners based on the legal ownership information directly available to the Competent Authority from accessing the RPC and RFC databases.

275. Pursuant to the new requirements under the CFF, beneficial ownership information collected and maintained by legal entities and arrangements under tax obligations is required to be made available to the SAT upon request. To request this information, a notification will be submitted to the legal entity or arrangement, as well as to any related third party (e.g. bank).

Beneficial ownership information must be provided to the SAT within 15 working days following the day in which the notification takes effect.[34] This deadline can be extended once for 10 working days, only if a justified extension request has been requested within the original deadline (art. 32-B Ter CFF). As public notaries and brokers are also required to collect beneficial ownership information when intervening in the constitution of legal persons and arrangements, as well as *fideicomisos*, they can also be subject to requests from the SAT to provide such information upon request, with which they should comply within the same deadlines. The Mexican authorities explain that the requests are mostly made to the taxpayers and only on some occasions, to third parties related to them.

Accessing banking information

276. Mexico has broad powers to access banking information, and the 2014 Report highlighted that they had been consistently used for EOI purposes. It was also noted that the responses provided by Mexico on requests related to banking information were not considered timely. Mexico had recently amended its law to provide the SAT with direct access to banking information, although since the amendment was recent, it had not been tested in practice. Mexico was therefore recommended to monitor the amended law providing direct access to banking information and to use all its access powers as efficiently as possible to access banking information in a timely manner. Since then, Mexico has streamlined and made more efficient its processes to access banking information in a timely manner, which are analysed in the following paragraphs.

277. Banking information can be accessed in two manners: directly from the bank or through the CNBV. First, direct access to banking information by the SAT is provided in article 32-B(IV) of the CFF, under which financial entities and loan and savings co-operatives must provide, directly or through the CNBV, the CONSAR or the CNSF, information related to the accounts, deposits, services, *fideicomisos*, credits granted to natural or legal persons and any other transaction, in the terms established by the SAT. The article expressly provides that the tax authorities' powers to request information on bank accounts, credit and loan transactions apply in the context of a tax enforcement, tax collection procedures and tax investigations. Second, the LIC provides the CNBV with broad powers to perform supervisory activities over credit institutions (art. 117). Inspection visits to the credit institutions can be ordinary, special or investigative. Special visits can be performed

34. According to Mexican authorities, a notification takes effect when it is perfected and produces all its legal effects, meaning the working day after the day in which it is issued (art. 135 CFF).

when derived from a request from other authorities, including the SAT (art. 117(4)(VI) LIC). Pursuant to Numeral 54 of the DCGIC, credit institutions are required to submit, through the CNBV, all information and documentation requested related to the identification of their clients.

278. In 2013, the System for Attending Authorities Requests (SIARA, *Sistema de Atención de Requerimientos de Autoridad*) was created (DOF, 12 February 2013). The SIARA is a digital platform through which requests for information are sent to the CNBV by other authorities. This system was created due to the increase of information and documentation requests sent by various authorities such as the SAT, which highlighted the need to modernise the process of responding to them through electronic means, streamlining their processing and using safer technological tools. The EOI Unit uses a manual of best practices for the preparation of information and documentation requirements to the CNBV. Requests for banking information from the Competent Authority are formulated directly through the SIARA system. A total of 1 254 departments of public authorities are registered to request banking information through the SIARA, with an average of 225 000 requests received during the review period, out of which 113 are from the General Administration of Large Taxpayers. More generally, the SAT is by far the authority that formulates the majority of requests to the CNBV via the SIARA system. The SIARA system has information available on all financial institutions (including banks and brokers).

279. For both access channels, the following information is provided for a request for information to be responded promptly: name of the account holder, TIN or date of birth when available, nationality, period under review, name of the bank or financial entity and account number (if known). Open account searches are possible through the SIARA system (i.e. the CNBV can search if there is an open account in the name of the person about which a request is being made).

Accessing banking information in practice

280. Banking information continues to be accessed mainly through the CNBV. Although the Mexican Authority has powers available to access banking information directly from banks, these powers have not been used in practice. The Mexican Competent Authority explained that access through the CNBV is easier and more efficient, as the SIARA system has available information from all banks. When a request of information is formulated with limited information, the SIARA system would be the more efficient tool, as open requests can be made (e.g. only using the bank account number) and the chances to find the information are higher.

281. To request banking information to the CNBV, the EOIR sub-unit has access accounts to the SIARA system. The completed and signed application is sent to the CNBV, who verifies that the legal requirements are being complied with. The minimum information required by the CNBV is the period to which the information requested relates, a case identification number (a number by which each request for information is identified), the account number and/or the name of the account holder. If the name of the account holder is not available, the account number would be enough, and vice versa. An alternative piece of information would be the RFC. The EOI nature of the request is not disclosed in the request made to CNBV. Minimum information from the EOIR letter that is needed to obtain the requested information is mentioned.

282. Requests of information through the SIARA system can relate to any kind of operation made by the client and underlying documentation, including information related to the account opening, proof of address, contracts of account opening, documents from the client's file (identifications), signature card, account statements and/or transactions receipts. Beneficial ownership information can also be requested through the SIARA system.

283. The requests for information through the SIARA system are sent via an XML file transmitted directly to the SITIAA (Interinstitutional Information Transfer System, *Sistema Interinstitucional de Transferencia de Información*), which is the automatic system used by the CNBV to obtain the information from the banks directly. Once the request has been sent to the bank, another internal system[35] is used to verify that the request is being processed. The credit institution formulates a written response through this system, which is then uploaded into the SITIAA system to provide a response to the CNBV.

284. Once the CNBV receives a response from the bank, it verifies that the information provided is correct. Where the information provided is not correct, the CNBV requests the bank to amend it and the requesting authority is notified of the same.

285. It usually takes from one to two days to notify a bank once a request from another authority has been received by the CNBV. The time for a bank to reply to such requests is not stipulated in the law, but the usual time given is 10 working days. An extension can be requested by the bank. The CNBV has powers to impose sanctions if the deadlines are not complied with, according to the LIC. In practice, no sanction was imposed in relation to EOIR, but the CNBV has imposed 60 sanctions during the review period in domestic cases, for a total amount of around MXN 17 million (approximately EUR 841 500).

35. GERA, Generator of Authority Answers (*Generador de Respuestas de las Autoridades*).

286. On average, the CNBV's response time to requests for information from other authorities is between 10 and 15 working days, which can be extended to a maximum of 19 working days. In very few occasions, the longest time it has taken to provide response is between one and one-and-a-half months. The response time to requests from SAT is generally the same as requests of information from other authorities. The main factor to provide the SAT with information promptly is to provide in the request as many elements as possible to make taxpayers identifiable.

287. During the review period, Mexico received 95 requests for banking information. Overall, the peers were satisfied with the responses provided by Mexico and most did not raise concerns regarding the time taken by Mexico to respond to the request. One peer noted that some requests sent during the review period were still pending at the start of the review process. The Mexican Competent Authority explained that responses to most of the requests have been provided since then. Mexican authorities are in communication with the requesting treaty partner regarding the remaining outstanding requests. Some delays have been encountered in these requests due to the volume of requested information (in at least one outstanding request), as well as Mexico's process that involves the collection and provision of banking information in two stages. This process entails the initial collection of the financial account statements, after which the requesting jurisdiction is expected to confirm any other specific banking information (e.g. check copies) that should also be obtained and provided by Mexico. Nevertheless, Mexico consistently provides partial responses in these circumstances.

288. The process to access banking information through the CNBV has been streamlined and has been made more efficient. Several controls and systems have been put in place at the CNBV level to improve its time of response to requests from other authorities. This has allowed the SAT to shorten its time of response to the requests related to banking information. The recommendation issued in 2014 has been satisfactorily addressed.

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

289. Subject to the existence of an international agreement and reciprocity, the SAT can use all its domestic access powers also for EOI purposes (art. 7(IX) LSAT) and the information gathering powers can be used even in the absence of any domestic tax interest.

290. No peers have reported any issues in obtaining information where there was no domestic tax interest for Mexico. In practice, Mexico has obtained and provided information in EOI requests where it had no domestic interest.

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

291. When taxpayers, parties jointly and severally liable for them or third parties related to them do not respond to requests for information from the tax authorities or do not provide the corresponding documents, the SAT may take any of the following enforcement actions in the respective order (art. 40 CFF):

- impose a fine
- seizing of taxpayers' assets or business
- request the relevant authority to exercise its legitimate power in case of disobedience or resistance.

292. The following infractions are listed in article 85(I) of the CFF: (i) opposing to an on-site audit being carried out in the fiscal domicile; (ii) not providing the information and documentation requested by the fiscal authorities; (iii) not providing the accounting records or parts of them and the documentation requested to verify compliance with the obligations. The applicable sanctions range from MXN 19 350 to MXN 58 070 (around EUR 960 to EUR 2 880) (art. 86(I) CFF).

293. In practice, the competent authority issues the request for information giving a period of 15 days to the taxpayer/information holder to provide the information or documentation. This period can be extended by 10 more days upon request when the information requested is difficult to be obtained or provided. If no information is provided or the information is not accurate or complete, the competent authority can impose a sanction of MXN 19 350 (around EUR 960). Once this has been done, the request for information is issued again. If the taxpayer/information holder fails to comply with the second notice or provides inaccurate or incomplete information, the competent authority can impose a further sanction of MXN 58 070 (EUR 2 880). In addition, the tax authority has the powers to suspend the electronic issuance of invoices for such a commercial business. This suspension can significantly curtail the ability of an entity to carry on business or commercial activity and is an important power to compel compliance.

294. When the requested information is held by a third party, the process followed is the same as described in the preceding paragraph. The applicable sanctions are, however, different amounting to MXN 60 390 (EUR 2 990) and MXN 94 930 (EUR 4 700) respectively (arts. 89(III) and 90 CFF).

295. Non-compliance by financial institutions to respond to a request of information from the SAT, either directly or through the CNBV, is an infringement under article 84-A(IV) of the CFF. The applicable sanction ranges from MXN 560 090 to MXN 1 120 160 (around EUR 27 700 to EUR 55 450)

(art. 84-B(IV) CFF). Furthermore, the CNBV has powers to impose administrative sanctions on financial institutions that fail to comply with requests for information, which range from 3 000 to 15 000 days of salary, equivalent to MXN 268 860 and MXN 1 344 300 respectively (around EUR 13 310 to EUR 65 550) (art. 108(II)(h) LIC).

296. Mexican authorities indicated that, in practice, there is co-operation from taxpayers and information holders and the requested information has been accessed and provided as expected. During the review period, Mexico did not apply any penalties in order to obtain the information as this was provided when requested.

B.1.5. Secrecy provisions

Bank secrecy

297. In Mexico, information and documentation related to operations and services provided by financial institutions is considered confidential in nature, that is, protected by financial secrecy, since it is part of the right to privacy of customers and users, and therefore safeguarded by the principle of legal certainty. Several acts regulating the Mexican financial industry include confidentiality provisions. These provisions are included in the LIC for banks as well as entities in the retirement savings, insurance and bonds sector.

298. All the financial secrecy provisions have explicit exemptions regarding the SAT's access to information held by the financial institutions. Article 142 of the LIC establishes that information about transactions and services provided by credit institutions are confidential, although it establishes an explicit exemption to this rule by obliging credit institutions to provide information when it is requested by other authorities, including tax authorities (art. 142(3)(V) LIC). Similar exceptions are provided under the specific laws regulating each type of institutions that form part of the Mexican financial industry.[36]

299. During the on-site visit, representatives from the Association of Banks expressed that they always respond to requests for information from the tax authority under article 42 of the CFF.

36. Article 34 of the Popular Savings and Loans Law, article 44 of the Credit Unions Law, article 69 of the Law to Regulate Activities of Co-operative Societies Savings and Loan, article 192 of the Securities Markets Law, article 5 of the Law to Regulate Credit Information Corporations and article 55 of the Investments Funds Law.

300. In practice, there were no cases in which financial secrecy was an impediment to providing information held by financial institutions during the review period.

Professional secrecy

301. The professional privileges described in the 2014 Report have not changed. The professional privilege is regulated both in the civil codes and penal codes of Mexico. The legislation of Mexico City states, based on Article 5 of the Constitution, that all professionals (lawyers, tax advisors, accountants, technical consultants, etc) are required to maintain confidentiality of "the matters entrusted to them by their clients, except for the reports that the respective laws establish as mandatory" (art. 36 of the Regulations of Article 5 of the Constitution with respect to the exercise of professions in Mexico City).

302. Breach of professional secrecy is a criminal act if the disclosure causes harm to the interested party and it is made without consent and without a legitimate reason. Applicable penalties are fines, suspension of authorisation to practice as a professional for up to one year and up to five years imprisonment (arts. 210 and 211 of the Federal Penal Code, *Código Penal Federal*). Additionally, for criminal procedures, the Federal Penal Procedure Code provides in article 243 Bis(I) that when called as witnesses, lawyers, technical consultants and public notaries "will not be obliged to declare about the information they receive, know or have in their possession […] regarding the matters in which they have intervened and have information that must be reserved for the exercise of their profession". Therefore, in criminal cases, a lawyer that holds information due to activities as a nominee shareholder, trustee, settlor, company director or under a power of attorney to represent a company in its business affairs would not be obliged to disclose such information. Furthermore, public servants that oblige a person mentioned under article 243 Bis of the Federal Penal Procedure Code to disclose confidential information commit abuse of power (art. 215(XIV) of the Federal Penal Code).

303. The access powers provided under article 42 of the CFF are broad and provide the SAT with powers to access information held by "[…] taxpayers, jointly liable parties, third parties related to them, tax advisors, financial institutions; *fiduciaria*, *fideicomitente* or *fideicomisario*, in the case of *fideicomisos*, and the contracting parties or members, in the case of any other legal figure […]". Furthermore, article 42(IV) of the CFF provides for specific access powers to reports prepared by certified public accountants on taxpayer's financial statements as well as documents and information from notaries which they have obtained in performing their duties (art. 42(VII) CFF). There are no provisions in Mexican tax law specifically addressing

access to information held by lawyers, tax advisors, etc. On the other hand, the general access powers, in particular article 42(II) of the CFF, do not include any exemptions for certain professions.

304. According to the 2014 Report, the Mexican authorities advised that these general powers apply to all persons and information held by them, regardless of their profession, provided the request for information is "founded and motivated".[37] Further, under the concept of "legal justification", providing information subject to confidentiality is not a criminal offence if there was a legal justification. A request for information from the tax administration is considered to be such a legal justification. The Mexican authorities stated that there was no case law questioning their powers to access information held by specific professionals, that information that is arguably subject to professional privilege was obtained in practice and that the professional privilege had never been claimed in an investigation where information was being collected for EOI purposes.

305. For the current review, the Mexican authorities have advised that there are no cases in which legal professional privilege was an impediment to obtain information, as there are no legal provisions that prevent or restrict the disclosure of information to the tax authorities. However, the Mexican authorities have also advised that in some cases, accessing information held by professionals with whom the taxpayer has a service provision relationship, results in greater efforts to be undertaken by the tax authorities such as identifying the corresponding professional and requesting the information to him/her, instead of contacting directly the taxpayer, which would be more efficient in the opinion of the Mexican authorities. This could result in possible delays in obtaining the information. Furthermore, discussions with representatives of the Bar Association indicated that any request that comes under a request for information made under article 42 of the CFF must be responded upon and it is what happens in practice. The same observation was made by representatives of the Chamber of Accountants, although they mention that only information that is part of a "tax report"[38] of a client is required to be submitted and that the rest of the information

37. A request "founded" means that it should present all the legal articles applicable to the case. A request "motivated" means that a description of the circumstances that gave rise to the application of the law should always be presented in conjunction with the "founded" concept.

38. The "tax report" refers to a *dictamen de estados financieros*, which is a document prepared by public accountants that provides an interpretation of the taxpayer's financial statements and is intended to comply with the tax provisions to which the taxpayer is obliged. It is presented solely by public accountants registered at the SAT.

should be requested from the taxpayer. Refusing to provide the information would result in a penalty being imposed (art. 52 CFF, art. 18 AML Law).

306. The 2014 Report concluded the analysis on the professional secrecy observing that according to the Mexican competent authority, professional secrecy did not cause any problem in practice either in relation to EOI or in relation to domestic tax matters. Mexico was nonetheless recommended ("in-text") to monitor the impact of professional secrecy on EOI in practice.

307. For the current review, Mexican tax authorities have advised that there are no cases in which legal professional privilege was an impediment to obtain information for EOI purposes when it was asked. Professionals have confirmed that any request for information made by the Competent Authority under article 42 of the CFF must be responded upon and no adverse peer input was raised in this regard. Since the 2014 Report, the situation has not changed (neither the legal framework relevant to it, nor in practice) and therefore the "in-text" recommendation is removed.

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.

308. The 2014 Report found that the rights and safeguards applicable to persons in Mexico were compatible with effective exchange of information. There were no notification requirements (pre or post exchanges) and rights and safeguards were found to be in line with the standard, thus the element was determined to be in place and rated Compliant. The situation as assessed below for the current review remains in line with the standard.

309. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

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

Notification

310. There is no obligation under Mexican domestic law for the competent authority to give notice to the person who is the object of the request for information made by another jurisdiction's competent authority, either before or after the information is exchanged.

311. The Mexican authorities clarify that they do not notify the taxpayer of the request of information received from another jurisdiction and that this is a matter to which attention is devoted by the EOI Unit officials.

312. When information is needed to be obtained from a third-party information holder, the Mexican competent authority generates a formal letter stating that the information requested relates to an EOI request that is being processed with a foreign competent authority under the provisions of tax treaties and agreements. The type and form of the information required would be also described, along with the supporting documents regarding the information required if applicable. If the requesting jurisdiction expressly request the taxpayer not to be informed of the request, the Mexican Competent Authority would request the third-party not to inform the taxpayer. For AML purposes, there is a specific provision in the law that forbids the AML-obliged person to inform the taxpayer of a request being formulated on him/her (art. 31(II) of the General Rules AML Law). Although this provision is not applicable in the context of EOI for tax purposes, in practice, during the on-site visit, representatives from the banks and notaries indicated that they maintain strict confidentiality whenever there is request for any information on their clients from public authorities and that they have a practice of not informing the taxpayer of such requests. Therefore, in practice, tipping-off may not pose a risk. Specifically, in the context of banks, since information is sought through the SIARA system and banks mainly receive requests for information through it, they are not aware of the reasons for the request or of the public authority making the request and comply with the request adhering to the AML obligations. If the information requested is only in possession of the taxpayer, the Mexican Competent Authority would first ask the requesting jurisdiction if it would like to proceed with the request.

Appeal rights

313. The Mexican domestic law contemplates a special trial figure called indirect protection trial (*juicio de amparo indirecto).* The *juicio de amparo indirecto* is based on articles 103 and 107 of the Mexican Constitution, as well as its regulatory law (*Ley de Amparo*). Within the procedure of the *juicio*

de amparo indirecto, there is the possibility of requesting the suspension of an act by making a request of suspension in front of a court to avoid the procedure to get to a point of no return. The suspension is resolved within five days. If it is granted, a period of 30 days is allocated for the court to decide whether the act should proceed or not, although in practice this period can be extended for a maximum of 10 days.

314. The Mexican authorities indicate that *juicios de amparo* are not applicable when the act to which it may apply is related to public interest or *ordre public*. Tax collection is considered a subject of public interest. EOI requests are considered to fall under the category of tax collection and *juicios de amparo* would therefore not be applicable.

315. The Mexican authorities indicated that there have been *juicios de amparo indirectos* applied to domestic request of information to taxpayers by the SAT. In the two cases provided by the Mexican authorities as examples, the decisions of the courts were unfavourable to the taxpayers, as they considered that if the suspension was granted, it would hinder, delay, interfere or make it more difficult for the SAT to exercise its supervisory powers to verify compliance with the tax provisions, which would at the same time affect the public interest. The Mexican authorities emphasise that court precedents indicate that it would be improper to grant suspension of an act related to EOI under a *juicio de amparo indirecto*.

316. In practice, during the peer review period, there have been no appeals against a request for information sent by the competent authority for EOI purposes before a court under any grounds.

Part C: Exchange of information

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

318. The 2014 Report found that Mexico had EOI agreements with 72 jurisdictions on several bases: Double Taxation Conventions (DTCs), Tax Information Exchange Agreements (TIEAs), the Multilateral Convention and often a combination of some of them. By the time of the 2014 Report, Mexico had already signed the Multilateral Convention (on 25 May 2010), which had entered into force on 1 September 2012.

319. Since the 2014 review, Mexico has eight new bilateral EOI agreements.[39] Seven of them have been signed with parties to the Multilateral Convention, therefore they are not analysed in detail in this report, as there is already an EOI mechanism with all these partners that meets the standard. The eighth bilateral EOI agreement is the DTC with the Philippines, which is the only mechanism in force between the two jurisdictions.[40] It provides for exchanges of information between them in line with the standard.

39. DTCs with Argentina, Costa Rica, Guatemala, Jamaica, the Philippines and Saudi Arabia, and Protocol to DTCs with Germany and Spain (see Annex 2).
40. The Philippines has signed but not yet deposited its instrument of ratification to the Multilateral Convention.

320. Mexico has 136 EOI relationships in force under the Multilateral Convention and 74 bilateral DTCs and TIEAs in force.

321. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

Other forms of exchange of information

322. Apart from EOIR, Mexico carries out the following types of exchange of information:

- automatic exchange of information on financial accounts under the AEOI Standard since 2017, for which it has signed the CRS MCAA (Multilateral Competent Authority Agreement)
- spontaneous exchange of information
- country by Country Reports information exchanges with 68 jurisdictions.

C.1.1. Standard of foreseeable relevance

323. The 2014 Report concluded that the existing bilateral agreements of Mexico met the "foreseeably relevant" standard, as they used either the wording "foreseeably relevant", "necessary" or "relevant" and the Mexican authorities confirmed that they made no distinction between these terms.

324. All of the new EOI instruments[41] concluded by Mexico after the cut-off date of the 2014 Report use the wording "foreseeably relevant". Furthermore, the majority of these EOI instruments are with jurisdictions that are parties to the Multilateral Convention, except for the one with the Philippines, for which the wording "foreseeably relevant" is used.

41. DTC with Argentina, DTC with Costa Rica, Protocol to DTC with Germany, DTC with Guatemala, DTC with Jamaica, DTC with the Philippines, DTC with Saudi Arabia and Protocol to DTC with Spain.

Clarifications and foreseeable relevance in practice

325. Although the Mexican internal EOI Manual does not explicitly cover the standard of foreseeable relevance, the Mexican competent authority follows the Manual on Exchange of Information for Tax Purposes published by the Global Forum for the application of the standard of foreseeable relevance. Mexico has not declined any request on the basis that the request did not meet the foreseeable relevance standard.

326. For the current review period, peer input confirmed that Mexico applied the concept of foreseeable relevance in line with the standard and all the requests made by Mexico met the standard of foreseeable relevance.

327. Regarding requests for clarification, only on some occasions the Mexican Competent Authority sought clarifications from peers on their requests. In total, during the review period, Mexico sent eight requests for clarifications, usually to clarify the identity of the person subject to the request. Mexico was able to respond to most of the requests after having received the clarifications. In one case the clarification request was never responded upon. The Mexican Competent Authority tried repeatedly to contact the partner without success and a letter was sent by email and by courier informing that the request was considered closed.

Group requests

328. The bilateral agreements signed by Mexico do not exclude the possibility of group requests. The Mexican authorities explained that for such requests, the standard of foreseeable relevance needs to be verified. However, discussions during the on-site visit suggested that officials of the EOIR sub-unit were not familiar with the concept of group requests and how to ascertain their foreseeable relevance. Group requests are not covered by the guidance provided under the EOI Manual either (please also see discussion under Element C.5 in paragraph 423).

329. The Mexican authorities indicate that they have received one group request so far, to which they provided a delayed response due to the information being held by another authority as well as the complexity of the request (see paragraphs 287 and 407). In the absence of guidance on the treatment of group requests, the group request received was treated as a “normal” request for information.

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

330. The 2014 Report concluded that Mexico was allowed to exchange of information in respect of all persons and not limited to residents or nationals of the contracting states with all its EOI partners.

331. The agreements concluded after the 2014 Report have provisions in line with the standard. In particular, the DTC with the Philippines includes provisions that do not restrict exchange of information by the residence or nationality of the person to whom the information relates or of the person in possession or control of the information requested.

332. In practice, during the reviewed period, Mexico received 25 requests that related to a non-Mexican taxpayer, of which around half related to a non-resident in the requesting jurisdiction. The information requested related to banking information, heirs, properties, partners and shareholders, and recent address. Mexico provided responses to these requests, as confirmed by peer input.

C.1.3. Obligation to exchange all types of information

333. The 2014 Report had concluded that all but three of Mexico's EOI mechanisms provided for exchange of all types of information by ensuring that the requested jurisdiction does not decline to supply information solely because the information 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.

334. Mexico was recommended to continue its programme of renegotiation of older treaties, including the three DTCs with Ecuador, Israel and Venezuela that did not have the equivalent of Article 26(5) of the OECD Model Tax Convention. Therefore information held by financial institutions, nominees or persons acting in an agency or fiduciary capacity or because it relates to ownership interest in a person might have not been able to be exchanged. As the exchanges were subject to reciprocity, there might have been domestic limitations in place in the law of the corresponding partners. In the cases of Ecuador and Israel, EOIR exchanges can now take place under the Multilateral Convention. With respect to Venezuela, Mexican authorities have explained that the agreement has not yet been renegotiated due to disagreement between the two jurisdictions. Venezuela has not expressed an interest in entering into a tax information exchange arrangement with Mexico. Mexico has taken appropriate measures and the recommendation is lifted.

335. The recent DTC with the Philippines includes a provision akin to Article 26(5) of the OECD Model Tax Convention.

336. During the review period, Mexico did not decline any of the requests received because it was held by a bank or other financial institution nor because it related to ownership interest, related to nominees, persons acting in an agency or fiduciary capacity.

C.1.4. Absence of domestic tax interest

337. The 2014 Report had noted that there were 24 DTCs signed by Mexico before June 2006 that did not include language akin to Article 26(4) of the OECD Model Tax Convention. To date, all the concerned partners are also parties to the Multilateral Convention, which allow for exchanges in line with the standard, except Venezuela (see above).

338. The agreements concluded after the 2014 Report have provisions in line with the standard. In particular, the DTC with the Philippines includes a provision akin to Article 26(4).

339. In practice, Mexico has not declined responding to a request, even though it had no domestic tax interest in some of the requested information, and no issues have arisen in practice.

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

340. All of Mexico's EOI agreements provide for exchange of information for both civil and criminal tax purposes. There are no dual criminality provisions in Mexico's EOI agreements and the Competent Authority's faculties to access information are the same for criminal or civil tax matters.

341. In practice, Mexico has not received requests related to criminal matters. However, Mexican authorities confirmed that a request in respect of criminal tax matters would be treated like those received in civil tax matters and the Competent Authority would provide the requested information.

C.1.7. Provide information in specific form requested

342. There are no restrictions in the EOI provisions in Mexico's agreement that would prevent it from providing information in a specific form requested, to the extent possible under Mexico's domestic laws.

343. In practice, Mexico received three requests for information to be provided in specific forms during the review period. The requests were responded and information was provided in the form it was requested.

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

344. In Mexico, the Ministry of Finance negotiates international treaties, and the Federal Fiscal Authority[42] is in charge of performing a legal review of the tax treaties, which are then sent to the Ministry of Foreign Affairs for another

42. *Procuraduría Fiscal de la Federación*.

round of reviews. EOI agreements are entered into by the Government, signed by the Mexican President, and are then submitted to the Senate for ratification (articles 76(I), 89(X) and 133 of the Mexican Constitution). Once the agreement is approved, the President signs the instrument of ratification and the other contracting party is informed about the completion of the Mexican internal ratification procedures. Once both jurisdictions have ratified the agreement, it is published in the Federal Official Gazette. In practice, since 2013, the Senate has been performing a more detailed review of the economic impact of tax treaties during the process of ratification. This has normally not caused any delays in the ratification process.

345. For information exchange to be effective, the parties to an EOI arrangement may need to enact a domestic legislation necessary to comply with the terms of the arrangement. Mexico's DTCs and TIEAs have been given effect in domestic law by means of the Tax Administration Service Act and the Federal Tax Code.

346. The average time of ratification for all TIEAs and DTCs was less than 13 months between 2009 and 2017. The average time for their entry into force was around two years (this period of time also depended on the internal ratification procedures of the other contracting party; for instance the DTC with Guatemala was ratified in 2017 and is awaiting ratification by Guatemala).

347. The Protocol to the DTC with Germany was signed in October 2021 and is following the internal process of approval in the Senate. In relation to the DTC signed with Venezuela in 1997, there has been disagreement between the parties concerning certain clauses of the original version of the DTC and a renegotiation has not yet commenced, although it has been proposed by Mexico. The other relationships not in force relate to partners for which the Multilateral Convention is not in force.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	**146**
In force	138
In line with the standard	138
Not in line with the standard	0
Signed but not in force	8
In line with the standard	7 [Multilateral Convention][a]
Not in line with the standard	1 [Venezuela]

Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	1 [Venezuela]
In force	0
In line with the standard	0
Not in line with the standard	0
Signed but not in force	1 [Venezuela]
In line with the standard	0
Not in line with the standard	1 [Venezuela]

Note: a. Benin, Burkina Faso, Gabon, Honduras, Madagascar, Papua New Guinea, Togo.

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.

348. The 2014 Report found that Mexico's network of exchange of information mechanisms covered all its relevant partners. Element C.2 was in place and Mexico was rated as Compliant. Mexico has EOI agreements covering its main trading partners (United States, Canada, Spain and the Netherlands). There was a recommendation for Mexico to continue to develop its EOI network with all relevant partners.

349. Since 2014, Mexico has expanded its EOI network as the number of jurisdictions participating in the Multilateral Convention increased. Further, Mexico has signed six new DTCs and has further renegotiated two DTCs.

350. The Multilateral Convention, which came into force in 1 September 2012 for Mexico, allows it to exchange information with 136 partners. Mexico is currently conducting negotiations of DTCs with nine jurisdictions and of protocols for amending the DTCs with four jurisdictions in relation to EOI. Mexico is also considering a protocol to amend the DTC with one more exchange partner. Mexico also reports that the majority of the negotiations were suspended due to the outbreak of the COVID-19 pandemic.

351. No Global Forum member indicated that Mexico refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship in line with the standard with all partners who are interested in entering into such relationship, Mexico should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

352. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical implementation of the Standard: Compliant

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

C.3. Confidentiality

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

353. The 2014 Report concluded that the confidentiality provisions in Mexico's EOI instruments and domestic laws were in line with the standard. This continues to be the case.

354. The practice in respect to confidentiality in the current review period also continues to be in line with the standard.

355. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

International instruments

356. All of Mexico's DTCs include provisions ensuring confidentiality of information received, including the limitations on disclosure of information received and use of the information exchanged, which are reflected in Article 26(2) of the OECD Model Tax Convention. Mexico's TIEAs have confidentiality provisions modelled on Article 8 of the OECD Model TIEA.

357. According to the Supreme Court of Justice, international treaties in Mexico's legal system are hierarchically above the federal law and override contradicting domestic legislation. Mexico's authorities are therefore required to keep confidential all information received as part of a request or as part of a response to a request regardless of any provisions in other laws.

Domestic legislation

358. Article 69(1) of the CFF contemplates fiscal secrecy and obliges public servants of the SAT to keep absolute secrecy regarding the declarations and data supplied by taxpayers or by third parties related to them, as well as those obtained in the exercise of their powers of verification. Confidentiality provisions continue to apply even after termination of employment. According to numeral 50 of the Manual of Operation of Recruitment, Selection, Entry and Permanence of the SAT, employees that are no longer employed with the SAT are not allowed to take documents, equipment or information acquired in functions. They must also keep absolute confidentiality of the information they had accessed while being officials of the SAT, according to article 56 of the General Law of Administrative Responsibilities and for up to one year there are sanctions applicable under the same law, which could be, for example, financial penalties and/or disqualification to perform jobs in the public sector to up to 10 years in certain specific cases (arts. 75 and 78 of the General Law of Administrative Responsibilities). Monetary sanctions applicable under article 88 of the CFF are applicable whatever the date of the offence.

359. There are some exceptions to the general secrecy and confidentiality obligations that permit disclosure of confidential information in possession of SAT public officials to other authorities engaged in administration and defence of federal fiscal interests, and to judicial authorities in criminal proceedings or to the competent courts in certain family law matters. Disclosure is also permitted for the purposes of determination of fiscal credits for a firm, for sending notice to a taxpayer to call for information, for verification of certain tax information, for investigations into crimes pertaining to money laundering, for certain statistical purposes and certain public authorities and ministries for specific purposes. The Mexican authorities explained that these exceptions are applied very strictly.

360. 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 EOI agreement provides that the information may be used for such other purposes under the laws of both contracting parties (such as the Multilateral Convention) and the competent authority supplying the information authorises the use of information for purposes other than tax purposes. Where information is received

under EOI and if the Competent Authority wishes to use it for its domestic purposes cited under the listed exceptions, the Competent Authority will always notify and request authorisation from the partner jurisdiction and any sharing of information for non-tax purposes will be in accordance with the provisions of the relevant EOI mechanism. For the period under review, Mexico reported that there were four cases where the requesting partner sought Mexico's consent to utilise the information for non-tax purposes and Mexico granted such authorisation. Mexico did not request its partners to use information received for non-tax purposes.

361. Information that can lead to the identification of a particular person is considered confidential and information treated as reserved by international treaties is also considered as such for domestic purposes (arts. 113(XIII) and 116 of the General Law of Transparency and Access to Public Information, *Ley General de Transparencia y Acceso a la Información Pública*). Public entities, including the SAT, are obliged to protect the information under their power classified as reserved or confidential (art. 23 and 24(VI)).[43] The SAT has further issued guidelines on information security matters applicable to public servants and third parties of the SAT.

362. The Mexican authorities stated that taxpayers do not have the right to access their EOI files as per the Mexican internal laws and procedures. There is a General Law on Transparency and Access to Public Information that allows citizens to have access to any kind of information, although the Mexican authorities clarify there are limits to the application of this law in practice.

Disclosure of an EOI request

363. The standard provides that all information is confidential but allows the Competent Authority to disclose the minimum amount of information necessary to the information holder to obtain the information requested. In this regard, the Mexican authorities mentioned that when information is being requested under a bilateral treaty, the name of the bilateral treaty might be incorporated into the letter to request information, and therefore the name of the requesting jurisdiction might be revealed. This is naturally not the case when a request is made under the Multilateral Convention, as in such cases only a reference to the Multilateral Convention is made.

364. The Mexican authorities explained that under article 38(VI) of the CFF, any administrative act notified should be "founded and motivated". This

43. Similar provisions are provided for in the Federal Law of Transparency and Access to Public Information (*Ley Federal de Transparencia y Acceso a la Información Pública*).

requirement is based on article 16 of the Mexican Constitution, according to which no individual can be disturbed in its person, family, home, papers or possessions, except by virtue of a written order from the competent authority, which should establish and motivate the legal cause of the procedure. Requirements from the tax authority constitute acts of nuisance, and for them to proceed, they must be properly founded and motivated. Jurisprudence has been established by way of which, for an act to be founded and motivated, the particular reasons or immediate causes that have been taken into consideration for the issuance of the act must be precisely indicated. In the opinion of the Mexican authorities, "founded and motivated" implies that as much information as possible needs to be incorporated into the information gathering notice, otherwise the information holder can refuse to respond to the notice.

365. The Mexican Competent Authority indicated that its practice recently has been to not reveal the identity of the requesting jurisdiction, by means of not incorporating the name of the treaty under which a request is being made. The requests for information are made under the access powers described under Element B.1. However, the Competent Authority considers that, if the current practice results in an obstacle for obtaining the information from the information holders, it could consider changing its practice to be able to obtain the information.

366. The Competent Authority also clarified that it would not reveal the name of the requesting jurisdiction if the requesting jurisdiction requested Mexico not to reveal its name in the information gathering notice. However, if the Competent Authority considers that to obtain the requested information, it would be necessary to reveal the name of the jurisdiction, it will inform the treaty partner about this and will not issue the information gathering notice until after receiving the explicit consent of the requesting jurisdiction.

367. In practice, the impact appears to be limited, as the Mexican authorities explained that none of the 21 information gathering notices addressed to taxpayers or information holders during the review period revealed the name of the requesting jurisdiction or information not needed to be revealed. Mexico should monitor that information holders are only provided details of the EOI request to the extent necessary to obtain requested information (see Annex 1).

C.3.2. Confidentiality of other information

368. The confidentiality provisions in Mexico's agreements use the standard language of Article 8 of the OECD Model TIEA and Article 26(2) in the Model DTC or language comparable to these articles. Thus, they do not draw a distinction between information received in response to requests and

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

Confidentiality in practice

Human resources and training

369. Prior to any appointment with the SAT, candidates undergo comprehensive background and security checks. As part of the entry process, the staff of the SAT signs a manifesto of knowledge and adoption of the SAT's institutional policies of integrity, whereby they commit to know and comply with the institutional ethical behaviour in matters of information security, including the protection and privacy of the information managed by the SAT. Every new employee must undertake a training on confidentiality. In addition, there are some sporadic trainings organised together with the Human Resources Administration. In 2022, members of the EOIR sub-unit participated in a training related to the confidentiality of the information, as well as information access and management.

370. The confidentiality requirements also apply to former employees of the SAT (see paragraph 358) and third-party contractors. Service providers and their employees undergo an evaluation before entering into an agreement or contract with the SAT for the provision of services. They are required to sign confidentiality agreements in accordance with the RISAT (art. 44(XXXVIII)), which last until after the end of the contract. Any non-compliance of this requirement is sanctioned with the same penalties mentioned under paragraph 385 pursuant to article 211.

Physical security and access control

371. The SAT developed General Guidelines for the Operation of Security Services for the operation of the buildings it occupies. The Central Administration of Institutional Control and Security is responsible for implementing actions aimed at providing security to employees and facilities. It has established mechanisms for the control of access and departure of personnel, suppliers and visitors, the exhaustive review of the objects that are intended to be entered to or exited of the SAT's premises and has

implemented video surveillance systems with intrusion detectors. Perimetral security is also ensured by security guards performing security rounds periodically. The entry of taxpayers or external visitors to the SAT's premises is controlled. The visitor needs to register his/her name, time of entry and subject of the visit. He/she is provided with a badge that restricts access to certain specific areas in exchange for a valid identification document. Physical access is made through a biometric turnstile. Entrance is granted either by the presentation of a badge with access authorisation in the case of visitors or with the corresponding fingerprint in the case of SAT officials. If the visitor is a non-frequent one, a security guard will ask the administrative unit or person being visited to send one of its employees or come to the entrance to receive the visitor and lead the visitor to the place that was authorised, upon both entry and exit.

372. Within the SAT, the EOI Unit is in an open space to which there is no particular control for access, neither for SAT's employees, nor for external visitors (including taxpayers). However, there are strict controls for the safekeeping of physical and electronic documents within the EOI Unit, as described below (paragraphs 374 to 375).

Safekeeping of documentation and IT arrangements

373. There are protocols for exiting documentation and goods (e.g. computers) from the SAT premises. The head of the area responsible for the documentation must request the release of the files by e-mail or official letter to the security manager. The request must indicate the information contained in the file and the justification for exiting the respective item. An exit pass must be issued, that contains information on the date of exiting of the document, name, area or company of the person exiting the document and reason for doing so.

374. The SAT has implemented a "clean desk" culture, which has been promoted in accordance with the SAT work environment strategy. It is a concept associated with the confidentiality of all documents that may contain sensitive data, considering that these should not be visible to anyone and accordingly they should not be left on the tables exposed to be read by an unauthorised person. Employees are recommended to store their belongings such as cell phones or wallets and to lock their computers with padlocks as well as their lockable drawers. They are also recommended to keep only the file they are working on the desktop, to temporarily or permanently block their computers when leaving their desks.

375. In practice, every member of the EOI Unit has a drawer than can be securely closed with a key. There are also common drawers at the EOI Unit that are closed with a key. All documentation related to EOI requests is

saved in these drawers and employees of the EOI Unit are required to not leave documentation at the sight of other employees not involved with the request. Printers available at the EOI Unit can only be accessed using an employee's badge. Even though the area in which the EOI Unit is located does not have restricted access, the Mexican authorities explained that in practice employees do not go to different areas than the one they belong to. This is monitored through security cameras and guards. When EOI-related documentation is sent to the tax auditors, it is also ensured that it is securely saved by keeping it in drawers locked with a key.

376. All documents related to an EOI request are stamped with a note that the information has been obtained under the provisions of an EOI instrument and that it should be treated confidentially. All related pages are stamped.

377. There is a specific policy for the use of IT systems within the SAT. This policy comprises a code of ethics, a code of conduct, human resource policies and some other institutional aspects. When a new employee arrives at SAT, he/she receives information of all the elements related to the IT policy. He/she also receives a credential, which is his/her unique identifier. The IT policy guarantees that all users are uniquely identifiable and authenticated each time access is granted to a system. Each employee has an individual password that allows access into the systems. The password must be changed every 45 days.

378. In the EOI Unit, all electronic files related to EOI requests are stored in one computer which is in the office of the EOI Unit Head. All members of the EOIR sub-unit can access from their computers the files related to EOI requests to work on them remotely, but the information is only stored in one centralised computer at the end of each working day.

379. A policy for the use of USB keys requires encryption of the data put on USB ports and the EOI Unit is one of the most monitored areas regarding the use of USB keys within the SAT.

380. When the Competent Authority needs to send information to the SAT auditors, it makes an extract of the relevant information needed to be transmitted into an encrypted CD ROM. Previous to this, all documentation had already been treaty-stamped. The CD ROM is sent to the auditors either by internal correspondence within the SAT or delivered physically by one of the members of the EOI Unit. While the information is with the tax auditors, it is protected in a similar manner as when it is at the EOI Unit.

381. Communication channels have been established with EOI partners. When communication is undertaken via email, there are guidelines for the encryption of information, which include restricted access to the information. The SAT has developed the internal Information Security Management

System, which includes the information security control and which is aligned to the ISO/IEC 27001 standard on the management of information security.

382. Regarding the retention period of the documents, a management tool establishes the validity periods for the documents, their retention periods, as well as their confidentiality or restricted characteristics. The deadlines for the storage of files will be considered in accordance with the type of document, and they can be classified as reserved or confidential. Documents that are part of EOIR files are usually added a two-year period to their regular retention period. Once the retention period has expired, it is normally removed from the SAT databases.

Incident/breach management

383. The SAT has an Internal Control Body (OIC, *Órgano Interno de Control*) that hierarchically and functionally depends on the Public Function Ministry (SFP, *Secretaría de la Función Pública*) and is recognised as an administrative unit of the SAT. There is also another internal administrative unit at the SAT, the General Administration of Evaluation (*Administración General de Evaluación*), in charge of promoting anticorruption campaigns and of referring corruption cases to the OIC and/or the Prosecutor's office. The General Administration of Evaluation carries out anticorruption campaigns within the SAT to increase awareness, including of misuse of confidential information, and monitor complaints received through a mailbox.

384. The OIC is in charge of preventing, detecting, punishing and eradicating illegal practices, as well as of controlling the processes and procedures carried out by public servants. The OIC is also in charge of imposing corresponding sanctions in case of non-compliance, including of cases submitted by the General Administration of Evaluation. Depending on severity of non-compliance with expectations of confidentiality, varying degree of sanctions are provided for any violations depending on their seriousness. Sanctions range from warnings, suspension of employment and temporary disqualification to financial penalties and disqualification to perform jobs in the public sector to up to 10 years in certain specific cases. The Federal Law of Transparency and Access to Public Information also establishes economic penalties for the disclosure of confidential or reserved information. However, no such sanctions have been applied in the context of EOIR.

385. Violation to the regulations may also lead to penal consequences. These cases are referred to the Prosecutor's office. According to article 214(IV) of the Penal Code, the sanction for illegal use of information under the possession of a public servant is from two to seven years of imprisonment. Article 211 of the Penal Code establishes a penalty for disclosure of confidential information of one to five years imprisonment, a penalty ranging

from MXN 50 to MXN 500 (around EUR 2 to EUR 25) and a professional suspension for two months to one year (art. 211 of the Penal Code).

386. There have been small breaches of information where there was unauthorised access to the system, although the attempts to access the system failed as no valid IDs were used to access information. No taxpayer information has been accessed or leaked through these attempts. EOI information has not been compromised. Mexico has a policy to deal with confidentiality breaches.

387. Overall, confidentiality measures comply with the standard.

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.

388. The 2014 Report concluded that Mexico was compliant with this element of the standard, and the situation remains the same in this review.

389. All of Mexico's DTCs contain a provision equivalent to the exception provided for in Article 26(3)(c) of the OECD Model Taxation Convention, which allows a State to refuse to exchange certain types of information, including information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*). Professional privilege is not defined in Mexico's DTCs and thus this term derives the meaning that it has under the domestic laws of Mexico.

390. Mexico has not experienced any practical difficulties on the basis of the application of rights and safeguards.

391. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the information exchange mechanisms of Mexico 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.

392. The 2014 Report found that Mexico was Compliant with the standard in terms of effectiveness of exchange. Responses provided were considered timely and no recommendations were given to Mexico.

393. Since the 2014 Report, the practices from the Mexican Competent Authority have changed and have resulted in a lower proportion of requests responded to in a timely manner. This reflects in part the changes in personnel in the EOI Unit and the lack of training in key aspects relevant for effective EOI. Consideration have been given to the effects of the Covid-19 pandemic, which have impacted the capacity of the Mexican Competent Authority to respond to some requests in a timely manner at the end of the review period.

394. Overall, issues have been found with respect to the timeliness of responses to EOI requests, with respect to the provision of status updates within 90 days where it is not possible to provide a full response within that period of time, and with respect to the internal procedures and resources, training to EOI staff and the updating of the EOI manual.

395. 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
Mexico experienced difficulties to respond to requests in a timely manner in all cases. Although the work of the Competent Authority was affected by the Covid-19 pandemic towards the end of the review period, not all requests sent previously were responded to in a timely manner either.	Mexico is recommended to ensure that it answers EOI requests in a timely manner in all cases.

Deficiencies identified/Underlying factor	Recommendations
During the review period, Mexico did not systematically provide status updates to its EOI partners within 90 days when the competent authority was not able to provide a substantive response within that timeframe. Mexico has recently changed its tool to track status updates to be provided every 90 days, which has improved communication with EOI partners.	Mexico is recommended to ensure it provides status updates to its EOI partners within 90 days where a full response cannot be provided within that time period and that it continues to implement the new tracking tool in practice to ensure it systematically provides status updates.
During the review period, the level of personnel rotation was high within the EOI Unit, which resulted in changes to some internal procedures that took time to be implemented. New staff had to familiarise themselves with key concepts related to EOIR, the case files and the working procedures. The EOI Manual to guide the work of the EOIR sub-unit does not provide adequate guidance on key concepts like foreseeable relevance and handling of group requests. Although Mexico has now committed sufficient resources and put in place organisational processes to handle EOI requests, these changes are still being implemented.	Mexico is recommended to ensure that its internal procedures and resources work adequately to effectively exchange information in practice, including ensuring that enough training is provided to its EOI staff and updating its EOI Manual.
During the review period, on some occasions, the Mexican Competent Authority obtained beneficial ownership information from Anti Money Laundering-obliged persons (e.g. banks or public notaries). In some other cases, the Mexican Competent Authority used the legal ownership information it had available to identify the beneficial owners of legal entities and arrangements, instead of obtaining it from Anti Money Laundering obliged persons. It is not clear if, in all cases, the beneficial owners identified were supported by adequate verification and underlying documentation and were identified consistently in line with the standard.	Mexico is recommended to ensure that staff engaged with EOI are well aware of the legal provisions pertaining to beneficial ownership information under different laws and follow a clearly established process for obtaining and exchanging beneficial ownership information available under the laws of Mexico and in accordance with the standard.

C.5.1. Timeliness of responses to requests for information

396. The procedure for exchange of information set forth in Mexican laws and regulations permit the competent authority to gather and exchange information in a proper timeframe. In particular, no provision would prevent the Mexican authorities from responding to a request for information by providing the information requested or providing a status update within 90 days of receipt of the request.

397. During the three-year period under review (1 July 2018 to 30 June 2021), Mexico received 175 requests on direct taxation matters from 16 jurisdictions. The partners with the largest numbers of incoming requests are Canada, the Netherlands, Spain and the United States. Overall, the requests related to both entities and individuals and related mainly to accounting information.

398. The Mexican Competent Authority expressed difficulties in collecting the information related to the number of requests received, as during the review period there were several changes in personnel within the EOI Unit which resulted in difficulties to track the status of all EOI requests.

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

Statistics on response time and other relevant factors

		Jul 2018-Jun 2019		Jul 2019-Jun 2020		Jul 2020-Jun 2021		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	69	100	50	100	56	100	175	100
Full response: ≤ 90 days		15	21.7	7	14	5	8.9	27	15.4
≤ 180 days (cumulative)		30	43.5	12	24	9	16.1	51	29.1
≤ 1 year (cumulative)	[A]	54	78.3	19	38	18	32.1	91	52
> 1 year	[B]	10	14.5	25	50	29	51.8	64	36.6
Declined for valid reasons		0	0	0	0	0	0	0	0
Outstanding cases after 90 days		54	100	43	100	51	100	148	100
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		0	0	3	7	16	31.3	19	12.8
Requests withdrawn by requesting jurisdiction	[C]	3	4.3	6	12	3	5.4	12	6.9
Failure to obtain and provide information requested	[D]	2	2.9	0	0	0	0	2	1.1
Requests still pending at date of review	[E]	0	0	0	0	6	10.7	6	3.4

Notes: Mexico counts each request letter as one request, irrespective of the number of taxpayers involved, i.e. if a partner jurisdiction is requesting information about 4 persons in one request (i.e. one letter), Mexico counts that as 1 request. If Mexico receives a further request for information that relates to a previous request, with the original request still active, Mexico will append the additional request to the original and continue to count it as the same request. If a further request for information that relates to a previous request after the original request has been concluded, then Mexico considers it as a new 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.

400. The Mexican authorities explained that requests that are usually dealt with within 90 or 180 days typically were requests for which less complex and more specific information is requested.

401. The overall timeliness of EOI responses has worsened compared to the last review. The 2014 Report found that on average 54% of requests were responded within 180 days, against 29.1% in the current review period. Response times within 90 days have decreased from 30% in the 2014 Report to 15.4% in the current review. Furthermore, slightly over one third of the responses (36.6%) were provided in more than one year.

402. The Mexican authorities stressed that the Covid-19 pandemic significantly affected the operations of the EOI Unit. The offices of the EOI Unit were closed and its operation suspended for four months when the pandemic started in March 2020. Only one administrator was going to the office during that period. Operations were moved to work remotely, although it took some time for employees to be able to fully work from home with their official laptops until a VPN was implemented, since before the pandemic no teleworking arrangements existed. The teleworking arrangements lasted until August 2020. Communications of the Competent Authority with other Mexican authorities were also affected by the pandemic, as the other authorities also had to take measures to ensure continuity of their operations. In addition, the operation of mail companies in Mexico stopped and it was not possible for the Competent Authority to receive requests from exchange partners sent in physical form, although this is not reflected in the statistics in the table above, as requests are only counted from the time of receipt.

403. Nevertheless, even without considering the period most affected by the Covid-19 pandemic (i.e. the third year of the review period), the statistics on timeliness of responses are not considerably better and the responses provided after one year are around one third of the total number. Importantly, compared to the 2014 Report, there was a significant deterioration in the timeliness of responding to requests even before the Covid-19 pandemic.

404. The difficulties of the Mexican Competent Authority to provide responses in a timely manner in all cases relate also to the level of personnel rotation in the EOI Unit in the review period and the limited training provided to new staff, which affected its effective operation (see paragraphs 419 to 423).

405. Two peers expressed concern in relation to delays in receiving requested information. For one of the peers, the Mexican Competent Authority clarified that the request was originally sent to the Mexican Ministry of Foreign Affairs and that this caused delay in the reception of the request by the Competent Authority, as the Ministry of Foreign Affairs took time to understand to whom the request should be forwarded. The Mexican Competent

Authority only received the request in February 2021 (it was originally sent by the requesting jurisdiction in August 2020), which was responded upon. The same peer stated that another request was sent, which was also addressed to the Ministry of Foreign Affairs. The Mexican Competent Authority had no knowledge of this other request. The delay in the first case and no response in the second case were due to the peer's mistake in addressing the request.

406. Regarding the other peer, the Mexican authorities explained that the request was sent during the Covid-19 pandemic, during which the mail services were interrupted and therefore the letter of request was received with delay. The Mexican authorities provided the response as soon as possible thereafter.

407. Mexico also reported that it was delayed in responding to a group request received during the review period. Such delay has been encountered due to the volume of requested information, as well as Mexico's process that involves the collection and provision of banking information in two stages. Mexico has been in contact with the corresponding partner and has constantly provided partial responses.

408. In relation to requests for clarification, Mexico explained that in most cases the clarifications related to the identity of the person subject to a request and/or to obtain information such as a TIN or date of birth. TIN and/or date of birth were needed in some cases to be able to identify the subject of the request, as it happened that in some requests there was only one name (i.e. no middle name) and only one last name, whereas in Mexico the usual practice is to identify individuals with their complete name (i.e. two names or more if the person has them) and two last names. The usage of only one name and one last name could also lead to the identification of homonyms, which could only be solved with more information being requested. Where the requesting jurisdiction does not provide the information as quickly as it would be desirable, the resolution of cases is delayed.

409. During the review period, Mexico did not decline to respond to a request. All requests have been responded to, are being dealt with or have been withdrawn by the requesting jurisdiction. At the date of on-site, there were seven requests pending, of which one has been withdrawn by the requesting jurisdiction. Regarding the six pending requests: (i) four of them are from one partner, from which Mexico requested clarification regarding the name of the taxpayers involved, but the requesting jurisdiction did not provide answers for four months. All of the cases are currently close to be concluded; (ii) one request from another partner is the Group Request described in the previous paragraph; (iii) one request coming from another partner asked for information related to invoices issued by a taxpayer. The Mexican authorities have requested clarifications from the peer but have not received a response yet.

410. Overall, Mexico experienced difficulties to respond to requests from peers in all cases in a timely manner. Although the Covid-19 pandemic had a considerable impact in the functioning of the Competent Authority during the last year of the review period, timeliness of response to requests sent prior to the Covid-19 pandemic was not considerably better. **Mexico is recommended to ensure that it answers EOI requests in a timely manner in all cases.**

Status updates and communication with partners

411. The 2014 Report noted that Mexico sent status updates on a regular basis, most of the time in the form of partial responses within 90 days of receipt of the EOI requests. For the current review period, some peers raised concerns that they did not receive status updates from Mexico in every case, or they were only provided upon reminder. In some cases status updates were provided in the form of partial responses and some peers have indicated this in their input.

412. The Mexican authorities explained that during the review period, they relied on a tracking tool that the EOI Unit used from before. However, as there have been several changes and rotation in personnel, none of the employees currently handling EOI requests was familiar with the tracking tool. Consequently, the process was not entirely effective and therefore some status updates were not provided in accordance with the requirements of the standard.

413. Mexico reports that since May 2021 it changed to a new tool under a new office program with which the employees of the EOI Unit are familiar. Since then, Mexico considers that it has provided status updates in a more systematic manner. It has sent status updates in 8 cases where the investigations were still ongoing, as well as 31 partial responses. This new tracking tool is expected to improve the provision of status updates in a more consistent manner, although its effectiveness could not be assessed in this report.

414. Overall, during the review period, deficiencies were identified related to providing status updates to EOI partners within 90 days. Mexico has taken steps to improve its tracking system to be able to provide status updates in a systematic manner, although the implementation of this new tracking system in practice is still relatively new. **Mexico is recommended to ensure it provides status updates to its EOI partners within 90 days where a full response cannot be provided within that time period and that it continues to implement the new tracking tool in practice to ensure it systematically provides status updates**.

415. Regarding communication with partners, Mexico uses physical correspondence via mail and electronic correspondence via email. In general,

peers were satisfied with the ways of communicating with the Mexican Competent Authority and mentioned that it was easy to contact it, except for one peer, who stated difficulty in email communication during 2021. The Mexican authorities explained that they have tried repeatedly to contact the peer but the emails bounced back. The Mexican Competent Authority then decided to send the communications via mail, although the letters were not transmitted due to the Covid-19 pandemic. The Mexican Competent Authority clarified that the problems faced with the email communications with the peer have already been solved.

C.5.2. Organisational processes and resources

Organisation of the competent authority

416. In Mexico, the capacity to exchange information lies with the EOI Unit, which is under the General Administration of Large Taxpayers within the SAT. The EOI Unit is divided into three sub-units: (i) the AEOI sub-unit; (ii) the EOIR sub-unit (which also deals with issues related to BEPS and spontaneous exchange of information) and (iii) the legal support sub-unit.

417. The delegated Competent Authority for EOI is the head of the EOI Unit and there are designated Deputy Competent Authorities, which are employees hierarchically below the head of the EOI Unit. The contact information of the Mexican competent authority is fully identifiable in the secure Global Forum Competent Authority website. The delegation of the Competent Authority has been done through internal regulations, which confers them with the power to act as Competent Authority for exchange of tax information purposes. Only six employees have access to the Competent Authority email and the Head of the EOIR sub-unit carries out this task in practice. Not all employees from the EOI Unit have access to the complete SAT system, as some of them have only access to certain sets of information. There is a pyramidal structure for access.

418. When the Competent Authority needs to formulate a notice for information to other Mexican authorities or to taxpayers, the Central Administrators of the General Administration of Large Taxpayers sign the outgoing requests. These communications are sent by official letter or by a message on the taxpayers' mailbox. In the latter case, the communications are electronically signed. In practice, the employees formulating these requests are those that have designation as Central Administrators, which are not the same employees that have been designated as Competent Authority for purposes of EOIR exchanges. This organisation in itself does not create delays in the processing of requests, as communication between the Competent Authority and the Central Administrators is fluid and is a well-known procedure to both parts.

Resources and training

419. The EOI Unit is comprised of 40 employees, of which 18 are part of the EOIR sub-unit. These employees are typically lawyers and accountants. The legal support unit is comprised of six employees. Although two employees have been part of the EOIR sub-unit since it was established, many members of the EOIR sub-unit have joined not long ago (some of them two to three years ago, some others around one year ago).

420. Internally within the SAT, the Human Resources Administration is in charge of capacity building programmes and trainings. There is an annual training programme for each General Administration within the SAT. For the General Administration of Large Taxpayers, trainings are carried out by the managers of the units and in co-ordination with the trainings provided by the OECD. The employees from the EOIR sub-unit have attended some trainings that have mainly focused on confidentiality aspects. The EOIR sub-unit has carried out some exercises on the concept of foreseeable relevance and in 2021, seven members attended a course on the concept of beneficial owner. Learning from this training was shared with the rest of the sub-unit. There was a training on beneficial owner scheduled for 2022, in which 67 employees participated.

421. The training of the staff on matters specifically related to EOIR is limited. Discussions during the on-site visit revealed that some of the key concepts relevant to exchange information under EOIR were not clear to the EOIR sub-unit, for example the handling of group requests. There was some limited knowledge of concepts such as foreseeable relevance and beneficial owner. When asked about these concepts during the on-site visit, responses from some officials seemed tentative or not entirely accurate. Not all officials were familiar with all relevant concepts and the EOI Manual does not provide enough support to officials to carry out tasks related to these concepts (see paragraphs 422 and 423).

422. The EOIR sub-unit formulates and responds to requests based on the EOIR standard, the Keeping it Safe OECD Guide and the EOI working manuals, which must be studied by all employees of the EOIR sub-unit beforehand. The current EOI Manual dates from 2013 and has not been updated since then, which means that it has not been updated to incorporate up-to-date information regarding the treaties under which Mexico exchanges information (e.g. the Multilateral Convention is not mentioned in the current version of the EOI Manual). Although it covers the procedures to follow to carry out exchanges of information (both inbound and outbound), it does not incorporate key elements such as foreseeable relevance or group requests.

423. Overall, deficiencies were identified in the organisational structure of the EOI Unit. During the review period, there were several changes in personnel, which resulted in changes to some internal procedures that took time to be implemented. New staff had to familiarise with key concepts related to EOIR, case files and working procedures. The training provided to the EOI Unit has been insufficient and the EOI Manual does not provide sufficient guidance to the EOIR sub-unit to carry out its work. **Mexico is recommended to ensure that its internal procedures and resources work adequately to effectively exchange information in practice, including ensuring that enough training is provided to its EOI staff and updating its EOI Manual.**

Identification of beneficial owners by the Competent Authority

424. The Mexican Competent Authority explained that, during the review period, when it received a request for information related to beneficial ownership information, it looked for the information utilising all the sources of information it had available, which were AML-obliged persons (banks in most cases where banks were identifiable). Discussions during the on-site visit revealed that, in its attempt to determine which beneficial ownership information to provide to the EOI partner, the Mexican Competent Authority sometimes used information related to legal ownership it had available (i.e. information from the RPC available through the SIGER system). This could have resulted in not all beneficial owners being identified in line with the standard, in particular in cases where control is exercised through means other than ownership or where legal entities or arrangements are part of the ownership chain of an entity, as it was not ensured that a look-through was applied to identify the natural person behind the legal entities or arrangements. The AML Law applicable to credit institutions would have ensured the identification of beneficial owners with supporting documentation. Such identification would have also benefited from expertise and training that compliance officials of banks have for correctly identifying beneficial owners, something that was not an expertise of the Mexican Competent Authority office during the review period. This partly reflects the lack of training of the EOI Unit and the high level of rotation of personnel experienced during the review period. Hence, there are concerns that beneficial ownership information exchanged may not always have been complete in all cases. **Mexico is recommended to ensure that staff engaged with EOI are well aware of the legal provisions pertaining to beneficial ownership information under different laws and follow a clearly established process for obtaining and exchanging beneficial ownership information available under the laws of Mexico and in accordance with the standard**.

Incoming requests

425. The EOIR sub-unit currently has a database where all documents received are registered. These include both incoming and outgoing EOI requests, as well as any other information received from foreign competent authorities in relation to the EOI requests. A number and name identify each EOI request, and all subsequent documents received by the EOIR sub-unit related to that specific request are identified with the same reference number.

426. Additionally, each employee of the EOIR sub-unit has access to the database with both incoming and outgoing requests, in which the date of receipt of the request and the data of acknowledgment to the foreign authority are recorded. Each employee adds reminders in his/her calendar to keep track of time of each request and a colour coding is used to monitor the timeliness of response. The register of incoming requests also includes the response time of the investigations carried out to respond the exchange of information request. The Mexican competent authority also holds a physical file of the requests and responses made.

427. During the review period, due to the numerous changes in personnel, the tracking tools used by the EOIR sub-unit to monitor the requests changed and were not available for some time until an official able to manage them arrived. This, together with the time it took for officials to get familiar with EOI related matters, created delays in responding to peers.

428. Once a request is received, it is assigned to an employee within the EOIR sub-unit, who is in charge of determining the validity of the request, including whether the request meets the standard of foreseeable relevance, if the taxes requested are covered by an international tax treaty in force and for which periods, if the request is signed by a competent authority listed in the Global Forum competent authority database and if the subject of investigation is under an audit process. The allocation of requests among employees depends on several factors, including workload and experience.

429. Where a request is incomplete or unclear, the employee in charge of the request prepares an email describing the corresponding clarification needed. The email is sent encrypted abroad to the generic email address of the competent authority indicated in the Global Forum competent authority database. Acknowledgement of receipt is requested and once it has been received, a password is sent so that the receiver can access the contents of the email. Before the Covid-19 pandemic, requests for clarification were sent through official letters.

430. When the information is already in possession of the SAT, a search is made in the SAT institutional databases. Assistance is generally sought from the Federal Fiscal Tax Audit Analysis Centre (CAAFF, *Centro de Análisis de*

Auditoría Fiscal Federal), which is SAT's strategic research area that has access to various databases that provide relevant elements on the fiscal behaviour of taxpayers. The search is carried out within the first weeks of receipt of the request and the response time is between 15 and 20 days.

431. When the information is in possession of another governmental authority, the information is requested through an official letter, granting a period of 15 working days for a response to be provided. Authorities that are usually subject to requests of information are the CNBV, the Ministry of Foreign Affairs and the authority in charge of the Mexican national identification number (Unique Population Registry Code, *Clave Única de Registro de Población*).

432. Finally, when information is in possession of the taxpayer, a request letter is sent to the taxpayer, granting a period of 15 working days to provide a response. Occasionally, taxpayers request an extension to provide the information and an additional period of 10 working days is granted. This official letter is notified to the taxpayer by tax mailbox if the taxpayer has enabled it.

433. The process to access information in possession of a bank is described under section B.1.1.

434. When the corresponding information has been received from the information holder, the employee in charge of the request verifies that it corresponds to the information that has been asked. Confidentiality stamps are incorporated into the documents received. Thereafter, it starts the process to respond to the request from the EOI partner. Response time to receive responses from information holders is now being monitored, but it was not the case during the review period. The managers of the EOI Unit review the response before it is sent to the partner.

Outgoing requests

435. Mexico sent 382 requests to its treaty partners during the review period. The EOI manual sets out the procedures to follow to send a request. Once a request for information is formulated, it is registered in the database of outbound requests, in which various information related to the case is registered, such as the name of the taxpayer, the RFC, audited period. A control number is assigned. An official letter is made (if necessary, a courtesy translation is incorporated), a digital seal or watermark is included in the document, it is encrypted into a zip file, it is protected with a password and it is sent by email abroad to the account obtained from the Global Forum Competent Authority database, acknowledgment of receipt is requested to provide the receiving party a password to be able to access the request.

436. Mexico's EOI partners were generally satisfied with the quality of the requests received. Most of them confirmed that the requests complied with the standard of foreseeable relevance. One peer highlighted that a request was made for information related to a period not covered by the legal instrument under which the request was being made, the Multilateral Convention. The request was for information related to 2012 and 2013, although the Multilateral Convention entered into force for the peer on 1 January 2013, meaning that it was effective only from 1 January 2014. This reflects in part the fact that the EOI manual has not been updated and that it does not explicitly refer to the Multilateral Convention as an instrument to undertake EOIR, with its specificity that the entry into force of the instrument is different for each participating jurisdiction. Another peer noted that requests for clarification did cause delays in the processing of a request received from Mexico and that Mexico ended up by withdrawing the request. However, other peers noted that the requests for clarification did not cause great delays.

437. Overall, peers were satisfied with the quality of the requests received.

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

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

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.1.1:** Mexico should monitor the risk that irregular companies may pose to the availability of information in relation to them in practice (paragraphs 70 and 217).
- **Element A.1.1:** Mexico should monitor the registration of notices in the PSM related to changes in companies' shareholding to ensure the availability of updated legal ownership information in all cases (paragraph 73).
- **Element A.1.4:** Mexico should monitor the situation of non-professional trustees of foreign trusts to ensure the availability of identity information (paragraph 198).
- **Element C.2:** Mexico should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 351).
- **Element C.3:** Mexico should monitor that information holders are only provided details of the EOI request to the extent necessary to obtain requested information (paragraph 367).

Annex 2: List of Mexico's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Argentina	DTC	04-Nov-2015	23-Aug-2017
2	Aruba	TIEA	18-Jul-2013	01-Sep-2014
3	Australia	DTC	09-Sep-2002	31-Dec-2003
4	Austria	DTC	13-Apr-2004	01-Jan-2005
5	Bahamas	TIEA	23-Feb-2010	30-Dec-2010
6	Bahrain	DTC	10-Oct-2010	22-Feb-2012
7	Barbados	DTC	07-Apr-2008	16-Jan-2009
8	Belgium	DTC	24-Nov-1992	1-Feb-1997
		Protocol	26-Aug-2013	19-Aug-2017
9	Belize	TIEA	17-Nov-2011	09-Aug-2012
10	Bermuda	TIEA	15-Oct-2009	09-Sep-2010
11	Brazil	DTC	25-Sep-2003	29-Nov-2006
12	Canada	DTC	12-Sep-2006	12-Apr-2007
13	Cayman Islands	TIEA	17-Aug-2010 in Mexico/ 28-Aug-2010 in Cayman Islands	09-Mar-2012
14	Chile	DTC	17-Apr-1998	12-Nov-1999
15	China (People's Republic of)	DTC	12-Sep-2005	01-Mar-2006
16	Colombia	DTC	13-Aug-2009	11-Jul-2013
17	Co-ok Islands	TIEA	08-Nov-2010 in Mexico/ 22-Nov-2010 in the Co-ok Islands	03-Mar-2012
18	Costa Rica	TIEA	25-Apr-2011	26-Jun-2012
		DTC	12-Apr-2014	21-Apr-2019

	EOI partner	Type of agreement	Signature	Entry into force
19	Curaçao	TIEA	01-Sep-2009	04-Feb-2011
20	Czech Republic	DTC	04-Apr-2002	27-Dec-2002
21	Denmark	DTC	11-Jun-1997	22-Dec-1997
22	Ecuador	DTC	30-Jul-1992	13-Dec-2000
23	Estonia	DTC	19-Oct-2012	04-Dec-2013
24	Finland	DTC	12-Feb-1997	14-Jul-1998
25	France	DTC	07-Nov-1991	31-Dec-1992
26	Germany	DTC	09-Jul-2008	15-Oct-2009
		Protocol	08-Oct-2021	Not ratified yet
27	Gibraltar	TIEA	09-Nov-2012 in Mexico/ 29-Nov-2012 in Gibraltar	27-Aug-2014
28	Greece	DTC	13-Apr-2004	07-Dec-2005
29	Guatemala	DTC	13-Mar-2015	Ratified by Mexico on 14 November 2017. Not yet ratified by Guatemala
30	Guernsey	TIEA	10-Jun-2011 in Mexico/ 27-Jun-2011 in Guernsey	24-Mar-2012
31	Hong Kong (China)	DTC	18-Jun-2012	07-Mar-2013
32	Hungary	DTC	24-Jun-2011	31-Dec-2011
33	Iceland	DTC	11-Mar-2008	10-Dec-2008
34	India	DTC	10-Sep-2007	01-Feb-2010
35	Indonesia	DTC	06-Sep-2002	28-Oct-2004
		Protocol	06-Oct-2013	18-Sep-2019
36	Ireland	DTC	22-Oct-1998	31-Dec-1998
37	Isle of Man	TIEA	18-Mar-2011 in Mexico/ 11-Apr-2011 in Isle of Man	04-Mar-2012
38	Israel	DTC	20-Jul-1999	09-May-2000
39	Italy	DTC	08-Jul-1991	10-Mar-1995
		Protocol	23-Jun-2011	16-Apr-2015
40	Jamaica	DTC	18-May-2016	24-Feb-2018

	EOI partner	Type of agreement	Signature	Entry into force
41	Japan	DTC	09-Apr-1996	06-Nov-1996
42	Jersey	TIEA	08-Nov-2010 in Mexico/ 12-Nov-2010 in Jersey	22-Mar-2012
43	Korea	DTC	06-Oct-1994	11-Feb-1995
44	Kuwait	DTC	27-Oct-2009	15-May-2013
45	Latvia	DTC	20-Apr-2012	02-Mar-2013
46	Liechtenstein	TIEA	20-Apr-2013	24-Jul-2014
47	Lithuania	DTC	23-Feb-2012	29-Nov-2012
48	Luxembourg	DTC	07-Feb-2001	27-Dec-2001
		Protocol	07-Oct-2009	20-Nov-2011
49	Malta	DTC	17-Dec-2012	09-Aug-2014
50	Netherlands	DTC	27-Sep-1993	13-Oct-1994
		Protocol	11-Dec-2008	31-Dec-2009
51	New Zealand	DTC	16-Nov-2006	16-Jun-2007
52	Norway	DTC	23-Mar-1995	23-Jan-1996
53	Panama	DTC	23-Feb-2010	30-Dec-2010
54	Peru	DTC	27-Apr-2011	19-Feb-2014
55	Philippines	DTC	17-Nov-2015	18-Apr-2018
56	Poland	DTC	30-Nov-1998	28-Aug-2002
57	Portugal	DTC	11-Nov-1999	09-Jan-2001
58	Qatar	DTC	14-May-2012	09-Mar-2013
59	Romania	DTC	20-Jul-2000	15-Aug-2001
60	Russia	DTC	07-Jun-2004	02-Apr-2008
61	Saint Lucia	TIEA	05-Jul-2013 in Mexico/ 09-Jul-2013 in Saint Lucia	18-Dec-2015
62	Samoa	TIEA	17-Nov-2011 in Mexico/ 30-Nov-2011 in Samoa	18-Jul-2012
63	Saudi Arabia	DTC	17-Jan-2016	01-Mar-2018
64	Singapore	DTC	09-Nov-1994	14-Sep-1995
		Protocol	29-Sep-2009	01-Jan-2012
65	Slovak Republic	DTC	13-May-2006	28-Sep-2007
66	South Africa	DTC	19-Feb-2009	22-Jul-2010
67	Spain	DTC	24-Jul-1992	06-Oct-1994
		Protocol	17-Dec-2015	27-Sep-2017

	EOI partner	Type of agreement	Signature	Entry into force
68	Sweden	DTC	21-Sep-1992	18-Dec-1992
69	Switzerland	DTC	03-Aug-1993	08-Sep-1994
		Protocol	18-Sep-2009	23-Dec-2010
70	Türkiye	DTC	17-Dec-2013	23-Jul-2015
71	Ukraine	DTC	23-Jan-2012	06-Dec-2012
72	United Arab Emirates	DTC	20-Nov-2012	09-Jul-2014
73	United Kingdom	DTC	02-Jun-1994	15-Dec-1994
		Protocol	23-Apr-2009	18-Jan-2011
74	United States	DTC	18-Sep-1992	28-Dec-1993
		Protocol	08-Sep-1994	26-Oct-1995
		Protocol	09-Sep-2002	03-Jul-2003
		TIEA	09-Nov-1989	18-Jan-1990
		TIEA	08-Sep-1994	26-Oct-1995
75	Uruguay	DTC	14-Aug-2009	29-Dec-2010
76	Venezuela	DTC	06-Feb-1997	Not in force

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

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.

44. 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 Mexico on 27 May 2010 and entered into force on 1 September 2012 in Mexico. Mexico 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, Co-ok Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus,[45] 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), Mauritania, 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, Rwanda, 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.

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

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

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Benin (entry into force 1 May 2023), Burkina Faso (entry into force on 1 April 2023), Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the Methodology for peer reviews and non-member reviews, as amended, 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 2 December 2022, Mexico's EOIR practice in respect of EOI requests made and received during the three year period from 1 July 2018 to 30 June 2021, Mexico's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Mexico's authorities during the on-site visit that took place from 11 July to 15 July 2022 in Mexico City.

List of laws, regulations and other materials received

Political Constitution of the United Mexican States (the Mexican Constitution)

Commercial Code

Federal Civil Code

Federal Fiscal Code

Federal Law for the Prevention and Identification of Operations with Illicit Proceeds

Federal Law for the Prevention and Identification of Operations with Illicit Proceeds Regulations

Foreign Investment Law

General Law on Commercial Companies

General Provisions for Credit Institutions

Guidelines for the identification of the Real Owner

Income Tax Law

Internal Regulations of the Tax Administration Service

Law on Credit Institutions

Questions and Answers on beneficial owners

Tax Administration Service Law

Tax Miscellaneous Regulations

Authorities interviewed during on-site visit

Authorities and representatives of the private sector interviewed during the on-site visit:

Tax Administration Service (*Servicio de Administración Tributaria* – SAT)

- General Administration of Large Taxpayers
  - Central Administration of International Exchange of Information
  - Central Administration of Legal Support and International Regulations
  - Central Administration for International Audits
  - Central Administration of Planning and Programming of Examination of Large Taxpayers
  - Central Administration of Litigation of Large Taxpayers
- Central Administration of Legal Affairs of Vulnerable Activities
- Central Administration of Internal Tax Regulations
- Central Administration of Taxpayer Services Legal Support
- Central Administration of Registry Operation
- Central Administration of Planning and Programming of Federal Fiscal Audit
- Central Administration of Process Evaluation and Information
- Central Administration of Security, Monitoring and Control
- General Administration of Resources and Services Internal Control Body

General Direction of International Treaties, Ministry of Finance

Public Registry of Commerce (*Registro Público de Comercio* – RPC)

National Registry of Foreign Investments (*Registro Nacional de Inversión Extranjera* – RNIE)

National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores* – CNBV)

Financial Intelligence Unit (*Unidad de Inteligencia Financiera*), Ministry of Finance

Association of Banks (*Asociación de Bancos de México*)

Chamber of Accountants (*Colegio de Contadores Públicos de México*)

Bar Association (*Barra Mexicana, Colegio de Abogados, A.C.*)

Public Brokers Association (*Colegio de Corredores Públicos de la Ciudad de México*)

Current and previous reviews

This Report provides the outcome of the second peer review of Mexico's implementation of the EOIR standard conducted by the Global Forum. Mexico previously underwent a Phase 1 review of its legal and regulatory framework in 2012 and a Phase 2 review the implementation in practice of the framework in 2014.

The 2014 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 Mexico's reviews is listed in the table below.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Mr Fatih Kaya, Senior Tax Inspector, Board of Tax Inspection, Ministry of Finance, Turkey; Mr Thanduxolo Twala, Manager, International Development and Treaties, Legal and Policy Division, South African Revenue Service, South Africa; and Mr Beat Gisler from the Global Forum Secretariat	n.a.	January 2012	March 2012
Round 1 Phase 2	Mr Fatih Kaya, Senior Tax Inspector, Board of Tax Inspection, Turkish Ministry of Finance; Mr Thanduxolo Twala, Manager, International Development and Treaties, Legal and Policy Division, South African Revenue Service; and Ms Renata Teixeira from the Global Forum Secretariat	1 January 2010 to 31 December 2012	23 May 2014	August 2014
Round 2 combined Phase 1 and Phase 2	Mr Felix Osiemo, Exchange of Information and Stakeholder Engagement Unit, Kenya Revenue Authority; Mr Guillermo Nieves, Tax Advisor, Dirección General Impositiva de Uruguay; and Mr Puneet Gulati and Ms Estefanía González from the Global Forum Secretariat	1 July 2018 to 30 June 2021	2 December 2022	27 March 2023

Annex 4: Mexico's response to the review report[46]

The second round peer review of Mexico was a great opportunity to identify different areas to improve Mexico's Exchange of Information on Request practices. It challenged the Mexican EOI unit to obtain the information needed to be provided to the Assessment Team, renewing the relationship with other Mexican institutions.

Since the review started in December 2021, it began a very interesting process that finishes with this report. Mexico is very grateful with the Assessment Team; without their experience, patience, guidance the result would not be this successful.

Even though Mexico has been assigned an overall rating of Largely Complaint, which is a decrease from the previous Compliant rating in 2014, we are mostly satisfied with the rating, and we will make every effort to address the issues identified.

Differing interpretations and opposing views helped Mexico to clarify the differences between the standard and our legal framework, pointing out to the importance of supervising some procedures to be able to provide the most accurate information. We will therefore implement the recommendations following the reform of the Fiscal Code regarding beneficial ownership information.

Mexico has a very dynamic relationship with its partners and shares all types of information. The recommendation about providing status updates has been implemented, the OECD toolkits have been a very important source of information to clarify some doubts about the standard and to provide the most accurate information.

Lastly, Mexico would like to thank the Global Forum for all the initiatives to contribute to greater tax transparency and to efficient exchange of information for tax purposes. Mexico would also like to thank to Global Forum Secretariat for its commitment with all the jurisdictions and the Peer Review Group for all its work; without its comments this report would not be complete.

46. 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 MEXICO 2023 (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 presents the results of the Second Round Peer Review on the Exchange of Information on Request for Mexico.

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