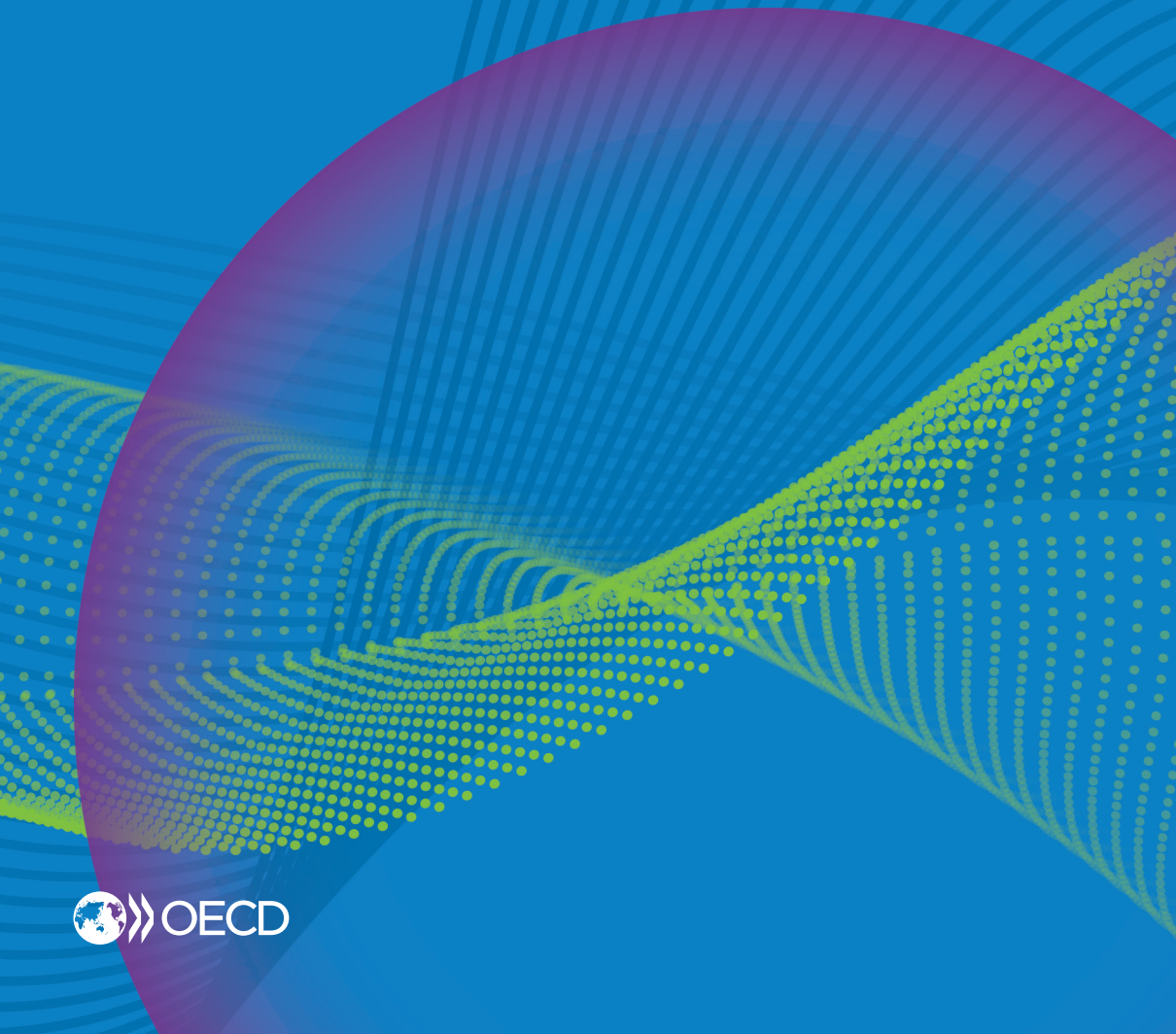
GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request

ANTIGUA AND BARBUDA

2023 (Second Round)



OECD

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

PEER REVIEW REPORT ON THE EXCHANGE OF INFORMATION ON REQUEST

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes on 14 June 2023 and adopted by the Global Forum members on 14 July 2023. The report was prepared for publication by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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

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

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

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

Please cite this publication as:
OECD (2023), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Antigua and Barbuda 2023 (Second Round): Peer Review Report on the Exchange of Information on Request*, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Publishing, Paris, https://doi.org/10.1787/df906926-en.

ISBN 978-92-64-88611-7 (print)
ISBN 978-92-64-90358-6 (pdf)

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

Photo credits: OECD with cover illustration by Renaud Madignier.

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

Table of contents

Reader's guide

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

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

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

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

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

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

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

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

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

Consideration of the Financial Action Task Force Evaluations and Ratings

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

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

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

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

More information

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

Abbreviations and acronyms

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
2017 EOI Manual	Exchange of Information Manual, as adopted in 2017
2022 EOI Manual	Exchange of Information Manual, as revised in 2022
ABSTA	Antigua and Barbuda Sales Tax Act
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
CA	Companies Act
CARICOM	Caribbean Community
CDD	Customer Due Diligence
CMTSPA	Corporate Management and Trust Services Providers Act
DTC	Double Tax Convention
ECCB	Eastern Caribbean Central Bank
EOI	Exchange of information
EOIR	Exchange Of Information on Request
FATF	Financial Action Task Force
FSRC	Financial Services Regulatory Commission
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
IBC	International business company
IBCA	International Business Corporations Act
IFA	International Foundations Act

ILLC	International limited liability company
ILLCA	International Limited Liability Companies Act
IPCO	Intellectual Property and Commerce Office
IRD	Inland Revenue Department
ITA	International Trusts Act
MLFTG	Money Laundering & Financing of Terrorism Guidelines for Financial Institutions
MLPA	Money Laundering Prevention Act
MLPR	Money Laundering (Prevention) Regulations
MoU	Memorandum of Understanding
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
ONDCP	Office of National Drug and Money Laundering Control Policy
TAPA	Tax Administration and Procedures Act
TIE Act	Tax Information Exchange Act 2002
TIEA	Tax Information Exchange Agreement
USD	United States Dollar
XCD	Eastern Caribbean Dollar

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in Antigua and Barbuda on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force on 4 May 2023 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of exchange of information requests received and sent during the review period from 1 April 2019 to 31 March 2022. This report concludes that Antigua and Barbuda is rated overall **Partially Compliant** with the standard.

2. In 2014, the Global Forum evaluated Antigua and Barbuda 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 Antigua and Barbuda was rated Partially Compliant overall.

3. In the second round of reviews, because of the COVID-19 pandemic, the onsite visit – scheduled for March 2020 – was cancelled. Hence, the review of Antigua and Barbuda was phased, starting with a desk-based Phase 1 review on the compliance of the legal and regulatory framework against the 2016 Terms of Reference, which culminated with the adoption of the report in 2021 (Phase 1 Report). The Phase 1 Report concluded that Antigua and Barbuda had the legal and regulatory framework in place that generally ensures the availability, access and exchange of all relevant information for tax purposes in accordance with the standard, but needs improvements in several areas. The onsite visit to Antigua and Barbuda has since taken place in December 2022, and the present review complements the Phase 1 report with an assessment of changes made to the framework since 2021 and of the practical implementation of the standard (see Annex 3 for details).

4. The following table compares the results from the latest first round review (2014) and the second round review (2023) of Antigua and Barbuda's implementation of the EOIR standard.

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

Element		First Round Report (2014)		Second Round Report (2023)	
		Determination	Rating	Determination	Rating
A.1	Availability of ownership and identity information	in place	Largely Compliant	needs improvement	Partially Compliant
A.2	Availability of accounting information	not in place	Non-Compliant	needs improvement	Non-Compliant
A.3	Availability of banking information	in place	Compliant	needs improvement	Largely Compliant
B.1	Access to information	in place	Largely Compliant	needs improvement	Partially Compliant
B.2	Rights and Safeguards	in place	Compliant	in place	Compliant
C.1	EOIR Mechanisms	in place	Compliant	in place	Largely Compliant
C.2	Network of EOIR Mechanisms	in place	Compliant	in place	Compliant
C.3	Confidentiality	in place	Largely Compliant	in place	Partially Compliant
C.4	Rights and safeguards	in place	Compliant	in place	Compliant
C.5	Quality and timeliness of responses	not applicable	Largely Compliant	not applicable	Partially Compliant
	OVERALL RATING	**PARTIALLY COMPLIANT**		**PARTIALLY COMPLIANT**	

Note: The three-scale determinations for the legal and regulatory framework are In place, In place but certain aspects of the legal implementation of the element need improvement (Needs improvement), and Not in place. The four-scale ratings on compliance with the standard (capturing both the legal framework and practice) are Compliant, Largely Compliant, Partially Compliant, and Non-Compliant.

Progress made since previous review

5. Antigua and Barbuda made some but insufficient progress towards compliance with the standard since the 2014 Report.

6. In 2014, Antigua and Barbuda was recommended to put in place an oversight programme to ensure compliance with the obligations to maintain ownership and identity information for all relevant entities and arrangements and exercise its enforcement powers as appropriate to ensure that such information is available in practice. Whilst progress has been made in the oversight of the service providers by the Financial Services Regulatory Commission (FSRC), these improvements are not fully satisfactory and do not extend to all relevant entities and arrangements. This report recommends that Antigua and Barbuda continues and enlarges its oversight programme to all relevant entities and arrangements and exercises its enforcement powers as appropriate to ensure that ownership information is available in practice. Due to this and other deficiencies identified in relation to Element A.1 (in particular, in view of the enhanced requirements to ensure the availability of

beneficial ownership), this element is downgraded from Largely Compliant to Partially Compliant.

7. The 2014 Report concluded that the legal and regulatory framework for ensuring the availability of accounting information was not in place as it was not clear whether the accounting obligations applicable to international business companies (IBCs) and ordinary trusts not carrying on business in Antigua and Barbuda covered underlying documentation and a minimum record retention period of five years. In addition, there were no penalties for non-compliance with the obligation to keep accounting records for a large number of entities. As, in addition, Antigua and Barbuda did not have a regular oversight programme in place to monitor compliance with the accounting record keeping obligations, Element A.2 was rated Non-Compliant. This peer review recognises improvements made by Antigua and Barbuda to clarify the accounting obligations applicable to IBCs and to put in place sanctions for non-compliance with the accounting record keeping obligations. However, further improvements are required in the legal and regulatory framework. Also, the implementation in practice, including enforcement measures, still falls short of meeting the standard. The rating therefore remains Non-Compliant for this element.

8. In relation to exchanges of information Antigua and Barbuda became a Party to the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention), which entered into force on 1 February 2019. This has greatly expanded the EOIR relationships of Antigua and Barbuda to 148 partners. Further, as recommended by the 2014 Report, Antigua and Barbuda put in place the exchange of information (EOI) manual (initially in 2017, with the revised version published in 2022) to set out the duties, responsibilities and process related to exchange of information in practice. This was however not sufficient to ensure an effective exchange of information during the review period.

Key recommendations on transparency

9. In light of the standard as strengthened in 2016 to require the availability of information on the beneficial owners of legal entities, arrangements and bank accounts, this review has focused on additional criteria, which resulted in new recommendations. Several deficiencies have been identified with respect to the availability of legal and beneficial ownership information for entities which ceased to exist and when such entities are reinstated.

10. Whilst the principal elements required by the standard with respect to the identification of the beneficial owner(s) of legal entities are present in the Anti-Money Laundering (AML) framework, there is no specific guidance on how to apply a controlling ownership threshold and identify beneficial

owners of legal entities under the three-step approach. The default position of senior management appears to refer to the impossibility of identifying a person with a "controlling ownership interest" whereas control through other means should be researched first. Clear guidance to be followed for identifying all beneficial owners for the purpose of an annual attestation on beneficial ownership and control required under company law are also absent. In addition, whilst the AML and company laws of Antigua and Barbuda require the beneficial ownership information to be available with respect to legal arrangements, certain deficiencies have been found in the approach taken to the determination of beneficial owners for partnerships, trusts and international foundations. Concerns remain that the information on nominees may not be available in all cases. The identified deficiencies raise doubts as to whether the legal and regulatory framework ensures that complete beneficial ownership information for all relevant entities and arrangements is available to the competent authorities. Following the review of practice, this report further recommends that Antigua and Barbuda continues and enlarges its oversight programme to all relevant entities and arrangements to ensure the availability of accurate and up-to-date legal and beneficial ownership information in line with the standard and exercises its enforcement powers as appropriate to ensure that such information is available in practice.

11. Further, doubts remain as to whether the AML framework ensures that beneficial ownership information is available for all bank account holders. Although banks may have their own internal policies for customer due diligence (CDD), there is no specified frequency of updating beneficial ownership information on account holders. As certain omissions have been identified in the guidance provided to banks, Antigua and Barbuda is recommended to ensure that suitable guidance on identifying beneficial owners of legal entities is provided to all banks so that beneficial owners are correctly identified as required under the standard. Whilst the supervision of domestic banks has been recently strengthened through the Eastern Caribbean Central Bank, Antigua and Barbuda should continue this effort and strengthen its supervision and oversight of international banks.

12. Following the changes made after the adoption of the 2014 Report, accounting records now must be maintained by IBCs for a minimum of five years from the date on which the transaction took place; however, there is no requirement to maintain such records for at least five years after an IBC ceases to exist. The report also recommends that Antigua and Barbuda ensure that accounting records of IBCs are kept in Antigua and Barbuda, or ensure that a person in Antigua and Barbuda is in possession of, or has control of, or has the ability to obtain, such information. The system in place must enable the availability of information in a timely fashion, including through adequate sanctions, when IBCs keep accounting records and underlying

documentation outside of Antigua and Barbuda. During the review period, Antigua and Barbuda did not have a comprehensive oversight programme in place to monitor compliance with the accounting record keeping obligations by all relevant entities and arrangements and this deficiency should also be addressed. Concerns have also been identified in relation to the retention of accounting records by other types of entities which cease to exist.

Exchange of information in practice and related recommendations

13. Antigua and Barbuda continues to have a limited experience in exchange of information. During the previous review period (2010-12), Antigua and Barbuda had received 4 requests and during the present review period (1 April 2019 to 31 March 2022), Antigua and Barbuda received 8 requests for information. Five of them were fully replied to within 90 days and 1 request took more than 180 days to answer. Antigua and Barbuda failed to provide information requested in one case and in another case only partial information was provided. It took 15 months to decline the provision of information, and 7 months to provide a partial response. Communication with partners was in principle satisfactory, albeit no status updates have been provided consistently within 90 days for outstanding cases. Antigua and Barbuda sent no outgoing requests to its treaty partners.

14. Antigua and Barbuda provided information in relation to legal ownership and banking information. This information was held by the Inland Revenue Department (IRD), the FSRC, domestic and international banks; however, the competent authority has not exchanged the full information requested by peers in some instances because it has not fully used its access powers to seek out all possible sources of information. Antigua and Barbuda is recommended to ensure that the competent authority does so and monitors the effectiveness of its access powers to obtain information from third parties when necessary.

15. This report also makes several recommendations in relation to maintaining the confidentiality of information received. In particular, mechanisms should be put in place which would prevent disclosure to unauthorised third parties of information that is not necessary to obtain the information requested and these mechanisms should be effective in practice.

16. Antigua and Barbuda rationalised the EOI unit and put in place a revised EOI Manual in March 2022, shortly before the end of the review period. This report raises certain concerns as to these new measures and recommends that Antigua and Barbuda monitors the functioning of the rationalised EOI unit and revises its new EOI Manual to ensure that it is complete and provides appropriate and comprehensive guidance to the officers involved in EOI.

Overall rating

17. Overall, Antigua and Barbuda has achieved a rating of Compliant for 3 elements (B.2, C.2 and C.4), Largely Compliant for 2 elements (A.3 and C.1), Partially Compliant for 4 elements (A.1, B.1, C.3 and C.5) and Non-Compliant for 1 element (A.2). In view of the ratings for each of the essential elements taken in their entirety, the overall rating for Antigua and Barbuda is **Partially Compliant**.

18. This report was approved at the Peer Review Group of the Global Forum on 14 June 2023 and was adopted by the Global Forum on 14 July 2023. A follow up report on the steps undertaken by Antigua and Barbuda 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 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities *(ToR A.1)*		
The legal and regulatory framework is in place but needs improvement	The Companies Act does not impose any obligation on relevant foreign companies to maintain information on their shareholders. No ownership information is required at the point of registration with the Intellectual Property and Commerce Office, nor is provided in the annual company returns. Foreign companies must file with the Intellectual Property and Commerce Office a fully executed power of attorney, but it does not need to be executed by an actual attorney at law who must act in accordance with the AML laws. Whilst some information will be available through annual beneficial ownership and control attestations, it does not offer a comprehensive coverage of all legal owners. The Inland Revenue Department will hold legal ownership information at the point of registration, but no update of this information is required under tax law. The legal framework therefore does not offer a comprehensive coverage of all relevant foreign companies and it is unlikely that the information that identifies the legal owners of foreign companies will be available in all cases.	Antigua and Barbuda is recommended to ensure that up-to-date ownership and identity information is available for foreign companies in all cases.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Ownership information may not be available in relation to domestic companies (including non-profit) and international business companies that cease to exist. Whilst Antigua and Barbuda clarified that domestic companies would have to update their filings in accordance with the direction of the Intellectual Property and Commerce Office and the court respectively, they are not otherwise legally obliged to provide ownership information to the authorities when their dissolution is declared void by the court or when a company is restored in the registry after being struck off. In addition, there is no time limit for the restoration of domestic companies after the strike off, except for specific circumstances where a limitation period of 20 years applies. Further, there is no time limit for the revival of an International Business Company after being dissolved and the restoration once struck off, nor is there an explicit legal obligation to maintain and provide ownership information at that time.	Antigua and Barbuda is recommended to ensure the availability of ownership information when the dissolution of a domestic company (including non-profit) or an International Business Company is declared void and upon restoration following the strike off from the register, as well as establishing a time limit for their restoration following the strike off and for the revival of International Business Companies following their dissolution.
	Whilst the regulatory framework has been strengthened through the introduction of the annual beneficial ownership and control attestation, concerns remain that the information on nominees may not be available in all cases. The lack of specific disclosure requirements for nominees may raise issues in practice.	Antigua and Barbuda is recommended to ensure that nominee shareholders acting as the legal owners on behalf of any other persons disclose their nominee status and make identity information on the nominators available to the company, the register(s) and other relevant persons (such as service providers).

Determinations and ratings	Factors underlying recommendations	Recommendations
	With respect to the AML framework, whilst the principal elements required by the standard with respect to the identification of beneficial owner(s) of legal entities are present, the law does not specifically indicate that the controlling ownership interest applies to any person who controls the company acting directly or indirectly, and acting individually or jointly. Further, there is no specific guidance on how to identify beneficial owners of legal entities under the three-step approach and the default position of senior management appears to refer to the impossibility of identifying a person with a "controlling ownership interest" whereas control through others means should be researched first.	Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) in the AML/CFT framework is in line with the standard and that suitable guidance on identifying beneficial owners of legal entities is provided so that beneficial owners are correctly identified and the information on beneficial owner(s) of legal entities is available in all cases in accordance with the standard.
	In the absence of clear guidance to be followed for identifying all beneficial owners for the purpose of an annual attestation on beneficial ownership and control under company laws, doubts remain as to whether beneficial ownership information for all relevant legal entities is available to the competent authorities. Whilst the annual attestation is required, there is no specific guidance on how to identify beneficial owners, or how to identify the natural person who owns or exercises control (including control through other means). Further, the question remains as to whether the 5% threshold includes direct or indirect ownership.	Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) for the purpose of the annual attestation on beneficial ownership and control is in line with the standard and that suitable guidance on identifying beneficial owners of legal entities is provided so that beneficial owners are correctly identified and the information on beneficial owner(s) is available in all cases in accordance with the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Whilst the AML and company laws of Antigua and Barbuda set the requirement to obtain the beneficial ownership information with respect to legal arrangements, the determination of beneficial owners for partnerships largely follows the definition of companies and in the absence of clear guidance to be followed for identifying the beneficial owners of partnerships which are not registered as companies, doubts remain as to whether beneficial ownership information is available to the competent authorities. Furthermore, since there is no obligation for partnerships to engage in a relationship with an AML obliged person and/or a service provider at all times, there is no certainty that the beneficial ownership of all relevant partnerships is available in Antigua and Barbuda.	Antigua and Barbuda is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships.
	The obligation for trustees to have information on trust settlors and beneficiaries stems from common law and, in the case of international trusts and professional trustees, also from the company and AML requirements that apply to the Antigua and Barbuda trustee. However, the company law which requires an annual attestation on beneficial ownership applies only to international trusts. Under the AML framework, the verification of identity does not extend to the settlor(s) and protector(s), contrary to the requirement of the standard. More generally, there is no obligation for all trusts to engage in a relationship with an AML obliged person at all times.	Antigua and Barbuda is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of trusts.

Determinations and ratings	Factors underlying recommendations	Recommendations
	The company and AML obligations imposed on the Antigua and Barbuda council members of international foundations require that information on the identity of the founders, members of the foundation council, as well as any beneficial owners of the international foundation or persons with the authority to represent the international foundation be available to the competent authorities and up to date. However, the definition of beneficial ownership in the context of international foundations does not fully meet the standard. In particular, the beneficiaries (where applicable) do not appear to be covered. Also, concerns remain about the possibility of using a person which will not be subject to the CMTSPA and AML obligations as the Antigua and Barbuda council member of an international foundation, in which case the information may not be available in all cases in accordance with the standard.	Antigua and Barbuda is recommended to ensure the availability of identity information on the beneficiaries of international foundations and their beneficial owners.
EOIR Rating: Partially Compliant	During the review period, Antigua and Barbuda did not carry out satisfactory compliance, supervision and enforcement measures to ensure the availability of accurate and up-to-date legal and beneficial ownership information in relation to all relevant legal entities and arrangements. Antigua and Barbuda was not able to specify the number of inactive domestic, non-profit companies and foreign companies. Whilst progress has been made in the supervision of the service providers by the Financial Services Regulatory Commission, the oversight programme does not adequately cover all relevant entities and arrangements, and penalties for non-compliance were not imposed in practice.	Antigua and Barbuda is recommended to continue and enlarge its oversight programme to all relevant entities and arrangements to ensure the availability of accurate and up-to-date legal and beneficial ownership information in line with the standard and to exercise its enforcement powers as appropriate to ensure that such information is fully available 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 but needs improvement	The accounting records of international business companies must be kept at the service provider's office or other place(s) within or outside Antigua and Barbuda**.** The legal framework does not ensure that a person in Antigua and Barbuda is in possession of, or has control of, or has the ability to obtain, such information. Regardless of where accounting records are kept, the standard requires that jurisdictions have a system that permits the authorities to gain access to such records in a timely manner. There is no requirement to submit all or part of the accounting information routinely to any authority in Antigua and Barbuda under any law. The obligation of the company service providers is limited to maintaining a written record of the physical address of the place or places at which the records are kept. If the entity does not comply with the request, the company service provider cannot be sanctioned for non-compliance of its client. The only available course of action is to apply sanctions on the entity itself. In the cases where the entity has no or minimal presence in Antigua and Barbuda, sanctions are unlikely to have the expected deterrence. Whilst the failure of an international business company to respond to a request may result in its striking off, it is not clear how the retention of records will be ensured in these circumstances. Accordingly, the sanctions are not adequate and it is highly unlikely that the requested information would be available to the authorities in all cases.	Antigua and Barbuda should ensure that international business companies are required to keep their accounting records in Antigua and Barbuda, or ensure that a person in Antigua and Barbuda is in possession of, or has control of, or has the ability to obtain, such information and that the system in place secures the availability of such records in a timely manner, including through adequate sanctions, when IBCs keep accounting records and underlying documentation at a place(s) outside of Antigua and Barbuda.

Determinations and ratings	Factors underlying recommendations	Recommendations
	There are no penalties for non-compliance with the obligation to keep accounting records applicable to international trusts, international foundations and international limited liability companies, including after they cease to exist.	Antigua and Barbuda is recommended to establish appropriate sanctions for instances of non-compliance with the obligation to keep accounting records for international trusts, international foundations and international limited liability companies.
	The common law obligations may not fully ensure that reliable accounting records, including underlying documentations, are maintained by ordinary trusts not carrying on business in Antigua and Barbuda for at least five years in all cases. Moreover, there are no penalties for non-compliance with the obligation to keep accounting records in these circumstances.	Antigua and Barbuda should amend and clarify its laws to ensure that there are clear and comprehensive legal obligations requiring ordinary trusts not carrying on business in Antigua and Barbuda to keep reliable accounting records meeting the requirements of the Terms of Reference in all cases for at least five years. In addition, appropriate sanctions for instances of non-compliance should be established.

Determinations and ratings	Factors underlying recommendations	Recommendations
	The accounting records and underlying documentation retention periods for domestic companies (including non-profit), foreign companies, relevant partnerships registered as a company, international limited liability companies, international trusts and international foundations conform to the standard that requires information to be available for at least five years after the legal entity or arrangement ceases to exist, albeit it is not clear whether this requirement applies to the legal entities and arrangements which are struck from the register. Further, it is not clear who is responsible for maintaining the records after the winding up of domestic companies (including non-profit), foreign companies and partnerships registered as a company. The retention obligation is imposed on the dissolved international limited liability company. As regards international trusts and international foundations, a trustee and an international foundation council respectively will be responsible for the document retention when they cease to exist. Whilst at least one trustee and one foundation council member must be a domiciliary of Antigua and Barbuda, there is no explicit requirement that the accounting records and underlying documentation are retained by such domiciliary. This raises concerns as to the availability of information in a timely fashion.	Antigua and Barbuda should clarify accounting records and underlying documentation retention requirements for domestic companies (including non-profit), foreign companies, relevant partnerships registered as a company, ILLCs, international trusts and international foundations (including by specifying who the nominated persons to retaining such records are where it is not specified under the current law) after they cease to exist, and ensure that the system in place enables the availability of information in a timely fashion when such records are kept at a place(s) outside of Antigua and Barbuda.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Whilst accounting records must be maintained by international business companies for a minimum of five years from the date on which the transaction took place, there is no requirement to maintain such records for at least five years after the international business company ceased to exist. This concern also applies to partnerships which are not registered as a company. Moreover, there are no penalties for non-compliance with the obligation to keep accounting records in these circumstances.	Antigua and Barbuda should amend and clarify its laws to ensure that there are clear and comprehensive legal obligations requiring international business companies (and partnerships that are not registered as a company) which ceased to exist to keep reliable accounting records; meeting the requirements of the Terms of Reference in all cases for at least five years; indicating who will be the person that will be responsible for keeping the accounting books and the underlying documentation; and ensuring that the system in place enables the availability of information in a timely fashion when such records are kept at a place(s) outside of Antigua and Barbuda. In addition, appropriate sanctions for instances of non-compliance should be established.

Determinations and ratings	Factors underlying recommendations	Recommendations
	There is no legal requirement that international business companies comply with record keeping requirements in order to be restored.	Antigua and Barbuda is recommended to introduce a legal requirement that international business companies comply with record keeping requirements in order to be restored to ensure the availability of accounting information in all instances.
	The law of Antigua and Barbuda allows for corporate mobility of international business companies and international limited liability companies. Such companies may become re-domiciled in a foreign jurisdiction. There is no specific requirement concerning the retention of accounting records in such circumstances.	Antigua and Barbuda is recommended to ensure that all accounting information is consistently available in relation to international business companies and international limited liability companies that re-domicile out of Antigua and Barbuda for a minimum period of five years.
EOIR Rating: Non-Compliant	There is a risk relating to the availability of accounting records of struck-off international business companies. As they do not lose their legal personality, they might be still conducting business overseas for which Antigua and Barbuda is uninformed and accounting records of these activities might not be available.	Antigua and Barbuda is recommended to speedily dissolve struck-off companies to ensure the availability of accounting information in all instances.

Determinations and ratings	Factors underlying recommendations	Recommendations
	During the review period, Antigua and Barbuda did not have a comprehensive oversight programme in place to monitor compliance with the accounting record keeping obligations by all relevant entities and arrangements. First, there is no active supervision or monitoring by the Intellectual Property and Commerce Office of the company law obligation to maintain accounting records and underlying documents by domestic companies (including non-profit), foreign companies and partnerships registered as companies and file annual financial returns. Second, the average filing rate of annual tax returns is low and dropping (from 27% of all companies registered with the Inland Revenue Department in 2019 to 22% in 2021). The Inland Revenue Department did not report any targeted enforcement measures taken to secure the filing of annual tax returns, despite low compliance rates. Only a small number of companies have been audited, dropping from about 5% in 2019 to 0.89% in 2021, and almost exclusively offsite due to the impact of COVID-19. Third, the supervisory activity over international business companies has focused only on the service providers and the availability (and completeness) of accounting records of service providers' clients has not been routinely verified, as international business companies are not obliged to keep their accounting records at the company service provider's office at all times. No international business companies have been examined. No sanctions have been applied for any violation of record-keeping obligations.	Antigua and Barbuda should put in place a comprehensive oversight programme to supervise compliance with the obligations to maintain accounting records by all relevant legal entities and arrangements in line with the standard. Antigua and Barbuda should also exercise its enforcement powers to ensure that accounting records for all relevant entities and arrangements are fully available in practice.

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	Where a customer acts or appears to act for another person, banks must take reasonable measures for establishing the identity of that person, and where the customer acts in a professional capacity as an attorney, notary public, chartered accountant, certified public accountant, auditor or nominee of a company on behalf of another person, reasonable measures must be taken for the purpose of establishing the identity of that person on whose behalf the customer acts. This does not conform to the standard that requires the identification of the person behind a nominee (nominator and beneficial owners) to always be identified, the "reasonable measures" referring to the verification of the identity.	Antigua and Barbuda is recommended to ensure that accurate identity information on the nominator(s) and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person.
	Banks must ensure that all Customer Due Diligence documents are kept up to date. However, there is no specified frequency of updating beneficial ownership information when no event triggers an update. Therefore, beneficial ownership information on bank accounts may not always be up to date.	Antigua and Barbuda is recommended to ensure that banks keep up-to-date beneficial ownership information on all accounts.
	Whilst the principal elements required by the standard with respect to the identification of beneficial owners of bank accounts applicable to legal entities are present, the AML/CFT framework does not specifically indicate that the controlling ownership interest applies to any person who controls the company acting directly or indirectly, and acting individually or jointly. Further, there is no specific guidance on how to identify beneficial owners of legal entities under the three-step approach and the default position of senior management appears to refer to the impossibility of identifying a person with a "controlling ownership interest" whereas control through others means should be researched first. This may lead to beneficial ownership information in respect of bank accounts not being available in line with the standard in all cases.	Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) in the AML/CFT framework is in line with the standard and suitable guidance on identifying beneficial owners of legal entities is provided to all banks so that beneficial owners of bank accounts are correctly identified as required under the standard.

Determinations and ratings	Factors underlying recommendations	Recommendations
	Whilst banks are required to identify natural persons who ultimately own or control the trust-client as part of their customer due diligence measures, the verification of identity does not extend to the settlor(s) and protector(s), contrary to the requirement of the standard.	Antigua and Barbuda is recommended to ensure that banks are required to verify the identity of settlor(s) and protector(s) of the trusts which have an account with a bank in Antigua and Barbuda as required under the standard.
	Whilst the AML laws of Antigua and Barbuda set the requirement to obtain the beneficial ownership information with respect to legal arrangements, the determination of beneficial owners for partnerships largely follows the definition of companies and in the absence of clear guidance to be followed for identifying the beneficial owners of partnerships which are not registered as companies, doubts remain as to whether beneficial ownership information is available to the competent authorities.	Antigua and Barbuda is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships.
	There is no applicable definition and guidance in respect of international foundations which may be created under the International Foundations Act 2007 and foundations that may come from foreign jurisdictions and open accounts in Antigua and Barbuda to identify their beneficial owners in line with the standard.	Antigua and Barbuda is recommended to ensure that beneficial ownership information is determined in line with the standard in respect of all foundations having a bank account in Antigua and Barbuda.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	The compliance level with the customer due diligence requirements was estimated by the Office of National Drug and Money Laundering Control Policy (ONDCP) as "moderate" (i.e. major improvements needed) and with the record-keeping obligations as "high" (i.e. minor improvements needed) for international banks. No examinations of international banks have taken place in 2021-22 in relation to the AML-related aspects by the Financial Services Regulatory Commission or ONDCP (except ongoing offsite monitoring). Whilst some deficiencies were identified in the course of examinations carried out in 2019-20, they have not been regarded as serious and no sanctions have been imposed. The supervision over domestic banks has been recently strengthened through the Eastern Caribbean Central Bank.	Antigua and Barbuda is recommended to continue and strengthen its supervision and oversight activities of domestic and international banks to ensure the availability of banking information 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 but needs improvement	Section 5A on the authority to obtain information from residents, which was inserted in the Tax Information Exchange Act in 2020, refers only to persons in possession of the requested information, without mentioning the information in the custody or control of the person, contrary to the other sections of the law and the standard, which covers both possession and control. The sanctions, correspondingly, are limited to persons "in possession" of the requested information and do not refer to information in the "custody or control".	Antigua and Barbuda is recommended to align the specific powers to obtain information from residents (Section 5A) with the general access powers under the Tax Information Exchange Act to cover persons in possession, custody or control of the requested information, so as to ensure that the specific powers are not interpreted to limit the general access powers. Antigua and Barbuda is also recommended to ensure that sanctions

Determinations and ratings	Factors underlying recommendations	Recommendations
		are applicable against a person in control of the requested information that would fail to provide it.
EOIR Rating: Partially Compliant	The competent authority has not fully used its access powers to seek out all possible sources of information as requested by EOI partners, with one exception when information was requested from an international bank. The amendments introduced to the IBCA, ILLCA, IFA and the ITA that were reviewed in the supplementary review in 2012 to remove the impediments relating to the access powers of the competent authority, and further changes introduced in 2020 to the Tax Information Exchange Act, were not tested in practice.	Antigua and Barbuda is recommended to ensure that the competent authority's access powers are fully used to obtain information from any available sources and to monitor the effectiveness of its access powers to obtain information from third parties when it receives EOI requests requiring the use of these access powers.
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		
EOIR Rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information *(ToR C.1)*		
The legal and regulatory framework is in place		

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Largely Compliant	Prior to 2011, the information which needed to be included in the request for information included the particulars that the information sought is in Antigua and Barbuda. Following the amended legislation, the requesting jurisdiction has to provide a statement that the requested information is in the possession, custody or control of a person within Antigua and Barbuda, in accordance with the standard. However, the practice during the review period raises concerns that this requirement may not be interpreted consistently with the standard, and that Antigua and Barbuda's competent authority may not exchange information that is (or may be) held extra-territorially, even if such information is in the possession or control of a person within its territorial jurisdiction.	Antigua and Barbuda is recommended to ensure that its interpretation of the concept of foreseeable relevance conforms to the standard and ensure that its competent authority exchanges information as long as it is in the possession or control of a person within its territorial jurisdiction in all cases as required by the standard.
The jurisdictions' network of information exchange mechanisms should cover all relevant partners *(ToR C.2)*		
The legal and regulatory framework is in place		
EOIR Rating: 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		
EOIR Rating: Partially Compliant	Whilst the policy governing the use of a public email account and the type of information that may be transmitted via the public email account was put in place by Antigua and Barbuda and the competent authority received a protected government assigned email address, this policy has not been fully tested in practice. During the review period, Antigua and Barbuda received and responded to all but one requests by mail.	Antigua and Barbuda should monitor its exchange of information practices and ensure that if the need to communicate confidential information with its EOI partners via email arises, Antigua and Barbuda should only use an encrypted or secured email.

Determinations and ratings	Factors underlying recommendations	Recommendations
	In one instance the information in relation to a request was disclosed to unauthorised third parties where this was not necessary for gathering the requested information. This disclosure is not in accordance with the standard.	Antigua and Barbuda should put in place mechanisms which prevent disclosure to unauthorised third parties of information that is not necessary to obtain the information requested and ensure that these mechanisms are effective in practice.
	Antigua and Barbuda has put in place the EOI manual (2017, revised in 2022) which sets out the organisational processes and procedures seeking to ensure the confidentiality of information when processing EOI requests. Whilst this guidance points to the confidentiality of information, concerns remain as to its practical implementation. No requests have yet been received and processed under the new framework and thus the relevant procedures remain new and untested.	Antigua and Barbuda should ensure practical implementation of the new procedures set by the 2022 EOI Manual, including labelling EOI information in a way that clearly indicates its confidential and treaty protected status, so that confidentiality of the exchanged information in line with the standard is ensured in all cases.
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		
EOIR Rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner *(ToR C.5)*		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating: Partially Compliant	During the period of review, when Antigua and Barbuda has been unable to provide the information requested within 90 days, updates on the status of the requests have not been provided regularly.	Antigua and Barbuda should ensure that it provides status updates to its EOI partners if EOI requests cannot be responded to in substance within 90 days.
	As no new requests have been received since the 2022 EOI Manual and the rationalised EOI unit were put in place, the new framework remains to be fully tested in practice. Nevertheless, there are concerns that the 2022 EOI Manual has not been fully tailored to suit the particular circumstances of Antigua and Barbuda's legislation and practices and may require revision to ensure that it is complete and provides appropriate and comprehensive guidance to the officers involved in EOI. Furthermore, the lack of correct understanding and application of the standard demonstrate the need to strengthen supervision of the EOI Unit, EOI staff training and other relevant measures to ensure that the requirements of the EOIR standard are fully apprehended and the EOI processes are followed in practice.	Antigua and Barbuda should monitor the functioning of the rationalised EOI unit and the implementation of the procedures set by the 2022 EOI Manual to ensure that it provides appropriate and comprehensive guidance to the officers involved in EOI and that the information is exchanged in line with the standard in all cases.

Overview of Antigua and Barbuda

19. This overview provides some basic information about Antigua and Barbuda that serves as context for understanding the analysis in the main body of the report.

20. Antigua and Barbuda is an independent twin-island nation located in the Eastern Caribbean Sea. Its total population is approximately 93 000.[1]

21. Antigua and Barbuda is a member state of the Caribbean Community (CARICOM) and a member of the Organisation of Eastern Caribbean States. Antigua and Barbuda's official currency is the East Caribbean Dollar (XCD), which is pegged to the United States Dollar (USD) at XCD 2.70 to USD 1.

22. Antigua and Barbuda's economy is based primarily on tourism and to a lesser extent other sectors like agriculture, construction, manufacturing and financial services. Antigua and Barbuda's primary trading partners are the United States and the European Union. In 2021, GDP per capita started recovering after the drop caused by the COVID-19 pandemic from USD 14 788 (XCD 39 928) to USD 15 781 (XCD 42 609).[2]

Legal system

23. Antigua and Barbuda is a common law jurisdiction based on the English Common Law.[3] The hierarchy of laws is as follows: (a) acts of Parliament, creating statutes, laws, primary legislation, (b) statutory instruments, secondary legislation, (c) judicial precedent and (d) common law. EOI agreements that Antigua and Barbuda enters into become part of the domestic law upon ratification and have equal status as any law passed by the Parliament of Antigua and Barbuda. In the case of conflict, the provisions of the international agreements would prevail over domestic law.[4]

1. World Bank Data, as of 2021
2. World Bank Data, as of 2021
3. Antigua and Barbuda achieved independence from the United Kingdom on 1 November 1981 and is now a self-governing, sovereign member of the Commonwealth of Nations.
4. Section 3, Automatic Exchange of Financial Account Information (Amendment) Act, No. 39 of 2017.

24. Antigua and Barbuda is a constitutional democracy with a British-style parliamentary system of government comprising the legislative, executive, and judicial branches.

25. The legislative branch is represented by a bicameral Parliament comprising a 17-member House of Representatives, responsible for introducing legislation, and a 17-member Senate, which reviews and gives assent to proposed legislation. The Prime Minister is the leader of the majority party in the elected House and is responsible for appointing other members of Parliament to his/her cabinet, which forms the executive branch.

26. The judiciary comprises the Magistrate's Court for summary offences and the High Court for major offences. The Eastern Caribbean States Supreme Court, which is responsible for the administration of justice in the Organisation of Eastern Caribbean States, hears appeals. The final appellate court is the UK Privy Council. The Director of Public Prosecutions is responsible for all criminal prosecutions and has right of appeal on matters of law and sentencing.

Tax system

27. Antigua and Barbuda's tax system comprises both direct and indirect taxes,[5] which are administered and collected by the Inland Revenue Department (IRD) and the Customs Division.

28. Direct taxes are imposed by way of corporate income tax (25%), property tax, and unincorporated business tax. Individuals and companies resident in Antigua and Barbuda generally pay income tax on their worldwide income. Non-residents are assessable and chargeable to tax on sources of income arising in Antigua and Barbuda, in like manner and to the like amount, as such non-resident persons would be assessed and charged if they were resident in Antigua and Barbuda and in receipt of such income. In addition, there is a withholding tax on certain payments made to non-residents which are regarded as income derived from Antigua and Barbuda (Section 28 of the Income Tax Act Cap. 212).

5. Indirect taxes are taxes levied on the acquisition or consumption of goods and services. The Antigua and Barbuda Sales Tax (ABST) is levied on consumption and imports. Rates are tiered, ranging from zero to 15%. Other indirect taxes include stamp duties and excise taxes. Other non-tax revenue streams are Medical Benefits, Education Levy and Social Security, which are charged directly against income. These are administered by statutory authorities established under their own legislative provisions.

Financial services sector

29. Antigua and Barbuda's banking sector is the second largest in the Eastern Caribbean region, accounting for one fifth of the region's deposits, assets, and loans. The financial sector is dominated by international and domestic banks.

30. In 1982, legislation was enacted under the International Business Corporations Act (IBCA), to make Antigua and Barbuda a choice offshore jurisdiction for businesses, including offshore banking and insurance. In 2007, the offshore sector was further developed through the introduction of the International Trusts Act (ITA), the International Foundations Act (IFA) and the International Limited Liability Companies Act (ILLCA). These offshore entities are regulated by the Financial Services Regulatory Commission (FSRC), a statutory authority established in accordance with the IBCA. The FSRC also regulates and supervises the other sectors of the financial system as a Single Regulatory Unit and as such oversees the administration of the Insurance Act, the Money Services Business Act, the Corporate Management and Trust Service Providers Act (CMTSPA), the Co-operative Societies Act, the Financial Institutions (Non-Banking) Act, and the Interactive Gaming and Interactive Wagering Regulations.

31. The Eastern Caribbean Central Bank (ECCB) is responsible for regulating, licensing and supervising all domestic banks pursuant to the Banking Act, No. 10 of 2015.

32. Antigua and Barbuda's offshore sector contracted from 14 international banks as of 31 December 2012 to 9 international banks as at 31 December 2022,[6] from 3 international insurance companies to 1, and from 2 390 to 1 055 active IBCs. The number of international trusts stood at 21 as of 31 December 2012. There were no international trusts as of 31 December 2020.[7] Antigua and Barbuda further reported that there were less than 50 international trusts at the end of 2021, of which only 2 were

6. The drop in the numbers of international banks (14 down to 9) between the 2014 Report and 31 December 2022 has been attributed by Antigua and Barbuda to the fact that 5 international banks were placed in voluntary or involuntary liquidation. The voluntary factors leading to closure included the phenomenon of de-risking having a negative impact. One international bank ceased operations in Antigua and Barbuda when its operations was acquired by another international bank domiciled in another country.

7. The significant variance in the number of international trusts (21 as per the 2014 Report down to none as of 31 December 2020) resulted from the market exit of a corporate service provider who previously provided authorised services as a trustee of international trustees.

active.[8] As previously, there are no international limited liability companies (ILLCs), nor any international foundations registered in Antigua and Barbuda.

33. As of 31 December 2022, the total size of the financial sector, excluding domestic banks, was USD 2.4 billion (over XCD 6.5 billion) relative to balance sheet assets and USD 1 billion (XCD 2.7 billion) in relation to off balance sheet assets/assets under administration and management. This is largely attributable to international banks.

34. The domestic financial sector includes 4 commercial banks (a drop from 10 as of 2012), with assets totalling USD 1.9 billion (over XCD 5.1 billion), and 1 development bank. The non-bank financial sector comprises 20 domestic insurance companies, 6 insurance agents, 2 insurance brokers, 5 pension plans, 8 credit unions, 4 money transfer companies, 4 micro finance companies, 1 mortgage company and 1 national development foundation as at 31 December 2022.

Anti-Money Laundering framework

35. The regulatory framework for the financial services sector is complemented by Antigua and Barbuda's Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) regime, which is applicable to a wide range of "financial institutions", the definition of which includes banks, company service providers, trust businesses; and attorneys, accountants and notaries when they carry out certain activities for their clients. The Director of the Office of National Drug and Money Laundering Control Policy (ONDCP) serves as the Supervisory Authority for financial institutions under the Money Laundering Prevention Act (MLPA) since 2011. The ONDCP also performs the role as a Financial Intelligence Unit. It works closely with other regulatory agencies, such as the FSRC and ECCB, to ensure compliance of their licensees with the MPLA.

36. The most recent Mutual Evaluation Report by the Caribbean FATF was published in July 2018.[9] The third Enhanced Follow-up Report & Technical Compliance Re-Rating of Antigua and Barbuda, published in November 2021 (the 2021 Report), acknowledged Antigua and Barbuda's progress in addressing some of its technical compliance deficiencies identified in the Mutual Evaluation Report. Consequently, Antigua and Barbuda was rated "Largely Compliant" on Recommendations 10 (Customer due

8. Antigua and Barbuda did not provide any explanation of this change.
9. Mutual Evaluation Report "Anti-money laundering and counter-terrorist financing measures: Antigua and Barbuda", July 2018: https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/CFATF-MER-Antigua-and-Barbuda.pdf.

diligence), 24 (Transparency and beneficial ownership of legal persons), and 25 (Transparency and beneficial ownership of legal arrangements). The 2021 Report did not address what progress Antigua and Barbuda has made to improve its effectiveness. Antigua and Barbuda achieved a low level of effectiveness in Immediate Outcome 3 (Supervision) and a moderate level of effectiveness in the Immediate Outcome 5 (Legal persons and arrangements). The Mutual Evaluation Report issued recommendations in particular to address the deficiencies identified in the application of Customer Due Diligence (CDD) measures and identification of the ultimate beneficial owner(s).

Recent developments

37. Key changes in the legal and regulatory framework since the 2014 Report include:

- The Law Miscellaneous Provisions (Amendment) Act, No. 20 of 2016 and the Money Laundering (Prevention) (Amendment) Act, No. 14 of 2020 were enacted to expand the list of Financial Institutions subject to the AML regime and the range of activities that trigger the AML obligations for attorneys-at-law, notaries and accountants. Amongst others, company service providers and trust businesses pursuant to the CMTSPA; attorneys-at-law, notaries, and accountants when they carry out certain activities for their clients;[10] international trusts, as defined in the ITA; international foundations, as defined in the IFA; and ILLCs, as defined in the ILLCA were added.
- The same act, No. 20 of 2016, also inserted the definition of "beneficial owner" in several laws (Insurance Act 2007; ITA; IFA; ILLCA; CMTSPA; Co-operative Societies Act 2010; Money Services Business Act 2011; and the International Banking Act 2016).
- The Law (Miscellaneous Amendments) (No. 2) Act, No. 14 of 2017, was enacted to mandate the submission of an annual attestation on beneficial ownership and control to the FSRC, as well as introducing relevant penalties. The Companies (Amendment) Act, No. 22 of 2022, then established that the annual attestations on beneficial

10. When they prepare for, or carry out, transactions for their clients concerning the following activities: buying and selling of real estate; managing of client money, securities or other assets; management of bank, savings, escrow or securities accounts; organisation of contributions for the creation, operation or management of companies; creating, operating or management of legal persons or arrangements, and buying and selling of business entities (Money Laundering (Prevention) (Amendment) Act, No. 14 of 2020).

ownership and control for domestic and foreign companies are submitted to the Intellectual Property and Commerce Office (IPCO) instead of the FSRC.

- The International Trust (Amendment) Act, No. 15 of 2021, clarified the registration and annual attestation of beneficial ownership and control requirements for international trusts by explicitly requiring the identification of the settlor, trustee(s), protector (if any), and all of the beneficiaries.
- The Law Miscellaneous Provisions (Amendment) Act, No. 4 of 2017, amongst other changes, strengthened confidentiality provisions and the supervisory powers of the FSRC to request any record from IBCs through a written notice. If a corporation fails to satisfy the request made pursuant to Section 130A of the IBCA, it could be struck off the register of IBCs.
- The Tax Administration and Procedure Act, No. 12 of 2018 (2018 TAPA), was enacted to harmonise, rationalise, and simplify the operation of tax administration and procedure in Antigua and Barbuda's tax laws.
- The Law Miscellaneous Provisions (Amendment) Act, No. 26 of 2018, was enacted to address unfair tax practices and possible ring-fencing by the removal of tax exemptions for certain entities and making them subject to income tax pursuant to the Income Tax Act Cap. 212. With effect from 31 December 2018, IBCs may invest in, trade with or provide services to persons within the jurisdiction of Antigua and Barbuda, subject to meeting some procedural requirements. Income earned by IBCs within Antigua and Barbuda is subject to the ordinary corporate tax rate.

38. Other notable developments, as already noted above, include the entry into force of the Multilateral Convention on 1 February 2019. Antigua and Barbuda can exchange information with all other Parties to the Multilateral Convention. Antigua and Barbuda also put in place the 2017 EOI Manual to set out the duties, responsibilities and process related to exchange of information in practice, with a revised version published in 2022.

39. Finally, Antigua and Barbuda commenced automatic exchange of financial account information in 2018.

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 law of Antigua and Barbuda provides for the recognition and creation of a wide range of entities and arrangements, which includes domestic private and public companies and non-profit companies (referred to as "domestic companies", unless the regulation in relation to non-profit companies is different), international business companies (IBCs), international limited liability companies (ILLCs), partnerships, ordinary and international trusts, and international foundations.

42. The 2014 Report concluded that the rules requiring availability of legal ownership information in respect of all relevant entities and arrangements in Antigua and Barbuda were in place and in line with the standard. Legal ownership information was available through a combination of obligations imposed under Antigua and Barbuda's company and tax laws, as well as Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) legislation. This report concludes that the existing regulatory framework continues ensuring the availability of legal ownership, but requires some improvements with respect to the domestic companies and IBCs which cease to exist. In addition, Antigua and Barbuda is recommended to ensure that ownership information on foreign companies having a sufficient nexus with Antigua and Barbuda is available in all cases.

43. The standard was strengthened in 2016 and beneficial ownership information as regards relevant entities and arrangements is required to be available. Through a combination of various laws, Antigua and Barbuda

facilitates the availability of beneficial ownership information for all relevant entities and arrangements. However, this report has identified several areas where improvement is recommended to ensure that the information on beneficial owner(s) is available in all cases in accordance with the standard.

44. With respect to the effectiveness in practice, the 2014 Report found Antigua and Barbuda Largely Compliant with Element A.1 of the standard because it did not have a regular oversight programme in place to monitor the compliance of the obligations to maintain legal ownership and identity information and also penalties for non-compliance were not imposed in practice. This report recognises the progress made in supervision of the company service providers licensed by the Financial Services Regulatory Commission (FSRC), however, the oversight programme does not adequately cover all relevant entities and arrangements, and penalties for non-compliance were not imposed in practice. Accordingly, Antigua and Barbuda is recommended to continue and enlarge its oversight programme to all relevant entities and arrangements to ensure the availability of accurate and up-to-date legal and beneficial ownership information in line with the standard and to exercise its enforcement powers as appropriate to ensure that such information is fully available in practice.

45. During the current review period, Antigua and Barbuda received eight exchange of information (EOI) requests, of which three included requests for ownership information, including one request concerning beneficial ownership information. Antigua and Barbuda provided ownership information in all cases and peers have been satisfied with the information received.

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/Underlying factor	Recommendations
The Companies Act does not impose any obligation on relevant foreign companies to maintain information on their shareholders. No ownership information is required at the point of registration with the Intellectual Property and Commerce Office, nor is provided in the annual company returns. Foreign companies must file with the Intellectual Property and Commerce Office a fully executed power of attorney, but it does not need to be executed by an actual attorney at law who must act in accordance with the AML laws. Whilst some information will be available through annual beneficial ownership and control attestations, it does not offer a comprehensive coverage of all legal	Antigua and Barbuda is recommended to ensure that up-to-date ownership and identity information is available for foreign companies in all cases.

Deficiencies/Underlying factor	Recommendations
owners. The Inland Revenue Department will hold legal ownership information at the point of registration, but no update of this information is required under tax law. The legal framework therefore does not offer a comprehensive coverage of all relevant foreign companies and it is unlikely that the information that identifies the legal owners of foreign companies will be available in all cases.	
Ownership information may not be available in relation to domestic companies (including non-profit) and international business companies that cease to exist. Whilst Antigua and Barbuda clarified that domestic companies would have to update their filings in accordance with the direction of the Intellectual Property and Commerce Office and the court respectively, they are not otherwise legally obliged to provide ownership information to the authorities when their dissolution is declared void by the court or when a company is restored in the registry after being struck off. In addition, there is no time limit for the restoration of domestic companies after the strike off, except for specific circumstances where a limitation period of 20 years applies. Further, there is no time limit for the revival of an International Business Company after being dissolved and the restoration once struck off, nor is there an explicit legal obligation to maintain and provide ownership information at that time.	Antigua and Barbuda is recommended to ensure the availability of ownership information when the dissolution of a domestic company (including non-profit) or an International Business Company is declared void and upon restoration following the strike off from the register, as well as establishing a time limit for their restoration following the strike off and for the revival of International Business Companies following their dissolution.
Whilst the regulatory framework has been strengthened through the introduction of the annual beneficial ownership and control attestation, concerns remain that the information on nominees may not be available in all cases. The lack of specific disclosure requirements for nominees may raise issues in practice.	Antigua and Barbuda is recommended to ensure that nominee shareholders acting as the legal owners on behalf of any other persons disclose their nominee status and make identity information on the nominators available to the company, the register(s) and other relevant persons (such as service providers).

Deficiencies/Underlying factor	Recommendations
With respect to the AML framework, whilst the principal elements required by the standard with respect to the identification of beneficial owner(s) of legal entities are present, the law does not specifically indicate that the controlling ownership interest applies to any person who controls the company acting directly or indirectly, and acting individually or jointly. Further, there is no specific guidance on how to identify beneficial owners of legal entities under the three-step approach and the default position of senior management appears to refer to the impossibility of identifying a person with a "controlling ownership interest" whereas control through others means should be researched first.	Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) in the AML/CFT framework is in line with the standard and that suitable guidance on identifying beneficial owners of legal entities is provided so that beneficial owners are correctly identified and the information on beneficial owner(s) of legal entities is available in all cases in accordance with the standard.
In the absence of clear guidance to be followed for identifying all beneficial owners for the purpose of an annual attestation on beneficial ownership and control under company laws, doubts remain as to whether beneficial ownership information for all relevant legal entities is available to the competent authorities. Whilst the annual attestation is required, there is no specific guidance on how to identify beneficial owners, or how to identify the natural person who owns or exercises control (including control through other means). Further, the question remains as to whether the 5% threshold includes direct or indirect ownership.	Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) for the purpose of the annual attestation on beneficial ownership and control is in line with the standard and that suitable guidance on identifying beneficial owners of legal entities is provided so that beneficial owners are correctly identified and the information on beneficial owner(s) is available in all cases in accordance with the standard.
Whilst the AML and company laws of Antigua and Barbuda set the requirement to obtain the beneficial ownership information with respect to legal arrangements, the determination of beneficial owners for partnerships largely follows the definition of companies and in the absence of clear guidance to be followed for identifying the beneficial owners of partnerships which are not registered as companies, doubts remain as to whether beneficial ownership information is available to the competent authorities. Furthermore, since there is no obligation for partnerships to engage in a relationship with an AML obliged person and/or a service provider at all times, there is no certainty that the beneficial ownership of all relevant partnerships is available in Antigua and Barbuda.	Antigua and Barbuda is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships.

Deficiencies/Underlying factor	Recommendations
The obligation for trustees to have information on trust settlors and beneficiaries stems from common law and, in the case of international trusts and professional trustees, also from the company and AML requirements that apply to the Antigua and Barbuda trustee. However, the company law which requires an annual attestation on beneficial ownership applies only to international trusts. Under the AML framework, the verification of identity does not extend to the settlor(s) and protector(s), contrary to the requirement of the standard. More generally, there is no obligation for all trusts to engage in a relationship with an AML obliged person at all times.	Antigua and Barbuda is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of trusts.
The company and AML obligations imposed on the Antigua and Barbuda council members of international foundations require that information on the identity of the founders, members of the foundation council, as well as any beneficial owners of the international foundation or persons with the authority to represent the international foundation be available to the competent authorities and up to date. However, the definition of beneficial ownership in the context of international foundations does not fully meet the standard. In particular, the beneficiaries (where applicable) do not appear to be covered. Also, concerns remain about the possibility of using a person which will not be subject to the CMTSPA and AML obligations as the Antigua and Barbuda council member of an international foundation, in which case the information may not be available in all cases in accordance with the standard.	Antigua and Barbuda is recommended to ensure the availability of identity information on the beneficiaries of international foundations and their beneficial owners.

Practical Implementation of the Standard: Partially Compliant

Deficiencies/Underlying factor	Recommendations
During the review period, Antigua and Barbuda did not carry out satisfactory compliance, supervision and enforcement measures to ensure the availability of accurate and up-to-date legal and beneficial ownership information in relation to all relevant legal entities and arrangements. Antigua and Barbuda was not able to specify the number of inactive domestic, non-profit companies and foreign companies. Whilst progress has been made in the supervision of the service providers by the Financial Services Regulatory Commission, the oversight programme does not adequately cover all relevant entities and arrangements, and penalties for non-compliance were not imposed in practice.	Antigua and Barbuda is recommended to continue and enlarge its oversight programme to all relevant entities and arrangements to ensure the availability of accurate and up-to-date legal and beneficial ownership information in line with the standard and to exercise its enforcement powers as appropriate to ensure that such information is fully available in practice.

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

47. The law of Antigua and Barbuda recognises the following types of companies:

- Domestic companies – private and public companies[11] with limited liability incorporated under the Companies Act (CA). Such companies are formed for the purpose of carrying on a trade or business for gain and conduct their business in or from Antigua and Barbuda.[12]
- Non-profit companies (NPCs) – private companies without share capital incorporated under the CA. These companies are restricted to carrying on businesses of a non-profit nature, such as charitable, educational, scientific, literary, artistic or sporting activities.[13]
- Foreign companies – no foreign company is allowed to begin or carry on business in Antigua and Barbuda until it is registered under the CA.[14]
- IBCs – incorporated under the International Business Corporations Act (IBCA) and formed for carrying out international trade or business from Antigua and Barbuda, defined under the IBCA as international banking,[15] international trust business, international insurance, international manufacturing or other international trading or commercial activities, in any currency that is foreign in every country of the Caricom region. With effect from 31 December 2018, IBCs may invest in, trade with or provide services to persons within the jurisdiction of Antigua and Barbuda and any income earned within Antigua and Barbuda is subject to the ordinary corporate tax rate.

11. Public companies are domestic companies where any part of their issued shares or debentures are or were part of a distribution to the public.
12. No association, partnership, society, body or other group consisting of more than 20 persons may be formed for the purpose of carrying on any trade or business for gain in Antigua and Barbuda, unless it is incorporated under the CA.
13. The list of permitted activities is spelt out in Section 328(2) of the CA.
14. Section 338 of the CA defines the following as "carrying on business" in Antigua and Barbuda, see paragraph 69.
15. Since 2016, the activities of international banks are regulated under International Banking Act, No. 6 of 2016, which provides that "international banking" means the carrying on from within Antigua and Barbuda of banking in any currency that is foreign in every country of the CARICOM Grouping; but the keeping of external accounts for residents in any foreign currency under exchange control licence or regulation is not carrying on international banking by virtue of that activity alone.

48. The number of companies registered with the Intellectual Property and Commerce Office (IPCO) and/or the Financial Services Regulatory Commission (FSRC) is as follows:

Number of companies registered in Antigua and Barbuda

Category	31 December 2012	31 December 2022
Domestic Companies (Private and Public Companies with limited liability)	12 035	9 450 (registered with the IPCO)
Non-Profit Companies – Private Companies without share capital	143	416 (registered with the IPCO)
International Business Companies	4 587, of which 2 390 were active	17 377, of which 1 055 were active (registered with the FSRC)
Foreign ("external") companies	400	568 (registered with the IPCO)

Source: Antigua and Barbuda authorities.

49. On 31 December 2022, there were 9 450 domestic companies (-21% in comparison with 2012) registered with the IPCO and 1 055 active IBCs[16] (-56% in comparison with 2012) registered with the FSRC. Antigua and Barbuda explained the drop in number of active domestic companies and IBCs by the fact that the business climate has not been conducive to continue business operations. Antigua and Barbuda further observed that the inactivation trend has adversely affected the number of IBCs (with IBCs being struck off for not paying annual fees). The significant increase in the number of inactive IBCs reported by Antigua and Barbuda between 2012 and 2022 (4 587 in 2012 against 17 377 in 2022) raises concerns, especially in the view of the deficiencies identified in relation to the record retention requirements (see paragraphs 141 and 393 below).

Legal ownership and identity information – Legal and regulatory framework

50. The regulatory requirements with regard to providing, keeping and updating legal ownership and identity information in respect of companies were analysed in paragraphs 41 to 149 of the 2014 Report. These laws largely remain the same, with some changes made to strengthen the availability of legal ownership information. Legal ownership information on domestic companies is available with the IPCO thanks to registration requirements and annual company returns filings. Legal ownership information on IBCs is

16. An inactive IBC is one that has either been removed or struck from the register for non-payment of fees or has been dissolved.

available with the entities themselves and their company service providers. The overall regulatory framework continues to meet the standard, subject to the recommendations made with respect to the companies which cease to exist and foreign companies having a sufficient nexus with Antigua and Barbuda. Further, legal ownership information concerning foreign companies is partially available thought a fully executed power of attorney which is filed with the IPCO, which is typically executed by an AML-obliged attorney-at-law, and annual beneficial ownership and control attestations; however, the legal framework does not offer a complete coverage of legal ownership information in relation to foreign companies in accordance with the standard.

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

Companies covered by legislation regulating legal ownership information[17]

Type	Company Law	Tax Law	AML Law
Domestic Companies (Private and Public Companies with limited liability)	All	Some	Some
Non-Profit Companies – Private Companies without share capital	All	Some	Some
International Business Companies	All	Some	All
Foreign ("external") companies	Some	Some	Some

Information held by the Registrars pursuant to Companies Law requirements

52. The IPCO is responsible for administering the CA. One of its functions is to maintain a register of companies incorporated, continued[18] or registered under the CA (the Company Register). The Company Register includes domestic, non-profit and foreign companies. The IPCO keeps a record of all company documents it receives.

17. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that every entity of this type is subject to requirements on the availability of ownership information), whether or not the legislation meets the standard. "Some" means that an entity is covered by these requirements if certain conditions are met.

18. A "continued" company under the Companies Act is one that was incorporated or registered under the previous Companies Act and subsequently recognised as a valid and existing company under the current Companies Act (dating 1995). This is done by the company applying to the Companies Registrar for a certificate of continuance.

53. The FSRC is responsible for the supervision, regulation and administration of IBCs. The Chief Executive Officer of the FSRC (the Director) maintains the register of IBCs containing the name of every corporation that is incorporated or continued[19] under the IBCA, and keeps copies of all documents filed by IBCs (the Register of IBCs).

54. All documents filed with the IPCO and the FSRC must be kept for six years from the date of receipt (Section 507 of the CA, Section 331 of the IBCA), which complies with the minimum requirements regarding the retention period of at least five years under the standard. In practice, the documents are kept indefinitely by the IPCO and the FSRC.

55. This section will first detail the company and identity information required to be filed by domestic and non-profit companies, then by IBCs and finally by foreign companies.

56. First, legal ownership information for domestic companies (including non-profit) is available with the IPCO.

57. All domestic companies must register and provide their Articles of Incorporation[20] to the IPCO at the time of incorporation, which must be signed by all the founders (Sections 4 and 5 of the CA). At the time of filing, the company must also provide the address of its registered office and the names of all the directors. Any changes in the above information must be advised to the IPCO within 15 days of the change happening (Sections 6, 77 and 176 of the CA, with the penalties described in paragraph 60 below). If the change is made among directors but no notification is made in accordance with Section 77 of the CA, any interested person,[21] or the IPCO, may apply to the court for an order to require a company to comply with the notification requirement.

58. Further, under Section 194(1) of the CA, all domestic companies must file annual returns to the IPCO.[22] A director or officer of the company must

19. Continued companies under the IBCA and the ILLCA are companies that are originally formed under another law, and subsequently come under the provisions of the IBCA or the ILLCA through a certificate of continuance or certificate of transfer of domicile respectively.
20. The Articles of Incorporation must include general information on the company, such as name, classes and any maximum number of shares the company is authorised to issue, number of directors, and restrictions on the business that the company may undertake.
21. Antigua and Barbuda explained that “any interested person” is a reference to a director or perhaps a shareholder, or any other person related and associated with the company.
22. Not later than the first day of April in each year after its incorporation or continuance under the CA. The information should be as of 31 December of the preceding

certify the content of every return made and the company and every director and officer who is in default is guilty of an offence (Sections 194(2) and 194(3) of the CA). The annual return should include among other information:

- name of company
- address of registered office/principal office
- class of shares, number of shares issued and outstanding
- whether any share transfers have been effected during the last financial period, and if so the name of transferor, name of transferee, number of shares and date of transfer
- names, addresses and occupations of all shareholders
- name and address of company attorney and external auditor.[23]

59. Any changes in share ownership of a domestic company must be evidenced by lodging at the IPCO a copy of the share transfer instrument bearing the signature of the transferor and naming the transferee. No transfer of stock or shares of a company is valid unless the instrument of transfer is presented to the IPCO and duly registered and a copy thereof is registered by him/her in the Company Register (Section 195A of the CA).

60. If the company or other body corporate fails to send any return, notice or document to the IPCO as required pursuant to the CA, the IPCO may strike the company from the Company Register (Section 511 of the CA). Further, under Section 530(1) of the CA, any person who makes or assists in making a report, return, notice or other document sent to the IPCO and that document contains an untrue statement of a material fact or omits to state a material fact required, or necessary to make a statement contained therein not misleading in the light of the circumstances in which it was made, is guilty of an offence and liable on a summary conviction to a fine of XCD 5 000 (USD 1 850) or to imprisonment for a term of two years, or to both. The IPCO has certain powers of investigation under the CA through the Attorney General's Chambers and the ability to penalise those proffering false statements in accordance with Section 518 of the CA. Finally, Section 533 of the CA sets a general offence provision in that every person who is guilty of an offence under the CA or the regulations is (if no punishment is provided elsewhere in the CA for that offence), liable on summary conviction to a fine of XCD 5 000 (USD 1 850). A prosecution for an offence under the CA or the regulations may be instituted at any time within two years from the time when the subject matter of the prosecution arose (Section 536 of the CA).

---

year. The form is available online at https://abipco.gov.ag/wp-content/uploads/2020/Annual-Returns.pdf (last consulted on 3 May 2023).

23. The Companies (Amendment) Regulations 2007 No. 35

61. Regarding non-profit companies, the CA, as amended in 2017 and 2020, sets additional filing requirements. Along with the general annual returns made by all domestic companies under Section 194(1) of the CA, non-profit companies include a report on monetary donations, loans and some associated persons (members, directors, employees but not beneficiaries).[24] Where no report is filed after the due date, the non-profit company is liable to pay the sum of XCD 1 000 (USD 370) for each month of delay. Where there is a failure to file a report for a period of six months or more, the IPCO may strike the non-profit company from the register after giving at least 14 days' notice to the company of the intention so to do (see further paragraph 125 below). A director or officer of the non-profit company who knowingly refused to file the report is guilty of an offence and is liable on summary conviction to a fine not exceeding XCD 5 000 (USD 1 850).

62. Second, all IBCs incorporated under the IBCA are included in the Register of IBCs maintained by the FSRC (Section 318 of the IBCA).

63. Under Section 5 of the IBCA, only three categories of persons, who hold a licence under the Corporate Management and Trust Services Providers Act 2008 (CMTSPA), are permitted to incorporate an IBC: (a) any two citizens of Antigua and Barbuda, one of whom is entitled to practice as an Attorney-at-Law in Antigua and Barbuda; (b) a corporation that was incorporated under the IBCA; or (c) a body corporate authorised by a resolution of the House of Representatives.

64. An IBC can be incorporated by making an application to the Director of IBCs and filing Articles of Incorporation, which must include general information, such as corporation name, number of directors, and the classes and maximum number of shares that the corporation is authorised to issue (Section 6 of the IBCA). The notice of directors, including their name and other details is included alongside. All IBCs must submit changes made among their directors to the FSRC within 15 days after changes occur (Section 74 of the IBCA).

65. In general, the IBCA does not require the legal ownership information to be provided at the point of incorporation and the transfer of shares does not need to be notified to the FSRC. Antigua and Barbuda explained that incorporation certificates do not disclose the names of founders/shareholders. Whilst the annual beneficial ownership and control attestation includes any shareholders with ownership interests of 5% or more, this requirement only covers the shareholders above the threshold and doubts remain as to the interpretation of this requirement, including whether "ownership" refers to legal owner(s) or ultimate beneficial owner(s), see further in paragraph 216 below).

24. Companies (Amendment) Act 2017, No. 11 of 2017; Companies (Amendment) Act 2020, No. 17 of 2020

66. As an exception to this general rule, when an IBC makes an application to the FSRC to engage in international banking, international trust or international insurance business, it must disclose any shareholders with ownership interests of 5% or more (Section 8 of the IBA). Further, the International Business Corporation Regulations Statutory Instrument, No. 41 of 1998, provides that no licensed institution[25] shall make a change to its directors or direct or indirect legal or beneficial owner of 5% or more of a class of shares in that institution, without prior approval from the FSRC.

67. In instances of non-compliance, the general offences section applies, i.e. Section 356 of the IBCA, which stipulates that every person who, without reasonable cause contravenes a provision of the IBCA is guilty of an offence and, if no punishment is provided elsewhere in the IBCA for that offence, is liable on summary conviction to a fine of XCD 5 000 (USD 1 850). Further, under Section 353(1) of the IBCA, a person who makes or assists in making a report, return, notice or other document (a) that is required by the IBCA or the regulations to be sent to the Director, and appropriate official or any other person, and (b) that contains an untrue statement of a material fact, or omits to state a material fact required in the report, return, notice or other document or necessary to make a statement contained therein not misleading in the light of the circumstances in which it was made, is guilty of an offence and liable on summary conviction to a fine of XCD 5 000 (USD 1 850) or to imprisonment for a term of six months or to both. Under Section 353(3) of the IBCA, when an offence under Section 353(1) is committed by a body corporate and a director or officer of that body corporate knowingly authorised, permitted or acquiesced in the commission of the offence, the director or officer is also guilty of the offence and liable on summary conviction to a fine of XCD 5 000 (USD 1 850) or to imprisonment for a term or six months or to both. Under Section 358 of the IBCA, a prosecution for an offence under the IBCA or the regulations may be instituted at any time within two years from the time when the subject matter of the prosecution arose.

68. Third, as concerns foreign companies, the law stipulates that a firm or body of persons, whether incorporated or unincorporated, that is formed outside Antigua and Barbuda, is known in Antigua and Barbuda as an "external company" (referred to in this report as a "foreign company") and must register with the Registrar to carry on business in Antigua and Barbuda (Section 340 of the CA).

25. A "licensed institution" is defined under the IBCA Regulations 1998 as an IBC licensed by the FSRC to engage in international banking, international trust or international insurance business.

69. Section 338 of the CA defines the following as "carrying on business" in Antigua and Barbuda:

- The business of the company is regularly transacted from an office in Antigua and Barbuda established or used for the purpose.
- The company establishes or uses a share transfer or share registration office in Antigua and Barbuda.
- The company owns, possesses or uses assets situated in Antigua and Barbuda for the purpose of carrying on or pursuing its business, if it obtains or seeks to obtain from those assets, directly or indirectly, profit or gain whether realised in Antigua and Barbuda or not.

70. The registration and reporting requirements under company law will only apply if the foreign company carries on business in Antigua and Barbuda within the meaning of Section 338 of the CA. The IPCO confirmed that if the foreign company has its place of effective management or administration in Antigua and Barbuda, this fact alone will not be sufficient to be considered to be "carrying on business in Antigua and Barbuda" and such companies will not be required to register with the IPCO (see further paragraph 110 below).

71. In order to be registered, a foreign company must file a statement with the IPCO, which includes general information such as company name, jurisdiction of incorporation, date and manner of its incorporation; the business that the company will carry on in Antigua and Barbuda; the address of the registered or head office of the company outside Antigua and Barbuda; the address of the principal office of the company in Antigua and Barbuda; the names, addresses and occupations of the directors of the company (Section 344(1) of the CA). The foreign company must set out the particulars of its corporate instruments, which includes its Articles of Incorporation, and provide a copy of the corporate instruments of the company. No information is specifically required on legal ownership, unless available in the corporate instruments of the company, which depends on the applicable foreign law. In any event, the information in the Articles of Incorporation could be historical, as the company may have existed for many years before starting business in Antigua and Barbuda.

72. Under Sections 344(2) and 346 of the CA, the information provided upon registration shall be accompanied by:

- a statutory declaration by a director of the company that verifies on behalf of the company the particulars set out in the statement
- a statutory declaration by an attorney-at-law (who may be an AML-obliged person or not, and Antigua and Barbuda did not specify if the attorney-at-law must be based within its jurisdiction[26]) and

26. According to the Money Laundering (Prevention) (Amendment) Act, No. 14 of 2020, an attorney-at-law will be subject to the AML-obligations when he/she prepares

- a power of attorney that will empower a resident in Antigua and Barbuda to act on behalf of the company (who may be an AML-obliged person or not).

73. After registration, foreign companies must file annual returns with the Registrar (Section 356 of the CA), containing information on the name of the company, financial year, address of registered or head office, company number, address of principal office (if any), date of registration, fundamental changes in corporate structure (if any), share capital: class of shares, number issued and outstanding, amount (if any), shares purchased by the company in the last financial period and the cumulative total or/and if any shares have been redeemed by the Company in the last financial period.[27] Under Sections 356(2) and 356(3) of the CA, a director or officer of the foreign company must certify the content of any return made. In practice, the annual company return form also requires foreign companies to indicate the name and address of the company attorney-at-law. The IPCO may strike off the register a foreign company that neglects or refuses to file a return required under this section. No legal ownership information is provided to the IPCO in the annual company returns.

74. General provisions on sanctions set in Sections 530, 533 and 536 of the CA (see paragraph 60 above) apply to foreign companies.

75. Further, the Law (Miscellaneous Amendments) (No. 2) Act, No. 14 of 2017, introduced the submission to the FSRC of an annual attestation on beneficial ownership and control by legal entities and arrangements, which applies to all domestic and foreign companies (Section 194A of the CA). The law changed in 2022 and now the beneficial ownership attestation of domestic and foreign companies is submitted directly to the IPCO[28] (see paragraphs 213 et seq.). However, the reporting requirement does not ensure the provision of legal ownership information in all cases as only those persons who own 5% or more of the total voting rights of the company will be reported (and doubts remain if this threshold refers to legal or beneficial owners, see paragraph 216 below).

---

for, or carries out, transactions for their clients concerning the following activities: buying and selling of real estate; managing of client money, securities or other assets; management of bank, savings, escrow or securities accounts; organisation of contributions for the creation, operation or management of companies; creating, operating or management of legal persons or arrangements, and buying and selling of business entities. If the company attorney does not perform these functions, he/she will not need to be subject to the AML obligation. Also, there is no explicit legal requirement that a company attorney must be located in Antigua and Barbuda.

27. Form 24 of the Companies Act Regulations

28. Companies (Amendment) Act, No. 22 of 2022

76. To sum up, no information is specifically required on legal ownership at the point of registration of a foreign company in Antigua and Barbuda with the IPCO, unless available in the corporate instruments of the company, which depends on the applicable foreign law, and may be historical and thus out of date. Some ownership information may be retrieved through the company attorney-at-law where he/she is an AML-obliged person based in Antigua and Barbuda, which is not mandatory, and therefore the information may not be available in all instances. The newly introduced annual attestation on beneficial ownership and control, whilst being periodic, does not ensure the provision of legal ownership information in all cases. Finally, the legal ownership information may not be available for all companies that have a sufficient nexus to Antigua and Barbuda in accordance with the standard (see further observation on the legal ownership information available for foreign companies, as envisaged by tax law, in paragraphs 110 and 112 below).

Company ownership and identity information required to be held by companies

77. This section will first detail the company and identity information required to be kept by domestic companies (including non-profit companies), then by IBCs and finally by foreign companies.

78. First, a domestic company should at all times have a registered office in Antigua and Barbuda (Section 175(1) of the CA).

79. Section 177(1) of the CA, as amended in 2020, stipulates that a company shall prepare, and maintain at its registered office records containing identity and legal ownership information of its shareholders, clients and directors, including:

- the name and latest known address of each person who is a member[29]
- in the case of a company with share capital, a statement of the shares held by each member

29. According to Section 371(3) CA, a "member" in relation to a company means an incorporator of the company and any other person who agrees to become a member of the company and whose name is entered in the company's register of members. Further, under Section 105(1) of the CA, the following persons are shareholders in a company: (a) a person who is a member of the company under Section 371(3); (b) the personal representative of a deceased shareholder and the trustee in bankruptcy of a bankrupt shareholder; (c) a person in whose favour a transfer of shares has been executed but whose name has not been entered in the register of members of the company or, if two or more such transfers have been executed, the person in whose favour the most recent transfer has been made. In relation to a non-profit company, "member" refers to a member of the non-profit company in accordance with the provisions of the CA and by-laws of the company (Section 327 of the CA).

- the date on which each person was entered on the register as a member, and the date on which any person ceases to be a member.

80. A company may appoint an agent to prepare and maintain these registers, and such registers may be kept at its registered office or at another place within Antigua and Barbuda designated by the directors of the company (Section 177(7) of the CA). A copy of the shareholder register is registered by the agent in the registry maintained by the IPCO. As noted in paragraph 59 above, no transfer of stock or shares of a company is valid unless the instrument of transfer is registered with the IPCO.

81. Further and in addition, the CA requires companies to prepare a list of shareholders who are entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder (Section 123(1) of the CA).

82. A public company should prepare and maintain a register of substantial shareholding, i.e. anyone owning shares entitled to exercise 10% or more of the voting rights, in the company in accordance with Sections 181 to 185 of the CA.

83. The sanctions envisaged by Sections 530, 533 and 536 of the CA, as described above, apply.

84. Second, in relation to IBCs, Section 128(1) of the IBCA provides that a corporation must at all times have a registered office in Antigua and Barbuda. IBCs must maintain the shareholders records and may appoint an agent for this purpose. As the provision of registered offices and registered agent services is a regulated activity under the CMTSPA, this would also imply a mandatory requirement of engaging a service provider.

85. Before 2020, the IBCA did not explicitly require that the shareholders records are maintained at the registered office. However, Section 130(1) of the IBCA, as amended by Law (Miscellaneous Amendments) Act, No. 3 of 2020, now stipulates that a corporation shall prepare and maintain at its registered office records containing identity and legal ownership information of its shareholders, clients and directors including:

- name and the latest known address of each person who is a registered shareholder
- statement of the shares held by each registered shareholder
- date on which each person was entered on the register as a shareholder and the date on which any person ceased to be a shareholder.

86. A corporation may appoint an agent responsible for maintaining its records; in which case such records must be maintained at the registered office of the corporation or at some other place in Antigua and Barbuda designated by the directors of the corporation (Section 130(5) of the IBCA).

87. Section 111 of the IBCA further requires changes of shareholdings to be registered at the said office. Antigua and Barbuda explained that the transfer will not be effective without such a registration (Section 27(1) of the IBCA).

88. Further, the IBCA requires corporations to prepare a list of their shareholders who are entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder (Section 111(1) of the IBCA). In addition to maintaining a register of shareholders, an IBC is required to hold annual general meetings and for each of these meetings prepare a list of its shareholders and the number of shares held by each shareholder (Sections 102 to 110 of the IBCA).

89. The sanctions envisaged by Sections 353, 356 and 358 of the IBCA, as described above, apply for the breach of these obligations. Further, Section 130A of the IBCA, as amended in 2014, Section 335 of the IBCA, as amended in 2017, and Section 6A of the IBCA, as amended in 2010, further secure the record-keeping obligations.

90. Finally, the CA does not impose any obligation on relevant foreign companies to maintain information on their shareholders. As explained above, no ownership information is required at the point of registration with the IPCO (see paragraph 71), nor is provided to the IPCO in the annual company returns (see paragraph 73). Antigua and Barbuda observed that this is mitigated by the fact that foreign companies must file with the IPCO a fully executed power of attorney, which empowers a resident in Antigua and Barbuda to act as the attorney of the company (see paragraph 72 above). Antigua and Barbuda then further clarified that the power of attorney – referred to in Section 346 – does not need to be executed by an actual attorney at law who must act in accordance with the AML laws and will be under the duty to maintain legal and beneficial ownership information related to foreign companies for six years by virtue of the AML laws; however, in practice, the power of attorney is typically executed by an AML-obliged attorney-at-law. Whilst some information will be available through annual beneficial ownership and control attestations, it does not offer a comprehensive coverage of all legal owners. The IRD will hold legal ownership information at the point of registration, but no update of this information is required under tax law. The legal framework therefore does not offer a comprehensive coverage of all relevant foreign companies and it is unlikely that the information that identifies the owners of foreign companies will be available in all cases. **Antigua and Barbuda is recommended to ensure that up-to-date ownership and identity information is available for foreign companies in all cases**.

Company ownership information held by service providers

91. Corporate management and trust service providers in Antigua and Barbuda are regulated under both the CMTSPA and the Money Laundering (Prevention) Act (MLPA). The regulation of service providers through these acts is an avenue through which legal ownership information of most relevant entities and arrangements is available.

92. Many legal persons and arrangements conducting business from or in Antigua and Barbuda will have some involvement with a licensed service provider through an on-going business relationship.

93. It is mandatory for IBCs to engage the services of an agent licensed under the CMTSPA (see paragraph 84). Only licensed service providers may provide nominee shareholders for foreign companies and IBCs, or act as custodians for bearer shares of IBCs. However, there is no mandatory requirement for all domestic and foreign companies to engage with service providers.

94. The CMTSPA regulates a broad range of services as set by Section 2, including the administration of corporate management for profit or reward in or from within Antigua and Barbuda; the conduct or the carrying on of corporate management and trust services in or from Antigua and Barbuda, including on-line corporate management services; the management and administration of IBCs, foreign companies and ILLCs; the provision of registered agent/office or officers/managers for IBCs, foreign companies and ILLCs; the provision of directors/officers, nominee shareholders, and the preparation and filing of statutory documents for IBCs, foreign companies and ILLCs; and the provision of asset management services not otherwise regulated by the FSRC or other Authority.

95. A service provider that offers a regulated service must be licensed under the CMTSPA, unless it qualifies for exemption.[30] Antigua and Barbuda

30. Section 4 of the CMTSPA allows a service provider to apply to the FSRC for exemption if the services carried out fall under one of the following categories: (a) services provided in or from within Antigua and Barbuda but which are otherwise regulated by the FSRC or by another Authority; (b) services provided as an incorporator, registered agent, director, manager or officer of (i) not more than 12 entities during any calendar year, where the person does not have a significant interest in any of them, or (ii) any entity in which the person has an equity interest of 10% or more; (c) acting as trustee of no more than three international trusts registered under the International Trust Act, 2008 and (d) acting as a non-resident director, manager or officer of affiliated entities. A person shall not claim an exemption on the basis of (a), (b)(i), (c) or (d), if services rendered include the management or other control of assets of one or more entities and the aggregate value of the assets exceeds XCD 30 000 (USD 11 100).

has advised that as at 31 December 2022, 19 service providers were licensed, including 4 which were authorised to offer trustee and asset management services. There were also 8 exempt service providers under the CMTSPA (compared to one as at 31 December 2012), exempted from paying the annual licence fee and annual on-site examination. Each exempt service providers can manage up to 12 entities.

96. Section 5 of the CMTSPA creates a requirement of physical presence in Antigua and Barbuda for service providers. Whilst Antigua and Barbuda clarified that this requirement applies both to licensed and exempt service providers, Section 5 does not make it explicit. This section seems to provide the "requirements for a licence", stipulating that: "no person shall carry on the business of corporate management service provider in or from within Antigua and Barbuda unless that person has a valid licence under this Act for such purpose and that person has physical presence within Antigua and Barbuda".[31] The FSRC confirmed that all service providers have physical presence in Antigua and Barbuda. In practice, the list of licensed and exempted service providers, available on the website of the FSRC, includes their physical address in Antigua and Barbuda.

97. The following requirements apply to a licensed service provider. A licensed service provider who provides corporate management services is required to conduct such due diligence as may be necessary to establish the identity and business background of the client (Section 18(1) of the CMTSPA). To this end, the licensee must obtain from the client and keep the records of (a) the client's principal place of business, business address, telephone and facsimile, telex numbers and electronic address of the principal or professionals concerned with the client; (b) details of the client's current home address, telephone and facsimile numbers and electronic address; (c) copies of passport or identity card, driver's licence and an original utility bill or bank statement; (d) two sources of reference to provide adequate indication on the reputation and standing of the client (Sections 18(2) and 18(3)(a) of the CMTSPA). The CMTSPA does not specify which documentation must be held for clients which are legal persons and will be supplemented by the AML framework.

98. Further, a licensed service provider must keep the names and addresses of the beneficial owners of entities for which it provides corporate management and trust services (Section 18(3)(b) of the CMTSPA) (see paragraph 222 et seq.). The CMTSPA was amended by the Law (Miscellaneous Amendments) Act, No. 20 of 2016, to specify that the name and addresses of the "basic owner" (i.e. the legal owners) and "beneficial owner" of entities

31. The term "physical presence" means a permanent address and physical office space within Antigua and Barbuda.

for which corporate management and trust services are provided must be accurate and updated on a timely basis (Section 18(3)(b) of the CMTSPA). However, no further guidelines have been provided in this regard. Antigua and Barbuda explained that in practice the information will be updated at least annually for the purpose of beneficial ownership attestation (which covers "persons who own 5% or more of the client", although this seems to capture beneficial owners through ownership).

99. Whilst Section 18A of the CMTSPA does not explicitly cover the identity of legal owners, Antigua and Barbuda noted that one cannot perform an efficient effective identification and verification of the identity of beneficial owners without determining the ownership structure of the client. In practice, representatives of the industry expressed the view that the annual beneficial ownership attestation form requires the identification of legal owners (as discussed further in the beneficial ownership section, see paragraph 216 below) and therefore legal ownership information will be obtained for those persons who own 5% or more of the total voting rights of the company. Although the potential gap is mitigated by this requirement, it does not ensure that complete legal ownership information is available in all cases. A small number of beneficial ownership and control attestations submitted in 2019-21 (with the compliance rate of 1.5%-3.5%) undermines the added value this source of ownership information might have (see paragraph 238).

100. Following the amendments introduced by the Law (Miscellaneous Amendment) Act, No. 3 of 2020, a licensed service provider must also keep the identity and legal ownership information of its own shareholders, clients and directors (Section 18(3)(c) of the CMTSPA).

101. Section 18(4) of the CMTSPA specifies that where the service provided to a client is for any reason discontinued, the record kept for that client shall continue to be maintained for a period of six years from the date of the discontinuation of such services.

102. A licensed service provider must maintain and hold the records required by Section 18 (see paragraphs 97 to 100) in Antigua and Barbuda (Section 18(5) of the CMTSPA).

103. Further, Section 19 requires that a licensed service provider, in respect of each client, maintain for a period of six years (the duration was added by the amendment introduced by the Law (Miscellaneous Amendment) Act, No. 3 of 2020) adequate information on a file to enable them to comply with their obligation under the CMTSPA, the MLPA or any other law in force in Antigua and Barbuda.

104. The breach of these obligations amounts to an offence and is liable on summary conviction to a fine not exceeding XCD 5 000 (USD 1 850) (Section 27(7)(b) of the CMTSPA).

105. A service provider that is exempt from licensing under the CMTSPA is not subject to the due diligence, record keeping and record retention obligations under Sections 18 and 19 of the CMTSPA, described above, but is still subject to the AML requirements discussed below in this report, as in practice (as explained by Antigua and Barbuda) they will be attorneys-at-law conducting financial services. Furthermore, the Law (Miscellaneous Amendments) (No. 2) Act 2017, clarified that an exemption holder, whilst not being subject to other filing requirements under the CMTSPA, remains obligated to submit beneficial ownership attestations to the FSRC under Section 18A of the CMTSPA.

106. To sum up, pursuant to Sections 18, 18A and 19 of the CMTSPA, all licensed service providers are required to obtain and retain ownership information of all clients (such as IBCs under their management, including those IBCs which have been struck off the register), for a period of six years, including in the instances of the discontinuance of their services to their clients. With the exception of Section 18A of the CMTSPA and the AML-related requirements, which are described below, these obligations will not apply to the exempt service providers. Albeit the potential gap might be mitigated by the annual beneficial ownership and control attestation, Antigua and Barbuda should monitor the availability of legal ownership information through exempted service providers to ensure that the lack of due diligence, record keeping and record retention obligations does not impede the availability of legal ownership information in all cases (see Annex 1).

107. The MLPA, alongside the Money Laundering (Prevention) Regulations 2007 (MLPR) and the Money Laundering & the Financing of Terrorism Guidelines for Financial Institutions (MLFTG) govern the AML obligations of "financial institutions" operating from or within Antigua and Barbuda, defined broadly to include all persons whose regular occupation or business is in the provision of corporate services. It is an important source of ownership and identity information in Antigua and Barbuda. As explained above, IBCs are required to engage the services of at least one corporate service provider in Antigua and Barbuda which is subject to the AML obligations, whether or not the service provider is exempted from licensing under the CMTSPA (see further paragraphs 95 and 105). The paragraphs below provides a summary of the provisions which are of relevance for identifying legal ownership information. A more detailed analysis of the AML framework is provided in the context of beneficial ownership.

108. The MLPA and MLPR oblige service providers to obtain and record identification information of all customers who seek to form a business relationship with them. This includes obtaining information on the identity of the principal where the customer is acting in the capacity of an agent, and the identity of the ultimate natural persons who own or control the customer or principal where the customer or principal is a legal person or trust. To know

the beneficial owner(s), in most cases one needs to know the legal owner(s); however, this requirement does not offer a comprehensive coverage of legal ownership. Identity information obtained must be verified using reliable, independent source documents, data or information. A copy of the evidence and information as to where the evidence may be obtained must be kept for a period of six years from the date the business relationship ends.[32] If the service provider is unable to obtain satisfactory evidence of the customer's identity, it must not proceed with the business relationship with the customer, or may only do so under the direction of the FSRC.

109. Section 17I of the MLPA empowers the Supervisory Authority to impose sanctions for breaches of the MLPA discovered during an onsite examination. These sanctions include written warnings, written agreement or memorandum of understanding, directions to cease and desist conduct, directions regarding any employee of the institution or board member and administrative financial penalties in accordance with the MLPR. Administrative penalties as set out in Regulation 3(8) of the MLPR cannot exceed XCD 100 000 (USD 37 000) for failure to comply with the requirements of the regulations, directives or guidelines issued by the Supervisory Authority. Section 17E also provides sanctions for a financial institution or director, manager or employee of a financial institution who breaches any provision of Part III of the MLPA ("Anti-Money Laundering Supervision"). These sanctions include on summary conviction a fine not exceeding XCD 500 000 (USD 185 000) or a term of imprisonment not exceeding six months and on conviction on indictment a fine not exceeding XCD 1 000 000 (USD 370 000).

Tax Law requirements

110. All persons operating a company, business, trade, profession or service involved in economic activity in Antigua and Barbuda must register with the Commissioner of Inland Revenue for the allocation of an identification tax number within 30 days of commencement of the economic activity (Section 75A of the Income Tax Act). Persons covered include relevant domestic and foreign companies, partnerships, trusts or other body of persons. It is not clear whether the tax registration will be required for all companies which have a sufficient nexus to Antigua and Barbuda in accordance with the standard. During the onsite visit, the IRD initially confirmed that being a resident for tax purposes, for example, by reason of having its place of effective management or administration in Antigua and Barbuda may not be sufficient to trigger the registration requirement unless economic activity is carried out in Antigua and Barbuda. Later, Antigua and Barbuda clarified

32. Section 12B of the MLPA and regulations 4 and 5 of the MLPR

that, provided that effective management or administration is conducted in Antigua and Barbuda, a whole host of duties will be triggered in relation to an unincorporated business tax, pursuant to the Unincorporated Business Tax Act 2006, and a corporate income tax, pursuant to the Income Tax Act. However, under the Income Tax Act Cap 212 (Section 8), cited by Antigua and Barbuda in this regard, the concept of "the central management and control" in relation to companies is referred to and applies exclusively in the context of certain income tax exemptions. Accordingly, doubts remain as to whether tax law requirements cover all companies which have a sufficient nexus to Antigua and Barbuda in accordance with the standard (see also the position under company law in paragraph 70). Antigua and Barbuda should ensure that legal ownership information on foreign companies having a sufficient nexus with Antigua and Barbuda is available in all cases (see Annex 1).

111. Prior to 2018, IBCs were generally exempted from all duties and taxes in Antigua and Barbuda and did not need to register with tax authorities.[33] However, pursuant to the amendment by way of the Law (Miscellaneous Provisions Amendment) Act of 2018, which aimed at repealing all ring-fencing and preferential tax regimes, an IBC can have the option to conduct business in Antigua and Barbuda, provided it receives permission from the FSRC and files its incorporation information with the IPCO. As a result, the registration of such an IBC will be recorded in the Register of IBCs, as well as the Company Register (Section 4A of the IBCA). Any IBC that is involved in economic activity in Antigua and Barbuda is liable to the taxation provisions under the Income Tax Act.

112. At the point of registration, the IRD requires full disclosure of the identity of all shareholders. The following information is required from legal entities: tax identification number; owner name: for individuals (last and first name) and for legal persons (trade name); ownership start date and number of shares; percentage of shares; and ownership end date. Further, for each shareholder, the Individual Registration Form must be completed. However, Antigua and Barbuda clarified that any subsequent changes to the shareholders do not need to be reported to the IRD and only payments made to shareholders and directors and their family members are included in an annual tax return.

113. The provision of false or misleading information can be sanctioned under Section 81 of the 2018 TAPA (on summary conviction to a fine not exceeding XCD 10 000 (USD 3 700)) or Section 11 of the TIE Act (on summary conviction to a fine not exceeding XCD 5 000 (USD 1 850) or to imprisonment for a term not exceeding six months or to both).

33. Exceptions include international banks (Section 168 and 169 of the International Banking Act 2016).

Companies that ceased to exist

114. The key requirements are set by the CA and the IBCA.

115. The CA sets general rules which apply equally to all domestic companies (including non-profit). A company may be struck from the Company Register by the IPCO where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation (Section 483 of the CA). In addition, the IPCO may strike off the Company Register a company in certain circumstances set out in Section 511 of the CA.[34] The CA does not specify document retention requirements with respect to the companies struck off from the Company Register.

116. A company can be wound up either by the court or voluntarily (Section 370(1) of the CA). The circumstances in which a company can be wound up by the court are set out by Section 377 of the CA and include the situation where the company does not commence its business within a year from its incorporation, or suspends its business for a whole year.

117. When the court makes an order for a winding up, a copy of it should be lodged with the IPCO, who should make an entry thereof in the records relating to the company (Section 385(1) of the CA). For the purposes of conducting the proceedings in winding up a company, the court may appoint a liquidator (Section 391 of the CA). The liquidator shall take into his/her custody or control all the property and things, in action to which the company is or appears to be entitled (Section 396 of the CA). When the affairs of a company have been completely wound up, the court, if the liquidator makes an application in that behalf, makes an order that the company be dissolved from the date of the order, and the company is dissolved accordingly, and a copy of the order is lodged by the liquidator with the IPCO who shall record the minute of the dissolution of the company (Section 425 of the CA).

118. A voluntary winding up is deemed to commence at the time of passing of the resolution for voluntary winding up (at the general meeting) (Section 429 of the CA). Liquidator(s) can be appointed by a company in general meeting (Section 433 of the CA). The final meeting is called by the liquidator with the subsequent notification of the IPCO (Section 438 of the CA).

34. Pursuant to Section 511 of the CA, the Registrar may do the same if (a) the company or other body corporate fails to send any return, notice, document or prescribed fee to the Registrar as required pursuant to the CA; (b) the company is dissolved; (c) the company or other body corporate is amalgamated with one or more other companies or bodies corporate; (d) the company does not carry out an undertaking given under Section 515(a)(i) of the CA: if required by the Registrar to dissolve or change its name to a dissimilar name within six months after the filing of the articles by which the name is acquired; or (e) the registration of the body corporate is revoked pursuant to the CA.

119. The CA does not allocate responsibility for document retention regarding ownership information. The retention and disposal of books and papers is at the discretion of the court (in the case of a winding up by the court), a general meeting of members (in the case of a members' voluntary winding up), or the committee of inspection or creditors (in the case of a creditors' voluntary winding up), which are not prohibited by law to set record retention requirements for a period of less than five years (Sections 477 and 486 of the CA).[35] If, when a company is wound up, whether by order of the court or voluntarily, it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding up every officer of the company who was knowingly a party to the default of the company is guilty of an offence, unless he/she shows that he/she acted honestly and the fault was excusable (Section 468(1) of the CA).

120. In relation to the retention period, Section 477(2) of the CA stipulates that after five years from the dissolution of the company, no responsibility rests on the company, the liquidators or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein. Accordingly, if the retention period is below five years, the relevant persons may leave themselves open to potential action by third parties until the five-year period expires. Further, the lack of an explicit retention requirement for five years or more is partly mitigated by the fact that ownership information is recorded by the IPCO and the IRD (however, in practice, legal ownership information for companies which are struck off by the Registrar may be outdated).

121. In addition, the authorities of Antigua and Barbuda explained that the legal and beneficial ownership information will be available with the liquidator who in practice is typically a certified accountant and subject to the AML laws, as amended in 2016 (although there is no legal requirement to appoint a liquidator, nor that the liquidator must be a certified accountant under the territorial jurisdiction of Antigua and Barbuda).

122. Whilst these circumstances may mitigate the potential gap, Antigua and Barbuda should introduce an explicit document retention requirement in respect of domestic companies (including non-profit) which have been wound up or struck off the Company Register; clarify the rules regarding who the nominated persons to retain records are to ensure that the records remain in

35. The court may prevent, for such period (not exceeding five years from the dissolution of the company) as the court thinks proper, the destruction of the books and papers of a company which has been wound up and for enabling any creditor or contributory of the company to make representations to the court (Section 477(3) of the CA).

possession, custody or control of a person within Antigua and Barbuda for a minimum period of five years; and sanctions should be envisaged for the breach of these duties (see Annex 1).

123. Wound up companies may be revived by the court. Where a company has been dissolved (otherwise than pursuant to Section 483 of the CA – see below), the court may at any time within two years of the date of the dissolution, on an application being made by the liquidator of the company or by any other person who appears to the court to be interested, make an order declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved (Section 482(1) of the CA).

124. Where a company has been struck from the Company Register for not being active under Section 483 of the CA, it can be restored upon an application of the company or any member or creditor to the court, which must be made before the expiration of 20 years from the publication in the Gazette of the notice. The court may, if satisfied that the company was at the time of the striking off carrying on business or in operation or otherwise that it is just that the company should be restored to the register, order the name of the company to be restored to the register, and, upon a copy of the order being delivered to the IPCO for registration, the company is deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off (Section 483(6) of the CA).

125. In addition, where a company is struck off under Section 511 of the CA (see paragraph 115 above), the IPCO may, upon receipt of an application in the prescribed form and upon payment of the prescribed fee, restore it to the register and issue a certificate in a form adapted to the circumstances (Section 511(5) of the CA). Where a body corporate is struck off the register, the liability of the body corporate and of every director, officer or shareholder of the body corporate continues and may be enforced as if it had not been struck off the register (Section 512 of the CA).

126. Whilst Antigua and Barbuda clarified that domestic companies (including non-profit) would have to update their filings in accordance with the direction of the IPCO and the court respectively, they are not otherwise legally obliged to provide ownership information to the authorities when their dissolution is declared void by the court or when a company is restored in the registry after being struck off. In addition, there is no time limit for the restoration of companies after being struck off (Section 511(5) of the CA), except for specific circumstances where it was struck off by the Registrar because it was not carrying on business or in operation and which can be restored to the register by

the court – subject to a limitation period of 20 years from the publication of a notice in the Gazette (Section 483(6) of the CA). In the case of dissolved and struck off companies, there is a risk that an adequate retention of ownership information will not be ensured as there is no explicit obligation to maintain and provide ownership information at that time. Since the retention period after dissolution is five years, any reinstatement after that date does not allow checking whether there was a change of ownership. Therefore, **Antigua and Barbuda is recommended to ensure the availability of ownership information when the dissolution of a domestic company (including non-profit) is declared void and upon restoration following the strike off from the register, as well as establishing a time limit for the restoration following the strike off** (see further paragraph 141).

127. Foreign companies may not be wound up voluntarily, except in some circumstances which include if the company is dissolved or has ceased to have a place of business in Antigua and Barbuda or has a place of business only for the purpose of winding up its affairs or has ceased to carry on business (Section 488(1) of the CA).

128. When a foreign company ceases to carry on its business in Antigua and Barbuda, the company shall file a notice to that effect with the IPCO, which then cancels the registration (Section 352(1) of the CA). If a foreign company ceases to exist and the IPCO is made aware of it, the Registrar may cancel the registration of that company (Section 352(2) of the CA). Where the registration of a foreign company has been cancelled under Section 352, the Registrar may revive the registration if the company files such documents as the Register may require and pays the prescribed fee (Section 353(1) of the CA). Antigua and Barbuda clarified that in practice the Registrar will require the filing of any missing annual return (which does not include legal ownership information; see also paragraph 73). Further, a registration of a foreign company is revived when the Registrar issues a new certificate of registration to the company (Section 353(2) of the CA). Registration or revival of registration under the CA of a foreign company retroactively authorises all previous acts of the company as though the company had been registered at the time of those acts, except for the purposes of a prosecution for any offence under Division B ("External Companies") of the CA.

129. In addition, according to Section 351 of the CA, subject to such regulations as the Minister may make in that behalf, the Minister may suspend or revoke the registration of any foreign company for failing to comply with any requirements of Division B ("External Companies") of the CA, or for any other prescribed cause; and the Minister may, subject to those regulations, remove a suspension or cancel a revocation. The rights of the creditors of a foreign company are not affected by the suspension or revocation of its registration under the CA.

130. To sum up, where a foreign company ceases to carry on business in Antigua and Barbuda, it must file a notice with the Registrar and its registration will be cancelled. The Minister may also suspend or revoke the registration of any foreign company. As with other companies, the cancelled registration may be revived and the suspension or revocation of the registration can be removed. No time limitation is set by the law and foreign companies are not obliged to provide ownership information to the authorities upon their revival or removal of the suspension or revocation of the registration. This does not interfere with the requirements of the standard (beyond what has already been identified in paragraph 90 above).

131. The winding up of IBCs is regulated by Part IV of the IBCA.

132. According to Section 284(1) of the IBCA, except with the prior written approval of the appropriate official,[36] a corporation may not be voluntarily liquidated and dissolved except:

- A corporation that has not issued any shares may be dissolved at any time by resolution of all the directors under Section 291 of the IBCA.
- A corporation that has no property and no liabilities may be dissolved by special resolution of the shareholders (Section 292 of the IBCA).
- A corporation may liquidate and dissolve by special resolution of the shareholders under Section 294 of the IBCA.

133. IBCs can be dissolved by the FSRC who issues a certificate of dissolution under Section 327 of the IBCA and the corporation ceases to exist from the date shown in its certificate of dissolution, as in the circumstances described by Sections 291 and 292 of the IBCA (Sections 293 and 298 of the IBCA).

134. Under Section 299 of the IBCA, the act of liquidation and dissolution may optionally involve the court. For instance, where a corporation (a) has not commenced business within three years after the date shown in its certificate of incorporation; (b) has not carried on its business for three consecutive years; or (c) has not had its name restored to the register within two years after the date on which it was struck off under Section 335 of the IBCA,[37] the Director may dissolve the corporation by issuing a certificate

36. The conditions for granting such an approval are set in Section 284(2) and 284(3) of the IBCA.

37. In which case, under Section 336 of the IBCA, where a corporation is struck off the register, the liability of the corporation and of every director, officer or shareholder of the corporation continues and may be enforced as if it had not been struck off the register. However, Antigua and Barbuda clarified that the corporation cannot carry on business.

of dissolution under Section 299 of the IBCA or he/she may apply to the court for an order dissolving the corporation, in which case Section 304 of the IBCA applies (see below). Antigua and Barbuda clarified that in practice the FSRC requires a shareholder's resolution which grants approval for an (unlicensed)[38] IBC to be dissolved under the IBCA and did not report that this power has been exercised in practice during the review period.

135. In certain circumstances, the court's participation is mandatory. For instance, when a corporation receives the approval of the appropriate official to its voluntary winding up, the corporation must apply to the court for an order dissolving the corporation (Section 285(1)(a) of the IBCA).

136. Antigua and Barbuda clarified that in practice when the Director dissolves the corporation, it will give instructions to ensure that the corporation complies with the record retention provision under the AML laws. The court, under Section 304(i) of the IBCA, in connection with the dissolution or the liquidation and dissolution of a corporation, may make any order it thinks fit, including an order disposing of or destroying the documents and records of the corporation. Under Section 308(1)(h), a liquidator may make financial provision in respect of the custody of the documents and records of the corporation after dissolution. When approving the final accounts rendered by a liquidator, the court must make an order directing the custody or disposal of the documents and records of the corporation (Section 309(4)(b) of the IBCA).

137. Under Section 311 of the IBCA, a person who has been granted custody of the documents and records of a dissolved corporation remains liable to produce those documents and records for six years following the date of the company's dissolution or until the expiry of such other shorter period as may be ordered by the court under Section 309(4) of the IBCA. Antigua and Barbuda clarified that the failure to adhere to such an order would be a matter that must revert to the Court by way of an application supported by an affidavit, with the grounds being contempt of court. However, there is also no requirement that a person who has been granted custody of the documents and records of a dissolved corporation be under the territorial jurisdiction of Antigua and Barbuda. The law also does not specify that the "person" in this context refers to a natural person. As the records may be kept at a place(s) outside of Antigua and Barbuda, doubts arise as to whether the system in place enables the availability of ownership information to the relevant authorities.

138. To sum up, in respect of the dissolution and winding up of IBCs, the law does not allocate responsibility for document retention regarding ownership information. The allocation of custody of the documents and

38. Licensed IBCs are those which are licensed by the FSRC to engage in international banking, international trust or international insurance business (IBCA Regulations 1998).

records is at the discretion of the Director of IBCs or the court, and the court may oblige record retention requirements for a period of less than 5 years. Antigua and Barbuda maintains that in practice such directions will be made by the Director and the court respectively with a due account of the AML retention requirements. The records may be kept at a place(s) outside of Antigua and Barbuda, which raises concerns as to the availability of this information to the relevant authorities. However, the obligations of service providers under the CMTSPA and AML laws, which require that the records kept for clients shall continue to be maintained for a period of six years from the date of the discontinuation of such services (as described in paragraphs 103 and 108), will allow retrieving the legal and beneficial ownership information. Whilst the IBCA does not include an explicit provision ensuring that an engagement with a service provider continues through those entities' entire lifecycle and not only at incorporation, Antigua and Barbuda explains that in practice this will be the case (see further paragraph 84).

139. A dissolved IBC retains certain liabilities and may be revived:

- Notwithstanding the dissolution of a corporation (a) a civil, criminal or administrative action or proceeding commenced by or against the corporation before its dissolution may be continued as if the corporation had not been dissolved; (b) a civil, criminal or administrative action or proceeding may be brought against the corporation within two years after its dissolution as if the corporation had not been dissolved; and (c) any property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available to satisfy the judgment or order (Section 312(2) of the IBCA et seq.).
- When a corporation has been dissolved under Part IV of the IBCA, any interested person may apply to the Director to have the corporation revived (Section 315(1) of the IBCA). If the Director approves the application for the revival of a corporation, articles of revival in the prescribed form may be sent to the Director, who must thereupon issue a certificate of revival for the corporation in accordance with Section 327 (Section 315(2) of the IBCA). A corporation is revived on the date shown in its certificate of revival; and thereafter the corporation, subject to such reasonable terms as may be imposed by the Director and to any rights acquired by any person after the dissolution of the corporation, has all the rights and privileges and is liable for the obligations that it would have had if it had not been dissolved (Section 315(3) of the IBCA). Antigua and Barbuda did not explain what type of rights over the IBC can be acquired after its dissolution, but observed that the IBC is prohibited from conducting business after dissolution and will not be in a position of obtaining a Certificate of Good Standing (see further in paragraph 168).

140. Furthermore, under Section 335(1) of the IBCA, the Director of IBCs may strike a corporation off the register in certain circumstances.[39] Where a corporation is struck off the register, the liability of the corporation and of every director, officer or shareholder of the corporation continues and may be enforced as if it had not been struck off the register (Section 336 of the IBCA). Further, when a corporation is struck off the register, the Director of IBCs may, upon receipt of an application in the prescribed form and upon payment of the prescribed fee, restore it to the register and issue a certificate in a form adapted to the circumstances (Section 335(5) of the IBCA).

141. To sum up, IBCs are not legally obliged to provide ownership information to the authorities upon restoration following dissolution and strike off. Further, there is no time limit for the revival of an IBC after being dissolved and the restoration of an IBC once struck off, nor is there an explicit legal obligation to maintain and provide ownership information at that time. However, Antigua and Barbuda clarified that the FSRC will require the filing of an up-to-date annual beneficial ownership report (only the latest one) and any unpaid fees (see further paragraph 213 et seq. below). The Circular of the FSRC No. 3 of 2020 ("Reinstatement of IBCs and the Immobilisation of Bearer Shares"), with effect from August 2020, specifically advises that "in the case of older companies or companies that have been inactive for extended periods, consideration will be given to confirming the beneficial ownership and control status as part of the reinstatement process. In this regard, a completed attestation of beneficial ownership and control must accompany these reinstatement requests". **Antigua and Barbuda is recommended to ensure the availability of ownership information and to establish a time limit for the revival and restoration of IBCs following their dissolution and strike off respectively**.

Corporate mobility

142. The outward mobility of IBCs is permitted. Section 128 of the IBCA implies that a corporation must at all times have a registered office and a registered agent in Antigua and Barbuda (see further paragraphs 84 and 93), and the registered agent is responsible for the records and registers to be kept at the registered office. However, this obligation discontinues when an IBC ceases to be a corporation under the IBCA by making an application to the FSRC that the IBC be continued in another country as if it had been

39. If (a) the corporation fails to send any return, notice, document or prescribed fee to the Director as required pursuant to the IBCA; (b) the corporation is dissolved; (c) the corporation is amalgamated with one or more other corporations or bodies corporate; (d) the corporation does not carry out an undertaking given under Section 339(a)(i) of the IBCA or (e) the registration of the corporation is revoked pursuant to the IBCA.

incorporated under the laws of that country (Sections 184, 185 and 187 of the IBCA). No application for discontinuation was approved by the FSRC in 2022 and no information is available for the other years. The obligations of service providers under the CMTSPA and AML laws, which require them to continue maintaining the records kept for clients for a period of six years from the date of the discontinuation of such services, will allow retrieving the legal and beneficial ownership information (see paragraph 138). Further, all documents filed with the FSRC will be kept for six years from the date of receipt (Section 331 of the IBCA; see paragraph 54). In practice, the documents are retained by the FSRC indefinitely.

Legal ownership information – Implementation and enforcement measures in practice

143. The entities charged with monitoring the ownership obligations outlined above are the IPCO (for domestic and foreign companies), the FSRC (for IBCs) and IRD (for all companies). An overview of the oversight activities undertaken by these entities is detailed below.

Intellectual Property and Commerce Office (IPCO)

144. The following paragraphs describe the overall responsibility and resources of the IPCO in practice, the process of manual monitoring, as well as the ongoing digitalisation, and, finally, the clean-up exercise conducted by the IPCO by striking inactive companies off the register.

145. The IPCO is responsible for the registration of all domestic companies (including non-profit companies) and foreign companies (IBCs are not included). The IPCO acts as the custodian of the records of companies filed with the Registrar. It is also the main authority monitoring compliance with the registration, annual filing obligations and any changes in the registration details submitted by these types of companies.

146. In practice, all domestic, non-profit and foreign companies have to file their incorporation documents, annual returns and notifications of changes in a paper form. It is not currently possible for companies to file electronically. The information received is kept in their original format by the IPCO. Also, it is manually digitalised (scanned) and stored in the electronic database. The digitalised information, which includes legal ownership information, is then available for search and scrutiny to the public at a fee. The IRD, including the Competent Authority, can access and search the IPCO's electronic database directly.

147. Efforts are being made to transition to an electronic submission of documents to the IPCO and putting in place an automated monitoring

system. Whilst the work on the new digital platform is advanced, the implementation has not yet taken place. The IPCO explained that the intention was for the new system to become operational in 2023; however, delays may not be excluded. In the meantime, the monitoring remains a manual task with a small number of full-time staff of the IPCO dedicated to this function. The same staff are also responsible for digitalising the documentation received. Accordingly, each annual return is manually cross-checked by the IPCO against the information on file. As of 2022, the filing deadline has been changed from 31 December of each year to a rolling deadline (not later than 30 days after the anniversary date of incorporation), which seeks to help with processing the filings and enhance the oversight.

148. The IPCO views its duties as one of repository of information and does not have in place a regular programme to enforce the filing of annual returns or other obligations arising under the CA (as described in paragraphs 56, 58 and 60 above). Antigua and Barbuda reported that 939 annual company filings were submitted by domestic companies in 2019, 1 155 in 2020 and 1 136 in 2021, and hence the compliance rate with annual company filing has been low (at the level of 11-13%). Antigua and Barbuda was not able to provide any estimates of a compliance rate with other obligations arising under the company law (such as notification of changes in share ownership). The IPCO did not apply any penalties for failure to file annual company returns or notification of changes. Whilst in practice the IPCO detected some incorrect or incomplete information or filings, and the relevant companies were asked to file corrected documents along with a statutory declaration confirming the accuracy of the information filed, no penalties were imposed.

149. The filing compliance rates for annual company returns by domestic companies are provided in the tables below. Antigua and Barbuda did not specify whether these statistics includes non-profit and foreign companies.

Domestic companies submitting company returns[40]

Year	Total number of domestic companies registered with the Registrar as at the end of the year	Number of domestic companies that have submitted information	Number of domestic companies where penalties have been applied for non-filing in the year	Compliance rate
2019	8 556	939	No penalties applied	11%
2020	8 835	1 155	No penalties applied	13%
2021	9 141	1 136	No penalties applied	12%
2022	9 450	Not provided	No penalties applied	N/A

40. "Companies" refers to domestic companies only (not including non-profit companies and foreign companies).

150. As described in paragraph 79, Section 177 was amended in 2020, to require companies to maintain records containing identity and legal ownership information of their shareholders, clients and directors, and this obligation is secured by the relevant enforcement provisions (see paragraph 83 above). However, during the peer review period, the Registrar did not conduct any examinations to ensure that the register of shareholders is properly maintained by the companies themselves.

151. Notwithstanding the fact that the Registrar does not have in place a regular programme to enforce the filing of annual returns, the Registrar explained that it issues a "Certificate of Good Standing" to companies, which is required domestically to open a bank account, obtain loans and financing from financial institutions and for other official purposes, such as applying for permits and licences. This certificate has a validity of 12 months, after which it has to be re-issued by the Registrar. As the certificate is issued only to companies that have complied with all their filing obligations, the Registrar takes the opportunity to enforce the filing of outstanding annual returns whenever they are requested by companies to issue such certificates. When the request is made, the Registrar reviews the company file and prepares a status report. This status report is then shared with the company to address any remaining gaps before the certificate is issued. However, a number of companies may not need this certificate and also any companies that have such a certificate recently issued may not report changes in ownership while the certificate is still valid. In practice, therefore, not all the registered companies request a Certificate of Good Standing on a regular basis. Antigua and Barbuda did not specify how many companies have requested the Certificate of Good Standing in practice and in how many instances the issuance was refused by the IPCO during the review period.

152. Antigua and Barbuda did not report any fines applied by the IPCO during the peer review period for the failure to file annual returns. However, Antigua and Barbuda authorities explained that the IPCO has the power to strike-off defaulting companies from the Company Register (see paragraphs 124 and 125 above) and traditionally companies were struck off if they failed to comply rather than applying financial penalties. Antigua and Barbuda was not able to provide the number of inactive[41] domestic, non-profit companies and foreign companies.

153. During the review period, the IPCO undertook a review to identify any companies that did not do their filings and clean up a backlog of domestic companies that have been inactive/non-compliant for several years. Once the non-filers had been identified (through a manual screening of

41. Antigua and Barbuda explained that it would consider a domestic company or a non-profit company inactive when they are struck off the register.

files), the IPCO wrote letters asking them to update their filings. Some companies complied with the letter and brought their filing up-to-date, but about 900 companies were struck off during the review period. The statistics on the volume of strike-offs is provided in the table below. Antigua and Barbuda did not specify whether these statistics includes non-profit and foreign companies. It is observed however that the system of oversight in relation to annual returns is currently undertaken manually as a targeted supervisory measure from time to time. It is not a routine or systematic process. This may change, however, once the digitalisation programme is completed (see paragraph 147 above). While the striking off of 899 non-compliant companies during the review period is a positive move, this represents about 9.4% of the total population of domestic companies registered as of 31 December 2022, while only 12% filed their annual company return and only 3.5% filed their beneficial ownership and control attestation on average over the same period. The only action available concerning the non-compliant majority would be to refuse issuing a certificate of good standing.

Total company strike-offs in 2015-22

Year	Total number of domestic companies registered with the Registrar as at the end of the year	Total number of domestic companies registered with the Registrar as at the end of the year	Number of domestic companies that have been struck off in the given year	Percentage of companies that have been struck off in the given year
2015	Not provided	7 358	10	Not provided
2016	Not provided	7 579	34	Not provided
2017	Not provided	7 988	0	Not provided
2018	Not provided	8 286	53	Not provided
2019	8 556	8 556	39	> 1%
2020	8 835	8 835	0	0%
2021	9 141	9 141	860	9.4%
2022	9 450	9 450	0	0%

154. Antigua and Barbuda explained that an inactive company is unable to operate, transact or conduct business in Antigua and Barbuda. In practice, struck-off companies are not able to receive updated Certificates of Good Standing, with the effect of being potentially barred from conducting many transactions with third parties. Representatives of financial institutions confirmed that they will require a copy of the Certificate of Good Standing from companies as part of the required documentation to open accounts. However, there is no common practice as to requesting the certificate periodically for existing clients of financial institutions in Antigua and Barbuda.

Also, the lack of an updated certificate may not prevent companies from operating outside Antigua and Barbuda, or through offshore financial institutions. Further, it appears that striking-off is not always followed by a dissolution of the company in practice. It is unknown how many companies which were struck-off have been liquidated after the decision of their striking off was gazetted.

155. Domestic and foreign companies have no legal obligation to engage an AML-obliged person and therefore up-to-date ownership information may not be available for those which are inactive. Antigua and Barbuda consider that, in practice, domestic companies will generally engage the services of an attorney-at-law. The registered office of the company will often be at the office of the attorney-at-law. The records are therefore maintained and retained by such attorneys who are subject to the AML regime. No statistics were provided to support this statement.

156. The IPCO and the court may restore a domestic company to the Company Register. Antigua and Barbuda did not provide information on the number of companies which have been restored. However, in practice, upon the receipt of the application for restoration, the company will be asked to provide any outstanding annual company return together with any relevant fees. There is no clear legal time limit for the revival of domestic companies (except for specific circumstances described in paragraph 126 above); so in many instances companies may be revived at any time after being struck-off by the Registrar. In the absence of a time limit for restoration of a struck-off company, it is unclear when a struck-off company which has not been formally dissolved can be definitively considered to have ceased to exist. Antigua and Barbuda explained that historical records do not affect the assessment of a company, for example, where a company is revived from a previously struck-off company it will not be prevented from obtaining a Certificate of Good Standing if the relevant legal requirements are satisfied.

157. To sum up, whilst in practice Antigua and Barbuda has struck off some domestic companies which failed to file annual company returns, the IPCO does not have in place a regular programme to enforce the filing of annual returns and other obligations arising under the company law. No information has been provided by Antigua and Barbuda on enforcement and oversight measures in relation to foreign companies registered with the IPCO (568 as of 31 December 2022). Antigua and Barbuda was not able to specify the number of inactive domestic, non-profit companies and foreign companies. Antigua and Barbuda should also exercise its enforcement powers as appropriate to ensure compliance with obligations for filing annual returns (see further below).

Financial Services Regulatory Commission

158. The FRSC is responsible for the registration of all IBCs. Antigua and Barbuda informed that there were 17 377 IBCs of which 1 055 (6%) were active as on 31 December 2022.[42]

159. All information is filed electronically with the FSRC and forms part of the electronic registry. Antigua and Barbuda has three staff members who are responsible for the receipt of documents and checking them. For a prescribed fee, a person can conduct a search of an IBC's public documents during normal working hours; however, the publicly accessible information excludes beneficial ownership. Government agencies, including the IRD, typically contact the FSRC when information is needed in relation to IBCs.

160. As explained in paragraph 93 above, it is mandatory for IBCs to engage the services of an agent licensed under the CMTSPA to incorporate and operate the IBC. The FSRC started issuing licenses to service providers under the CMTSPA in 2012. The FSRC explained that for IBCs that were incorporated prior to the licensing of the service providers, the obligations under the old section 5(1) of the IBCA were applicable and an IBC could only be incorporated by any two resident citizens of Antigua and Barbuda, one of whom must be entitled to practice as an attorney-at-law in Antigua and Barbuda; or a body corporate authorised by the Cabinet of Antigua and Barbuda to perform IBC incorporation services.

161. Compared to 47 persons who had facilitated the incorporation of IBCs prior to when the licensing of service providers was introduced by the CMTSPA, 19 service providers have been licensed. Antigua and Barbuda explained that the other 28 persons fall under the categories mentioned in the preceding paragraph. Antigua and Barbuda confirmed all IBCs, including those registered before 2012, must have (and in practice do have) a service provider licensed by the FSRC (or an authorised exemption holder) and who is obliged to file the beneficial ownership and control attestations in relation to its clients.

162. The FSRC carries out a general review of corporate management and trust service providers in Antigua and Barbuda (Section 14 of the CMTSPA).[43] In accordance with Section 130A of the IBCA or Section 14

42. Antigua and Barbuda explained that an "inactive" IBC is one which has been struck off the register for non-payment of fees or for not meeting some other requirements of the IBCA. This term also includes any dissolved IBC.

43. Under Section 14 of the CMTSPA, the functions of the FSRC are: (i) To maintain a general review of corporate management and trust service providers in Antigua and Barbuda; (ii) To conduct, from time to time or whenever it considers it necessary and at the expense of the licensee, on-site and off-site examinations of the businesses of the licensee for the purpose of ensuring that (i) the provisions of the CMTSPA, the ILLCA, the IFA, the CA, the IBCA, the MLPA and the Terrorism Prevention Act and

of the CMTSPA, the FSRC may request any records, inclusive of an IBC's ownership information. The FRSC confirmed that these powers have been used in practice. In the performance of its functions, the FSRC may at all reasonable times require a licensee to produce for examination the books, records, and other documents that the licensee is required to maintain pursuant to Sections 18 and 19. In keeping with the FSRC's supervisory process, onsite examinations of the licensed service providers are risk-based and are conducted at time intervals from one to five years, based on the classification of risk rated from "high" to "low", respectively. The offsite surveillance is continuous: documents are requested from the licensed service providers and examined as deemed necessary.

163. In seeking to ensure that legal ownership information is maintained for all IBCs, the licensed service providers are mandated by legislation to have information at their registered offices which confirms the legal ownership and control of companies under management. The current due diligence information must also be available and accessible to the FSRC. In 2018-22, the FSRC conducted 3 to 4 onsite examinations annually. The FSRC reported that such examinations covered all of Antigua and Barbuda's service providers (i.e. 19 licensees as some licences are held by the same person). Such examinations involve a random sampling of customer files to check whether the client identification information is on file. Where the licensed service provider is an authorised holder of bearer shares, the examination team scrutinises the share register to determine the consistency of record-keeping with the legal requirements.

164. The FSRC noted that the compliance level of the service providers was generally high. However, Antigua and Barbuda did not provide the compliance rates in figures and percentage points. During the period 2019 to 2022, the supervisory process had uncovered some compliance issues, including the fact that 32% of the reviewed service providers needed to strengthen the internal controls and client monitoring mechanisms and 21% did not provide evidence of independent client screening using independent reliable databases (see the table below). In such cases, the FSRC issues supervisory letters with the timelines to address the findings. Antigua and Barbuda confirmed that the supervisory letters have been issued in practice

---

any other Act that confers jurisdiction on the FSRC are being complied with; (ii) the licensee is in sound financial position and is carrying on its business in a satisfactory manner; (iii) In the performance of its functions under the CMTSPA the FSRC may at all reasonable times: (a) require a licensee to produce for examination such of its books, records and other documents that the licensee is required to maintain pursuant to Sections 18 and 19; (b) require a licensee to supply such information or explanation, as the FSRC may reasonably require for the purpose of enabling it to perform its functions under the CMTSPA.

during the review period but did not provide the figures. The key findings are discussed in a meeting with managing directors during onsite examination. Where the rectification process is protracted, warning letters are issued. For instance, in cases where a service provider's file is found to be incomplete or inaccurate, the service provider has three months to rectify the issue. If, after three months, the issue has not been rectified, the Office of National Drug Control Policy (ONDCP) is notified for follow-up action. Whilst no notifications were sent to the ONDCP in 2022, Antigua and Barbuda confirmed that it remains their practice that the ONDCP is notified of any AML/CFT issues arising during the examinations. The FSRC can conduct a follow up off site review to ensure that records are maintained in the matter outlined. During the review period, no sanctions have been applied in view of the actions taken by licensees to meet the directives of the FSRC.

Compliance issues

Issues	Approximate % of the licensed service providers examined
Use of a corporate vehicle as a director or shareholder	20%
Inconsistencies in the reporting format of share registers	11%
Did not provide evidence of independent client screening using independent reliable databases	21%
Needed to strengthen the internal controls and client monitoring mechanisms	32%
Required improvements in the corporate governance framework	70%
No due diligence information confirmed in file (however, a master file was maintained with due diligence information where the client had several companies under management with the company service provider)	11%

165. Antigua and Barbuda further explained that a risk-based supervision is applied to all licensed service providers, and to lesser extent to the exemption holders. To ensure compliance with legal obligations, exempt service providers are monitored through offsite surveillance, but are not subject to any onsite examinations. Notwithstanding the exemption, the service provider is not discharged from keeping the documentation necessary to have established the exemption in accordance with the CMTSPA. They are obligated to provide documents to the FSRC to confirm adherence to statutory obligations. Antigua and Barbuda also noted that at all times the licensing authority of CMTSP, the FSRC, is knowledgeable of all service providers and in approving the exemption must be fully satisfied by conducting its own due diligence that the exemption should be approved.

166. As regards the fulfilment of the obligations under the MLPA by the licensed service providers of IBCs, the regulatory function is performed jointly by the FSRC and ONDCP and is described in the beneficial ownership section below.

167. If an IBC does not pay its fees (or does not meet some other requirements of the IBCA), the FSRC may strike it from the register. During the year 2022, in excess of 50 IBCs were struck off the register, and no IBC was continued to another jurisdiction. Antigua and Barbuda did not provide further information on the number of IBCs which have been struck off, liquidated, restored or migrated to another jurisdiction during the peer review period. Antigua and Barbuda clarified that the statistics on restoration have not been centralised as these cases are exceptional. However, the FSRC will seek to incorporate this information in its currently held database as the practice is in force. Currently, the FSRC publishes notifications in the Antigua and Barbuda official gazette, which is publicly available, for entities which have been struck from or restored to the register of IBCs.

168. As explained above, inactive IBCs may not request a Certificate of Good Standing which assists in business dealings in Antigua and Barbuda and are prohibited from filing any documents with the FSRC. However, in practice, if an inactive IBC conducts its business abroad and has its bank account(s) abroad, the lack of a Certificate of Good Standing may not stop it from operating.

Inland Revenue Department

169. Domestic and foreign companies, as well as IBCs in specific circumstances (see paragraph 47 above), are required to register with the IRD for tax purposes upon incorporation/registration to be permitted to engage in economic activity in Antigua and Barbuda. This is done by filing a physical corporate registration form with the IRD. The IRD receives regular updates from the IPCO on the companies which have been incorporated/registered and in practice typically contacts them if they have not registered with the IRD. Antigua and Barbuda did not specify how regularly such updates are provided by the IPCO and verified by IRD. However, Antigua and Barbuda observed that the company could be incorporated by the IPCO but does not conduct its economic activity in Antigua and Barbuda and thereby does not have an obligation to register with the IRD for the payment of corporate income tax (see also paragraph 110). As at 31 December 2020, the number of companies registered with the IRD was as follows: domestic companies (3 024); non-profit companies (165); foreign companies (498); partnerships (1 424); international banks (8) and domestic banks (8). As of 31 December 2022, the number of domestic companies has increased to 3 366 and partnerships to 1 520, and there were 9 international banks and 4 domestic

banks. Antigua and Barbuda did not provide the updated statistics for the other categories.

170. Antigua and Barbuda reported that, in 2020, 798 companies; in 2021, 743 companies; and, in 2022, 709 companies filed their annual tax return (therefore, the compliance rate dropped from 27% to 22%). Antigua and Barbuda did not provide statistics for 2019 and did not specify which type of entities are referred to as "companies" (specifically, it is not clear if these figures include all domestic, non-profit and foreign companies, as well as IBCs, or only domestic companies). The IRD explained the low compliance rate by a variety of reasons ranging from the failure to prepare financial statements to wilful neglect. Antigua and Barbuda did not report any enforcement actions in relation to those companies which have not complied with their obligation to submit an annual return (73-78% of all companies registered with the IRD). No penalties have been applied.

Compliance with the tax law requirements

Year	Total number of companies registered with the IRD as at the end of the year	Number of companies that have submitted annual tax returns in the year	Number of non-compliant companies sanctioned	Compliance rate
2019	Not provided	Not provided	No penalties applied	N/A
2020	3 001[44]	798	No penalties applied	27%
2021	3 117	743	No penalties applied	24%
2022	3 247[45]	709	No penalties applied	22%

171. The IRD advised that it is not empowered to incorporate a company and, correspondingly, it is not legally empowered to carry out any specific enforcement procedures concerning changes in company ownership (these changes do not need to be reported to the IRD). However, the IRD explained that if the company is selected for a tax audit, the shareholder information may be verified as part of the profile of the legal entity by the tax auditor. In addition, if the competent authority receives information or intelligence that suggests that changes in shareholders have not been correctly reported by the company, it may also trigger an investigation into the company to verify the changes and an appropriate penalty may be imposed on the company and its officers. Antigua and Barbuda reported that during the review period

44. This figure does not appear consistent with the information provided by Antigua and Barbuda for the 2020 Report (3 024). This inconsistency has not explained by Antigua and Barbuda.

45. This figure does not appear consistent with the information provided by Antigua and Barbuda for the purpose of paragraph 83. This inconsistency has not explained by Antigua and Barbuda.

no tax audits were carried out with the aim of identifying changes in shareholder information and there is no record suggesting the identification of incorrect shareholder information in practice.

172. The fact that neither the IPCO, nor the IRD carries out systematic enforcement measures to ensure that information in relation to company ownership is being maintained and/or filed may result in accurate and up-to-date information not being available, in practice, in all cases.

Conclusion

173. Legal ownership and identity information of domestic and foreign companies, as well as IBCs, is made available through a combination of obligations imposed by company, tax and AML laws on either the entity itself or its service provider. The gaps in the regulatory framework have been identified with respect to the companies that cease to exist and a recommendation has been made to address them (see paragraph 126).

174. During the review period, Antigua and Barbuda did not carry out satisfactory compliance, supervision and enforcement measures to ensure the availability of accurate and up-to-date legal and beneficial ownership information in relation to all relevant legal entities and arrangements. Whilst progress has been made in supervision of the company service providers licensed by the FSRC, the oversight programme does not adequately cover all relevant entities and arrangements and penalties for non-compliance were not imposed in practice (paragraphs 143 to 172). Antigua and Barbuda was not able to specify the number of inactive domestic, non-profit companies and foreign companies. **Antigua and Barbuda is recommended to continue and enlarge its oversight programme to all relevant entities and arrangements to ensure the availability of accurate and up-to-date legal ownership information in line with the standard, and to exercise its enforcement powers as appropriate to ensure that such information is fully available in practice**.

Availability of legal ownership information in EOIR practice

175. During the peer review period, Antigua and Barbuda received three requests about legal ownership information. Peers were satisfied with the information provided.

Nominees

176. Nominee shareholding is allowed in Antigua and Barbuda.

177. The business of providing nominee shareholders for foreign companies, IBCs and ILLCs[46] is regulated under the CMTSPA and the service providers must be licensed under the CMTSPA (Sections 2, 5 and 6) and are subject to the requirements set out in that act. The CMTSPA requires such nominee shareholders to conduct CDD on their clients; this will include obtaining, verifying and recording information on the identity and addresses of clients and their beneficial owners (Sections 18 and 19). The breach of these obligations amounts to an offence and is liable on summary conviction to a fine not exceeding XCD 5 000 (USD 1 850) (Section 27(7)(b)).

178. In addition, service providers, if they are acting in the course of business, also fall within the definition of "financial institution" under the MLPA and are required to comply with the relevant AML obligations. More details on these obligations are available below in the section on beneficial ownership information available through service providers. This applies only where the nominee is a professional service provider in Antigua and Barbuda, to the exclusion of non-professionals and nominees not subject to the laws of Antigua and Barbuda.

179. Domestic public companies, when preparing their register of substantial shareholders, will identify some nominee shareholders. Sections 181 to 184 of the CA require every person who has a substantial shareholding in a company (defined as having at least 10% of the unrestricted voting right), "whether directly or through nominees", to give notice in writing to the company stating his/her name and address and giving full particulars of the shares held directly or through the nominee (naming the nominee) by virtue of which he/she is a substantial shareholder. The person is required to do so within 14 days after becoming aware of being a substantial shareholder. If the person ceases to be a substantial shareholder, he/she must give notice in writing to the company stating his/her name and the date on which he/she ceased to be a substantial shareholder of the company, giving full particulars of the circumstances. The breach of such obligations constitutes an offence under Section 185 of the CA.

180. Otherwise, the provision of nominee shareholders for domestic companies (whether on a professional basis or not) is not regulated. Whether such service providers are subject to the due diligence requirements prescribed by the CMTSPA and the AML laws will depend on whether they meet the criteria for regulation in other respects (for example, if they are also a "financial institution" for the purpose of AML laws).

46. In the context of an ILLC, which does not have share capital, the provision of nominee shareholders refers to the scenario where the interest of a member in the ILLC is held through a nominee.

181. The 2014 Report identified a potential gap in situations where a person in Antigua and Barbuda is acting as nominee for another person and the nominee is not subject to the CMTSPA or the MLPA. The in-text recommendation invited Antigua and Barbuda to ensure that this potential gap does not impede any exchange of information in practice, and to monitor the availability of this information on an on-going basis.

182. Since the 2014 Report, Antigua and Barbuda amended the CA,[47] to require service providers to submit an annual attestation on beneficial ownership and control on their clients (see paragraphs 213 and 214). The obligation to submit an annual attestation on beneficial ownership and control also applies to a domestic and foreign company (Antigua and Barbuda explained that in practice the attestation will be submitted by a company directly if it does not involve a company service provider and no duplication is necessary if the attestation is prepared by the company service provider). Any company that wilfully fails to file an attestation report on beneficial ownership is liable to an administrative penalty of XCD 5 000 (USD 1 850) and for a further penalty of XCD 5 000 (USD 1 850) for each day of default.

183. Pursuant to Section 18(A) of the CMTSPA, service providers when submitting annual attestation of beneficial ownership and control do not need to disclose the nominee status explicitly, nor provide any information on the nominator in the annual beneficial attestation form. This provision differs from the requirements for domestic and foreign companies, pursuant to Sections 194A(2) and 356(B), and for IBCs, pursuant to Section 6(A) of the IBCA, which require that – where there is a nominee – the name(s) and addresses of the ultimate beneficial owner(s) for whom a person(s) holds the shares or other ownership interests is disclosed. However, only ultimate beneficial owners with 5% or more of the shares in the company will be reported. Also, whilst the nominee status will be disclosed, it will be the identity of the ultimate beneficial owner(s) that will be available. If the nominator is not an individual, this requirement would cover beneficial owners but not the nominator itself. In that case, information on the nominator may be available with the service providers who are obliged to conduct CDD on their clients (where a service provider is involved).

184. In practice, the form used by the FSRC does not request any information on nominees and nominators explicitly. Antigua and Barbuda explained that the nominee arrangements will be in practice disclosed under another heading ("the name and address of any person who controls the client acting directly or indirectly, and acting individually or jointly"). Since 2022, the beneficial ownership and control attestations of domestic and foreign companies must be submitted to the IPCO (and not the FSRC) and the relevant form,

47. Law (Miscellaneous Amendments) (No. 2) Act 2017

issued by the IPCO, now contains the question on nominees but asks only for the name of the ultimate beneficial owners to be included (but not the nominator). Accordingly, in certain instances, the nominee's status will be disclosed to the IPCO through the annual beneficial ownership and control form. However, the concerns identified in paragraph 183 remain.

185. More generally, there is no legal requirement that beneficial owners must inform the legal person of their status of beneficial owner, including if they hold shares through a nominee. Although some nominees, by virtue of their regulated status under the CMTSPA and/or as AML-obliged persons, must identify their customers, including the nominators they act on behalf of, they do not have any obligation to disclose their nominee status. Non-professional nominees and nominees not subject to the laws of Antigua and Barbuda, which may be engaged by domestic companies (including non-profit), foreign companies and IBCs are still not covered by the company and AML obligations (as noted by the 2014 Report, see paragraph 181 above). The lack of specific disclosure requirements for nominees may raise issues in practice.

186. Accordingly, whilst the regulatory framework has been strengthened through the introduction of the annual beneficial ownership and control attestation, concerns remain that the information on nominees may not be available in all cases (see paragraphs 181 to 185). The lack of specific disclosure requirements for nominees may raise issues in practice. Therefore, **Antigua and Barbuda is recommended to ensure that nominee shareholders acting as the legal owners on behalf of any other persons disclose their nominee status and make identity information on the nominators available to the company, the register(s) and other relevant persons (such as service providers)**.

Beneficial ownership information

187. The standard was strengthened in 2016 to require that beneficial ownership information be available for all legal entities and arrangements. Antigua and Barbuda has several sources of beneficial ownership information through various mechanisms, most importantly:

- First, beneficial ownership information is available under the AML framework which comprises a wide range of financial institutions. Further and in addition to the AML requirements, under the Tax Administration and Procedure Act 2018, a bank or financial institution is also required to keep account of all transactions with a client, including the client's identity and beneficial owner.
- Second, beneficial ownership information is available through a central registry held by the FSRC and the IPCO. The FSRC's registry was created in 2018 and some functions were passed on to the IPCO

in 2022 – creating in effect two separate registers; these registers are maintained through an annual attestation on beneficial ownership and control, which is submitted by all domestic companies and foreign companies which conduct economic activity in Antigua and Barbuda, IBCs and other persons (or on their behalf – see below).

- Third, beneficial ownership information with respect to IBCs and other entities and arrangements which are clients of corporate management and trust service providers is available under the CMTSPA. Service providers are required to submit an annual report on beneficial owners of their clients and are also AML-obliged persons.

188. Whilst multiple sources of beneficial ownership information are available in Antigua and Barbuda, this review has identified some gaps and makes recommendations accordingly.

Companies covered by legislation regulating beneficial ownership information

Type	Company Law	Tax Law	AML Law
Domestic Companies (Private and Public Companies with limited liability)	All	None	Some
Non-Profit Companies – Private Companies without share capital	All	None	Some
International Business Companies	All	None	All
Foreign companies (tax resident)[48]	Some	None	All

Anti-Money Laundering Law requirements

189. The AML/CFT framework, which sets the requirements concerning the availability of beneficial ownership information in Antigua and Barbuda, consists of the Money Laundering (Prevention) Act 1996 (MLPA), as amended; the Money Laundering (Prevention) Regulations 2007 (MLPR), as amended; and the 2002 Money Laundering & Financing of Terrorism Guidelines for Financial Institutions (MLFTG), as amended.[49]

48. 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).

49. As updated on 12 June 2017, the Guidelines in both Parts I and II are assumed to be generic, applying across all categories of business activities listed in the First Schedule to the MLPA, whether or not they are financial institutions in the traditional sense, unless there are clear indications that the guidance is specific to a particular category of financial institution.

190. The AML/CFT framework comprises a wide scope of financial institutions, which are listed in the First Schedule, Section 2 of the MLPA. The list was expanded in 2016 to include corporate management and trust service providers pursuant to the CMTSPA; and attorneys-at-law, notaries and accountants who conduct financial activity business.[50] In 2017, the First Schedule was further expanded to include: an agent licensed under the Antigua and Barbuda Citizenship by Investment Act; the industrial societies; and wealth management and investment advising.[51] A further change in 2020 widened the range of circumstances in which attorneys-at-law, notaries and accountants are subject to the AML duties.[52]

191. Additionally, the following types of business entities have AML obligations:

- International Trusts, as defined in the International Trust Act (ITA)
- International Foundations, as defined in the International Foundations Act (IFA)
- International Limited Liability Companies, as defined in the International Limited Liabilities Act (ILLA)

192. All the laws and regulations that create such financial institutions are subject to the AML/CFT regime, in that they are subject to regulatory oversight and examination by the ONDCP.

193. While the coverage of the AML/CFT framework is broad and the engagement with an attorney-at-law takes place at the point of incorporation,[53] there is no obligation for all types of entities and arrangements to have a relationship with an AML-obliged person at all times. Such engagement in practice is ensured through: (i) banks, but there is no legal requirement to have a bank account in Antigua and Barbuda; and (ii) service providers, which will be frequently engaged, in particular this will be in practice mandatory with respect to IBCs (as explained in paragraph 84 above). Further, all companies, which file annual financial statements with

50. Law Miscellaneous Provisions (Amendment) Act, No. 20 of 2016
51. Money Laundering (Prevention) (Amendment) Act, No. 6 of 2017
52. When they prepare, or carry out, transactions for their clients concerning the following activities: buying and selling of real estate; managing of client money, securities or other assets; management of bank, savings, escrow or securities accounts; organisation of contributions for the creation, operation or management of companies; creating, operating or management of legal persons or arrangements, and buying and selling of business entities (The Money Laundering (Prevention) (Amendment) Act, No. 14 of 2020).
53. Section 4 of the CA (domestic companies), Section 346 of the CA (external companies) and Section 5 of the IBCA, as amended by the Law (Miscellaneous Amendment) Act 2020, No. 3 of 2020

the IRD in accordance with Section 149 of the CA, must include an audit report and thus engage a certified auditor who may be captured under the First Schedule of the MLPA; albeit, as explained by Antigua and Barbuda, the mere act of certifying the annual financial statements is not the type of activity which necessarily triggers the application of the MLPA and furthermore the certified auditor may be located outside Antigua and Barbuda. Similar considerations apply to the requirement to indicate the company attorney and the external auditor in the annual company return submitted by domestic and foreign companies to the IPCO.[54]

Identification and verification of clients and beneficial owners

194. The MLPR establishes an obligation to obtain and record identification information (including beneficial ownership) of customers who seek to form a business relationship or undertake certain categories of one-off transactions. Regulation 4(3) of the MLPR, as amended by the MLPR (Amendment), No. 44 of 2017, requires that, as soon as is reasonably practicable after contact is first made between the AML-obliged person and the client or in respect of an existing business relationship, at an appropriate time, the client produces satisfactory evidence of his/her identity, or those measures specified in the procedures shall be taken in order to produce satisfactory evidence of the client's identity. The CDD procedures must be completed before or in the course of establishing a business relationship or conducting a one-off transaction (Section 4(3)(aa) of the MLPR).

195. Such identity information must be verified using reliable, independent source documents data or information (Regulation 4(3) of the MLPR).

Definition of beneficial owner

196. The term "beneficial owner" is not defined by the MLPA and the MLPR. However, Regulation 4(3)(h) of the MLPR, as amended by the MLPR (Amendment), No. 43 of 2017, requires that the identity of beneficial owners is established as follows:

> [W]here B is a legal person, trust or other legal arrangement, measures must be taken to determine who are the natural persons that ultimately own or control B, and reasonable measures must be taken to understand the ownership and control structure of B.
>
> Where there is doubt that the person with the controlling ownership interest is the beneficial owner or where no natural person

54. The Money Laundering (Prevention) (Amendment) Act, No. 14 of 2020

> exerts control through ownership interests of the legal person or legal arrangement, A should identify the natural person (if any) exercising control through other means.
>
> Where, however, no natural person who ultimately has a controlling ownership interest is identified, A should identify the relevant natural person who holds the position of senior management official.

197. The "cascading approach" for the three steps as set out by Regulation 4(3)(h) raises concerns as the default position of senior management refers to the impossibility of identifying a person with a "controlling ownership interest", whereas control through others means should be researched first.

198. Whilst the principal elements required by the standard with respect to the identification of beneficial owner(s) of legal entities are present, the MLPA and the MLPR do not specifically indicate the threshold to be regarded as a "controlling ownership interest". Section 2.6.1.2 of the MLFTG refers to the assessment of the FT and ML risk presented by the company to be carried out by the financial institution and suggests that "the financial institution may feel it appropriate to verify the identity of appropriate beneficial owners holding 25% or more of the shares". During the onsite visit, bank representatives clarified that whilst the MLFTG suggests a 25% ownership threshold for the beneficial ownership test, it is not unusual for banks to apply a lower 5% threshold. The MLFTG does not specify that the threshold applies to any person who controls the company acting directly or indirectly, and acting individually or jointly. Further, there is no specific guidance on how to identify beneficial owners of legal entities or how to identify beneficial owners of legal entities under the three-step approach and the default position of senior management appears to refer to the impossibility of identifying a person with a "controlling ownership interest" whereas control through others means should be researched first. Whilst certain guidance has been laid down in the Guidance Notes on Complying with Beneficial Ownership Obligations Framework in Antigua and Barbuda, effective on 1 November 2022 (BO Guidance Notes), this document was issued by the IRD – which has no regulatory powers in relation to the AML framework – and it focuses exclusively on the company law framework (see below).

199. Against this background, **Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) in the AML/CTF framework is in line with the standard and that suitable guidance on identifying beneficial owners of legal entities is provided so that beneficial owners are correctly identified and the information on beneficial owner(s) is available in all cases in accordance with the standard**.

Timing of updates

200. Section 3 of the MLPR (Amendment), No. 43 of 2017, amends the definition of "customer due diligence" to require CDD measures be applied to existing customers on the basis of materiality and risk; also at such appropriate times taking into account whether and when these measures had previously been applied to the customer and the adequacy of the data collected.

201. Further, Regulation 5(1b) of the MLPR stipulates that documents, data or information collected under the CDD process are kept up-to-date and relevant by undertaking reviews of existing records. An appropriate time to review records is when a transaction of significance takes place, when customer documentation standards change substantially, or when there is a material change in the way that the account is operated. If a financial institution becomes aware at any time that it lacks sufficient information about an existing customer, it should take steps to ensure that all relevant information is obtained as soon as possible. These provisions do not establish a specified frequency of updating beneficial ownership information, but this deficiency is largely compensated by obligations under various company laws (see paragraph 213 et seq.). Antigua and Barbuda should ensure that financial institutions keep up-to-date beneficial ownership information in respect of all customers (see Annex 1).

Simplified CDD measures

202. Regulation 4(3)(a) of the MLPR, as amended in 2017, specifically indicates that the CDD requirements must be implemented using a risk based approach, taking into account the risk posed by a customer; country or geographic region; product, service, transaction or delivery channel; and taking into consideration the results of the country's National Risk Assessment and the updates thereto or an adequate analysis by the financial institution of the risk of money laundering and terrorist financing that relate to it. Where the risk is determined to be low, the institution may apply appropriate simplified CDD measures, consistent with any guidelines issued by the Supervisory Authority. The simplified measures should be commensurate with the risk factors.

203. The application of the risk-based approach is detailed in the MLFTG (as updated on 12 June 2017). The MLPA and MLPR do not elaborate in which circumstances the simplified CDD applies, nor specify that in the context of the simplified CDD the identification of beneficial owners should remain mandatory, whilst the verification can be lighter. Accordingly, the AML-obliged persons are allowed to conduct simplified due diligence for low-risk customers, but there is no guidance on the content of such due

diligence and their impact on the identification of beneficial owners. The lack of guidelines raises some concerns as to the practical interpretation and application of the requirements to establish beneficial owners. Antigua and Barbuda should ensure that, when the application of the simplified CDD is allowed, the beneficial ownership information is collected for all the accounts (see Annex 1).

Introduced business rules

204. Regulation 4(5)(a) to (d), and (f) of the MLPR requires that institutions (a) immediately obtain from the third party the necessary information concerning the elements of the CDD; (b) satisfy itself that, upon request, copies of identification data and other relevant documentation will be made available, without delay, from the third party, (c) satisfy itself that the third party is regulated and supervised to standards established in Antigua and Barbuda, or that of the foreign jurisdiction if higher, relating to customer identification, record keeping, regulation and supervision, (d) satisfy itself that the third party has measures in place to comply with the requirements of CDD; and (f) retain ultimate responsibility for ensuring compliance with CDD requirements, particularly the identification and verification of customers.

205. Regulation 4(5)I of the MLPR requires that financial institutions relying on third parties should not rely on a third party based in a country which inadequately applies the FATF requirements. In addition, Regulation 6(1)(a) requires financial institutions to pay special attention to business relationships and transactions with persons from countries which insufficiently apply international standards relating to AML/CFT.

206. These rules correspond with the standard and the entity in Antigua and Barbuda remains ultimately responsible for ensuring compliance with CDD requirements, particularly the identification and verification of customers.

207. Where a customer is acting in the capacity of an agent, the service provider has the option of accepting a written assurance from the customer that evidence of the principal's identity has been recorded under the procedures maintained by the customer, but only if the service provider has reasonable grounds to believe that the agent is regulated by a local or overseas regulatory authority. In such situations the agent must be based in a country whose laws contain provisions of a similar or higher standard of those contained in the MLPA. Even so, the principal service provider remains liable for any customer due diligence that is not performed.[55] Under Section 5 of the MLPR, the service provider should immediately obtain

55. Regulation 4 of the MLPR

from the third party the necessary information concerning the elements of the customer due diligence and satisfy itself that, upon request, copies of identification data and other relevant documentation will be made available, without delay, from the third party.

Retention rules

208. Sections 12 and 12A of the MLPA set out the primary legal authority for the maintenance of records and include the requirement to maintain customer generated financial transaction documentation which encompasses account files and correspondence relating to the customer for the minimum retention period applicable to the document. Section 12B defines a "minimum retention period" in relation to the document which relates to the opening of an account with the institution as the period of six years after the day on which the account is closed; or in any other case the period of six years after the day on which the transaction takes place.

209. Regulation 5 of the MLPR provides additional requirements. Records must be maintained for at least six years after the date of closure of the account and be able to be produced in a timely manner when requested by supervisory and other competent and authorised domestic authorities (Regulation 5(1)). The records that must be maintained are set out in Regulation 5(2) and include CDD information required in Regulation 4, records of business correspondence and transaction records. Regulation 5(1c) which was inserted by the MLPR (Amendment) Regulations 2017, No. 43 of 2017, addresses the treatment of results of any analysis undertaken and requires that it be maintained for the minimum retention period.

210. The retention period therefore corresponds with the requirements of the standard.

Enforcement and sanctions

211. The FSRC is responsible for the regulatory and supervisory functions for the financial services businesses. Further, the ONDCP, established in 2003, is also referred to as the Financial Intelligence Unit of Antigua and Barbuda pursuant to Section 1B of the ONDCP (Amendment) Act, No. 9 of 2017. The ONDCP is a hybrid Financial Intelligence Unit with analytical, investigative and supervisory functions. The Director of the ONDCP is the Supervisory Authority for AML/CFT. This role is carried out by the Financial Compliance Unit and covers all AML-obliged persons.

212. Under Section 17I of the MLPA, the Supervisory Authority may impose sanctions for breaches of the MLPA discovered during an onsite examination. These sanctions include written warnings, written agreement

or memorandum of understanding, directions to cease and desist conduct, directions regarding any employee of the institution or board member and administrative financial penalties in accordance with the MLPR. Administrative penalties as set out in Regulation 3(8) of the MLPR cannot exceed XCD 100 000 (USD 37 000) for failure to comply with the requirements of the regulations, directives or guidelines issued by the Supervisory Authority. Criminal offences are set out in Regulation 3(2) of the MLPR: a person who contravenes the MLPR commits an offence and is liable (i) on a summary conviction to a fine of XCD 300 000 (USD 111 000); (ii) on conviction on indictment, to a fine of XCD 500 000 (USD 185 000), or to imprisonment for a term not exceeding two years, or to both. Section 17E also provides sanctions for an AML-obliged entity or its director, manager or employee who breaches any provision of Part III of the MLPA ("Anti-Money Laundering Supervision"). These sanctions include on summary conviction a fine not exceeding XCD 500 000 (USD 185 000) or a term of imprisonment not exceeding six months and on indictment a fine not exceeding XCD 1 000 000 (USD 370 000).

Companies Law requirements – legal entities and arrangements

213. The Law (Miscellaneous Amendments) (No. 2) Act, No. 14 of 2017, was enacted to strengthen the effectiveness of the maintenance and retention of beneficial ownership information in Antigua and Barbuda. This Law introduces the submission of an annual attestation on beneficial ownership and control by the following legal entities and arrangements:

- domestic companies (including non-profit) and foreign companies incorporated or registered under the CA (Section 194A)
- IBCs operating under the IBCA (Section 6A)
- insurance companies regulated by the Insurance Act (Section 14A)
- co-operative societies regulated by the Co-operative Societies Act (Section 21A)
- licensees under the Money Services Business Act (Section 14A)
- trust corporations under the ITA (Section 18A)
- international foundations under the IFA (Section 18A)
- ILLCs under the ILLCA (Section 18A)
- corporate management and trust service providers under the CMTSPA with respect to their clients (Section 18A) (considered in a separate sub-section below, see paragraphs 222 et seq.).

214. The reporting requirements include but are not limited to:

- the name and address of any person who owns 5% or more of the total voting rights of the company
- for domestic companies and IBCs, where there is a nominee, the name and address of the ultimate beneficial owner for whom a person holds the shares or their ownership interest
- the name and address of any person who controls the company acting directly or indirectly, and acting individually or jointly
- the name of all of the directors and officers.

215. No specific guidance has been provided by the IPCO and the FSRC on how to identify beneficial owners, or how to identify the natural persons who own or exercise control (including control through other means) for the purpose of the annual attestation on beneficial ownership and control. As described in paragraph 198, the IRD issued the BO Guidance Notes, effective from 1 November 2022, which "should be adopted" by the legal entities and arrangements (see paragraph 213) but "should not be relied upon in respect any point of law". This guidance was issued by the IRD despite the fact that it has no regulatory powers in relation to the attestation. The document was uploaded to the website of the IPCO and the FSRC but these authorities have not been involved in drafting, nor otherwise provided their endorsement for the views expressed by the IRD. Doubts remain as to the effectiveness of non-binding guidance issued by an authority which is neither the repository of the annual attestation on beneficial ownership and control, nor has supervisory powers as to such attestations or relevant AML-related obligations.

216. The definition of beneficial owner raises several questions, which may cause inconsistency in interpretation and undermine the accuracy of the beneficial ownership information provided to the relevant authorities. Antigua and Barbuda initially clarified that the interpretation of beneficial ownership is made in accordance with the FATF guidance and that the "person" in the context described by the paragraph above is interpreted as an "individual". Such interpretation is also supported by the standalone definition of a "beneficial owner", which is included in the ITA, IFA, ILLCA, CMTSPA[56] (see below). However, some of the relevant acts contain conflicting provisions.

56. These laws (but not the CA and IBCA) include a standalone definition of a "beneficial owner" introduced by the Law (Miscellaneous Amendments) Act 2016, No. 20 of 2016, as follows: "the natural person or persons who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or legal arrangement".

For instance, the ITA defines the term "person" as "a natural person or a body corporate or incorporate" for the purpose of the act, which may affect the interpretation of "person" in the context of beneficial ownership which appears in Section 18A of this Act.

217. The FSRC and the IPCO confirmed that in their checks of the annual attestations, the responsible staff will be ultimately looking for the identification of natural persons. However, the lack of clarity in the relevant legislation leaves some room for conflicting interpretation and as such the requirements of the annual beneficial ownership attestation forms, approved by the FSRC (and as of 2022 by the IPCO), are interpreted differently by various actors in relation to the following aspects:

a. For "the name and address of any person who owns 5% or more of the total voting rights of the company" (see paragraph 214), the IPCO observed that it expects here the name and address of any person who owns (directly) 5% or more of the total voting rights of the relevant company. Indirect ownership is not envisaged by the IPCO, nor is it expected that the person identified should always be a natural person. The IPCO also observed that, as it currently stands, this category is not adapted for the purpose of non-profit companies and will need to be amended in the future. According to the IPCO, the beneficial owner(s) will need to be indicated under another category ("the name and address of any person who controls the company acting directly or indirectly, and acting individually or jointly", see paragraph 214). However, this category itself does not refer to any threshold. Also, in the absence of further guidance, it does not ensure that if no natural person meets the controlling ownership interest threshold, beneficial owners may be identified under the test of control through other means. There is no instruction on the meaning of control via other means.

b. On the contrary, the FSRC interpreted the first category ("the name and address of any person who owns 5% or more of the total voting rights of the company", see paragraph 214) as requiring the identification of beneficial owners (so only natural person(s)), and the next category ("the name and address of any person who controls the company acting directly or indirectly, and acting individually or jointly", see paragraph 214) as including anyone else exercising other forms of control. As above, this category itself does not refer to any threshold. Also, in the absence of further guidance, it does not ensure that if no natural person meets the controlling ownership interest threshold, beneficial owners may be identified under the test of control through other means. There is no instruction on the meaning of control via other means.

218. In practice, it appears that the relevant entities must provide information on all categories of persons identified under (i) to (iv) in paragraph 214 in the annual attestation on beneficial ownership and control forms (taking into account the relevant forms and explanation provided by the relevant authorities and industry representatives). This appear different from the approach adopted under the AML framework (see paragraph 197).

219. The Law (Miscellaneous Amendments) (No. 2) Act, No. 14 of 2017, introduces a special sanction provision into the relevant acts. Any entity that wilfully fails to file an attestation report on beneficial ownership is liable to an administrative penalty of XCD 5 000 (USD 1 850) and for a further penalty of XCD 5 000 (USD 1 850) for each day of default. The administrative penalty will be recovered as a civil debt to the Company Registry. In addition to this sanction, other liability provisions which are included in the respective acts may also apply.

220. In particular, any company that wilfully fails to file an attestation report on beneficial ownership is liable to an administrative penalty of XCD 5 000 (USD 1 850) and for a further penalty of XCD 5 000 (USD 1 850) for each day of default (Section 194A of the CA). Further, under Section 530(1) of the CA any person who makes or assists in making a report, return, notice or other document that is required by the CA to be sent to the Registrar or to any other person and that contains an untrue statement of a material fact or omits to state a material fact required or necessary to make a statement contained therein not misleading in the light of the circumstances in which it was made, is guilty of an offence and liable on a summary conviction to a fine of XCD 5 000 (USD 1 850) or to imprisonment for a term of two years, or to both. A prosecution for an offence under the CA or the regulations may be instituted at any time within two years from the time when the subject matter of the prosecution arose (Section 536 of the CA).

221. Further, under Section 353(1) of the IBCA, a person who makes or assists in making a report, return, notice or other document (a) that is required by the IBCA to be sent to the Director of IBCs, and appropriate official or any other person, and (b) that contains an untrue statement of a material fact, or omits to state a material fact required in the report, return, notice or other document or necessary to make a statement contained therein not misleading in the light of the circumstances in which it was made, is guilty of an offence and liable on summary conviction to a fine of XCD 5 000 (USD 1 850) or to imprisonment for a term of six months or to both. Under Section 358 of the IBCA, a prosecution for an offence under the IBCA or the regulations may be instituted at any time within two years from the time when the subject matter of the prosecution arose.

Companies Law requirements – service providers

222. In addition to the AML Law, corporate management and trust service providers are also regulated under the CMTSPA, which is a primary avenue through which not only legal but also beneficial ownership information of IBCs and other clients is made available.

223. In accordance with the CMTSPA, corporate management and trust service providers in Antigua and Barbuda are required to establish identity and ownership information (including beneficial ownership) of all clients.[57] Where a licensee is instructed by a client to provide corporate management and trust services, the licensee shall conduct such due diligence as may be necessary to establish the identity and business background of the client (Section 18(1)), and maintain adequate information to enable it to comply with its obligation under the CMTSPA, the MLPA, the ILLCA or any other law in force in Antigua and Barbuda (Section 19).[58] The information required to be collected includes:

- names and addresses of the beneficial owners of clients (Section 18(3) of the CMTSPA)
- identity and legal ownership information of its shareholders, clients and directors (pursuant to Law (Miscellaneous Amendment) Act, No. 3 of 2020)

224. Where the service provided to a client is for any reason discontinued, the record kept for that client must continue to be maintained for a period of six years from the date of the discontinuation of such services.[59] A licensee must maintain and hold these records in Antigua and Barbuda (Section 18(5)).

225. Concerning the definition of a beneficial owner, previously the CMTSPA defined the term "beneficial owner" as a person who enjoys the benefits of ownership of property or an interest in property but who may not necessarily be registered or listed as the legal owner of the property or

57. The circumstances in which offshore sector legal entities may become involved with a licensed service provider are described in the section on legal ownership.

58. A licensee shall obtain from a client (a) details of the client's principal place of business, business address, telephone and facsimile, telex numbers and electronic address of the principal or professionals concerned with the client; (b) details of the client's current home address, telephone and facsimile numbers and electronic address; (c) copies of passport or identity card, drivers licence and an original utility bill or bank statement; (d) two sources of reference to provide adequate indication on the reputation and standing of the client (Section 18(2) of the CMTSPA).

59. Section 18(4), with similar requirement replicated in Section 18(3)(b) and Section 19 as a result of the changes made by the Law (Miscellaneous Amendment) Act 2020, No. 3 of 2020.

interest (Section 2). This definition was amended by the Law (Miscellaneous Amendments) Act, No. 20 of 2016, which introduced the following definition of a "beneficial owner":

> the natural person or persons who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or legal arrangement.

226. In addition and as analysed above (see paragraph 213 et seq.), under Section 18A of the CMTSPA, a corporate management and trust providers, as well as exempted service providers (see paragraph 105), are also under an obligation to submit annually an attestation report to the FSRC on the beneficial ownership and control of their clients and could be sanctioned if this requirement is not fulfilled. Such clients do not submit any separate attestation.

227. In the absence of clear guidance to be followed for identifying all beneficial owners for the purpose of an annual attestation on beneficial ownership and control (as detailed in paragraph 216 above), doubts remain as to whether accurate beneficial ownership information for all relevant entities is available to the competent authorities. Whilst the annual attestation is required, there is no specific guidance on how to identify beneficial owners, or how to identify the natural person who owns or exercises control (including control through other means). Further, the question remains as to whether the 5% threshold includes direct or indirect ownership. **Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) for the purpose of the annual attestation on beneficial ownership and control is in line with the standard and that suitable guidance on identifying beneficial owners of legal entities is provided so that beneficial owners are correctly identified and the information on beneficial owner(s) is available in all cases in accordance with the standard**.

228. Further, as described earlier, the company law (see paragraph 70) and tax law requirements (see paragraph 110) may not cover all companies which have a sufficient nexus to Antigua and Barbuda in accordance with the standard. Accordingly, beneficial ownership information may not be fully available. Antigua and Barbuda should ensure that beneficial ownership information on foreign companies having a sufficient nexus with Antigua and Barbuda is available in all cases (see Annex 1).

229. Beneficial ownership information needs to be kept up to date. The Law (Miscellaneous Amendments) Act, No. 20 of 2016, amended the CMTSPA to specify that the names and addresses of the basic and beneficial owners of entities for which corporate management and trust services are provided must be accurate and updated on a timely basis

(Section 18(3)(b)). Whilst no further guidelines are provided on the frequency of updates, this is mitigated by the requirement imposed on service providers to submit an annual attestation on beneficial ownership and control of their clients under Section 18A of the CMTSPA.

Tax law requirements

230. The IRD does not receive information on the beneficial owners of taxpayers routinely. Whilst all persons engaged in business in Antigua and Barbuda must file annual tax returns, accompanied by a financial statement audited by a certified auditor (see further paragraph 367 below), the IRD explained that the auditor does not need to be based in Antigua and Barbuda and thus may not be subject to the AML laws and the territorial jurisdiction of Antigua and Barbuda.

231. Under the Tax Administration and Procedure Act 2018, a bank or financial institution is required to keep account of all transactions with a client, including the client's identity, to include the beneficial owner (Section 23). The term "beneficial owner" means the natural owner or person who ultimately owns or controls a client and or natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or legal arrangement. No further guidelines are provided on the application of this definition.

232. Pursuant to the Tax Administration and Procedures Act 2018, tax evasion is a criminal offence and because it constitutes a serious crime based on the penalty of a fine not exceeding XCD 100 000 (USD 37 000) or to a term of imprisonment of five years, such crime constitutes a predicate offence for AML/CFT.

Beneficial ownership information – Enforcement measures and oversight Implementation and enforcement measures in practice

233. Enforcement and oversight is conducted by the FSRC, the IPCO and ONDCP.

234. In practice, the annual beneficial ownership attestation was originally submitted to the FSRC, which acted as a central registry. The first attestations had to be provided for 2018 by the end of June 2019 and subsequently by 31 March each year. The service providers submit the annual beneficial ownership and control attestation for all their clients electronically (initially, the beneficial ownership and control attestation were submitted on paper but this practice was discontinued). Such clients do not submit any separate attestation. The FSRC confirmed that exempt service providers also report on their clients and have been compliant with this obligation. Antigua and Barbuda reported that as at August 2022, there were a total of

1 409 attestations filed (due by 31 March), but could not provide a breakdown by entity type or figures for the previous years, as the FSRC's database only provides consolidated figures. As set out in paragraph 48, as of 31 December 2022, there have been 9 450 domestic companies and 568 foreign companies registered with the IPCO and 1 055 active IBCs registered with the FSRC. As the compliance rate of domestic companies with their obligation to submit the beneficial ownership and control attestation has historically been in the range of 1.5% to 3.5% (with 126 attestations submitted in 2019, 136 in 2020 and 317 in 2021, see paragraph 139 below), it seems likely that the compliance of IBCs has been materially higher. Antigua and Barbuda also confirmed high compliance rates as the information is routinely submitted by their respective service providers for all clients. However, as the compliance figures for foreign companies and IBCs have not been provided by Antigua and Barbuda, this observation cannot be fully verified.

235. The FSRC carries out checks for each IBC against the information already kept for that entity and prepares a report on any deficiencies identified. Beneficial ownership information is verified for completeness and in cases where the reporting form is not fully populated or where the number of attestations does not correspond to the number of active companies being managed by the relevant service provider, an email is issued to the service provider with a timeline within which to rectify the noted discrepancies. This function is carried out by three staff members. In 2022, five emails were sent to the service providers where the information was found to be incomplete. On average, one week is provided to rectify the issues cited. Antigua and Barbuda did not provide the statistics for the whole review period and did not specify what type of deficiencies were identified.

236. No penalties have been applied by the FSRC during the period under review for the failure to submit the annual attestation on beneficial ownership and control, or any deficiencies identified in the beneficial ownership and control attestations. The FSRC explained that this is due to high compliance by service providers, including those exempt.

237. During the period under review, the annual attestation on beneficial ownership and control submitted by domestic and foreign companies directly had to be filed in a paper format to the FSRC and were immediately transferred to the IPCO without further checks. The IPCO received the forms and put them on file for each company. The IPCO conducted manual checks against the documents already kept on file; however, no further follow-up actions have been carried out.

238. The level of compliance with the requirement to submit the annual attestation on beneficial ownership and control amongst domestic companies was very low (the compliance rate in 2019-22 was between 1.5% and 3.5%), as evidenced from the table below.

Companies submitting beneficial ownership attestations

Year	Total number of domestic companies registered with the Registrar as at the end of the year	Number of domestic companies that have submitted information	Number of domestic companies where penalties have been applied for non-filing in the year	Compliance rate
2019	8 556	126	No penalties applied	1.5%
2020	8 835	136	No penalties applied	1.5%
2021	9 141	317	No penalties applied	3.5%
2022	9 450	Not provided	No penalties applied	N/A

239. Antigua and Barbuda did not provide the statistics on non-profit companies and foreign companies.

240. As the IPCO had no formal oversight function in relation to the annual attestation on beneficial ownership and control during the period under review, there was no effective enforcement in relation to the reporting carried out by domestic and foreign companies, which may explain the low compliance levels. The IPCO was receiving the beneficial attestation forms from the FSRC and adding the information to the file held on the relevant company but undertook no checks as to the accuracy or completeness of the information submitted. No onsite or offsite examinations carried out by IPCO were reported by Antigua and Barbuda. Antigua and Barbuda also did not report any enforcement actions in relation to late filers and non-filers.

241. Since 2022, the annual beneficial ownership attestation for these types of entities has to be submitted directly to the IPCO. Instead of 31 December of each year, the annual attestation will need to be provided 30 days after the date of initial registration, which aims to avoid a bottleneck effect (when all the companies submit their annual beneficial ownership attestations and annual company law returns by the same deadline) and seeks to improve the IPCO's oversight practices. The IPCO declared that it will start applying the relevant penalties for the failure to submit the beneficial ownership attestation in accordance with the legal requirements after the expiry of a one-year grace period (e.g. 2023), which is expected to improve the compliance levels. As of 31 March 2023, no information on beneficial ownership and control attestation is available at the IPCO website.

242. As part of examinations, the FSRC verifies that ownership information, including beneficial ownership information, is accurate and up-to-date and is available with service providers as required by the CMTSPA (see paragraphs 162 and 163 above). In particular, during the onsite examination, the FSRC conducts checks concerning the policies and procedures of the service provider to confirm whether (i) the policies are implemented and in accordance with applicable laws; and (ii) the identity of owners and persons

who have control can be determined. The latter involves random checks of client files and CDD information.

243. As regards the fulfilment of the obligations under the AML framework by the licensed service providers of IBCs, the regulatory function is performed jointly by the FSRC and the ONDCP. In instances where the information kept by service providers on file is found to be incomplete or inaccurate, a written report is issued to the service provider noting the deficiencies and a timeline of three months provided rectify the issues and provide a status update to the FSRC on how the issues are being rectified (see paragraph 164). Follow up off site reviews may also be conducted to ensure that records are maintained in the matter outlined. In addition, the information is forwarded to the ONDCP for follow up monitoring.

244. The ONDCP has 40 staff in total, of which 8 are dedicated to the AML requirements. The estimated levels of compliance with the CDD requirements, record keeping requirements, the provision of AML/CFT training and the annual AML/CFT review are set out in the table below (for the period from 2019 to 2022). The estimates, which are based on the checks carried out by the ONDCP of some selected sector representatives, shows that the compliance of the domestic banking sector is in the range of 75-100%, with 1 domestic bank examined in 2020 and 5 in 2022. International banking business shows the compliance level of 75-100%, with 5 banks examined in 2019 and 1 in 2020. The service providers estimates are of 50-100%, based on the examination of 1 service provider in 2019 and another one in 2020. The CDD and record keeping compliance levels by the service providers appear high, which is consistent with the evaluation provided separately by the FSRC. However, only a small number of the service providers have been reviewed by the ONDCP.

245. Typically, the ONDCP carries out the checks and then prepares a report which contains recommendations, including the deadline for addressing the recommendations (6 months). The relevant entities prepare an action plan as to how the recommendations will be addressed (within 2-3 months), which is than reviewed by the ONDCP. Under this approach, only one penalty has been applied during the peer review period (in relation to a money services provider).

Compliance levels as estimated by the ONDCP (for the period from 1 April 2019 to 31 March 2022)

Sector	CDD	Record keeping	AML/CFT training	Annual AML/ CFT review
Banking sector	**85%**	**88%**	**100%**	**80%**
Credit union	80%	83%	83%	25%
Money lending and pawning	63%	63%	50%	13%
Insurance	55%	70%	70%	40%
Development banks	50%	50%	50%	50%
Travel agents	29%	21%	0%	0%
Dealers in precious metals, art and jewelry	33%	50%	17%	0%
Mortgage companies	50%	100%	0%	100%
Money transmission centers	75%	50%	50%	25%
Car dealers	50%	50%	0%	0%
International banking business	**75%**	**100%**	**95%**	**100%**
Company service providers	**95%**	**100%**	**50%**	**67%**
Real property business	25%	60%	15%	0%
TOTAL AVERAGE	59%	68%	45%	38%

246. During the review period, the ONDCP has also carried out training activities – 41 in 2019, 15 in 2020, 58 in 2021 and 68 in 2022. These activities have primarily focused on domestic banking and financial business, insurance business, international banks, attorneys-at-law and accountants and company service providers.

Conclusion

247. Antigua and Barbuda does not carry out satisfactory compliance, supervision and enforcement measures to ensure that information on the beneficial ownership of domestic and foreign companies is being maintained by such entities and/or filed. This gives rise to concerns about the availability of such information in practice. This gap is mitigated where domestic and foreign companies maintain a bank account in Antigua and Barbuda or otherwise engage with the AML-obliged persons, as beneficial ownership information may be available with financial institutions. Whilst this is sufficient for foreign companies to satisfy the standard,[60] concerns remain in relation to domestic companies which are not required by law to maintain a bank account in Antigua and Barbuda, or engage continuously with

60. 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.

other AML-obliged persons. **Antigua and Barbuda is recommended to continue and enlarge its oversight programme to all relevant entities and arrangements to ensure the availability of accurate and up-to-date beneficial ownership information in line with the standard and to exercise its enforcement powers as appropriate to ensure that such information is fully available in practice**.

Availability of beneficial ownership information in EOIR practice

248. During the peer review period, Antigua and Barbuda received one request about beneficial ownership information. Further, Antigua and Barbuda reported that the FSRC was able to provide the beneficial ownership information when requested by the ONDCP in relation to IBCs registered.

A.1.2. Bearer shares

249. Whilst the Companies Act does not permit the issuance of bearer shares by domestic companies (Section 29(2)), IBCs were permitted to issue bearer shares until 2020.

250. The Antigua and Barbuda authorities have taken steps to immobilise bearer shares. Antigua and Barbuda established a requirement, in 2010, for bearer shares to be deposited with a custodian, converted to registered shares, or cancelled. A custodian may be a licensed custodian if it has a physical presence in Antigua and Barbuda, or a recognised custodian if it is located outside of Antigua and Barbuda, and needs to meet the requirements and obligations under the 2010 amendments of the IBCA and the CMTSPA. Licensed and recognised custodians need to be licensed or approved by the FSRC under the CMTSPA.

251. All deposits of bearer shares with licensed and recognised custodians must be accompanied by a written notice setting out the name and address of every beneficial owner of the bearer share, any other person having an interest in the bearer share, and every company management and trust service provider of the company that issued the bearer share (Section 139F of the IBCA). Antigua and Barbuda clarified that the reference to a "person" needs to be interpreted such that it refers to a "natural person". If there is a change in the beneficial ownership of a bearer share, the company or the former beneficial owner must within seven days of the change send a notice (a resolution of directors and shareholders) to the custodian that includes the following information: (a) name and address of the new beneficial owner; (b) name and address of any other person having an interest in the bearer share; and (c) the circumstances under which the change in beneficial ownership occurred (Section 139H of the IBCA). Both the custodian and the company are required to provide a copy of this notice

to all of the company's service providers. The transfer of beneficial ownership is not effective until all the above requirements have been met. Antigua and Barbuda did not specify if any penalties apply if the notice is not provided or is not provided within the specified period; however, the fact that the transfer will not be effective until all the above requirements have been met, ensures that the ownership information held by the custodians is up to date.

252. During the previous peer review, the FSRC reported that, as at 31 October 2013, 95% of the bearer shares issued by IBCs had been deposited with a licensed custodian before the expiry of the transition period provided under the IBC Act. The remaining 5% of the bearer shares, were not deposited with a licensed custodian before the expiry of the transition period and therefore are considered "disabled". These remaining bearer shares were held by two service providers that were not licensed to perform custodian services. It is not clear whether these two service providers are licensed service providers or exempt. The FSRC issued notices to these two service providers informing that the bearer shares that were in their custody were disabled. Antigua and Barbuda did not report any further enforcement measures applied in relation to the IBCs or their respective service provider. The effect of holding a "disabled" bearer share is that the holder will not have any entitlement to vote, distribution and to a share in the assets of the IBC in the event that the IBC is being wound up or upon its dissolution. In addition, according to Section 139B of the IBCA, any transfer or purported transfer of an interest in the "disabled" bearer share is void and has no effect. The rights to holding the bearer share cannot be reactivated even if the bearer share is subsequently deposited with a custodian. Antigua and Barbuda further clarified that the disabling of shares does not affect the associated capital rights which can be redeemed. Where a share is disabled, the owner is deprived of the legal right to exercise shareholder privileges but the ownership value of the share is maintained.

253. Since then, Section 130(1), as amended by the Law (Miscellaneous Amendment) Act, No. 3 of 2020, created a legal requirement for IBCs to maintain identity and legal information on a wide group of persons, including their shareholders, clients and directors. Whilst the legislation does not single out the holders of "disabled" bearer shares, it is the understanding of Antigua and Barbuda that the legal requirement for IBCs to maintain identity and legal information on their shareholders includes information on any owners holding "disabled" bearer shares. The FSRC clarified that as part of its onsite examination, the identity of shareholders has been confirmed. Despite the fact that it has been more than ten years since all bearer shares had to be deposited with licensed or recognised custodians, Antigua and Barbuda did not take any further measures to eliminate the remaining "disabled" shares (which retain capital rights, see paragraph 252).

254. The 2014 Report observed that while the above mechanisms ensure that the bearer share owners are properly identified, Antigua and Barbuda did not conduct any on-site visit of the licensed service providers during the review period. It was therefore recommended that Antigua and Barbuda monitor the implementation of the oversight programme planned in 2014 and exercise its enforcement powers as appropriate to ensure that the legal obligations to maintain information identifying the owners of all bearer shares is being complied with and the information is fully available in practice (paragraph 106 of the 2014 Report).

255. Since then, the onsite examinations carried out by the FSRC, as described in paragraphs 162 and 163 above, have covered authorised holders of bearer shares and the share register. In practice, 6 out of 19 company service providers (32%) are authorised holders of bearer shares and they hold such shares for less than 50 IBCs. The FSRC observed that the relevant persons are generally compliant and therefore no sanctions have been issued in this area. For instance, in 2022, 1 authorised holder of bearer share was examined. Based on the examination findings, the FSRC recommended an improvement of the record keeping mechanism. However, the required information was held; thus, there was no enforcement proceeding. Antigua and Barbuda did not specify if there are in practice any recognised custodian located outside of Antigua and Barbuda (as permitted by the law) and, if so, whether they have been subject to any oversight measures.

256. In addition, the Law (Miscellaneous Amendment) Act, No. 3 of 2020, amended various sections of the IBCA, coming into force on 30 March 2020. In particular, Section 27(1) was amended to ensure that shares must be in a registered form only. Antigua and Barbuda clarified that this amendment intended to address a loophole in the existing legislation and ensure that bearer shares could not be issued. The authorities of Antigua and Barbuda did not explain whether any bearer shares have been issued in practice before the new law came into force but clarified that bearer shares deposited with a custodian could be regarded as "bearer share" in name only as the legislation requires them to be deposited with a custodian (in other words, they are immobilised). Similarly, Antigua and Barbuda did not specify the number of bearer shares as of 31 December 2022 and the respective shares held by licensed and non-licensed custodians. Finally, Sections 136(1), 140(2) and 344 were amended to remove references to bearer shares from the IBCA. With these legislative changes, no new bearer shares can be issued in Antigua and Barbuda.

257. Antigua and Barbuda should monitor the implementation of the new provisions preventing the issuance of bearer shares and ensure that the mechanisms allowing to identify the owners of existing immobilised bearer shares by IBCs (including those which are "disabled") are effectively

implemented and enforced so that accurate and up-to-date information on the holders of bearer shares is always available in line with the standard (see Annex 1).

A.1.3. Partnerships

Types of partnerships

258. In Antigua and Barbuda, partnerships are generally governed by common law principles. Partnerships include any trade or undertaking, upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits. There are no statutory provisions specifically governing partnerships. While there is a Partnership Act Cap. 306, this is an 1888 statute that simply sets out types of arrangements that are not deemed to constitute partnerships (see paragraph 107 of the 2014 Report). However, if the number of partners reaches 20, the entity must register as a company under the CA (Section 3 of the CA).[61] Antigua and Barbuda explained that in practice this threshold is not reached and therefore partnerships typically operate as unincorporated entities. Limited partnerships do not exist under the law of Antigua and Barbuda.

Identity information

259. At the stage of formation and before registering with the IRD, a partnership is obliged to register with the IPCO as a business (an unincorporated entity). Partnerships are not obliged to submit annual beneficial ownership attestation, nor provide an up-to-date identity information to the IPCO. Therefore, as observed by the IPCO, the identity information on partnerships held by the Company Register in practice may be out of date.

260. Further, the Income Tax Act requires all persons who operate a company, business, trade, profession or service involved in economic activity in Antigua and Barbuda to register with the IRD for tax purposes.[62] This includes both domestic and foreign partnerships that carry on a business in Antigua and Barbuda.

---

61. Where the partnership is a legal person incorporated under the CA, Section 177 of the CA will apply and it requires them to maintain at their registered offices a register of members. A company may appoint an agent to prepare and maintain the register, and such a register may be kept at its registered office or at another place within Antigua and Barbuda (Section 177 of the CA).

62. Sections 2 and 75A of the Income Tax Act "Trade" is defined as every trade, manufacture, adventure or concern in the nature of trade, and economy activity" is defined as any activity for which a charge is made.

261. All partnerships are required to file a registration form containing the identification details of the partners of the partnership with the IRD when the partnership is formed in Antigua and Barbuda. This obligation is also applicable to any partnerships formed outside Antigua and Barbuda but carrying on a business in Antigua and Barbuda. As at 31 December 2022, 1 520 partnerships were registered with the IRD, which is a slight increase (+7%) in comparison with 1 424 partnerships registered as of 31 December 2020.

262. Partnerships themselves are not required to file annual tax returns as they are treated as transparent entities for tax purposes and any income derived through the partnership is taxed in the hands of the partners. However, the precedent partner[63] or a representative[64] must file an annual return of the income of the partnership and include the names and addresses of the other partners in the partnership together with the amount of the share of the said income to which each partner was entitled for that year. Antigua and Barbuda explained that a partner could be a physical person or a legal person. In addition, every partner (individual or corporate) in a partnership must file annual tax returns, giving details of the partnership income and the apportionment of the partnership income among each of the partners.[65]

263. Except the annual filing to the IRD, there are no statutory obligations on partners or on partnerships to maintain information on the partners. When the partnership ceases to exist, the identity information will be available with the IRD. Antigua and Barbuda authorities observed that the retention period of six years is determined by the 2018 TAPA which *inter alia* envisages a six-year limitation period for tax collection, Section 59. There is no explicit statutory retention period.

Oversight and enforcement

264. When the partnership is being registered, the IPCO will review that all of the required information is submitted. However, no further oversight or enforcement actions are put in place to ensure that the identity information

63. The partner who of the partners resident in Antigua and Barbuda (i) is first named in the agreement of partnership, or (ii) if there is no agreement, is named singly or with precedence to the other partners in the usual name of the firm, or (iii) is the precedent acting partner, if the partner named is not an acting partner (Section 18(2)(a) of the ITA).

64. Where no partner is resident in Antigua and Barbuda, the return shall be made and delivered by the attorney, agent, manager, or factor of the firm resident in Antigua and Barbuda (Section 18(2)(b) of the ITA).

65. In this regard, the partners are required to submit annual tax returns reporting their share of the income in the partnership to the IRD: www.ab.gov.ag/gov_v4/pdf/forms/finance/F51%20Personal%20Income%20Tax%20Monthly% (Antigua and Barbuda was not able to update the link)

provided to the IPCO remains up to date. Antigua and Barbuda did not provide the number of partnerships registered with the IPCO as no data is currently compiled on unincorporated entities.

265. The up-to-date identification details of each partner will be available with the IRD at the point of registration; however, the IRD advised that it does not carry out any specific enforcement procedures to ensure that all changes in partners in partnerships are reported annually. Hence, statistics concerning the non-compliance of this obligation are not available (and there is no legal obligation to provide such updates immediately). However, if a partnership is selected for tax audit, the identity of the partners of the partnership are verified as part of the profile of the partnership by the tax auditor, and the failure of a partner – new or old – to disclose its share of partnership income would be an offence. In addition, if the IRD receives information or intelligence to suggest that changes in the partnership have not been reported, it may also trigger an investigation to verify the changes and appropriate penalties may be imposed if any offences have been committed (see paragraph 267 below). Antigua and Barbuda did not provide information on any tax audits carried out by the IRD in relation to partnerships/partners during the review period.

266. As of 31 March 2022, 261 partnerships (17%) filed their tax returns. The figures were similar in 2020-21 with 223 tax returns submitted in 2021 and 251 in 2020. Antigua and Barbuda did not provide the figures for 2019 and did not explain the low compliance levels. No further estimates of compliance level is available in Antigua and Barbuda. Further, Antigua and Barbuda did not provide information in relation to any penalties imposed for the failure to comply with the requirement of filing a tax return by partnerships and/or partners.

267. The duties of taxpayers, including partnerships, as to the filing of tax returns with the IRD are envisaged by Section 24 of the 2018 TAPA. This section establishes liability for failure to comply with the requirement of filing a tax return, and for filing returns that are incomplete, incorrect or submitted after the time required. Section 24 specifies that any person which commits an offence under this section "is liable to a penalty specified in Section 83(2)" of the same act. The penalty, however, is specified in Section 83(1). Antigua and Barbuda did not report the application of any penalties in relation to the requirement of filing tax returns. This internal inconsistency may cause difficulties with applying the sanctions in practice and compromise the availability of up-to-date identity information on partnerships. Antigua and Barbuda should ensure that the availability of accurate and up-to-date information identifying the partners of partnerships is supported by dissuasive sanctions in case of non-compliance with the requirements (see Annex 1).

268. The 2014 Report observed that Antigua and Barbuda did not apply any penalty for the failure to deliver a return by the partner or representative under Section 82 of the Income Tax Act. It contained an in-text recommendation that while the income tax obligations imposed on relevant partnerships ensure that information on the partners is available to the Antigua and Barbuda's authorities, the Antigua and Barbuda's authority should establish a system of oversight to ensure that information identifying the partners of partnerships is available in all cases in practice (paragraphs 112 and 114 of the 2014 Report). No change in this respect has been reported by Antigua and Barbuda and the compliance rates during the review period are low (see further paragraph 276).

269. During the period of review, Antigua and Barbuda did not receive any EOI requests pertaining to identity information of partners of partnerships.

Beneficial ownership

270. Beneficial ownership information on partnerships will be made available through the AML framework (but only for partnerships which will in practice engage with the AML-obliged persons, which is not a legal obligation) and company law requirements (only for partnerships which are incorporated as companies which does not appear to happen frequently in practice). Furthermore, even where such engagement occurs, some deficiencies in the laws and applicable guidance, does not give certainty that the beneficial ownership of all relevant partnerships is available in Antigua and Barbuda.

271. Regulation 4(3)(h) of the MLPR, as amended by the Money Laundering (Prevention) (Amendment) Regulations, No. 43 of 2017, requires the identification of beneficial ownership with respect to the clients of the AML-obliged persons which are legal persons, trusts or other legal arrangements (see paragraph 196 above).

272. With respect to partnerships, the MLFTG specifically requires verification of all partners of the firm who are relevant to the application and have individual authority to operate the account or otherwise to give relevant instructions. The MLFTG further explains that (i) where partnerships and unincorporated businesses are well known, reputable organisations, with long histories in their industries, and with substantial public information about them and their principals and controllers, the standard evidenced for publicly quoted companies will be sufficient to meet the financial institution's obligations; (ii) other partnerships and unincorporated businesses should be treated as private companies and thus the AML-obliged persons will need to verify the identity of appropriate beneficial owners holding 25% or more of the shares. Where a principal owner is another corporate entity or

trust, measures should be taken to look behind that company or trust and establish the identities of its beneficial owners or trustees, unless that company is publicly quoted. The AML-based retention rules described earlier in this report, ensure that the relevant information is retained for the period required by the standard.

273. The determination of beneficial owners for partnerships under the AML laws thus follows the definition of companies, including taking a 25% threshold in ownership or control. This approach is not necessarily in accordance with the form and structure of partnerships.

274. With respect to the company law requirements, and as described above, the Law (Miscellaneous Amendments) (No. 2) Act, No. 14 of 2017, introduced an annual attestation on beneficial ownership and control for various entities. Antigua and Barbuda explained that the duty that applies to domestic companies incorporated under Section 194A of the CA will apply to partnerships if they operate as an incorporated domestic company (see paragraphs 213 et seq. for relevant obligations). A partnership with up to 20 partners is not subject to the requirement to file the annual attestation on beneficial ownership and control. The corporate management and trust service providers will be under obligation to report on their clients, which may include partnerships operating as companies (Section 18A of the CMTSPA).

275. There is no obligation under tax law to report information on the beneficial ownership of partnerships to the IRD (with the exception of the obligation to identify the partners, described in paragraph 262 above).

Conclusion

276. The income tax obligations imposed on relevant partnerships ensure that the identity information on the partners is available to Antigua and Barbuda's authorities during its lifecycle and is retained after the partnership ceases to exist, see paragraphs 260 to 263. However, the low compliance level (less than 20%) and the lack of enforcement measures (paragraphs 265 to 267) raise concerns as to the availability of accurate and up-to-date ownership and identity information of partners of partnerships in line with the standard in all cases. Therefore, **Antigua and Barbuda is recommended to establish a system of oversight to ensure the availability of accurate and up-to-date information identifying the partners of partnerships and exercise its enforcement powers as appropriate to ensure that such information is fully available in practice**.

277. Whilst the AML and company laws of Antigua and Barbuda set the requirement to obtain the beneficial ownership information with respect to legal arrangements, the determination of beneficial owners for partnerships largely follows the definition of companies and in the absence of clear

guidance to be followed for identifying the beneficial owners of partnerships which are not registered as companies, doubts remain as to whether beneficial ownership information is available to the competent authorities (paragraphs 270 to 273). Furthermore, since there is no obligation for partnerships to engage in a relationship with an AML obliged person and/or the service provider at all times (paragraph 270), there is no certainty that the beneficial ownership of all relevant partnerships is available in Antigua and Barbuda. **Antigua and Barbuda is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships**.

A.1.4. Trusts

278. The law of Antigua and Barbuda provides for the creation of ordinary trusts and international trusts.

279. International trusts are a component of Antigua and Barbuda's offshore services sector and are formed and regulated under the ITA. An international trust must have at least one trustee who is a domiciliary of Antigua and Barbuda, and may not have an Antigua and Barbuda domiciliary as settlor or beneficiary. It may not manufacture a product or provide goods or services for sale anywhere within the Caribbean region, or otherwise actively conduct business for profit in Antigua and Barbuda. An international trust may only be created through a trust deed or equivalent document. Upon the execution of the trust deed or equivalent document by a settlor and a trustee and registration in Antigua and Barbuda, an international trust acquires a legal personality and may hold assets in its own name (Section 6 of the ITA).

280. Ordinary trusts are recognised and created under the common law framework and have no governing statutes. Such local trusts operate under the Trust Corporation (Probate and Administration) Act, the Trustees and Mortgagees Act and the Trustees Relief Act, in some instances, the trust forms part of a mortgage company (mortgage & trust) and, in other instances, they are created for a specific limited legal purpose.

281. There are 2 active international trusts and the Antigua and Barbuda authorities have advised that they are not aware of the existence of any standalone ordinary trusts within Antigua and Barbuda as at 31 December 2022. In the international sector, none of the banks held a composite bank and trust licence. In the domestic sector, a single ordinary trust was existing as of 31 December 2022, which is primarily being subsumed as part of a bank and a mortgage trust company, which is subject to AML reporting requirements.

Identity information required to be provided to government authorities

International Trusts

282. An international trust must be registered with the FSRC pursuant to Section 17 of the ITA. At the point of registration, international trusts must submit information on the trust name, name and address of all trustees and protectors (Schedule 1 of the ITA). This registration requirement also applies to foreign trusts which subsequently change their governing law to Antigua and Barbuda law. Upon registration, such foreign trusts become international trusts and are subject to the regulations of the ITA; this includes having at least one trustee who is an Antigua and Barbuda domiciliary.[66]

283. As noted in the 2014 Report, there is no explicit obligation for an international trust to engage a service provider licensed under the CMTSPA as a trustee. However, in practice, and in accordance with the IBCA, the trustees of international trusts have been either service providers licensed under the CMTSPA (as both were active international trusts), or – as the case may be – IBCs licensed under the IBCA to engage in the business of international banking. This practice arises from the requirement that international trusts must have at least one Antigua and Barbuda domiciliary as a trustee, combined with the fact that the provision of such services is a regulated activity under the CMTSPA. The ITA provides that a company that is not licensed or regulated as a Trust Company under the CMTSPA may act as trustee for no more than three international trusts. Section 17 of the ITA further requires a trustee to deposit any amendment to the trust deed of settlement with the FSRC within 10 days of the execution of the amendment. This applies to professional trustees of international trusts. The provision of such trustee services is regulated under the CMTSPA and the MLPA and they are required to conduct CDD on the trusts for which they act as trustees (see further below). Nothing prevents an instrument of trust entered into by a trust corporation from applying the law of another country to the trust (Section 248 of the IBCA).

284. In addition and as described earlier in this report, under Section 18A of the ITA, a trustee which is licensed under the CMTSPA must submit annually an attestation report to the FSRC on beneficial ownership and control and it could be sanctioned if this requirement is not fulfilled.

285. The ITA, as amended in 2021, specifies that the report must include (a) the names and addresses of the trustees; (b) the name and address of the settlor; (c) the names and addresses of the beneficiaries; (d) the name and address of the protector, if any; and (e) the name and address of any

66. Section 17 of the ITA

other natural person exercising ultimate effective control over the trust.[67] Further, the ITA also contains a standalone definition of a "beneficial owner", introduced by the Law (Miscellaneous Amendments) Act, No. 20 of 2016:

> the natural person or persons who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or legal arrangement.

286. Antigua and Barbuda explained that in keeping with this definition and the obligations of corporate management and trust service providers, the information disclosed on the annual attestation of beneficial ownership and control must disclose the identity of the natural person or persons who maintain ultimate ownership interest or control of an entity. Circular No. 3 of 2021 of the FSRC from 5 July 2021 explains that in the case where an entity acts in any of the capacities indicated above (e.g. trustee, beneficiary), the natural person or persons of that entity must be identified.

287. Prior to 2021, Section 18A of the ITA referred to (a) the name and address of any person who owns 5% or more of the trust; (b) the name and address of any person who controls the trust acting directly or indirectly, and acting individually or jointly; (c) the name of all of the directors and officers; and (d) any other information as the FSRC may determine. Whilst the pre-2021 requirements did not correspond to the EOIR standard, this legal gap was mitigated by the fact that there were just two active international trusts registered in Antigua and Barbuda during the peer review period and both were registered in 2022.

288. International trusts are generally exempted from taxes and duties in Antigua and Barbuda, with the limited exceptions described in paragraph 60 of the 2014 Report. In such cases, unless the tax is paid by another person, an international trust would need to file a tax return with the Antigua and Barbuda authorities. Antigua and Barbuda did not specify whether international trusts register with the IRD in their own capacity or as a company.

Ordinary trusts

289. There is no obligation for ordinary trusts to be registered in Antigua and Barbuda. However, as noted above, ordinary trusts that operate a company, business, trade, profession or service involved in economic activity in Antigua and Barbuda must register this company with the IRD for income tax purposes (see above in the sub-section that described tax law

67. Section 18A of the ITA, as amended by the International Trust (Amendment) Act, No. 15 of 2021

requirements). No details of the trust beneficiaries or settlors need to be provided at the point of registration of the relevant company or in its annual tax returns. Trusts are taxed at the trustee level (Section 21 of the Income Tax Act) and Antigua and Barbuda explained that the trust itself cannot be registered with the IRD.

290. Antigua and Barbuda clarified that the obligation to submit annually an attestation report to the FSRC or IPCO on beneficial ownership and control does not apply to ordinary trusts whether foreign (i.e. trusts established abroad but administered in/with a trustee in Antigua and Barbuda) or not.

Identity information required to be held by the trust

Trusts that are professionally managed

291. Statutory requirements to keep ownership and identity information apply to professional trustees that act by way of business. This applies to professional trustees of foreign, international and ordinary trusts. The provision of such trustee services is regulated under the CMTSPA and the MLPA and such professional trustees are required to conduct customer due diligence on the trusts for which they act as trustees (including ordinary trusts, foreign trusts, or international trusts). This includes establishing the beneficial owners of the trusts for which they provide services to (Section 18 of the CMTSPA). More details of these obligations can be found in the earlier section on information held by service providers.

292. Further, the ITA, as amended in 2021, requires that the trustee licensed under the CMTSPA maintains for each trust being administered (i) the name of the trust; (ii) the names and addresses of all trustees; (iii) the date of creation, settlement or establishment of the trust; (iv) the date of registration of the trust; (v) the name and address of the settlor; (vi) the name and address of the protector, if any; (vii) the names and addresses of all beneficiaries of the trust (viii) the initial assets settled; (ix) any additional assets settled since the creation of the trust; and (x) any change in the beneficiaries or the protector of the trust.[68]

293. As professional trustees are AML-obliged persons, the retention requirements set out in the MLPA and MLPR apply (see paragraphs 208 to 210 above) and meet the standard.

68. Section 29A of the ITA, as amended by the International Trust (Amendment) Act, No. 15 of 2021

Trusts that are not professionally managed

294. In respect of trusts that are not professionally managed (including foreign trusts), the obligations on the trustee to maintain information on the trust beneficiaries and settlors arise only from the requirements of common law, largely based on the English common law as a result of the Common Law (Declaration of Application) Act of 1705, as summarised in the 2014 Report (paragraph 122). The common law places obligations on trustees to have full knowledge of all the trust documents, to act in the best interests of the beneficiaries and to only distribute assets to the right persons. These obligations implicitly require all trustees to identify all the beneficiaries of the trust since this is the only way the trustee can carry out his/her duties properly. If the trustees fail to meet their common law obligations, they are liable to being sued.

295. As concluded by the 2014 Report, the obligations placed on common law trustees (which are not regulated under the CMTSPA and MLPA) by English common law, which are applied in Antigua and Barbuda, ensure the maintenance of identity information on the settlors and beneficiaries (paragraph 123 of the 2014 Report). This means that even where a trustee would not be required under CMTSPA or the MLPA to identify the beneficiaries of the trust, he/she is still required to have this information available based on the common law obligations.

296. Accordingly, the 2014 Report observed that whilst the common law obligations should ensure that trustees are complying with their ongoing records keeping requirements, its effectiveness in ensuring the availability of information for EOI purposes in practice should be monitored by Antigua and Barbuda on an ongoing basis. This recommendation remains in place. Antigua and Barbuda should monitor the effectiveness of the common law obligations as to the records keeping requirements of trustees in ensuring the availability of information for EOI purposes in practice (see Annex 1). Further, it is not clear whether the common law obligations will require a look-through approach to identify the natural persons exercising ultimate effective control beyond all the parties to a trust who are legal entities or legal arrangements (see further paragraph 309 below).

Identity and beneficial ownership information held by third parties (e.g. service providers)

297. Financial institutions in Antigua and Barbuda are required to identify and verify the identity of beneficial owners of their customers, as described above under A.1.1. The requirement is to identify the natural persons who ultimately own or control the legal persons or arrangement (Regulation 4(3)(h) of the MLPR). The requirements also extend to ensuring that reasonable measures are taken to understand the ownership structure of the customer. The MLFTG details requirements for legal persons and arrangements.

298. Regulation 4(3)(h) of the MLPR mandates that where the customer is a trust, measures must be taken to determine who are the natural persons that ultimately own or control it, and reasonable measures must be taken to understand its ownership and control structure.

299. Part I paragraph 2.1.42 of the MLFTG provides that any application to open an account or undertake a transaction on behalf of another without the applicant's identifying their trust or nominee capacity should be regarded as suspicious and lead to further inquiries.

300. The MLFTG, as amended in 2017, requires financial institutions to obtain the following information for trusts and other types of legal arrangements: identity of the settlor and/or beneficial owner or class of beneficiary of the funds, who provided the funds, and of any controller or similar person having power to appoint or remove the trustees or fund managers and the nature and purpose of the trust. Identity of the principals, in particular those who are supplying and have control of the funds is also required (Section 2.1.43), as are the full name of the trust, nature and purpose of the trust (e.g. discretionary, testamentary, bare), country of establishment, names of all trustees, and name and address of any protector or controller, any natural person exercising ultimate effective control (including through a chain of control/ownership), and beneficiaries, or beneficiaries identified by characteristics, class or other means (Section 2.6.3).

301. The financial institution should verify the identity of the trustees (or equivalent) who have authority to operate an account or to give the financial institution instructions concerning the use or transfer of funds or assets. Section 2.6.3(5a), as amended in 2017, also requires that the financial institution take reasonable steps to verify the identity of the beneficial owners. The verification of identity does not extend to the settlor(s) and protector(s), contrary to the requirement of the standard.

302. The AML-based retention rules described earlier in this report, ensure that the relevant information is retained for the period required by the standard.

303. Since there is no obligation for all trusts to engage in a relationship with an AML-obliged person at all times, there is no certainty that the beneficial ownership of all relevant trusts is available in Antigua and Barbuda (both during their lifecycle and after they cease to exist).

Oversight and enforcement

304. The regulatory body that has oversight of the ITA is the FSRC. The FSRC is responsible for the registration of all international trusts established in Antigua and Barbuda. According to the FSRC, there is no obligation for an international trust to engage a service provider licensed under the CMTSPA

as a trustee. However, in practice, and in accordance with the IBCA, the trustees of international trusts are either service providers licensed under the CMTSPA, or two specific IBCs licensed under the IBCA that are engaged in the business of international banking. These two IBCs also hold a licence that allows them to conduct trust and international banking businesses in accordance with the IBCA. These two IBCs are subject to the MLPA and are required to conduct CDD on their customers.

305. Further, Section 17I of the MLPA empowers the FSRC and ONDCP to impose sanctions for breaches of the MLPA discovered during an onsite examination (see A.1.1). Under Section 18A(2) of the CMTSPA, any company that wilfully fails to file an attestation report on beneficial ownership is liable to an administrative penalty of XCD 5 000 (USD 1 850) and for a further penalty of XCD 5 000 (USD 1 850) for each day of default. As part of examinations, the FSRC and ONDCP can verify that ownership information, including beneficial ownership information, is accurate and up to date, as indicated under A.1.1.

306. While the CMTSPA and MLPA obligations imposed on relevant trustees should ensure that information on settlors and beneficiaries is available to the Antigua and Barbuda competent authority, during the previous peer review the Antigua and Barbuda's authorities did not have a system of oversight in place to ensure that the legal obligations to maintain information identifying the settlors and beneficiaries are being complied with by the obligated persons. Accordingly, the 2014 Report recommended that Antigua and Barbuda should monitor the implementation of the oversight programme, which was then planned for 2014, and exercise its enforcement powers as appropriate to ensure that the legal obligations are being complied with by the obligated persons and the information is fully available in practice (paragraph 129 of the 2014 Report).

307. As regards the trustees that are service providers licensed under the CMTSPA, Antigua and Barbuda clarified that there are only 2 international trusts registered in 2022 and both are held by one service provider. The FSRC has conducted off-site examinations during the review period to ensure that the obligations under the CMTSPA to conduct CDD were properly carried out. Antigua and Barbuda further observed that an onsite inspection will be scheduled later in 2023. Antigua and Barbuda should monitor the implementation of the oversight programme, which was then planned for 2023, and exercise its enforcement powers as appropriate to ensure that the legal obligations are being complied with by the obligated persons and the information is fully available in practice (see Annex 1).

308. During the period of review, Antigua and Barbuda did not receive any EOI requests pertaining to identity information relating to settlors, beneficiaries or trustees of trusts.

Conclusion

309. The obligation for trustees to have information on trust settlors and beneficiaries stems from common law and, in the case of international trusts and professional trustees, also from the company and AML requirements that apply to the Antigua and Barbuda trustee. However, the company law which requires an annual attestation on beneficial ownership applies only to international trusts. Under the AML framework, the verification of identity does not extend to the settlor(s) and protector(s), contrary to the requirement of the standard. More generally, there is no obligation for all trusts to engage in a relationship with an AML obliged person at all times. To an extent that such an engagement does not occur or does not last throughout an entire lifecycle of relevant arrangements, the availability of ownership information may be compromised. In addition, the common law obligation for the trustee to know the identity of beneficiaries does not necessarily result in identification of those having beneficial ownership. **Antigua and Barbuda is recommended to ensure that identity and beneficial ownership information in line with the standard is available in respect of trusts**.

310. It is conceivable that an ordinary trust could be created which has no connection with Antigua and Barbuda other than that the settlor chooses the trust to be governed by Antigua and Barbuda's law. In that event, there may be no information about the trust available in Antigua and Barbuda. In these situations, trust information would have to be available in the jurisdiction where the trustee is located, as the relevant records would be situated there.

A.1.5. Foundations and other relevant entities

Foundations

311. Jurisdictions that allow for the establishment of foundations should ensure that information is available to their competent authorities for foundations formed under those laws to identify the founders, members of the foundation council, and beneficiaries (where applicable), as well as any beneficial owners of the foundation or persons with the authority to represent the foundation.

312. There are no laws that provide for the creation or recognition of domestic "foundations" in Antigua and Barbuda. While there may be non-profit organisations in Antigua and Barbuda who use the term "foundation" in their name, this does not refer to a "foundation" in the sense of a legal arrangement or relationship. Rather, it refers to its ordinary meaning, being an institution supported by endowments. These "foundations" are predominantly used for charitable purposes and usually take the legal form of private companies without share capital incorporated under the CA and the Friendly Societies Act. The companies incorporated under the CA have been covered above.

313. The Friendly Societies Act applies to "friendly societies" (i.e. societies for the purpose of providing by voluntary subscriptions of the members for supporting them in various circumstances, such as old age or a search of employment, where the assurance of an annuity does not exceed XCD 240 (USD 89) per annum, or of a gross sum exceeding XCD 960 (USD 356)), cattle insurance societies and benevolent societies. Due to the small amounts involved and the purposes typically pursued, these entities do not cause risks relevant to the EOIR standard. The Co-Operative Societies Act, regulates self-help, collectively owned and democratically controlled business enterprises which consist of a group of people that provides socially desirable and economically beneficial services to its participating members on a joint action and not-for-profit basis (including specialised societies, such as credit unions, consumer co-operative societies and housing societies, industrial societies). In view of a public purpose of these entities, they are not relevant to the EOIR standard.

314. The laws of Antigua and Barbuda provide for the creation of international foundations under the International Foundations Act 2007 (IFA). The international foundation is a separate legal entity under the laws of Antigua and Barbuda upon proper execution of a foundation charter or equivalent document by a founder and by the members of a foundation council, by which a founder makes a disposition of rights, title or interest in property to the foundation for a specific purpose. Under Section 5 of the IFA, at least one member of the foundation council must at all times be (a) a domiciliary of Antigua and Barbuda;[69] (b) a company or other entity incorporated or registered under the Antigua and Barbuda Companies Act (but if not licensed or regulated under the CMTSPA, it may not serve as member of more than three foundation councils for international foundations); or (c) a company licensed under the CMTSPA.

315. There were no international foundations pursuant to International Foundations Act as at 31 December 2022.

Ownership information

316. An international foundation that specifies the laws of Antigua and Barbuda for any part of its administration must be registered with the FSRC, which maintains a Register of International Foundations. At the time of registration, in accordance with Section 17 of the IFA, the international

69. Section 2 of the IFA defines a domiciliary as a person who resides in Antigua and Barbuda with the intention of making Antigua and Barbuda his/her permanent place of residence, or an entity that is incorporated or registered in Antigua and Barbuda and has its principal place of business in Antigua and Barbuda.

foundation must provide to the FSRC the names and addresses of the following persons:

- the Antigua and Barbuda member of the foundation council (as described in paragraph 314)
- all non-resident members
- all protectors.

317. There is no explicit obligation to report the name of the founder(s), beneficiary(ies) and all persons with the authority to represent the international foundation who, in accordance with Section 3(4) of the IFA, are the members of the foundation council.

318. Further, Section 21 of the IFA states that a foundation charter must:

- specify the name of the international foundation
- specify the beneficiary or class of beneficiaries, or, if no beneficiary, the purpose of the international foundation
- appoint a foundation council and specify its members
- set forth the respective rights, duties, responsibilities and beneficial interests of the foundation council and the beneficiary
- set forth the method for appointing or removing a member of the foundation council
- specify the initial endowment; and set forth the manner in which the endowment shall be maintained and distributed.

319. The charter shall be executed by a founder and by each member of the foundation council and any protector, either before two witnesses or before a notary public or officer of a court.

320. Accordingly, the beneficiary(ies) and the members of a foundation council will be included in the charter but the founder(s) are not included (except one who executes it). Antigua and Barbuda explained that “specify” for the purpose of Section 21 of the IFA means to identify clearly and definitely and will include the names and addresses of the relevant persons. Antigua and Barbuda noted that Section 87 of the IFA lists the foundation charter as a type of document that can be disclosed and therefore indirectly it implies that it has to be kept and maintained by each foundation. Whilst there are no explicit statutory obligations on the international foundation to keep or maintain a copy of the foundation charter, it is difficult to see how a foundation council could carry out its functions without having possession of or access to a copy of the charter.

321. Under Section 53 of the IFA, each international foundation is obliged to keep at its registered office[70] a register containing the names and addresses of each foundation member and protector. The founders and beneficiaries are not mentioned.

322. Identity information on the founders and beneficiaries of international foundations is instead made available through the company and AML obligations imposed on their service providers which would include the compulsory Antigua and Barbuda member of the foundation council. Concerns remain about the possibility of using a person which will not be subject to the CMTSPA and AML obligations as the Antigua and Barbuda council member of an international foundation, in which case the information may not be available in all cases in accordance with the standard.

323. Under Section 18A of the CMTSPA, a corporate management and trust service provider must submit annually an attestation report to the FSRC on the beneficial ownership and control of their clients, including international foundations. Further, an international foundation itself, under Section 18A of the IFA, must submit annually an attestation report to the FSRC on beneficial ownership and control, which includes the following:

(a) the name and address of any person who owns 5% or more of the foundation;

(b) the name and address of any person who controls the foundation acting directly or indirectly, and acting individually or jointly;

(c) the name of all of the directors and officers; and

(d) any other information as the Commission may determine.

324. Antigua and Barbuda clarified that the term “owns” in Section 18A is used loosely, and it is to be understood and interpreted as a reference to the founder. Whilst the threshold approach in the context of international foundations which have legal personality is accepted under the standard, doubts remain as to whether the company law requirements of Antigua and Barbuda ensure that information on beneficial owners of international foundations is available in accordance with the standard. If members of the foundation council (and by extension any persons with the authority to represent the international foundation) are captured by the requirement to identify any person who controls the international foundation acting directly or indirectly, and acting individually or jointly, the beneficiaries (where applicable) do not appear to be covered.

70. The registered office of an international foundation is the office of the Antigua and Barbuda member of the international foundation.

325. In addition to company law requirements, the service providers will be subject to the AML obligations described earlier in this report. The AML-based retention rules described earlier in this report, ensure that the relevant information is retained for the period required by the standard. However, the relevant section of the MLFTG ("2.6.3 Other trusts, foundations and similar entities") focuses exclusively on trusts and no guidance is provided with respect to the identification of beneficial owners of international foundations which may be created under the IFA.

326. International foundations are generally exempted from taxes and duties in Antigua and Barbuda, with the limited exceptions described in paragraph 60 of the 2014 Report. In such cases, unless the tax is paid by another person, an international foundation would have to file a tax return with the Antigua and Barbuda authorities.

Oversight and enforcement

327. If an international foundation is created or established, its service providers will be under the oversight of the FSRC.

328. Under Section 18A(2) of the CMTSPA, any entity that wilfully fails to file an attestation report on beneficial ownership is liable to an administrative penalty of XCD 5 000 (USD 1 850) and for a further penalty of XCD 5 000 (USD 1 850) for each day of default.

329. The 2014 Report recommended that Antigua and Barbuda should put in place a system of oversight to ensure the availability of information in practice for any international foundations registered in future (paragraph 137 of the 2014 Report). As no system of oversight has been put in place to ensure the availability of information in practice for any international foundations registered in future, this in-text recommendation is retained and expanded to incorporate not only legal but also beneficial ownership information (paragraph 322). Antigua and Barbuda should put in place a system of oversight to ensure the availability of legal and beneficial information in practice for any international foundations (see Annex 1).

Conclusion

330. The company and AML obligations imposed on the Antigua and Barbuda council member of an international foundation require that information on the identity of the founders, members of the foundation council, as well as any beneficial owners of the international foundation or persons with the authority to represent the international foundation is available to the competent authorities and up to date. However, the definition of beneficial ownership in the context of international foundations does not fully meet the standard. In particular, the beneficiaries (where applicable) do not

appear to be covered. Also, concerns remain about the possibility of using a person which will not be subject to the CMTSPA and AML obligations as the Antigua and Barbuda council member of an international foundation, in which case the information may not be available in all cases in accordance with the standard. **Antigua and Barbuda is recommended to ensure the availability of identity information on the beneficiaries of international foundations and their beneficial owners**.

International limited liability companies (ILLCs)

331. ILLCs in Antigua and Barbuda are unincorporated entities or associations that are not trusts or partnerships, formed or continued under the ILLCA for any lawful business or other purpose, including the rendering of professional services by or through their members, managers, officers or agents. Therefore, whilst the name of ILLCs includes the word "companies", this report analyses them separately from incorporated companies. As at 31 December 2022, there has never been an ILLC registered in Antigua and Barbuda.

Ownership information

332. An ILLC may be formed in Antigua and Barbuda, under the ILLCA, by a person domiciled in Antigua and Barbuda signing and filing the articles of organisation with the FSRC. The articles of organisation must include among other items the name of the ILLC, name, address and signature of the registered agent (who must be a licensee under the CMTSPA) and information on any restrictions on the business that the ILLC may carry on (Sections 2, 12 and 17 of the ILLCA). No legal ownership information is provided to the FSRC.

333. An ILLC must at all times have a registered agent in Antigua and Barbuda, in default of which the company is dissolved and struck from the register (Section 23 of the ILLCA, see further paragraph 344). A registered agent may resign upon filing a written notice with the FSRC (Section 23(3) of the ILLCA). A designation of a new registered agent may be made, revoked, or changed by the ILLC by filing an appropriate notification with the FSRC (Section 23(6) of the ILLCA).

334. An ILLC is required to keep at the office of its registered agent, or at another place to which the registered agent has access, prescribed information relating to the ILLC. This includes a list of the full name and last known business, residence or mailing address of each member and manager, a copy of the initial articles of organisation and all amendments, as well as a copy of membership certificates issued (Section 8 of the ILLCA). The authorities of Antigua and Barbuda indicated that this membership structure would be reviewed by the FSRC in its examinations.

335. As mentioned above, the CMTSPA and AML ensure that whenever a company engages a company service provider, the service provider is obligated to conduct due diligence to know the identity of the client (company) and ultimate natural person(s) controlling or owning the client (company) (see paragraphs 74-85 of the 2014 Report for more details). The same applies to ILLCs.

336. The FSRC continues to be the regulator in charge of administration and maintaining all the documentation filed by ILLCs (see paragraphs 46-48 of the 2014 Report). The Chief Executive Officer of the FSRC (the Director) will maintain the register of ILLCs containing the name of every corporation that is formed or continued under the ILLCA, and keep copies of all documents filed by ILLCs. Whilst all documents filed with the Registrar and the Director by domestic companies and IBCs respectively must be kept for six years from the date of receipt (Section 507 of the CA, Section 331 of the IBCA), no equivalent provision is present in the ILLCA with respect to ILLCs.

337. The FSRC keeps a central registry of beneficial ownership information compiled through an annual attestation, which will also be submitted by ILLCs (Section 18A of the ILLCA, as introduced by the Law (Miscellaneous Amendments) (No. 2) Act 2017, No. 14 of 2017). Beneficial ownership information with respect to ILLCs will also be available through corporate management and trust service providers, which are required to submit an annual report on beneficial owners of their clients (Section 18A of the CMTSPA).

338. **Whilst beneficial ownership information would be available through the company and AML laws, the limitations which have been identified in this report with respect to the definition of beneficial owners under the respective regimes will apply also with respect to ILLCs** (see paragraphs 199 and 227).

339. As with IBCs, while the Tax Law requires an annual return to be filed with the details of the shareholders of a company, it is unlikely to ensure the availability of legal ownership information consistently, in respect of ILLCs, since almost all their activities are exempt from tax in Antigua and Barbuda, with the limited exceptions described in paragraph 60 of the 2014 Report.

Mobility of ILLCs

340. The law of Antigua and Barbuda allows for corporate mobility of ILLCs. A foreign limited liability company[71] can be continued in Antigua and Barbuda, provided that it complies with the legal and regulatory framework.

71. Under the ILLCA, a "foreign limited liability company" means a limited liability company formed or continued under the laws of a jurisdiction other than Antigua and Barbuda for any lawful purpose that is characterised as a limited liability company by those laws.

As part of the application of transfer (Section 75 of the ILLCA) the service provider must ascertain the identity of persons owning a beneficial ownership interest of at least 20% as provided in the CMTSPA (Section 76 of the ILLCA). Thereafter, an annual attestation report on beneficial ownership would be required to be submitted on the ILLCA pursuant to Section 18A.

341. Under Section 81 of the ILLCA, an ILLC may become re-domiciled in a foreign jurisdiction. An application to transfer domicile out of Antigua and Barbuda is filed with the FSRC (Section 82). The FSRC issues a certificate of departure and, as of the date of the certificate, the limited liability company will be deemed to have ceased to be an ILLC domiciled in Antigua and Barbuda (Section 83). There is no specific requirement concerning the retention of records by the FSRC; however, the ILLCs should have complied with the requirements imposed by the laws of Antigua and Barbuda prior to the departure,[72] including the annual attestation on beneficial ownership (as described in the preceding paragraph), and the records will be retained by the service provider for six years after termination of the client relationship.

ILLCs which ceased to exist

342. Under Section 63 of the ILLCA, an ILLC may be dissolved and its affairs wound up upon the happening of the first to occur of the following: (a) when an event specified in the operating agreement occurs; (b) when all of the members entitled to vote consent to dissolution in writing; (c) when judicial dissolution is decreed under Section 65; and (d) when administrative dissolution is determined by the FSRC under Section 64.

343. With respect to the circumstances described in (a) to (c), an ILLC is under the duty to file a written notice with the FSRC, which includes a statement that the records and documents of the company be kept for a period of six years from the date of the notice, the location at which they will be kept and the person who will have custody or access to such location. The ILLCA does not require that this person be domiciled in Antigua and Barbuda. There is no procedure for restoring the ILLC once dissolved.

344. An administrative dissolution under Section 64 takes place on the failure of an ILLC to pay the annual registration fee or maintain a registered agent for a period of 180 days. The ILLC is struck from the register by the FSRC. In such circumstances, the information should be available and retained by the latest registered agent. An application to restore an ILLC

72. Under Section 82(2)(d) of the ILLCA, the application to transfer domicile out of Antigua and Barbuda must set forth that that the ILLC at the time of application is not in breach of any obligation imposed on it by the ILLCA or any other law of Antigua and Barbuda.

can be made within three years of the date of removal and dissolution (Section 64 of the ILLCA). The application for reinstatement shall show either that the grounds for dissolution did not exist or that they have been eliminated. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the ILLC resumes carrying on its business as if the administrative dissolution had never occurred. Accordingly, the information should be available with the registered agent.

345. There is no special provision concerning the document retention, however under Section 67(5) where the court is involved in winding up affairs of the ILLC, the court may make the orders it deems proper in all matters in connection with the dissolution or in winding up the affairs of the ILLC.

346. Whilst the provisions under the ILLCA do not ensure the retention of documentation within the reach of competent authorities and – with respect to the administrative dissolution – its retention for the required minimum period, the ownership information will be available through an AML-obliged service provider.

A.2. Accounting records

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

347. Deficiencies concerning the legal obligation to maintain comprehensive accounting records by legal entities were initially identified in the Phase 1 peer review of Antigua and Barbuda, published in 2011. These deficiencies were rectified through the amendments reviewed in the supplementary review in 2012. The amended law of Antigua and Barbuda expressly requires all domestic companies, foreign companies, relevant partnerships (i.e. those that carry on a business in Antigua and Barbuda), international trusts, international foundations and ILLCs to keep comprehensive accounting records, including underlying documentation, for at least five years. The 2014 Report (Phase 2) noted the above-mentioned improvements but identified some remaining fundamental gaps. Element A.2 was determined by the 2014 Report to be “not in place” as it was not clear whether the accounting obligations applicable to IBCs and ordinary trusts not carrying on business in Antigua and Barbuda cover underlying documentation and a minimum record retention period of five years. In addition, there were no penalties for non-compliance with the obligation to keep accounting records. Accordingly, Antigua and Barbuda was recommended to amend and clarify its laws to close these gaps.

348. This peer review recognises improvements made in 2014, after the publication of the 2014 Report, by Antigua and Barbuda to stipulate that the relevant records must be maintained by IBCs for a minimum of five years from the date on which the transaction took place and to establish sanctions. Yet, there is no requirement to retain the records after the IBC ceased to exist. Further, no changes occurred with respect to ordinary trusts not carrying on business in Antigua and Barbuda.

349. There are still no sanctions for the following entities that do not meet their accounting record keeping obligations: international limited liability companies, international trusts, and international foundations.

350. In view of the legal changes in relation to IBCs, Element A.2 is thus determined as "in place but needs improvement".

351. On the implementation in practice, the 2014 Report concluded that during the review period, Antigua and Barbuda did not have a regular oversight programme in place to monitor compliance with the accounting record keeping obligations. Also, there were no sanctions for non-compliance with the accounting record keeping obligations. As a result, this element was rated as "Non-Compliant". As no or only limited progress has been reported by Antigua and Barbuda in the supervisory activity in relation to the obligations of maintaining accounting records by all relevant entities and arrangements, this report concludes that Antigua and Barbuda does not have a comprehensive oversight programme and keeps the rating as "Non-Compliant".

352. During the review period, Antigua and Barbuda received two requests for accounting information in relation to IBCs. The competent authority failed to exercise its access rights, which will be further considered under Element B.1, and therefore it is not clear whether the information was available.

353. The conclusions are as follows:

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

Deficiencies/Underlying factor	Recommendations
The accounting records of International Business Companies must be kept at the service provider's office or other place(s) within or outside Antigua and Barbuda. The legal framework does not ensure that a person in Antigua and Barbuda is in possession of, or has control of, or has the ability to obtain, such information. Regardless of where accounting records are kept, the standard requires that jurisdictions have a system that permits the authorities to gain access to such records in a timely manner. There is no requirement to submit all or part of the accounting information routinely to any authority in Antigua and Barbuda under any law. The obligation of the company service providers is limited to maintaining a written record of the physical address of the place or places at which the records are kept. If the entity does not comply with the request, the company service provider cannot be sanctioned for non-compliance of its client. The only available course of action is to apply sanctions on the entity itself. In the cases where the entity has no or minimal presence in Antigua and Barbuda, sanctions are unlikely to have the expected deterrence. Whilst the failure of an international business company to respond to a request may result in its striking off, it is not clear how the retention of records will be ensured in these circumstances. Accordingly, the sanctions are not adequate and it is highly unlikely that the requested information would be available to the authorities in all cases.	Antigua and Barbuda should ensure that international business companies are required to keep their accounting records in Antigua and Barbuda, or ensure that a person in Antigua and Barbuda is in possession of, or has control of, or has the ability to obtain, such information and that the system in place secures the availability of such records in a timely manner, including through adequate sanctions, when IBCs keep accounting records and underlying documentation at a place(s) outside of Antigua and Barbuda.
There are no penalties for non-compliance with the obligation to keep accounting records applicable to international trusts, international foundations and international limited liability companies, including after they cease to exist.	Antigua and Barbuda is recommended to establish appropriate sanctions for instances of non-compliance with the obligation to keep accounting records for international trusts, international foundations and international limited liability companies.

Deficiencies/Underlying factor	Recommendations
The common law obligations may not fully ensure that reliable accounting records, including underlying documentations, are maintained by ordinary trusts not carrying on business in Antigua and Barbuda for at least five years in all cases. Moreover, there are no penalties for non-compliance with the obligation to keep accounting records in these circumstances.	Antigua and Barbuda should amend and clarify its laws to ensure that there are clear and comprehensive legal obligations requiring ordinary trusts not carrying on business in Antigua and Barbuda to keep reliable accounting records meeting the requirements of the Terms of Reference in all cases for at least five years. In addition, appropriate sanctions for instances of non-compliance should be established.
The accounting records and underlying documentation retention periods for domestic companies (including non-profit), foreign companies, relevant partnerships registered as a company, international limited liability companies, international trusts and international foundations conform to the standard that requires information to be available for at least five years after the legal entity or arrangement ceases to exist, albeit it is not clear whether this requirement applies to the legal entities and arrangements which are struck from the register. Further, it is not clear who is responsible for maintaining the records after the winding up of domestic companies (including non-profit), foreign companies and partnerships registered as a company. The retention obligation is imposed on the dissolved international limited liability company. As regards international trusts and international foundations, a trustee and an international foundation council respectively will be responsible for the document retention when they cease to exist. Whilst at least one trustee and one foundation council member must be a domiciliary of Antigua and Barbuda, there is no explicit requirement that the accounting records and underlying documentation are retained by such domiciliary. This raises concerns as to the availability of information in a timely fashion.	Antigua and Barbuda should clarify accounting records and underlying documentation retention requirements for domestic companies (including non-profit), foreign companies, relevant partnerships registered as a company, ILLCs, international trusts and international foundations (including by specifying who the nominated persons to retaining such records are where it is not specified under the current law) after they cease to exist, and ensure that the system in place enables the availability of information in a timely fashion when such records are kept at a place(s) outside of Antigua and Barbuda.

Deficiencies/Underlying factor	Recommendations
Whilst accounting records must be maintained by international business companies for a minimum of five years from the date on which the transaction took place, there is no requirement to maintain such records for at least five years after the international business company ceased to exist. This concern also applies to partnerships which are not registered as a company. Moreover, there are no penalties for non-compliance with the obligation to keep accounting records in these circumstances.	Antigua and Barbuda should amend and clarify its laws to ensure that there are clear and comprehensive legal obligations requiring international business companies (and partnerships that are not registered as a company) which ceased to exist to keep reliable accounting records; meeting the requirements of the Terms of Reference in all cases for at least five years; indicating who will be the person that will be responsible for keeping the accounting books and the underlying documentation; and ensuring that the system in place enables the availability of information in a timely fashion when such records are kept at a place(s) outside of Antigua and Barbuda. In addition, appropriate sanctions for instances of non-compliance should be established.
There is no legal requirement that international business companies comply with record keeping requirements in order to be restored.	Antigua and Barbuda is recommended to introduce a legal requirement that international business companies comply with record keeping requirements in order to be restored to ensure the availability of accounting information in all instances.
The law of Antigua and Barbuda allows for corporate mobility of international business companies and international limited liability companies. Such companies may become re-domiciled in a foreign jurisdiction. There is no specific requirement concerning the retention of accounting records in such circumstances.	Antigua and Barbuda is recommended to ensure that all accounting information is consistently available in relation to international business companies and international limited liability companies that re-domicile out of Antigua and Barbuda for a minimum period of five years.

Practical Implementation of the Standard: Non-Compliant

Deficiencies/Underlying factor	Recommendations
There is a risk relating to the availability of accounting records of struck-off international business companies. As they do not lose their legal personality, they might be still conducting business overseas for which Antigua and Barbuda is uninformed and accounting records of these activities might not be available.	Antigua and Barbuda is recommended to speedily dissolve struck-off companies to ensure the availability of accounting information in all instances.
During the review period, Antigua and Barbuda did not have a comprehensive oversight programme in place to monitor compliance with the accounting record keeping obligations by all relevant entities and arrangements. First, there is no active supervision or monitoring by the Intellectual Property and Commerce Office of the company law obligation to maintain accounting records and underlying documents by domestic companies (including non-profit), foreign companies and partnerships registered as companies and file annual financial returns. Second, the average filing rate of annual tax returns is low and dropping (from 27% of all companies registered with the Inland Revenue Department in 2019 to 22% in 2021). The Inland Revenue Department did not report any targeted enforcement measures taken to secure the filing of annual tax returns, despite low compliance rates. Only a small number of companies have been audited, dropping from about 5% in 2019 to 0.89% in 2021, and almost exclusively offsite due to the impact of COVID-19. Third, the supervisory activity over international business companies has focused only on the service providers and the availability (and completeness) of accounting records of service providers' clients has not been routinely verified, as international business companies are not obliged to keep their accounting records at the company service provider's office at all times. No international business companies have been examined. No sanctions have been applied for any violation of record-keeping obligations.	Antigua and Barbuda should put in place a comprehensive oversight programme to supervise compliance with the obligations to maintain accounting records by all relevant legal entities and arrangements in line with the standard. Antigua and Barbuda should also exercise its enforcement powers to ensure that accounting records for all relevant entities and arrangements are fully available in practice.

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

354. The tax legislation of Antigua and Barbuda establishes accounting record keeping requirements for all persons carrying on a business in Antigua and Barbuda and who may be taxable in Antigua and Barbuda. In respect of other legal entities, in particular the tax exempt entities in the offshore sector, the requirements to keep accounting records have been enhanced over time with several amendments in 2011, 2014 and 2017.[73]

355. While now all legal entities and arrangements (except ordinary trusts not carrying on business in Antigua and Barbuda) are subject to the requirement to maintain the accounting records and underlying documentation, the legal framework is still not fully in line with the standard due to some issues remaining open with regards to the retention rules and applicable sanctions.

Onshore entities: Companies and partnerships

356. Ordinary and non-profit companies, foreign companies and partnerships, must keep and maintain accounting records in Antigua and Barbuda to meet their obligations under the Companies Act (CA), the Income Tax Act, Antigua and Barbuda Sales Tax Act (ABSTA) and the 2018 Tax Administration and Procedures Act (2018 TAPA). The relevant provisions were summarised in the 2014 Report (paragraphs 150-157, 158-162 and 169-170) and have remained unchanged. They meet the standard.

Company Law

357. A company is required to retain all accounting records that (i) correctly explain all transactions; (ii) enable the financial position of the entity to be determined with reasonable accuracy at any time; and (iii) allow financial statements to be prepared (Section 154(A)(1) of the CA for domestic companies and Section 356(A)(1) of the CA for foreign companies). The accounting records should include underlying documentation, such as invoices, contracts, purchase orders, delivery notes and bank statements which should reflect details of (i) all sums of money received and expended

73. Tax exemptions for IBCs were repealed by the Law Miscellaneous (Amendments) Act No. 26 of 2018, which also provided that IBCs are now permitted to conduct business in Antigua and Barbuda, subject to the additional registration and other relevant requirements (Section 4A). Accordingly, for IBCs which will carry on with conducting business internationally, they will be subject to the requirements envisaged by Section 130A IBCA. For the IBCs that choose to do business in Antigua and Barbuda, they will be taxed at the applicable domestic rate under the Income Tax Act and will be subject to the accounting obligations pursuant to Section 77 of the TIE (Amendment) Act 2011, as amended in 2011.

and the matters in respect of which the receipt and expenditure takes place; (ii) all sales and purchases and other transactions; and (iii) the assets and liabilities of the entity. Such records must be retained for a minimum period of six years from the date of winding up of a domestic company and foreign company respectively (this provision does not cover the retention of records for companies which continue to exist and this obligation is created by tax law – see below).

358. Section 154 of the CA creates the obligation to file annual financial returns to the Intellectual Property and Commerce Office (IPCO) for a company that is a public company, or the gross revenue of which exceeds XCD 4 000 000 (USD 1 480 000) or the assets of which as shown in those financial statements exceed XCD 2 000 000 (USD 740 000), or such greater amounts as may be prescribed. The IPCO will remain in possession of annual financial returns when this type of company is struck off, or dissolved. The IPCO has the statutory obligation to maintain documents in their possession for a period of six years (Section 507 of the CA).

359. In addition, the CA requires the directors of domestic companies to place before their shareholders, at every annual meeting, financial statements pertaining to the latest two financial years. Such financial statements must be prepared in accordance with the standards approved by the Institute of Chartered Accountants of Antigua and Barbuda and must contain at least: (a) a balance sheet; (b) a statement of retained earnings; (c) a statement of income; and (d) a statement of changes in financial position.

360. Non-profit companies are required within 15 days of their annual meetings to submit to the IPCO a financial statement showing the assets and liabilities of the company in the form of a balance sheet and the revenue and expenditure of the company since the date of incorporation or the date of the previous financial statement (Regulation 28 of the Companies Regulations 1997).

361. Where a domestic partnership operates as an ordinary company, it will be subject to Section 154A of the CA. For a foreign partnership that operates as a foreign company under the CA the accounting records will be available by virtue of Section 356A of the CA. However, any partnerships which are not registered as a company under the CA (see paragraph 258 above), will not be subject to these company law requirements. Their accounting records will be available by virtue of tax law, as described below (see also paragraph 262 above).

362. Any person guilty of an offence under the CA or Regulations is liable on summary conviction to a fine of XCD 5 000 (USD 1 850), pursuant to Sections 154 and 356 of the CA.

Tax Law

363. The Income Tax Act and the 2018 TAPA imposes similar, although not identical, accounting requirements on taxpayers, which are defined by the Income Tax Act as any person who is engaged in any business by way of trade (i.e. any trading entity with stocks in excess of XCD 500) or in any profession or required to make any return under the Income Tax Act.[74] As such, IBCs that have no activity in the jurisdiction are not taxpayers and not subject to the requirements below.

364. Antigua and Barbuda explained that the Income Tax Act and the 2018 TAPA are not identical because the legal context is different; notwithstanding, the same result is achieved of creating the legal obligation that reliable accounting records are kept for all relevant entities and arrangements.

365. Under Section 77 of the Income Tax Act and Section 22 of the 2018 TAPA, the taxpayer is required to keep and maintain in Antigua and Barbuda and in the English language, books of accounts, sufficient to record all transactions in order to ascertain the gains and profits made or the loss incurred in respect of these transactions. In addition to the books of account, any source documents and underlying documentation utilised in the creation of the books of account and the underlying documentation must be kept. Source documents is defined to include but not limited to sales and purchase invoices, costing documents, bookings, diaries, purchase orders, delivery notes, bank statements, contracts and all documents which relate to any element of the transaction. All such records have to be retained for a minimum period of seven years from the date on which the transaction took place. Failure to do so is an offence and attracts upon conviction, a fine of XCD 10 000 (USD 3 700) or imprisonment for six months. However, it is not clear who will be imprisoned where the "person" who is obliged to keep the records is a company. In addition to any penalty imposed, that person shall be liable to pay any tax to which it may be assessed.

366. In addition, Section 22 of the 2018 TAPA adds that a taxpayer must retain source documents and underlying documentation utilised in the creation of the records and accounts that (i) correctly explain all transactions; (ii) enable the financial position of the entity to be determined with reasonable accuracy at any time; and (iii) allows financial statements to be prepared. The records and accounts should contain details of (i) all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place; (ii) all sales and purchases and other

74. Similarly, Section 22 of the 2018 TAPA refers to a person engaged in business or independent professional activity or who is required to make a return under tax legislation.

transactions; and (iii) the assets and liabilities of the entity. The same details are not contained in the Income Tax Act.

367. The Income Tax Act also requires all persons engaged in business in Antigua and Barbuda to file annual tax returns (no threshold applies), which must be accompanied by an audited financial statement (verified by a certified auditor), which must include a balance sheet, an income statement and a cash flow statement (Section 49A of the Income Tax Act, read together with the Corporation Tax Guide 2011). This obligation includes non-profit companies but does not apply to partnerships which do not have to file audited financial statements with their tax returns. Failure to do so is an offence and attracts upon summary conviction a penalty not exceeding XCD 5 000 (USD 1 850), and in default of payment to imprisonment with or without hard labour for a term not exceeding six months. This means that some minimum accounting information is available directly with the tax administration.

368. The ABSTA complements these obligations: all persons which supply goods and services the value of which meet the registration thresholds (XCD 300 000 (USD 111 111) in any 12 month period) are required to register for Antigua and Barbuda Sales Tax (ABST) purposes. Such persons are required to issue sales invoices if they make a taxable supply to another registered person (Section 9 of the ABSTA). Section 38 of the ABSTA requires all registered persons to keep copies of all ABST invoices, credit notes and debit notes issued and received, as well as all customs documentation relating to imports and exports of goods by the person. There is no express requirement for registered persons to keep the relevant documents for at least five years.

369. The accounting record keeping obligations of a company under the Income Tax Act and ABSTA apply similarly to relevant partnerships, including foreign partnerships, that meet the criteria established in the respective Acts (paragraphs 169-170 of the 2014 Report).

International Business Companies (IBCs)

370. The tax requirements applicable to domestic and foreign companies are not applicable to IBCs, so long as they are not carrying on business in Antigua and Barbuda. The only applicable requirements are those in the IBCA and Regulations (unless the IBC has a financial licence; see below). The only obligation which was in place at the time when the 2014 Report was adopted – if required by the articles of incorporation or by-laws of the IBC – was for its directors to present at every annual meeting of the shareholders: (a) financial statements relating separately to the previous two financial years; (b) the report of the auditor, if any; and (c) any further information with respect to the financial positions of the corporation and the results of its

operations (Section 130 of the IBCA). Therefore, the 2014 Report concluded that it was not clear whether the accounting obligations applicable to IBCs covered underlying documentation and a minimum record retention period of five years. Moreover, there were no penalties for non-compliance with the obligation to keep accounting records. Accordingly, Antigua and Barbuda was recommended to amend and clarify its laws to close these gaps.

371. Antigua and Barbuda acted upon this recommendation. The International Business Corporation (Amendment) Act, No. 16 of 2014, introduced Section 130A ("Financial Record") pursuant to which an IBC must keep, at the office of its agent or such other place or places within or outside Antigua and Barbuda, records that (a) are sufficient to show and explain the IBC's transactions; (b) will at any time, enable the financial position of the corporation to be determined with reasonable accuracy; and (c) will allow financial statements to be prepared. Accounting records include invoices, contracts, costing documents, bookings diaries, purchase orders, delivery notes, bank statements, assets and liabilities of the IBC and its subsidiaries, and all documents which relate to sums of money received and expended. The accounting obligations of IBCs now cover the appropriate elements, in accordance with the standard.

372. Records must be maintained for a minimum of five years from the date on which the transaction took place, which satisfies the standard.

373. An IBC that fails to comply with these obligations commits an offence and is liable on summary conviction to a fine of XCD 10 000 (USD 3 700) under Section 130A(6) of the IBCA.

374. Section 130A of the IBCA was further amended by the Law (Miscellaneous Amendments) Act 2017 to require an IBC to respond to a request from the FSRC for accounting records (further discussed in Element B.1 below). Section 335 of the IBCA was amended by the same Act to allow the Director of the IBC Registry to strike an IBC from the register for failing to comply with a request from FSRC (the struck off corporation may subsequently be restored by the Director of the IBC Registry).

375. Specific provisions have been inserted concerning the location of the accounting records. Such records must be kept at the service provider's office or such other place or places within or outside Antigua and Barbuda. If records are not kept at the service provider's office, the IBC must provide the service provider with a written record of the physical address of the place or places at which the records are kept. If records are moved to a different location, the IBC must provide the service provider with the new address within 14 days of the change. The IBCA further requires all IBCs to keep at their registered offices a copy of the financial statements of each of its subsidiaries whose accounts are consolidated in its financial statements (Sections 142 and 144 of the IBCA).

376. Accordingly, the accounting records of IBCs must be kept at the service provider's office or other place(s) within or outside Antigua and Barbuda. The legal framework does not ensure that a person in Antigua and Barbuda is in possession of, or has control of, or has the ability to obtain, such information. Regardless of where accounting records are kept, the standard requires that jurisdictions have a system that permits the authorities to gain access to such records in a timely manner. There is no requirement on IBCs to submit all or part of the accounting information routinely to any authority in Antigua and Barbuda under any law (unless an IBC conducts business in Antigua and Barbuda, or is an international bank, see paragraph 378 below). The obligation of the company service providers is limited to maintaining a written record of the physical address of the place or places at which the records are kept. If the entity does not comply with the request from the FSRC or competent authority, the company service provider cannot be sanctioned for non-compliance of its client. The only available course of action is to apply sanctions on the entity itself. In the cases where the entity has no or minimal presence in Antigua and Barbuda, sanctions are unlikely to have the expected deterrence. Whilst the failure of an IBC to respond to a request may result in the striking of the IBC from the register, it is not clear how the retention of records will be ensured in these circumstances. Accordingly, the sanctions are not adequate and it is highly unlikely that the requested information would be available to the authorities in all cases. **Antigua and Barbuda is recommended to ensure that IBCs are required to keep their accounting records in Antigua and Barbuda, or ensure that a person in Antigua and Barbuda is in possession of, or has control of, or has the ability to obtain, such information and that the system in place secures the availability of such records in a timely manner, including through adequate sanctions, when IBCs keep accounting records and underlying documentation at a place(s) outside of Antigua and Barbuda**.

Additional obligations of licensed IBCs, including international banks

377. An IBC that is a "licensed institution", i.e. licensed by the FSRC to engage in international banking, international trust or international insurance business,[75] must, in respect of all its transactions, obtain the name and number of the account, the type, amount and date of the transaction, and the identity of the party authorising the transaction. In relation to deposits, it must obtain the account name, number and the financial institution from which the funds were drawn. In relation to withdrawals, it must obtain the name, address and where applicable the financial institution and account name and number to whom the funds are disbursed. All the information obtained must be retained for at least five years (Regulation 16, IBCA Regulations 1998).

75. A "licensed institution" is defined under the IBCA Regulations 1998.

378. Additionally, an IBC that is an international bank must as a condition of its licence renewal submit an annual audited return to the FSRC providing an analysis of customers' liabilities to the corporation in respect of loans, advances and other assets of the corporation, a profit and loss statement, a balance sheet, and the statement of assets and liabilities (Section 242 of the IBCA). Such records will be kept for six years (Section 331 of the IBCA).

379. An international bank is also subject to AML requirements, and accordingly must keep for a minimum of six years details relating to all transactions it carries out in the course of its banking business.

380. Enforcement measures in relation to IBCs that are in the business of international banking, trusts and insurance are examined in Element A.3 of this report.

Other actors of the offshore sector

381. The legal obligations of ILLCs, International Trusts and International Foundations have not changed since the 2014 Report (see paragraphs 167, 173 and 175).

382. Section 55A of the International Limited Liability Company Act (ILLCA), Section 42 of the International Trust Act (ITA) and Section 46 of the International Foundation Act (IFA) provide for standard accounting obligations. The obligation applies to their manager(s) to retain all accounting records which (i) correctly explain all transactions; (ii) enable the financial position of the entity to be determined with reasonable accuracy at any time; and (iii) allow financial statements to be prepared. The accounting records should further include underlying documentation, such as invoices, contracts, purchase orders, delivery notes and bank statements which should reflect details of (i) all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place; (ii) all sales and purchases and other transactions; and (iii) the assets and liabilities of the entity. Finally, an ILLC, a trustee or an international foundation council respectively are also required to retain all accounting records (as described in this section) and underlying documentation for a minimum period of six years from the date of dissolution.

383. There are no penalties for non-compliance with the obligation to keep accounting records applicable to international trusts, international foundations and ILLCs, including after they cease to exist, contrary to what the standard requires. **Antigua and Barbuda is recommended to establish appropriate sanctions for instances of non-compliance with the obligation to keep accounting records for international trusts, international foundations and ILLCs**.

Ordinary trusts

384. The accounting record keeping obligations on domestic companies under the Income Tax Act and the ABSTA apply to domestic trusts that carry on a business in Antigua and Barbuda and meet the respective criteria under the Acts.

385. The current obligations of ordinary trusts not carrying on business in Antigua and Barbuda can be summarised as follows (see also paragraph 172 of the 2014 Report). The obligations for the trustee to keep accounting records arise from common law requirements, i.e. the fiduciary duty to the beneficiaries to keep proper records and accounts of their trusteeship and to allow the beneficiaries to inspect the accounts as required (Pearse v Green (1819) 37 E R 327 at 329 and Re Tillot [1892] 1 Ch 86).

386. The common law obligations may not fully ensure that reliable accounting records, including underlying documentation, are maintained by ordinary trusts not carrying on business in Antigua and Barbuda for at least five years in all cases. Moreover, there are no penalties for non-compliance with the obligation to keep accounting records. No changes have been reported by Antigua and Barbuda in response to this recommendation, which is maintained by this report. Accordingly, **Antigua and Barbuda is recommended to amend and clarify its laws to ensure that there are clear and comprehensive legal obligations requiring ordinary trusts not carrying on business in Antigua and Barbuda to keep reliable accounting records; meeting the requirements of the Terms of Reference in all cases for at least five years. In addition, appropriate sanctions for instances of non-compliance should be established**.

Entities that ceased to exist and retention period

387. The tax legislation requires the retention of accounting records for seven years, from the date on which the transaction took place and applies to all types of entities and arrangements that carry on a business in Antigua and Barbuda (including partnerships which are not registered as companies under the CA and trusts). Further, pursuant to Section 154(A)(3) and Section 356(A)(3) of the CA, which apply to domestic, non-profit and foreign companies, as well as relevant partnerships (those registered as a company under the CA), the minimum retention period is six years from the date of winding up. The period is of six years after dissolution/termination of ILLCs, international trusts and international foundations (pursuant to Section 55(8) of the ILLA 2007, Section 42(8) of the International Trust Act 2007, and Section 46(8) of the IFA 2007).

388. The accounting records and underlying documentation retention periods for domestic companies (including non-profit), foreign companies

and partnerships registered as companies conform to the standard that requires information to be available for at least five years after these types of entities cease to exist. It is not clear, however, who is responsible for maintaining the records after the winding up of domestic companies (including non-profit), foreign companies and partnerships registered as companies and whether this requirement applies to the companies that have been struck off the Company Register:

- The lack of a specific direction in law is partly mitigated by the tax law requirements, in particular that of an annual filing of audited financial statements, which are prepared with a certified auditor, to the Inland Revenue Department (IRD). However, the information contained in these statements is limited and does not include the underlying documents that form the basis for the statement. Also, the certified accountant certifying the financial statement may be qualified and located outside Antigua and Barbuda, and the level of his/her involvement in verifying the information provided appears to vary in practice. Antigua and Barbuda confirmed that the mere signature of the financial statement will not trigger AML duties and thus the relevant retention requirements.
- In addition, the authorities of Antigua and Barbuda explained that the accounting information would be available with the liquidator who in practice is typically a certified accountant and subject to the AML laws. However, there is no requirement that a liquidator must be appointed in every case where a company ceases to exist, nor where appointed, that the liquidator must be under the territorial jurisdiction of Antigua and Barbuda. This concern is particularly relevant with respect to the entities which have been struck off. Whilst these circumstances may mitigate the potential gap, the obligations under the AML laws do not extend to the maintenance of the accounting records and underlying documentation of a liquidated company. The retention and disposal of books and papers is at the discretion of the court, a general meeting of members, the committee of inspection or creditors, which are not prohibited by law to set record retention requirements for a period of less than five years (Sections 477 and 486 of the CA).

389. The retention periods for ILLCs, international trusts and international foundations also conform to the standard that requires information to be available for at least five years after the legal entity or arrangement ceases to exist, albeit it is not clear whether this requirement applies to the legal entities and arrangement which are struck from the register. However, as described in paragraphs 342 to 346, the provisions under the ILLCA do not ensure the retention of documentation within the reach of competent

authorities and as the retention obligation is imposed on the dissolved ILLC (see paragraph 382), this raises concerns about the availability of accounting records. As regards international trusts and international foundations, a trustee and an international foundation council respectively will be responsible for the document retention when they cease to exist. Whilst at least one trustee and one foundation council member must be a domiciliary of Antigua and Barbuda, there is no explicit requirement that the accounting records and underlying documentation are retained by such domiciliary. In addition, as explained in paragraph 382 above, there are no sanctions for the failure to meet accounting record keeping obligations.

390. Therefore, **Antigua and Barbuda should clarify accounting records and underlying documentation retention requirements for domestic companies (including non-profit), foreign companies, relevant partnerships registered as a company, ILLCs, international trusts and international foundations (including by specifying who the nominated persons retaining such records are where it is not specified under the current law) after they cease to exist, and ensure that the system in place enables the availability of information in a timely fashion when such records are kept at a place(s) outside of Antigua and Barbuda**. Antigua and Barbuda should further ensure that any power to reduce the record retention period after winding up of domestic (including non-profit) and foreign companies, and partnerships registered as a company is exercised by the relevant persons in line with the requirement of retaining accounting records for at least five years even after an entity has ceased to exist (see Annex 1).

391. Partnerships which are not registered as a company under the CA are subject to the tax requirement to keep records (see paragraphs 363 to 367). However, there is no requirement to maintain such records for at least five years after the relevant partnership ceased to exist.

392. Similarly, under Section 130A of the IBCA, accounting records must be maintained by IBCs for a minimum of five years from the date on which the transaction took place. However, there is no requirement to maintain such records for at least five years after an IBC ceased to exist, and there is no indication as to who is responsible for keeping the accounting books and the underlying documentation. Antigua and Barbuda explained that in such instances the records would be available with the liquidator who in practice is typically a certified accountant and subject to the AML laws and to some extent with the registered agent (if kept at his/her office). Whilst these circumstances may somewhat mitigate the gap in practice, the obligations under the AML laws do not extend to the maintenance of the accounting records and underlying documentation of a liquidated company. There is also no requirement that a liquidator be under the territorial jurisdiction of

Antigua and Barbuda. Furthermore, the allocation of custody of the documents and records is at the discretion of the Director of IBCs or the court, and the court may oblige record retention requirements for a period of less than 5 years (see paragraph 138 above). Therefore, the accounting records and underlying documentation may not be available to the competent authority in a timely fashion.

393. To sum up, whilst accounting records must be maintained by IBCs for a minimum of five years from the date on which the transaction took place, there is no requirement to maintain such records for at least five years after the IBC ceased to exist. This concern also applies to partnerships which are not registered as a company. Moreover, there are no penalties for non-compliance with the obligation to keep accounting records in these circumstances. Accordingly, **Antigua and Barbuda is recommended to amend and clarify its laws to ensure that there are clear and comprehensive legal obligations requiring IBCs (and partnerships not registered as a company) which cease to exist to keep reliable accounting records; meeting the requirements of the Terms of Reference in all cases for at least five years; indicating who will be the person that will be responsible for keeping the accounting books and the underlying documentation; and ensuring that the system in place enables the availability of information in a timely fashion when such records are kept at a place(s) outside of Antigua and Barbuda. In addition, appropriate sanctions for instances of non-compliance should be established**.

394. Further, there is a risk relating to the availability of accounting records of struck-off IBCs. As they do not lose their legal personality, they might be still conducting business overseas for which Antigua and Barbuda is uninformed and accounting records of these activities might not be available. **Antigua and Barbuda is recommended to speedily dissolve struck-off companies to ensure the availability of accounting information in all instances**.

395. Finally, there is no legal requirement that IBCs comply with record keeping requirements in order to be restored. **Antigua and Barbuda is recommended to introduce a legal requirement that IBCs comply with record keeping requirements in order to be restored**.

Corporate mobility and retention period

396. The law of Antigua and Barbuda allows for corporate mobility of IBCs and ILLCs. As described in paragraph 142 above, an IBC incorporated under the IBCA can be continued/re-domiciled in another country, as if it had been incorporated under the laws of that country, and cease to be a corporation under the IBCA. Similarly, and as described in paragraph 341 above, an ILLC may become re-domiciled in a foreign jurisdiction. There is

no specific requirement concerning the retention of accounting records in such circumstances. **Antigua and Barbuda is recommended to ensure that all accounting information is consistently available in relation to IBCs and ILLCs that re-domicile out of Antigua and Barbuda for a minimum period of five years**.

Implementation and enforcement of accounting obligations

397. The company law sets out the obligation to maintain accounting records and underlying documentation for onshore companies, including an obligation imposed on public companies and the companies that met certain thresholds in relation to their gross revenue, or the value of assets, to file annual financial returns to the IPCO (see paragraphs 357 et seq.). Concerning the supervision of the obligations to maintain accounting records under the Companies Act, the IPCO explained that it views its duties as more of a repository of information. It does not carry out active enforcement action with respect to the obligations to maintain accounting records. An obligation to file annual financial returns will be enforced by the Registrar when a "Certificate of Good Standing" is requested by the relevant entity, but this method has its limitations already covered above (see paragraph 151). As of 31 December 2022, there was only one public company registered in Antigua and Barbuda. Antigua and Barbuda did not provide information as to the number of companies that met the filing threshold, nor the compliance rate with this obligation.

398. The tax law requires that all persons engaged in business in Antigua and Barbuda (which may include IBCs) maintain accounting records and underlying document and also file annual tax returns, which must be accompanied by an audited financial statement (see paragraphs 363 to 369). To enforce these obligations, routine tax audits are conducted by the IRD. The IRD carried out 155 tax audits (of which 12 were onsite) in 2019, 63 tax audits in 2020 (none was onsite), and 29 tax audits in 2021 (none was onsite). The percentage of tax audits has decreased from about 5% in 2019 to 0.89% in 2021. During the period under review, the onsite inspection programme was impacted by the COVID-19 pandemic. Examinations have been carried out almost exclusively offsite. Antigua and Barbuda explained that most tax audits are conducted on a risk-based basis. There is no random audit, however, on occasions, audits may be conducted on different business type sectors regardless of the risks of each taxpayer within that sector.

399. Where accounting records were found to have not been kept or properly maintained, the IRD may impose penalties under the tax provisions set out above. The penalty also includes raising a default tax assessment based on the IRD's estimates if the accounting records were found to be insufficient for the IRD to accurately assess the tax payable by the entity.

Antigua and Barbuda did not report any penalties applied during the review period due to the breach of obligations to maintain accounting records and underlying documentation.

400. As shown in paragraph 170, the average filing rate of annual tax returns by companies has dropped from 27% in 2020 to 22% in 2022. Antigua and Barbuda clarified that the non-filers include active and inactive taxpayers. No penalties were imposed by the IRD on defaulting taxpayers. However, Antigua and Barbuda explained that most of the large and medium taxpayers that have not filed have been assessed using a best of judgement assessment.[76] No action has been taken in relation to small taxpayers. No other enforcement actions have been carried out. Antigua and Barbuda could not provide the number of inactive taxpayers as compliance efforts are focused on large and medium taxpayers.

401. With respect to IBCs, the FSRC has conducted 3-4 onsite examinations annually of the company services providers during the review period. However, the FSRC in their routine audits do not verify the availability (and completeness) of accounting records of service providers' clients. As explained above in paragraphs 373 and 376, IBCs are not obliged to keep their accounting records at the company service provider's office at all times and the obligation of the company service providers is limited to maintaining a written record of the physical address of the place or places at which the records are kept. No sanctions have been applied by the FSRC neither in relation to the obligations related to the maintenance of the written records by the service providers, nor the accounting records and underlying documentation by IBCs. Although Antigua and Barbuda observed that following the onsite examination the service providers may have been issued supervisory letters with strict timelines to address the findings, it did not specify whether in practice any accounting-related deficiencies have been targeted or identified in the course of these examinations.

402. Antigua and Barbuda explained that the assessment of availability of accounting records which are required to be maintained under Section 130A of the IBCA has mainly been carried out from an offsite perspective through requesting the submission of this information to test the access to the information and timeliness. Antigua and Barbuda confirmed that the FSRC has exercised its power to request accounting records from IBCs in practice. While an entity may be struck from the register for failure to comply with a request from the FSRC to provide the requested information, this has

76. Antigua and Barbuda explained that when a taxpayer fails to file, or in rare cases, if the filings cannot be substantiated by any records, a tax assessment is made using other parameters, such as ratios according to the industry average and/or a compilation of third-party source information on that taxpayer.

not been done as the information was provided and there was no need to take enforcement action. However, Antigua and Barbuda did not specify on how many occasions the information has been requested, whether these requests took place during the review period and whether any deficiencies have been identified. Antigua and Barbuda however reported that the FSRC plans to publish guidance on the specific expectations of CMTSP which will include the handling of records, including accounting records.

403. No further measures have been reported by Antigua and Barbuda in the supervisory activity in relation to the obligations of maintaining accounting records by IBCs, except one IBC that was audited by the IRD as it carried out economic activity in Antigua and Barbuda without registration with the tax authorities.

404. The FSRC's examinations of the service providers have not yet covered the availability and completeness of accounting records for the two active international trusts to ensure that the obligations to maintain accounting records are being adhered to by the trustee, as they were registered in 2022 (see paragraph 307).

405. Against this background, this report concludes that, during the review period, Antigua and Barbuda did not have a comprehensive oversight programme in place to monitor the compliance with the accounting record keeping obligations by all relevant legal entities and arrangements in line with the standard. First, there is no active supervision or monitoring by the IPCO of the company law obligation to maintain accounting records and underlying documentation by domestic companies (including non-profit), foreign companies and partnerships registered as companies and to file annual financial returns. Second, the average filing rate of annual tax returns is low and dropping (from 27% of all companies registered with the Inland Revenue Department in 2019 to 22% in 2021). The IRD did report any targeted enforcement measures taken to secure the filing of annual tax returns, despite low compliance rates. Only a small number of companies have been audited, dropping from about 5% in 2019 to 0.89% in 2021, and almost exclusively offsite due to the impact of COVID-19. Third, the supervisory activity over IBCs has focused only on the service providers and the availability (and completeness) of accounting records of service providers' clients has not been routinely verified, as IBCs are not obliged to keep their accounting records at the company service provider's office at all times. No IBC has been examined. No sanctions have been applied for any violation of record-keeping obligations. **Accordingly, Antigua and Barbuda is recommended to put in place a comprehensive oversight programme to supervise compliance with the obligations to maintain accounting records by all relevant legal entities and arrangements in line with the standard. Antigua and Barbuda should also exercise its enforcement**

powers to ensure that accounting records for all relevant entities and arrangements are fully available in practice.

Availability of accounting information in EOIR practice

406. During the period under review, Antigua and Barbuda received two EOI requests pertaining to the accounting information and underlying documentation of IBCs:

- a requesting jurisdiction asked for documents confirming certain transactions (contracts, invoices, as well as a contract between the IBC incorporated in Antigua and Barbuda and another company resident in the requesting jurisdiction). In response, only a "Corporate File Report" was provided by Antigua and Barbuda. Contrary to the peer input provided, Antigua and Barbuda takes the view that this file contained the information requested.
- a requesting jurisdiction sought to obtain the transactions history of its resident taxpayer (natural person) carried out through a crypto-assets portfolio management platform, which was run by a non-bank IBC incorporated in Antigua and Barbuda.

407. No conclusions can be drawn from this practice as to the availability of information for the purpose of Element A.2. In both instances, the competent authority failed to seek out all possible sources of information by requesting information directly from the relevant service provider and/or the IBC itself, which will be further considered under Element B.1.

408. During the period of review, Antigua and Barbuda did not receive any EOI requests pertaining to the accounting information of any other types of entities, including trusts. There are no ILLCs or International Foundations in Antigua and Barbuda.

A.3. Banking Information

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

409. The 2014 Report concluded that the legal framework in Antigua and Barbuda ensured that banking information was available for all account holders and thus the legal and regulatory framework was determined as "in place". This peer review, which evaluates the situation in Antigua and Barbuda against an enhanced standard incorporating the availability of information on beneficial owners of account holders, determined that Element A.3 is "in place, but certain aspects of the legal implementation of the element need improvement".

410. The implementation in practice was rated as Compliant in the 2014 Report. The present review rates Antigua and Barbuda as "Largely Compliant".

411. During the review period, Antigua and Barbuda received four requests for banking information relating to both domestic and international banks. Peers were satisfied with the information provided.

412. The conclusions are as follows:

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

Deficiencies/Underlying factor	Recommendations
Banks must ensure that all Customer Due Diligence documents are kept up to date. However, there is no specified frequency of updating beneficial ownership information when no event triggers an update. Therefore, beneficial ownership information on bank accounts may not always be up to date.	Antigua and Barbuda is recommended to ensure that banks keep up-to-date beneficial ownership information on all accounts.
Where a customer acts or appears to act for another person, banks must take reasonable measures for establishing the identity of that person, and where the customer acts in a professional capacity as an attorney, notary public, chartered accountant, certified public accountant, auditor or nominee of a company on behalf of another person, reasonable measures must be taken for the purpose of establishing the identity of that person on whose behalf the customer acts. This does not conform to the standard that requires the identification of the person behind a nominee (nominator and beneficial owners) to always be identified, the "reasonable measures" referring to the verification of the identity.	Antigua and Barbuda is recommended to ensure that accurate identity information on the nominator(s) and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person.
Whilst the principal elements required by the standard with respect to the identification of beneficial owners of bank accounts applicable to legal entities are present, the AML/CFT framework does not specifically indicate that the controlling ownership interest applies to any person who controls the company acting directly or indirectly, and acting individually or jointly. Further, there is no specific guidance on how to identify beneficial owners of legal entities under the three-step approach and the default position of senior management appears to refer to the impossibility of identifying a person with a "controlling ownership interest" whereas control through others means should be researched first. This may lead to beneficial ownership information in respect of bank accounts not being available in line with the standard in all cases.	Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) in the AML/CFT framework is in line with the standard and suitable guidance on identifying beneficial owners of legal entities is provided to all banks so that beneficial owners of bank accounts are correctly identified as required under the standard.

Deficiencies/Underlying factor	Recommendations
Whilst banks are required to identify natural persons who ultimately own or control the trust-client as part of their customer due diligence measures, the verification of identity does not extend to the settlor(s) and protector(s), contrary to the requirement of the standard.	Antigua and Barbuda is recommended to ensure that banks are required to verify the identity of settlor(s) and protector(s) of the trusts which have an account with a bank in Antigua and Barbuda as required under the standard.
Whilst the AML laws of Antigua and Barbuda set the requirement to obtain the beneficial ownership information with respect to legal arrangements, the determination of beneficial owners for partnerships largely follows the definition of companies and in the absence of clear guidance to be followed for identifying the beneficial owners of partnerships which are not registered as companies, doubts remain as to whether beneficial ownership information is available to the competent authorities.	Antigua and Barbuda is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships.
There is no applicable definition and guidance in respect of international foundations which may be created under the International Foundations Act 2007 and foundations that may come from foreign jurisdictions and open accounts in Antigua and Barbuda to identify their beneficial owners in line with the standard.	Antigua and Barbuda is recommended to ensure that beneficial ownership information is determined in line with the standard in respect of all foundations having a bank account in Antigua and Barbuda.

Practical Implementation of the Standard: Largely Compliant

Deficiencies/Underlying factor	Recommendations
The compliance level with the customer due diligence requirements was estimated by the Office of National Drug and Money Laundering Control Policy (ONDCP) as “moderate” (i.e. major improvements needed) and with the record-keeping obligations as “high” (i.e. minor improvements needed) for international banks. No examinations of international banks have taken place in 2021-22 in relation to the AML-related aspects by the FRSC or ONDCP (except ongoing offsite monitoring). Whilst some deficiencies were identified in the course of examinations carried out in 2019-20, they have not been regarded as serious and no sanctions have been imposed. The supervision over domestic banks has been recently strengthened through the Eastern Caribbean Central Bank.	Antigua and Barbuda is recommended to continue and strengthen its supervision and oversight activities of domestic and international banks to ensure the availability of banking information in line with the standard.

A.3.1. Record-keeping requirements

413. Antigua and Barbuda has 4 domestic banks, which provide traditional banking services to domestic customers, including savings and checking accounts, deposits, loans, and 9 international banks, which provide financial services in any currency that is foreign in every country of the CARICOM Grouping, principally to non-residents. The international banks are IBCs and can hold Class I International Banking Licence (9), Class II International Banking Licence (0), or Class III Composite International Banking and Trust Licence (0).

Availability of banking information and beneficial ownership information under the AML framework

414. The 2014 Report concluded that banks' record-keeping requirements and their implementation in practice were in line with the standard. However, the standard was strengthened in 2016 to require that beneficial ownership information be available in respect of all account holders, which is considered in this section.

415. The availability of banking information and beneficial ownership information with respect to account holders in Antigua and Barbuda is regulated by the AML laws, which, as explained earlier in this report, comprises the Money Laundering Prevention Act (MLPA), the Money Laundering (Prevention) Regulations (MLPR) and the Money Laundering & Financing of Terrorism Guidelines for Financial Institutions (MLFTG).

416. All persons carrying on banking business (including IBCs that are international banks) from or within Antigua and Barbuda must be licensed and are subject to Antigua and Barbuda's AML regulations. As such, domestic and international banks are legally obliged to obtain and maintain beneficial ownership information on account holders. The concept of beneficial ownership information is not defined in these acts. However, beneficial ownership information is available to some extent through the "customer identification" and "evidence of identity" requirements, which require that the natural persons that ultimately own or control a customer being a legal person, trust or other legal arrangement be identified.

Money Laundering Prevention Act (MLPA)

417. The MLPA sets the core requirements related to the retention of financial records, carrying out the customer identification and the associated penalties.

418. A financial institution must retain, or retain a copy of: (i) each customer generated financial transaction document; and (ii) each financial

transaction document, the retention of which is necessary to preserve a record of the financial transaction concerned. If a financial institution contravenes these requirements, it commits an offence and is liable (a) on summary conviction to a fine not exceeding XCD 500 000 (USD 185 000); or (b) on conviction on indictment to a fine not exceeding XCD 1 000 000 (USD 370 000) (Section 12 of the MLPA).

419. According to Section 12B of the MLPA, the "minimum retention period" is six years, starting from (a) the closure of the account or deposit box, if the document relates to their opening; (b) after the day on which the transaction takes place, in any other case.

420. The MLPR establishes an obligation for banks to obtain and record identity information of customers who seek to form a business relationship or undertake certain one-off transactions with the bank (i.e. suspicious transactions, transactions above XCD 25 000 (USD 9 250) and wire transfers).

421. Opening or operating an account in a false name is prohibited (Section 11A of the MLPA).[77] A person which commits such an offence is liable on summary conviction to a fine not exceeding XCD 500 000 (USD 185 000) or to a term of imprisonment not exceeding two years or to both.[78]

422. The Money Laundering (Prevention) (Amendment) Act, No. 9 of 2021, enables the ONDCP to impose financial penalties for various breaches as prescribed in regulations including (a) for individuals a maximum penalty of XCD 50 000 (USD 18 500); (b) for legal persons a maximum penalty of XCD 500 000 (USD 185 000).

Money Laundering (Prevention) Regulations (MLPR)

423. Regulation 5 of the MLPR provides additional record keeping requirements. Records must be maintained for at least six years after the date of closure of the account and be able to be produced in a timely manner when requested by supervisory and other competent and authorised domestic authorities (Regulation 5(1)). The records that must be maintained include customer due diligence (CDD) information required in Regulation 4, records of business correspondence and transaction records (Regulation 5(2)).

424. Regulation 4 sets CDD procedures, including by requiring banks:

- to establish CDD procedures which apply when it forms a business relationship with a customer

77. Regulation 4(3) (ab) of the MLPR also includes anonymous accounts.
78. Section 5 of the Money Laundering (Prevention) (Amendment) Act 2018, No. 8 of 2018.

- to complete CDD before or in the course of establishing a business relationship or conducting a one-off transaction
- to repeat the identification process when doubts arise about the veracity or adequacy of previously obtained identification data
- to not open or terminate an account or not perform a transaction where satisfactory evidence of identity is not obtained; and to not take further action if the business relationship or the one-off transaction had commenced, unless in accord with the direction from the Supervisory Authority.

425. The financial institution must maintain identification procedures which require the conducting of ongoing due diligence (Regulation 4(3)(l)). However, there is no reference to a specific timeframe regarding updating beneficial ownership information in the MLPR. CDD measures must be applied to existing customers on the basis of materiality and risk,[79] and Regulation 5(1b) stipulates that documents, data or information collected under the CDD process are kept up to date and relevant by undertaking reviews of existing records. An appropriate time to review records is when a transaction of significance takes place, when customer documentation standards change substantially, or when there is a material change in the way that the account is operated. If a financial institution becomes aware at any time that it lacks sufficient information about an existing customer, it should take steps to ensure that all relevant information is obtained as soon as possible.

426. As amended on 27 October 2022, the MLFTG elaborates the requirements contained in Regulation 4(3)(l) MLPR in relation to the ongoing due diligence (Section 2.1.9). Whilst the MLFTG states that a financial institution should ensure that during the lifetime of the business relationships customer profiles are "current" and all changes should be verified with supporting documentation (2.1.10(3)), it does not provide a specific timeframe regarding updating beneficial ownership information.

427. Banks must ensure that all Customer Due Diligence documents are kept up to date when no event triggers an update. However, there is no specified frequency of updating beneficial ownership information. Therefore, beneficial ownership information on bank accounts may not always be up to date. **Antigua and Barbuda is recommended to ensure that banks keep up-to-date beneficial ownership information on all accounts**.

428. As concerns the verification of identity, Regulation 4(3) requires the gathering of "satisfactory evidence of identity" as soon as is reasonably

79. Section 3 of the Money Laundering (Prevention) (Amendment) Regulations 2017, No. 43 of 2017, amending Regulation 2(1).

practicable (after contact is first made between a bank and its customer or in respect of an existing business relationship, at an appropriate time), using reliable, independent source documents data or information (see further paragraph 194 above).

429. Customer identification information under the AML requirements includes the identity of beneficial owners where the bank customer is a legal person, trust or arrangement:

- Measures must be taken to determine who are the natural persons that ultimately own or control the customer, and reasonable measures must be taken to understand the ownership and control structure of the customer.
- Where there is doubt that the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests of the legal person or legal arrangement, the bank should identify the natural person (if any) exercising control through other means.
- Where, however, no natural person who ultimately has a controlling ownership interest is identified, the bank should identify the relevant natural person who holds the position of senior management official.[80]

430. This provision raises several questions concerning its practical application. First, it appears difficult for a bank to identify the beneficial owners of a customer without fully understanding its ownership structure and control (and not merely take reasonable measures to that end). Second, the second step on control through means other than ownership does not refer to trusts (see further paragraphs 434 and 435). Third, the default position of senior management r refers to the impossibility of identifying a person with a "controlling ownership interest" whereas control through others means should be researched first.

431. Regulation 4(3)(e) and (f) provide that where the customer acts or appears to act for another person, reasonable measures must be taken for establishing the identity of that person, and where the customer acts in a professional capacity as attorney, notary public, chartered accountant, certified public accountant, auditor or nominee of a company on behalf of another person, reasonable measures must be taken for the purpose of establishing the identity of that person on whose behalf the customer acts. This does not conform to the standard that requires the identification of the person behind a nominee (nominator and beneficial owners) to always

80. Regulation 4(3)(h) of the MLPR as amended by the Money Laundering (Prevention) (Amendment) Regulations 2017, No. 43 of 2017

be identified, the "reasonable measures" referring to the verification of the identity. During the onsite visit, bank representatives indicated that they apply a cautious approach to CDD and strict documentary requirements. In general, banks seek to ensure that all required information is obtained and refuse business if CDD is incomplete. Whilst this may be the case in practice, concerns remain that in the absence of strict regulatory requirements, accurate identity information on the nominator(s) and beneficial ownership information in respect of nominees may not always be available. **Antigua and Barbuda is recommended to ensure that accurate identity information on the nominator(s) and beneficial ownership information is available in respect of nominees where they act as the legal owners on behalf of any other person**.

Money Laundering and Financing of Terrorism Guidelines for Financial Institutions (MLFTG)

432. The MLFTG, issued by the Supervisory Authority (ONDCP), provides a practical interpretation of the MLPA and MLPR.

433. The MLFTG sets identity verification requirements:

- Under Section 2.6.1.2 of the MLFTG, for private companies, whenever faced with less transparency, less of an industry profile, or less independent means of verification of the client identity, financial institutions should consider the money laundering or terrorist financing risk presented by the entity, and therefore the extent to which, in addition to the standard evidence, they should verify the identities of the principal beneficial owners, shareholders and/or controllers. Following the financial institution's assessment of the FT and ML risk presented by the company, the financial institution may feel it appropriate to verify the identity of appropriate beneficial owners holding 25% or more of the shares. This section suggests that CDD does not need to be systematic and would depend on the risk assessment on the client, whereas the Act and Regulations do not appear to give an opt out from performing CDD. During the onsite visit, bank representatives clarified that whilst the MLFTG suggests a 25% ownership threshold for the beneficial ownership test, it is not unusual for banks to apply a lower 5% threshold.
- Then, "[w]here a principal owner is another corporate entity or trust, the financial institution should take measures to look behind that company or trust and establish the identities of its beneficial owners or trustees, unless that company is publicly quoted".
- Finally, "control may also rest with those who have power to manage funds or transactions without requiring specific authority to do so,

and who would be in a position to override internal procedures and control mechanisms. Financial institutions should make an evaluation of the effective distribution of control in each case. What constitutes a significant shareholding or control for this purpose will depend on the nature of the company, the distributions of shareholdings, and the nature and extent of any business or family connections between the beneficial owners". The MLFTG usefully complements the Regulations, which were silent on what control through other means could cover.

434. With respect to trusts, the MLFTG specifies that measures must be taken to establish and verify the identity of the underlying beneficiary on whose behalf an applicant for business is acting (Section 2.1.42). The identity of the settler and/or beneficial owner of the funds, who provided the funds, and of any controller or similar person having power to appoint or remove the trustees or fund managers and the nature and purpose of the trust must be available to law enforcement in the event of an enquiry (Section 2.1.43).

435. Further, the MLFTG, as amended in 2017, stipulates that the financial institution should obtain the full name of the trust, nature and purpose of the trust (e.g. discretionary, testamentary, bare), country of establishment, names of all trustees, and name and address of any protector or controller, any natural person exercising ultimate effective control (including through a chain of control/ownership), and beneficiaries, or beneficiaries identified by characteristics, class or other means (Section 2.6.3). Where the trustee is itself a regulated entity or a publicly quoted company, or other type of entity the identification procedures that should be carried out should reflect the standard approach for such an entity (Section 2.6.1.2). The financial institution should verify the identity of the trustees (or equivalent) who have authority to operate an account or to give the financial institution instructions concerning the use or transfer of funds or assets. Section 2.6.3(5a), as amended in 2017, also requires that the financial institution take reasonable steps to verify the identity of the beneficial owners.

436. With respect to partnerships, the MLFTG requires verification of all partners of the firm who are relevant to the application and have individual authority to operate the account or otherwise to give relevant instructions. In the case of a limited partnership, the identity of the general partner should be verified (Section 2.1.39B). The MLFTG further explains that (i) where partnerships and unincorporated businesses are well known, reputable organisations, with long histories in their industries, and with substantial public information about them and their principals and controllers, the standard evidence for publicly quoted companies will be sufficient to meet the financial institution's obligations; (ii) other partnerships and unincorporated

businesses should be treated as private companies and thus the AML-obliged persons will need to verify the identity of appropriate beneficial owners holding 25% or more of the shares. Where a principal owner is another corporate entity or trust, measures should be taken to look behind that company or trust and establish the identities of its beneficial owners or trustees, unless that company is publicly quoted.

437. Concerning foundations, the relevant section of the MLFTG ("2.6.3 Other trusts, foundations and similar entities") focuses exclusively on trusts and no guidance is provided with respect to the determination of beneficial owners of international foundations and any foundations that may come from foreign jurisdictions and open accounts in Antigua and Barbuda.

438. In the instances where a customer is acting in the capacity of an agent, the bank has the option of accepting a written assurance from the customer that evidence of the principal's identity has been recorded under the procedures maintained by the customer, but only if the bank has reasonable grounds to believe that the agent is regulated by a local or overseas regulatory authority. In the latter case, the agent must be based in a country whose laws contain provisions of a similar or higher standard of those contained in the MLPA. The bank remains liable for any customer due diligence that is not performed.

Conclusions

439. As observed in the context of Element A.1, whilst establishing the requirement to identify beneficial owners for all legal persons, trusts or other legal arrangements, MLPA, MLPR and the MLFTG fail to provide details concerning the identification and verification of beneficial owners in all cases in accordance with the standard. More specifically:

- Whilst the principal elements required by the standard with respect to the identification of beneficial owners of bank accounts applicable to legal entities are present, the AML/CFT framework does not specifically indicate that the controlling ownership interest applies to any person who controls the company acting directly or indirectly, and acting individually or jointly. Further, there is no guidance on how to identify beneficial owners of legal entities under the three-step approach and the default position of senior management appears to refer to the impossibility of identifying a person with a "controlling ownership interest" whereas control through others means should be researched first. This may lead to beneficial ownership information in respect of bank accounts not being available in line with the standard in all cases. **Antigua and Barbuda is recommended to ensure that the definition of the beneficial owner(s) in the AML**

framework is in line with the standard and suitable guidance on identifying beneficial owners of legal entities is provided to all banks so that beneficial owners of bank accounts are correctly identified as required under the standard.

- Whilst banks are required to identify natural persons who ultimately own or control the a trust as part of their customer due diligence measures, the verification of identity does not extend to the settlor(s) and protector(s), contrary to the requirement of the standard.[81] **Antigua and Barbuda is recommended to ensure that banks are required to verify the identity of settlor(s) and protector(s) of the trusts which have an account with a bank in Antigua and Barbuda as required under the standard**.
- Whilst the AML laws of Antigua and Barbuda set the requirement to obtain the beneficial ownership information with respect to legal arrangements, the determination of beneficial owners for partnerships largely follows the definition of companies and in the absence of clear guidance to be followed for identifying the beneficial owners of partnerships which are not registered as companies, doubts remain as to whether beneficial ownership information is available to the competent authorities. **Antigua and Barbuda is recommended to ensure that beneficial ownership information in line with the standard is available in respect of all partnerships**.
- There is no applicable definition and guidance in respect of international foundations and any foundations that may come from foreign jurisdictions and open accounts in Antigua and Barbuda to identify their beneficial owners in line with the standard. **Antigua and Barbuda is recommended to ensure that beneficial ownership information is determined in line with the standard in respect of all foundations having a bank account in Antigua and Barbuda**.

440. During the onsite visit, bank representatives clarified that, in practice, in identifying beneficial owners banks have been following the approach stipulated by FATF for many years. Where no detailed AML guidance are provided, banks apply their own policies which are guided by the FATF standard. Whilst this may be the case in practice, concerns remain

81. Whilst Section 2.1.43A(1), as amended in 2017, requires broadly that the verification of identity for trust, nominee and fiduciary accounts should include identifying the natural person exercising ultimate effective control (including through a chain of control/ownership), this requirement may not capture settlor(s) and protector(s) in all cases.

that in the absence of strict regulatory requirements, accurate beneficial ownership information may not always be available.

Other relevant laws

441. Banking laws add some specific record-keeping and reporting requirements, for instance in relation to loans. These records, which, as explained by Antigua and Barbuda, contain identity information, must be held and maintained at the principal office of the licensed financial institution with authenticated copies held at a secondary location for a minimum period of 20 years calculated from the date of the issuance of the document (Section 43(2) International Banking Act 2016).

442. Finally, Section 23 of the 2018 TAPA ("Obligations of financial institutions") also stipulates that a bank is required to keep account of all transactions with a client, including the client's identity, to include the beneficial owner. The "beneficial owner" is defined as "the natural owner or person who ultimately owns or controls a client and or natural person on whose behalf a transaction is being conducted". It also includes those persons who exercise ultimate effective control over a legal person or legal arrangement. With no further guidance provided, these additional requirements do not alter the conclusions and recommendations made earlier in this section with respect to the AML framework.

Oversight and enforcement

443. The FSRC regulates international banks that were incorporated in the form of an IBC, while the Eastern Caribbean Central Bank (ECCB) regulates domestic banks. Further, the ONDCP is the regulatory body for the administration of the MLPA/MLPR. The ONDCP works closely with the FSRC and ECCB to ensure compliance of their licensees with the AML framework. Whilst the sanctions are available in law (described in paragraphs 417, 421 and 422), no penalties were imposed during the review period. An overview of supervisory activities carried out by these bodies is provided below.

Financial Services Regulatory Commission

444. The FRSC carried out onsite and desk-based examinations and ongoing offsite monitoring of international banks.

445. During the period under review, the onsite inspection programme was impacted by COVID-19 limitations. In 2019-22, the FSRC conducted 6 onsite examinations in total. In 2019, the FSRC carried out 5 onsite examinations (all but one jointly with the ONDCP), in 2020 – 1 onsite examination

(only the FSRC), in 2021 – no onsite examinations (due to the impact of COVID-19), and in 2022 – 2 offsite (desk-based) examinations (only the FSRC), which represents a noticeable drop in comparison with the number of examinations carried out in 2010-12 (see paragraph 456).[82] The FSRC explained that the drop results from the impact of COVID-19 and the adoption of a risk-based supervisory methodology which means that not all institutions were subjected to an annual inspection.

Audits of international banks in 2019-22

No. of international banks				No. of onsite audits				No. of offsite audits				Compliance rate of banks
2019	2020	2021	2022	2019	2020	2021	2022	2019	2020	2021	2022	
8	8	8	9	5	1	0	0	0	0	0	2	Not provided

446. During onsite examinations, the FSRC may conduct a review of the AML/CFT framework and test compliance with the record keeping requirements. Procedurally, testing seeks to ensure that records are kept and entails first and foremost establishing a time period of 6 years prior to the date of the onsite. Having established this period, institutions are then asked to demonstrate that they have such records in either a physical or electronic form to satisfy the statutory requirements. Information as presented to the examination team is reviewed to demonstrate compliance. In the case of physical documentation, a review is not only made of the documents but also the physical storage area to ensure *inter alia* they are secure and easily accessible. However, during the review period, no onsite examination by the FSRC in relation to the international banks included the AML review. The FSRC focused on "safety and soundness" only, whilst the ONDCP assessed AML/CFT matters (see paragraph 455 below).

447. International banks which were not subjected to a physical (onsite) inspection were subjected to offsite (desk-based) monitoring. The offsite monitoring process is a continuous monitoring programme of all institutions. The FSRC requires banks to provide corporate records and to include minutes of meetings of the board of directors and other committees as established by the board of directors. The submission of prudential data on a monthly and quarterly basis detailing the financial condition of the institution assists in evaluating its "safety and soundness".

448. The FSRC explained that the identified deficiencies were minor and did not provide the details. Any identified deficiencies were communicated

82. In 2010, there were 15 international banks and the FSRC carried out 15 on-site examinations, in 2012 there were 14 international banks and 14 on-site examinations, and in 2011 13 international banks and 11 on-site examinations.

to the respective international banks. The FSRC clarified that its role is mainly to ensure that the respective entities are aware of their obligations under the AML framework rather than to sanction them for all deficiencies identified. Accordingly, the audit activities of the FSRC are complemented by supervisory activities conducted by the ONDCP. Any serious deficiencies or non-compliance with the AML Act/Regulations are referred to ONDCP for follow-up actions.

Eastern Caribbean Central Bank

449. Since 2018, the ECCB is the AML supervisor for domestic banks.[83] In its supervisory activities, the ECCB is guided by the AML legislation of Antigua and Barbuda as it relates to CDD information and co-operates closely with the ONDCP.[84] The ECCB can impose sanctions directly under Section 11 of the MLPA. This section confers the supervisory authority to serve a notice of non-compliance on a person for failure to comply with the provisions of the MLPA/MLPR. Section 11(A) also allows the supervisory authority to impose administrative penalties where the person fails to remedy the non-compliance within the time frame specified by the authority.

450. As part of its duties as a supervisory authority, the ECCB can conduct onsite examinations. The core examination areas include: AML/CFT governance, CDD (including process and procedures for the identification of ultimate beneficial ownership), ongoing monitoring (including updating the due diligence information, wire transfers and reporting), and record retention (including testing for transaction reconstruction and retention period). The ECCB's core examination areas form part of its full-scope examination procedures. During the review period, the ECCB and ONDCP conducted two joint examinations of domestic banks in 2020. The core examination areas were comprehensively assessed as part of this baseline assessment. In addition (whilst not covered by the review period), Antigua and Barbuda observed that in 2018, the ECCB and ONDCP had already carried out four full scope examinations (including CDD and record retention), which allowed assessing the level of effectiveness of controls instituted by the domestic banks and compliance with the legislation. During the examinations carried out by the ECCB files and systems are reviewed as part of the testing for CDD procedures. Additionally, reconstruction of transactions and record

83. Section 10 of the MLPA, as amended by Section 6 of the Money Laundering (Prevention) (Amendment) Act, No. 8 of 2018

84. A Multi-Lateral Memorandum of Understanding has been established between the ECCB and regional financial authorities for the purpose of providing a framework for mutual co-operation in AML/CFT supervision. The ONDCP is a party to this memorandum.

retention are also tested to ensure compliance with legislation and verify effectiveness of controls.

451. Further, the ECCB applies a risk based approach to AML/CFT supervision, where the scope of examinations is informed by the ECCB's risk assessment of licensed financial institutions. The 2017 National Risk assessment indicated that the money laundering risk in Antigua and Barbuda is "Medium-High" and the money laundering/terrorist finance risk for the commercial banking sector was "Medium". Based on this assessment, the ECCB, jointly with the ONDCP, carried out a series of thematic reviews at four domestic banks and one credit institution in 2022, which focused on transaction monitoring and suspicious activity reporting (and not CDD or record retention).

452. As a result of these examinations, the ECCB issued a memorandum of understanding in 2020 and 5 supervisory letters in 2022.

453. Offsite surveillance is another fundamental aspect of the ECCB's programme, and it consists of the following: (i) preparation of a quarterly ML/TF risk assessment, this includes a review of risk focused information received on a monthly, quarterly, and yearly basis (e.g. board minutes, compliance audit reports) by the licenced financial institutions; (ii) follow up on progress relating to remedial action items; (iii) review of the quarterly ML/TF prudential return which is a quantitative tool that gathers data on the customers, products and services, and geographies of licenced financial institutions; (iv) review of annual ML/TF/PF compliance questionnaire which provides information related to the implemented compliance programmes at licenced financial institutions; (v) completion of quarterly offsite monitoring reports; and (vi) assessment of country surveillance information and any other new or emerging relevant risk factors and international developments including legislative changes.

454. The ECCB has also conducted institutional trainings, based on the gaps identified, and contributed to the industry awareness training through the AML/CFT Newsletter, Webinars and ECCB Certified Anti-Money Laundering Specialists Enterprise Membership.

Office of National Drug and Money Laundering Control Policy

455. The ONDCP has the powers to initiate legal proceeding and sanction for non-compliance with the MLPA/MLPR. In total, 6 staff members are involved in the supervision over AML-related requirements in the ONDCP, albeit this number fluctuates due to a high staff turnover.

456. During the review period, jointly with the ECCB, the ONDCP carried out at least one examination of domestic banks in 2020 (out of 4), which covered CDD requirements, followed by 5 thematic examinations carried

out in 2022 (four domestic banks and one credit institution) which focused solely on transaction monitoring and suspicious activity reporting. In addition, jointly with the FSRC, the ONDCP carried out six examinations of international banks jointly with the FSRC (5 in 2019, 1 in 2020 and none in 2021 and 2022). The discrepancy with the figures reported by the ONDCP and the FSRC (see paragraph 445) have not been reconciled by Antigua and Barbuda. The FSRC focused on "safety and soundness" only, whilst the ONDCP assessed AML/CFT matters. In each case the assessment covered CDD matters. Only minor issues have been identified through these examinations and no penalties have been applied.

457. The ONDCP reported that as a result of its enforcement action, the compliance of international banks with the CDD requirements has been estimated as "moderate" and in relation to the record keeping requirements – as "high", see the table below.

Estimated compliance of AML-obliged persons in 2019-22

Sector	No. of entities	AML/CFT examination				Levels of compliance [6]			
		2019	2020	2021	2022	CDD	Record keeping	AML/CFT training	Annual AML/CFT review
Local commercial banks/ credit institutions	5	0	1 [a]	0 [a]	5	N/A	High	Substantial	N/A
International banks	9	5	1	0	0	Moderate	High	High	Substantial
Development banks/ mortgage companies	2	0	2	0	0	Substantial	Substantial	Substantial	Moderate
Credit unions	6	2	0	0	0	Substantial	Substantial	High	Low
Insurance companies (domestic and offshore)	20	2	0	0	0	Substantial	High	High	Moderate
Money transmission services	5	2	1	0	6	Substantial	Substantial	Substantial	Low
Company service providers	26	1	1	0	0	High	High	Substantial	Low
Money lending and pawning	4	1	0	0	0	Substantial	Substantial	Substantial	Low
Real property business	30	2	0	0	0	Substantial	High	Low	Low
Dealers in precious metals, art and jewelry	17	1	0	0	0	Moderate	Substantial	Moderate	Low
Casinos	1	0	0	0		Low	Substantial	Moderate	Low
Internet gaming companies	4	1	0	0	0	Substantial	Substantial	Substantial	Moderate
CIP agents	34	0	0	0	0	Not conducted	Not conducted	Not conducted	Not conducted
TOTAL AVERAGE	163	18	6	0	11	-	-	-	-

Notes: a. Effect of COVID-19.
b. Based on the examinations carried out in 2017-20:

- High: Compliance is achieved to a very large extent. Minor improvements needed.
- Substantial: Compliance is achieved to a large extent. Moderate improvements needed.
- Moderate: Compliance is achieved to some extent. Major improvements needed.
- Low: Compliance is not achieved or achieved to a negligible extent. Fundamental improvements needed.

458. The ONDCP has also carried out dedicated AML trainings and outreach events as described in paragraph 246 above.

Conclusion

459. The compliance level with the CDD requirements was estimated by the ONDCP as "moderate" (i.e. major improvements needed) and with the record-keeping obligations as "high" (i.e. minor improvements needed) for international banks. No examinations of international banks have taken place in 2021-22 in relation to the AML-related aspects by the FRSC or ONDCP (except ongoing offsite monitoring). Whilst some deficiencies have been identified in the course of examinations carried out in 2019-20, they have not been regarded as serious and no sanctions have been imposed. The supervision over domestic banks has been recently strengthened through the Eastern Caribbean Central Bank. **Antigua and Barbuda is recommended to continue and strengthen its supervision and oversight activities of domestic and international banks to ensure the availability of banking information in line with the standard**.

Availability of banking information in EOIR practice

460. During the current review period, Antigua and Barbuda received four requests for banking information related to individuals, including three requests in relation to domestic banks and one request in relation to an international bank. Antigua and Barbuda did not specify which type of banking information was requested and exchanged with its treaty partners. The peers were satisfied with the responses.

Part B: Access to information

461. 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).

462. The 2014 Report concluded that Antigua and Barbuda had in place the legal and regulatory framework which gave to its competent authority access powers that cover all relevant persons and information. Whilst the legal and regulatory framework remains largely unchanged since 2014, this review identified some deficiencies, which emerged as a result of the legislative changes in the Tax Information Exchange Act (TIE Act) introduced in 2020, and Antigua and Barbuda is recommended to address them.

463. At the time of the 2014 peer review, Antigua and Barbuda's competent authority had not exercised its access powers to obtain information from third parties, since it considered that none of the few EOI requests it had received required it. Accordingly, Antigua and Barbuda was recommended to monitor the effectiveness of its access powers to obtain information from third parties. As it was not tested in practice, Antigua and Barbuda's system of access to information was rated as Largely Compliant with the standard.

464. Since then, Antigua and Barbuda's competent authority has used its access powers to obtain the requested information from third parties, including the Financial Services Regulatory Commission (FSRC), the Intellectual Property and Commerce Office (IPCO), domestic and international banks. However, the competent authority failed to fully use its access powers to obtain

information from all available sources. With one exception when information was requested from an international bank, the competent authority has not yet tested in practice its power concerning the offshore sector extended thanks to the 2011 amendments introduced to the International Business Corporations Act (IBCA), the International Limited Liability Companies Act (ILLCA), the International Foundations Act (IFA) and the International Trusts Act (ITA) and further changes introduced in 2020 to the TIE Act. Accordingly, Antigua and Barbuda should ensure that the competent authority's access powers are fully used to obtain information from any available sources and to monitor the effectiveness of its access powers to obtain information from third parties when it receives EOI requests requiring the use of these access powers.

465. The conclusions are as follows:

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

Deficiencies/Underlying factor	Recommendations
Section 5A on the authority to obtain information from residents, which was inserted in the Tax Information Exchange Act in 2020, refers only to persons in possession of the requested information, without mentioning the information in the custody or control of the person, contrary to the other sections of the law and the standard, which covers both possession and control. The sanctions, correspondingly, are limited to persons "in possession" of the requested information and do not refer to information in the "custody or control".	Antigua and Barbuda is recommended to align the specific powers to obtain information from residents (Section 5A) with the general access powers under the Tax Information Exchange Act to cover persons in possession, custody or control of the requested information, so as to ensure that the specific powers are not interpreted to limit the general access powers. Antigua and Barbuda is also recommended to ensure that sanctions are applicable against a person in control of the requested information that would fail to provide it.

Practical Implementation of the Standard: Partially Compliant

Deficiencies/Underlying factor	Recommendations
The competent authority has not fully used its access powers to seek out all possible sources of information as requested by EOI partners with one exception when information was requested from an international bank. The amendments introduced to the IBCA, ILLCA, IFA and the ITA that were reviewed in the supplementary review in 2012 to remove the impediments relating to the access powers of the competent authority, and further changes introduced in 2020 to the Tax Information Exchange Act, were not tested in practice.	Antigua and Barbuda is recommended to ensure that the competent authority's access powers are fully used to obtain information from any available sources and to monitor the effectiveness of its access powers to obtain information from third parties when it receives EOI requests requiring the use of these access powers.

B.1.1. Ownership, identity and banking information and B.1.2. Accounting records

Accessing information for exchange of information purposes

466. Pursuant to Section 2(2) of the TIE Act 2002, the Commissioner of the Inland Revenue Department (IRD) is the competent authority for international exchange of information in tax matters.

467. The TIE Act covers access to and exchange of information in respect of requests made pursuant to all EOI agreements that Antigua and Barbuda has entered into. According to the TIE Act, the competent authority can access information to exchange it with a "Requesting State". "Requesting State" and "Requested State" which are together the "Contracting States" providing or requested to provide information. In turn, "Contracting States" mean the Government of a "foreign country" and the Government of Antigua and Barbuda. Antigua and Barbuda's competent authority clarified that "State" and "country" are to be interpreted as including a "jurisdiction" along with a "state", and both words can be used interchangeably. The competent authority further observed that the emphasis should be on the word "Government" which will appoint a competent authority, and the two competent authorities will exchange information accordingly. Antigua and Barbuda has not received any requests from a "jurisdiction" during the current review period and thus this interpretation remains untested.

General access powers

468. The Commissioner's powers to access information for EOI purposes are stipulated by the TIE Act and can be exercised when he/she receives a valid request (see section C.1). The combined effect of Section 5 ("Authority to obtain information"), Section 5A (introduced in 2020; "Authority to obtain information from residents"), Section 6 ("Power to require production of information") and Section 7 ("Power to enter premises to obtain information") provides the Commissioner with the powers to make enquiries, inspect documents, and perform search and seizure. Antigua and Barbuda explained that the legal framework allows for the following actions. The competent authority may write to the person or institution who has the information requested, as supported by Section 5 of the TIE Act. The competent authority itself is permitted to conduct an examination seeking the information requested, as supported by Section 5(2) of the TIE Act. The competent authority may compel the production of information by issuing a written notice under Section 6 of the TIE Act and enter the premises to obtain information by way of a warrant (judicial proceedings) under Section 7 of the TIE Act.

469. In practice, the competent authority first checks whether the information requested is available within the IRD's IT system. If the information requested is available in the system, the competent authority retrieves it and drafts the reply accordingly. In relation to two EOI requests received during the review period, the competent authority was able to respond using information available in its databases.

470. In cases where the information is not in the database of the IRD (or the IPCO database which is directly accessible to the IRD) but is held by other government agencies, such as the FSRC or the IPCO, the competent authority writes to these agencies to obtain the information. There is no statutory time limit for the provision of responses to the requests sent under Section 5 of the TIE Act by other government agencies. Co-operation with the FSRC and the IPCO is also based on the memoranda signed with both authorities (see paragraphs 489 and 491). Whilst the memorandum with the FSRC includes an indicative timeline for responses, no timeline is envisaged by the memorandum with the IPCO. Antigua and Barbuda explained that in practice 14 days is indicated for the return of the response to the request by the competent authority. Some concerns in relation to the information shared with other authorities are addressed in paragraph 583 below. In practice, during the review period, the competent authority has used these powers to obtain the requested information from the FSRC on two occasions, and one request was made to the IPCO. There is no indication that the lack of a statutory time limit impacted co-operation with the competent authority.

471. In cases where the information is not available with other public authorities, the competent authority may then proceed to obtain the requested information from the taxpayer or other information holders (e.g. banks). The authority to obtain information under Section 5(2) TIE Act includes the power of the Commissioner, in the execution of any request, to examine any books, papers, records, or other property that may be relevant or material to such request; question any person having knowledge or in possession, custody or control of information which may be relevant or material to such request; compel any person having knowledge or in possession, custody or control of information which may be relevant or material to such request to appear at a stated time and place and testify and produce books, papers, records, or other tangible property; take such testimony of any individual; secure original and unedited books, papers, records and other tangible property; secure or produce true and correct copies of original and unedited books, papers and records, etc.

472. The powers of the Commissioner to obtain relevant information to respond to an EOI request are applicable regardless of the type of information sought (i.e. whether it is ownership, banking, accounting or other information) or the person from whom the information is sought (e.g. bank, company,

individual). According to Section 5(3) of the TIE Act, information can be obtained from financial institutions, nominees, or persons acting in an agency or fiduciary capacity (see B.1.5 below). Section 4 of the Law (Miscellaneous Amendment) Act, No. 3 of 2020, introduced an explicit acknowledgement that this power applies also to notaries, accountants and tax advisors, to strengthen the requirements in compliance with the EOIR standard.

473. A written notice under Section 6 of the TIE Act is issued by the competent authority to compel the person holding the information to provide it. The notice contains the relevant details of the information sought. Antigua and Barbuda clarified that in formulating the notice, the competent authority utilises the information submitted by the requesting authority, but does not share the actual request (see further paragraph 582). As required by Section 6(4)(b) TIE Act, the person is given up to 14 days from the date of service of the notice to produce the information. The Commissioner may grant an extension. The competent authority advised that it has issued a written notice under Section 6 of the TIE Act on four occasions, in all instances in relation to banks, including three notices issued to domestic banks and one to an international bank.

474. The use of judicial proceedings, under Section 7 of the TIE Act, is limited to circumstances where a warrant needs to be obtained to enter upon premises for the purpose of enforcing a notice issued under Section 6. In practice, the competent authority has not yet used these powers, as explained by Antigua and Barbuda, because there were no circumstances when the exercise of such powers was necessary. The competent authority advised that if the need arises, the procedure will be followed to request a search warrant from the court.

475. Further, Section 4 of the Law (Miscellaneous Amendment) Act, No. 3 of 2020, introduced Section 5A to the TIE Act which – as explained by Antigua and Barbuda – was intended to enhance Section 5, making it more robust and fully in line with the Global Forum's requirements set in Element B.1.1. Section 5A specifically provides that the competent authority is able to:

- require any corporate service provider or financial institution to supply information which may include particulars on legal ownership information, identity information and accounting information for specific exchange of information for tax purposes
- require any resident person who has had any commercial dealings with a company to supply particulars
- require a company, or person connected with the company to disclose ownership information for specific exchange of information for tax purposes.

476. Section 5A refers exclusively to the information which is "in possession" of the specified persons. This raises concerns as to how Section 5A affects the general access powers already contained in Sections 5, 6 and 7 of the TIE Act. Antigua and Barbuda authorities consider that the words "control" and "possession" are synonyms and explained that the purpose of Section 5A is to enhance the competent authority's powers and it will not limit the general access powers under the TIE Act. However, some other provisions of the TIE Act clearly refer to not only "possession" but also to "custody and control" (Sections 4, 5 and 6). In addition, Section 5A provides the competent authority with the power to request information from "any resident person", whereas Section 6 refers to any information which is under "the possession, custody or control of a person within Antigua and Barbuda". The internal inconsistency of the TIE Act may lead to difficulties in collecting appropriate information in all cases.

477. Accordingly, Section 5A on the authority to obtain information from residents, which was inserted in the TIE Act in 2020, refers only to persons in possession of the requested information, without mentioning the information in the custody or control of the person, contrary to the other sections of the law and the standard, which covers both possession and control. Therefore, **Antigua and Barbuda is recommended to align the specific powers to obtain information from residents (Section 5A) with the general access powers under Sections 5, 6 and 7 of the TIE Act to cover persons in possession, custody or control of the requested information, so as to ensure that the specific powers are not interpreted to limit the general access powers**.

478. Whilst during the review period the competent authority exercised its access powers in practice by requesting information from third parties (i.e. the FSRC (2 requests), the IPCO (1 request), domestic banks (3 requests) and an international bank (1 request), it failed to fully use its access powers to obtain information from all available sources. On two occasions, when Antigua and Barbuda received a request for accounting records and underlying documentation related to an IBC, the competent authority failed to exercise its powers to compel the production of information by the relevant service provider and/or the IBC itself:

- On one occasion Antigua and Barbuda received a request for transactional information in relation to an IBC. The competent authority reached out to the FSRC and it was confirmed that the IBC is indeed incorporated in Antigua and Barbuda. Antigua and Barbuda provided this information to the requesting jurisdiction and then explained that its legal framework to license and regulate virtual assets business had been introduced shortly before the request was received and no service provider, including the IBC in question,

had been licensed yet to carry on that activity in the jurisdiction. The competent authority did not attempt to reach out to the relevant service provider and/or the IBC itself to obtain the information. The competent authority explained that – in view of constraints provided in law – it had no powers to compel the provision of the requested information (at least not until the licensing process is completed) and that the information would not be in possession as no licensed activity was being conducted due to the absence of the legal framework. This is inconsistent with the standard.[85] Antigua and Barbuda has access powers under Section 6 of the TIE Act which can be exercised in relation to an IBC to compel the production of information notwithstanding whether the type of activity which the request relates to has been licensed in Antigua and Barbuda (the activity can be undertaken in another jurisdiction). The interpretation given to these provisions by Antigua and Barbuda effectively disallows the exchange of information that is in the possession or control of person within Antigua and Barbuda's jurisdiction absent a domestic obligation to keep this information, or that may be held extra-territorially; thereby narrowing the scope of information that may be obtained and exchanged by Antigua and Barbuda. By not requesting information directly from the relevant service provider and/or the IBC, Antigua and Barbuda failed to seek out all possible sources of information available to it.

- On another occasion, Antigua and Barbuda was asked to provide an agreement concerning compensation of expenditures related to a certain purpose between the Antigua and Barbuda company and the company resident in the requesting jurisdiction. Antigua and Barbuda responded that the contract between private parties would not ordinarily be in the possession, control or custody of the tax authority and therefore it cannot be provided. The standard requires that the jurisdiction ensures that the accounting records which include underlying documentation, such as contracts, be available and accessible to the competent authority. Therefore, the refusal to provide a contract between two parties is inconsistent with the standard.
- In the same request, Antigua and Barbuda was asked to provide information on the persons who negotiated the contract, as well

85. Paragraph 7 of the Commentary to the OECD Model TIEA only relieves a requested State's obligation to obtain and exchange information which "is neither held by its authorities nor is in the possession or control of person within its territorial jurisdiction". The fact that the information is not required to be kept by the information holder should not be an impediment to collect the information.

as the means through which the contract was negotiated. Antigua and Barbuda did not provide this information on the ground that only the documents and information already in existence can be provided under Section 2 of the TIE Act (without, it appears, any direct knowledge of whether or not the information was already in existence and held by the company), and also the information was not in the possession, control or custody of the tax authority. This is inconsistent with the definitions provided in Section 2 of the TIE Act which states that "document" includes any book, paper, statement, account, writing or record and any device by means of which material is recorded or stored, and "information" means any fact or statement, in any form whatever, that may be relevant or material to tax administration and enforcement, including (but not limited to): (a) testimony of an individual, and (b) documents, records or tangible property of a person or Contracting State. Accordingly, the TIE Act does not limit the provision of documents and information to those already in existence, or those already held by the tax authorities, contrary to the interpretation given to it by the competent authority. If the TIE Act were to contain such limitation, this would be contrary to the standard.

479. **Antigua and Barbuda is recommended to ensure that the competent authority's access powers are fully used to obtain information from any available sources and to monitor the effectiveness of its access powers to obtain information from third parties when it receives EOI requests requiring the use of these access powers**.

Accessing non-public information held by another public authority

480. The TIE Act contains specific provisions on accessing information from public authorities (Sections 5(1) and 5(5) of the TIE Act), covered in paragraph 470 above.

481. The 2014 Report noted a difference in handling public and non-public information, based on the interaction of the TIE Act with other legislation. With respect to public information held by a government body or agency, the Commissioner had the authority to transmit the information directly to the EOI partner. Where the information was non-public information held by a government body or agency, the Commissioner would transmit the information only to the extent and under the same conditions, as such copies would be available to the Commissioner under the Income Tax Act (Section 5(5) TIE Act).

482. The 2014 Report expressed concerns regarding the transmission of non-public information (paragraphs 203-204). Statutory secrecy obligations applicable to public officers were not always overridden by the

Commissioner's powers to obtain information for income tax purposes under Section 47(1) of the Income Tax Act[86] and thus for EOI purposes too.

483. Section 47(1) of the Income Tax Act was repealed by the Tax Administration and Procedures Act, No. 19 of 2012 (2012 TAPA), removing the restraint on the ability of the Commissioner to exchange non-public information. The 2012 TAPA was in turn repealed by the Tax Administration and Procedures Act, No. 12 of 2018 (2018 TAPA), which now provides the revised authority of the Commissioner of Inland Revenue concerning non-public information. It is not clear whether Section 47(1) of the Income Tax Act has been reinstated: the unofficial consolidated act – provided by Antigua and Barbuda – includes this provision as remaining in force. However, Antigua and Barbuda explained that at present, Section 10 of the 2018 TAPA ("Confidentiality") contains a specific exception for EOI purposes which overrides statutory secrecy obligations, permitting disclosure "to the minimum extent necessary to achieve the object for which disclosure is permitted".

484. In conclusion, the reservation made in the 2014 Report is no longer relevant due to the changes in the laws and the introduction of a specific exclusion by Section 10 of the 2018 TAPA. The new provision which introduces a specific exception for exchange of information purposes and lifts the statutory secrecy "to the minimum extent necessary" is in principle consistent with the standard. Antigua and Barbuda confirmed that in practice "to the minimum extent necessary" is to be interpreted in compliance with the treaty obligations related to the exchange of information for tax purposes.

Accessing beneficial ownership information

485. Beneficial ownership information is available through taxpayers, information holders and relevant government authorities. The access powers are based on Sections 5, 5A, 6 and 7 of the TIE Act. In addition to the concerns already identified above (see paragraph 476), Section 5A of the TIE Act also added, amongst others, the definition of "accounting information" and "beneficial ownership", which are narrowly drafted. "Accounting information" is defined as "data or information about a company's financial transactions" and "beneficial ownership" means "a person who enjoys the

86. Section 47(1) of the Income Tax Act is the relevant provision governing the transmission of non-public information by government bodies and agencies to the Commissioner. It states: "The Commissioner may require an officer in the employment of the Government or any municipality or other public body to supply such particulars as may be required for the purposes of this Act and which may be in the possession of such officer: Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy."

benefits of ownership of property or an interest in property but who may not be registered or listed as the legal owner of the property".

486. During the review period, the possible effects of this limitation have not been tested in practice. Antigua and Barbuda authorities consider that Section 5A augmented the existing definitions and these definitions will only serve to enhance the access powers. With respect to beneficial ownership information, Section 5A merely distinguishes beneficial ownership from legal ownership and in no way does this replace the existing FATF definitions in other laws. However, as indicated above, the internal inconsistency of the TIE Act may lead to difficulties in collecting appropriate information in all cases. Therefore, Antigua and Barbuda should ensure that the definitions included in Section 5A are not interpreted to limit the general access powers (see Annex 1).

487. One of the key sources of beneficial ownership information in Antigua and Barbuda is a central registry for ownership (beneficial) and identity information. The registry is held by two institutions, namely at the FSRC, which is responsible for regulation, supervision and monitoring of the offshore sector, and at the IPCO in relation to domestic, non-profit and foreign companies.

488. As described under the sub-heading "Accessing information held by another public authority", the competent authority has the power to access information from a government authority, which includes the FSRC and the IPCO (see paragraph 480).

489. In 2016, the FSRC signed a Memorandum of Understanding (MoU) to facilitate access to information for EOI purposes. The IRD may request information from the FSRC orally, provided such communication is confirmed in writing within three business days of the oral request. The MoU provides that the FSRC will respond to a request within seven business days either by providing the information requested, indicating a time frame within which such information will be provided, or denying the request.

490. A request may be denied where it would require the requested authority to act in a way that would violate the statutory obligations of that authority; or where the request is not in accordance with the provision of this MoU. Antigua and Barbuda has not indicated in which cases a request deriving from an EOI request could be denied. In practice, on one occasion, the competent authority reached out to the FSRC but obtained only partial information. The information about incorporation was made available but the FSRC did not facilitate the provision of accounting records[87] on the ground

87. Section 130A of the IBCA was amended in March 2017 to require an IBC to respond to a request from the FSRC for accounting records. Section 335 of the IBCA was also amended to allow the Director of the IBC Registry to strike an IBC from the register for failing to comply with the request from FSRC.

that the underlying activity was not licensed to be undertaken in Antigua and Barbuda (despite the fact that it could in fact take place in another jurisdiction). The competent authority also did not use its direct access powers, which resulted in requested information not being provided, in contravention with the standard (see further paragraphs 173 et seq.).

491. In 2017, the IPCO signed a MoU with the IRD which provides the framework for co-operation, including on information sharing. Unlike in relation to the FSRC, where co-operation takes place through requests, the IRD has direct access to the Company Register held by the IPCO. Under the MoU, each party develops and maintains an electronic system in relation to incorporation of companies and registration of business names processing and permits the other party the appropriate level of access as may be required for the performance of these functions. The MoU focuses on the incorporation of companies and registration of business names in Antigua and Barbuda and there is no reference to EOI. Antigua and Barbuda, however, clarified that the competent authority has access to the database and this access in practice is used for EOI purposes. The MoU with the IPCO has not been updated to incorporate the availability of beneficial ownership with the IPCO. Antigua and Barbuda explained that the beneficial ownership and control attestation forms received by the IPCO are being digitalised and stored in the same database. As soon as the digitalisation processes is completed and the new database is operational (which may happen in 2023 or later), the competent authority will have direct access to beneficial ownership information held by the IPCO. In the meantime, the access to beneficial ownership information (and any other information to be obtained through a request to the IPCO) is not facilitated by the MoU.

492. In practice, during the period under review, the competent authority did not need to access beneficial ownership information held by the FSRC or the IPCO.

Accessing banking information

493. The access to banking information is based on the general access power provisions described in paragraphs 471 to 475 above. To obtain information, the Commissioner issues a written notice to a person within Antigua and Barbuda which is in the possession, custody or control of the requested information, directing such person to deliver to the Commissioner the requested information. In the written notice the Commissioner must specify the time within which the information sought is to be delivered to the Commissioner, which shall not be more than fourteen days (unless the circumstances warrant an extension of the time), see Section 6(4) and 6(5) of the TIE Act.

494. Notwithstanding the provisions of any other law, the Commissioner may obtain and provide information held by financial institutions (Section 5(3) of the TIE Act). Further, Section 5A(2) of the TIE Act, which, as explained by Antigua and Barbuda, was introduced to enhance the access powers, stipulates that the Commissioner may require any financial institution to supply information particulars as may be required for the purpose of the TIE Act, including "legal ownership information, identity information and accounting information which may be in their possession for exchange of information for tax purposes". To some extent, the concerns identified above with respect to the narrow definitions included in Section 5A of the TIE Act may also be of relevance with respect to banking information (see paragraph 485).

495. In practice, during the period under review, Antigua and Barbuda responded to four requests for banking information from both domestic (three requests) and international (one request) banks. Antigua and Barbuda did not specify the types of taxpayers involved and the type of information provided by the banks. Antigua and Barbuda also did not specify whether the banks complied with the time within which the information was sought by the Commissioner. However, no delays related to the provision of banking information has been reported by peers and they have been satisfied with the information provided.

496. Prior to 2020, Section 4(2)(d) of the TIE Act required that the requesting jurisdiction provide the identity of the taxpayer in respect of whom the information was sought. This requirement was reflected in the template letter to banks, included in the 2017 EOI Manual, along with the explanation that where the requesting Competent Authority does not provide the name of the taxpayer, other information sufficient to identify the taxpayer will suffice. The Law (Miscellaneous Amendment) Act, No. 3 of 2020, amended Section 4(2)(d) of the TIE Act to now states that the identity of the taxpayer must be provided "whether it is an individual request or a group request in respect of whom the information is sought". Changes have also been made in the EOI Manual, effective as at 1 March 2022. The updated EOI Manual explains that the standard of "foreseeable relevance" can be met in respect of a group of taxpayers that are not individually identified by the requesting jurisdiction in accordance with the standard. Whilst the requirement to provide the identity of the person under examination or investigation is consistent with the standard, this requirement should be interpreted liberally in order not to frustrate effective exchange of information; in particular, where the identity of the accountholder(s) is unknown, this requirement may be satisfied by supplying the account number or similar identifying information. Accordingly, whilst the TIE Act requires the identification of the taxpayer, the EOI Manual, which does not have the force of law, specifies that this is not necessary in relation to group requests. These two sources appear at odds

and if the legal requirement is strictly followed, the effective exchange of information may be frustrated (see paragraph 545 below).

497. Whilst during the period under review Antigua and Barbuda responded to several requests for banking information, they have all included the identity of the account holder and the bank or financial institution. As the extent of the identifying information to be provided by the requesting authority on the account holder and the bank has not been tested in practice, it is remains unclear and the interpretation might diverge from the standard. Antigua and Barbuda should monitor the application of the legal requirement that the requesting jurisdiction provide the identity of the taxpayer, whether it is an individual request or a group request in respect of whom the information is sought, to ensure that banking information is provided as required under the standard in all cases (see Annex 1).

B.1.2. Accounting records

498. The tax legislation of Antigua and Barbuda establishes accounting record keeping requirements for all persons carrying on a business in Antigua and Barbuda and who may be taxable in Antigua and Barbuda. These tax requirements are not applicable to international business companies, so long as they are not carrying on business in Antigua and Barbuda. The International Business Corporation (Amendment) Act, No. 16 of 2014, introduced Section 130A ("Financial Record") pursuant to which an IBC must keep accounting records.

499. The competent authority's access powers can be used to obtain accounting records held by another public authority, information holders (such as service providers) or entities themselves. The concerns expressed in relation to the definition of "accounting records" introduced by Section 5A of the TIE Act are equally valid (see paragraph 485).

500. Since the 2014 Report, the competent authority's access powers have only been required to be used twice in relation to accounting records. As explained in paragraph 478, the competent authority failed to fully exercise its access powers when it received a request for accounting information and underlying records.

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

501. The information gathering powers of the Commissioner are not subject to Antigua and Barbuda requiring such information for its own tax purposes. The Commissioner may exercise these information-gathering powers upon the receipt of a valid request pursuant to an EOI agreement. The subject

of a valid request does not need to concern the implementation of Antigua and Barbuda tax laws. In practice, Antigua and Barbuda exchanged some information about an IBC that was not a taxpayer. No problems have been reported by peers in obtaining the information where there was no domestic tax interest for Antigua and Barbuda.

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

502. The legislation on enforcement has not changed since the 2014 Report (paragraphs 208-213), except for two changes in the level of sanctions and sanctions in the IBCA, explained below.

503. The TIE Act grants the Commissioner compulsory powers to compel the production of information by issuing a notice or using a warrant to enter premises. The TIE Act, Section 5, also allows the Commissioner to obtain relevant information by way of witness deposition (see further paragraph 471).

504. The Commissioner or an authorised officer may apply to a magistrate for a search warrant to enforce the notice issued under Section 4(2) of the TIE Act. The magistrate may issue the warrant if the magistrate is satisfied that there are reasonable grounds to suspect that an offence has been, is, or will be committed against the TIE Act that will endanger the delivery of the information to the Commissioner (Section 7 of the TIE Act). The warrant would be served within 48 hours of the grant of the order. No such warrant was sought in practice (see paragraph 474).

505. The TIE Act establishes offences where a person (as listed in Section 11(1) to 11(3) of the TIE Act):

- fails to deliver the information required pursuant to a notice[88]
- gives false evidence or produces false books, papers, records or other tangible property pursuant to a notice
- wilfully obstructs the execution of a search warrant
- wilfully tampers with, or alters any information or any part of such information so that it is false when received by the Commissioner or
- wilfully alters, destroys, damages or conceals any information requested under a notice.

88. Antigua and Barbuda confirmed that the failure "to deliver the information required pursuant to a notice" includes the failure to provide the requested information within the time specified within the written notice.

506. Under Section 11 of the TIE Act, such offences carry, on summary conviction, fines of up to XCD 5 000 (USD 1 850) or imprisonment for a term not exceeding six months or both. The maximum penalties were doubled by Section 4 of the Law (Miscellaneous Provisions) Act, No. 3 of 2020, which increased the fine to XCD 10 000 (USD 3 700) and imprisonment to one year. Again, Section 11(4) of the TIE Act seems to apply to persons covered by Section 5A that are only "in control" of the information. The liability envisaged by the new version of Section 11(4) of the TIE Act thus appears to be limited in scope and may be read as applying to a person when the required information is in his/her possession and would not cover the instances where the information is in his/her control.

507. The sanctions, correspondingly, are limited to persons "in possession" of the requested information and do not refer to information in the "custody or control". Therefore, **Antigua and Barbuda is recommended to ensure that sanctions are applicable against a person in control of the requested information that would fail to provide it**.

508. Further, the access powers of the competent authority have been strengthened indirectly. Section 130A of the IBCA was amended in March 2017 to require an IBC to respond to a request from the FSRC for accounting records. Section 335 of the IBCA was also amended to allow the Director of the IBC Registry to strike an IBC from the register for failing to comply with the request from FSRC. Under Section 5 of the TIE Act the Commissioner may, in the execution of any request, require an officer in the employment of the Government or any local Government or other public body or statutory authority, including the FSRC, to supply such particulars as may be required for the purposes of the TIE Act and which may be in the possession of such officer.

509. None of these enforcement provisions have been applied during the review period, because the competent authority considers that the EOI requests it received did not require their application in practice. During the period under review the competent authority reached out to other public authorities and banks and took the view that other sources of information should not be pursued. Having reviewed the peer input, this assessment concludes that other sources of information should have been attempted in two instances, including the use of enforcement powers if necessary.

B.1.5. Secrecy provisions

510. According to Section 5(3) of the TIE Act, information can be obtained from financial institutions, notaries, accountants, tax advisors, nominees, or persons acting in an agency or fiduciary capacity (not including information that would reveal confidential communications between a client and an

attorney, solicitor or other legal representative where the client seeks legal advice). The confidentiality provisions applicable to various types of information held by relevant entities can be found in the various governing acts and is discussed in detail below.

Bank secrecy

511. Section 178 of the Banking Act 2016 provides that no person who has acquired knowledge in his/her capacity as staff or in his/her official dealings with a bank or an insurer shall disclose to any person or government authority the identity, assets, liabilities, transactions or other information in respect of a customer; however, the person may do so under the provisions of any other law of Antigua and Barbuda, which includes the TIE Act.

512. Section 5(3) of the TIE Act provides that notwithstanding the provisions of any other law, the Commissioner will obtain and provide information held by financial institutions. In addition, Section 6(7) of the TIE Act provides that a person who provides information to the Commissioner pursuant to a notice requiring them to do so, has an absolute defence to any claim brought against him/her in respect of any action taken in compliance with the notice. Confidentiality provisions in the Banking Act 2016 therefore do not affect EOI.

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

Offshore entities

514. The legal framework for the offshore sector sets clear confidentiality obligations, that are overridden for EOI purposes since the entry into force of relevant amendments in December 2011.

515. As noted in the 2014 Report (paragraphs 218-219), the IBCA (in respect of international banks and trusts only), ILLCA, IFA, and the ITA contain confidentiality provisions that expressly prohibit the disclosure of key information and documents relating to the entity. In the case of international trusts, international foundations and international limited liability companies (ILLCs), confidential information includes the founding documents (trust deed, foundation charter, ILLC operating agreement, etc.), documents relating to the financial information of the entity (assets, income, expenses, etc.), documents relating to the exercise of any function or duty of key personnel (trustee, protector, manager, member, etc.) and documents relating to the rights, benefits or interests of settlors, beneficiaries, founders, and ILLC members.[89] In the

89. Section 91 of the ILLCA, Section 87 of the IFA and Section 87 of the ITA

case of an IBC that is an international bank or an international trust company, confidential information includes any business affairs of a customer.[90]

516. The IBCA, ILLCA, IFA and the ITA, as amended in 2011 and reviewed in the supplementary review, spell out circumstances under which these confidentiality provisions may be lifted. They expressly cater to situations where disclosure may be needed for EOI for tax purposes and state that confidential information may be disclosed.[91] The 2011 amendments introduced to the IBCA have been tested through one request in respect of international banks, which – as explained by Antigua and Barbuda – was not associated with any difficulties in obtaining the information. The amendments made in the ILLCA, IFA and the ITA remain to be tested in practice.

Professional secrecy

517. Under the TIE Act, all professionals acting as notaries, accountants, tax advisors, nominees or in an agency or fiduciary capacity must provide information as requested by the Commissioner, but not including information that would reveal confidential communications between a client and an attorney, solicitor or other legal representative where the client seeks legal advice (Section 5(3)). Accordingly, only confidential communications between a client and an attorney, solicitor or other legal representative where the client seeks legal advice are protected by professional privilege. Notaries, accountants and tax advisors have been included in this provision following the amendment made by Section 4 of the Law (Miscellaneous Provisions) Act, No. 3 of 2020.

518. The domestic scope of information subject to legal professional privilege can be found in the Legal Professions Act 1997, Section 15: "An attorney-at-law shall never disclose, unless lawfully ordered to do so by the Court or required by statute, what has been communicated to him in his capacity as an attorney-at-law by his clients or his client's attorney-at-law" and this duty extends to his/her partners, to junior attorneys-at-law assisting him/her and to his/her employees.

519. Antigua and Barbuda confirmed that there are no confidentiality or secrecy provisions, including legal professional privilege, that further prohibit or restrict disclosure. The reference to legal professional privilege is limited only to the extent of receiving independent and personal legal advice. This is outside of giving effect to a legal requirement to obtain information. Therefore, notwithstanding legal privilege, if an activity is conducted

90. Section 244 of the IBCA
91. Section 88 of the ITA, Section 88 of the IFA, Section 92 of the ILLCA and Section 281A of the IBCA

in furtherance of a legal obligation in law, for instance, to keep legal and beneficial ownership of companies and partnerships, that information is not subject to, nor can it benefit from legal professional privilege. The competent authority has not encountered any instances where they were prevented from accessing the information due to the privilege in practice.

520. Accordingly, the scope of legal professional privilege in Antigua and Barbuda would not interfere unduly with effective EOI for tax purposes.

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.

521. The 2014 Report concluded that the rights and safeguards that apply to persons in Antigua and Barbuda were compatible with effective exchange of information. It determined that the legal and regulatory framework in relation to Element B.2 was in place and this review arrives at the same conclusion.

522. Further, the 2014 Report rated Element B.2 as Compliant. This remains the case.

523. The conclusions are as follows:

Legal and Regulatory Framework: in place

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

Practical Implementation of the Standard: Compliant

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

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

Notification and exceptions to notification

524. Whenever the Commissioner issues a notice to a holder of information pursuant to an EOI request, he/she may, under Section 6(2) of the TIE Act, send a copy of the same notice to the taxpayer concerned, unless he/she is of the opinion that the service of such a notice may lead to the

obstruction of any investigation for which the information is requested or unduly delay the effective exchange of the information.[92]

525. The 2014 Report noted that the competent authority did not exercise its access powers to obtain information from third parties during the review period (paragraph 235). Consequently, notifications had not been issued and the exception to the requirement to inform the taxpayer of the written notice was never invoked in practice. Accordingly, the 2014 Report included an in-text recommendation that Antigua and Barbuda should put in place clear guidelines to ensure that the exception to the prior notification requirement may be invoked expeditiously by the competent authority when they receive an EOI request that requires the exercise of access powers under Sections 6(1) and 7 of the TIE Act.

526. Antigua and Barbuda subsequently put in place the 2017 EOI Manual which indicated that the tax administration does not notify a taxpayer that it has received a request to exchange information, except in certain cases as per Section 6(2) of the TIE Act (see paragraph 584 below). Even where an exception may apply, the taxpayers should not be notified when the requesting competent authority has specified that they should not be informed. The new 2022 EOI Manual, effective as at 1 March 2022, does not state that taxpayers are not notified. Instead, it states that where the requesting jurisdiction requests the application of an exception to the notification, this request must be carefully considered. If the competent authority of Antigua and Barbuda has doubts on the application of the exceptions in a specific case, clarifications must be asked to the requesting jurisdiction. If the request for the application of an exception is declined, the competent authority of Antigua and Barbuda must check with the requesting jurisdiction whether the EOI request can still be treated or not.

527. In practice, the competent authority has never issued a notification. However, there is still a risk that the relevant person can be informed of the existence of the EOI request by the information holder. When collecting the information from information holders, the Competent Authority relies upon the TIE Act and thus the EOI purpose may be inferred. There is no anti-tipping off provision in Antigua and Barbuda to prevent the information holder from informing its customer or partner of the existence of an EOI request in the case where the requesting jurisdiction asked for the person concerned not to be informed of the EOI. The authorities of Antigua and Barbuda have nonetheless indicated that the banks usually do not inform their customers when they receive a request from the tax administration. As the legislative framework envisages the possibility of serving a notice

92. Prior to 2011 amendments, the TIE Act contained a mandatory notification requirement with no exceptions.

and considering the risk that the information holder may tip off the relevant person. Antigua and Barbuda should monitor its practices to ensure that the exception to the notification requirement may be invoked expeditiously by the competent authority when they receive an EOI request that requires the exercise of access powers under Sections 6(1) and 7 of the TIE Act and that the relevant taxpayer is not unduly notified by the information holder (see Annex 1).

Appeal rights

528. Any person to whom a notice has been issued, or any person affected by such notice, may apply to a Judge in Chambers within 14 days commencing from the date the notice is served for a review of the Commissioner's decision to issue such notice (Section 9 of the TIE Act).

529. Upon receipt of any information pursuant to a notice or the execution of a search warrant, the Commissioner is required to hold the information for a period of 20 days without disclosing the information to any person (Section 8 of the TIE Act). If a taxpayer or interested person objects to the exchange of information, or seeks a judicial review of the Commissioner's actions, the Commissioner may extend the 20 days holding period at his/her discretion. During this period, the information should not be released to the requesting party.

530. The competent authority advised that the 20 day holding period is not observed in practice and the judicial review procedure has not been invoked in relation to the requests received. Whilst these provisions appear to be effectively redundant, the practice described by the competent authority is not reflected in the legal and regulatory framework, including the 2022 EOI Manual, and Antigua and Barbuda did not indicate an intention to remove these legal provisions. Therefore, the in-text recommendation, contained in the 2014 Report, remains in place. Antigua and Barbuda should monitor the 20-day holding period and the judicial review procedure, when they receive EOI requests that require the use of these procedures, to ensure that these procedures do not impede effective EOI (see Annex 1).

Part C: Exchange of information

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

C.1. Exchange of information mechanisms

Exchange of information mechanisms should provide for effective exchange of information.

532. The 2014 Report concluded that Antigua and Barbuda's comprehensive network of EOI relationships generally provided for effective exchange of information in line with the standard. Element C.1 was determined as In Place and this continues to be the case.

533. With the signature of the Multilateral Convention on 27 July 2018, Antigua and Barbuda has greatly increased the number of EOIR partners. Currently, it has an EOI relationship with 148 jurisdictions. The Multilateral Convention entered into force in Antigua and Barbuda on 1 February 2019.

534. Antigua and Barbuda has 23 bilateral EOI agreements with jurisdictions, which all participate in the Multilateral Convention.[93] Therefore, these bilateral agreements are not reviewed in greater detail in this report, as the EOI relationship under the Multilateral Convention meets the standard and can be used by Antigua and Barbuda and its EOI partners to exchange information to the standard.

93. Two bilateral double tax conventions (DTCs) and 21 tax information exchange agreements (TIEAs) – of which a total of 19 are in force (see Annex 2).

535. Antigua and Barbuda is a signatory to the CARICOM Income Tax Treaty (CARICOM treaty),[94] an international agreement concluded among Caribbean jurisdictions for the avoidance of double taxation and prevention of fiscal evasion with respect to income taxes. It largely overlaps with the Multilateral Convention, except for Guyana and Trinidad and Tobago, with which it is the only applicable EOI instrument. The CARICOM treaty was ratified by Antigua and Barbuda on 6 July 1994 and entered into force in 1999.

536. The 2014 Report raised no issues in practice with respect to the application of the EOI agreements by Antigua and Barbuda in the review period 2010-12 and rated this element as Compliant. During the current review period, Antigua and Barbuda's application and interpretation of its EOIR instruments globally met the standard, which was also confirmed by the peers. However, when handling two out of eight EOI requests it received, i.e. 25%, Antigua and Barbuda's interpretation of the foreseeably relevant standard raised some concerns and a recommendation has been made to address them. Therefore, Antigua and Barbuda is rated as Largely Compliant in relation to this element.

537. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in Antigua and Barbuda's exchange of information mechanisms.

Practical Implementation of the Standard: Largely Compliant

Deficiencies/Underlying factor	Recommendations
Prior to 2011, the information which needed to be included in the request for information included the particulars that the information sought is in Antigua and Barbuda. Following the amended legislation, the requesting jurisdiction has to provide a statement that the requested information is in the possession, custody or control of a person within Antigua and Barbuda, in accordance with the standard. However, the practice during the review period raises concerns that this requirement may not be interpreted consistently with the standard, and that Antigua and Barbuda's competent authority may not exchange information that is (or may be) held extra-territorially, even if such information is in the possession or control of a person within its territorial jurisdiction.	Antigua and Barbuda is recommended to ensure that its interpretation of the concept of foreseeable relevance conforms to the standard and ensure that its competent authority exchanges information as long as it is in the possession or control of a person within its territorial jurisdiction in all cases as required by the standard.

94. The CARICOM treaty covers Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago.

C.1.1. Foreseeably relevant standard

538. The standard for exchange of information envisages information exchange to the widest possible extent, but does not allow speculative requests for information that have no apparent nexus to an open inquiry or investigation. The balance between these two competing considerations is captured in the standard of "foreseeable relevance". It does not allow "fishing expeditions".

539. All Antigua and Barbuda's EOI relationships provide for the exchange of information that is foreseeably relevant to the administration and enforcement of the domestic tax laws of the Contracting Parties.[95]

Clarifications and foreseeable relevance

540. The 2014 Report concluded that Antigua and Barbuda's competent authority interprets the standard of foreseeable relevance in accordance with the OECD Model Tax Convention (paragraph 247).

541. Antigua and Barbuda uses the standard request parameters, as stipulated in Article 5(5) of the Model TIEA, in conformity with the standard. Antigua and Barbuda does not require its EOI partners to complete a standardised template for the formulation of requests. Antigua and Barbuda explained that it receives and accepts requests in any format but the competent authority reviews the request to ensure that the relevant legislative requirements are satisfied in substance. The following information needs to be included in the request for information under Section 4(2) of the TIE Act (as amended):

a. the particulars of the information sought as identified in the request
b. the description of the requested information
c. the particulars that the information requested is under the possession, custody or control of a person within Antigua and Barbuda
d. the identity of the taxpayer, whether it is an individual request or a group request, in respect of whom the information is sought
e. a statement showing the relationship of the information to the identified taxpayer

95. The DTC with Switzerland restricts EOI to the purposes of carrying out the DTC provisions. The 2014 Report recommended its update at the earliest opportunity. Antigua and Barbuda is engaged in preliminary assessment of the DTC. However, as Antigua and Barbuda and Switzerland can now exchange of information to the standard under the Multilateral Convention, the in-text recommendation is removed.

f. the purpose for which the information is required (for example, for determining, assessing and collecting taxes or for investigation or prosecution of tax offences or offences involving the contravention of a tax administration law)

g. where the request is in respect of determining, assessing and collecting of tax, the law imposing the tax must be specified; where the request involves contravention of tax administration, the law contravened or believed to have been contravened must be specified

h. a statement that the information being sought is foreseeably relevant or material to the enforcement in the requesting State of the domestic laws in respect of determining, assessing and collecting taxes or for the prosecution of tax offences or involves the contravention of tax administration law

i. that the information relates to the taxable period specified in the request and that the period in respect of which the information is sought is not barred by the applicable statute of limitation of the requesting State.

542. These legislative requirements used to include the provision of a statement by the requesting State that the information sought is in Antigua and Barbuda ("the particulars that the information sought is in Antigua and Barbuda and that a person specified in the request has or may have the information in his/her possession, custody, or control"). This requirement was amended in 2011 and the requesting jurisdiction now only has to provide a statement that the requested information is in the possession, custody or control of a person within Antigua and Barbuda (Section 4(2)(c) of the TIE Act). However, whilst the Antigua and Barbuda authorities observed that the requesting jurisdiction does not have to establish that the requested information is in the possession, custody or control of a person within Antigua and Barbuda but just be able to connect the person to Antigua and Barbuda, they also referred to the pre-2011 wording of the provision. In practice, on one occasion during the current review period, a peer reported that Antigua and Barbuda has declined to provide information on the ground that this requirement was not satisfied, with reference to the pre-2011 version of the TIE Act (namely, as the requested document may not be in Antigua and Barbuda). On another occasion, another peer reported that Antigua and Barbuda failed to respond to a request on the ground that the underlying activity was not licensed to be undertaken in Antigua and Barbuda (despite the fact that it could in fact take place in another jurisdiction). This further demonstrates the misunderstanding of the instances when and in relation to whom the access powers can be exercised by the competent authority and the information must be exchanged under EOI mechanisms. Concerns remain that this provision may not be interpreted consistently with the

standard, and that Antigua and Barbuda's competent authority may not exchange information that is (or may be) held extra-territorially, even if such information is in the possession or control of a person within its territorial jurisdiction.

543. Accordingly, prior to 2011, the information which needed to be included in the request for information included the particulars that the information sought is in Antigua and Barbuda. Following the amended legislation, the requesting jurisdiction has to provide a statement that the requested information is in the possession, custody or control of a person within Antigua and Barbuda, in accordance with the standard. However, the practice during the review period raises concerns that this requirement may not be interpreted consistently with the standard, and that Antigua and Barbuda's competent authority may not exchange information that is (or may be) held extra-territorially, even if such information is in the possession or control of a person within its territorial jurisdiction. **Antigua and Barbuda is recommended to ensure that its interpretation of the concept of foreseeable relevance conforms to the standard and ensure that its competent authority exchanges information as long as it is in the possession or control of a person within its territorial jurisdiction in all cases as required by the standard**.

544. As observed in Part B, the competent authority of Antigua and Barbuda issued guidelines to assist the EOI team in identifying the validity of the requests (2017 EOI Manual, as amended in 2022). The new manual is based substantially on the Model Manual on Exchange of Information for Tax Purposes developed by the Secretariat of the Global Forum. In short, when a request is received, the EOI officer checks the legal base of the request (legal instrument, taxes and period covered, valid signature) and the content of the request. The EOI team when validating the request are guided by the predefined checklist and the principle that the requested jurisdiction must provide EOI to the widest possible extent. In instances where the request is not specific or clear, the competent authority must always seek clarifications or additional information from the requesting jurisdiction and process this clarification within 15 days of receiving the request. The 2022 EOI Manual now clearly stipulates that the competent authority must always seek clarifications or additional information from the requesting jurisdiction and process this clarification within 15 days of receiving the request. As it was issued shortly before the end of the review period, the provisions have not been tested in practice. Antigua and Barbuda observed that in practice the competent authority would always try to communicate with the requesting jurisdiction if the request is unclear. Declining a request is not normally carried out. No concerns have been identified by peers.

Group requests

545. There is no impediment in the TIE Act, or other restriction, for making or responding to a group request. The TIE Act was amended in 2020 to introduce the notion of group requests in Section 4(2)(d), which now requires that the request for information includes "the identity of the taxpayer, whether it is an individual request or a group request, in respect of whom the information is sought". The 2022 EOI Manual further indicates that a group request "refers to a request for information in respect of a group of persons not individually identified who have followed an identical pattern of behaviour and who are identifiable based on the detailed description of the group". Accordingly, whilst the TIE Act requires the identification of the taxpayer, the 2022 EOI Manual, which does not have the force of law, specifies that this is not necessary in relation to group requests. These two sources appear at odds (see further paragraph 496). This may result in a group request being rejected because it does not contain sufficient identification detail (e.g. name), whereas the requesting jurisdiction may have provided sufficient information to satisfy the standard for group requests. Antigua and Barbuda should ensure that its law is sufficiently clear to enable processing of requests on a group of taxpayers which are not individually identified ("group requests") as required by the standard (see Annex 1).

546. During the period under review, Antigua and Barbuda did not receive or make any group requests.

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

547. For exchange of information to be effective, it is necessary that a jurisdiction's obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the standard for exchange of information envisages that EOI mechanisms will provide for exchange of information in respect of all persons.

548. All of Antigua and Barbuda's EOI relationships provide for EOI in respect of all persons.[96]

96. Article 20(1) of the DTC with Switzerland provides for exchange of information only for the purposes of "carrying out the provisions of the present Convention in relation of the taxes which are the subject of the Convention". Since the DTC provisions only apply to residents of either Switzerland or Antigua and Barbuda, exchange of information in respect of all persons is not possible under this DTC. This is now compensated through the Multilateral Convention.

549. In practice, no difficulties have arisen. Antigua and Barbuda successfully answered requests relating to banking information on non-resident account holders.

C.1.3 and C.1.4. Obligation to exchange all types of information, including in absence of a domestic tax interest

550. A request for information cannot be declined solely because the information is held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity. Further, a refusal to provide information based on a domestic tax interest requirement is not consistent with the standard. The concept of "domestic tax interest" describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes.

551. All of Antigua and Barbuda's TIEAs and the Multilateral Convention comply with these aspects of the standard.

552. The CARICOM treaty does not contain similar provisions.[97] Antigua and Barbuda's domestic laws allow it to access and exchange bank and ownership information even in the absence of wording akin to Article 26(5) of the Model Tax Convention. There are also no domestic tax interest restrictions on Antigua and Barbuda's powers to access information in EOI cases (see Part B above). In view of this, whether the CARICOM treaty is compliant will depend on Antigua and Barbuda's EOI partners' respective domestic laws.

553. The obligation to exchange all types of information with the two partners who are not participating in the Multilateral Convention is not clearly available as:

- In Trinidad and Tobago's latest EOIR review report, serious deficiencies were found regarding the access powers of the competent authority.[98] This resulted in Element B.1 being assessed as "not in place". Trinidad and Tobago cannot exchange all types of information under its domestic law.
- Guyana having joined the Global Forum in 2016, it has not been reviewed yet, so it is not possible to confirm that the CARICOM treaty with regard to Guyana would be applied in accordance with the standard.

97. The same applies to the DTC with Switzerland, but as noted in the previous footnote, it is compensated by the Multilateral Convention.

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

554. The 2014 Report therefore recommended Antigua and Barbuda to work with CARICOM partners to ensure exchange of information to the standard can occur under that agreement. Antigua and Barbuda attended various events, seeking to increase the awareness of the necessity of amending the agreement. However, Antigua and Barbuda observed that the change would require regional effort and all member states must agree to the amendment before any such amendment can be given effect. The CARICOM Heads of Government met in Barbados and released a communiqué on 21 February 2023, including an endorsement of the decision of the Council for Finance and Planning to amend the CARICOM treaty through a Protocol on Treaty Shopping and Exchange of Information. They urged Member States to support the work of a Joint Committee of Finance, Tax and Legal Affairs officials, so that the Protocol could be ready for signature in July 2023. As the work remains in progress, Antigua and Barbuda should continue working with CARICOM partners to ensure exchange of information to the standard can occur in the absence of domestic interest (see Annex 1).

555. During the review period, Antigua and Barbuda exchanged ownership and banking information. These exchanges involved information in which Antigua and Barbuda had no domestic tax interest as the requests related to foreign nationals or companies which were not taxpayers in Antigua and Barbuda.

C.1.5. Absence of dual criminality principles and C.1.6. Civil and criminal tax matters

556. Information exchange may be requested both for tax administration purposes and for tax prosecution purposes. The principle of dual criminality provides that assistance for criminal purposes can only be provided if the conduct being investigated (and giving rise to an information request) would constitute a crime under the laws of the requested jurisdiction if it had occurred in the requested jurisdiction. In order to be effective, exchange of information should not be constrained by the application of the dual criminality principle.

557. All of Antigua and Barbuda's TIEAs and the Multilateral Convention provide for EOI in both civil and criminal tax matters, and contain provisions similar to Article 5(1) of the 2002 Model TIEA, which obliges Contracting Parties to exchange information without regard to whether the conduct being investigated would constitute a crime under the laws of the requested Contracting Party. There are no dual criminality provisions in Antigua and Barbuda's DTCs and the CARICOM treaty.

558. In practice, the competent authority confirms that the same procedure in obtaining and accessing information applies for both civil and criminal

tax matters. Antigua and Barbuda reported that in this review period, one request that related to a criminal tax matter was answered.

C.1.7. Provide information in specific form requested

559. There are no restrictions in Antigua and Barbuda's domestic laws that would prevent it from providing information in a specific form, so long as this is consistent with its own administrative practices. Further, Section 12 of the TIE Act explicitly authorises the Commissioner to obtain, where the request so stipulates, information in the form of deposition of witnesses and authenticated copies of original documents.

560. This is reinforced in all of Antigua and Barbuda's TIEAs, which contain provisions similar to Article 5(3) of the 2002 Model TIEA, which obliges Contracting Parties to provide, on request, information in the form of depositions of witnesses and authenticated copies of original records to the extent allowable under domestic law.

561. According to the comments received from Antigua and Barbuda's treaty partners, there were no instances where Antigua and Barbuda was not able to provide the information in the specific form requested or under an acceptable format.

C.1.8. Signed agreements should be in force

562. Exchange of information cannot take place unless a jurisdiction has exchange of information agreements in force. The standard requires that jurisdictions take all steps necessary to bring information agreements that have been signed into force expeditiously.

563. At the time of the 2014 Report, Antigua and Barbuda had concluded 22 EOI agreements,[99] of which 14 had been brought into force as of 15 May 2014. In respect of the other eight agreements, at that time, Antigua and Barbuda had completed all its domestic procedures to ratify them. Antigua and Barbuda had also informed its treaty partners that it had completed its domestic ratification procedures (with the exception of Belgium, Curaçao and Sint Maarten) and was waiting for its treaty partners to complete their domestic ratification procedures. The 2014 Report recommended Antigua and Barbuda (under Element C.2), to take all steps necessary to bring concluded agreements into effect as quickly as possible (see paragraph 570).

99. 21 bilateral agreements and the CARICOM Treaty. Antigua and Barbuda's participation in the CARICOM Treaty allows it to exchange information with 10 other jurisdictions who are also signatories to this treaty.

564. As of April 2023, Antigua and Barbuda has signed three additional EOI agreements, namely the Multilateral Convention, which entered into force on 1 February 2019 without delay, a new TIEA with Canada (signed in 2017), and a bilateral DTC with the United Arab Emirates (signed in 2017). In 2019, Antigua and Barbuda notified the two partners (Canada and the United Arab Emirates) that the internal procedures are completed. With respect to Portugal, Antigua and Barbuda explained that the parliamentary resolution was passed in 2010 and Portugal was notified that the internal procedures are completed by Antigua and Barbuda.

565. Since the last peer review, seven TIEAs, signed in 2009-11, entered into force, i.e. Faroe Islands in 2011, Iceland in 2012, Curacao, Sint Maarten[100] and Sweden in 2013, Belgium and Greenland in 2017.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	148
In force	141
In line with the standard	139
Not in line with the standard	2[a]
Signed but not in force	7[b]
In line with the standard	7
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	0

Notes: a. EOI relationships with Guyana and Trinidad and Tobago, through the CARICOM agreement.

b. See Annex 2 on list of jurisdictions in which the Multilateral Convention has not entered into force (except the United States with which a bilateral instrument is in force).

C.1.9. Be given effect through domestic law

566. For information exchange to be effective, the parties to an EOI arrangement need to enact any legislation necessary to comply with the terms of the arrangement. In Antigua and Barbuda, all EOI agreements

100. Following the dissolution of the Netherlands Antilles on 10 October 2010, two separate jurisdictions were formed (Curaçao and Sint Maarten) with the remaining three islands (Bonaire, St Eustatius and Saba) joining the Netherlands as special municipalities. The TIEA concluded with the Kingdom of the Netherlands, on behalf of the Netherlands Antilles, continues to apply to Curaçao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, St Eustatius and Saba) and is administered by Curaçao and Sint Maarten for their respective territories and by the Netherlands for Bonaire, St Eustatius and Saba.

have to be vetted by the Solicitor General before they are signed. Once the Solicitor General gives his/her agreement to the text of the EOI agreement, he/she will submit the EOI agreement to the Minister of Finance for final approval. The Minister of Finance will in turn submit the EOI agreement to the Cabinet for information before giving the final approval to sign the agreement. Once EOI agreements are signed and ratified by a resolution passed by the House of Representatives of Antigua and Barbuda, these agreements are then given the force of law (Section 3(2) of the TIE Act). Ratified EOI agreements have equal status as any law passed by the Parliament of Antigua and Barbuda. Under the Ratification of Treaties Act, "no provision of a treaty shall become, or be enforceable as, part of the law of Antigua and Barbuda except by or under an Act of Parliament" (Section 3(3)).

567. Once an agreement is ratified, the implementation of its terms is governed by the provisions of the TIE Act (Section 3(2) of the TIE Act). The Law (Miscellaneous Amendments) Act, No. 4 of 2017, added Section 3(3) to the TIE Act, which specifies that where there is an inconsistency between the provisions of the TIE Act and the provisions of any other law, the provisions of the TIE Act will prevail only to the extent of the inconsistency.

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

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

568. Antigua and Barbuda committed to the standard of transparency and exchange of information on request in tax matters in 2002. At that time, it had only a DTC with Switzerland (extension to Antigua and Barbuda of the previous DTC between Switzerland and the United Kingdom) and the CARICOM Treaty. In 2009, it renewed this commitment and since then has rapidly expanded its network of EOI agreements, including with its main trading partners.

569. With the signature of the Multilateral Convention on 27 July 2018, Antigua and Barbuda has an EOI relationship with 148 jurisdictions (all its bilateral agreements are signed with jurisdictions that participate in the Multilateral Convention). The Multilateral Convention entered into force in Antigua and Barbuda on 1 February 2019.

570. No Global Forum members indicated, in the preparation of this report, that Antigua and Barbuda refused to negotiate or sign an EOI instrument with it. As there is no outstanding EOI agreement in relation to which Antigua and Barbuda has not completed its internal procedures, the recommendation made by the 2014 Report that Antigua and Barbuda should take all steps necessary to bring concluded agreements into effect as quickly as possible is removed.

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

572. The conclusions are as follows:

Legal and Regulatory Framework: in place

Antigua and Barbuda 's network of information exchange mechanisms covers all relevant partners.

Practical Implementation of the Standard: Compliant

Antigua and Barbuda's network of information exchange mechanisms covers all relevant partners.

C.3. Confidentiality

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

573. The 2014 Report concluded that the combination of provisions in EOI agreements and domestic law regarding confidentiality of information required that information received under an EOI agreement would be kept confidential in line with the standard. This remains the case.

574. Concerning the practical implementation of the legal requirements by Antigua and Barbuda, the 2014 Report noted that there was no known government policy governing the use of the public email account and the type of information that may be transmitted via the public email account. There were instances where the competent authority sent confidential information (i.e. response to an EOI request) to its EOI partners via a public email account without prior agreement with such EOI partners and without any level of encryption. It was recommended that if the need to communicate confidential information with its EOI partners via email arises, Antigua and Barbuda should only use encrypted or secured email. Since then, a policy has been put in place in relation to the acceptable use of the government issued email account for the purpose of conducting government business and the competent authority received a protected government assigned email address; however, this has not been fully tested in practice. The recommendation is amended accordingly. Antigua and Barbuda should monitor its practical implementation and ensure that if the need to communicate confidential information with its EOI partners via email arises, only an encrypted or secured email is used.

575. During the review period, in one instance, the information in relation to an EOI request was disclosed to unauthorised third parties where this was not necessary for gathering the requested information, which is not in accordance with the standard. Antigua and Barbuda should make sure that there are mechanisms in place which would prevent such unauthorised disclosures.

576. Since the 2014 Report, Antigua and Barbuda has put in place the EOI Manual (2017, revised in 2022) which sets out the organisational processes and procedures seeking to ensure the confidentiality of information when processing EOI requests. Whilst this guidance refers to the confidentiality of information, concerns remain as to its practical implementation. No requests have yet been received and processed under the new 2022 EOI Manual and thus the relevant procedures remain untested. Antigua and Barbuda should ensure practical implementation of the new procedures.

577. The conclusions are as follows:

Legal and Regulatory Framework: in place

No deficiencies have been identified in the EOI mechanisms and legislation of Antigua and Barbuda concerning confidentiality.

Practical Implementation of the Standard: Partially Compliant

Deficiencies/Underlying factor	Recommendations
In one instance, the information in relation to a request was disclosed to unauthorised third parties where this was not necessary for gathering the requested information. This disclosure is not in accordance with the standard.	Antigua and Barbuda should put in place mechanisms which prevent disclosure to unauthorised third parties of information that is not necessary to obtain the information requested and ensure that these mechanisms are effective in practice.
Whilst the policy governing the use of a public email account and the type of information that may be transmitted via the public email account was put in place by Antigua and Barbuda and the competent authority received a protected government assigned email address, this policy has not been fully tested in practice. During the review period, Antigua and Barbuda received and responded to all but one requests by mail.	Antigua and Barbuda should monitor its exchange of information practices and ensure that if the need to communicate confidential information with its EOI partners via email arises, Antigua and Barbuda should only use an encrypted or secured email.

Deficiencies/Underlying factor	Recommendations
Antigua and Barbuda has put in place the EOI manual (2017, revised in 2022) which sets out the organisational processes and procedures seeking to ensure the confidentiality of information when processing EOI requests. Whilst this guidance points to the confidentiality of information, concerns remain as to its practical implementation. No requests have yet been received and processed under the new framework and thus the relevant procedures remain new and untested.	Antigua and Barbuda should ensure practical implementation of the new procedures set by the 2022 EOI Manual, including labelling EOI information in a way that clearly indicates its confidential and treaty protected status, so that confidentiality of the exchanged information in line with the standard is ensured in all cases.

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

578. The 2014 Report concluded that Antigua and Barbuda has adequate provisions to ensure the confidentiality of information received. This remains the case. All of Antigua and Barbuda's EOI agreements have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the applicable EOI instrument. While each of the articles might vary slightly in wording, these provisions generally contain all of the essential aspects of Article 8 of the OECD Model TIEA and Article 26(2) of the OECD Model Tax Convention.

579. Secrecy of information exchanged is protected by confidentiality provisions under the Income Tax Act and the TAPA. Section 4 of the Income Tax Act requires all persons having any official duty or employed in the administration of the Act to preserve the confidentiality of all taxpayer information they obtain in the course of their work. More broadly, Section 10 of the 2018 TAPA ("Confidentiality") provides that the person receiving information in an official capacity in relation to a specific taxpayer should regard it as secret and confidential. A person who breaches this provision is liable on summary conviction to a fine not exceeding XCD 20 000 (USD 7 400), or to imprisonment for a term of one year, or both.

580. Antigua and Barbuda's competent authority highlighted that, in practice, any breach of the confidentiality of taxpayer information by any employee of the IRD will result in termination of service. The case will also be referred to the police for investigation and possible prosecution.

581. 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 and the authority supplying the information authorises the use of the information for purposes other than tax purposes. In this context, point (e) of Section 10 of the 2018 TAPA provides that the person receiving information in an official capacity in relation to a specific taxpayer may disclose information to "law enforcement agencies, for the purpose of the prosecution of a criminal offence" and thus the permitted disclosure is not restricted to tax matters. EOI agreements have equal status as any law passed by the Parliament of Antigua and Barbuda and therefore a concern arises as to whether the competent authority would share exchanged information with these authorities also for non-tax matters. Antigua and Barbuda observed that Article 8 of its TIEAs allows for exceptions to disclosure which includes "… authorities (including court and administrative bodies) in the jurisdiction of the Contracting Party concerned with the … prosecution in respect of, … the taxes covered by this Agreement …". Antigua and Barbuda further explained that jurisdictions are bound to comply with their international obligations under customary international law. The 2022 EOI Manual recalls the provisions on tax confidentiality of information exchanged found in Article 26(2) of the OECD Model Tax Convention, Article 8 of the Model TIEA and Article 22 of the Multilateral Convention, and it acknowledges that these provisions set limits on the persons to whom the information can be disclosed and on the purposes for which the information may be used. Accordingly, Antigua and Barbuda maintains that unless the disclosure facilitates the prosecution of a tax offence, the disclosure pursuant to Section 10 TAPA may be declined to ensure that the TIEA treaty obligations are adhered to. Therefore, any information received in the context of an EOI request can be shared with other domestic authorities only when the EOI instrument so allows. No instances have been reported by Antigua and Barbuda where the treaty protected information was shared with law enforcement authorities for non-tax purposes. Nevertheless, Antigua and Barbuda should monitor the application of provisions on disclosure of treaty protected information to law enforcement agencies for non-tax purposes to ensure compliance with the standard (see Annex 1).

582. According to Section 6(4) of the TIE Act, a written notice issued by the Commissioner under Section 6(1) of the TIE Act must contain "the relevant details of the information sought". Antigua and Barbuda's competent authority confirms that if it needs to issue a written notice, there is no legal obligation to provide any other details to the person except for the details of the information required (see 2014 Report, paragraph 281). As specified by the 2022 EOI Manual, where the information is requested from the taxpayer or third party, only the minimum amount of information contained in the requesting competent authority letter necessary to obtain or provide the requested information can be disclosed. Antigua and Barbuda clarified that on no account should

the actual letter of request from the foreign competent authority be provided. The 2022 EOI Manual has made it explicit that these considerations are relevant for taxpayers and other third parties, whereas the 2017 EOI Manual referred only to the circumstances "where the information required is held by a taxpayer" and did not refer to communication with other authorities.

583. In relation to other authorities, the Memorandum of Understanding between the FSRC and the IRD specifies that the request for information must specify: (i) the information sought by the IRD; (ii) a general description of the matter which is the subject of the request; (iii) how the information requested will assist the IRD in the performance of its statutory duties; (iv) the purpose for which the information is sought; and (v) the desired time period for reply and where appropriate, the urgency of the request. The requirements (ii) to (iv), may go beyond the minimum information necessary to collect the requested information. In practice, there is a need to improve the understanding and application of confidentiality restrictions in relation to other authorities. In one instance, more information than was necessary for gathering the requested information in relation to a request was disclosed to unauthorised third parties. This disclosure is not in accordance with the standard. **Antigua and Barbuda should make sure that there are mechanisms in place which would prevent disclosure to unauthorised third parties information that is not necessary to obtain the information requested and that these mechanisms are effective in practice**.

584. Section 6(2) of the TIE Act, as amended in 2011, stipulates that the Commissioner may send a copy of the notice issued under Section 6(1) to the taxpayer, unless in the opinion of the Commissioner, the service of such a notice may lead to the obstruction of any investigation for which the information is requested or unduly delay the effective exchange of the information. This is the only manner in which the person, the subject of the EOI request may become familiar with the process, as the TIE Act does not facilitate any further inspection of any EOI file held by the competent authority. No notice has been sent during the review period (see section B.2 above).

585. The Freedom of Information Act (FIA), No. 19 of 2004, provides general access to information (which could include information on an EOI file) held by a public authority (which includes the competent authority). However, the FIA also provides an exception to the general rule in that a public authority may refuse to communicate if "the information was obtained in confidence from another State or an international organisation, and to communicate it would, or would be likely to, seriously prejudice relations between Antigua and Barbuda and that State or international organisation" (Section 28(c)). Antigua and Barbuda explained that an EOIR-related information would be captured by this exception and no sharing would occur in practice. No FIA request has been received in relation to EOI files during the review period.

C.3.2. Confidentiality of other information

586. Confidentiality rules should apply to all types of information exchanged, including information provided in a request, information transmitted in response to a request and any background documents to such requests. The confidentiality provisions in Antigua and Barbuda's exchange of information agreements do not draw a distinction between information received in response to requests and information forming a part of a request. The domestic provisions on confidentiality apply equally to information received and provided under an EOI agreement, including background documents and records of communications.

Confidentiality in practice

587. The IRD has proper physical security measures and procedures relating to the hiring and rotation of staff and their conduct. Further, Antigua and Barbuda has put in place the EOI Manual (2017, revised in 2022) which sets out the organisational processes and procedures seeking to ensure the confidentiality of information when processing EOI requests. The 2022 EOI Manual sets specific rules and procedures to satisfy the confidentiality requirements.

Human resources and training

588. Prospective employees and contractors of the IRD must pass a background check, which involves the review of criminal records and references. A code of conduct must be signed by all employees, including non-established or contract workers, which entails an oath of secrecy taken before the Chief Magistrate. All employees are briefed on confidentiality and what is expected of them. Antigua and Barbuda explained that a more in-depth integrity screening is a standard procedure required in respect of non-established or contract workers who have or may obtain access to confidential information, in particular exchanged information; albeit in practice only the competent authority has access to the treaty protected information. Background checks are repeated regularly on employees, including when there is a promotion or the transfer of an individual to another area.

589. Training on confidentiality and organisational expectations is given before commencement of duties to all employees and contractors. An update is also provided periodically. The Human Resources manager collaborates with the IT Manager in organising the quarterly training programme and it highlights the importance of the clean desk policy, the various IT policies which include clear screen policy, the protection of shared facilities and equipment policy and the internet/email use policy and all elements of the IRD code of conduct in relation to IT security, confidentiality, etc. The quarterly trainings must be attended by all employees of the IRD.

590. As a result of onboarding the 2022 EOI Manual, the competent authority of Antigua and Barbuda has rationalised the EOI unit. There are now three persons assigned to the EOI unit: the competent authority, an EOI manager and an EOI officer. Whilst certain onboarding measures were carried out in March 2022, no formal training has been reported on confidentiality aspects related to processing treaty protected information. The newly appointed EOI officer has not received a training on confidentiality in relation to EOIR. The competent authority indicated its intention to invite the Global Forum Secretariat to conduct a formal training with EOI staff in 2023.

Physical and logical security measures, labelling and storage

591. The IRD has proper physical security measures in relation to the access to the IRD premises and the EOI offices. A Police Officer and a contracted Security Guard are located at the main entrance of the building, which is the only access point for visitors and employees. Only persons employed and authorised visitors are permitted to enter the IRD building. The employees are using a finger print access machine. There is a visitor's log which requires the date, names, time and signature. A visitor's badge is worn whilst in the building and then returned on leaving the building. Visitors cannot go beyond a certain area without authorisation and being escorted. There are security cameras located at strategic points of the building which monitor the premises 24 hours a day. A new employee obtains access via a supervisor-approved form (containing personnel information from Human Resources), from which the IT department allocates user profiles. The same procedure is performed for employees moving between jobs within the IRD.

592. Physically, confidential information related to exchanges is stored in locked filing cabinets within the office of the Commissioner. Such cabinets are only accessible by the competent authority and the team directly involved in the information exchange processes requires a permission of the competent authority to access the physical files. Whilst the service staff is allowed to access the premises during and after office hours, they would not have the keys for those locked cabinets. The competent authority practices a clean desk policy and all official documents including any EOI requests received by the competent authority have to be kept in locked cabinets during and after office hours. In practice, these restrictions appear to be observed.

593. The EOI team (manager and officer) use a dedicated EOI office when dealing with the exchange of information. The EOI office (unlike the competent authority's office) does not have special access requirements beyond those applied at the entrance to the IRD; however, when it is not actually in use to discuss or process a request, it is essentially a bare room.

594. The EOI 2022 Manual specifies that all correspondences and documents sent or received by the EOI unit must be labelled as confidential through a "treaty stamp" for physical records or a watermark for electronic records, but this is not done in practice (even if it was required under the 2017 EOI Manual). There is no marking or labelling of the files or documents to indicate that the information was received pursuant to a treaty and its disclosure and use of is subject to the restrictive terms of the treaty.

595. The 2014 Report noted that at that time there was no known government policy governing the use of the public email account and the type of information that may be transmitted via the public email account. As there were instances where the competent authority sent confidential information to its EOI partners via a public email account without prior agreement with such EOI partners and without any level of encryption, it was recommended that if the need to communicate confidential information with its EOI partners via email arises, Antigua and Barbuda should only use encrypted or secured email.

596. Antigua and Barbuda reported that in 2015, the government established the Internet/Intranet Acceptable Use Policy which specifies the use of government issued email address for the purpose of conducting government business. This overall policy is supported by the Enforcement of Acceptable Use Policy. The competent authority received a protect government assigned email address which provides the relevant security and encryption to safeguard exchanges against confidentiality breaches. The new and official email was registered on the Global Forum's competent authorities database as a way of contacting the competent authority of Antigua and Barbuda in November 2022. Antigua and Barbuda explained that all matters related to EOI are now routed to this email and it no longer relies on a public email account.

597. Whilst the policy governing the use of a public email account and the type of information that may be transmitted via the public email account was put in place by Antigua and Barbuda and the competent authority received a protected government assigned email address, this policy has not been fully tested in practice. During the review period, Antigua and Barbuda received and responded to all but one requests by mail. Only one request was received and replied to using the protected government assigned email address. In view of this limited experience, **Antigua and Barbuda should monitor its exchange of information practices and if the need to communicate confidential information with its EOI partners via email arises, Antigua and Barbuda should only use an encrypted or secured email**.

Breach monitoring and breach response

598. Antigua and Barbuda has put in place a policy on data breach management in January 2023. As this policy is new, Antigua and Barbuda should monitor the implementation of the data breach management policy to ensure the protection of exchanged information in practice (see Annex 1).

599. Antigua and Barbuda's competent authority reported that there have been no cases where the person was investigated, charged or terminated for the breach of confidentiality. Antigua and Barbuda's peers who have provided inputs to this review have not indicated any breach of confidentiality concerning their exchange of information with Antigua and Barbuda.

600. However, in one instance, as noted above, a request received by Antigua and Barbuda has been discussed by the competent authority with unauthorised parties. The disclosure to third parties of the information in relation to the EOI request, where this was not necessary for gathering the requested information, is not in accordance with the standard (see above).

601. In conclusion, Antigua and Barbuda has put in place the EOI manual (2017, revised in 2022) which sets out the organisational processes and procedures seeking to ensure the confidentiality of information when processing EOI requests. Whilst this guidance is adequate on the confidentiality of information, concerns remain at its practical implementation. No requests have yet been received and processed under the new framework and thus the relevant procedures remain new and untested. **Antigua and Barbuda should ensure practical implementation of the new procedures set by the 2022 EOI Manual, including labelling EOI information in a way that clearly indicates its confidential and treaty protected status, so that confidentiality of the exchanged information in line with the standard is ensured in all cases**.

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.

602. The 2014 Report concluded that Element C.4 was In Place as information exchange mechanisms of Antigua and Barbuda respect the rights and safeguards of taxpayers and third parties. The 2014 Report, however, acknowledged that Antigua and Barbuda's TIEA with Liechtenstein required the requesting state to notify the taxpayer of its intent to make a request whenever the investigation did not relate to a criminal case, which could prevent or delay the exchange of information by Antigua and Barbuda in non-criminal cases. Antigua and Barbuda was recommended to update the TIEA with Liechtenstein to allow appropriate exceptions to the

requirement to notify taxpayers in non-criminal cases. Since then, Antigua and Barbuda became a Party to the Multilateral Convention, and this instrument (that meets the standard) can be used for exchange of information with Liechtenstein; the recommendation is therefore removed.

603. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legal and regulatory framework of Antigua and Barbuda in relation to ensuring that its information exchange mechanisms respect the rights and safeguards of taxpayers and third parties.

Practical Implementation of the Standard: Compliant

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

C.4.1. Exceptions to provide information

604. The standard allows requested parties not to supply information in response to a request in certain identified situations where an issue of trade, business or other secret may arise. Among other reasons, an information request can be declined where the requested information would disclose confidential communications protected by the attorney-client privilege. However, communications between a client and an attorney or other admitted legal representative are, generally, only privileged to the extent that, the attorney or other legal representative acts in his or her capacity as an attorney or other legal representative.

605. The scope of attorney-client privilege is not defined in the TIEAs with Germany, Portugal and Liechtenstein, nor in the DTCs with Switzerland and the United Arab Emirates, but all are complemented with the Multilateral Convention. The same is missing in the CARICOM Tax Treaty, which is also complemented with the Multilateral Convention for all signatories, but Guyana and Trinidad. For these last two EOIR relationships, the scope of attorney-client privilege is not defined and thus would take reference from Antigua and Barbuda's domestic law.

606. As described in Part B, the domestic law is consistent with the standard. The Solicitor General also advised that the legal professional privilege would not preclude the competent authority from accessing information for bona fide reasons and in the context of when the attorney-at-law is holding the required information in a different capacity (e.g. as a director of company) other than as an attorney-at-law.

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.

607. The 2014 Report issued a "Largely Compliant" rating for Element C.5 and made two recommendations to strengthen its communication with its EOI partners and to ensure that the competent authority provides information in an effective manner.

608. Prior to 2013, Antigua and Barbuda did not have a structured organisation and procedure for handling the few requests it received (about one per year). The 2014 Report observed that some EOI requests had been lost, which led to delays in handling them, and changes in personnel led to discontinuity in the handling of requests. The identity and contact details of the delegated competent authority were not readily available to EOI partners. Antigua and Barbuda was recommended to address this issue, which it did diligently. As an EOI unit was established in October 2013, after the review period, and an EOI manual was in the making, Antigua and Barbuda was recommended to monitor the functioning of the unit and finalise the drafting of the manual. The EOI manual was finalised by Antigua and Barbuda in 2017, and was revised in 2022.

609. During the current period of review, Antigua and Barbuda received eight requests. It has declined one of them and provided a partial response in relation to another request. When Antigua and Barbuda was unable to provide the information requested within 90 days, updates on the status of the requests have not been provided regularly. Antigua and Barbuda should ensure that it provides status updates to its EOI partners if EOI requests cannot be responded to in substance within 90 days. Antigua and Barbuda has not sent any request for information to its partners during the review period.

610. The work of the EOI unit was rationalised in March 2022 to include 3 staff members, shortly before the end of the current review period. A new 2022 EOI Manual was put in place at the same time (to replace the 2017 EOI Manual) and no request has been received since. Antigua and Barbuda appears to have adequate resources in place to handle the current level of incoming EOI requests. Nevertheless, there are concerns that the 2022 EOI Manual has not been fully tailored to suit the particular circumstances of Antigua and Barbuda's legislation and practices. Antigua and Barbuda should monitor the functioning of the rationalised EOI unit and the implementation of the procedures set by the 2022 EOI Manual to ensure that it provides appropriate and comprehensive guidance to the

officers involved in EOI and that the information is exchanged in line with the standard in all cases.

611. 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/Underlying factor	Recommendations
During the period of review, when Antigua and Barbuda has been unable to provide the information requested within 90 days, updates on the status of the requests have not been provided regularly.	Antigua and Barbuda should ensure that it provides status updates to its EOI partners if EOI requests cannot be responded to in substance within 90 days.
As no new requests have been received since the 2022 EOI Manual and the rationalised EOI unit were put in place, the new framework remains to be fully tested in practice. Nevertheless, there are concerns that the 2022 EOI Manual has not been fully tailored to suit the particular circumstances of Antigua and Barbuda's legislation and practices and may require revision to ensure that it is complete and provides appropriate and comprehensive guidance to the officers involved in EOI. Furthermore, the lack of correct understanding and application of the standard demonstrate the need to strengthen supervision of the EOI Unit, EOI staff training and other relevant measures to ensure that the requirements of the EOIR standard are fully apprehended and the EOI processes are followed in practice.	Antigua and Barbuda should monitor the functioning of the rationalised EOI unit and the implementation of the procedures set by the 2022 EOI Manual to ensure that it provides appropriate and comprehensive guidance to the officers involved in EOI and that the information is exchanged in line with the standard in all cases.

C.5.1. Timeliness of responses to requests for information

612. All of Antigua and Barbuda's TIEAs and the Multilateral Convention, except for its TIEA with Liechtenstein, contain provisions similar to Article 5(6) of the 2002 Model Agreement on EOI on Tax Matters, which obliges Contracting Parties to forward the requested information as promptly as possible to the applicant Party.

613. Contracting Parties are required to confirm receipt of a request in writing to the applicant Party and notify it of deficiencies in the request, if any, within 60 days of the receipt of the request. The requested Party is also required to inform the applicant Party if it is unable to obtain and provide the information within 90 days of receipt of the request, and explain the reasons behind the delay.

614. Over the period under review (1 April 2019 to 31 March 2022), Antigua and Barbuda received eight requests for information,[101] of which two requests in the period from 1 April 2019 to 31 March 2020, one request from 1 April 2020 to 31 March 2021, and five requests from 1 April 2021 to 31 March 2022. Of these eight requests, five requested have been responded within 90 days and one request took more than 180 days. It took 15 months to decline the provision of information and 7 months to provide a partial response.

615. Most requests received during the review period related to natural persons and IBCs. These requests covered banking information in relation to natural persons in four instances, four requests for legal ownership information in relation to IBCs and domestic companies, and accounting records relating to an IBC in two instances. There were no requests for beneficial ownership information. With two exceptions where the competent authority failed to exercise its powers to compel the production of accounting records and underlying documentation by IBCs, the information was obtained by Antigua and Barbuda and provided to the requesting jurisdictions. The most significant partners are the United States, the United Kingdom and France. All peers were in principle satisfied with the answers received from Antigua and Barbuda. Where certain information has not been provided, the response of Antigua and Barbuda was explained by the lack of powers to obtain the information in question.

101. Antigua and Barbuda counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about 4 persons in one request, Antigua and Barbuda count that as 1 request. If Antigua and Barbuda received a further request for information that relates to a previous request, with the original request still active, Antigua and Barbuda will append the additional request to the original and continue to count it as the same request.

616. Antigua and Barbuda received requests involving different information holders (e.g. international banks, domestic banks, the FSRC and IBCs) and answered five of the requests within 90 days. However, Antigua and Barbuda failed to obtain and provide information requested in one case and in another case only partial information was provided, as described under B.1.1. In these two instances it took seven months to provide a partial response and fifteen months to decline the provision of information. No status updates have been provided in a regular manner on these two requests.

617. Accordingly, during the period of review, when Antigua and Barbuda has been unable to provide the information requested within 90 days, updates on the status of the requests have not been provided regularly. **Antigua and Barbuda should ensure that it provides status updates to its EOI partners if EOI requests cannot be responded to in substance within 90 days**.

C.5.2. Organisational processes and resources

618. Antigua and Barbuda's competent authority for EOI is the Minister for Finance or his/her authorised representative. The TIE Act refers to the Commissioner of Inland Revenue as the person authorised to exercise the powers and perform the duties of the Competent Authority.

619. During the review period 2010-12 assessed in of the 2014 Report, Antigua and Barbuda did not have a dedicated EOI unit to handle incoming EOI requests. A Monitoring and Legal Unit (MLU) was established within the IRD to monitor and process incoming EOI requests in October 2013.

620. Since then, Antigua and Barbuda put in place the 2017 EOI Manual, which sets out the duties, responsibilities of the relevant officers and the processes to be followed in handling incoming EOI requests (including providing status updates to its EOI partners if an EOI request cannot be responded to within 90 days). However, these changes have not led to the basic principles of EOI being understood and implemented by Antigua and Barbuda in accordance with the standard in the current review period (as identified under Element B.1, C.1 and C.3). The lack of correct understanding and application of the standard has materially affected actual information exchanges. With a small number of requests and limited technical training, the effectiveness of exchanges has not been fully satisfactory.

621. Antigua and Barbuda's competent authority revised its 2017 EOI Manual in March 2022, shortly before the end of this review period. The new manual is based substantially on the Model Manual on Exchange of Information for Tax Purposes developed by the Secretariat of the Global Forum. As such, the manual is comprehensive in the subject matter

covered. Nevertheless, there are concerns that it has not been fully tailored to suit the particular circumstances of Antigua and Barbuda's legislation and practices. Some sections of the manual are incomplete or, where efforts to tailor it to domestic circumstances had been made, the revised paragraphs are sometimes unclear. Some sections have not been tailored at all to reflect the position for Antigua and Barbuda (such as when the Multilateral Convention had entered into force, or detail regarding access to the EOI request tracking tool and EOI data security measures, or the 20-day retention period for documents before exchange). Furthermore, there are some instances where the manual covers matters that are not a feature of the Antigua and Barbuda system (e.g. post-exchange notification; references to regional tax offices; and existence of a confidentiality stamp, which it transpired was not in use at the time of the on-site visit), and some where sections of the legislation are reproduced, but no relevant guidance is given to EOI staff on how they should be implemented in practice (e.g. the section on notification). As a result, doubts arise about the extent to which the manual is being used in practice by the officers involved in EOI (or will be used in practice), and there are concerns that it does not provide comprehensive guidance based on the system that applies in Antigua and Barbuda. During the on-site, there was no indication that the competent authority was using the templates contained in the manual (in place of those used previously).

622. The 2022 EOI Manual revamped the organisational processes in place to handle incoming and outgoing EOI requests in view of rationalising the EOI unit. The 2014 Report explained that the EOI unit included one legal counsel and two monitoring officers from within the IRD. Prior to 2022, the EOI unit included the competent authority and one legal counsel. Since 2022, the EOI unit now includes three persons, i.e. the competent authority, and, in addition, an EOI manager and an EOI officer. Antigua and Barbuda explained that the functions of each person are now described in the 2022 EOI Manual to bring greater efficiency. The work is supervised personally by the Commissioner of Inland Revenue. The EOI officer is familiar with the Global Forum work and she was the liaison officer that facilitated Antigua and Barbuda's previous peer reviews. She has also acted as the expert assessor representing Antigua and Barbuda. The EOI officer has been recently onboarded.

623. Considering the low volume of EOI requests currently being received by Antigua and Barbuda, the number of staff allocated to EOI appears adequate. Nevertheless, concerns related to the handling of requests in practice, described under Elements B.1, C.1 and C.3 above, support the need for further enhancement in the EOI team's understanding and application of the standard. The strengthening of supervision, staff training and other relevant measures should ensure that the requirements of the EOIR standard are fully

apprehended and the EOI processes are followed in practice. The competent authority indicated its intention to invite the Global Forum Secretariat to conduct a formal training with EOI staff in 2023.

624. The 2022 EOI Manual also specifies the procedure applicable to the outgoing requests, which is consistent with the standard but remains untested. No outgoing request has been processed and sent by Antigua and Barbuda during the review period.

625. To sum up, as no new requests have been received since the 2022 EOI Manual and the rationalised EOI unit were put in place, the new framework remains to be fully tested in practice. Nevertheless, there are concerns that the 2022 EOI Manual has not been fully tailored to suit the particular circumstances of Antigua and Barbuda's legislation and practices and may require revision to ensure that it is complete and provides appropriate and comprehensive guidance to the officers involved in EOI. Furthermore, the lack of correct understanding and application of the standard (as identified under Element B.1, C.1 and C.3) demonstrate the need to strengthen supervision of the EOI Unit, EOI staff training and other relevant measures to ensure that the requirements of the EOIR standard are fully apprehended and the EOI processes are followed in practice. **Antigua and Barbuda should monitor the functioning of the rationalised EOI unit and the implementation of the procedures set by the 2022 EOI Manual to ensure that it provides appropriate and comprehensive guidance to the officers involved in EOI and that the information is exchanged in line with the standard in all cases**.

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

626. There are no factors or issues identified in Antigua and Barbuda that could unreasonably, disproportionately or unduly restrict effective EOI.

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**:
  - Antigua and Barbuda should monitor the availability of legal ownership information through exempted service providers to ensure that the lack of due diligence, record keeping and record retention obligations does not impede the availability of legal ownership information in all cases (paragraph 106).
  - Antigua and Barbuda should ensure that legal and beneficial ownership information on foreign companies having a sufficient nexus with Antigua and Barbuda is available in all cases (paragraphs 110 and 228).
  - Antigua and Barbuda should introduce an explicit document retention requirement in respect of domestic companies (including non-profit) which have been wound up or struck off the register; clarify the rules regarding who the nominated persons to retain records are to ensure that the records remain in possession, custody or control of a person within Antigua and Barbuda for a minimum period of five years; and sanctions should be envisaged for the breach of these duties (paragraph 122).
  - Antigua and Barbuda should ensure that financial institutions keep up-to-date beneficial ownership information in respect of all customers (paragraph 201).
  - Antigua and Barbuda should ensure that, when the application of the simplified CDD is allowed, the beneficial ownership information is collected for all the accounts (paragraph 203).

- **Element A.1.2**: Antigua and Barbuda should monitor the implementation of the new provisions preventing the issuance of bearer shares and ensure that the mechanisms allowing to identify the owners of existing immobilised bearer shares by IBCs (including those which are "disabled") are effectively implemented and enforced so that accurate and up-to-date information on the holders of bearer shares is always available in line with the standard (paragraph 257).
- **Element A.1.3**: Antigua and Barbuda should ensure that the availability of accurate and up-to-date information identifying the partners of partnerships is supported by dissuasive sanctions in case of non-compliance with the requirements (paragraph 267).
- **Element A.1.4**:
  - Antigua and Barbuda should monitor the effectiveness of the common law obligations as to the records keeping requirements of trustees in ensuring the availability of information for EOI purposes in practice (paragraph 296).
  - Antigua and Barbuda should monitor the implementation of the oversight programme, which was then planned for 2023, and exercise its enforcement powers as appropriate to ensure that the legal obligations are being complied with by the obligated persons and the information is fully available in practice (paragraph 307).
- **Element A.1.5**: Antigua and Barbuda should put in place a system of oversight to ensure the availability of legal and beneficial information in practice for any international foundations (paragraph 329).
- **Element A.2**:
  - Antigua and Barbuda should ensure that any power to reduce the record retention period after the winding up of domestic (including non-profit) and foreign companies, and partnerships registered as a company, is exercised by the relevant persons in line with the requirement of retaining accounting records for at least five years even after an entity has ceased to exist (paragraph 389).
- **Element B.1**:
  - Antigua and Barbuda should ensure that the definitions included in Section 5A of the Tax Information Exchange Act are not interpreted to limit the general access powers (paragraph 486).

- Antigua and Barbuda should monitor the application of the legal requirement that the requesting jurisdiction provide the identity of the taxpayer, whether it is an individual request or a group request in respect of whom the information is sought, to ensure that banking information is provided as required under the standard in all cases (paragraph 497).

- **Element B.2**:
  - Antigua and Barbuda should monitor its practices to ensure that the exception to the notification requirement may be invoked expeditiously by the competent authority when they receive an EOI request that requires the exercise of access powers under Sections 6(1) and 7 of the TIE Act (paragraph 527).
  - Antigua and Barbuda should monitor the 20-day holding period and the judicial review procedure, when they receive EOI requests that require the use of these procedures, to ensure that these procedures do not impede effective EOI (paragraph 530).
- **Element C.1**:
  - Antigua and Barbuda should ensure that its law is sufficiently clear to enable processing of requests on a group of taxpayers which are not individually identified ("group requests") as required by the standard (paragraph 545).
  - Antigua and Barbuda should continue working with CARICOM partners to ensure exchange of information to the standard can occur in the absence of domestic interest (paragraph 554).
- **Element C.2**: Antigua and Barbuda should continue to conclude EOI agreements with any new relevant partner who would so require (paragraph 571).
- **Element C.3**:
  - Antigua and Barbuda should monitor the application of provisions on disclosure of treaty protected information to law enforcement agencies for non-tax purposes to ensure compliance with the standard (paragraph 581).
  - Antigua and Barbuda should monitor the implementation of the data breach management policy to ensure the protection of exchanged information in practice (paragraph 598).

Annex 2: List of Antigua and Barbuda's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Aruba	Tax Information Exchange Agreement (TIEA)	30-Aug-10	02-Dec-10
2	Australia	TIEA	30-Jan-07	14-Dec-09
3	Belgium	TIEA	07-Dec-09	09-Nov-17
4	Canada	TIEA	30-Oct-17	Not yet in force (internal procedures completed by Antigua and Barbuda)
5	Curaçao[102]	TIEA	29-Oct-09	05-Dec-13
6	Denmark	TIEA	02-Sep-09	23-Feb-11
7	Faroe Islands	TIEA	19-May-10	28-May-11
8	Finland	TIEA	19-May-10	24-Mar-11
9	France	TIEA	26-Mar-10	28-Dec-10
10	Germany	TIEA	19-Oct-10	30-May-12
11	Greenland	TIEA	19-May-10	12-Jul-17

102. Following the dissolution of the Netherlands Antilles on 10 October 2010, two separate jurisdictions were formed (Curaçao and Sint Maarten) with the remaining three islands (Bonaire, St Eustatius and Saba) joining the Netherlands as special municipalities The TIEA concluded with the Kingdom of the Netherlands, on behalf of the Netherlands Antilles, continues to apply to Curaçao, Sint Maarten and the Caribbean part of the Netherlands (Bonaire, St Eustatius and Saba) and is administered by Curaçao and Sint Maarten for their respective territories and by the Netherlands for Bonaire, St Eustatius and Saba.

	EOI partner	Type of agreement	Signature	Entry into force
12	Iceland	TIEA	19-May-10	17-Nov-12
13	Ireland	TIEA	15-Dec-09	04-Mar-11
14	Liechtenstein	TIEA	24-Nov-09	16-Jan-11
15	Netherlands	TIEA	02-Sep-09	23-Feb-10
16	Norway	TIEA	19-May-10	15-Jan-11
17	Portugal	TIEA	13-Sep-10	Not yet in force (internal procedures completed by Antigua and Barbuda)
18	Sint Maarten[103]	TIEA	29-Oct-09	05-Dec-13
19	Sweden	TIEA	19-May-10	17-Jun-13
20	Switzerland[104]	DTC		26-Aug-63
21	United Kingdom	TIEA	19-Jan-10	28-May-10
22	United Arab Emirates	DTC	15-Jan-17	Not yet in force (internal procedures completed by Antigua and Barbuda)
23	United States	TIEA	06-Dec-01	10-Feb-03

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).[105] 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 international standard on exchange of information on request and to open it to all countries, in

103. See previous footnote.
104. Extension of the DTC of 30 September 1954 between United Kingdom and Switzerland by exchange of notes of 20/26 August 1963.
105. 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.

particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by Antigua and Barbuda on 27 July 2018 and entered into force on1 February 2019 in Antigua and Barbuda. Antigua and Barbuda 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, Benin, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Burkina Faso, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus,[106] Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, 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,

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

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

Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo, United States[107] (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010) and Viet Nam.

CARICOM Tax Treaty

The CARICOM Income Tax Treaty (CARICOM treaty) is an international agreement concluded among Caribbean jurisdictions for the avoidance of double taxation and prevention of fiscal evasion with respect to income taxes. The agreement is based on the OECD model double tax convention and in Article 24 provides for exchange of information in tax matters.

The CARICOM treaty is signed and in force in respect of 10 jurisdictions (dates are those of entry into effect): Barbados (1 January 1996); Belize (1 January 1995); Dominica (1 January 1997); Grenada (1 January 1997); Guyana (1 January 1998); Jamaica (1 January 1996); Saint Lucia (1 January 1996); Saint Kitts and Nevis (1 January 1998); Saint Vincent and the Grenadines (1 January 1999) and Trinidad and Tobago (1 January 1995).

Antigua and Barbuda signed the CARICOM treaty on 6 July 1994 and it has entered into force in 1999.

107. The original Multilateral Convention does not apply between Antigua and Barbuda and the United States.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as 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 4 May 2023 and Antigua and Barbuda's responses to the EOIR questionnaire and peer inputs received in preparing this review.

List of laws, regulations and other materials received

New for this review

Companies (Amendment) Act, No. 22 of 2022, concerning the annual returns and attestations on beneficial ownership and control for domestic and foreign companies to be submitted to the Intellectual Property and Commerce Office (IPCO)

International Trust (Amendment) Act, No. 15 of 2021, amending in particular certain provisions concerning the registration and annual attestation of beneficial ownership and control, in particular by explicitly requiring the identification of the settlor, trustee(s), protector (if any), and all of the beneficiaries.

The Money Laundering (Prevention) (Amendment) Act, No. 14 of 2020, which inter alia expanded the range of activities that trigger the AML obligations for attorneys-at-law, notaries and accountants

Guidelines for Financial Institutions published on 27 October 2022 by the ONDCP

Guidance Notes on Complying with Beneficial Ownership Obligations Framework in Antigua and Barbuda effective from 1 November 2022 by the Inland Revenue Department

Money Laundering (Prevention) (Amendment) Act, No. 8 of 2018, which set out the supervisory powers of the Office of National Drug and Money Laundering Control Policy in relation to all financial institutions except financial institutions licensed to carry on banking business under the Banking Act, 2015

Circular of the FSRC No. 3 of 2020 on "Reinstatement of IBCs and the Immobilisation of Bearer Shares"

Companies (Amendment) Act, No. 11 of 2017, amending provisions on non-profit companies

International Banking Act, 2016

International Business Corporation (Amendment) Act, No. 16 of 2014, strengthening accounting obligations of IBCs

Law (Miscellaneous Amendment) Act, No. 3 of 2020, amending the International Business Corporation Act, the Corporate Management and Trust Service Providers Act, the Antigua and Barbuda Tax Information Exchange Act, Amendment to the Insurance Act, Amendment to the Co-operative Societies Act and the Companies Act.

Law (Miscellaneous Amendments) (No. 2) Act, No. 14 of 2017, introducing provisions on an annual attestation on beneficial ownership and control into various acts (CA, IBCA, Insurance Act, Cooperative Societies Act, Money Service Business Act, ITA, IFA, ILLCA, CMTSPA and the FSRCA Act)

Law Miscellaneous Provisions (Amendment) Act, No. 20 of 2016, amending the scope of application of the MLPA and the definition of beneficial ownership in the MLPA, the Insurance Act, 2007, International Trust Act, 2007, International Foundations Act, 2007, International Limited Liability Companies Act, 2007, Corporate Management and Trust Service Providers Act, 2008, Co-operative Societies Act, 2010, Money Services Business Act, 2011, the International Banking Act, 2016

Law Miscellaneous Provisions (Amendment) Act, No. 26 of 2018, enacted in strategic areas to address any issue of unfair tax practice and possible ring-fencing by the removal of tax exemptions and the insertion that such entities are now subject to income tax pursuant the Income Tax Act Cap. 212

Law Miscellaneous Provisions (Amendment) Act, No. 4 of 2017, amending the Antigua and Barbuda Tax Information Exchange Act, 2002; International Business Corporations Act, Cap. 222

Money Laundering (Prevention) (Amendment) Act, No. 6 of 2017

Money Laundering (Prevention) Regulations (Amendment) 2017, No. 43 of 2017

Money Laundering (Prevention) Regulations (Amendment) 2017, No. 44 of 2017

Office of National Drug and Money Laundering Control Policy, Money Laundering and the Financing of Terrorism Guidelines for Financial Institutions (Update from 12 June 2017)

Tax Administration and Procedures Act No. 12 of 2018, enacted to harmonise, rationalise and simplify the operation of tax administration and procedure in Antigua and Barbuda's tax laws. The Act applies to the Antigua and Barbuda Sales Tax Act, 2006, Income Tax Act, Insurance Levy Act, International Business Companies (Exemption from Income Tax) Act, Non-Citizens Undeveloped Land Tax Act, Personal Income Tax Act, 2005, Property Tax and Valuation Act, 2006, Provisional Collection of Taxes Act, and any taxes levied pursuant to this Act, Stamp Act, Travel Tax Act, and any other law if responsibility for the general administration of the tax is assigned to the Commissioner. It repeals the Tax Administration and Procedures Act of 2012.

The EOI Manual from 1 March 2017, as amended and effective from 1 March 2022.

Existing at the time of last review

Business Names Act Cap. 63

Companies Act, No. 18 of 1995

Friendly Societies Act, Cap. 184

International Business Corporation Act Cap. 222, of 1982

International Limited Liability Companies Act, No. 20 of 2007

Partnership Act Cap. 306

Trusts

- Trustees' Relief Act
- International Trust Act, No. 18 of 2007
- Trustees and Mortgagees Act
- Trust Corporations (Probate and Administration) Act
- Trustee Act
- The Trust Corporation (Probate and Administration) Act Cap 445
- Trustees and Mortgagees Act Cap 447

International Foundations Act, No. 19 of 2007

Co-operative Societies Act, 2010

Corporate Management and Trust Service Providers Act, No. 20 of 2008

Insurance Act, No. 13 of 2007

Financial Institutions (Non Banking) Act, Cap. 169

Money Services Business Act 2011

Antigua and Barbuda Tax Information Exchange Act, No. 14 of 2002

Tax Information Exchange (Miscellaneous Amendments) Act 2011, amending the Income Tax Act, Inland Revenue Administration Act, Companies Act, Tax Information Exchange Act, International Trusts Act, International Foundations Act and the ILLC Act

Money Laundering (Prevention) Act 1996 (MLPA)

Money Laundering (Prevention) Regulations 2007 (MLPR)

Money Laundering and Financing of Terrorism Guidelines for Financial Institutions

Financial Services Regulatory Commission Act 2013

Office of National Drug and Money Laundering Control Policy Act, No. 3 of 2003

Authorities interviewed during onsite visit

Antigua and Barbuda Inland Revenue Department (IRD)

Antigua and Barbuda Ministry of Finance

Antigua and Barbuda Ministry of Legal Affairs

Intellectual Property and Commerce Office (IPCO)

Financial Services Regulatory Commission (FSRC)

Office of National Drug and Money Laundering Control Policy (ONDCP)

Eastern Caribbean Central Bank (ECCB)

Private sector representatives of banks, company service providers and accountants.

Current and previous reviews

The peer review process of Antigua and Barbuda has been undertaken across four reports in Round 1 of the review process: the August 2011 Phase 1 Report, the May 2012 supplementary Phase 1 Report, the July 2014 Phase 2 Report and a report pursuant to the Round 1 fast track review process. The assessment of the legal and regulatory framework of Antigua and Barbuda was based on the 2010 Terms of Reference and was prepared using the Global Forum's 2010 Methodology for Peer Reviews.

The 2011 Phase 1 Report concluded that fundamental deficiencies in the legal and regulatory framework of Antigua and Barbuda would widely prevent it to exchange information in accordance with the standard.

The 2012 Phase 1 supplementary report recognised the improvements made and Antigua and Barbuda was encouraged to continue to review and update its legal and regulatory framework in line with the remaining recommendations.

The 2014 Phase 2 assessment evaluated further developments in the legal and regulatory framework, as well as the application of the framework to the EOI practices of Antigua and Barbuda's competent authority. Antigua and Barbuda was rated as Partially Compliant overall.

The 2017 Fast Track process reviewed the progress made and assigned a Provisionally Largely Compliant rating to Antigua and Barbuda.

The 2021 Phase 1 report reviewed the legal and regulatory framework of Antigua and Barbuda against the 2016 Terms of Reference and concluded by assigning a determination of "in place" for five elements (B.2, C.1, C.2, C.3 and C.4) and "in place but needs improvement" for four elements (A.1, A.2, A.3 and B.1).

The current Report presented the first comprehensive review of Antigua and Barbuda against the 2016 Terms of Reference and concludes that Antigua and Barbuda is overall Partially Compliant with the international standard.

Information on each of Antigua and Barbuda's reviews is provided 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	Ms Hyonae Park, Ministry of Strategy and Finance, Republic of Korea; Mr Colin Chew, Inland Revenue Authority of Singapore; and Mr Guozhi Foo of the Global Forum Secretariat	not applicable	June 2011	August/ September 2011
Round 1 Supplementary to Phase 1	Mr Kwangmin Kim, Ministry of Strategy and Finance, Republic of Korea; Mr Colin Chew, Inland Revenue Authority of Singapore; and Mr Guozhi Foo of the Global Forum Secretariat.	not applicable	April 2012	May/June 2012
Round 1 Phase 2	Mr Eric Ho from the Inland Revenue Authority of Singapore; Ms Aya Okimoto from the National Tax Agency, Japan; and Mr Robin Ng and Ms Renata Teixeira from the Global Forum Secretariat	1 January 2010 to 31 December 2012	May 2014	August 2014
Round 1 Fast Track review	not applicable	not applicable		not public
Round 2 Phase 1	Mr Rob Gray, Guernsey; Ms Gioconda Medrano Cubillo, Costa Rica; and Ms Anzhela Cedelle from the Global Forum Secretariat	not applicable	29 March 2021	18 June 2021
Round 2 Phase 2	Mr Rob Gray, Guernsey; Ms Jolanda Roelofs, the Netherlands; and Ms Anzhela Cedelle from the Global Forum Secretariat	1 April 2019 to 31 March 2022	4 May 2023	14 July 2023

Annex 4: Antigua and Barbuda's response to the review report[108]

Antigua and Barbuda, through the Competent Authority, the Inland Revenue Department, takes this opportunity to express our sincere appreciation to the Global Forum for this opportunity to participate in the 2023 Exchange of Information on Request Peer Review Report (Second Round). In December 2022, the jurisdiction was duly visited by the assessment team of the Global Forum and Antigua and Barbuda presented its highest level officials to address questions from the team. The stakeholders included the Registrar of Companies, the Anti-Money Laundering Authority, the Solicitor General, the Permanent Secretary to the Ministry of Foreign Affairs, the Law Revision Commissioner, the Financial Services Regulatory Commission, the Banker Association, the Auditors Association, the Eastern Caribbean Central Bank and Deputy Commissioners within the Inland Revenue Department. The Competent Authority wishes to express a public and heartfelt thank you to all stakeholders. In anticipation of the onsite assessment, the Competent Authority conducted an in-depth legislative review and amended key and fundamental laws and regulations in line with the international standard. One of the newest developments was the creation of a multipronged approach to beneficial ownership registry, one dedicated to the international sector and the other dedicated to the domestic sector, both accessible to the Competent Authority on request or through direct electronic searches. Still in furtherance of the on-site assessment, the Competent Authority also conducted sensitization campaigns with key stakeholders, published Guidance Notes Issued to Financial Institutions regarding beneficial ownership and amended its Exchange of Information Manual in keeping with the international standard. Overall and since the commencement of its interaction with the Global Forum, Antigua and Barbuda has made several changes to the legal and regulatory framework which has had a positive impact on the tax exchange process. Antigua and Barbuda has further increased its range of treaty networks by signing key Multilateral Instruments. In conclusion, as a member of

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

the Global Forum, Antigua and Barbuda will endeavour to continuously make improvements to its legal and regulatory framework and its implementation thereof, based on the recommendations as stated in the report. Finally and most fundamentally, the Competent Authority reiterates that Antigua and Barbuda is committed to the continued implementation of the international standards of transparency and effective exchange of information for tax purposes.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request ANTIGUA AND BARBUDA 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 contains the 2023 Second Round Peer Review on the Exchange of Information on Request for Antigua and Barbuda.

PRINT ISBN 978-92-64-88611-7
PDF ISBN 978-92-64-90358-6

9 789264 886117